

Revising Vietnam's State Budget Law (2002):

Proposals Drawing On
International Experience

POLICY NOTE



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This Policy Note provides a review of Vietnam's State Budget Law (2002) drawing on good international practices in budget management. It is designed to inform the Government of Vietnam and National Assembly discussions on the revision of the State Budget Law (2002). The review is part of the World Bank's ongoing dialogue and advice on revisions to the State Budget Law (2002).

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1. **Background:** This Policy Note is designed to inform the Government of Vietnam and National Assembly (notably the Committee on Finance and Budgetary Affairs, CFBA) discussions on the revision of the State Budget Law (SBL) (2002) by drawing on good international practices in budget management. It is part of the World Bank's ongoing policy dialogue with and advice to the Government and the National Assembly on revisions to the SBL (2002).
2. The SBL (2002) has provided a strong basis for regulating Public Finance Management (PFM) in Vietnam since 2004, when the Law became effective. It has helped the government to allocate and spend public resources in an effective manner, thereby contributing to delivery of important public service outcomes. The SBL (2002), however, needs to be revised to enhance Vietnam's fiscal regulatory framework and accountability.
3. The Policy Note covers seven broad areas including: (i) the coverage and layout of the SBL (2002); (ii) the budget framework for fiscal policy making; (iii) budget approval processes at the National Assembly and Provincial People's Councils; (iv) specific budget classification and definition issues; (v) intergovernmental fiscal relations; (vi) budget execution, accounting, reporting and audit; and (vii) extra-budgetary activities.
4. The issues in the Policy Note were prioritized based on earlier discussions with representatives from the Government, National Assembly, and local authorities, and views expressed at the CFBA and United Nations international conference on SBL (2002) revision held in Ninh Binh at the end of September 2013.
5. **Overview of the SBL (2002):**
 - (i) The SBL has the unconventional feature of covering all tiers of government, unlike many other countries where intergovernmental and local budget management issues are covered in separate Laws.
 - (ii) The SBL is well laid out, though the definition of terms used in the SBL, which is currently missing, is standard practice in other countries. It is also important to include a set of Elucidations that explain the rationale for each provision.
 - (iii) The SBL is quite detailed on some procedural and technical issues, including on intergovernmental relations and some unorthodox practices such as multiple budget reserve funds and provisions on carry over.
 - (iv) Broad areas that are missing or not adequately covered: the relative authority of national and local legislature; fiscal transparency provisions, including publication of the draft

budget and various budget execution reports; the government's accountability; and medium-term fiscal management.

Recommendations:

- ▶ Include a definition of the “State”; and clarify general government institutional units covered by the SBL (e.g. published in annex with annual budget); clarify accounting procedures of general government units currently not covered by SBL.
- ▶ Add list of key terms and title of each article; draft Elucidations for the revised SBL; and consider transferring technical and procedural details to decrees.

6. Budget framework for fiscal policy-making:

- (i) The SBL has no specific provision for the government to present medium-term fiscal projections and assumptions driving these in State Budget documents. This is a standard provision in many countries, which update projections on a rolling basis.
- (ii) Vietnam has legislative budget unity, as recurrent and capital budgets are aggregated into a single budget law. But, managerial unity is compromised through separate recurrent and capital budgeting, which dilutes links between budget and policy. There is also fragmentation of investment decisions particularly at sub-national level. Improved transparency provisions in the SBL should help to address this.
- (iii) Qualitative rather than quantitative rules are advisable for the SBL. Vietnam's SBL currently has a quantitative threshold only for sub-national debt.

Recommendations

- ▶ Add provisions that require presentation of medium-term budget strategy to the National Assembly, preparation of a Medium-Term Fiscal Framework (MTFF) that covers all “general government” and publication of an annual budget strategy.
- ▶ Ensure in the SBL (or supporting regulations) that expenditure ceilings are formally approved by government, and that capital allocations are classified consistently with the functional breakdown of recurrent expenditure.
- ▶ Explore inclusion of qualitative fiscal rules in the revised SBL applicable to central and local budgets, and avoid inserting quantitative fiscal rules in the revised SBL. Quantitative targets and thresholds should be covered in policy documents or regulations.

7. Budget approval at the National Assembly and Provincial People's Councils:

- (i) Some countries' SBLs require a pre-budget debate in parliament. In Vietnam, as a practice, the Prime Minister reports to the National Assembly in May on budget priorities. The SBL unconventionally sets minimum allocations for specific sectors.
- (ii) The SBL sets out a clear budget calendar, but the nested system results in a very compressed timeframe for local authorities to agree their detailed allocations, after the National Assembly has agreed aggregate allocations by November 15.
- (iii) A typical budget is usually divided between the annual budget law and supporting documents. The SBL has a list of requirements on budget reporting to the National Assembly, but there are several gaps compared to international good practice.
- (iv) It is standard practice to publish the draft annual and accompanying documents when they are presented to the National Assembly. Since this is not currently done in Vietnam, it would be helpful, in the revised SBL, to require publication of a detailed draft annual State budget and provincial/district/commune budgets.
- (v) It is good practice for the SBL to require the annual budget documentation to include a statement on tax expenditures and a statement on fiscal risks. These are currently not covered in the SBL.
- (vi) Most SBLs specify the extent to which a country's parliament can amend the executive's budget proposal. The SBL has some guidance on amendments, but greater clarity is needed particularly on the budget balance and revenue estimates.
- (vii) Many countries have a two-stage budget approval process, whereby parliament decides first on aggregates and detailed allocations are subsequently decided by central and local authorities. The revised SBL could consider the same.
- (viii) It is good practice for SBLs to have provisions on "reversionary" budgets (in case budget not passed on time), and "supplementary" budgets for needed adjustments. The former is not covered in the SBL, and provisions on the latter are not clear.

Recommendations:

- ▶ Clarify in the SBL the objective and content of the pre-budget reporting to the National Assembly, and require these to be published. Consider eliminating minimum percentage “allocation norms” for specific sectors.
- ▶ Require in the SBL the publication of the draft budget submitted to the National Assembly. Lengthen the time period for local authorities to adopt their budgets, and reconsider timing of budget submission and adoption.
- ▶ Require in the SBL publication of sufficiently detailed draft annual State Budget, including an updated MTFF. Review Article 42 to extend obligatory publication to off-budget public funds, transfers to SOEs, tax expenditure, and fiscal risks.
- ▶ Require in the SBL the inclusion of estimated tax expenditures and a statement of fiscal risks in the draft annual State Budgets presented to legislative authorities at national and local levels.
- ▶ Consider introducing in the SBL key features of a two-stage budget approval process at the National Assembly and Provincial People’s Councils.
- ▶ Clarify Article 52 to include provisions for a reversionary budget in case of delays in adopting the budget. Consider modifying Article 49 on budget adjustments on basis and approval of budget adjustments. Include provision on Mid-Term Reviews.

8. Specific budget classification and definition issues:

- (i) The SBL includes the major revenue categories that need to be presented in the annual budget and provisions on central-local revenue sharing. Some items such as sale of assets and borrowing need to re-classified to meet international standards.
- (ii) SBLs in other countries generally include a provision that revenue should not be spent unless authorized by law. In Vietnam, however, revenues above budget can be spent without requiring legislative approval, which is not good practice.
- (iii) It is good international practice for the SBL to specify the classification of expenditures to be used in annual appropriation act(s). Articles 15 and 25 cover authority of legislature in terms of spending allocations, and Articles 31 and 33 cover appropriations by various tasks. But there is a disconnect between the broad-based annual appropriations and the detailed classification of expenditures.

- (iv) Provisions on contingency reserves are common but the SBL should set a limit on this as a percentage of total spending (usually 1-3 percent). Vietnam's SBL provisions in this area are not consistent with good practice as they allow for higher ceilings (2-5 percent) and multiple reserve funds.
- (v) In many countries, the duration of cash spending authority is limited to 12 months, although some carryover of investment spending is allowed. Carryover of recurrent spending is unusual, particularly at the levels permitted in Vietnam. Some countries allow borrowing from future appropriations, but this is not advisable practice.
- (vi) The fiscal deficit and its financing are defined in the SBL in administrative terms as the difference between revenues and payments, including debt repayments. This measure is not, however, a good indicator of the fiscal policy impact of the budget.

Recommendations:

- ▶ Ensure that the SBL classification of revenue is consistent with GFS. Exclude from the definition of budget revenues the proceeds of financing transactions, e.g. from loans and bonds.
- ▶ Review every provision in the SBL on use of revenues collected over budget, and ensure that use of such revenue is based on a Supplementary Budget. Change article 62 and abolish article 63 as excess revenue carryover and multiple financial reserve funds are inconsistent with good budget practice and modern cash management practices.
- ▶ Specify in the SBL that expenditures at all levels of government use common appropriation and classification structures that are GFS compatible, and comprise key administrative, economic, and functional breakdowns.
- ▶ The SBL should allow only one contingency fund and take out references to financial reserve funds that are off budget. Specify in the SBL the main use of contingency reserves and limit to 1-3 percent of spending. Include frequency of reporting on use of contingencies to the legislature.
- ▶ Limit end-year carry-over of annual budget spending authority to capital spending, and start considering multi-year appropriations. Prohibit borrowing from next year's appropriation and consider distinction between fixed and flexible appropriations.
- ▶ Ensure that the SBL includes a clear definition of the (overall) budget balance, the counterpart of which is "net lending" as defined in GFS, and includes off-budget bonds.

9. Intergovernmental fiscal relations:

- (i) Vietnam's SBL is one of the only Organic Budget Law that specifies the budget responsibilities of the different tiers of government. Other countries tend to have a Decentralization or Local Government Law. Important areas omitted in the SBL on local budgets: fiscal framework at local level; comprehensiveness, coverage and presentation of budgets; budget execution, TSA, in-year reporting, supplementary budgets, annual accounts and auditing.
- (ii) In Vietnam, tax rates and bases are determined by the NA. Sub-national authorities only have limited independence on fees and charges. The current arrangements on tax sharing may be creating incentives for under-estimating revenue, perpetuating budget credibility issues.
- (iii) Articles 31 and 33 lay out identical expenditure tasks for central and local authorities. In reality, detailed assignments are decided by provincial authorities. SBLs generally would clarify areas of spending that are the exclusive domain of the central budget (e.g. national defense). Exclusive assignments for local authorities are usually spelt out in regulations.
- (iv) Vietnam has a system of balancing and targeted transfers to lower levels of government. Generally the SBL would provide the basis on which balancing transfers are determined. Article 36 provides some general guidance on this with details in secondary regulations.

Recommendations:

- ▶ The SBL should require provisions on comprehensiveness, coverage and presentation of central budget to apply to local budgets also. Local authorities may have different fiscal rules. The SBL should make provision for a countrywide TSA.
- ▶ Consider identical tax sharing ratios for each province, and compensate through transfers. If this is not taken up, specify in the SBL the criteria for determining non-identical tax sharing ratios. Review local revenue raising powers going forward.
- ▶ Simplify Articles 31 and 33 on spending assignments, and sharpen the distinct responsibilities of central and local budgets. Reflect changes for central government in SBL and for local budgets in local resolutions.
- ▶ Article 36 (3) states that an upper level budget may provide supplementary revenue for necessary important tasks, which cannot be locally financed. But there is no obligation on the upper level budget and important tasks are undefined. It is suggested to amend or delete this provision as it is normal to expect that important tasks will be financed.

10. Budget execution, accounting, reporting and audit:

- (i) SBLs may include broad outlines on budget execution issues such as virements; authority of the Minister of Finance to cut appropriations; and consistency of financial management standards across government. But detailed procedures should be in secondary regulations.
- (ii) An important provision in SBLs is the Minister of Finance's authority over government banking arrangements and cash management. The Minister should have authority to consolidate all revenues and establish a Treasury Single Account system.
- (iii) In Vietnam, the MOF is responsible for government accounting standards and preparing accounting statements. Article 61 establishes that the minister of finance as responsible to provide details on the accounting system in regulations. Article 62 is of questionable value as its provisions are covered in Article 61. Article 63 provides inappropriate carryover provisions. Articles 65 and 65 could be combined into one, covering recording and reporting responsibilities of spending units.
- (iv) A country's SBL should specify the ex post budget execution reports and financial accounts that the government must prepare for the legislature and the public. The present SBL does not include a section on "Fiscal Reporting". The revised SBL should address this omission, which is important for enhancing transparency.
- (v) In Vietnam's SBL, while article 66 clearly establishes the independence of the State Auditor with regard to its audit opinion, subsection (3) (English version) states that the State shall perform an audit at the request of the National Assembly (or its Standing Committee) and the Government. It would be detrimental to the independence of the SAV if the government "ordered" specific audits.

Recommendations:

- ▶ Add provisions in the SBL on: (i) virement authority; (ii) authority to cut appropriations in case of revenue shortfall; and (iii) authority to set financial management standards across all levels of government.
- ▶ Introduce new provisions in the SBL to elaborate on the authority of the Minister of Finance over banking arrangements and the TSA, and transfer detailed procedures on treasury management to secondary regulations.
- ▶ Specify in the SBL the basis to be used for government accounting (distinct from company accounting). Shorten Articles 62-65, including transferring of Articles 62 and 63 to regulations.
- ▶ Require in the SBL publication of standard fiscal reports according to international good practice. Include specific references to these in the revised SBL.
- ▶ Review Article 66 of the SBL with a view to strengthening further the SAV's independence and to ensure that the NA approves only audited annual accounts of the government.

11. Extra-budgetary activities of central and provincial authorities:

- (i) Extra-budgetary funds should be few in number and established for exceptional circumstances. Although they can be established under separate legislation, the SBL should specify that budget documents include projected revenue and expenditure of these funds. Classification should also be consistent with classification of the overall budget. Currently the SBL does not include these provisions.
- (ii) Revenues and expenditures from fees and charges of service delivery units should be included in the budget in gross terms. Expenditure should not be offset against revenues, including "own" revenues collected by government agencies. The SBL confirms the principles of comprehensiveness in this regard, but these are not respected in practice.
- (iii) It is desirable that all foreign aid -- grants and (subsidized) loans - are included in the central (and provincial) budgets and in reports of budget execution. The SBL makes provisions for recording aid in the budget. However, as a revenue (and expenditure) item, "aid" should be limited to unrequited transfers, i.e., foreign grants. Loans, which are financing items of the budget balance, should be excluded.

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- (iv) For fiscal transparency, it is useful to publish details of the direct and indirect (net) budget transfers and fiscal risks of major SOEs. If not in the Fiscal Risk statement, this could be in an explanatory annex presented with the draft annual budget law.

Recommendations:

- ▶ Require in the SBL the need to have consolidated reporting, including on extra-budgetary funds, in the annual State Budget report. Include revenue and expenditure from these funds in the MTF. Add explanatory annex on EBFs to the State Budget proposal.
- ▶ Review the provisions in the SBL to ensure that its provisions for comprehensiveness are fully adequate, ensuring all general government entities transparently present their budgets to legislature. All earmarked revenues, lottery receipts, public bond issuances should be part of the budget.
- ▶ Clarify, in the SBL, the meaning of “aid”, with a view to ensuring that it is limited to grants only (consistent with the GFS definition).

12. Transitional arrangements:

This note, in parts, makes far-reaching recommendations, which would take time to implement. For example, a more detailed budget classification/appropriations system would take time to prepare and implement. The possibility of long implementation periods should not deter the authorities from taking a decision now to make changes that will only be fully implemented in the future. This can be handled in the SBL’s “transitional provisions” at the end of the law.

INTRODUCTION



1. Vietnam's State Budget Law (SBL), which was first adopted in 1994 was amended in 2002. Although the law has served the country well, by providing the legal basis for budget management at all four tiers of government, the SBL is being reviewed by the Vietnamese authorities. In February 2014, a draft amended law was discussed in the Cabinet of Ministers. The law is being improved to support the process of becoming more transparent and accountable in budget matters. This note was designed to assist the authorities, including both in Government and the National Assembly (notably the Committee on Finance and Budgetary Affairs) in their review, by drawing attention to good international practices in various areas of budgeting.
2. In this context, there is no "model budget law" that can be transposed from one country to another. Every budget system law (or, more frequently, a limited number of budget-related laws) is adopted by national parliaments to fit local circumstances, and domestic institutional and organizational arrangements.
3. In all countries, the budget system itself is a reflection of the outcome of power struggles within the political establishment. In particular, a budget system law, once adopted, takes a position on the authority and/or role of:
 - ▶ The legislature (parliament) versus that of the executive (government) in budget matters.
 - ▶ The central government versus local governments.
 - ▶ Central ministries (notably of finance and of plan) versus sector or "spending" ministries (e.g., Defense, Education, Health, ...) as well as Constitutional bodies (e.g., Parliament, the Judiciary).
 - ▶ On-budget activities versus off-budget activities.
4. The issue of **rebalancing relative power/authority** is one major reason why a budget system law is amended or a new law is adopted. Other reasons include:
 - ▶ **To clarify budget issues** inadequately or inappropriately addressed in the SBL.
 - ▶ **To address omissions** in the law, by adding new provisions where needed.
 - ▶ **To introduce new principles** consistent with a modern budget system. These may be far-reaching, e.g., some countries have completely changed their budget system law to introduce

a performance-oriented budget system. In other instances, changes may be made to emphasize *budget stability*, e.g., by requiring that government's objectives laid out in a medium-term fiscal framework (MTFF) are the basis for each annual budget. Another example is to enhance accountability, especially of the government to the legislature, which is the supreme approving authority in budget matters. A SBL can also be used to require the government to publish more budget-related information.

