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**REVIEW OF THE 2008 INDIVIDUAL ACTION
PLAN OF VIET NAM**

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Executive summary

The review of the 2008 Individual Action Plan (IAP) confirms that Viet Nam has largely completed its transition to a market economy. With annual income per head of US\$790 in 2007, it can still be classified as a least developed economy, but it is making a decisive escape from poverty.

The Government is committed to a sustained and sustainable rise in living standards. It is also well aware of the examples set by other economies, especially in East Asia, which have demonstrated that reducing obstacles to international trade and investment is an essential component of a successful development strategy.

The extent of reform since Viet Nam adopted its *doi moi* strategy in 1986 has been remarkable. Progress has been sustained since the review of Viet Nam's 2005 IAP. Joining the World Trade Organization (WTO) in 2007 is a highlight of recent achievements. At the same time, it is only one milestone along a coherent policy reform program, consistent with steady progress towards APEC's Bogor ideal of free and open trade and investment.

The Government has also acted on its awareness that liberalizing border barriers to trade and investment needs to be complemented by reforms to improve the efficiency of domestic markets to facilitate the rapid structural adjustment needed for successful, deep engagement with the global economy. In addition, Viet Nam is seeking to enhance its capacity for development by investment in economic infrastructure and human resource development.

The economy grew by 7.8% per year from 2002 to 2007. Exports grew more than threefold from 2003 to 2008: a growth rate of over 25% per year. More than 70% of Viet Nam's exports were to other APEC economies, while more than 80% of imports are from APEC economies.

Trade-led growth has come from the private sector. Since 1986 the number of state-owned enterprises (SOEs) has been reduced dramatically. From over 12,000, by 2008 there were only 1,720 fully owned state enterprises and the state sector accounted for less than 40% of GDP and about 10% of employment.

Since late 2008, the economy has been seriously affected by the global financial crisis which has damaged most of Viet Nam's export markets. Nevertheless, the Government is determined to adhere to its outward-looking development strategy and to sustain its program of reducing, and where possible eliminating, impediments to international trade and investment. Liberalization and facilitation of trade and investment are being accompanied by measures to improve the business environment in order to promote domestic as well as direct foreign investment.

Review of the 2008 Individual Action Plan of Viet Nam

This review seeks to highlight the most important features of Viet Nam's reform program, set out in detail in the 2008 IAP. There are some important common features of these policy improvements. The Government has:

- been willing and able to learn from experience and adapt international best practice to Viet Nam's circumstances;
- appreciated the value of transparency, with all new legislation readily available in English as well as Vietnamese on official websites;
- sought to reduce differences in the way regulations apply to domestic enterprises and those with some foreign ownership;
- been willing to consult with the private sector and international organizations in designing and implementing economic legislation and regulations;
- made sustained efforts to clarify and amend legislation and associated regulations in the light of practical experience.

Chapter 2 of this review summarizes the main features of the economy and gives an overview of some broad policy areas, indicating how the above elements of policy formation and review have been applied to international trade and investment policies and to public enterprise and public administrative reforms complemented by other measures to improve the business environment. The Government has published clear and concise overviews of economic policies which affect business operations in Viet Nam.

Chapter 3 seeks to highlight some important details of the extensive reform program set out in the 2008 IAP, including:

- significant reductions in the level and dispersion of tariffs, in some cases beyond WTO commitments;
- the almost complete elimination of non-tariff measures;
- a new commercially oriented approach to government procurement;
- a concerted effort to attract international firms to help provide the services needed to underpin the transition to a market-oriented economy;
- constructive participation in many APEC initiatives, including setting up a single window for customs administration, mutual recognition programs and investment facilitation.

These and many other reforms reported in the IAP have made a big difference. There has been a very rapid "transformation from an isolated, poor and collectivized agriculture-based economy into a

booming **economy** with a dynamic and diversified private sector coexisting with a large public sector, fully integrated into the world economy” (UNCTAD 2008).

Viet Nam’s progress is also reflected by improvements in Viet Nam’s ranking on the World Bank’s indices of the business environment and Transparency International’s Corruption Perceptions Index. Nevertheless, Viet Nam remains at or below the average performance in terms of these indicators, so there is more to be done.¹

In order to return to rapid growth after the 2008 global financial crisis, and then sustain that growth, it will be essential to ease the constraints of inadequate economic infrastructure, especially information technology and transport facilities, and to increase, very substantially, the skills needed to implement the vast amount of new economic legislation and allow Viet Nam to gain comparative advantage in products which rely on higher skills and technology.

Viet Nam’s policy-makers are well aware of these constraints and are consistently looking to the rest of the world to help overcome them. There is evident willingness to learn from others as well as to seek investment from the private sector, from development agencies and from global capital markets. One recent example is Viet Nam’s request for specific advice from the United Nations Conference on Trade and Development on structural reforms needed to help attract foreign direct investment in power generation. Chapter 3 and the IAP contain many other efforts to draw on expertise from the rest of the world, including by constructive engagement in the APEC process.

During the review, officials from several ministries welcomed the benefits of participation in APEC working groups and seminars. The network of contacts developed through these means is proving to be a valuable ongoing source of informal, practical advice to help design and implement reforms. At the same time, there is scope for APEC governments to step up their efforts to share with Viet Nam relevant information, experience, expertise and technology.

¹ Viet Nam’s ranking in the World Bank ease of doing business tables was 92nd out of 181 economies. On Transparency International’s corruption perception index, Viet Nam ranks 121st among the 180 economies reported.

Chapter 1 Introduction

With annual per capita income of US\$790 in 2007 (World Bank 2008), Viet Nam is still one of the group of least developed economies in the world. Through a series of important reform measures, including the *doi moi* policy adopted in 1986, Viet Nam is committed to raising the living standards of its people.

The Tenth Socio-Economic Development Plan for 2006–10 sets poverty reduction as one of its four main objectives, and seems to be the main vehicle of Vietnamese government policy in this respect. The Vietnamese Government is especially keen to benchmark best practices of other successful economies, and thus recognizes the strategic importance of opening to the outside and establishing streamlined and well-designed regulatory frameworks as policy instruments to ensure an efficient allocation of scarce resources. During the 20 years since the beginning of *doi moi* reform, while maintaining a socialist political regime, Viet Nam has successfully transformed the once socialist economy into a market-oriented and diverse economy. The economy has become increasingly open in terms of both trade and investment relations and the Government has undertaken a number of policy measures to integrate itself into the global network of production sharing. Viet Nam's accession to the Association of South-East Asian Nations (ASEAN) in 1995, the Asia-Pacific Economic Cooperation (APEC) group in 1998 and the World Trade Organization (WTO) in 2007 have all contributed to this process.

In response to these positive policy shifts, the Vietnamese economy has performed remarkably well. The real GDP growth rate in the new millennium rose continuously from 7.04% in 2002 to 8.48% in 2007 before it was affected by the global financial crisis and dropped to 6.23% in 2008 (Chart 1). The volume of exports, which has been the main vehicle of rapid economic growth, grew at an average rate of nearly 26% over the period 2002–08 (Chart 2).

Despite many problems that are still to be solved, Viet Nam appears to be on the right track towards becoming a promising developing economy. The Government is determined to implement policies to overcome obstacles to sustained economic development. The constraint to policy reform and structural adjustment is insufficient capacity for implementation, rather than lack of political willingness.

It is fair to say that APEC has had a limited capacity to support the reform and development process of Viet Nam. For example, APEC has only recently become effectively involved in promoting much needed structural reform. Nevertheless, since the economy joined APEC in 1998, Viet Nam has made increasing use of the various cooperation programs operated under the auspices of APEC. A number of cooperation programs in the areas of economic and technical cooperation, such as customs procedures, the Trade Facilitation Action Plan, human resources development and the APEC business

travel card, have helped both to upgrade the administration of Viet Nam and to reduce transaction costs, thereby enhancing the economy's overall efficiency.

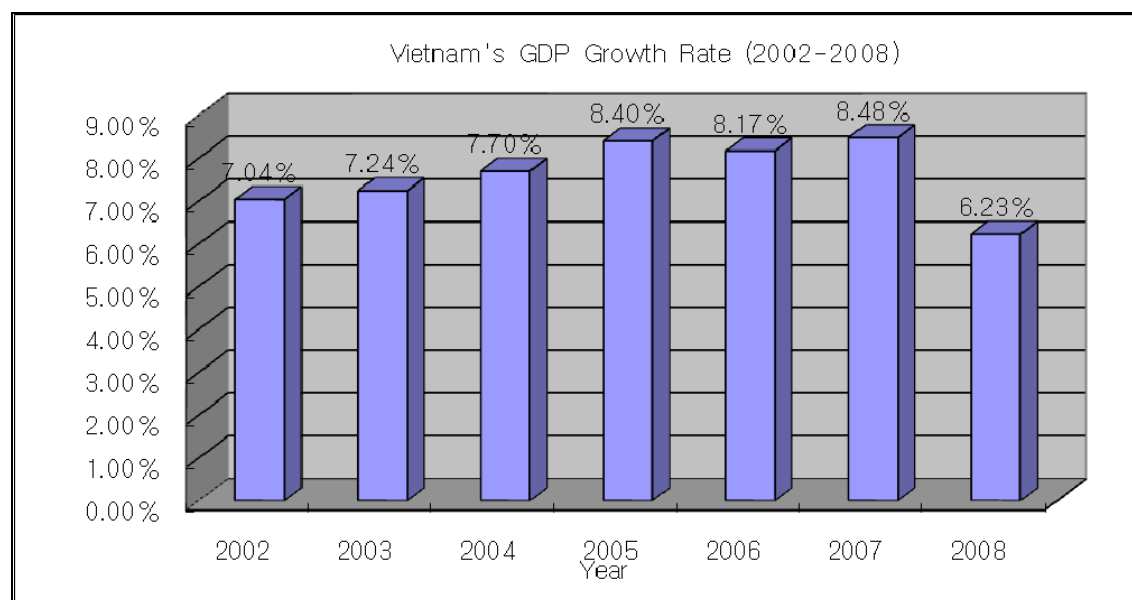
Viet Nam's membership of APEC was an important factor that helped the economy to gain membership of the WTO. As a consequence of these developments, the strategic value of APEC for Viet Nam has increased substantially over the last decade. More than 70% of Vietnamese trade is with APEC members and more than 80% of foreign direct investment (FDI) into Viet Nam is from APEC members. It is now imperative for both the APEC community and Viet Nam to strengthen this mutually beneficial relationship through intensified policy interactions. The IAP review process constitutes an excellent example of this kind of cooperative relationship between the two parties.

Chapter 2 Economic conditions and major policy developments

Economy of Viet Nam

During the years before the global financial crisis broke out, Viet Nam's economic performance was remarkable: it was one of the most dynamic economies in the world, surpassed only by China. The average real growth rate of GDP during the period 2002–07 was recorded at 7.8% (MOIT 2008); it has dropped slightly, to 6.23% in 2008, primarily due to the global financial crisis (Chart 1).

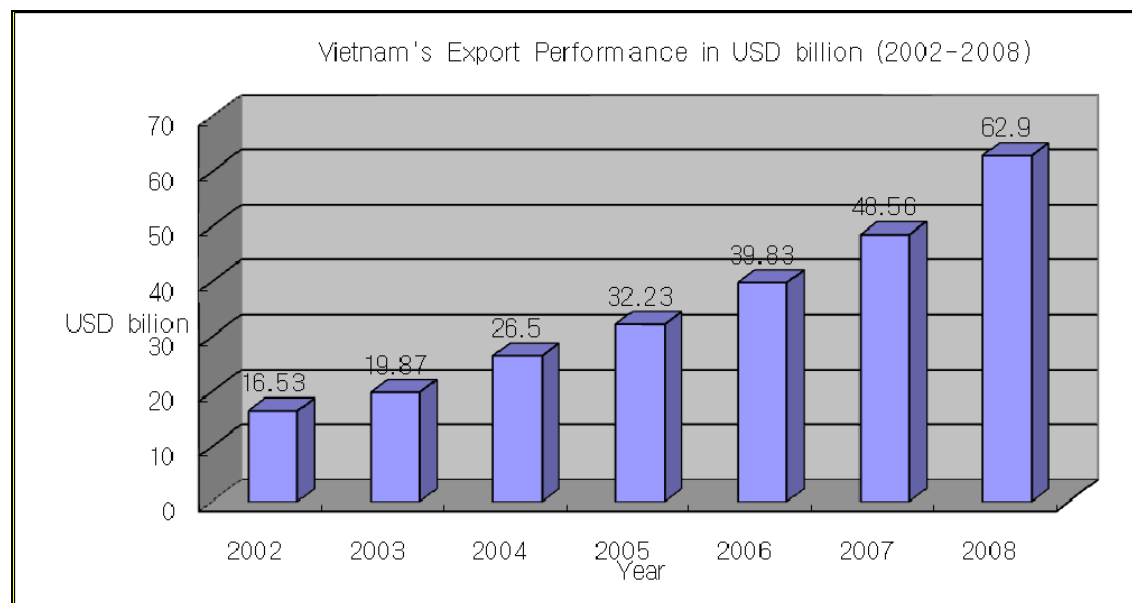
Chart 1 Growth rates of real GDP



Source: MOIT (2008) and material provided during the study visit.

Exports have contributed substantially to the relatively high growth rates of the real GDP during the period. As Chart 2 shows, the export volume of Viet Nam has grown more than threefold during the five years 2002–08, which corresponds to an annual export growth rate of nearly 26%. The Vietnamese economy seems to be following in the footsteps of the Asian newly industrialized economies that were successful in upgrading their economies through strengthened export competitiveness in the 1970s and 1980s.

Chart 2 Export performance of Viet Nam, 2002–08



Source: MOIT (2008) and material provided during the study visit.

This remarkable performance of the Vietnamese economy, both in macroeconomic areas and international trade relations, was largely fuelled by a series of reforms that the Government undertook following the adoption of the *doi moi* reform program in 1986. Among the important recent reform measures implemented by Viet Nam, two are particularly noteworthy:

- the transition from a state-owned and central-command economy to a market-oriented multi-sector economy (MOIT 2008); and
- trade policy reform undertaken both during the process of and after the economy's accession to the WTO.

Viet Nam's state sector reform substantially reduced the number of state-owned enterprises (SOEs) from 12,300 in 1986 to around 3,000 in 2005, providing a growing stimulus to domestic private sector initiatives and welcome incentives to FDI projects. Moreover, MOIT (2008) notes that the Government has removed most subsidies and privileges once provided to SOEs in order to create a more effective competitive environment for economic activity.

As a result, the Vietnamese economy has observed the rapid emergence of a relatively well-functioning private sector and a speedy influx of foreign investment capital; the state sector's contribution to the generation of the GDP has consequently dropped to less than 40%. In contrast, the non-state sector, which includes the FDI companies, currently contributes over 60% of Viet Nam's GDP and employs around 90% of Viet Nam's work force. In addition to state sector reforms, Viet Nam's accession to the WTO has marked a milestone in its recent trade policy reform and constitutes

an additional step towards a market-oriented economy for Viet Nam. A number of important opening and liberalization measures have been put in place both during the negotiation period and since Viet Nam's accession to the WTO. Table 1 provides an overview of major trade policy reforms undertaken during this process.

Table 1 Major commitments Viet Nam made for accession to the WTO

Policy area	Commitment
Tariff reductions	Average tariffs to fall from current level of 17.4% to a final bound of 13.4%. Agricultural tariffs to decline from 23.5% to 21%; non-agricultural tariffs from 16.6% to 12.6%. Tariff reductions to occur over 5–7 years, mostly in equal annual cuts.
Trading rights	All foreign firms and individuals to be able to import and export, except items subject to state trading. Importers can choose their domestic distributors. No minimum capital requirements for firms engaging in trading activity. Transition period up to January 2009 for foreigners for pharmaceutical products considered essential to human life, and other products considered sensitive to public morals or public order. Transition period up to January 2011 for foreigners for rice.
State trading enterprises	Manufactured tobacco products; culturally sensitive products such as newspapers, journals and audiovisual materials; and petroleum and aircraft which are considered natural monopolies.
Excise duties	Within 3 years a single rate will apply for all forms of beer (draught, fresh, bottled, canned) and a single rate for all spirits containing alcohol of 20% or more.
Tariff rate quotas	Eggs, un-manufactured tobacco, sugar and salt. Quota volumes increase at 5% annually.
Quantitative restrictions	Import bans on cigarettes, cigars, large motorcycles and used cars to be abolished. Cigarettes and manufactured tobacco products to have a production quota (including imports).
Export restrictions	Export controls on rice for food security reasons. Controls on wood products and minerals for environmental reasons and to prevent illegal exploitation.
Standards	Comply with the Agreement on Technical Barriers to Trade and the Agreement on Sanitary and Phytosanitary Measures upon accession.
Agricultural subsidies	“Amber box” or supports that have direct impact on prices or quantities of 3.96 trillion dong in addition to the <i>de minimis</i> allowance to developing economies of up to 10% of the value of domestic agricultural production.
Agreement on subsidies and countervailing measures	Comply upon accession. Subsidies in the form of investment incentives contingent upon exports to be phased out over 5 years for existing beneficiaries.
TRIMS	Comply upon accession. Preferential state credit and import tariffs contingent upon localization ratios to be abolished.
TRIPS	Comply upon accession.
Information Technology Agreement	Agreement signed. Around 330 lines on IT products to be reduced to zero, mostly over 3–5 years, but some after 7 years.

IT = information technology; TRIMS = Agreement on Trade Related Investment Measures; TRIPS = Agreement on Trade Related Aspects of Intellectual Property Rights

Source: World Bank (2008).

The ongoing global financial and economic crisis has had substantial impacts on the Viet Nam economy in general, and on the trade and investment relations of Viet Nam in particular. Although the GDP growth rate dropped by more than 2% in 2008 compared to 2007 and the overall trade

environment has worsened substantially over the past few months, the trade performance of Viet Nam has not yet been influenced as much as feared. With the increasing protectionist sentiment worldwide, however, Viet Nam might see an increase in domestic industries' demand for more protectionism in the coming months and years.

Viet Nam has made enormous efforts to integrate its economy into the region and the world. Becoming a member of ASEAN in 1995 marked an important turning point in Viet Nam's external economic and political relations. Membership of ASEAN also helped Viet Nam to gain membership to APEC in 1998 – along with Peru and Russia, being the most recent to do so.

Since Viet Nam became a full member of the WTO in 2007, the economy seems to have gained increased confidence to integrate itself into the regional and global cooperation network. As a consequence, Viet Nam has signed and is negotiating a number of additional regional and bilateral trade agreements. The Trade and Investment Framework Agreement with the United States, signed 6 months after Viet Nam's accession to the WTO, is a significant step in this respect.

Despite these positive economic and policy developments in Viet Nam, there are a number of areas of potential risks, which need to be addressed by appropriate policy instruments.

Firstly, in the past few years, the Vietnamese economy has recorded substantial trade deficits, which seem to have grown to pose potential threats to the sustainability of recent economic developments. For example, the 2007 trade deficit of US\$14,122 million represents approximately 20% of Viet Nam's GDP (US\$70,300 million), which far exceeds the proportion reported in Southeast Asian economies when they were hit by a financial crisis in 1997. The World Bank (2008) also regards Viet Nam's relatively high trade deficit as a source of potential vulnerability for the economy.

Secondly, it may be difficult to sustain the rapid expansion of exports which have been the main source of Viet Nam's recent economic dynamism. The Vietnamese economy appears to be overly dependent on exports of a limited number of products, such as crude oil, textiles and clothing and various leather products. Value added in some of these sectors is relatively low, demonstrated by the high proportion (approximately 70%) of raw materials and intermediate products imported for further processing, especially in the clothing and leather sectors. Other serious bottlenecks that limit the further development of export industries include a lack of physical infrastructure such as ports, rail and roads; a lack of skilled labor; too high a concentration of manufacturing sectors in big cities; a slowing down of demand and increased competition in global textile and clothing industries; and intensified trade barriers by Viet Nam's major trading partners in the form of anti-dumping, sanitary and phytosanitary and other non-tariff measures (NTMs). These bottlenecks appear to be one of the most significant challenges for the Vietnamese economy if it is to sustain its recent economic dynamism.

Thirdly, the level of corruption in Viet Nam constitutes an obstacle to sustainable development. On Transparency International's corruption perception index, Viet Nam ranks 121st among the 180

economies reported. Among the 20 APEC member economies (other than Brunei Darussalam) rated by Transparency International Viet Nam ranks as one of the highest (15th among 20).

Australia, New Zealand and India recognize Viet Nam as a market economy. However, Viet Nam has not yet been successful in securing market economy status from major trading partners such as the United States and the European Union (EU); this is an additional constraint facing the economy. As a non-market economy, Viet Nam has to face more stringent rules in trade relations with these economies, especially raising the risk of anti-dumping actions.

Viet Nam views further improvement of the economy's overall business environment and an improved governance structure as key factors for its sustainable development. They are two of four main policy objectives stipulated in Viet Nam's Tenth Socio-Economic Development Plan for 2006–10.² To achieve these objectives, Viet Nam should make use of the various APEC forums to overcome the bottlenecks mentioned above. APEC has already provided many useful opportunities in the form of seminars, workshops, and working groups where the best practices of member economies in diverse policy areas are presented and discussed.

Viet Nam has been an active participant in APEC meetings, and has regarded the variety of economic and technical cooperation venues as an excellent instrument to help achieve the goal of sustainable development. In particular, the Vietnamese Government has recognized the value of and made intensive use of such cooperation programs within the trade facilitation action plan, including customs procedures, e-commerce and the APEC business travel card. Viet Nam is well aware of the usefulness of the recently launched single window program of the APEC Customs Cooperation Program. And Viet Nam has shown strong interest in human resource development and capacity-building (for example, training in trade law) to address its lack of skilled labor, though it has expressed dissatisfaction with the lack of long-term planning and follow-up measures in some of these programs.

International trade

Exports

As already noted, exports have been the main driving force of the Viet Nam economy. Viet Nam directs more than 70% of its exports to other APEC member economies, and 11 APEC members are among the 15 largest export destinations of Vietnamese products (Table 2). In particular, in 2007 the five largest export markets for Viet Nam were all APEC member economies (the United States, Japan,

² The others are to strengthen social inclusion and to strengthen natural resource and environment management.

Australia, China and Singapore), receiving more than 50% of Viet Nam's exports. In contrast, the EU member states play a minor role as trading partners of Viet Nam.

Table 2 Viet Nam's main export destinations in 2007

Rank	Economy/territory	Amount (US\$ million)	Share (%)
1	United States	10,089.1	20.8
2	Japan	6,070.0	12.5
3	Australia	3,557.0	7.3
4	China	3,356.7	6.9
5	Singapore	2,202.0	4.5
6	Germany	1,855.1	3.8
7	Britain	1,431.4	2.9
8	Malaysia	1,390.0	2.9
9	Korea	1,252.7	2.6
10	Netherlands	1,182.1	2.4
11	Chinese Taipei	1,139.4	2.3
12	Indonesia	1,105.3	2.3
13	Thailand	1,034.0	2.1
14	Cambodia	990.8	2.0
15	Philippines	965.1	2.0
16	Others	10,939.3	22.5
Total		48,560.0	100

Source: MOIT (2008).

Imports

Viet Nam's share of imports from APEC member economies is even higher than for exports. Nine of the 10 largest sources of Viet Nam's imports are APEC economies and more than 80% of Viet Nam's total imports originate in APEC economies (Table 3). This dependence on other APEC member economies means that it is certainly in the interests of Viet Nam to help create an open and liberal trading environment in the Asia Pacific region.

Table 3 Viet Nam's main sources of imports in 2007

Rank	Economy/territory	Amount (US\$ million)	Share (%)
1	China	12,502.0	19.9
2	Singapore	7,608.6	12.1
3	Chinese Taipei	6,916.6	11.0
4	Japan	6,177.7	9.9
5	Korea	5,334.0	8.5
6	Thailand	3,737.2	6.0
7	Malaysia	2,289.7	3.7
8	Hong Kong, China	1,941.4	3.1
9	United States	1,699.7	2.7
10	India	1,356.9	2.2
11	Indonesia	1,353.9	2.2
12	Germany	1,308.5	2.1
13	France	1,155.3	1.8
14	Australia	1,059.4	1.7
15	Switzerland	1,016.2	1.6
16	Others	7,224.9	11.5
Total:		62,682.0	100.0

Source: MOIT (2008).

International investment relations

As is the case for China, the rapid inflow of FDI capital has been an important source of sustained economic growth for Viet Nam in recent years. Based on total registered investment capital, Korea is the largest international investor, followed by Singapore, Chinese Taipei and Japan (Table 4). Six of the seven main sources of investment are from APEC economies (the other is the British Virgin Islands).

The seven largest investors from APEC member economies have contributed to 6,203 projects, with the committed investment capital amounting to US\$61,951 million. In contrast, the EU members are playing only a limited role as investors in Viet Nam.

Table 4 Top 10 foreign investors in Viet Nam as of 31 December 2007

Rank	Economy/territory	No of projects	Total registered investment capital (US\$ million)	Implemented capital (US\$ million)
1	Korea	1,875	14,398.1	2,738.1
2	Singapore	549	11,058.8	3,858.1
3	Chinese Taipei	1,801	10,763.1	3,079.2
4	Japan	934	9,179.7	4,987.1
5	British Virgin Islands	342	7,794.9	1,375.7
6	Hong Kong, China	457	5,933.2	2,161.2
7	Malaysia	245	2,823.2	1,083.2
8	United States	376	2,788.6	746.0
9	Netherlands	86	2,598.6	2,031.3
10	France	196	2,376.4	1,085.2

Note: The figures in the table exclude withdrawn or expired projects.

Source: MOIT (2008).

Major policy developments

Overview of trade policy

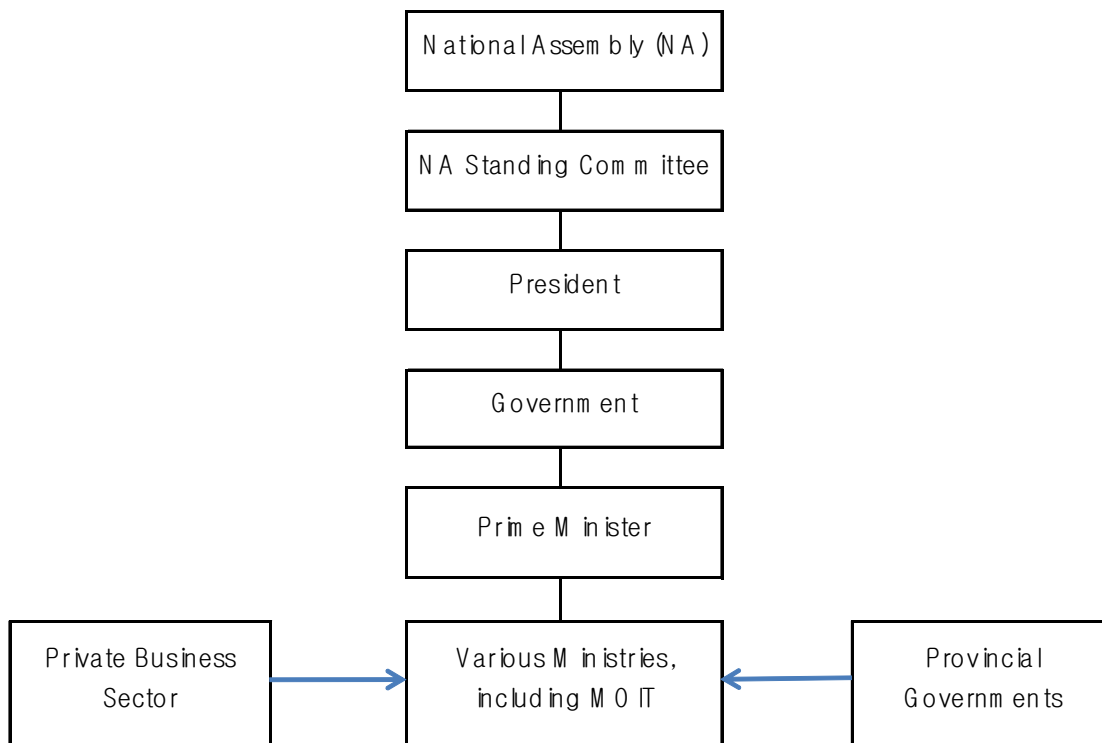
Since adopting the *doi moi* reform policy in the mid-1980s, Viet Nam has become an increasingly open and liberal trader. With its accession to ASEAN in 1995, APEC in 1998 and the WTO in 2007, the economy has become increasingly integrated into the regional and global networks of liberal trade and investment and production sharing. Membership of the WTO has marked a particularly significant milestone in Viet Nam's long road of transition from a centralized command economy towards a more diverse and market-oriented economy. Its trade policy has undergone a number of substantial changes along the way. The most important achievements in this regard are the extensive opening and liberalization of trade and investment policy and improvements in transparency, as detailed in Chapter 3.

The process of trade policy formulation in Viet Nam appears to have become substantially more transparent over the last years, especially through the adoption and implementation of a series of new laws. The Government of Viet Nam sees the transparency of trade policy as an instrument for guaranteeing the interests of stakeholders and policy effectiveness, and regards it as one of its most important commitments to the international trading community.

The normal procedure for adopting new legislation on trade policy is stipulated in the protocol for Viet Nam's accession to the WTO. It allows for the participation of the several ministries involved and includes the stage where new arrangements are notified a minimum of 60 days prior to the adoption of the legal texts and public comment sought. In this way, the Vietnamese Government is

increasing the involvement of provincial authorities and the business sector in trade policy reform while attempting to balance the interests of the ministries on the one hand and the domestic and international stakeholders on the other. Chart 3 shows the procedure for formulating trade policy in Viet Nam.

Chart 3 Formal procedure for trade policy making in Viet Nam



Source: MOIT (2008).