5. Vietnam's SBL has been reviewed in this note knowing that the authorities are looking at the following issues, namely to:

- ▶ Clarify budget approval authority and accountabilities to the National Assembly and sub-national People's Council;
- ▶ Provide a medium-term approach to budgeting, while maintaining the primacy of the annual State budget, which would continue to be based on the consolidated nested-tier system of annual budgets adopted at each level of administration¹;
- ▶ Draw together the planning and budgeting functions so that the annual State budget will be more unified, not only in budget presentation, but also in budget execution and government accounting, so that total spending in major sectors can easily be discerned;
- ▶ Re-examine budget approval processes and annual budget documentation, including the coverage, comprehensiveness and presentation of budget reports;
- ▶ Address weaknesses and complexities in the present system of intergovernmental budget relations, notably those concerning revenue and spending assignments, and transfers from higher level budgets to lower level budgets;
- ▶ Re-examine a number of technical budget-related issues, including budget classification, the spending of revenues collected above estimates ("excess revenues" are spent without prior approval by Parliament), the duration and nature of spending authority, and the definition of "budget balance"; and
- ▶ Examine the extent to which off-budget activities of governments at all levels and State-owned enterprises (SOEs) can be incorporated into the annual State budget, at least for the reporting of their revenues, spending, borrowing/lending, and fiscal risks.

¹ An alternative would be to provide each level of government with full autonomy to adopt their local budgets in provincial/district "assemblies" ("parliaments" at local level), with early notification (in the budget cycle) of net transfers from one level of budget to the next lowest level

OVERVIEW OF STATE BUDGET LAW (2002)



1. Coverage of law

6. In many countries, the SBL covers only the central government. Separate laws govern budget procedures and intergovernmental relations (e.g., Decentralization Laws, Local Government Laws). However, in a few countries the law covers all levels of government. For example, in DR Congo and Kenya, the recent SBLs contain provisions specific for the budgets of local governments, which follow those for central government. The SBLs of China, Lao PDR and Vietnam cover all levels of government. This reflects the unique nested-tier budget systems practiced in these countries, under which the national legislature adopts a budget law for the entire country, being the consolidation of the central and local budgets that are, in turn, reviewed by “legislatures” at each budget level. This results in one State budget for all budget activities throughout every tier of administration.
7. In Vietnam’s SBL, it would be useful to clarify what constitutes “the State” for budget purposes. It would be desirable for “the State” to cover all institutional units that perform noncommercial activities and that are owned and/or controlled by the government (at all levels of administration). This would bring Vietnam’s definition of “the State” into line with “General Government”, as defined in the IMF GFS Manual 2001². It would exclude all SOEs, since these perform commercial activities (even if they are subsidized and perform non-commercial activities).³ In contrast, all extra-budgetary activities are within the realm of “general government” (see parts 24-27 below).

Recommendations

- ▶ Include a definition of “the State” in the list of definitions of key terms (see part 2 below).
- ▶ Clarify, in the revised SBL, the institutional units (in a GFS sense) that are to be covered by the SBL. In particular, require that all “general government” institutional units be updated and published (e.g., in an annex of each year’s annual budget documents).
- ▶ Elaborate, in the SBL or another law (e.g., those that establish each Public Fund), on the budget and accounting procedures to be followed by institutional units of general government that are currently not covered by the SBL.

2 See chapter 2 of the IMF’s GFS Manual, 2001.

3 The framework of most countries’ Annual Budget Laws is either central or general government - these cases exclude SOEs from the budget framework as these are part of the broader public sector. SOEs that perform commercial activities should have private sector budget management procedures and accounting standards (i.e. full accruals, profits and/or losses are shown, profits are taxed, dividends are paid). Transfers to and from SOEs are covered in the budget framework and therefore can be shown in an annex to the Annual Budget. But the information does not cover the financial information of SOEs themselves, which are reported separately and may of course be monitored by the Ministry of Finance. A few countries, however, such as the UK and New Zealand prepare “whole of government” accounts that include SOEs and the central bank, even though they are independent.

2. Layout of State Budget Law

8. The SBL is well laid out. After the General Provisions of chapter I, the law successively addresses: chapter II: The role of the legislature and the executive (and bodies under it); chapter III: Revenues and spending tasks; chapter IV: Drafting of State budget; chapter V: Implementation of State budget; chapter VI: Accounting and external audit of State budget; and chapter VII: Inspection, rewards and sanctions. Its final chapter on “Implementation Provisions” relates to transitional issues. Such a layout follows the logic of the annual budget cycle. Indeed, several key dates of the annual budget cycle are included in the SBL (see part 9 below); the respecting of key dates in practice allows Vietnam to score relatively well for “orderliness in annual budget process” (PEFA PI-11).
9. In the SBLs of many countries, the definition of all terms used in the law is standard practice. It is particularly important to do this in Vietnam, since terms like “the State” (in terms of institutional units) or “budget balance” are unclear. Another common practice is to put a title on each article, which helps to clarify the intent of each article and tighten drafting when there are overlaps.
10. In some countries, State Budget Law includes a set of Elucidations that explain, article by article, the rationale for each provision.⁴ Legally, the Elucidations are an integral part of the law. Elucidations provide the National Assembly (NA) and the public with clear reasons why a specific article is included and its rationale. Separately, a Government can adopt regulations to help government agencies to implement the law, once adopted by the NA. Vietnam, for example, has issued Decree 60 (2003), which provides guidelines for implementation of the SBL (2002) and which is supplemented by Circular 59 issued by the Ministry of Finance (MoF). The SBL could make specific references to issues to be elaborated in government Decrees or Regulations. In revising the SBL, it should be recalled that it is primarily a National Assembly document, not a Government document. In view of this, the revised SBL should not be overloaded with provisions (e.g., the budget preparation calendar within the Government) that can be elaborated on in Government Decrees.

Recommendations

- ▶ Add, near the beginning of the SBL, a list of all the key terms.
- ▶ Add a title to each article.
- ▶ Consider drafting Elucidations to the revised draft of the SBL.
- ▶ Avoid “overloading the draft amended SBL with provisions that are better placed in Government Decrees.

⁴ See, for example, the Elucidations attached to Indonesia’s State Finances Law 17/2003

3. Issues treated in detail in the law

11. The law is quite detailed on some procedural and technical issues. This is the case for some intergovernmental issues, which partly reflects the complexity of the policy regimes (e.g., the non-uniform tax sharing arrangements between central and provincial administrations and the basis for determining transfers between budget levels both before and after adoption of the State Budget.
12. Complexity in the SBL is also introduced by some unorthodox budget practices, which results in some unnecessarily long drafting. Examples include: classifying some financing transactions as revenues; having multiple budget reserve funds; and carrying-over excess revenues and end-year unspent funds. In contrast, although there are some details on the types of spending that the budget is to cover (these are mainly non-standard “functional spending” categories), there are unclear links between these spending categories and the budget appropriation structure. In fact, the format of spending appropriations to be adopted by the National Assembly and Provincial Councils is not specified at all - see part 4 below). These, and other issues, are examined in more detail Section E below.
13. Finally, in a few instances, there are articles (or sub-articles) that state the obvious or, alternatively, are not of sufficient importance to merit being placed in the SBL (these are discussed later in this note). Such articles could be transferred to implementing Regulations. The Elucidation section at end of the law (see above recommendation) could provide a firm basis for distinguishing articles to be retained in law and those best elaborated in regulations.

Recommendations

- ▶ Note that the SBL would be shortened if progress is made on simplifying the complex system of net intergovernmental transfers and eliminating some unorthodox budget practices.
- ▶ Consider transferring a few articles in the SBL to secondary legislation, by reconsidering the rationale for each article.

4. Important issues missing from, or insufficiently addressed in, the law

14. There are three areas of budgeting that could be considered to be missing from a country's SBL.
- ▶ First, there is the **relative balance of budget power** between the government and the legislature, and between the central and local administrations. A pathway forward could be reached after much dialogue at political level. In some areas, e.g., the extent to which the legislature may amend the government's draft budget, there are no "good" international practices. Different political regimes resolve this issue differently. Also, political configurations change over time: at a particular point in time, the legislature or the government exercises political muscle and introduces reforms that shift the balance of budgetary power in its favor.
 - ▶ Second, there are **good international practices** that can be followed, should there be a political willingness to introduce them. As examples: (i) improved **budget transparency** such better access by the public to budget information (aligned with internationally-recognized accounting and reporting standards) and presenting fuller and clearer explanatory budget documents to accompany the draft annual budget law; (ii) improvements in **the accountability** of the government to parliament (and also the accountability of those with budget spending authority to Ministers or other government leaders). Many countries have introduced: (iii) **a performance-oriented budget management** system. In this area, some countries (notably in Africa) the SBL has been modified too soon; although the SBL includes a transitional period for "full introduction" (2017 in some francophone African countries), the readiness for such advanced reforms may not be place even by the terminal date. Another example is Indonesia, whose 2003 SBL required **accrual accounting** to be introduced by 2008. In the event, the date in Indonesia' SBL was postponed, as the implementation of accrual accounting was considerably more complex than originally envisaged.
 - ▶ Third, a country may use amendments in the SBL to **restore budget stability**, either because of external shocks, e.g., the adverse impact of a world-wide financial crisis on domestic public finances, or because of domestic reasons, e.g., lack of control of government spending, or unwise reductions in taxes. Even if the sustainability of a country's public finances is not in a precarious state, a country may nonetheless decide to focus on budget stability issues by introducing a **medium-term approach to budget management**.

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15. In Vietnam, on the first issue, the 2002 SBL provides the central government with strong budget powers. Yet the National Assembly and provincial authorities appear to be desirous to augment their authority in budget matters. On the second issue, there is considerable scope to improve budget transparency, by further strengthening the coverage, comprehensiveness and presentation of budget information, as well as by publishing some key budget reports (e.g. budget proposal submitted to National Assembly and Budget Mid-Year Review) that are currently not published.⁵
 16. There is also considerable scope for improving the accountability of government. For example, the SBL could require the government to outline clearly its medium-term budget objectives and targets for key fiscal aggregates (see part 5 below). A medium-term budget strategy would help to formalize existing practices concerning the adoption of “stability period” resolutions, as well as ad hoc decisions on medium-term fiscal targets.
 17. Accountable budget management is introduced when government ministers -- not only the ministers responsible for budget management (“finance” and “planning” in Vietnam’s case), but also the ministers responsible for spending ministries (agriculture, defense, education, health, etc. -- are required to explain budget outcomes before the National Assembly’s Committee for Finance and Budgetary Affairs. Resolution 387 details what needs to be reported by whom and to what bodies. Even if NA questioning already takes place, it may be worthwhile formalizing such requirements in the SBL and authorizing publication of the proceedings⁶. Similar arrangements for enhancing accountability would need to be put in place at provincial levels: provincial government authorities should appear before Provincial Peoples’ Councils or their specialized budget committees.

5 Relevant issues are discussed in “Vietnam Fiscal Transparency Review”, World Bank, March 2013.

6 Publication of written proceedings is standard practice in many countries. France, for example, goes further, by broadcasting live all sessions of the Senate - on its own TV channel. See www.publicsenat.fr/vod/139645

Recommendations

18. Consider how the SBL could be used as a vehicle to (discussed further below):
 - ▶ Extend the budgetary powers of the National Assembly and Provincial Councils.
 - ▶ Enhance fiscal transparency further, particularly by releasing more budget information into the public domain, in particular the draft Budget proposal submitted to the National Assembly, and Mid-Term Review of Budget implementation. This would also involve providing fuller and better-presented documentation for the draft budget that is presented to the National Assembly (and provincial Councils) and more extensive coverage of the budget implications of off-budget public sector entities. It would also require more frequent and timely ex post reports on budget execution, especially for end-year annual financial statements. Such reporting obligations could be included in the revised SBL.
 - ▶ Increase accountability: of the government to the National Assembly, and of budget actors to the government.
 - ▶ Introduce a medium term approach to budget management, in which the government would announce a medium term fiscal strategy, with targets for key aggregate indicators of budget stability. This would imply greater integration of the recurrent and investment budgets.

ENHANCING THE BUDGET FRAMEWORK FOR FISCAL POLICY-MAKING



19. It is often said that “Parliament is supreme in budget matters”. In practice, however, the extent of the supremacy of the legislature over the executive is highly variable across countries.⁷ At one extreme, parliament merely “rubber stamps” the draft annual budget law prepared by the government, i.e., parliament makes no substantive changes to the government’s proposed annual budget - all revenue and expenditure policies, objectives and targets are decided by the government (this is the case of the United Kingdom). At the other extreme, the government’s draft budget is considered “dead on arrival”; it merely provides a framework by which various committees of the legislature make substantive changes to the government’s proposals for revenues and expenditures (this is the case in the United States).
20. Vietnam fits more closely with the first model, i.e., where the National Assembly’s powers to amend the government’s proposed budget are very limited. This is mainly because the detailed budget to be executed at central, provincial and lower levels is decided after the approval of the (published) State budget aggregates by the National Assembly in mid-November.
21. The revision of the SBL is an opportunity to review the respective roles of the Government and the Legislature - at national and provincial/ sub-provincial levels. The following parts examine possibilities for changing the SBL to further strengthen the framework for annual budget preparation and adoption.

7 See Figure 3.1 of “Legislatures and the Budget Process”, J. Wehner, Palgrave Macmillan, 2010.

5. Medium-term and annual budget strategy and objectives

22. Five-year Socio-Economic Development Plans (SEDPs) and 10-year development strategies play an important role in forward planning of the economy and public finances. Some of the economic targets included in five-year plans impact directly on the budget. For example, the SEDP for 2011-15 included the following targets (see www.chinhphu.vn/portal/page/portal/English/strategies).
- ▶ GDP growth averages approximately 6.5%-7% a year.
 - ▶ Social investment in 2011-2015 accounts for around 33.5%-35% of GDP.
 - ▶ Budget overspending⁸ will be kept at below 4.5% of GDP in 2015 (including Government bonds).
 - ▶ Collected tax and fee contributions to the State budget will not exceed 22-23% of GDP a year.
 - ▶ Public debt by 2015 will not exceed 65% of GDP, government debt will not surpass 50% of GDP, and national debt will not go beyond 50% of GDP.⁹
23. During 2007-2010, Vietnam piloted sector-specific medium-term expenditure frameworks (MTEFs) in key central ministries (e.g., Finance, Planning and Investment, Health, Education and Training, Agriculture, Transport) as well as in three provinces. These MTEFs were not integrated into annual budget process, mainly because a resource-constrained “top-down” Medium Term Fiscal Framework (MTFF) was not prepared at that time.
24. The 5-year SEDPs provide only a general guide to annual budget allocations and little specific guide to budget aggregates such as total spending, the overall fiscal deficit, and net lending (GFS definition). For the overall budget balance and public debt, Prime Minister’s (PM’s) Decision 958 (2012) and PM’s Decision 689 (2013) set indicative thresholds that the government should adhere to over the medium-term. However, the year-by-year annual budget deficit net financing targets (and hence increases in debt during 2013-15) are not clearly laid out in a medium-term budget strategy document. For total expenditure, there are also a number of allocation targets set in regulations for the budgets of different sectors, notably education, science and technology, and health (see below).

8 “Budget overspending” is not defined in the SBL. It would be useful to clarify this in the proposed list of definitions. If the concept is inconsistent with GFS 2001 standards, especially for “net lending” (i.e., the financing of the budget balance), the latter should be adopted.

9 To the extent that the revised SBL refers to “public”, “government” and “national” debt, these terms would need to be defined in the law (and/or be consistent with the Public Debt Management Law 29/2009).

25. Moreover, the government is not required in the SBL to explain to the National Assembly what new revenue and expenditure policies it intends to take to ensure that the 65% of GDP public debt target is met. Even though this is done in practice, the requirement should be formalized in law. Although article 22 of the SBL concerning MPI's responsibilities - and Article 38 (1) on the PM's elaboration of a SEDP -- does not preclude multi-year budget plans, it would be most useful to explicitly require the preparation of a Medium-Term Fiscal Framework (MTFF) in the revised SBL.
26. This could covered in the SBL along the following lines:

"The annual budget shall be based on a multi-year perspective to achieve identified policy objectives within foreseeable resources. To this end:

- (a) *The Minister responsible for finance (or "the Ministers responsible for finance and planning") shall prepare economic, revenue and expenditure forecasts for the new budget year and for at least the two subsequent fiscal years.*
- (b) *After consultation [within Government] or [with the National Assembly], the Prime Minister shall issue a fiscal strategy and policy document that indicates fiscal policy objectives for central and local budgets. This document shall guide the formulation of the State budget for the new budget year, taking into consideration the medium term budget and debt objectives [and/or targets] and available resources [as determined in sub-section xx]."*

Recommendations

- ▶ Insert a new article in the SBL that requires the government to:
 - (a) present a medium term budget strategy document to the National Assembly (at an early stage of the budget cycle); and
 - (b) explain how the medium-term public debt target would be met by new revenue and expenditure policies.
- ▶ Require annual budget targets to be formulated to achieve objectives included in the MTFF.
- ▶ Publish an annual budget strategy document at the time of submission of the draft annual State budget to the National Assembly, i.e., in early October.
- ▶ Ensure that the MTFF covers all "general government" institutional units (see part 1).

6. Planning and budgeting at central and provincial levels

27. The SBL outlines the separate responsibilities of the MOF and the MPI in budgeting and planning (Articles 21 and 22). In the SBL, the MOF is clearly the lead agency for budget preparation (it “presides over.... ministries.”). The MPI “cooperates with the MOF and concerned ministries in examining and evaluating the efficiency of investment capital for capital construction”. This could be interpreted as MPI having an oversight role for infrastructure projects.
28. In practice, the preparation of the annual budget is divided between the two ministries. Following the issuance of the PM’s general directive on budget priorities, in May of each year, the MOF and the MPI issue separate budget circulars for recurrent and capital expenditure respectively. These circulars contain separate indicative ceilings for recurrent and capital spending. The ceilings are not endorsed by the Government, which undermine their authoritativeness in the subsequent separate budget negotiations with spending ministries and provinces: for recurrent spending, the MOF negotiates; for capital spending, the MPI negotiates. There is also concern over the fragmentation of investment decisions, particularly at sub-national level. There is a lack of coordination over investment decisions at the regional level. This has contributed to poor prioritization of projects and low returns on public investment.
29. Aside from the divided capital and recurrent budgeting responsibilities, another challenge to linking plans or central policies to budgets is that each province has its own 5-year SEDP and annual implementation plan. The latter includes a list of annual projects proposed after discussion between the People’s Committees, Departments of Planning and Investment and line departments where relevant. When this is layered with national policies and targets, it results in quite a fragmented planning environment with overlapping targets that lack prioritization, and that are difficult to meaningfully link to resources.
30. Vietnam has legislative budget unity: the recurrent and investment budgets are aggregated into a single annual budget law.¹⁰ There is also unity in presentation, at least for the central budget component of the annual State budget law. Institutionally, the recurrent and investment budgets are prepared and negotiated separately before budget adoption. Although execution is through the common Treasury system, there is a lack of detailed reporting on capital expenditure in the consolidated budget documents. For example the capital

10 There are four dimensions of integration of recurrent and capital budgets (see Webber, 2007, OECD Journal of Budgeting, Vol. 7, No. 2): (i) Legislative; (ii) Institutional; (iii) Presentational; (iv) Managerial.

investment budget, in publically available documents, is not shown by function. It is reported separately by the MPI to the National Assembly, but these reports are not published. The expenditure management and classification issues, discussed in part 17 below, prevent the authorities from tracking total spending by sub-functional categories. For example, it is not possible for the public to know the extent of construction of new primary schools in any given year.

31. Managerial unity occurs when those responsible for the two budgets work together under one manager. Vietnam, like several Asian countries, has two ministries and two ministers - one responsible for the recurrent budget and one for the investment budget. The key issue in these situations is the extent to which the two ministries/ministers work together in budget processes. The SBL (Art. 23) requires the MPI to cooperate with the MOF and other concerned ministries. This is needed for budget preparation and budget execution, so as to ensure the all spending is coded fully and captured in the government's computerized expenditure recording system, TABMIS. The SBL's current "high level" requirement for MOF/MPI collaboration may be adequate. How collaboration is to work out in practice could be spelt out in Regulations. In particular, all investment projects, at each geographical level of administration, need to be executed using TABMIS. The regulations would also elaborate on how the MOF and the MPI would cooperate with spending ministries in investment project selection and budget preparation, execution, accounting and ex post reporting - both internal and to the NA and the public.

Recommendations

- ▶ Ensure, in the SBL and/or government regulations, that the expenditure ceilings proposed by MOF and MPI are: (i) formally approved by the Government; and (ii) are respected during annual budget preparation.
- ▶ Rectify, in the SBL, the lack of detailed classification of budget spending (see part 15).
- ▶ Assure, in the SBL and/or government regulations, that all investment projects at all budget levels (including those currently off-budget at central and provincial levels) use a unique budget classification and reporting system so as to provide consolidated spending information in any given sector or government function.

7. Fiscal rules at central and provincial levels

32. To guide fiscal policy and consolidate public finances, an increasing number of countries have adopted “fiscal rules”¹¹, which can be defined as near-permanent constraints on budget aggregates such as the fiscal deficit, public debt, or total expenditure. In the SEDP, the NA of Vietnam has formally approved fiscal targets, e.g., the 65% of GDP rule for public debt (with a sub-ceiling for government debt of 50% of GDP). The 2011-15 SEDP also has a “maximum revenue rule” of 22-23% of GDP. Prime Minister’s Decision 958 (July 2012) also sets medium-term public debt targets on solvency (e.g. debt to GDP) and liquidity (e.g. debt servicing to exports and government revenue). The publication of such fiscal target raises the question of whether they should be included in the revised SBL.
33. International experience indicates that the inclusion of quantitative fiscal rules in a SBL is not advisable. Many countries have broken the rules that have been included in laws.¹² Flexibility is needed to change the timing or size of quantitative fiscal rules. Thus, it would be preferable not to include any *quantitative* fiscal rules in the SBL.
34. Instead, *qualitative* fiscal rules - or objectives - could be included in the SBL. For example, the SBL could require total public debt “to be reduced to a prudent level” (or, for example, “the overall fiscal deficit, except in exceptional times, shall not be higher than the level needed for sustainable medium term public debt situation”). Under such wording in the SBL, the Government could, on the advice of the MOF, set an operational target of 65% of GDP for total public debt in 2020, “to be progressively reduced to no higher than 50% of GDP after 2020”, should it wish, without contravening the SBL. Such a decision by the government should be published in explanatory documents accompanying the annual draft budget submission to the NA, notably in an “annual budget strategy” document.
35. A similar position could be taken for provincial debt: whereas the SBL does not need to include any quantitative targets, the SBL could include an article that limits provincial debt in qualitative terms. Government regulations could then be issued that provide quantitative targets - upper limits - province by province. The actual levels of debt relative to target would be scrutinized annually and, if required, sanctions applied to profligate provinces.
36. Control over government debt - at central and provincial levels -- can be enhanced if there are fiscal rules on budget deficits or total expenditure (it is beyond the scope of this note to discuss the relative merits of deficit versus spending rules¹³). In this context, some countries have adopted “balanced budget” rules in their SBLs (or even

11 See, for example, IMF (2009). Fiscal Rules: Anchoring Expectations for Sustainable Public Finances, Fiscal Affairs Department, <http://www.imf.org/external/np/pp/eng/2009/121609.pdf>

12 For the experience of many “advanced” countries, see section 5.4 of I. Lienert, Fiscal Responsibility Laws: Are They Needed? Journal of International Commerce, Economics and Policy, Vol. 4, No. 3 (2013).

13 On this issue, see, for example, Anderson, B. and J.J. Minarik (2006) Design Choices for Fiscal Policy Rules, OECD Journal of Budgeting, Vol. 5. No. 4, pp. 159-208.

their Constitutions¹⁴). A common provision is to impose a “golden rule” (borrowing is allowed only for investment) on all local governments (e.g. France). The same applies in Vietnam, i.e., debt can be incurred only for capital investments.

37. For sub-national governments, Vietnam’s provinces are only allowed to borrow up to 30 percent of their capital budget (increased to 100 percent for Hanoi and HCMC). It may be useful to legislate a qualitative fiscal rule on total public (or “general government”) debt, the overall budget balance, and/or total expenditure. If this is accepted, there would have to be clear rules on how to divide “general government” debt, balance and/or total expenditure targets between the central budget and lower level budgets.
38. The fiscal rule discussion above has focused on key aggregates for fiscal policy decision-making. Even if the SBL continues to exclude quantitative fiscal rules (as advocated above), to apply fiscal rules, clear definitions of key concepts are needed. In this context, the SBL does not clearly define “budget balance”. This issue is addressed in part 20 below.

Recommendations

- ▶ Examine the possibility of including a qualitative fiscal rule (for debt, budget balance, or total expenditure) in the revised SBL, applicable for central and provincial/sub-provincial budgets, to replace or supplement existing qualitative fiscal rules.
- ▶ Avoid inserting quantitative fiscal rules in the SBL. As needed, these could be placed in Government Regulations.
- ▶ Consistent with the 5-Year Plans and Prime Ministerial Decisions, require the SBL to include medium-term and annual budget strategy documents, which (as a minimum) specify quantitative objectives for public debt and the overall fiscal balance, appropriately defined.

14 For example, Germany modified its Constitution in 2009 to change from a “golden rule” to a “balanced budget” rule (the overall deficit for general government cannot exceed 0.35% of GDP). Nearly all 50 States of the USA have Constitutional Balanced Budget rules, although the federal authorities do not have such a fiscal rule (rather, there is a legislated limit on total federal debt, expressed in trillions of dollars).

BUDGET APPROVAL PROCESSES AT THE NATIONAL ASSEMBLY AND PROVINCIAL PEOPLES' COUNCILS



39. The SBL directly refers to the role of the National Assembly and its Committees. The revision of specific articles of the SBL could enhance the role of the National Assembly. Key issues concerning the National Assembly's role in budget approval are now examined.

8. Pre-budget reviews and budget allocation norms

Some countries' SBLs require a pre-budget debate in parliament. The aim is to provide parliament with a preview of the government's proposed budget aggregates and new policy priorities for the next year's annual budget. In France, for example, the pre-budget debate takes place at the same time as the presentation to the NA of the annual accounts and budget reports for the preceding year (this typically occurs in May-June of each year).

40. The SBL does not require the central government to submit a pre-budget document to the NA. In practice, in May, the PM reports to the NA on budget allocation norms and spending priorities for the coming year (PEFA report, p. 50). The SBL does not require this pre-budget report to be published. During budget preparation, Article 39 of the SBL requires provincial Peoples' Committees to draft local budgets and report to the Standing Committee of the provincial Peoples' Council "for consideration and comment", but not "for approval". The timing of this submission is unclear in the SBL; this could be clarified in the SBL or a Regulation/Decree. Also, following the pre-budget debate, Vietnam's NA could be asked to vote on the budget aggregates for the upcoming new fiscal year and medium-term; this would provide a firm basis for the government to prepare detailed estimates.
41. Regarding allocations of expenditure, the SBL (Articles 5, 37, 50, 58) refer to norms that are set by "the competent State agency". For specific spending, notably for education and training, and for science and technology, there are minimum shares ("allocation norms" of at least 20% and 2% respectively for these two sectors) that should be respected. Also, the health sector budget should increase by at least as much as the overall budget. It is unclear what the legal basis and rationale is for these percentages, except that they are an expression of the government's desire to ensure minimum amounts of spending in these sectors.
42. It is legitimate to ask: why these sectors? Why not for other sectors such as pensions or social protection, for example? Not that this report would advocate extending such percentages to other sectors. On the contrary, by establishing such norms, there is less flexibility to allocate to the highest priority sectors, as determined by central and provincial administrations. Moreover, in publically available documents, it is very difficult for the public to ascertain whether the norms are respected in end-year budget execution documents, since a breakdown of capital spending is not readily available (see, for example, Table 3.2

on the variance of expenditure, PEFA report). In the SBL it may not be necessary to refer to spending norms, but rather “allocation of spending to government priorities”.

Recommendations

- ▶ Elaborate, in the SBL, on the objectives and content of the pre-budget report submitted to the NA in May of each year.
- ▶ Ensure, in the SBL, that the pre-budget report is available to the public.
- ▶ Clarify, in the SBL, whether a published pre-budget report at provincial level is to be a standard practice.

Review the need for minimum percentage “allocation norms” for specific sectors. This could possibly lead to eliminations or a change in the language of the SBL.

9. Calendar for adopting and publishing the annual budget

43. From the perspective of a parliament, there are two key dates in the regular annual budget calendar that should be included in a SBL, notably the date of submission of the draft annual budget to the NA and the date by which the legislative authorities must approve the annual budget. While there is no “international best practice” regarding the time period that parliament has to consider the draft budget, good practice is to allow a single-chamber national parliament two-three months for scrutinizing the government’s draft annual budget and for parliament to adopt the budget just before the new fiscal year begins (bicameral parliaments need a little more time).
44. In Vietnam, the timing of submission and adoption is rendered more complex by the multi-tiered and consolidated budgets approved by the National Assembly and provincial/sub-provincial Peoples’ Councils. At national level, the aforementioned two key dates are already included in the SBL, which requires *“the draft State Budget and plans on allocations of the central budget for the following year shall be delivered to National Assembly deputies ten days at the latest before the opening of the year-end session of the National Assembly of the previous year”* (Art. 43). This is typically around October 1. At this stage, the draft budget is not released to the public, which is unusual compared with most countries’ practices. The NA has about 6 weeks to consider and adopt the budget by November 15th (Art. 15).
45. The process of budget adoption at provincial level begins once the NA has approved the aggregated provincial budgets in mid-November. Since there are two more sub-provincial levels of administration

for which annual budgets need to be approved before December 31st, the budget approval time at provincial Peoples' Councils and sub-provincial levels is very short. Provincial Peoples' Councils, for example, have until December 10th (Art. 45 (3)) - about 3 weeks -- to consider and adopt their annual budgets. This is rather short, especially given that provinces account for a sizeable share of total State (= "general government") spending (in 2012, it was around 50%), which has been on the rise.

46. The higher levels of government have certain "veto rights" over budgets adopted by provincial and sub-provincial authorities (SBL, Article 47). If the provincial administrations had earlier and/or more detailed notification of their spending allocations approved by the NA (as advocated in this report), there would be little need to maintain these "veto rights". Since the provincial and sub-provincial are best placed to know their spending priorities - which would certainly differ from province to province - it may be useful to review Article 47 with a view to providing provinces/districts/communes with more autonomy in the allocation of spending, subject of course to broad parameters decided at central level.
47. There are five options for addressing the issue of giving the "parliaments" at each level of government more time to consider the draft budgets prepared by the "governments" at each level:
- ▶ Do nothing. Ensure that the present deadlines are respected and work within them.
 - ▶ Give the NA less time, e.g., until October 31st or November 7, to adopt the State budget, to allow more time for provinces/districts/communes to adopt their budgets in Peoples' Councils.
 - ▶ Move back the October 1st date by a few weeks, and lengthen the budget adoption phase at all levels of administration.
 - ▶ Require the NA to approve the net allocations to provinces at the outset of its deliberations, e.g., before October 10, as part of a two-stage budget approval process (discussed more fully in part 13 below). This would allow each lower level of government to finalize their draft budgets and their local Peoples' Councils to adopt them before end-December.
 - ▶ Approve the net transfers to local authorities a long time before October 1, in a separate procedure. For example, Denmark, a highly decentralized unitary country, does precisely this - there is a legal requirement to notify individual regional and local governments of their annual block grants by July 1st at the latest.¹⁵

15 See OECD Budget Survey of Denmark, p.55, OECD Journal of Budgeting, Vol. 4, No. 1. In Denmark, the fiscal year begins (as in Vietnam) on January 1st. This means that "provincial" authorities are notified of their block grants six months before the beginning of a new fiscal year. About 2/3rds of total government spending in Denmark is allocated and executed by regional and local governments. The Danish case illustrates the very high degree of trust that the central authorities have in the regional and local authorities.

48. The 2nd and 3rd options could be regarded as “tinkering at the margins”. The 4th option would require far-reaching changes - and simplifications -- in the system of net intergovernmental transfers to provinces (relevant issues are discussed in parts 21-24 below). The 5th option is radical, perhaps too radical to entertain in Vietnam.

Recommendations

- ▶ Require, in the SBL, publication of the draft annual State budget at the time of its submission to the NA and of draft detailed budgets submitted to Peoples' Councils at each level.
- ▶ Review Article 47 with a view to providing provinces/districts etc. with more autonomy in the allocation of spending.
- ▶ Consider lengthening the time period that the provincial and sub-provincial Peoples' Councils have for adopting their budgets (provided all budgets are approved by December 31st).
- ▶ Reconsider the SBL's dates for State budget submission and adoption (as discussed in the above options).

10. Content of budget approved by National Assembly and Provincial Councils

49. A typical budget has two main parts: (1) a draft annual budget law, which (if the budget is unified¹⁶) proposes annual estimates of revenues and spending; and (2) budget documents that help understand the annual budget law, e.g., the MTF and documents that outline the main new policies being adopted in the budget, the quantitative impact of new revenue and spending policies, and a variety of other helpful explanatory annexes (see, for example, OECD's 2002 Best Practices in Budget Transparency www.oecd.org/dataoecd/33/13/1905258.pdf; or the documents included in the Open Budget Index surveys (see <http://internationalbudget.org/what-we-do/open-budget-survey>)).
50. In Vietnam, the State budget adopted by the National Assembly by November 15 is in quite aggregate format, though not published at this stage. For the central budget, there is a disaggregation of recurrent spending by “function”. The latter is submitted separately by the MPI. There is a fairly detailed breakdown of economic and functional spending by central administrative units. At this stage, there is no detail for the provincial budgets - only recurrent and capital aggregates. Detailed budgets at provincial level - by administrative units -- are adopted by provincial Peoples' Councils by December 10. Once budgets are finalized at each level, the MOF publishes after December 31st the adopted budgets of central, provincial, districts and communes. The content and presentation of these budget reports are

¹⁶ Here, budget unity refers to simultaneous presentation and adoption of budget revenues and all expenditures. In English-speaking countries (e.g., USA, UK), revenue laws that impact on the budget aggregates are usually adopted by parliament in a process that is not aligned with parliament's adoption of spending laws, often called “Appropriations Acts”. In contrast, in French and Spanish-speaking countries, a unified budget law approving annual revenues and expenditures simultaneously is usually adopted by the National Assembly.

quite limiting in terms of getting a comprehensive picture of budget policies.