The National Assembly is the most powerful decision-making institution in Viet Nam, with full responsibility for adopting laws and resolutions – followed by the President and Prime Minister and their deputies and respective ministries. At one time, the Ministry of Trade was dominant in the process, but this appears to have completely disappeared through (a) the merging of the two ministries once in charge of trade and industrial policy into one ministry (the Ministry of Industry and Trade) and (b) the delegation of responsibilities and powers to other ministries and local authorities following the incremental decentralization that started in 2005. This has contributed substantially to the enhancement of transparency in trade policy formulation in Viet Nam. The greater decentralization and improved transparency were accompanied by a growing engagement of non-governmental actors, including the private business sector and the press community. In Viet Nam, it is not unusual for government policies to be subject to intense public discussion and scrutiny, especially through neutral media sources, including newspapers.

Vietnamese government officials in general appear to accept this new policy environment, and see press criticism as being balanced between domestic needs and the economy’s international

commitments. If there is an increased public demand for more protectionism – especially in light of the ongoing global financial crisis and worldwide tendency towards greater protection of domestic industries and employment – the Vietnamese Government is expected to pay increasing attention to the international commitments the economy has made over the last few years, including its WTO commitments. During the review team’s visit, Viet Nam officials described their response to requests by the domestic steel industry for increased protection, in response to protectionist moves in other economies. The officials explained that they have not raised tariff rates or imposed any other import restrictions. Instead they have increased government procurement of domestic steel products, which does not breach Viet Nam’s WTO commitments.³ This demonstrates the Vietnamese Government’s serious intent to design and implement policies in accordance with international commitments.

Improving the business environment

In recent years, the Government of Viet Nam has continued to improve the environment for doing business. A very significant part of this effort is to draft and enact the vast amount of legislation needed to operate a market economy, including the Law on Enterprises and the Law on Investment. The review of the 2005 IAP noted (APEC 2005):

A key element of initiatives in the early stages of doi moi, in particular of the Public Administration Reform program that is implementing the changes in the role of the state, is the adoption of the rule of law to bind the agencies of the state and initiatives to guide the behaviour of private individuals and entities. This has warranted an extraordinary effort of legislative and judicial development.

Viet Nam is seeking to take full advantage of information technology: all new legislation is available online, making its system of economic regulation highly transparent. The Government has prepared excellent summaries of economic policies for investors, summarized in a booklet published by the Ministry of Planning and Investment’s Foreign Investment Agency (MPI 2008). The booklet summarizes the most important items of economic legislation.⁴ It also presents a clear overview of taxation, foreign exchange policy and many other matters of interest to investors, such as licensing procedures and dispute settlement. A complementary publication (MOIT 2008) adds value by some frank assessment of potential problems facing investors.⁵ This is a useful example of the Government’s awareness of the ongoing problem of limited capacity to implement all of the many

³ Viet Nam is not yet a member of the Government Procurement Agreement of the WTO.

⁴ Page 27. In addition, Appendix 2 presents a table listing 43 items of legislation, where to find them, their main objectives and the authority responsible for implementation.

⁵ For a frank assessment of constraints on implementation, see page 38 of the publication.

new regulations. While trying to improve capacity, it is also willing to respond to problems raised by the private sector.

The World Bank's *Doing Business 2009* report (World Bank 2009) cites Viet Nam, along with China, as a systematic reformer in East Asia. Viet Nam's ranking in the World Bank ease of doing business tables has improved from 99 in 2006 to 92 in 2009. The World Bank report highlights moves to make it easier to obtain credit and to improve the regulation of stock markets by reform of the Law on Securities, which helped to increase market capitalization from less than \$1 billion in 2005 to more than \$13 billion by 2008. At the same time, the World Bank report notes that strengthened disclosure and reporting requirements are yet to be backed by systems to store and monitor information electronically.

Like very many other economies, Viet Nam is seeking to reduce the incidence of corruption. The Government has promulgated an Anti-corruption Law with comprehensive measures to prevent, constrain and deal with corrupt acts and has developed a National Anti-corruption Strategy for the next decade.⁶ Transparency International considers this to be a solid basis for curbing corruption, but warns that it will be hard to implement.⁷

Infrastructure constraints continue to cause problems for investors. Nevertheless, there has been a rapid increase in both domestic and foreign direct investment. Most FDI is export-oriented (Athukorala 2009, in press) helping to integrate Viet Nam into the global economy.

Public administration reform

The Government has sustained its effort to streamline and rationalize public administration in line with the needs of an increasingly market-oriented economy. The reforms aim to reduce duplication of responsibilities, for example by merging the Ministry of Trade and the Ministry of Industry and creating a Ministry of Agriculture and Rural Development which takes over responsibility for fisheries and aquaculture (which accounts for a significant share of primary sector exports).

Within ministries, more functions are being delegated to local authorities. The program of decentralization and reallocation of responsibilities will be reassessed in 2010.

⁶ More details are set out in the answers to questions on the 2008 IAP.

⁷ Recent evidence of arrests of people accused of corruption can be found in an Economist Intelligence Unit briefing at http://www.economist.com/daily/news/displaystory.cfm?story_id=13522051&fsrc=nwl.

State enterprise reform

The number of SOEs dropped from over 12,000 in 1986 to approximately 3,000 in 2005. By June 2008, there were only 1,720 fully owned state enterprises. In 2007, the state sector accounted for less than 40% of GDP and about 10% of employment. Most small and medium SOEs have been privatised. The Government intends to privatize more enterprises, but it acknowledges that it will be difficult to do so.⁸

The program to transform all remaining SOEs into limited liability companies is well advanced. The main laws on commercial operations (including the Law on Procurement and Competition Law) require that SOEs operate under similar conditions as private enterprise. For example, SOEs now supply products to the government only on a fully commercial basis in competition with the private sector. SOEs are subject to the same accounting and auditing requirements. In 2009 the State Audit of Viet Nam will assess 28 state corporations.⁹

⁸ The strategy to transform and/or sell remaining SOEs is set out in the answers to questions on the IAP.

⁹ *Viet Nam News*, 25 March 2009.

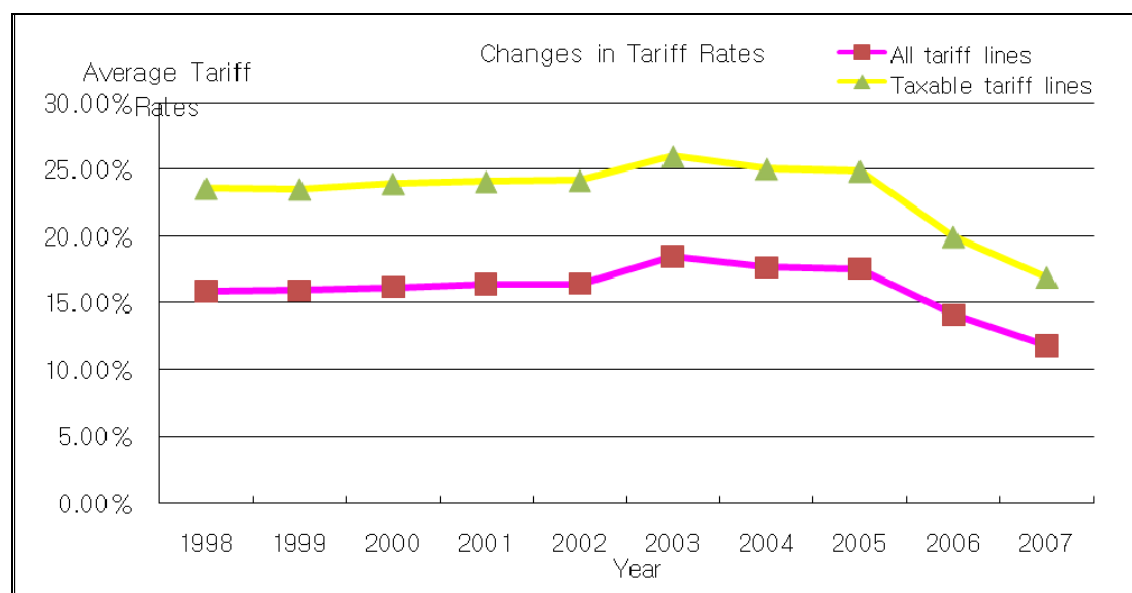
Chapter 3 Viet Nam Individual Action Plan 2008

This chapter draws attention to some significant recent changes in policies. Further details can be found in the Individual Action Plan (IAP) matrix and the answers to questions from the reviewers and from member economies.

Tariffs

The number of tariff lines and the level of average tariff rates of Viet Nam have both changed considerably since the economy joined APEC in 1998, as shown in Chart 4 and Table 5. Before Viet Nam's accession to the WTO, the number of tariff lines was well over 10,000. Since then the tariff structure has been streamlined and simplified, with the number of tariff lines having been reduced to 9,174. Through accelerated liberalization measures which were implemented beyond the economy's WTO commitments, the number of tariff lines applied on a Most Favoured Nation (MFN) basis has been further reduced to 9,121.

Chart 4 Viet Nam's key tariff rates 1998–2007



Note: The years on the horizontal axis are the report years of IAPs, not the years tariffs are applied.

Source: Viet Nam's individual action plans, various years.

Average tariff rates,¹⁰ on the other hand, had been stabilized at the level of approximately 16% for all tariff lines and 25% for taxable tariff lines before they were reduced to 11.79% and 18.53%, respectively, after Viet Nam joined the WTO. These two changes reflect the significant effort by the Vietnamese Government to integrate its economy into the global division of labor and its strategy of further opening and liberalization.

Mainly due to the negotiations on accession to the WTO, there has been a remarkable reduction in Viet Nam's average tariff rates since the economy's IAP was first reviewed within the APEC process in 2004. This reduction in average tariff rates has been accompanied by a number of affirmative measures by the Vietnamese Government that can be identified from Table 5.

Firstly, the speed and scope of liberalization has been faster than the commitment made to the WTO. The extent of this accelerated liberalization can be seen by comparing the MFN rates and the WTO rates in Table 5. This is a very welcome policy decision by the Government of Viet Nam, demonstrating its strong commitment to bind and integrate itself in the liberalized multilateral trading community.

Secondly, the degree of tariff dispersion in Viet Nam has been reduced substantially. The number of tariff lines subject to tariff rates of more than 20% has fallen significantly (from 33.8% of tariff lines in 2003 to 26.9%, for WTO members in 2007). It is noteworthy that the Vietnamese Government has made additional efforts – through accelerated liberalization – to reduce it to 20.9%.

Thirdly, the share of “international” peak tariffs¹¹ (above 15%) has been reduced from 41.8% in 2003 to 29.8% in 2007, with the most substantial contribution provided by the strong reduction (from 33.8% to 20.9%) of the number of tariff lines subject to tariff rates higher than 20%. Another very positive feature of Viet Nam's tariff policy is that all tariff rates currently applied in Viet Nam are bound and applied in the form of *ad valorem* tariffs, which is a remarkable achievement compared to other developing economies at a similar level of economic development.

¹⁰ The rates for 2007 are under the WTO commitments.

¹¹ There are two ways of defining “tariff peaks” or “peak tariffs”. A “national” peak tariff refers to tariff rates above three times the average tariff rate; an “international” peak tariff refers to tariff rates higher than 15%.

Table 5 Changes in the tariff dispersion in Viet Nam, 2003–07 (IAPs of 2004–08)

Tariff rates (%)	2003	2004	2005	2006	2007 (IAP 2008) (%)	
	(IAP 2004) (%)	(IAP 2005) (%)	(IAP 2006) (%)	(IAP 2007)	MFN	WTO
Duty-free	28.8	29.1	29.4	29.3	30.3	12.3
1–5	17.9	18.1	17.9	19.9	21.0	21.2
6–10	9.9	10.7	10.4	10.9	10.6	18.4
11–15	1.6	1.8	2.0	8.0	8.4	8.5
16–20	8.0	7.9	7.9	9.6	8.9	12.7
Above 20	33.8	32.4	32.4	22.2	18.7	23.2
Above 40					2.2	3.7
	100.0	100.0	100.0	100.0	100.0	100.0
No. of tariff lines	10,689	10,689	10,689	11,110	9,104	9,174

Source: Assembled by experts from Viet Nam's IAPs.

It should, however, also be mentioned that there have been a few notable developments in the opposite direction. As Table 5 shows, the proportion of tariff lines for which the bound rate is zero was reduced substantially during WTO accession negotiations (from 28.8% in 2003 to 12.3% in 2007). These tariffs can be raised to their non-zero bound levels at any time consistently with WTO commitments. This adds some uncertainty to the Vietnamese tariff regime. However, such increases are not expected to happen often in the context of the Viet Nam's general strategy of liberalization.

In addition, a new tariff bracket of 40% or higher has been added to the formerly six tariff brackets, resulting in the current system of seven tariff brackets. These negative developments are somewhat contrary to the general policy of further opening and liberalization.

There are some other policy instruments in Viet Nam that exert similar effects as tariffs.

Firstly, the Vietnamese Government has made sporadic use of the Price Stabilization Fund (PSF). The main objective of the PSF seems to be to reduce the volatility of prices of some 10 products that are important for securing public health and national security, such as public utility sector products (electricity, water, oil and gas) and daily necessities (rice, sugar, salt, etc.). For these products, the Vietnamese Government temporarily draws on the PSF with the view of fixing ('stabilizing') their prices. The government officials interviewed during the review team's visit to Viet Nam stated that these measures are not intended to distort trade flows and are utilized only temporarily. However, since they affect demand, they should be regarded as "quasi" import restricting instruments.

Secondly, Viet Nam has made an extensive use of a scheme of tariff reimbursement. This is designed to provide incentives to international investors who intend to establish assembly production lines that

use imported raw materials and intermediate products rather intensively. Currently, two alternative methods are in operation:

- Category 1: tariffs are paid when raw materials and intermediate products are imported, and reimbursed later through verification of export of the processed products.
- Category 2: tariffs are not paid at the moment of importation, and are exempted for 175 days, within which period the imported raw materials and intermediate products should have been used for the production of export products and the processed products should have been exported. In this case, tariffs are not imposed at all. This scheme appears to have contributed a lot to attracting FDI.

Non-tariff measures

Quantitative restrictions

Except for tariff-rate quotas applied to just four products (eggs, sugar, tobacco material and salt), Viet Nam does not maintain any kind of quantitative import restrictions. A number of quotas that existed for a long period have now been removed, and all import licensing instruments under quantitative measures have been eliminated. This very positive change in Viet Nam's trade policy in NTMs reflects the economy's strong commitment to liberalization and opening that was rewarded by its accession to the WTO in 2007.

Import and export bans

Viet Nam has had a relatively long tradition prohibiting imports and exports for certain categories of products, and it still bans a number of products. An import ban is imposed on such products as:

- products important for national security (weapons; explosives, excluding industrial explosives and military technical equipment; all fireworks);
- many kinds of cultural products banned from circulating in Viet Nam;
- selected used commodities (textiles and clothing, shoes, household electronics, medical equipment, etc.);
- some used transportation equipment (car and bus chassis, bicycles, two-wheeled and three-wheeled vehicles, ambulance cars, etc.).