51. Concerning annual budget documentation, Article 42 requires that *the draft State Budget and plans on allocations of the central budget to be submitted by the Government to the National Assembly shall be attached with the following documents:*
- i. Report on implementation of the State Budget in the preceding year, grounds for drafting the State Budget and allocation of the central budget, basic contents and solutions aimed at realizing the draft State Budget;*
 - ii. The spending tasks of the State Budget in which the important targets and programs of the national economy and major policies of the Party and State related to the State Budget shall be specified;*
 - iii. The tasks of the State Budget revenues, accompanied by solutions aimed at mobilizing revenues for the State Budget;*
 - iv. The State Budget overspending and compensation sources; the rate of overspending compared with the Gross Domestic Product;*
 - v. Report on the State's debts, in which the amounts of due debt, overdue debt, amounts of interest to be paid during the year, the debts that will result from compulsory borrowings to compensate for the State Budget overspending, the capability of repaying debts during the year and the amount of debts by the year-end shall be specified;*
 - vi. Specific policies and measures aimed at stabilizing finance and the State Budget;*
 - vii. List, implementation pace, and investment estimates of the plan year of projects and capital construction works of national importance, which are financed from the State Budget sources in accordance with the National Assembly's decision;*
 - viii. Estimates of spending by ministries, ministerial-level agencies, agencies under the Government, other central agencies, which are categorized by fields of spending; revenue and expenditure tasks, percentage of revenue sharing in respect of revenues to be shared, and supplementary revenue from the central budget to the budgets of individual provinces and cities under the central Government; and*
 - ix. Other documents to explain the projected State Budget revenues and expenditures, and the plans on allocations of the central budget.*

52. This list may, at first sight, appear relatively complete, especially given sub-article 9, which allows the Government to provide any additional information it desires. However, compared with good international practices, further disclosures could be required by the SBL. Essential additional disclosures should include a document outlining fiscal performance in the past two years, medium-term budget policies, priorities, objectives and targets (as discussed in part 5 above), as well as more detail on the rationale of the budget strategy and any new policies being proposed in the draft annual budget for the new budget year. Other specific obligatory disclosures (discussed in parts 11, 30 and 33) could also be required in an amended SBL.
53. Some of the above measures would help to strengthen the transparency and analytical content of State Budget reports. This would help the National Assembly to make a better judgment on the links between the budget and government policies, fiscal performance and sustainability, and the efficient use of public resources. The reporting requirements outlined above are spelt out further in Resolution 387 (2003) of the National Assembly. This Resolution sets a number of standard budget tables that need to be presented by the government to the National Assembly. However, a review of these tables finds that there is much scope for simplification and standardization of budget classification (discussed further below).

Recommendations

- ▶ Require, in the SBL, publication of adequately detailed draft annual State budget and provincial/district/commune budgets (for details, see discussion on classification in part 15 below).
 - ▶ Require, in the SBL, an updated MTFE as part of the budget documentation of (i) the pre-budget report (discussed in part 8 above) and (ii) the draft annual State budget.
 - ▶ Review article 42 of the SBL with a view to extending it to include obligatory annual reporting of the projections for off-budget public funds, budget transfers to SOEs, tax expenditures, fiscal risks, and other essential budget information.
54. Tax expenditures include exemptions from the tax base, allowances deducted from gross income, tax credits deducted from tax liability, tax rate reductions, and tax deferrals (such as accelerated depreciation). Tax expenditures are often identical in their effects to explicit expenditure programs. For example, assistance to individuals, families, or firms can be delivered either through expenditure programs or through concessional tax treatment. Once introduced, however, tax expenditures do not require annual approval by the legislature, and are therefore not subject to the same degree of scrutiny as actual expenditures. A proliferation of tax expenditures can result in a serious loss of transparency.

11. Specific Disclosures: Tax expenditures and Fiscal Risks

55. For this reason, it is good practice to include a statement of the main tax expenditures as part of the budget documentation. Such a statement indicates the public policy purpose of each provision, its duration, and the intended beneficiaries. Wherever possible, major tax expenditures should be quantified. In the SBL, there is no obligation on central or provincial authorities to prepare a statement of major tax expenditures benefiting SOEs, other enterprises, households and provinces, and attach the statement to the annual draft budget law as one explanatory annex.
56. In Vietnam, a number of tax expenditures were introduced in January 2013 through Government Resolution No. 2. This had a transparent list of tax breaks accorded to enterprises. However, it was issued separately from State Budget documentation and the government only provided a rough indication of fiscal costs.
57. Good international practice requires major fiscal risks to be identified and quantified wherever possible. Box 1 describes what can be covered in a statement of fiscal risks. The Vietnam PEFA report (indicator PI-9) indicates that progress has been made in reporting SOE risks to the NA. The reporting of risks associated with provincial borrowing is also improving, although information at central level is incomplete. It would be useful to extend the fiscal risk analysis, including by providing a more comprehensive Statement of Fiscal Risks to the NA, Provincial Councils, and the public, along the lines indicated in Box 1. In the SBL, there is no obligation to prepare such a Fiscal Risk statement and attach it to the annual draft budget law as one explanatory annex.

Box 1. Statement of Fiscal Risks

An annual Fiscal Risk statement provides an overview of all material fiscal risks, quantified to the extent possible. Where allowance for a risk has been made in a budget contingency reserve this should be noted. The statement may contain information on risks broken down into the following categories:

(1) **Variations in key forecasting assumptions** - the fiscal effects of variations in key assumptions underpinning the macroeconomic forecasts (e.g., the effect on the fiscal deficit of a 1 percent increase or decrease in GDP growth, inflation, interest rates, or the exchange rate from the central rate assumed in the budget forecast); and the fiscal effects of variations in key assumptions underpinning the budget forecasts of revenue and expenditure (e.g., a variation in the effective tax rates, public sector wage increases, or the average number of claimants for social assistance).

(2) **Contingent liabilities** - these may include guarantees, indemnities, and warranties; uncalled capital (e.g., in international financial institutions); and litigation against the government.

(3) **Uncertainty about the size of specific expenditure commitments** - where provision has been made in the budget for expenditure on an activity for which there is a greater-than-usual degree of uncertainty about the cost, the risk should be disclosed. For example, the government may have given undertakings to depositors of a distressed financial institution that their deposits would be honored. However, at the time of finalizing the budget, the cost of this commitment may still be highly uncertain.

(4) **Other items that have not been included in the budget because the extent of uncertainty about their timing, magnitude, or eventuality** - for example, the government may have announced a general intention to introduce a tax or expenditure policy change, the details of which have not been finalized sufficiently for inclusion in the budget.

Source: IMF Manual accompanying the Fiscal Transparency Code, 2001

Recommendations

58. In the SBL, require the draft budgets presented to “legislatures” at central and provincial levels to include (in budget documentation):
- ▶ Estimates of tax expenditures and include them in the budget documentation that is presented to the National Assembly, Peoples Councils and the public.
 - ▶ A Statement of Fiscal Risks to the main budget estimates.
 - ▶ Gradually improve the quality and coverage of risks in the Fiscal Risk Statement.

12. Budget amendment powers of National Assembly and Provincial Councils

59. One of the legislature's potentially most important powers is its ability to alter the size and composition of the budget proposed by the executive. Most SBLs specify the extent to which a country's Parliament can amend the draft. In this context, there are three main options for the law. It can state explicitly that Parliament has:
- ▶ **Unlimited amendment powers:** the legislature may increase or decrease the revenue estimates without any constraints (this is the case in about half of the OECD countries, although in practice, parliaments are often self-restrained for political reasons).
 - ▶ **Limited amendment powers.** Several OECD countries' SBLs impose varying limits on their parliament. One option is to allow the legislature to make changes in revenues and expenditure provided it does not alter the budget balance as proposed by the government.
 - ▶ **Negligible amendment powers.** A few OECD countries, mainly those of Westminster tradition (Australia, New Zealand, UK, etc.) strongly limit their parliaments. For example, in Canada, expenditures can only be reduced by parliament.
60. For medium-term fiscal stability, it is desirable to limit the legislature's powers. There is evidence that limits on parliamentary amendment powers result in better overall fiscal performance.¹⁸ In some countries' SBLs, total spending proposed by the government cannot be increased. In other cases, total spending can be increased provided new revenue-raising measures are also approved in the budget. In both cases, parliament may change the composition of spending. For example, parliament may be empowered to reallocate proposed spending between: (i) administrative units; (ii) broad economic categories of spending; (iii) budget programs, subprograms or functions. The important issue here is to distinguish the "unit of appropriation" from the detailed budget classification structure.
61. Parliaments typically do not appropriate spending by all of the dimensions of expenditure discussed in part 17 below, but only a subset. In the SBL, Parliament may delegate power to the Government to make further reallocations at the detailed level of spending. For example, in France, whose Parliament allocates spending by programs, the government may swap non-salary spending within each program for capital spending; however, there is an upper limit on salary spending, i.e. should the government wish to increase salary spending in any budget program, it would need authorization of Parliament for this; on the other hand, the government could increase non-salary spending by reducing salary spending, without parliamentary approval.

18 "Countries with unfettered powers to amend the budget proposal of the executive have higher levels of public expenditures. The effect is statistically significant and substantially large". See p. 134 of J. Wehner (2010) "Legislatures and the Budget Process", Palgrave Macmillan. Wehner concludes that "legislative amendment powers (but no other "legislative institutions") are a primary determinant of fiscal policy outcomes.

62. Budget amendment powers of NAs are not limited to the spending side of the budget. In some countries, parliament raises the estimates of revenues without adopting revenue-raising measures that fully compensate for the revisions to revenues (e.g., in a few oil-producing countries, parliament increases the assumption concerning future oil prices). This is done solely for the purposes of increasing spending. Although this does not change the ex ante budget deficit, it typically results in a higher ex post deficit (actual revenues minus actual spending is typically higher than projected, unless the government assumptions are extremely conservative). When this happens, the SBL may need to include an article preventing the legislature from increasing revenue projections for “technical reasons” (i.e., unsupported by revenue-raising measures). Alternatively, the government and parliament could agree on a formula for key parameters such as the oil price assumption to be used for budget revenue (and/or expenditure) projections. The formula’s criteria could be included in the SBL.
63. In Vietnam, article 46 of the SBL provides some guidance on budget amendment. *During the process of discussion and making decision on the draft budget and budget allocations, the National Assembly and the People’s Councils, when deciding the draft budget on increased expenditures or addition of new expenditures, shall consider and decide the solutions to ensure the budget balance at the same time.* This article, which is not entirely clear (at least in the English translation) appears to imply that the NA can increase expenditure provided revenue-raising measures are proposed and adopted by the NA. However, the article does not state that the budget balance must be left unchanged. Clarification is needed here.
64. Article 15 4 c states that *additions from the central budget to the individual local budgets, including additions to balance the budgets and purposeful additions.* This article appears to allow the NA to increase provincial budgets from the central budget, although financing is unclear.
65. In the SBL there are no explicit provisions as to whether the NA can raise or lower revenue estimates. Also, although the NA may “provide comments” on draft budget laws (Art. 16), it does not appear that the Government is obliged to take on board its comments.
66. It is difficult to know the extent to which the NA has modified the draft budget in recent years. This is because the draft annual State budget law is not available to the public. However, it is quite likely that the legislatures at different administrative levels ultimately respond to the central government. For example, Article 47 clearly indicates that the central government is authorized to change the annual budgets of provinces: *The Prime Minister may request a provincial People’s Council to readjust the draft budget if the disposition of the local draft budget does not conform to the decision of the National Assembly.* Provincial governments exercise similar authority over district People’s Councils (Art. 47, 2nd part). In these circumstances, the NA and Peoples Council at various levels may only make negligible budget amendments.

Recommendation

- ▶ Clarify, in the SBL, the budget amendment powers of the NA and Peoples' Councils, i.e., state clearly whether the NA and Peoples' Councils are authorized to increase spending as proposed by the government (Peoples' Committees) in draft annual budgets and, if so, whether this authority is only granted provided new taxes or nontax revenues are adopted to offset any increase in the budget balance (as measured in GFSM 2001) or whether the NA can increase proposed borrowing and hence public debt.

13. Two-stage budget approval at the National Assembly

67. Although the SBL specifies the role of the NA, its Standing Committee, and its Economic and Budgetary Commission (articles 15-17), the SBL does not elaborate on the timing of internal processes at the NA. In many countries, details of these procedures are included in regulations issued by Parliament itself. In view of the options discussed above to provide provinces and lower level budgets with earlier notification of their net transfers for the following fiscal year, it would be useful to consider, in the SBL, the possibility of a two-stage budget approval process.
68. A two-stage budget approval process at parliament is one where, early in the approval process, Parliament decides on the main aggregates of revenues, total expenditures. For Vietnam, this could be split between total central spending and total transfers to provinces, and annual budget financing (net financing, for which new borrowing, loan repayments, and net asset sales could be distinguished). This allows parliament to first focus on overall fiscal management. The approval would be cognizant of the MTF's aggregates for revenues, spending and budget balance. At a second stage, the detailed estimates of central budget and sub-national spending would be approved (in Vietnam, as discussed below in part 5, for central budget spending, these would be more detailed than at present; they would also include sub-national budget spending). Several countries, including France and Sweden, have adopted such a procedure (Box 2).
69. According to the Public Debt Management Law 2009, the MoF has to prepare a long-term debt management strategy, a medium-term debt program and an annual borrowing plan. As per Decree 79, the long-term strategy is approved by the National Assembly, whereas the medium-term and annual plans are approved by the Office of the Prime Minister. In any annual budget, the gross and net financing the budget needs to be consistent with the medium term debt program. In the context of a two stage budget adoption procedure, the SBL could require annual new gross and net borrowing (new borrowing less principal repayments).

Recommendation

- ▶ Consider introducing, in the SBL, the above key features of a two-stage budget approval process at the National Assembly and provincial Peoples Councils.

Box 2. Two-stage Budget Approval at Parliament: France and Sweden

France: A two-stage budget approval procedure is required by France's Organic Budget Law (OBL) 2001. Key features are:

- ▶ A "table of balance" must be presented as part of the draft budget law. This table shows total revenues and new budget financing, which equals total spending and gross debt repayments.
- ▶ At a first stage, Parliament approves the "table of balance" which, inter alia, approves a ceiling for total spending for the upcoming new fiscal year.
- ▶ Parliamentary discussions then focus on the detailed spending appropriations, which since 2005 are adopted by programs (about 150). Programs include recurrent and capital spending.
- ▶ The detailed budget (notably the spending of each program) is formally adopted by Parliament at a second stage. According to the OBL, this must happen before end-December.
- ▶ The Government then implements a more disaggregated spending budget, which, inter alia, includes a breakdown of spending by economic classification. This is for spending control purposes: the OBL prohibits the Government from increasing salary spending by decreasing non-salary spending (in contrast, the Government may, within a program, use salary spending appropriations to increase non-salary spending, including for investment projects).
- ▶ All spending appropriations are publically available. Detailed end-year reports on the spending under each budget program are available on the MOF's website.

Sweden: To control aggregate government spending, in the mid-1990s, a "top-down" budget system was put in place. This was incorporated into the State Budget Act 1996. Key features are:

- ▶ A detailed draft budget law is presented to parliament on or about September 20, more than three months before a new fiscal begins on January 1.
- ▶ At a first stage, aggregate spending for the 4th year - the year beyond the 3-year MTBF period -- is approved by Parliament's Committee of Finance. The Committee also establishes ceilings for 27 spending areas for the upcoming new fiscal year (after considering budget revenues).
- ▶ Parliamentary committee discussions then focus on detailed spending appropriations within the 27 ceilings for spending areas. These discussions take place during October and November.
- ▶ The budget is formally adopted by Parliament at a second stage, typically by mid-December.
- ▶ The Government disaggregates spending appropriations further and issues appropriation directives to each of Sweden's 300-400 agencies responsible for budget implementation.
- ▶ All spending appropriations are publically available. Detailed end-year reports on the spending executed by government agencies are available on the agencies' websites.

Source: MOF websites of both countries. For Sweden, "The central government budget process".

14. Reversionary budgets, Supplementary budgets and Mid-term budget reviews

70. It is important to distinguish between a “reversionary budget” and a “supplementary budget”. A “reversionary budget” is the budget that would be implemented at the beginning of a new fiscal year should parliament not adopt the annual budget before the beginning of a new fiscal year. In contrast, a “supplementary budget” proposes modifications to the budget already adopted by the NA. Any SBL should contain clear provisions on both.
71. “Reversionary budgets” are not presented to parliament. The SBL should specify that, in the new fiscal year, an interim annual budget will be executed in a particular manner. In most countries, when the NA has not adopted the budget in a timely manner, the SBL states that the next year’s budget shall be executed at a monthly rate of 1/12th of the previous year’s budget¹⁹.
72. In Vietnam’s SBL, article 52 is not explicit on this issue. Although the detailed “budget books” are generally available by January 1st (and have been published in early January in recent years), there is nonetheless a possibility that the budget approved by the NA is not promulgated by this date. In view of this possibility, Article 52 could state explicitly that the previous year’s annual budget of each budget unit would be executed at a monthly rate of 1/12th of the previous year’s budget.
73. “Supplementary” or rectifying, budgets increase or decrease the revenue and expenditure estimates that were previously approved by Parliament. The need for this can arise because the original assumptions for revenues or costs of spending policies were inappropriate, or because new policies were decided outside the budget cycle (not a desirable practice), or because the annual budget’s contingency reserve has been exhausted.
74. It is inevitable that budget revenues actually collected will differ from the annual budget’s estimates, even when the latter are based on realistic assumptions.²⁰ For example, economic activity can be higher or lower than assumed, resulting in higher or lower revenues than those included in the budget estimates. There may also be expenditure pressures to exceed budgeted appropriations. For this reason, a government should be authorized by the SBL to propose a Supplementary Budget to parliament for approval. Depending on budget amendment powers (as discussed above) the Parliament may or may not approve the proposed changes.
75. After 6 months of budget execution, MOFs that monitor the budget know whether or not the annual budget is on-track or going off-track. A good international practice is for Parliament to conduct a formal

19 A few countries’ SBLs allow the next year’s budget to be executed on the basis of the spending estimates as proposed by the Government. However, this undermines the principle of “supremacy of parliament”.

20 In some countries, revenue estimates are deliberately underestimated. This enables unpleasant surprises (revenue shortfalls) to be addressed without resorting to difficult spending-cutting measures. In other countries, revenue estimates may be deliberately overestimated in order to conform to fiscal rules on budget deficits.

mid-year review, in which the legislature examines revenue, spending and budget balance outcomes compared with the adopted budget. If necessary, the government proposes new revenue or spending policies - and new estimates for the annual budget (and possibly for the medium term as well) -- to rectify the emerging new trends in budget execution. Vietnam's SBL does not include a provision for a formal six-monthly review of budget execution.

76. Vietnam's SBL (Article 49) contains provisions for "budget adjustments", distinguishing two cases: one where there are "significant changes" in the budget and one where adjustments are needed that "do not result in major changes in the budget". In both cases the National Assembly (or its Standing Committee) is informed. However, based on the principle of "supremacy of the legislature", for the first case, the SBL needs to specify that the NA approves a modified budget (possibly not identical to that proposed by the Government, should the NA be provided with some limited budget amendment powers). In the second case, there is no need to return to the NA for approval, especially if the on-budget contingency reserve is not exhausted.

Recommendations

- ▶ Clarify Article 52 so that it provides for a "reversionary budget" in the event that the "legislatures" at each level of government have delayed adopting their annual budgets according to approval deadlines included in law or regulations. The SBL could state that a reversionary budget shall be executed based on 1/12th of the previous years' budget.
- ▶ Consider modifying article 49 on "budget adjustments" so that it is clear that: (1) large "budget adjustments" require presentation of a Supplementary Budget by the Government to the NA, which formally approves the Supplementary Budget, just as it does for the annual State budget in mid-November; (2) supplementary budgets can only support unforeseen and unavoidable expenditures; and (3) not requiring the Government to present to the NA a Supplementary Budget when the on-budget contingency reserve is not exhausted.
- ▶ Consider institutionalizing a formal six-monthly review of budget execution at the NA by inserting an appropriately worded article in the revised SBL.

SPECIFIC BUDGET CLASSIFICATION AND DEFINITION ISSUES



15. Classification of budget revenues

77. The approval of revenues is a fundamental duty of the NA. By approving revenue estimates each year, the NA endorses the Government's estimates of various revenues. In adopting the annual budget, revenues need to be defined and classified. The IMF's GFS Manual provides an international standard for the definition of various revenues that are included in a country's budget: taxes and nontax revenues. Although the proceeds of new borrowing (by the government, from third parties) and the repayment of loans (of third parties that have borrowed from the government) are typically paid into a treasury single account (TSA) system, in GFS, they are transactions in (net) financial assets. Only interest received or paid on loans should be classified "above the line" with revenues or expenditures.
78. GFS provides a breakdown and classification of revenues. It is not unusual for a country's SBL to include major categories of revenues and require for them to be included in the annual State budget. Vietnam's SBL does this in the context of revenue sharing arrangements between central and provincial/district/town/commune budgets (articles 30, 32, 34). The revenues are broadly consistent with GFSM 2001 revenue categories, although to comply with statistical reporting for GFS purposes, it is important that items such as the sale of assets are classified "net acquisition of non-financial assets" rather than as revenue.

Recommendation

- ▶ Ensure that the SBL's classification of revenues is consistent with GFS's definition and classification (categories) of revenues. Make changes in the SBL, where needed.
- ▶ Exclude from the definition of budget revenues, the proceeds of financing transactions, e.g., from loans and bonds.

16. Approval and carry-over of "excess" revenues

79. Revenues should never be spent unless authorized by law. This principle is often included in a SBL. This principle means that any revenues collected in excess to budget estimates cannot be spent unless expressly permitted by the legislature.
80. Excess revenues in Vietnam - those collected above budget estimates - have historically been quite large (in 2012 and 2013 revenue collection slowed down and "excess revenues" diminished). The excess revenues are partly because there is some conservatism in revenue projections, a practice that cannot be changed by the SBL.

This is partly due to conservative oil price projections, favorable terms of trade, and unexpected windfalls. Another reason why revenue collections are at times above budget revenue estimates is because of the discretion afforded over the spending of excess revenues (half on salary reforms and half on capital projects).

81. In the SBL, the problem of excess revenues cannot be entirely addressed by strengthening an article that requires “revenue estimates to be based on realistic estimates of the tax base” (GDP, exports for export taxes, imports for all taxes on imports, consumption for VAT, etc.). The MOF is likely to have adequate in-house expertise to make realistic projections of likely tax and nontax revenues. The authorities can only address the “excess revenue” issue by re-examining the incentives that provinces have to underestimate revenues. In this context, the SBL has limited “power” to address the problem. Nonetheless, if changes were made in the system of revenue sharing, e.g., by providing a uniform share for all provinces, the SBL would need to be modified to reflect such a change. If this route were to be taken (it is discussed further below), the problem of excess revenues would diminish.
82. Excess revenues in Vietnam are spent in a process that is separate from the more-usual Supplementary Budget procedure discussed above. According to Article 59 of the SBL, governments at different levels should make proposals on how excess revenues are to be spent and submit them to the NA or Peoples Councils. In practice, revenues are spent before the NA or Peoples Councils provide spending authority and later they are reported to the NA and Peoples’ Councils. It is ambiguous in the SBL whether the NA or Peoples Council can modify the proposals of the government (or Peoples’ Committees). For some specific categories of spending such as land taxes, excess revenues can be channeled to off-budget funds for spending on infrastructure projects.
83. Another unorthodox budget practice is carrying over of excess revenues for spending in the following year. This practice is authorized in Articles 59 and 63 of the SBL, which allows: “*the increase in revenue to be used for various purpose, including supplementing the finance reserve*”, which, in turn can be “*transferred to the following year’s budget revenue*”. The SBL’s Implementing Decree No. 60/2003/ND-CP elaborates further. In particular, Article 51(1) of this Decree prescribes that “*State budget expenditures shall be effected only... when they have been included in assigned budget expenditures, except expenditures from increased revenue sources over the assigned estimates*”. Article 54(1) of the Decree elaborates on the SBL’s Article 61: “*if revenues increase over the assigned estimates, the increased revenue amounts, after deductions for incentive payments to sub-national governments, and the saved expenditure amounts, shall be used to reduce government debt, to supplement reserve funds and to increase development investment expenditures*”.

Although the Government should consult the NA Standing Committee on their plans for the use of such funds, this may not always happen, i.e., the Government exercises considerable discretion on the way it allocates spending from excess revenues.

84. In Vietnam's cash-based accounting system, revenues are recorded in the year that they are collected.²¹ Delays in revenue collection and payments into the Treasury's account are quite short when the banking system is used for revenue collection, which is increasingly the case in Vietnam. Even when some taxes are still paid manually, accounting regulations could, if needed, allow for a short complementary accounting period for recording revenues transferred to the Treasury's accounts in a new fiscal year in the books of accounts of the previous year. Thus, there is no justification for carrying over revenues; the legal authority for such a practice should be revoked.

Recommendations

- ▶ Ensure, in the SBL, that the approval of the use of excess revenues (by the NA or provincial Councils) for spending or for debt reduction²² takes place only in the context of a Supplementary Budget. With this in mind, review every provision in the SBL referring to supplementary revenues (those collected above budget estimates).
- ▶ Use the same budget classification for revenues and spending in Supplementary budgets as that of the initial annual State budget.
- ▶ Ensure that the NA and PCs are kept informed of the actual level of revenues, expenditures fiscal balances and debt (more on fiscal reporting in part 39 below).
Change article 62 and abolish article 63 of the SBL, as they refer to excess revenue carryover and to financial reserve funds, both of which are inconsistent with good budget practice and modern cash management practices (see also part 18 below).

17. Classification of expenditure

85. In all countries, expenditures need to be classified by various dimensions. The purposes of budget spending classification (the budget nomenclature) include establishing the basis for:
- ▶ The **appropriation structure of annual spending approved** by the country's legislature. After the end of the fiscal year, "parliamentary control" of budget spending is exercised by parliamentary review of actual spending compared with the initial (or Supplementary) budget appropriations.

21 Under accrual accounting, revenues are recorded when they are due for payment. However, payment delays following tax assessment are short for many taxes, e.g., trade taxes, VAT, PIT, CIT (when paid in monthly installments). As a result, there may not be much difference between revenues on an accrual and a cash basis.

22 A third use is to allow excess revenues to build up the balance in the TSA main account at the State Bank of Vietnam. This would be reported in the financial statements (cash balances) in the end-year accounts; the reasons for the excess revenues would be explained in the annual report on Budget Execution and Accounts.

- ▶ **Expenditure control within the Executive.** The MOF and/or spending ministries exercise control of expenditure at a level that is more detailed than the appropriations of spending approved by the legislature.
 - ▶ **Government accounting.** Each expenditure transaction (especially when it is committed, when goods and services are delivered, when payment orders are issued, and when invoices, public servants or interest on debt are paid) needs to be recorded in the government's accounting system. The expenditure classification system and coding system in the computerized recording system at the transactional level are multi-dimensional and detailed. Provided all transactions are coded fully in computerized records, expenditure aggregates and reports by any spending dimension can be generated.
 - ▶ **Budget reporting and accountability.** The budget classification structure should enable clear presentation of budget allocations and thereby analysis and communication of fiscal policy. The latter includes for example prioritization of resources across and within government functions, sectors, and/or programs; the economic breakdown of expenditure and its impact on macro-fiscal sustainability; and the geographic allocation of resources. These are necessary to be able to link planning and budgeting.
86. The budget classification system can also be used as a way of forcing presentational integration of a dual budgeting system, i.e., when there is one budget for recurrent spending and another separate budget for investment spending. About a decade ago, Indonesia integrated its recurrent and investment budget, including by making changes in its SBL (Box 3).
87. Spending classifications include (but are not limited to) the following dimensions: (i) **administrative** - the ministry or agency responsible for the spending; (ii) **geographical** - where spending takes place: at central, provincial or sub-provincial levels; (iii) **economic type**, including various types of current spending as well as capital (investment) spending; (iv) **functional** and sub-functional; (v) by **program** and subprogram and/or activity; (vi) **source of funding** of the spending (domestic budget versus donor/external funding); and (vii) **beneficiaries** of the spending. International standards for dimensions (iii) and (iv) (economic and functional) exist and are published in the IMF's 2001 GFS Manual (GFSM). All other classifications for spending are country-specific.

Box 3. How Indonesia Integrated the Recurrent and Investment Budgets by Reforming Budget Classification

The State Finances Law 17/2003 and Treasury Law 1/2004 were adopted to provide a new basis for budget management. Law 17/2003 delegates the responsibility of overall fiscal management of central government finances to the minister of finance; the law also assigns responsibilities to individual ministers, provincial governors and other local authorities for financial management in their jurisdictions. The responsibilities of the minister of finance for central government treasury management are clearly elaborated in Law 1/2004.

Law 17/2003 provides a strong legislative basis for aggregate macro-fiscal management. It requires the government to submit a document outlining fiscal policy fundamentals and macroeconomic framework to parliament each year in May (the fiscal year is January-December). All revenues and all spending of central government is included in the annual budget (prior to 2003 Indonesia had adopted several Decentralization Laws, which delegated considerable budget management autonomy to provinces and districts).

The 2003 law requires that annual budget to give “details of organizational units, functions, programs, activities, and types of expenditure”. The Elucidation of the law clarifies the economic types of expenditure, including salaries, goods and services, subsidies, interest and capital, i.e., investments for development, to be included. This forced the integration of the budgets of recurrent and investment spending, which previously had been separate.

By requiring parliament to approve spending at activity level, i.e., one level below program, parliament approves the budget at the level of each budget user (satker) rather than at the higher ministry level that is common elsewhere. Approval at this level of detail made the budget inflexible during implementation. To overcome this, legal changes were made in 2006 to provide authority to the MOF to re-appropriate between satkers of the same ministry, and between activities under the same program (with some restrictions in each case).

To clarify the role of the Planning Agency (“BAPPENAS”), including in annual budget processes, in 2004 parliament adopted Law 25/2004 concerning the National Development Planning System. Its implementing regulations detail provisions for: (i) **Government annual work plans**, which include an overview of the macro-economic framework and a description of the development priorities for the budget year. It is used as a basis for the discussion of the General Policies and Budget Priorities in May of each year; and (ii) **Ministries’ annual work plans**, which describe for each Ministry, its “vision, mission, policies, programs, activities, expected outputs and outcomes” for the upcoming budget year. Projections by program for the year following the budget year are required.

In practice, the MOF and BAPPENAS work together at the early stages of budget preparation. In particular, MOF and BAPPENAS issue a joint budget circular to line ministries, typically in February-March. The circular provides guidelines for the preparation of ministries’ work plans and includes indicative budget ceilings for each ministry, broken down by programs (which include recurrent and investment spending). These work plans are jointly reviewed by the MOF and BAPPENAS in May, after which the MOF alone becomes responsible for the subsequent steps in annual budget preparation.

Source: State Finances Law 17/2003; IMF Fiscal Transparency ROSC 2006, PEFA report 2007.

88. It is good international practice for the SBL to specify the classification of expenditures to be used in annual appropriation act(s). In some countries with compliance-oriented budget systems, the annual spending appropriations approved by the legislature reach thousands of budget line items (e.g., Turkey had over 13,000 line items in its budget). In recent years, the SBLs in some advanced countries have re-specified appropriations as broad-based “programs” or “outputs.” In such systems, the Government (or MOF) regulations specify the degree to which expenditures need to be disaggregated for the purposes of expenditure control.
89. Whereas the “unit of appropriation” should be specified in the SBL, detailed classification systems for use in budget execution and statistical reporting, such as GFS-compatible functional and economic classifications, can be specified in a government decree.
90. In Vietnam, government expenditures are classified by:
- ▶ **Administrative units:** Public documents for central government only provide spending information for major chapters (e.g., ministries), not sub-chapters, at central and provincial tiers of government.
 - ▶ **Functional:** The chart of accounts (COA) includes 21 functions and about 180 sub-functions. However, only 11 “functions” are shown in publicly available budget documents. These “functions” (education, health, administration etc.) together with a mix of other categories of expenditure are categorized under “spending tasks”, which constitute the basis of budget appropriations. The MoF does not have an unambiguous mapping between the 21 functions (which are GFS-compatible) and the 11 functions under the “spending tasks” used for annual State budget adoption, i.e., allocations are made using arbitrary criteria, e.g., it is unclear whether training establishments under the ministries of defence, finance and health (for example) should be under these Defence, General Services or Health functions, or under the Education function.
 - ▶ **Economic.** Publicly available budget documents only show recurrent spending (broken down by the 11 spending tasks) and aggregate capital spending (not broken down by “functions” except for education and science and technology). The economic breakdown also includes transfers to provinces (or, in provincial budgets, to sub-provincial budgets).
91. The annual budget laws presented to Vietnam’s NA and Provincial Councils are broad-banded and based mainly on administrative and/or “spending task” categories. Articles 15 and 25 specify the authority the National Assembly and the Provincial Councils (respectively) in terms of expenditure allocations, and Articles 31 and 33 specify the

various spending tasks (11 functions and other categories) that will be part of the central and local budgets (respectively). These Articles set out the basis on which the budget is appropriated in Vietnam. They require the NA and Provincial Councils to approve total spending for each “field” (“domain” or “spending task”) and also for each individual ministry or department.

92. For administrative units shown in the published annual budgets, there is no breakdown by economic type of spending, except for central government line ministries and some provincial line departments. This restricts analysis of the economic impact of budget “inputs” such as salaries, goods and services, subsidies and new capital spending (investment projects). The absence of detail of spending by function and sub-function (consistent with the GFS) makes it impossible to know how much total spending is taking place in education, health, defense, etc. In the SBL, there is a need to specify clearly the structure of spending appropriations in draft budgets that are presented to the NA and provincial/sub-provincial Councils.
93. It is standard international practice for the government to publish the draft budget spending estimates at the time of their submission to the NA. In Vietnam, the draft budget is not published at all. Although some progress has been made in Vietnam in recent years by publishing the adopted budget²³, it would be appropriate to take additional steps towards greater transparency, by publishing budget information, including revised detailed estimates of expenditure, as presented to the NA.

23 Over a decade ago, the State budget was considered a State secret and was not published at all, not even after adoption by the NA.

Recommendations

- ▶ Specify in the SBL that expenditures of budgets at each geographical level (central, provincial, etc.) are classified by administrative units (ministries, agencies, etc.), economic categories and functions, in budget preparation and budget execution documents that are prepared by the Government.
- ▶ Specify in the SBL the uniform spending appropriation structure to be used for annual budget laws at each geographical level, i.e., the uniform dimensions of spending classification to be used in budgets that are presented to the NA and Peoples Councils at each level. This could, for example, be administrative units at the first tier and major economic categories (salaries, goods and services, subsidies, interest, other current and capital expenditure) at the second tier. Functional classification (GFS compatible categories) could be presented in an annex to the draft annual budget law. Other variants could be: first tier: all ministries and other institutions/agencies, including transfers to provinces; 2nd tier: major functional categories; 3rd tier: broad categories of economic classification, especially recurrent and capital for each ministry.
- ▶ Specify in the SBL that the MTFF projections would use the same classification structure as that of the annual budget (using the functional and selected sub-functional classifications that are shown, possibly in the annex, of the annual budget law).
- ▶ Specify that the 5-year Plan budget projections would also use the MTFF budget classification structures (but at a higher degree of aggregation for revenues and spending).
Issue new MOF regulations that require each spending unit at all levels of government to prepare their budget estimates according to a standardized format, i.e., every budget unit (administrative units in whole country) would prepare budget estimates based on GFS-compatible economic and functional/sub-functional classifications. The MOF at all levels of administration would ensure that, through MOF Decree(s), this uniform classification system is used by all spending units for executing the budget after its approval by the NA. For the details of spending beyond the estimates approved by the NA and Peoples Councils, the MOF would also ensure, through regulations/decrees, that all budget execution reports and accounts would use the budget nomenclature at its most detailed level. The multi-dimensional classification coding system would be embedded in TABMIS so as to ensure that budgeted spending and actual cash spending are directly comparable. This would apply to all types of spending, including for any carried-over spending (see part 16 above concerning revenue carry-over and part 19 below on possibilities for spending carry-over).