The Vietnamese Government imposes an export ban for selected products such as weapons, national relics, antiques and precious objects, wood from domestic natural wood forests, precious wild animals, plants, animal breeders, etc. It is to be noted that Viet Nam has secured the right to prohibit the import and export of these products through its WTO accession negotiation; therefore they are all

WTO-consistent. As indicated by the list above, the bans on imports and exports are especially applied for securing public health, national security and environmental protection.

Import licensing and state trading

In the area of licensing import and export activities, the Vietnamese Government has long maintained a two-track approach: automatic licensing; and discretionary licensing, in which the automatic licensing scheme has been eliminated. Policy considerations in the areas of public health and environmental protection seem to play a key role in maintaining the licensing schemes. The government officials interviewed during the review team's visit to Viet Nam asserted that all licensing requirements operated currently are of a technical nature and are in accordance with the economy's WTO commitments.

Viet Nam maintains a relatively extensive state-trading scheme, which seems to be one of the legacies of the economy's long history as a centrally planned socialist economy. A number of state trading enterprises are in business, especially in such industrial areas as tobacco and cigar products, oil and petroleum-related products, and newspapers, magazines and several audiovisual products.¹²

Minimum import price scheme

The minimum import price scheme was an issue of controversy during Viet Nam's negotiations on accession to the WTO. Having maintained the scheme until 2005, especially for wines and spirits from selected source economies, the Vietnamese Government during the accession negotiations assured the WTO that, from the beginning of 2006, the customs valuation practices of Viet Nam had been brought into "full conformity" with the WTO's Customs Valuation Agreement.

Line management system

The line management system allocates the rights to import certain products to different ministries according to their competencies. In the past, the line management system was used extensively to shield from international competitors state enterprises belonging to the respective ministries. The scheme has survived Viet Nam's transition to a market economy, but it is now used mainly to ensure the safety and quality of imported products; it therefore takes the form of inspection of shipments, appointment of authorized importers, import licensing, registration or certification as to compliance with standards (APEC 2005).

¹² Report of the Working Party on the Accession of Viet Nam, document WT/ACC/VNM/48/Add.2

RTAs and FTAs

Viet Nam has been a member of ASEAN since 1995, and has applied the common effective preferential tariff scheme incrementally. Viet Nam is currently a member of some free trade agreements (FTAs), through the channel of ASEAN, which has entered into FTAs with a few Asian economies. The first such FTA was negotiated with India, as a result of which the ASEAN–India FTA went into force in 2004. Some APEC member economies have also concluded FTA negotiations with ASEAN: China (ASEAN–China FTA, 2005); Korea (ASEAN–Korea FTA, 2006); and Japan (ASEAN–Japan FTA, 2008).

Government procurement

The Government has adopted a new, transparent, modern procurement process based on the Tendering Law of November 2005, followed up by a series of decisions and regulations set out in the 2008 IAP. These specify tender procedures from the preparation of the application to tendering, evaluation, appraisal and approval of tender results and negotiation to finalization and contract signing. The procurement system is administered by a new National Procurement Agency under the Ministry of Planning and Investment.

The Government is enhancing the efficiency and transparency of procurement, including by drawing on international experience. A voluntary review of the system against APEC guidelines developed by the Government Procurement Expert Group in 2004 helped it to design new legislation.¹³ Viet Nam also participated in a capacity-building program organized by the United Nations in cooperation with the Government of Korea. The report of that project noted the need to launch a public website and move towards an e-procurement system.¹⁴ The website is now operational, and in January 2009 the Government announced plans for the establishment of an electronic procurement system, based on the Korean national e-procurement system, the Korea Online e-Procurement System, working with the Korea International Cooperation Agency.

The improvements have already increased the share of procurement under new procedures, resulting in savings to the budget estimated at 4% of spending on public procurement.

¹³ See “Viet Nam’s Voluntary Review Against The GPEG Non-Binding Principle Of ‘Value For Money’”, Agenda item 5.1, Government Procurement Experts’ Group, Santiago, Chile, 25–26 February 2004: APEC document 2004/SOMI/GPEG/004.

¹⁴ See “Final Report: Capacity Building Programme for Government Procurement Reform”, Report of a meeting held on 19–21 December 2006, Seoul, Korea:
<<http://unpan1.un.org/intradoc/groups/public/documents/UNGC/UNPAN025120.pdf>>.

Since late 2008, the sharp increase in many prices has led to problems with escalation clauses, which are being reassessed. The government is strengthening the legal framework for procurement, including for tender monitoring and evaluation, and it is improving the capacity to respond to questions raised by the public. The Government is also moving towards accession to the WTO plurilateral Agreement on Government Procurement, with support from the WTO Secretariat.

Intellectual property rights

Intellectual property rights (IPRs) are enforced by the Civil Code and the Intellectual Property Law, enacted in 2005. These have been followed up by governmental decrees, ministerial circulars and other legal documents to provide directions and guidelines for IPR administration and enforcement, for example to set penal liability for infringements of IPRs and to strengthen software copyright protection.

Viet Nam is a member of the World Intellectual Property Organization (WIPO) and several IPR conventions and treaties administered by WIPO. Within the WTO, Viet Nam agreed to comply with the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, without any transition period, and is very close to full compliance.

The IAP notes the establishment of procedures for enforcement as well as the difficulties in applying major new legislation, due to lack of experience, especially in dealing with more complicated infringement cases.

The Government of Viet Nam has prioritized capacity-building activities. Those activities have been carried out throughout the economy at both national and international levels. Viet Nam has signed memorandums of understanding (MOUs) on IPR cooperation with several economies and organizations, including some APEC economies like Australia, China, Japan and Thailand. An ongoing project, funded by Japan, is helping the National Office of Intellectual Property to improve the agency's administration and information systems, including setting up a search information system for examination purposes, an intellectual property library available to the public and an e-filing system.

Services

The rapid transition to a market-driven, outward-looking economy has created a huge growth in demand for the services needed to support it. Partly due to the shortage of people with the necessary skills to provide financial, legal and other commercial services, the domestic service sectors could not be expected to keep pace with surging demand.

Well aware of this constraint, the Government of Viet Nam has encouraged foreign involvement in the service sector since the early days of *doi moi*. Extensive unilateral liberalization took place well

before accession to the WTO. As noted in the review of the 2005 IAP (APEC 2005), early reforms were often experimental. Those reforms, along with many others, have now been locked in by Viet Nam's accession to the WTO.

Under its WTO commitments, Viet Nam is allowing greater foreign ownership in most commercial services. In many cases, the permitted foreign ownership is phased in to reach 100% after a few years (for example, after 5 years for express delivery courier services). These moves have been backed by important regulatory reforms: for example Viet Nam has agreed to set up an independent telecommunications regulator to prevent anti-competitive behavior and oversee transparency obligations and interconnection requirements.

Viet Nam is implementing all of the commitments it made when joining the WTO. These are set out in full in the accession documents as well as in the 2008 IAP.

In terms of modes of delivery, there are essentially no limits on modes 1 (cross-border supply) and 2 (consumption abroad). The very few exceptions are for technical reasons. For example, in mining related services, companies without a commercial presence may be required to be registered with the competent authority of the Government of Viet Nam under the terms of applicable laws. For modes 3 (commercial presence) and 4 (presence of natural persons), the general approach can be seen in the "horizontal" WTO commitments.¹⁵

Foreign enterprises are allowed to establish a commercial presence in Viet Nam in the form of business cooperation contracts or joint ventures. There is a negative list approach to foreign ownership: 100% ownership is permitted except in specified sectors or subsectors; in most cases where sectoral limits apply, there are agreed timetables for relaxing these limits.

The horizontal commitments to the WTO also set out, in detail, reasonable conditions for the presence of foreign persons, and there are only quite negligible exceptions from national treatment.¹⁶

The Government intends to abide in full with its commitments and has implemented many new regulations which are needed. As in all other cases, implementation is limited by available skills.

Accounting and auditing services

Like most other commercial services, the accounting sector has evolved rapidly. The Government assessed the sector in 2000 as part of a joint study with the World Bank and the Asian Development

¹⁵ The WTO commitments are set out in the report of the Working Party on the Accession of Viet Nam, document WT/ACC/VNM/48/Add.2.

¹⁶ The US Trade Representative (USTR 2007; 2009) considers that Viet Nam's commitments on cross-border market access are comparable or superior to those of OECD economies.

Bank. The study identified the need to strengthen the profession, reduce government control and introduce international accounting standards.¹⁷

These matters have been addressed. The current law on accounting became effective in 2004 and applied to all companies, including those with foreign ownership. Accounting standards set by the Ministry of Finance are now largely based on international standards: 26 standards were set by 2007. Independent auditing in Viet Nam is governed by decrees issued in 2004 and 2005. Work is under way to implement a revised Law on Independent Auditing.

There are no sector-specific restrictions on trade in accounting and auditing services, and the large international firms are active in Viet Nam.

Audiovisual services

Motion picture production, distribution and projection needs to be by means of business cooperation contracts or joint ventures with Vietnamese partners who are authorized to provide these services in Viet Nam. Foreign capital contribution may not exceed 51% of the legal capital of the joint venture. The content of films needs to be censored by Viet Nam's competent authorities.

Communications services (including postal services)

Postal services have been separated from telecommunications following the establishment of the Viet Nam Postal Corporation. Foreign investors are allowed to have majority ownership and control in express delivery services. Most of the restrictions on trade in telecommunications services were removed on accession to the WTO. Once established in accordance with Vietnamese laws, joint ventures providing telecommunications and express delivery services receive full national treatment.

New radio telecommunications, telecommunications and postal laws (expected to be passed by the National Assembly by the end of 2009) will further streamline the business and investment environment.

Construction and related engineering services

Foreign enterprises operating in the field of construction must have an investment license issued by authorised Viet Nam agencies and meet all the conditions stipulated by laws when carrying out construction activities. Involvement in projects is based on tendering, and foreign contractors need to form joint ventures or hire Vietnamese subcontractors. The IAP notes that domestic contractors are given priority as stipulated by Viet Nam's Law on Tendering.

¹⁷ Report on *Financial Management and Governance Issues in Viet Nam*; available at <http://www.adb.org/Documents/Books/Financial_Mgt/Viet_Nam/default.asp>.

Distribution services

Restrictions on foreign enterprises in the distribution sector will be eliminated within three years of accession to the WTO. From that time, they will be able to engage in wholesaling and retailing of all legally imported and domestically produced products. Limits on share of ownership and on franchising were abolished at the beginning of 2009.

Education services

As agreed with the WTO, there are no limits on the foreign ownership of education entities as from the beginning of 2009. Foreign teachers who wish to work in foreign-invested schools shall have at least 5 years of teaching experience, and their qualifications must be recognized by the competent authority. The content of higher education services needs to be approved by the Ministry of Education and Training.

Environmental services

Viet Nam has made market access commitments in the environmental services in most of the WTO environment sectors. Viet Nam encourages foreign suppliers to establish branches and joint ventures. Within 4 years of accession to the WTO, foreign suppliers are allowed to set up joint ventures, with foreign capital contribution up to 51%, with no limit thereafter.

Viet Nam has promulgated several decrees to attract foreign investment in environmental services (including Decree No. 53/2006/ND-CP dated 25 May 2006 and Decree No. 78/2007/ND-CP). The Government has continued to refine the legal framework on developing environmental services consistently with WTO regulations.

Express delivery services

After accession to the WTO, foreign exploiters have been allowed to own up to 51% of express delivery operations; this restriction is to be lifted no later than 5 years after accession. These investments are to receive full national treatment (no less favorable than the Viet Nam Post Office).

Large international courier services have expanded their operations rapidly. FedEx has implemented a capacity-building project to help improve customs clearance procedures at major airports.

Financial services

The financial sector of Viet Nam has been thoroughly transformed since 1990, when the central bank (State Bank of Viet Nam) was separated from state-owned commercial banking.

Credit institutions established under Viet Nam law include government credit institutions, joint stock credit institutions, cooperative creative institutions, joint venture credit institutions and 100% foreign capital credit institutions. Foreign credit institutions are allowed to open foreign bank branch and

representative offices in Viet Nam; they can contribute capital and buy shares of credit organizations operating in Viet Nam in accordance with government regulations.

Consistent with WTO commitments six 100% foreign-owned banks have opened since 2007.

By the end of 2008, the State Bank of Viet Nam had issued licenses for five 100% foreign capital banks.¹⁸ They are able to accept local currency deposits from, and issue credit cards to, Viet Nam citizens. The 5-year schedule of WTO commitments, for example to allow foreigners to own 100% of securities firms and undertake some securities activities (asset management, advisory, and settlement and clearing services), is on target.

The legal framework continues to be strengthened with plans to promulgate a number of documents in the coming years – such as the Law on State Bank of Viet Nam, Law on Credit Organizations, Law on Safety of Banking Supervision, Law on Deposit Insurance, and a number of other guiding decrees and circulars. The capacity of the State Bank of Viet Nam is being enhanced with support from other central banks in the Asia Pacific region.

Health related and social services

Foreign service suppliers are permitted to provide services through the establishment of 100% foreign-invested hospitals, joint ventures with Vietnamese partners or a business cooperation contract.

Insurance services

The insurance industry is regulated by the Law on Insurance Business enacted in 2004, followed by further circulars and decrees. The law allows foreign insurers to set up fully foreign owned entities of joint ventures with local partners. From 2012, in line with WTO commitments, foreign insurance companies will be able to open branches offering non-life insurance.

The industry is supervised by an Insurance Commission within the Ministry of Finance. Standards of supervision are partly based on the experience of the United States, Japan, Germany, China and Malaysia and on advice from the World Bank. Sanctions on breaches of policy have been strengthened and the Insurance Commission is working towards full independence.¹⁹

The insurance market is expanding rapidly. This is especially the case for life insurance, whose share has risen to 62% of the market. Seventy per cent of the life insurance market is handled by foreign-

¹⁸ HSBS, Standard Chartered, ANZ, Hongkong Leong and Shinhan.

¹⁹ A comprehensive independent review of the Viet Nam insurance sector is provided in Trang Vu Nhu (2007).

invested firms. Domestic firms handle much of the non-life insurance. Several major international insurance firms are entering the Viet Nam market.²⁰

Legal services

The Government has continued to provide regulations and guidelines for implementing the Law on Lawyers, particularly in Decree 28/2007/ND-CP of 2007.

The conditions under which foreign legal organizations can operate in Viet Nam are set out very clearly in the IAP, consistent with WTO commitments. Options are to operate as a 100% foreign capital, limited liability legal company; as a joint venture, limited liability legal company; or as a branch of a foreign organization. The procedures for registering a licensed branch are set out in the 2007 decree and are explained in detail on the Viet Nam Law and Legal Forum website.²¹ Foreign lawyers can work for Vietnamese legal organizations.

Foreign lawyers and legal organizations can provide advice on international and Vietnamese law. However, they cannot participate on the side of the defence in domestic prosecutions as explained in Appendix D.