18. Reserves for contingency spending

94. Many countries' annual budgets contain an unallocated spending appropriation for contingencies. The objective is to provide the government with some flexibility during budget to meet unforeseen and urgent spending needs, e.g., for emergencies or unexpected large increases in spending obligations. Although a SBL can specify that the annual appropriation law includes a contingency reserve, the SBL should also limit the unallocated spending to a small percentage of total expenditure. In order not to provide the government with too much flexibility to spend outside the authority of parliament, such a contingency reserve is usually 1 to 3 percent of total spending.
95. Government and/or MOF Regulations would specify the detailed procedures, eligibility, and restrictions on the spending of unallocated spending appropriation. The SBL should require contingency spending to be regularly reported to the legislature. In some countries, no spending from the contingency fund can take place for urgent spending without prior approval of the legislature. However, this is less usual. Most countries allow the government to spend (up to a limit) and then require timely ex post reporting to the legislature.
96. Vietnam's SBL does not follow the good international practices described above. In Article 9 (first part) the central and local budgets are authorized to include an on-budget contingency reserve to meet spending "acts of god and fires, important tasks of national defense and security, and other urgent tasks". It also requires governments at different levels of administration to regularly report to "parliaments" at each level. These provisions are appropriate. However, the size of the reserve, at 2% to 5% of the total estimated spending, is slightly above good international practice (although, according to the PEFA report, the actual spending from the contingency reserve during 2008-10 was, on average, less than 3%).
97. Good international practice limits the number of contingency spending funds to one. Multiple reserves funds are unorthodox. Moreover, they can obscure budget transparency when the spending from reserves is not fully disclosed. In this context, Article 9 (second part) entitles the Government and provincial People's Committees to establish the financial reserve fund in addition to the on-budget contingency reserve. The SBL allows resources of this reserve fund to be drawn from "revenue increases, budget closing balances, and other financial sources as stipulated by laws." This article allows the establishment of an off-budget reserve fund, to be used by the government without NA oversight.
98. As discussed in part 16 above, "revenue increases" (revenues collected above budget estimates) should only be spent following the approval of a Supplementary Budget by the NA. Also, a "budget closing balance" is unused authority to spend from the approved budget and should be reported in end-year financial statements - it is

not a budget revenue item. Unless the appropriations are authorized to be carried over at end-year (see part 19), annual appropriations lapse and cannot be used for any purpose. In several countries, the SBL or Financial Regulations make this specific. Vietnam's practice here is inconsistent with international norms and, most likely, a source of non-transparency of PFM.

99. A Financial Reserve is not necessary for seasonality in spending. For example, tax revenues can be low in the first quarter. When centralized cash management and short-term cash flow forecasting is efficient, such seasonality can be met by short-term borrowing by the Government for cash management purposes. When tax revenues are seasonally high, the short-term borrowing (e.g., from the central bank) can be reimbursed. Similarly, when the cash manager anticipates a temporary surplus in the main treasury account (in contrast to the temporary deficit case just discussed), the cash manager would invest in the temporary surplus in short-term interest-yielding investments. In advanced countries, when cash management is particularly, the cash manager may invest millions of dollars for 24 hours, thereby bringing a return to government, instead of leaving the deposits in an unremunerated account held at the central bank. Ultimately, Vietnam should aim for active cash management rather than maintaining a Financial Reserve.

Recommendations

- ▶ Change all articles in the SBL that refer to multiple reserve funds, replacing them with provision for one and only one on-budget reserve for unallocated contingencies.
- ▶ Abolish all references to a “financial reserve fund” that is off-budget and is additional to the single on-budget contingency reserve that is used for specific unforeseen spending needs. Begin developing active cash management, which obviates the need for a Financial Reserve.
- ▶ Specify, in the SBL, the main purposes for which spending from the contingency can be used for and also the maximum size of the on-budget reserve, e.g., 1-3 percent of total spending.
- ▶ Specify, in the SBL, the frequency reporting to the NA when contingency reserve funds are used, or to be used.
- ▶ Ensure, in the SBL, that the above four bullet points also apply to contingency reserves in the budgets approved by Peoples Councils at local levels.
- ▶ Provide, in regulations, detailed guidance to spending ministries/ units on use of the contingency reserve in government and MOF regulations.

19. Duration and nature of spending authority

100. In many countries, the duration of cash spending authority is typically limited to a 12-month period. At the end of the year, all appropriations lapse and are re-appropriated in the following year's budget. These provisions would typically be specified in the SBL or Regulations. In recent years, to allow end-year spending flexibility, the SBLs of countries with good expenditure control mechanisms have specified that some unspent budget spending authority can be carried over into the next fiscal year. For recurrent spending, if allowed at all, a firm quantitative limit is set on carry-over of recurrent spending authority - and on the type of recurrent spending.
101. Carryover of investment spending is more frequent. However, according to the OECD Budget Practices survey (2007) only 17% of OECD countries allow investment spending to be carried over without any restrictions. For investment projects, budget execution can be retarded for a variety of reasons, including procurement procedures (launching competitive bids; choosing the supplier when there are two rounds of bidding, controls by procurement committees/authorities, etc.), labor disputes or financing problems, poor weather, etc. When these factors are at play, the potential size of the carry-over for investment (in relation to the appropriations for investment) could be significant. Some of these factors may affect the rate of investment budget execution in Vietnam, which could justify a small portion of annual investment spending authority to be carried over to the following year.
102. Budget carry-over should be distinguished from complementary accounting periods. Budget carry-over provides authority to spend in year (+2) after the close of the year (+1). With carry-over, spending contracts can be signed in year (+2), even though budget authorization was approved in year (+1). In contrast, a complementary accounting period (for cash-based accounts) is a short period, usually a few days or weeks, in which the cash payment associated with spending decisions of year (+1) can still be recorded in the accounting records of year (+1). This practice delays the finalization of the financial statements for year (+1) until after the end of the complementary accounting period. When cash accounting is computerized, the need for complementary accounting period recedes. In Vietnam, accounting regulations allow for a quite long complementary accounting period.
103. In some countries, the Government or the MOF approves carryover requests. In Japan and Korea, end-year carryover of unspent appropriations is allowed following approval from the National Assembly. In Japan, the MOF approves ministries' individual carryover requests on a case by case basis. In Korea, carryover is authorized for contracts made in the fiscal year, but where payment is not possible in the same year due to unavoidable reasons. In other countries, instead of discretionary control by the MOF, quantitative limits are imposed

on carryover. Sweden, for example, has a carryover limit of up to 10 percent in its 1996 State Budget Act. In practice, this upper limit is administered more restrictively by the government, which operates with a guideline of a 3 percent carryover limit for agencies' cash appropriations. Norway specifies the appropriations that are eligible for carry-over. Concerning investment, expenditures for building, construction and materials can be carried over, if approved by Parliament, and for up to two years.

104. While there is no "magic number" for the extent to which carryover of investment could be approved in Vietnam, it may be appropriate to begin cautiously, by allowing carryover for investment spending only in the SBL, without specifying a quantitative limit in the law. The MOF and MPI could issue a joint regulation limiting end-year carryover of investment project spending to 5-10% for example, perhaps with differing percentages for different types of investment spending.
105. As an alternative to formalizing carryover for investment spending, the SBL could allow multi-year appropriations for investment spending. This would need to be aligned with the Medium-Term Investment Plan, developed recently by the Ministry of Planning and Investment, and likely to be formalized through the Public Investment Law. The addition to the annual budget's cash-limit appropriations for 12 months, investment spending could be provided to allow multi-year appropriations for spending commitments (when the government enters into a contract that will involve payments at a future time period). An upper limit would be set for spending to be committed to investment projects, for which payments take place over time. This option would require government agencies and the MOF to be able to account for spending at the commitment stage, as well as at the payment stage. Its suitability for Vietnam needs careful investigation - it may be premature.
106. Borrowing from future appropriations is conceptually the equivalent of negative carry-forward. A few advanced countries allow such "borrowing".. Any advance use of the following year's appropriations is deducted from end-year unexpended balances of budget spending authority. However, this is a dangerous practice in countries where financial management is not strong, i.e., where internal audit or spending controls are weak, or where non-transparencies in budget execution are numerous. If Vietnam does move to multi-year appropriations, it would not be advisable to allow advances from the following year's appropriations.
107. A final issue concerns whether or not expenditures approved by the NA are upper limits in every case or whether approved spending can be exceeded in certain cases. In some countries, SBLs distinguish between "fixed" and "flexible" spending appropriations. "Fixed" appropriations are those that are never exceeded: the SBL (or regulations) specify severe sanctions on budget managers who

approve spending above these fixed limits. “Flexible” spending appropriations are those that can be exceeded without requiring immediate approval of the NA. These appropriations are limited to a few items of nondiscretionary spending, such as those where the budget assumptions cannot anticipate all “reasonable” changes, e.g., when the interest rate on debt is much higher than that assumed, interest payments are still made even when the budget estimate is exceeded. The authority to do this can be provided in the SBL by specifying that debt interest payments are “flexible”. Vietnam’s SBL does not seem to have any provisions for flexible appropriations for specific spending types.

Recommendations

In the SBL:

- ▶ Limit end-year carry-over of annual budget spending authority to capital spending, should it be decided to authorize, in the SBL, end-year carry-over of spending.
- ▶ Consider introducing multi-annual appropriations for capital spending only when investment spending commitments are recorded in the government’s accounting system.
- ▶ Prohibit borrowing from next year’s appropriations. Consider whether a distinction should be made, in the SBL, between “fixed” and “flexible” spending appropriations.

20. Definition of “budget balance”

108. Article 15 of the SBL specifies that the National Assembly duties include the need to “ensure the balance between revenue and expenditure of the State Budget”. This is indeed the essential feature of the definition of budget balance. However, in applying the definition “revenues” and “expenditure” of the State Budget need to be defined. The GFS Manual 2001 provides an appropriate guide for defining revenues and expenditures. For analytical and budget purposes various concepts of the budget balance are proposed in the GFSM (see Box 4). Each country chooses the core concept of “balance” that is most useful for its budget and analytic purposes. For countries that do not have full accrual accounting, the notion of “expense” (which uses the concept of depreciation or “consumption of fixed capital”) needs to be replaced by the more-familiar concept of “expenditure”, which includes capital (=investment) spending. This affects the key concept of “balance” used for budget purposes.
109. The fiscal deficit and its financing are defined in the SBL in administrative terms as the difference between revenues and payments, including debt repayments. This measure is not, however, a good indicator of the fiscal policy impact of the budget. Addition of a simple provision in the SBL requiring that the recognized GFS standard be applied as the key reference point for analysis of the fiscal impact of the budget, would help overcome the present inconsistencies in presentation and interpretation. In addition to this, spending financed by the proceeds of off-budget bonds should also be included in the calculation of the overall budget balance, which at the moment is not the case. Although “net lending/borrowing” as defined in GFS could be used the core concept of “budget balance”, the “overall balance” (as shown in Box 4 and explained in the GFS Manual) should be used for analytical purposes in Vietnam.

Recommendations

- ▶ Ensure that the SBL includes a clear definition of the (overall) budget balance, the counterpart of which is “net lending” as defined in GFS, and includes off-budget bonds.
- ▶ Use, for internal purposes within the MOF and the MPI, other “budget balance” concepts for analytical purposes, notably some of those shown in Box 4.

Box 4: Analytical Measures for Fiscal Policy

For macroeconomic analysis, fiscal policy measures include the three core balances in the GFS system, other balances, and other macroeconomic measures of flows and stocks. These variables can apply to different levels of government, the general government sector or to the public sector.

Core GFS balances

Net/gross operating balance The net operating balance equals revenue minus expense. The gross operating balance equals revenue minus expense other than capital spending (consumption of fixed capital).

Net lending/borrowing Net operating balance minus the net acquisition of nonfinancial assets. Net lending/borrowing is also equal to the net acquisition of financial assets minus the net incurrence of liabilities

Cash surplus/deficit Net cash inflow from operating activities minus the cash outflow from investments in nonfinancial assets

Other balances

Overall fiscal balance Net lending/borrowing adjusted through the rearrangement of transactions in assets and liabilities that are deemed to be for public policy purposes. Notably, all proceeds under privatization (including fixed asset sales) would be included as financial items; and subsidies given in the form of loans would be recognized as an expense.

Adjusted overall fiscal balance Overall fiscal balance (or net lending/borrowing) adjusted to exclude some or all revenue grants, certain enclave activities such as the oil sector, and/or large and infrequent transactions that could distort the fiscal analysis.

Overall primary balance Overall fiscal balance plus net interest expense

Primary operating balance Net operating balance plus net interest expense

Source: GFS Manual Box 4.1.

INTERGOVERNMENTAL ISSUES



21. Overview of legal provisions for intergovernmental fiscal relations

110. Vietnam's SBL is the only law that specifies the budget responsibilities of the different tiers of government. In other countries, a Decentralization Law (or Local Government law or laws) approved at central level, along with laws/regulations of sub-national "parliaments" or governments, usually provide the basis for political, administrative and fiscal relations for each level of administration. In a limited number of countries, the Constitution (e.g., Germany) provides details of the fiscal responsibilities of each tier of administration. In this note, it is not assumed that Vietnam, in the near future, will be considering the transfer of the intergovernmental aspects of the SBL to a comprehensive Decentralization Law.
111. Intergovernmental relations in all countries involve complex issues. The relative powers of central and local governments and parliaments are primarily political issues. There are no international norms for deciding how much fiscal power should be transferred from central government to provincial/lower levels. There is not even any agreement on the optimal number of tiers of government, even though three tiers are common and four tiers are not uncommon. There is also no relationship between central versus sub-national fiscal powers and country size.
112. Although some large countries delegate considerable fiscal power to lower levels of administration (e.g., Australia, Canada - both federal countries), there are others (e.g., France, United Kingdom) where local governments account for less than 20% of total general government spending. There is also no relationship between the degree of fiscal decentralization and form of governance: federal versus unitary. For example, the Scandinavian countries, which are all unitary, are amongst the most decentralized countries in the world: large tax-raising powers and/or intergovernmental grants have been transferred to local governments in these countries. However, federal countries are generally rather decentralized, including small federal countries such as Switzerland.
113. Vietnam, like many countries, is under pressure to reconsider the relative powers of central and provincial administrations. The "highly political" issues include: (i) the degree to which tax/fee raising power is transferred to provinces, i.e., whether or not tax/fee rates and tax/fee bases are determined solely by the central authorities; (ii) the specific expenditure responsibilities of provincial/lower levels of government; (iii) the determination mechanisms for direct and indirect intergovernmental transfers; and (iv) the extent to which provinces/local levels can borrow and increase debt (with or without central government oversight). This report does not take views on these issues.

114. However, this report comments on some of the “technical” provisions on fiscal decentralization in the SBL. In particular, the three parts below discuss how the law could possibly be amended to better reflect good international practices for budgeting at each level of administration, consistent with Vietnam’s system of nested-tier budget system.
115. Improvements in Vietnam’s uniform budget management and accounting system could be introduced, including through amendments in the SBL. Prior to commenting on specific SBL provisions in three areas (parts 22-24 below), this subsection first highlights some areas that are either omitted entirely from the SBL or where the SBL could be boosted. The aim would be to improve the framework for budget management and transparency at central and all local levels:
- ▶ **Macro-fiscal framework at provincial/lower levels.** Part 5 above recommends including, in the SBL, a requirement for the government to prepare a MTFF and include it in annual budget documentation. This recommendation also needs to apply at provincial/lower levels. This is closely related to the next three bullet points.
 - ▶ **Fiscal rules at provincial/lower levels.** As discussed above (part 7), the adoption of qualitative and quantitative fiscal rules on debt, budget balances and/or total spending, could be introduced in the revised SBL, with formal fiscal rules at central level not necessarily being identical to those at provincial and lower levels, since the central authorities alone are responsible for country-wide fiscal management and stability. Currently there is a “golden rule” for provinces: they can only borrow for capital spending purposes. More specifically, the rule allows provinces to borrow on the domestic market up to a maximum of 30 percent of the province’s capital budget (the two major cities have a higher threshold).
 - ▶ **Budget presentation, classification and documentation, including for budget assumptions, fiscal risk statements, etc.** The amended SBL’s requirements for the preparation, adoption and publication of more detailed and published annual budgets, including explanatory information in budget documents, by the central authorities (see parts 10) above) should, in the SBL, be replicated at provincial/local levels.
 - ▶ **Budget execution, TSA, in-year fiscal reports, supplementary budgets, annual accounts, auditing.** The amended SBL’s requirements in these areas (as discussed above) should apply to both the central authorities and provincial/local authorities.

Recommendations

- ▶ Ensure that the amended SBL's new budget presentation, documentation, execution, cash management, fiscal reporting and accounting, and audit (internal and external) requirements for the central budget also apply to provincial and lower level administrations.
- ▶ One exception would be to maintain different fiscal rules at provincial level than central level. In particular, the "golden rule" or provincial/local administrations could be maintained, whereas the central authorities could be excluded from such a rule, since, at times (e.g., financial crises), there is a need to borrow for macro-economic stability reasons, including for financing recurrent expenditure.
- ▶ Given uniform financial management, the SBL should make provision for a countrywide TSA system, which the government is starting to implement. The transitional provisions of the SBL could allow a number of years for implementing the consolidation of daily balances of all government bank accounts, including those in provinces, into the central main account at State Bank of Vietnam.

22. Sub-national Revenue

116. In Vietnam, consistent with the Constitution (Art. 84 4), tax rates and bases are determined by the NA. Sub-national authorities only have limited independence on setting fees -- ceilings for fees are set in central level regulations. The SBL (Articles 30, 32) clearly lays out the revenues that are retained 100% to the central or local budgets. For the revenue types that sub-national authorities are allowed to retain 100%, the rates and bases for those revenues are centrally determined. The SBL also lays out clearly the taxes to be shared between the central and local budgets. A “policy advice” report (not this one) would comment on the allocations of various taxes and nontax revenues in the SBL. For revenue assignments to subnational governments, there are no international standards; country practice varies a lot and provides little guidance as to which taxes should be assigned to which level of budget.
117. As discussed in part 16 above, excess revenues in Vietnam are partly due to “gaming” between provincial and central authorities. One incentive for provinces’ “gaming” is so that they receive higher transfers from the central budget. In part, this stems from the differential tax sharing rates in provinces, which are determined by a revenue sharing formula. The share for each province is based on estimates of the province’s “fiscal gap”, which is the difference between the expenditure needs (based on expenditure norms) and the revenue capacity (based on past revenues). A second incentive for “gaming” is the ability of various provinces to retain “excess” revenues and spend them outside the authority of the NA or Peoples’ Councils, and outside the government’s budget.
118. Poorer provinces with a positive fiscal gap keep 100% of the shared taxes collected. The richer provinces keep a lower portion of the shared taxes. The latter currently retain from 15% to 60% of shared taxes. The actual rates are reached by negotiation -- there is no specific objective formula for determining them. In effect, the central government, through the differential tax sharing ratios across provinces, is extracting additional transfers to the center from relatively rich provinces, which “subsidize” poorer provinces. Although relative income levels appear to be a major criterion for determining the non-identical tax sharing ratios for each province, this is not stated in the SBL, which refers to fixing these ratios for “stability periods” of 3-5 years, SBL Articles 4f, 16(3), 23, 26....).
119. An alternative to the implicit system of inter-provincial positive and negative transfers (relatively rich provinces “subsidize” relatively poor provinces) would be to establish identical tax sharing ratios for all provinces, and use the direct transfer mechanism exclusively for determining the size of central budget transfers to provinces. This would be a simpler and more transparent system, provided the basis for determining the size of “equalizing” transfers is transparent.

120. At the sub-provincial level, Article 35 of the SBL entitles *the administration of communes, townships, and cities under a province to mobilize contributions from organizations or individuals for investment in the construction of infrastructure of the communes, townships, and cities on the province on a voluntary basis. The mobilization, management, and use of such contributions shall be carried out in a transparent way, be subject to examination and control so as to ensure that they shall be used for the right purposes and in accordance with regimes provided for by law.* It is reasonable to ask why this authority has been granted to sub-provincial administrations, but not to provinces themselves. Although central or provincial regulations may follow up on procedures for controlling these revenue-raising powers, including by explaining what is meant by “in a transparent way”, the legal framework (especially regulations) should specify that such revenues raised at the commune, township and city levels, are budgeted and accounted for according to the common classification system and TABMIS.

Recommendations

- ▶ Consider instituting identical tax sharing ratios for each province, replacing the lower or higher shared revenues for provinces with higher or lower direct intergovernmental transfers.
- ▶ Specify, in the SBL, the criteria for determining non-identical tax sharing ratios (if the recommendation in first bullet is not taken up).
- ▶ Review the rationale for providing sub-provincial administrations with revenue-raising powers, with a view to deciding whether provinces should also have an explicit provision in the SBL concerning their revenue raising powers.

23. Expenditure assignments

121. The SBL (Articles 31, 33) lays out the spending tasks that are assigned to the central or local budgets. It is striking that the list of tasks in these two articles are nearly identical. The few exceptions include “additions to the State reserve fund” and “support for the social insurance fund”²⁴ (not “social security funds”, which would also include the Health and Unemployment Insurance funds, in addition to the SIF), which are exclusive responsibilities of the central budget.
122. These two articles could be simplified by stating that all levels of budget may spend on any functional area of spending, with the following exceptions: x1, x2, x3, etc. The exceptions (x1, x2, x3, etc.) would be for areas of spending that are the exclusive domain of the central budget (e.g., national defense, foreign affairs, net transfers to the SIFs). Although some spending are typically exclusive to low-level local budgets, e.g., rubbish collection, city street lighting, such spending areas are very detailed and best identified in regulations, not the SBL. In Vietnam, these local expenditure assignments (for provincial, district and commune authorities) are usually laid out in some detail in resolutions of provincial councils.
123. Should, however, the authorities make a policy decision during the course of SBL review, to assign specific spending responsibilities to local budgets, the revised SBL would need to reflect this. For example, some countries, like Vietnam, assign different levels of the education function to different levels of administration: tertiary education remains with central government, primary/secondary education with lower levels.²⁵

Recommendations

- ▶ Simplify Articles 31 and 33 on spending assignments at different budget levels.
- ▶ Consider making policy changes to sharpen the distinct responsibilities of central and local budgets. Then reflect any decisions in the amended SBL or, for sub-provincial budgets, in regulations approved by Peoples’ Councils.

24 This “support” is negative, since the Social Insurance Fund (SIF) is in substantial surplus (PEFA report, p 40): the central budget borrows from surpluses accumulated by the SIF (in contrast, the Health Insurance Fund is in deficit, and receives funding from the central budget).

25 France for example assigns universities to central administration, high schools to regions, and primary schools to departments (“districts” in Vietnam’s 3rd tier).

24. Intergovernmental transfers

124. Vietnam’s system of fiscal transfers has three main components. The first is the revenue sharing arrangements discussed above, which try to correct for vertical imbalances as measured by per capita revenue potential. The second is equalization (or balancing) transfers, which correct for horizontal fiscal imbalances that arise due to different expenditure needs. The last component is the targeted transfers, which have specific and time-bound objectives usually around poverty reduction or social outcomes. Article 36 covers the equalization transfers, though detailed criteria for determining spending needs (and the fiscal gap after subtracting revenue estimates), which are linked to five-year stability periods, are elaborated separately in secondary regulations. Similarly, targeted transfer programs are also dealt with in secondary regulations
125. Article 36 (3) states that *an upper-level budget may provide purposeful supplementary revenue to support the lower-level budget when necessary important tasks emerge, and the latter is not capable of accommodating such tasks even after rearrangement of the budget, and utilization of budget provisions and financial reserve*. This provides no obligation for the higher level budget to provide funds for “necessary important tasks”. Moreover such tasks are undefined. It is normal for any level of administration that there are “necessary important” tasks to be financed. This should take place in the context of a system of intergovernmental transfers, based on transparent formulae and criteria.

Recommendations

- ▶ Consider re-drafting or eliminating Article 36 (3).

THE SBL'S PROVISIONS FOR BUDGET EXECUTION, ACCOUNTING, REPORTING AND AUDIT



126. SBLs do not need to elaborate extensively on budget execution and government accounting. This is because parliament adopts the SBL mainly for the purposes of clarifying the main responsibilities of the government towards parliament in budget matters. Since budget execution is under the responsibility of the government, it is up to the government to issue regulations for guiding the more technical issues, such as procurement, expenditure control, internal audit, cash management, debt management, and government accounting.²⁶ In these areas, the SBL can establish principles consistent with good practices, with details being provided in Regulations or Guidance Manuals (e.g., for implementing government accounting standards).
127. In contrast, since Parliament (and the public) need to be informed of budget execution, the SBL should elaborate on budget reporting requirements. Several countries have used Fiscal Responsibility Laws²⁷ to elaborate on the key fiscal reports to be submitted to Parliament on a regular basis. Similarly, external audit is an activity that is of much interest to parliament. Modern supreme audit institutions (SAIs) generally have their "own" Audit Law, establishes the key principles, roles and responsibilities of the SAI. Vietnam adopted a new State Audit Law in 2005; this report does not comment on it, but only on Article 66 of Vietnam's SBL.

25. Budget execution and internal audit at national and provincial levels

128. Many of the procedures for executing the annual budget, including allotment (to lower-level budget entities), apportionment (dividing expenditures of the annual budget into monthly or quarterly ceilings for expenditure control purposes), detailed mechanisms of expenditure control (e.g., at the commitment, payment order issuance, and payment stages of expenditure execution) and internal audit, are best specified in government/ministerial regulations. However, a country's SBL may include selected "big picture" aspects of budget execution, including in the following areas:
- ▶ Flexibility for the government to implement the detailed budget of spending. When the annual appropriation structure of the adopted budget is detailed, the SBL may specify that expenditure for a particular line item may be exceeded provided there is an offsetting downward revision of another line item within the same category of expenditure (this is called "virement"). The SBL should specify the minister of finance's virement powers, e.g., the percentage by which particular expenditures can be exceeded without submitting a supplementary budget to the

26 Several countries have adopted a Procurement Law and/or a Debt Management Law.

27 For a review of experience see, for example, I. Lienert: "Should Advanced Countries Adopt a Fiscal Responsibility Law? IMF Working Paper 10/254, November 2010 (www.imf.org).

G. The SBL's provisions for budget execution, accounting, reporting and audit

National Assembly. Such provisions are needed in Vietnam's SBL. The urgency of adding such a provision increases to the extent that the authorities accept the recommendation of this report to provide to the legislature (and the public) a more detailed presentation of annual budget spending appropriations.

- ▶ Authority for the minister of finance to cut appropriations. The SBL should specify whether the minister has zero, limited, or unlimited authority to cut budget appropriations when there are revenue shortfalls²⁸. For macro-fiscal stability reasons and for preventing payment arrears, the SBL could provide the minister of finance with the power to cut expenditures up to a certain percentage before being obliged to return to the legislature for additional spending authority in the form of a supplementary budget. The size of this percentage would depend on the type of expenditure category. At the most detailed level of budget classification, spending units would not have to request the authority of the MOF for minor adjustments between particular types of spending, e.g., within subcategories of "goods and services" recurrent spending. Such details would be specified in MOF or government regulations, not the SBL.
- ▶ Consistent Financial Management standards across all levels of government: Although the details on standards and procedures for decentralized/deconcentrated financial management should be laid out in regulations, primarily, the SBL can note that the Minister of Finance is responsible for setting uniform financial management standards for all levels of government.

Recommendations

- ▶ Add provisions to the SBL that provide: (i) virement authority to the minister of finance; (ii) authority for the minister of finance to cut appropriations in the event of revenue shortfalls; authority of the Minister of Finance to set financial management standards across all levels of government.

26. Cash management at national and provincial levels

129. Consistent with the principle of common pooling of revenues, another important provision in any SBL relates to the authority of the minister of finance over government banking arrangements and cash management. For effective financial control and cash management, the SBL should provide the minister of finance with extensive powers in these areas. Only the minister of finance should have the authority to open, close and manage the daily balances of all bank accounts opened in the name of the government of Vietnam. No bank accounts should be opened in the names of other ministers, other ministries or

28 At the present time, Vietnam has the reverse "problem": over-shooting of revenue targets because of excessive underestimation of revenues.

government agencies, unless they are subaccounts of the Treasury's main account at the State Bank of Vietnam (SBV). Any short-term borrowing for cash management purposes would aim to minimize the borrowing costs and risks to the government.

130. At the present time, Vietnam has idle cash balances in many bank accounts, which may not be remunerated. At the same time, it is borrowing domestically and externally. Borrowing - and interest payments to creditors - is higher than it needs to be when there are large balances in government-controlled bank accounts throughout the country. The SBL (and/or the Debt Management Law) should provide the minister of finance with the authority to minimize idle balances in all government accounts and to invest any temporary surpluses so as to minimize costs and risks to government.
131. In the SBL, the Minister of Finance should also be provided with the authority to consolidate all revenues and establish a treasury single account (TSA) system. The objective is to use the electronic transfer system of the banking system to zero balance all government bank accounts at the end of each working day: all positive balances would be consolidated into the main operational account of the State Treasury, which is held at the SBV. The SBL should incorporate the common-pooling principle that all revenues should be paid into the same common fund and all payments made from the TSA system of accounts. Any exceptions to this principle should be specified in the law. The SBL would also specify that the main operational account of the TSA system would be at SBV.
132. The TSA may have subaccounts. Under normal international practice, such subaccounts - used for transiting funds to/from the TSA - can be opened in commercial banks (but zero balanced at the close of each business day). For example, in provinces where the SBV does not have a branch office, qualified commercial banks could bid to provide provincial banking services to the central authorities. Provided these banks are electronically connected to their head offices, which in turn are electronically connected to the SBV through an (electronic-based) interbank clearing house, the principle of zero-balancing all end-day balances in transit accounts held in commercial banks (including those provide "provincial TSA" services) could be fully implemented throughout the entire country. These details need not be spelt out in the SBL, but rather, government Decrees pertaining to government banking arrangements.
133. The TSA concept is not inconsistent with a decentralized payment system: other ministers, or delegated authorities in provinces, may have signature rights over accounts and make payments (electronically or by check issuance). However, the minister of finance would formally delegate his/her responsibilities to such authorities. The obligations of the delegated authorities would be specified in regulations that elaborate on the SBL's "high level" provisions. They

would, for example, clarify the responsibilities of designated account holders of the subaccounts of the TSA system.

134. Separate protocols between the Minister/Ministry of Finance and (i) the SBV and (ii) designated commercial banks should be drawn up and signed by the minister and his/her counterparts - those responsible for providing banking services to the government. For transparency, an increasing number of countries pay eligible commercial banks (determined by competitive bidding) for providing banking services to government and central banks remunerate the government for holding deposit balances beyond a minimum threshold.

Recommendations

- ▶ Introduce new provisions in the SBL that elaborate on the authority of the minister of finance over government banking arrangements and cash management, including the establishment and operation of a TSA system of accounts for receiving revenues and making payments.
- ▶ Use government decrees/regulations to embody the principles and procedures for modern cash management, including those discussed above, consistent with the amended SBL provisions.

27. Government accounting at national and provincial levels

135. Although a few countries (including Vietnam²⁹) have adopted a separate accounting law, this is not standard practice. There are two reasons for this: (i) accounting is largely a technical issue; (ii) the accounting profession is best placed to draw up accounting standards.
136. In both the Accounting Law and the SBL, the MOF is assigned the task of drawing up accounting standards. The MOF is also responsible for preparing all accounting statements. However, there is no requirement in the SBL (nor the Accounting Law) to indicate accounting policies and to provide advance warning that indicates the impact on fiscal aggregates (to facilitate comparability between years) of any prospective revisions in accounting methodology and practices. Also, in other countries, to avoid any conflict of interest, there is an increasing tendency for the SBL to establish an independent accounting standards board, made up of independent representatives (individuals with accounting expertise) as well as those from the MOF, State Audit office and other agencies. In Vietnam, the accounting standards-setting body is the MOF - this is clear in the SBL and Accounting Law. Although it is not urgent, Vietnam could reconsider this option

²⁹ Vietnam's 2003 Accounting Law was adopted to implement uniform management of both public and private sector accounting. It assigns the MOF with the responsibility of overseeing State management over accounting.

137. More importantly, government accounting standards and practices are not identical to those of the private (enterprise) sector. This is especially the case when the government accounting system is largely on a cash basis. But even on an accrual basis, public sector accounting standards³⁰ differ from private sector standards mainly because the government performs non-market activities and also for specific reasons (e.g., for revenue recording/recognition, private sector revenues come from sales whereas the government's revenues from taxes; governments alone have aid inflows/outflows, certain government liabilities and assets differ, etc.). While most details of accounting standards should be provided in regulations issued by the MoF or an independent accounting standards board, the SBL should nonetheless specify the basis of accounting to be used by budget entities. Some countries' laws (e.g., France's Organic Budget Law) simply state that "government accounting standards are only different from enterprise accounting standards to the extent that government budgetary accounting processes are unique."
138. In Vietnam's SBL, Article 61 clearly establishes that the minister of finance is responsible to provide details on the accounting system in regulations. To this article, reference should be made to the accounting basis to be used for government accounting. Article 62 is of questionable value, because it is subsumed in the final sentence of Article 61 or because it provides inappropriate accounting carryover provisions, as does Article 63 (as discussed in part 19). These two articles could be eliminated.
139. Articles 64 and 65 could be shortened considerably and consolidated into a single article that requires all budget management and accounting units (all those within the scope of "general government" entities) to record and report revenues, expenditures, liabilities and assets,³¹ so that consolidated accounts for all levels of administration - the State - can be prepared (and presented to the State auditor).

Recommendations

- ▶ Specify, in the SBL, the basis to be used for government accounting (as distinct from enterprise accounting) as well as requiring advance warning of any changes in accounting policies and their impact on fiscal aggregates.
- ▶ Shorten considerably articles 62-65, including eliminating articles 62 and 63 (by transferring them to regulations).

³⁰ See www.ifac.org.

³¹ Liabilities and asset recording at the transaction level is needed if a government balance sheet is eventually to be prepared.