Transport services

Shortage of transport infrastructure is a serious bottleneck to economic development and trade in Viet Nam. Viet Nam is drawing up a new master plan which seeks to attract investment from all sources to ease transport constraints, including by encouraging joint ventures and “build, operate and transfer” projects for ports and airports. The remaining restrictions on ownership and the scope of operations for foreign investors and service providers are set out in the WTO accession documents.

Recent regulatory changes to clarify the potential scope of operations include the following:

- regulations to allow Vietnamese enterprises and foreign enterprises to operate multi-modal transportation in Viet Nam under licenses provided by the Ministry of Transportation
- implementation guidelines to specify and make transparent the procedures for establishing representative offices and booking agents of foreign airlines in Viet Nam
- revising the legal framework for internal transport, including water transport

²⁰ *Viet Nam News*, 24 and 26 March 2009.

²¹ See: <http://news.vnanet.vn/VietNamlaw/Service.asp?CATEGORY_ID=12&SUBCATEGORY_ID=4&NEWS_ID=2090>.

- gradual deregulation policy of air transportation by means of multilateral and bilateral agreements.
- revised regulations on civil aviation allowing foreign investors to contribute capital when establishing airlines and invest in developing airports.

The transport sector continues to receive significant technical advice and funding from international development agencies. Vietnamese officials also value their participation in relevant APEC working groups, including the APEC Port Services Network.

Investment

Viet Nam is succeeding in its efforts to make it an attractive destination for foreign investment. It is seeking to implement an investment policy regime consistent with best international practice. All relevant legislation and regulations are transparent and readily accessible on websites. These now comply with WTO disciplines on trade-related investment measures. Foreign direct investors receive full national treatment, except that they cannot buy land (though they can obtain leases to cover the expected life of their projects). Since Viet Nam is determined to attract investment, the few provisions to restrict trade in services which were retained after entering the WTO are not likely to be applied in ways which will have a significant negative effect on opportunities to invest.

As part of its effort to enhance prospects for investment, Viet Nam has volunteered to be assessed against the OECD's framework and checklist for designing and improving investment policies. A recent review of Viet Nam's investment policies by the United Nations Conference on Trade and Development welcomed reforms to date and made several recommendations which are under serious consideration (UNCTAD 2008).

The Government is making a sustained effort to eliminate unnecessary licensing procedures, to reduce the time needed to establish businesses and to speed up the transport and customs clearance of products. Regulations on intellectual property, commodities labeling and technology transfer have been updated. The tax regime has been made more favorable by adjusting corporate income tax, value-added tax and individual income tax on foreigners. Problems raised in the review of the 2005 IAP have all been addressed as set out in responses to questions raised by member economies.

The Government is aware that Viet Nam's attractiveness for investment requires large and long-term investment in economic infrastructure and skill formation. It is also aware that well-designed policies need to be backed up by the capacity and willingness to implement them, including at the local level following extensive decentralization of decision-making.

In 2005 an Investment Commission was set up to help improve policy implementation and to respond to problems. A task force has been set up under this new commission, with representatives from relevant ministries, the Central Institute for Economic Management and investors.

Dispute mediation and settlement

Procedures for mediating and settling disputes, set out in detail in the 2008 IAP, are in line with modern international practice. Disputes involving foreign investors which cannot be settled by means of conciliation or negotiation can be referred to arbitration in a Vietnamese arbitration body or court, or to an international body if that is specified in the contract with the investor or in an international treaty of which Viet Nam is a member. Procedures are, in general, consistent with those developed by the UN Commission on International Trade Law and the International Centre for Settlement of Investment Disputes.

Commercial arbitration procedures are based on a 2003 ordinance which is consistent with the 1958 New York convention which Viet Nam signed in 1995.

Any disputes regarding trade policy can be referred to the WTO or to the dispute settlement provisions of the several trading arrangements with significant trading partners.

Competition policy

The current Competition Law was enacted in 2005, along with decrees which provide detailed provisions for its implementation, including on handling violations. The laws and associated regulations are well drafted, drawing on international experience, but are not proving easy to implement.²²

The Viet Nam Competition Administration Department (VCAD), within the Ministry of Industry and Trade (MOIT), assists the Minister of Industry and Trade to exercise the state management over the competition. Its major duties include handling and investigating conduct such as competition restriction agreements, abuse of market dominance/monopoly, economic concentration and unfair competition as stipulated in Article 39 of the Competition Law. The Viet Nam Competition Council (VCC) has been established as an independent law enforcement agency. It also has an adjudicative function for dealing with competition restriction conduct. According to Article 80 of the Competition Law, VCAD and VCC work independently.

²² Papers presented by Viet Nam officials at the 2nd APEC Training Program on Competition Policy, 5–7 August, 2003, Ha Noi, describe the evolution of competition policy: available at <http://www.jftc.go.jp/eacpf/05_04_02.html>.

Since the Competition Law was enacted the Government has sought to raise awareness of government agencies, enterprises and the society about the importance, role and significance of the law as well as the functions and responsibilities of implementing agencies. It has also sought to strengthen enforcement and to develop essential human resources. At the same time, VCAD acknowledges the need for much more work along these lines.²³

In recent years the design and implementation of competition policy has been supported by the Canadian Policy Implementation Assistance Project and many other international organizations. The Government would welcome further support from APEC, for example by organizing workshops to discuss and exchange experiences and by organizing training courses to develop skills in investigation and market structure analysis.

Trade facilitation

The Government of Viet Nam is conscious of the need to complement measures to liberalize border barriers to trade and investment with policies to reduce other costs and risks of international commerce. For example, it sees bottlenecks caused by shortages of infrastructure as a more important constraint than traditional border barriers to exports and its ability to engage in global supply chains.

As in many other areas, the trade facilitation effort is constrained by the availability of relevant skills and the need to set up the software and regulatory systems needed for progress, especially for the wider use of e-commerce and paperless trading. There is considerable scope for other APEC governments to help ease these constraints by carefully targeted economic and technical cooperation activities.

Standards and conformance

The Directorate for Standards, Metrology and Quality is responsible for setting and monitoring standards in Viet Nam. At present, Viet Nam has 6,200 national standards, of which 2,396 are aligned with international standard systems such as the International Standards Organization. The Law on Standards and Technical Regulation was enacted in 2006, the Law on Product and Goods Quality was enacted in 2007 and the Law on Metrology is awaiting approval by the National Assembly.

Viet Nam is a member of all the main international standards organizations, including the Asia Pacific Laboratory Accreditation Cooperation, and has signed 18 MOUs and cooperation agreements with international and other national standards bodies.

²³ The October 2007 *EABER Newsletter* of the East Asian Bureau of Economic Research notes some specific problems of implementation at that time.

Viet Nam has joined APEC mutual recognition agreements for electrical and electronic equipment and for food as well as the ASEAN mutual recognition agreement for electrical and electronic equipment. It is one of the pathfinders on food safety standards led by Thailand and a USA initiative on toy safety standards.

With support from APEC working groups, the Government is strengthening the capacity for conformance with standards and mutual recognition agreements. This work includes enhancing the capacity for verification by directorate staff in 64 cities and provinces and in three regional technical centers, including for testing electrical products, chemicals and construction materials.

Customs

The capacity to become part of global supply chains has become an important source of comparative advantage for economies. In the 21st century these sources of comparative advantage can be just as important as traditional resources such as land, labor and capital.

Recognizing the importance of facilitating trade, Viet Nam has made extensive efforts to improve the efficiency of its customs procedures, including by participation in the relevant specialist working groups of APEC and the collective action plan to set up a single customs window, which is expected to be operating by 2010.

The IAP matrix for 2008 set out a comprehensive set of policy improvements in recent years, some of which are highlighted below. These efforts are bringing about improvements. For example, the Government notes that the average time for handling customs dossiers has been reduced from 7–8 hours to 10–15 minutes by deploying e-customs pilot procedures. Improvements in the transparency and efficiency of customs administration, including the use of e-customs, has been acknowledged and welcomed by the Viet Nam Business Forum.²⁴ The World Bank's *Doing Business* report for 2009 (World Bank 2009) ranks Viet Nam 67 out of 180 economies on its trading across borders index. While there is room for further improvement, Viet Nam's requirements for documentation and clearance times are near the average for its region.²⁵

Recent efforts to enhance the understanding and efficiency of customs administration include the following:

- Viet Nam has upgraded the official website (<<http://www.customs.gov.vn>>); made annual updates of procedures available in five languages; and organized courses and workshops for the private sector.

²⁴ See <http://vibforum.vcci.com.vn/news_detail.asp?news_id=16086>.

²⁵ See <<http://www.doingbusiness.org/ExploreEconomies/?economyid=202>>.

- Viet Nam is finalizing legal documents for e-customs and paperless trade. Customs is implementing a customs modernization strategy to 2020, partly under a project funded by the World Bank.
- Viet Nam signed the revised Kyoto convention in 2008 and is amending the Law on Customs to bring Viet Nam fully in line with the WTO Agreement on Customs Valuation, which is based on transaction value. Companies can search the Customs website for a valuation of specific goods.
- From 1 January 2008, Viet Nam has officially applied Harmonized System 2007 of the World Customs Organization and the ASEAN Harmonized Tariff Nomenclature of 2007. Viet Nam is working towards harmonizing trade data based on the World Customs Organization dataset.
- Viet Nam is completing its legislative framework for IPR protection at the border and developing the capacity to implement that legislation.
- Viet Nam is developing legal documents and organizing training on risk management for customs officials.

As noted in the answers to questions on the IAP, it is not proving easy to make all the intended improvements requiring extensive regulatory changes. Progress is also constrained by general weaknesses in information technology and telecommunications infrastructure as well as shortages of necessary skills.

To help overcome these problems, Viet Nam is using several sources of support, including from development agencies, from APEC working groups and from the private sector. For example, a pilot project implemented in cooperation with FedEx helped Viet Nam Customs to develop a pilot computer system to receive and process electronic customs declaration forms for air express goods in order to enhance security and improve the speed of procedures for express cargo at international airports and to strengthen the risk management capacity of Customs. The project also helped Viet Nam Customs to partly implement the customs–business pillar of the WCO SAFE Framework of Standards to secure and facilitate global trade.

Paperless trading e-commerce and e-government

Viet Nam has drawn up a master plan for the development of e-commerce. The Law on Electronic Transactions was approved in 2006, providing for certain items and actions to be recognised and held to be legally valid. These include electronic information, the execution of electronic contracts, principles for using and certifying electronic signatures, security of electronic transactions and dispute settlement mechanisms.²⁶

²⁶ Further details are available in MOIT (2008: 159–160).

Most ministries and their agencies have set up and are continuously improving websites to disseminate information and are introducing electronic processing for some administration tasks. Perhaps the most valuable example of e-government is that all economic legislation and regulations are available on the internet, making Viet Nam's formal business environment remarkably transparent.

It will take time to promote the effective use of all these processes through the economy. As in the case of customs administration, described above, efforts to extend the use of paperless trading e-commerce and e-government are also hampered by general weaknesses in information technology and telecommunications infrastructure as well as a shortage of necessary skills. Several additional problems – for example, relating to concerns about privacy and the security of data – are listed in the answers to questions on the IAP. Viet Nam has sought support from APEC, development assistance agencies and the private sector to accelerate the adoption and use of paperless trading and e-commerce. Examples include the following:

- Viet Nam has participated in e-commerce activities within APEC, the United Nations Centre for Trade Facilitation and Electronic Business and the Asia Europe Meeting to help strengthen the capacity to introduce paperless trading, enhance data privacy protection and apply standards for electronic data exchange.
- In July 2004, Viet Nam participated in the APEC Symposium on ebXML for Internet Paperless Trading and Collaborative e-Business in Thailand, which dealt with the development and maintenance of standards and a framework for the exchange of trade-related e-documents among APEC economy members.
- Viet Nam has promoted bilateral cooperation on e-commerce with APEC economies, including the United States, China, Korea and Chinese Taipei.
- The Ministry of Industry and Trade has supported enterprises and business participating in international e-commerce organizations such as the Asia-Pacific Association on e-Commerce.
- The State Bank of Viet Nam is implementing a project funded by the World Bank to modernize the banking and payment system: the inter-bank electronic payment system has already connected over 350 branches of 70 banks including the State Bank and commercial banks.
- Microsoft has signed a service agreement with the Department of Information and Communication to help set up an e-government system.

Business mobility

Visas for business people visiting Viet Nam based enterprises are issued within 3–5 working days.

Viet Nam participates in the APEC Business Travel Card Scheme and has promulgated the relevant legal documents relating to the issue, management and use of the card in accordance with the APEC Operating Framework. Currently, Viet Nam has issued approximately 7,000 cards to Vietnamese card holders. Applications from residents of other APEC economies are normally approved within 14 days, with a maximum of 23 days. Viet Nam finds the APEC business travel card useful and appreciates support from the working group to ensure its effective use.²⁷

²⁷ Officials commented that Viet Nam nationals have had some difficulty entering some APEC economies using the APEC business travel card; they have requested correction of these problems.

Glossary

APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of South-East Asian Nations
EU	European Union
FDI	foreign direct investment
FTA	free trade agreement
GDP	gross domestic product
IAP	Individual Action Plan
IPR	intellectual property rights
MFN	most favoured nation
MOIT	Ministry of Industry and Trade
MOU	memorandum of understanding
NTM	non-tariff measure
OECD	Organisation for Economic Cooperation and Development
PSF	Price Stabilization Fund
RTA	regional trade agreement
SOE	state-owned enterprise
TRIPS	Trade-Related Aspects of Intellectual Property Rights
VCAD	Viet Nam Competition Administration Department
VCC	Viet Nam Competition Council
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

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Appendix A Review team

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Professor Sung-Hoon Park

International Economics and Trade,

Graduate School of International Studies

Director, EU Research Center,

Korea University

Appendix B Program for the visit by the review team

23 March 2009

8.30 – 11.30: Venue: MOIT

Session 1: Introduction of the IAP Peer Review Team

Welcome by officials of Ministry of Industry and Trade (MOIT)

Briefing by MOIT on the business arrangements for the visit

Session 2: Briefing by the experts on their study of the IAP report

Session 3: Questions and answers on general policies on trade and industry and other areas MOIT responsibility

24 March 2009

9.00 – 11.30: Venue: Ministry of Finance

Session 4: Questions and answers on tariffs, financial services and customs services

14.00-16.30: Venue: Ministry of Planning and Investment

Session 5: Questions and Answers on investment, government procurement and general policies on trade in services

25 March 2009

8.30 – 11.30: Venue: MOIT

Session 6: Questions and answers on the remaining chapters of the IAP

14.00 – 16.30: Venue: CIEM

Session 7: Meeting with representatives of the Central Institute for Economic Management (CIEM)

27 March 2009

09.00 – 11.30: Venue: Ministry of Industry and Trade

Session 8: Wrap-up meeting

Appendix C Officials consulted by review team

Ministry of Industry and Trade

Name	Position
Mr Tran Quoc Khanh	Director-General Multilateral Trade Policy Department
Ms Pham Quynh Mai	Director APEC & ASEM Division, Multilateral Trade Policy Dept.
Ms Bui Ngoc Le	Multilateral Trade Policy Dept.
Ms Nguyen Thi Duy Ly	Multilateral Trade Policy Dept.
Mr Nguyen Chung Khanh	WTO Division Multilateral Trade Policy Dept.
Mr Le Trieu Dung	Multilateral Trade Policy Dept.
Mr Nguyen Viet Hung	Law Dept.
Ms Do Thi Thu Huong	Import-Export Dept.
Mr Duong Hoang Minh	E-commerce Administration
Ms Vu Nguyen Thuy Vy	E-commerce Administration
Mr Le Tuan Phong	Energy Dept
Mr Trinh Anh Tuan	Competition Management Administration
Mr Phan Huu Viet Duc	Domestic Market, Ministry of Industry and Trade
Ms Luu Cam Van	Domestic Market, Ministry of Industry and Trade
Ms Phan Huyen Trang	Domestic Market, Ministry of Industry and Trade
Mr Pham Huu Thin	Domestic Market, Ministry of Industry and Trade

Ministry of Planning and Investment

Name	Position
Ms Nguyen Yen Hai	Director, Economic Relations Department
Mr Hoang Manh Phuong	Official, Legal Department
Ms Pham Thu Hien	Official, Economic Relations Department
Mr Nguyen Hoang Hai	Official, Economic Relations Department
Ms Bui Thu Thuy	Small and Medium Enterprise Organization
Vũ Quỳnh Lê	Official, Investment Management
Ms Tran Thao Hanh	Foreign Investment

Ministry of Finance

Name	Position
Mr Pham Hong Minh	Key contact for IAP, International Cooperation Department
Mr Phan Hoai An	International Cooperation Department
Ms Nguyen Thu Hang	International Cooperation Department
Ms Tran Thanh Ha	Insurance supervision and management administration
Ms Ha Thi Ngoc Ha	Accountancy and Audit
Mr Trinh Duc Vinh	Accountancy and Audit
Mr Dao Duc Hai	Customs Administration
Ms Tran Thi Bich Ngoc	Tax Policy Department

Other ministries

Name	Position/ministry
Ms Vu Thi Thuy Lien	National Property Rights Administration
Mr Pham Huu Thin	Domestic Market, Ministry of Industry and Trade
Ms Nguyen Hong Lien	Ministry of Culture, Sport and Tourism
Ms Nguyen Minh Nguyet	Ministry of Natural Resources and Environment
Ms Nguyen Cam Uyen	Ministry of Natural Resources and Environment
Mr Pham Nhu Minh	Immigration Department, Ministry of Public Security
Mr Vo An Quan	Ministry of Information and Communication
Ms Le Thi Minh Thuy	General Statistics Organisation
Ms Bui Huong Que	Ministry of Justice
Mr Bui Minh Dang	Civil Aviation Administration
Ms Tran Mai Anh	VN Maritime
Mr Nguyen Huu Hung	Ministry of Construction
Mr Phan Huu Viet Duc	Domestic Market, Ministry of Industry and Trade
Ms Luu Cam Van	Domestic Market, Ministry of Industry and Trade
Ms Phan Huyen Trang	Domestic Market, Ministry of Industry and Trade
MS Tran Thi Huong Giang	Viet Nam State Bank
Ms Pham Thi Kim Oanh	Ministry of Culture, Sport and Tourism
Ms Tran Thanh Ha	Ministry of Information and Communication
Mr Tran Van Hoc	Directorate for Standards, Metrology and Quality
Mr Vu Hong	Standards, Metrology and Quality
Ms Pham Lien Huong	Central Institute for Economic Management (CIEM)
Ms Tran Binh Minh	Central Institute for Economic Management (CIEM)

Appendix D Comments and questions

Questions other than those attributed to member economies are from the experts conducting the review.

Part A General comments/overview

The APEC process

1 Please summarise what Viet Nam considers to be the main benefits of participation in APEC.

Answer:

Viet Nam joined APEC in November 1998, together with the Russian Federation and Peru, increasing APEC's membership to 21. Joining APEC marked a significant step in Viet Nam's ever-deeper international economic integration. After 10 years of participation in APEC, Viet Nam has achieved a great deal in terms of international economic integration in general, as well as regional economic integration in particular.

Since APEC includes many economies in the Asia Pacific region, Viet Nam's active participation in APEC, especially the successful hosting of APEC 2006, has played an important role in deeper integration in terms of politics, culture and economics. Furthermore, APEC has also helped Viet Nam be closer to friends in the Asia Pacific region. The success of APEC 2006 has reaffirmed Viet Nam's determination to integrate and open its economy as well as its determination to meet its international and regional integration commitments.

Participation in APEC has brought about long-term and practical economic benefits. Firstly, as an APEC member, Viet Nam has gained easier access to the large and growing markets of the Asia Pacific region, by means of market opening, reduction and gradual removal of tariff and non-tariff barriers to trade and investment. Such liberalisation, in turn, contributes to Viet Nam's economic growth. In recent years, exports to APEC economies have accounted for approximately 70% of Viet Nam's total exports, including exports with strategic and competitive advantages. Viet Nam has also negotiated and signed Free Trade Arrangements (FTAs) with some APEC partners (ASEAN, Australia, New Zealand, Japan, Korea, China and Chile) in order to further liberalize business environment of Viet Nam and its trading partners. In terms of support to development, approximately 75% of the total foreign direct investment and over 50% of ODA has come from APEC's economies.

Additionally, Viet Nam has gained benefits from participating in APEC programs and undergone a series of cooperation activities which have brought about practical benefits to

business community in the region. These activities, which have helped to improve the business environment in the region, including Viet Nam, have included: Trade Facilitation Action Plan – TFAP I (from 2001–2006) and TFAP II (from 2007–2010) with the objective of reducing 5% transaction costs in each period; the APEC Business Travel Card (ABTC) program; cooperation programs on mutual recognition, harmonization of custom procedures, programs to support small and medium enterprises.

2 Please summarise what are the main problems Viet Nam has encountered with the APEC process.

Answer:

Apart from advantages achieved since joining APEC in 1998, Viet Nam has also encountered the following main problems:

First of all, Viet Nam's laws on trade and investment are not always consistent with international practices and will take a lot of time to improve. So far, Viet Nam's trade and macro-economic policies are still not fully coordinated to promote efficiently Viet Nam's trade, business and economic and technical cooperation in APEC.

Secondly, Viet Nam also has difficulties in developing its human resources. We lack competent and experienced staffs in the area of international economic cooperation. The expertise of Viet Nam's officers directly involved in integration is not as high as in some other parts of the region. This hinders Viet Nam from participating actively in the APEC process.

Thirdly, APEC embraces member economies ranging from developing to developed economies. Small and developing economies such as Viet Nam have limited capacity to gain benefit from some APEC activities.

In the aspect of challenges to enterprises when joining APEC, Viet Nam also faces some obstacles. Viet Nam enterprises' capability in production, technology and management experience is less competitive than those in the region. Besides, a majority of Viet Nam's enterprises are not fully aware of APEC cooperation programs. As a result, Viet Nam's enterprises find it difficult to enjoy the potential benefits of participation in APEC.

3 Please describe your experience with the last review of Viet Nam's IAP.

Answer:

Consultation on the review of the Individual Action Plans is a good tool for APEC members to assess the implementation of APEC members' Bogor objectives. The first IAP review of Viet Nam was in 2005. Viet Nam was assessed to be fulfilling the opening of trade and

investment in an appropriate manner in accordance with the Bogor objectives. Viet Nam realized that APEC members were very interested in Viet Nam and posed a lot of questions. In Viet Nam's view, the APEC Secretariat was very helpful in conducting that review.

Concerning the completion of the 1998 IAP review, Viet Nam has the following comments and proposals:

For preparation for the review, Viet Nam has received a few questions from APEC members. However, the deadline for answering is short, but it takes time to consolidate answers which relate to a lot of ministries/agencies. To ensure the quality of information to be provided, Viet Nam suggests the APEC Secretariat adjust the deadline for sending the questions and receiving the answers to at least three working weeks.

Furthermore, Viet Nam suggests that experts should send IAP Study Report as soon as they complete it in order for Viet Nam to comment. A reasonable time is also highly appreciated for Viet Nam to respond, because a lot of information is included in the report.

Viet Nam economy

1 In order to help the reviewers prepare the report, it would be helpful for the Viet Nam authorities to update the information (including the tables) about general economic conditions provided to the previous review. Some of the following questions are repeated from the last review.

(a) Please describe briefly recent economic developments and achievements in structural reforms under Viet Nam's Doi Moi program.

Answer:

Structural reform creates favourable conditions to foster economic growth and improve social welfare. The benefits of reform are widespread and gradually affect the whole economy. As a member of APEC, Viet Nam is fully aware of the benefits brought about by the structural reform to the long-term economic growth. Therefore, the Vietnamese government has been actively attempting to implement structural reform to help the Viet Nam's economy to integrate firmly into the global economy. Here are some fundamental achievements of Viet Nam's structural reform in recent years.

Organising the mechanism for reform

Some Ministries and state agencies have been merged and restructured under the goals of the Master plan of state administration reform. Functions and management scopes have been revised accordingly, so that the government's policies are issued in an efficient and consistent manner. For example, the Ministry of Trade has been merged with the Ministry of Industry

into the Ministry of Industry and Trade to promote industrial and trade development. Many functions and missions of the Ministries and government's agencies are being amended and restructured. Coordination between the Ministries, Departments and research institutes has been enhanced to ensure coverage of issues, while avoiding overlap. The government has focused on improving the standard of staff through trainings, especially the staff of local administration enterprises.

Developing and improving economic institutions

Since 2006, the most important priorities have been to enhance legal documents in business climate improvement, tax reform, market development, natural resource protection and social issues. Very many legal documents (42 laws, 462 decrees, 12 decree-laws, 245 instructions, 957 ordinances, 168 resolutions and thousands of other legal documents) have been promulgated. This provides a legal foundation for the establishment of directions, principles and operation of the socialist-oriented market economy in Viet Nam and to enhance resource mobilization for the economy's industrialisation and modernisation. Important markets, including those for capital, labour, real estate, science and technology have been strengthened.

The Government is also reviewing and classifying legal documents into sectors. Most of these are being made more transparent in order to clarify the nature of Government involvement in economic management.

Enhancing the legal framework to accelerate state-owned enterprise reform:

Measure include:

- Continued to improvement of legal regulations to transform state-owned enterprises under the Enterprise Law, including promulgating Decree No. 95/2006/ND-CP to transform state-owned enterprises to single-member limited liability companies;
- Promulgating Decree No.109/2008/ND-CP upon selling state-owned companies to private sector; amending Decree on transforming from state-owned enterprises to joint stock companies.
- Amending regulations on classification of state owned enterprises in order to arrange, transform, accelerate state enterprise reform; including promulgating Decision 38/2007/QD-TTg to classify 100% state owned enterprises into state enterprises that need to hold 100% possession, state enterprises that need to retain state control and others.
- Enhancing the legal system for the operation of state companies while the state companies are being transformed under the Enterprise Law.

Accelerating the equitization of state enterprises

Equitization (selling shares to the business sector) is considered to be as a fundamental part of state enterprise reform.

Up to August 2008, Viet Nam equitized 3,786 state owned enterprises and sectors of state enterprises. Following equitization, state enterprises operate on the same footing as companies with private and foreign investment. Viet Nam has extended the range of enterprise which can be equitized and does not limit equitized enterprises' scope of operation. Enterprises that are entitled to equitize include economic corporations (e.g.: Bao Viet Financial Insurance Corp), big group (such as VINACONEX), state commercial banks (Viet Nam Commercial Bank or Vietcombank, Viet Nam Industrial Bank or Vietinbank).

Other measures to reform state enterprises include:

- Selling state owned enterprises that the state does not need to possess or can not be equitized (since 1999, nearly 400 enterprises have been sold).
- Transforming state owned companies to single-member limited liability companies to put state enterprises of 100% state charter capital under the Enterprise Law. This measure aims to accelerate management reform in 100% state-owned enterprises.
- Up to December 2007, 350 state single-member limited liability companies were established. According to the schedule, Viet Nam only has 400 remaining 100% state-owned enterprises in the field of national defense, security and some other areas. The rest will be equitized or changed into multi-owner enterprises.
- Continue to reform 100% state owned enterprises to operate under the Enterprise Law. At present, there are about 1,350 state enterprises including independent state companies, state corporations, independent company members of corporations and mother-subsidary companies. These kinds of enterprises only exist in the transition period before transforming into joint stock, limited liability companies under the Enterprise Law.

In addition to the above-mentioned achievements, Viet Nam still has to cope with a lot of challenges and needs assistance and experience from the APEC economy members. Viet Nam's needs for capacity building include bilateral/multilateral technical assistance about process, steps, measures, experience to build up steering agencies and methods to implement structural reform. Viet Nam welcomes technical assistance from APEC members in order to implement and overcome difficulties in structural reform.

- (b) *Please comment on Viet Nam's progress in meeting the Bogor goals to date, major successes and mistakes, areas of potential improvement and concrete future plans to achieve the Bogor goals by 2020.*

Answer:

Viet Nam's government is always serious about fulfilling its international commitments, especially commitments to liberalise and open trade and investment in APEC by 2020.

Through voluntary commitments in the annual Individual Action Plan (IAP), the Viet Nam's government has implemented many measures to open its market, including by lowering tariff and non-tariff barriers; improving policy regimes to build up a healthy investment climate attracting foreign enterprises, implementing many measures to create favourable conditions for foreign investors in Viet Nam, implementing "Single Window" to simplify the administrative procedures so as to reduce transaction costs for enterprises, simplifying customs procedures, improving immigration procedures, promoting the human resources, assisting and developing small and medium size enterprises.

Some areas in which Viet Nam has achieved notable progress are:

Investment: delegate the right to issue investment licenses to the Provincial People Committees in order to create flexibility to attract foreign investment and selecting suitable areas for the local development; promulgating the General Investment Law to regulate domestic and foreign investment, promulgating many policies to pave the way for the operation of enterprises of FDI in Viet Nam such as: allowing FDI enterprises to do business in purchasing goods in Viet Nam, under the WTO commitments, in 2009, foreign investment enterprises are entitled to import and directly distribute as products on the same basis as domestic firms.

Trade in services: open some service areas for foreign investment, including banking and distribution services. At present, foreign organisations are allowed to hold stakes at domestic banks up to 30%. The distribution market was opened to foreign investors at the beginning of 2009.

Customs procedures: simplifying and modernising customs procedures and carrying out pilot electronic customs clearance. Viet Nam has achieved some initial success, reducing significantly customs dossier time from 7-8 hours to 10-15 minutes. Viet Nam is also involved in the single customs window initiative in the framework of ASEAN and APEC.

Standard conformance: In the field of standard conformance, Viet Nam has 2,396 standards (TCVN) out of 6,200 standards (TCVN) in conformance with the international, regional

standards, such as ISO, IEC, Codex, ASTM, BS. Viet Nam is also actively involved in mutual recognition arrangements in APEC region on electric and digital equipment.

Mobility of businessmen: Viet Nam has been actively participating in the implementation of APEC Business Travel Card (ABTC) to create favourable conditions for the mobility of entrepreneurs in the region, and cooperating with APEC members in many immigration programs.