28. Ex post budget reporting to national and provincial levels

140. Desirable improvements in the reporting of ex ante budget projections and documents have been considered in parts 5, 8 and 10. This part examines what reports that can be published during, and after, budget execution. A country's SBL should specify the ex post budget execution reports and financial accounts that the government must prepare for the legislature and the public. Reporting is particularly important to satisfy the principles of transparency and accountability. Most of the reports shown in Box 5 below should be specified in the BSL.³² While some countries have incorporated these requirements in a Fiscal Responsibility Law, for Vietnam the main budget management law - the SBL - should be the vehicle for specifying these publication requirements.

Box 5. Ex Post Budget Reporting

Quarterly (or monthly) reports

- ▶ Monthly and year-to-date budget execution reports, to be released within four weeks of the end of each period. A brief commentary on revenues, expenditures, and balance should accompany the data.

Mid-year report

- ▶ A comprehensive update on budget implementation, released within six weeks after the end of the mid-year period. This report should discuss the impact of changes in economic assumptions underlying the budget, any recent political decisions or other circumstances that may have a material impact on the budget. The report should include updated budget projections for the current fiscal year and the following two fiscal years. If necessary, a supplementary budget law can be proposed.

Year-end accounts and annual report

- ▶ Annual accounts should show compliance with the budgeted levels of revenues and expenditures authorized by the legislature. The format of the accounts should be identical to that of the budget presentation. Any in-year adjustments to the original budget should be shown. Comparative information on revenues and expenditures of the preceding year should also be provided.
- ▶ The annual accounts should be audited by the external audit body and submitted to parliament within no more than 6-12 months after the fiscal year ends (more advanced countries can, and do, shorten the delay, typically in practice, if not in their SBLs).
- ▶ The year-end budget report should contain a comprehensive discussion of the overall budget outcome compared with ex ante targets for aggregate revenues and expenditures, and their broad categories. Spending ministries' reports on budget outcomes should be included. If appropriate, the SBL may require that annual reports include non-financial performance information, including a comparison of performance targets and actual results achieved.

Source: OECD (2002) and Box III.4 of Lienert and Jung (2004).

³² If the reports are already published voluntarily (e.g., many OECD countries publish monthly and/or quarterly budget outcomes on MOF websites as a matter of course and in the interests of transparency), there is less need to require this in a country's SBL.

141. The present SBL does not include a section on “Fiscal Reporting”. It does, however, include (in Chapter VI) articles on Accounting, Auditing and Final Accounts. In the interests of enhanced transparency, it would be most useful to expand on fiscal reporting requirements.
142. The fiscal reports listed in Box 5 could be regarded as a minimum for most countries. Vietnam’s SBL could include an obligation to include all five reports should the NA deem this to be necessary. In the present version of the SBL, only an annual accounts requirement is required, where the date is 18 months, not 6-12 months, which is more typically for many countries.
143. Selected other budget information disclosures and periodic reports considered “best practice” could be made a legal requirement should the Vietnamese authorities consider they could prepare such reports now, or in the near future. Judicious choices need to be made before imposing legal requirements for reports to the legislature.³³

Recommendations

- ▶ Require, in the SBL, publication of all or most of the fiscal reports listed in Box 5.
- ▶ Decide on the additional disclosures regarding ex post budget execution and accounting reports that should be submitted to the National Assembly and the public.
- ▶ Include, in the revised SBL, specific reference to these reports, including a requirement to publish them.

³³ For guidance, see OECD, 2002, www.oecd.org/dataoecd/33/13/1905258.pdf, as well as Section H below on disclosures of Public Funds, SOEs, etc.

29. External audit at national and provincial level

144. This section does not review the State Audit Law adopted in 2005, which establishes the State Auditor of Vietnam (SAV) and the role of external audit of the public sector. Only the SBL's references to the State Audit are reviewed.
145. Independence of external audit is a key issue in any law referring to external audit. The Lima Declaration of INTOSAI establishes international standards for the independence of the SAI and preparing audit reports for the legislature. In 2007, INTOSAI refined the independence provisions of the Lima Declaration: eight pillars for the independence of external audit are identified in the "Mexico Declaration". One of these is the freedom to decide the content and timing of audit reports and to publish and disseminate them. This freedom implies that the SAI should not act on the orders of the Government or of Parliament. Of course, it can receive suggestions for its annual audit work program, especially from the National Assembly, which the SAI primarily serves.
146. In Vietnam's SBL, while article 66 clearly establishes the independence of the State Auditor with regard to its audit opinion, subsection (3) (English version) states that the State shall perform an audit at the request of the National Assembly (or its Standing Committee) and the Government. It would be useful to clarify that this is not an obligation, but a choice of the Auditor General. It would be detrimental to the independence of the SAV if the government "ordered" specific audits. Also, the final part of subsection (4) suggests that the NA can approve the final accounts of government before the Auditor General has finalized his audit. This would be undesirable: although the NA could review unaudited annual financial statements, it is standard practice to approve annual accounts only when they accompanied by the Auditor's General's annual audit of them.

Recommendation

- ▶ Review Article 66 of the SBL with a view to strengthening further the SAV's independence and to ensure that the NA approves only audited annual accounts of the government.

For details, see <http://www.intosai.org/issai-executive-summaries/view/article/issai-10-the-mexico-declaration-on-sai-independence-eger.html>

EXTRA-BUDGETARY ACTIVITIES OF CENTRAL AND PROVINCIAL AUTHORITIES



30. Central and local governments' extra-budgetary (public) funds

147. Extra-budgetary funds (EBFs) should be very limited in number and serve specific purposes. If there are strong grounds for creating special funds for particular purposes (e.g., for social security), a special law can be adopted. Few countries restrict the creation of extra-budgetary funds. However, in Finland, the revised Constitution adopted in 1999 included a very strong provision: no extra-budgetary funds can be created without a supermajority in parliament and then only if the fund is required to carry out an essential duty of the state.
148. When revenues and expenditures of an extra-budgetary fund are not included in the annual State budget, the SBL should specify that the fiscal aggregates (of the MTF and the annual budget framework) include the projected revenues and expenditures of all off-budget funds and that separate reports on those funds be included in documents accompanying the annual budget. Either the SBL or MOF Regulations should specify that the projected revenues and expenditure of the funds be classified using the MOF's unique system of classification for budget revenues and expenditures, and that, during budget execution, revenues and expenditures of the funds are accounted for using the Government's Chart of Accounts.

In Vietnam, there are some 60-70 government-controlled Public Financial Funds (EBFs) at central and local levels³⁵ that do not follow the budget and accounting procedures laid out in the SBL (2002). The Social Security and Health Funds are by far the largest in size. These two funds and the Unemployment Insurance Funds are funded by employer and employee contributions levied on salaries. Some EBFs are established by law and Ordinances of the NA and its Standing Committee. Others have been established by Decrees/Decisions of Government. Since all EBFs manipulate State revenues and expenditures, each EBF should be established by law (not merely by a regulation). Otherwise the supremacy of Parliament in budget matters is contravened.

149. In the annual budget documents approved by the NA and local Peoples Councils, the SBL does not require a list of all EBFs and their budgetary impact. The parliament is deprived from examining EBF's impact on "general government" fiscal aggregates. The NA and Peoples' Councils are also not informed of the projected medium-term impact of revenues, expenditures and balance (negative or positive) of each Public Fund. The experience in OECD countries indicates that it is most important to examine the impact of Social Security and any other justifiable EBFs, as they impact significantly on the "general budget" aggregates. For example, in the EU countries, the monitoring of fiscal rules (e.g., the 60% of GDP rule for gross public debt and 3% of GDP for the fiscal deficit) apply to "general government" aggregates; each euro-zone country must project and report revenues, expenditures and balances (and net lending) of the Social Security Funds in addition to the central and local annual budgets and also include EBFs in MTF projections.

35 Box 3.1 of Vietnam PEFA report, July 2013, lists 30 funds. The figure of 60-70 funds was cited at the seminar in Hanoi on February 14, 2014 on possible SBL revisions, hosted by the World Bank Hanoi Office.

Recommendations

150. In the SBL (or, on the authority of the NA):

- ▶ Require presentation to the National Assembly of the list of all EBFs and their legislative basis with a view to the NA voting on whether the EBF should remain as an off-budget fund and/or whether it should be integrated into the annual State budget.
- ▶ Ensure that all EBFs' revenues and expenditures are included in the projections of the MTFF.
- ▶ Require presentation, in the annual budget documentation (e.g., in an explanatory annex), of the revenues and expenditure of all EBFs. Require the NA and Provincial Peoples' Councils to review and approve the projections, which should be required to use the same classification system as that used for budget revenues and expenditures.
- ▶ Require the annual accounts of all EBFs to be presented to the NA and Provincial Peoples' Councils for review and approval, using the same chart of accounts as that used for executing the State budget.

31. Budgeting of spending of government agencies' "own" revenues

151. Consistent with the principle of comprehensiveness, revenues and expenditures should be included in the budget in gross terms. Expenditure should not be offset against revenues, including "own" revenues collected by government agencies. Some countries' SBLs allow for the earmarking of revenues for specific purposes (e.g., on the authority of a SBL or another law, excise taxes on petroleum products may be earmarked for spending on road maintenance³⁶). In these countries, government ministries and agencies collect and use revenues for specific services. However, full information of the estimated annual revenues and their use is disclosed to the legislature, in both ex ante budgets and ex post accounts. The NA may, at a minimum, provide guidelines for the setting fees or charges that generate such revenues. The SBL can specify the extent of delegation, if any, for the setting of fees for services delivered by government agencies.

36 Under - second generation - Road Funds, the revenues and spending are included in annual budget, even though the Road Fund may be autonomously managed, with "arms length" oversight by a central ministry.

37 In a few countries, appropriations are approved on a net basis rather than a gross basis. However, revenues (from fees for services) and expenditures are clearly identified in the budget (net) spending estimates.

152. In a few OECD countries, in the annual budget of an administrative unit, the NA may approve simultaneously the expenditures and revenues of that agency.³⁷ During budget execution, if projected agency revenues were to be exceeded, any spending that takes place would require the

approval of the legislature. The SBL (and implementing regulations) would specify clearly the authority and procedures for agencies to follow; such legal provisions are essential to prevent illegal ministry/agency spending from their “own” revenues.

153. Vietnam’s SBL confirms the principle of comprehensiveness in Article 6: *All State Budget revenues and expenditures must be fully accounted for in the State Budget in accordance with specified regimes in a timely manner. Also, Article 28 obliges organizations and individuals to pay fully and in time the taxes, fees, charges and other revenues to the budget in accordance with provisions of law.*
154. In practice, these provisions of the SBL are not respected. According to the 2013 PEFA report (part 94), the State budget excludes: (1) capital expenditure under investment programs financed by national bonds for transport, irrigation, education and health purposes; (2) capital expenditure financed by national construction lottery revenues; and (3) some expenditures financed by earmarked fees and charges. For good public financial management, all of these expenditures and their financing sources should be included in the annual State budget and annual accounts of budget execution. Lottery revenues, earmarked fees and charges are government revenues. Government bonds are a deficit-financing instrument that increase public debt: if these transactions are excluded from the budget, the usual accounting identity: $\text{New net budget borrowing} = \text{change in net debt stock}$, would not be respected. Finally, when certain capital expenditures are excluded from the budget, the NA has a distorted picture of total capital expenditures and their allocation.
155. It appears that the SBL’s provisions are being flouted with impunity. Strengthened sanctions in government regulations could help. A more promising approach would be to include all of these off-budget activities into the budget, following the adoption of high-level decision that upholds the respect of law, i.e. that ensures that the SBL’s provisions are upheld.

Recommendations

- ▶ Review the provisions in the SBL to ensure that its provisions for comprehensiveness are fully adequate, i.e., ensure that the SBL requires all “general government” entities’ revenues, expenditures, and balances (and their indebtedness) to be transparently presented and approved by the NA in the annual budget and annual accounts.
- ▶ Ensure, in the annual budget for 2014 (or 2015 if more time is needed), that all earmarked revenues, lottery receipts, and public bond issues are included in the State budget’s revenues or financing, and that the spending from these resources are included in capital spending (or recurrent if this is the case). In execution, includes these revenues, expenditure and financing in annual government accounts in a transparent manner.

32. External donor support for government projects and activities

156. It is desirable that all foreign aid -- grants and (subsidized) loans - are included in the central (and provincial) budgets and in reports of budget execution. Although such aid is not a major portion of Vietnam's State Budget expenditure, some budget support and project loans is provided by multilateral and bilateral donors, which constitute a fairly sizeable share of deficit financing. However, not all foreign aid or loans are included in the annual State budget adopted by the NA. During budget execution, whereas budget support is paid directly into an account held at the SBV and disbursements recorded in government accounts, this is not true for most project accounts, whose disbursements are managed by project management units outside the State Treasury recording system. Hence they are excluded from annual accounts.
157. The SBL makes provisions for recording aid in the budget. One State budget revenue item is *"non-refundable aids granted by foreign governments, international organizations, other organizations and foreign individuals to the Vietnamese Government"* (Article 30). *"Aids"* is also included as a spending item (Article 31), which would cover foreign aid by Vietnam to a third country. However, as a revenue (and expenditure) item, "aid" should be limited to unrequited transfers, i.e., foreign grants. Loans, which are financing items of the budget balance, should be excluded.

Recommendations

- ▶ Note that the SBL already includes "external aids" as budget revenue and spending items.
- ▶ Enhance the comprehensiveness of annual budget spending financed by external support, by pressuring all external donors to provide complete information for the ex ante budget and also to use the TABMIS recording system for projects financed with external funding.
- ▶ Clarify, in the SBL, the meaning of "aid", with a view to ensuring that it is limited to grants only (consistent with the GFS definition).

33. SOEs, quasi-fiscal activities, and the State budget

158. Like other socialist countries, Vietnam's nonfinancial and financial SOEs are numerous. Actual or potential transfers to SOEs from the State budget (or provincial budgets) include:

- ▶ Direct transfers (for a profitable SOE, the net transfer from the budget may be negative, i.e., the enterprise may contribute more to the budget, via taxes and dividends, to what it receives; for loss-making SOEs, the reverse generally applies).
- ▶ Indirect transfers: tax expenditures (some SOEs may have preferential tax treatment); the government may pay SOE debt obligations or provide funds when a guarantee is called.
- ▶ Quasi-fiscal activities (QFAs): when enterprises are required to sell products at non-market prices or to employ more employees than the number warranted on economic grounds; or when the government uses a State-owned bank to provide subsidized interest rates to nonfinancial SOEs; procuring from SOEs above the market price.

159. SOEs' impact on the budget, although the extent of positive and negative transfers from the various SOEs is not precisely known in Vietnam. Various Decisions and circulars have been issued in recent years, including for monitoring and evaluating SOE performance, and to enhance the transparency of SOEs. Also, the budget reports SOEs' tax contributions. However, the net transfers to/from SOEs - both financial and nonfinancial - are not required in annual budget documentation, despite QFAs and fiscal risks, including from guaranteed loans, or the possible need for recapitalization (of troubled State-owned financial institutions). The annual Fiscal Risk Statement advocated in part 11, should include a section on the fiscal risks from the SOE sector. In countries where SOEs play a dominant role in several sectors of the economy (e.g., agriculture, banking, defence, energy, other industries, transportation and infrastructure, and utilities-electricity, gas, water, telecommunications), for fiscal transparency, it is useful to publish details of the direct and indirect (net) budget transfers and fiscal risks of major SOEs. If not in the Fiscal Risk statement, this could in an explanatory annex (or annexes) presented with the draft annual budget law.³⁸

Recommendation

- ▶ Require, in the SBL, the reporting -- in annual budget documents presented to the NA, Provincial Councils and the public -- of the net transfers to SOEs, both nonfinancial and financial, and their potential fiscal risks.

38 In France, for example, there are a number of explanatory annexes, which the government publishes with budget documentation. Some annexes are required by other laws - i.e., in addition to those that are compulsory in Article 51 of Organic Budget Law, 2001 (for an summary in English, see in Table II.3 of OECD Journal of Budgeting, Special Issue 2004, "The Legal Framework for Budget Systems - An International Comparison"). Annexes relating to SOEs or government support to industry include: (1) a report on SOEs ("Rapport relatif à l'État Actionnaire"), which analyses 10 major sectors, including defence industries in which the French Government has a share; (2) budget cost of supporting small and medium enterprises ("L'effort financier de l'État en faveur des PME"). See <http://www.economie.gouv.fr/agence-participations-etat/presentation-et-historique-rapport-letat-actionnaire>

THE SBL'S PROVISIONS FOR BUDGET EXECUTION, ACCOUNTING, REPORTING AND AUDIT



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160. This note, in parts, has made some far-reaching recommendations, which would take time to implement. For example, a more detailed budget classification/appropriations system would take time to prepare and implement. Similarly, some of the improvements on budget documentation would take time to prepare. In some cases (e.g., statements of tax expenditures, fiscal risks, or net impact of SOEs) this could be a matter of years.
161. The possibility of long implementation periods should not deter the authorities from taking a decision now to make changes that will only be fully implemented in the future. This can be handled in the SBL's "transitional provisions" at the end of the law. In particular, one can identify the specific articles relating to new far-reaching reforms, and state that "article x1, article x2.... will only be implemented y1, y2... years after the adoption of this law" (e.g., the last bullet of part 23 pertaining to establishing a TSA at all levels of budget management).

historique-rapport-letat-actionnaire

Recommendation

- ▶ Use the SBL's "Implementation Provisions" to indicate the number of years needed to implement far-reaching reforms associated with certain recommendations of this report.