E-Commerce: Viet Nam has been improving legal documents on paperless commerce, extending e-customs procedure and national single window in 2012, contributing to fulfilling the paperless commerce goal within APEC in 2010 among the developing economies.

The extension of FTAs and RTAs is considered to be a measure to fulfill the Bogor Goals on liberalising and opening trade and investment in the Asia Pacific region. Viet Nam has negotiated and signed many agreements namely ASEAN- China Free Trade Agreement, ASEAN- Korea Free Trade Agreement, ASEAN- Japan Free Trade Agreement, ASEAN- Australia- New Zealand Free Trade Agreement and the Viet Nam- Japan Comprehensive Economic Partnership Agreement.

However, from now to 2020, Viet Nam will still face a lot of difficulties and challenges posed by the global economic crisis; the deadlock in the Doha WTO negotiations, widespread effects of globalisation that can increase gap between rich and poor. Facing these factors, Viet Nam must implement reforms and reasonable adjustments, so that the economy can continue liberalisation while also ensuring sustainable development.

Viet Nam will continue to improve the investment- business climate to make it more attractive (including by solving difficulties in investment procedures, premise clearance, tax, import - export and conditions for accessing loans for business), improve administrative reform (including by electronic tax registration, reducing the number of tax sample forms that enterprises have to fill in) adjust the administrative machine and accelerate the prevention of corruption, further educate and develop human resources, carry out necessary steps to develop industries and service sectors (focusing on developing service sectors such as banking, finance, transportation, telecommunication, legal consultancy). Viet Nam will seriously implement commitments under WTO and ASEAN, negotiate and sign FTAs in ASEAN and APEC, gradually open goods, service and investment markets aiming to fulfil the Bogor Goals.

Viet Nam has many positive factors to help it maintain its growth rate while fulfilling the Bogor Goals: namely a young and growing labour force, lower labour costs than neighbouring economies, increasing technological expertise as well as the Government's

commitments to liberalise the economy and undertake market reforms. The Vietnamese government believes that it can fulfill the Bogor Goals by 2020.

- (c) *What have been the main changes in Viet Nam's trade and investment regime since the last IAP was prepared.*

Answer:

Tariffs

Viet Nam applies preferential MFN tariffs based on General Tariff Lists of ASEAN economies (AHTN) according to HS2007.

Viet Nam has issued the List of Goods and Tariffs of Viet Nam's preferential import-export tax to fulfill the WTO's commitments according to HS 10 digitals.

Viet Nam has issued the List of Goods and preferential import tax to fulfil CEPT/AFTA for ASEAN economies the period 2006 – 2013.

Continue to improve legal documents and regulations to calculate import tax complying with the Customs Value Agreement (CVA).

Non-tariff measures

Viet Nam applies some non-tariff measures to ensure targets of balancing the economy. Non-tariff measures applied include import-export licenses; import-export prohibitions which only apply to protect human health, fauna and flora, environment, social security and ensure product safety criteria.

The list of import and export goods which are restricted by licenses or prohibition are stated clearly in the legal documents of the Ministries including the Ministry of Industry and Trade and product-related management Ministries. This list is reviewed annually.

Non-tariff measures are gradually reduced gradually to ensure that Viet Nam fulfills commitments to international organisations.

Investment

The Government has implemented the Resolution of the IX Party Meeting on setting the common legal framework for both domestic and foreign investment. The 8th session of the IX National Assembly's Meeting ratified the Investment Law, replacing the Foreign Investment Law and Domestic Investment Promotion Law. The Investment Law has created breakthroughs in improving the legal system of investment policies, creating a transparent investment climate with simple, convenient investment procedures as well as meeting the demands of international integration.

The implementation of the Investment Law and Enterprise Law and WTO's commitments is based on the following principles:

- Continue to institutionalise the economy's reform directions and policies to develop a multi-sector economy to mobilise all resources for the economic-social development of the economy.
- Maintain and expand business rights of enterprises in all sectors, through applying a registration regime instead of a licensing regime, eliminating discretionary regulations, irrational approval procedures that restrict business freedom and increase costs of enterprises.
- Reform the state's functions and roles in business management in order to reduce unnecessary administrative interventions, enhancing the state capacity to create favourable conditions for the markets to develop and operate efficiently.
- Ensure compliance with the implementation roadmap to fulfill Viet Nam's bilateral and multilateral commitments

Policy on trade in services

Viet Nam has made significant progress on policies for trade in services, not only in state management but also in the enterprise sector. Currently, Viet Nam's policies aim to encourage to develop potential service industries.

Significant recent changes include:

Legal services:

- Continue to guide the implementation of some articles of the Lawyer Law through the Government's Decree (in the Decree No. 28/2007/ND-CP dated 26/2/2007); regulations, Audit regime, social insurance, audit standards; audit practice management, testing and issuing certificates for audit practice, certificates of chief accountant training.

Distribution services:

- Since 01/01/2009, Viet Nam has allowed of 100% foreign investment in distribution services.

Telecommunication service:

- Establish Viet Nam Post Group; promulgate some decisions, amendment regulations, list related to express, delivery services.

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- Establish local telecommunication groups, separate Post and Telecommunications. Promulgate some decrees on requirements of operation and management, license issuing and telecommunication service supply.

Oil and gas services:

- Promulgate a new Government Decree regarding the market management and development and a Government Decree on liquid oil and gas business;

Financial services:

- Set up and implement Law on Independent Auditing (2008-2010) and other guiding decrees on auditing. Continue to study transfer of activities concerning auditing management under a suitable roadmap.
- To promulgate a number of documents in the coming years such as Law on Banking, Law on Credit Organisations, Law on Safety Banking Supervising, Law on Deposit Insurance, and a number of other guiding decrees and circulars. Continue to promulgate on right of a foreign invested banking branch under the planned roadmap.
- Continue to provide specific and transparent regulations on performance organisation of finance companies, finance hiring companies; circulars guiding implementation of decrees regarding organisation and performance of foreign invested banking branches, joint-venture banks, 100% foreign invested banks, representative offices of foreign credit organisations in Viet Nam; Decree providing on buying shareholdings of Viet Nam's commercial banks by foreign investors; Decree providing on organisation and operation of small sized financial organisations in Viet Nam; Decree providing on foreign exchange supplying of credit organisations.

Transportation services:

- To provide regulations allowing Viet Nam enterprises, foreign enterprises, foreign invested enterprises to do business on multi-modal transportation in Viet Nam upon the receipt of a licence provided by the Ministry of Transportation.
- To amend the Law on Viet Nam Maritime (enacted since 01/01/2006).
- Issue a Circular guiding implementation of some provisions stipulated in the Law on Civil Aviation in 2006 regarding aviation transportation in order to specify and make transparent of procedures of establishing activities of representative offices, booking agents of foreign airlines in Viet Nam.
- To prepare the Law on inland transportation (amendment) for submission to the National Assembly for ratification at the end of 2008.

- Continue to study to introduce legal system for internal water land transportation.

Healthcare services and social services:

- To set up a plan of providing occupational licences for those dealing with healthcare services.
- To complete draft Law on health examination and treatment to submit to the National Assembly in 2009.

(d) *What are the main policy initiatives currently being planned, pursued and implemented?*

Answer:

The launching of the economic reform program in 1986 set the background for the transition of economic management from centralized planning and subsidy mechanisms into socialist-oriented, market economy. Since then, the Viet Nam economy has gone through a lot of major changes. Especially since 2005, Viet Nam has recorded many important achievements.

Firstly, the economy reached a rather high growth rate to 2007, with a record rate of growth set each year. In 2005, GDP growth is at 8.4%, which is higher than that of 2004 (7.79%). GDP increases to 8.1% in 2006 and 8.44% in 2007 (quoted from statistics year book 2006, page 69). With that speed, Viet Nam ranks 3rd in terms of GDP growth in 2007 as compared to ASEAN economies (about 6.1%). In time of global economic decline in 2008, Viet Nam GDP has fallen to 6.23%. GDP per head in 2008 was US\$1,024, far exceeding the 2005 level of US\$638.

Secondly, there have been significant positive changes in the structure of the economy; moving towards a multi-sector market oriented system with state management, wherein the private sector is free to develop its scope and operation market in areas which are not prohibited by law. Since 2005, growth rate in industry and construction have both exceeded 10% per year. The services sector has sustained growth rate of above 8% per year.

Thirdly, domestic and foreign resources have been actively mobilized. Two years after accession to the WTO, Viet Nam has attracted 62.5 billion USD registered capital (including newly issued and additional capital). ODA capital committed for Viet Nam has reached a record of 5,426 billion USD. Viet Nam is considered to be one of the economies with most effective implementation and usage of ODA. The technological, economic and social infrastructure have all been gradually improved.

Fourthly, the macro economy is basically stable. Production, consumption and savings have all increased at sustainable rates. Budget expenditure has grown to approximately 22% of GDP, while the budget deficit is still under control, at less than 5% of GDP.

Fifthly, exports have increased sharply. Viet Nam now exports to 150 economies and territories. Although the global financial crisis in 2008 raised commodity prices increases, with a negative effect on business activities (especially exports) exports still increased by 29.5 per cent from 2007 to reach US\$ 62.9 billion in 2008.

Most importantly, Viet Nam's economic achievements have been accompanied by improvements in terms of social development objectives, including more equal distribution of the benefits of reform for the majority of people; linking economic growth with poverty reduction (the proportion of poor households fell from above 70% in 1980s, to below 7% in 2005). This has improved living standards, health care, education as well as the Viet Nam Human Development Index (HDI) from 120/177 in 1994 up to 105/177 in 2007 (according to UNDP Human Development Report in 2007/2008).

2 Global financial crisis

- (a) *Please describe the effects of the global financial crisis on Viet Nam so far, and the policies, including macro-economic policies, adopted to cope with the crisis.*

Answer:

The financial crisis started in the United States and has spread rapidly to other regions of the world. As a result, the world economy is experiencing the most serious slow-down since the 1997 financial crisis in Asia.

When considering the direct impact of global financial crisis on Viet Nam, it can be said that Viet Nam economy has yet to be heavily influenced, due to the fact that Viet Nam's financial system has not integrated deeply with in the region and the world. However, indirectly, U.S. financial crisis does affect Viet Nam's financial-monetary market, since the U.S. economy is a large one comprising of 30% of the total production and capital mobility in the world market. In this context, all economies are integrated so that a single action of an economy will have certain impact on the whole world, not just to mention that of a large economy like the U.S.

For Viet Nam, the impact of the crisis can be summarised as follows.

Financial market: although Viet Nam does not have financial system which invests in stocks of large conglomerates in U.S. (AIG, Lehman Brothers, etc), the indirect impact is rather significant. This impact is reflected through short term loan of Viet Nam's enterprises because of the increase in the lending interest rate of inter-international banks. This requires banks to determine the re-routing period and interest rate, which influences the financial conditions of the enterprises. The US Dollar may be sharply devalued, which could cause

people to withdraw dollars from their banks or sell dollars for VND and deposit their VND. These actions will lead to many difficulties in terms of banking assets.

Stock market: the mobilization of indirect capital to Viet Nam's stock market in may be very difficult in the near future, since investors may direct their funds to what they consider to be safer investments. Difficulty of finance may cause foreign investment funds to sell stocks in bulk out of Viet Nam's market in order to recover their capital. However, the impact is not very much and the probability is not so high since foreign investment capital only comprises of 20% of the total market capital and also because of the liquidity and scale of the market. However, the could affect the stock market and the equitization process of the big S.O.Es in coming years. Capital mobilization is already difficult while the tight credit market will prevent the capital flow and push up financial costs for enterprises.

Export-import activities; at present exports account for 60% of Viet Nam's GDP, while U.S. is an important market for Viet Nam's export of textile, footwear and fisheries. As a result, the U.S. financial crisis may sharply reduce Viet Nam's exports to USA because (1) Viet Nam exports are mainly raw products and the raw material prices in world markets are declining relative to other prices, even without a crisis in U.S., and (2) tight financial markets are limiting the market demand for Viet Nam's exports. Viet Nam is having difficulty with traditional export market such as United States , Japan and the EU since their economies have slowed down due to the crisis.

Foreign Direct Investment (FDI): due to problems in financial markets, most U.S. and European businesses are reducing their direct investment abroad. As a result the attraction of FDI in these two markets are significantly affected. Moreover, cost of mobilizing capital may be high due to increased credit margin, leading to limited investment attraction; consumption may also be reduced leading the a reduction of FDI disbursement.

Inflation and prices: consumer product prices in 2008 are general is higher, and different from the consumption trend in previous years. Prices increased from the first quarter and continued to increase in quarters II, III, while falling in quarter IV (in October by 0.19%; in November by 0.76%, in December by 0.68%). The consumer price in December 2008 was by 19.89% higher than in December 2007, while consumption index per annum increased by 22.97%. The XII National Assembly, 4th session has identified objectives of controlling consumption growth in 2009 to below 15%. This target is likely to be met, since the prices of many materials, including raw materials in the world are forecast to fall gradually while strict monetary policy with flexible regulation will be maintained.

Social welfare: reduction in production and exports is likely to affect business enterprises, especially enterprises of high labour intensity, such as textiles, leather shoes, aquiculture.

As a result, salary may be cut and some employees will lose their jobs. To mitigate the effects of the crisis, the Vietnamese government has applied some measures such as tough monetary policy, interest tools, cutting state expenses, controlling investment in projects with huge capital which are not necessary or are inefficient, focusing on developing industry, agriculture and services, fostering exports through expanding export markets into other potential areas while traditional markets are in difficulty, reducing unnecessary imports, accelerating measures to stabilise the people's living standards and production and extending the implementation of social welfare policy. The effects of the global financial crisis on Viet Nam are still manageable. In the near future as the effects of the crisis become clearer, the government will need to observe developments carefully and to implement reasonable solutions to regulate markets and to ensure economic s and social security.

Summing up, it is estimated that Viet Nam's GDP will only increase by 6% in 2009, due to these effects of the global financial crisis.

(b) What are the Government's predictions for economic growth and exports for 2009 and 2010?

Answer:

By the latter half of 2008 and the early months of 2009 the financial crisis has led to economic slow-down and unpredictable changes in commodity prices. This crisis has a large impact on almost all economies in the world on both economic and social safety aspect. International and regional organization and cooperation forums in general, as well as economies in particular have been making an all out effort to cope with the crisis. According to the assessment of many economic consultants, the outlook for the world economy and the Asia Pacific region in 2009 is still gloomy.

Though not subject to huge shocks, Viet Nam has not been left untouched by the financial crisis. For economies with a high level of openness such as Viet Nam (Total export import turn over is 1.7 times the GDP, wherein export accounts for more than 70% GDP), the above-mentioned developments of the global economy are having a substantial impact on Viet Nam's economic growth and export in 2009 and even some early months of 2010. This is the result of some external reasons such as: (1) banks' policy on credit tightening is forcing importers to pay right after their receipt of goods; (ii) Viet Nam's commodities have to be more competitive than those of other Asian economies such as agricultural produce, fisheries produce, textile, footwear and electronics in the context of low import demand from major markets; (iii) price of commodities is still at low level due to falling import demand and market liquidity, the economic slow down will also make it hard to raise prices of

commodities during the sensitive period 2009 – 2010; (iv) other external reasons due to the indirect impact of the crisis may also reduce growth.

Facing these difficulties, the Government of Viet Nam has been applying a number of measures to reduce negative impacts of the world financial crisis on economic growth. These measures include encouraging domestic consumption, maintaining productivity, facilitating exports by means of diversifying exporting markets, enhancing the competitiveness of exported products as well as providing policy guidance to simplify administrative procedures for enterprises. The Government of Viet Nam has also pursued multilateral and regional economic integration, opened markets and supported trade liberalization and trade facilitation measures on the basis of equality and fairness taking account of the nature of a developing economy like Viet Nam.

3 Transition to a market economy

(a) *What is the estimated proportion of the economy accounted for the private sector in 2008?*

Answer:

The private sector now accounts for approximately 40 per cent GDP.

(b) *Please describe recent progress in implementing State Enterprise reforms.*

Answer:

In line with the policy of the Government and the Communist Party, state owned enterprise (SOEs) reform has made great progress, with substantial reduction in the number of small and loss-making SOEs. By June 2008, there were 5,041 SOEs being reformed, in which: 3,786 are being equitized, 196 assigned, 154 sold, 30 contracted and leased; 513 merged and acquired (accounting for 10%); 794 restructured in other forms (dissolution, bankruptcy, transformed to public commercially-based service-delivery units, to limited liability companies) (accounting for 15%).

So far, 120 SOEs have become trusts, general corporations and independent state companies operating in mother-daughter model. There is great progress in the operation of trusts and general corporations; production capability, productivity and competitiveness of SOEs have been improved, the SOEs sector continue to play the key role in maintaining the macro balance for the economy.

Regulations and policies for SOEs reform have been revised and supplemented in order to enhance the autonomy of SOEs. The Law on SOEs, Law on Enterprise, Investment Law, Law on Procurements and the Competition Law have clearly defined that SOEs operate in the

same playing field with other economic sectors. Implementing documents for those laws have been issued to give regulations on reform and equitizations of SOEs.

(c) *How many State Enterprises are operating at present?*

Answer:

By June 2008, there were only 1,720 SOE 100%-owned by the State in the sectors such as State monopolies, and enterprises involved in providing public benefit, public security, national defense, agricultural and forestry farm, the sectors to ensure the stability of the macro-economy or to provide goods and services for the society (such as petroleum, electricity, mineral exploration, oil and gas, cement, chemicals, airline, sea and railway transportation, banking) with the total state owned capital of about VND 410 trillion, increasing 110 per cent in 2008, compared with early 2001.

(d) *Please set out the range of products where prices are controlled.*

Viet Nam's economy is a socialist-oriented market system. Accordingly, regarding price management, the Vietnamese state has narrowed the list of goods under direct price valuation, expanded and guaranteed the rights to self evaluate goods price of enterprises based on demand-supply and market orientation.

Article 6, Ordinance No. 40/2002/PL-UBTQH dated 26/4/2002 (Ordinance on Price) and Article 1, Decree No. 75/2008/ND_CP dated 09/6/2008 amends and supplements some articles of the Decree No. 170/2003/ND-CP dated 25/12/2003 regulating the categories of assets, goods, services applying price stabilization measures including:

“Article 2. List of goods and services applying price stabilization measures.

1. List of goods, services applying price stabilization measures regulated at the Article 6 of the Price Ordinance, including:

a, Petroleum, gas;

b, Cement;

c, Construction steel;

d, Liquefied gas;

e, Chemical fertilizers;

f, Flora protection medicine;

g, Vet medicines: foot to mouth disease vaccines; birdflu vaccine; kinds of antibiotic: Oxytetracycline, Ampicilline, Tylosin, Enrofloxacin;

h, Salts;

i, Milk;

k, Sugar;

l, Rice;

m, Medicines (for cure and prevention) for human under the list of medicines used at health care units regulated by the Ministry of Health Care;

n, Price for transporting passengers by railway (hard seat);

o, Some food for feeding cattle: corn, ...

However, price stabilization measures are only applied when there are unusual fluctuations in goods price (continuous increase/decrease in a certain period, due to the effects of disasters, wars). The measures state clearly when to start and end the price stabilization measures. When the demand and supply work in a normal manner, enterprises have the rights to self evaluate the above-mentioned assets, goods and services.

The Vietnamese government uses widely and flexibly the fiscal policies (import tax, budget expenditure) and monetary policies (interest, money supply, compulsory reserves of commercial banks), management of production, imports, exports and reserves to affect supply and demand, to stabilize prices, and control inflation to promote economic growth.

4 (From Canada)

Could Viet Nam please elaborate on its plans for the continued privatization/equitization of its State Owned Enterprises (SOEs) to reduce the influence of government in the business sphere, and thereby reduce any subsequent market distortions.

Answer:

Thanks to the reform process, the number of small, loss-making SOEs as well as the number of SOEs which operate in the sectors where 100 per cent State ownership is not needed have substantially reduced. According to the approved reform plan for SOEs, in the period between 2007–2010, 1,553 SOEs are to be restructured and reformed, of which 950 will be equitized. By the end of 2010, it is estimated that there will be 837 SOEs with 100% State ownership, in which 609 are member liability limited companies; 105 agricultural companies and 125 forestry companies. In addition, there are to be about 60 trusts and corporations where the State holds majority shares.

5 (From Canada)

Could Viet Nam please elaborate on what measures it is taking to deal with corruption and the abuse of authority as these pose serious obstacles to business operations.

Answer:

In recent times, with the determination to drive back corruption and negative acts in order to ensure the economy's political-social stability and sustainable economic development, the Government of Viet Nam continues to consider anti-corruption as one of the core management tasks. The Government frequently directs, manages, organizes the implementation, and implements comprehensively the measures regulated in the Law on Anti-corruption; actively calls on the whole society to participate in anti-corruption works; and carries out corruption prevention measures effectively.

The measures against corruption and negative acts that Viet Nam is taking include:

1. Improvement of anti-corruption legal frameworks:

Viet Nam has promulgated the Anti-corruption Law with comprehensive measures to prevent, constrain and deal with corrupt acts. In addition, to provide details of the Law's provisions to ensure its effectiveness, the Government of Viet Nam has issued various governmental decrees in 2007 and 2008, such as Decree No. 102/2007/NĐ-CP dated 14 June 2007 on prohibiting leaving officials from conducting business in the areas of their previous management for a specified period of time, Decree No. 158/2007/NĐ-CP dated 27 October 2007 on defining the list of working posts and the time limit for the rotation of public officials, Prime Minister's Instruction No. 20/2007/CT-TTg dated 24 August 2007 stipulating salary payments through bank accounts for those who are paid by state budget, Decree No. 65/2008/ND-CP dated 20 May 2008 on functions, mandates, powers and organizational structure of Government Inspectorate, herein Government Inspectorate is assigned to exercise the function of state management over anti-corruption works, Decree No. 91/2008/ND-CP dated 18 August 2008 on publicizing audit results and results of implementing audit conclusions and recommendations of the State Audit; Prime Minister's Decision No. 85/2008/QĐ-TTg dated 3 July 2008 regulating list of people having responsibilities to declare assets as stipulated in Paragraph 11 of Article 6 of the Government Decree No. 37/2007/ND-CP dated 9 March 2007, Prime Minister's Decision No. 115/2008/QĐ-TTg dated 27 August 2008 regulating publicity of management and use of state property in state agencies, state professional units and the organizations which are assigned to manage and use state property, etc...

The Government is considering regulations to control incomes of people holding positions and powers in order to submit to the National Assembly for official issuance.

The Project “Incorporating anti-corruption subjects into training curriculum” and the draft National Anti-corruption Strategy until 2020 have been basically completed; the Strategy is expected to be issued in the first Quarter of 2009.

2. Preventive measures:

The measures to prevent corruption and negative acts that Viet Nam is taking include:

- (1) Publicity and transparency in operations of agencies, organizations and units: publicity of policies, administrative procedures and processes in connection with administrative procedure reform; transparency in management and use of state budget and public assets, estimate budget allocation, revenue decentralization as well as type of norms and standards
- (2) Adoption and implementation of regulations on norms and standards: the Government, Prime Minister, ministries, sectors and localities strengthen the review, issuance, amendment and supplementation of regulations on norms and standards especially in the important economic fields such as land, finance, construction investment, public asset management and use
- (3) Adoption and implementation of codes of conduct and codes of professional ethics; promulgation of regulations on rotation of working positions of public officials and public servants;
- (4) Asset and income transparency: to carry out nation-wide the declaration of assets and incomes by public officials, laying positive impacts on the awareness of public agencies and public officials at all management levels and industries of the duty of the people holding position and powers to make transparent their assets and incomes;
- (5) Promulgation of regulations on responsibilities of heads of the agencies, organizations and units where corrupt acts occur;
- (6) Public administration reform and reform of management technology and payment methods: the State apparatus continue to be reformed towards reduced focal points and clearly regulated functions, mandates and scope of powers. Herein, the Government, ministries and sectors concentrate on exercising their macro-management function, such as policy and strategy making, or guiding and supervising the implementation; management decentralization to local authorities is being strengthened on the basis of clearly identified mandates and authority and in connection with fixed payroll and fixed administration expenditure mechanisms.

3. Strengthening the inspection, examination, investigation, prosecution and adjudication activities:

Inspection, examination, investigation, prosecution and trial activities are being strengthened in order to detect and deal promptly with corrupt and negative acts in all management areas, and to make recommendations on overcoming loopholes and shortcomings in mechanisms, policies and laws, contributing to the effectiveness and efficiency of state management.

To strengthen the examination and supervision of the implementation of inspection, audit and investigation conclusions and recommendations, in order to enhance effectiveness of violations handling and correct management works; and to resolutely recover the State's assets lost due to corruption.

4. Strengthening the dissemination and propaganda among society on anti-corruption and enhancing the active involvement of the society in anti-corruption:

Agencies at all levels and sectors continue to propagate and disseminate the Law on Anti-corruption and the Law on Practising thrift and anti-waste among public officials. The dissemination and propaganda of anti-corruption strategies and policies among citizens continue to be promoted in plentiful and creative ways.

5. International cooperation on anti-corruption:

Enhancing Viet Nam's active participation in regional and international organizations, forums and initiatives on anti-corruption; pilot implementation of "Construction Sector Transparency Initiative" and introduction of the APEC Code of Conduct for Business among enterprise community; organization of workshops, study programs and exchange programs on anti-corruption with economies and international organizations in order to assist competent agencies to study and adopt, selectively, good international anti-corruption practices and experiences in Viet Nam.

The Government actively works on the final procedures to submit the UNCAC to the State President for ratification and effectively implements the Convention after ratification.

6 Please provide an update of progress in implementing Viet Nam's public administrative reform (PAR) program.

Answer:

Vietnamese government has focused on administrative reform and achieved many positive results in 2008, namely:

Completing the definition of functions, missions, organising the state administrative agencies:

The government has promulgated 29 Decrees regulating the functions, missions, rights and structures of 29 Ministries, line-Ministries, governmental agencies. The Ministries, agencies have restructured their agencies, allocated human resources according to new structures; reviewed, adjusted functions, missions, structures of agencies towards more delegation and avoiding overlapping functions. The reviewing and completion of functions, missions, employment, allocation of human resources, developing regulations at work are very complicated processes, implemented in a thorough manner by the Ministries and agencies. Therefore, the state management of the Ministries, agencies are constant and effective, especially for the Ministries that have adjusted many of their functions, missions such as the Ministry of Industry and Trade; Agriculture and Rural Development; Culture, Sports and Tourism; Health Care.

The Ministries and agencies have been working closely with provinces and cities belonging to the state to guide, overcome obstacles, difficulties in restructuring functional agencies at the local level. Till now, provinces, cities belonging to the state have basically organised and put functional agencies in place under Decree No. 13/2008/ND-CP and Decree No. 14/2008/ND-CP. Provinces and cities' People Committees have focused on restructuring local functional agencies together with reviewing the procedures, administrative procedures in all fields of the agencies, provinces' management. Therefore, unnecessary intermediate steps and administrative procedures can be eliminated, leading to more efficient human resource allocation.

Applying information technology in SOEs activities: Ministries, agencies and local authorities have taken actions to apply information technology in line with "Plan for Application of information technology in SOEs activities in 2008" which has been approved by the Prime Minister in Decision No 43/2008/QĐ-TTg dated 24 March 2008. Application of information technology is mainly focused on core activities in order to enhance the efficiency of State management in controlling and coordinating tasks; organizing online dialogue with enterprises and citizens on State policies; raising quality of public services.

Local authorities have paid attention to their investments, enhancing the quality of internal networks and management application software; applying information technology to publicize administrative procedure requirements; raising the quality of internet information gateways on investment, construction and business registration...These activities have created favorable conditions for enterprises and citizens using administrative procedures, models and forms, thus saving time and cost of administrative procedures. At the same time, citizens are able to supervise civil servants from state administrative enterprises in dealing with administrative procedures.

Administrative reform and one door policy: Ministries, agencies are continuing to review and simplify administrative procedures, job tackling process in some fields in order to create favorable conditions for enterprises and citizens.

Membership of the WTO

1 Since the last IAP review, Viet Nam has become a member of the WTO.

(a) *What have been the main benefits of WTO membership to Viet Nam since joining?*

Answer:

Exports: after becoming a WTO member, VN has seen a rise in its exports, as follows:

From 2006 to 2007, VN's exports increased by 21.9%; that of the first 7 months of 2008 is estimated at USD 36.88 billion, increasing by 37.7% in comparison with the same period of 2007. Industries such as garments and textiles saw a high growth rate, from USD 5.83 billion in 2006 to USD 7.75 billion in 2007. For the first 7 months of 2008, it is estimated to be more than USD 5 billion, increasing by 20.5% in comparison with the same period of 2007.

There were also positive changes in export structure, diversifying gradually from raw products (oil, coal, rice) to processed products (textiles, wood, plastic) (the percentage of oil in VN's export turn-over reduced from 21.0% in 2006 to 17.5% in 2007 and 18.4% in the first 7 months of 2008).

The export market also became more diversified. VN is becoming more successful in exporting into key markets such as the USA, EC.

Foreign investment: After VN joined the WTO, FDI increased sharply in 2007 and the first 6 months of 2008, reaching its highest level since the promulgation of the FDI Law in 1987 (the implemented FDI of 2007 was more than USD 8 billion, in which the foreign part was USD 6.7 billion, 46.5% more than planned; for the first 7 months of 2008, the committed FDI was USD 44.49 billion).

Service sector: joining the WTO allows this sector to keep its high growth speed (more than 8% and higher than the growth of GDP). The market opening is helping to bring about more and better infrastructure and technology to manufacturers as well as to attract more foreign investment (in the first 6 months of 2008, registered foreign investment in this sector reached more than USD 13.6 billion, accounting for 44% of the total investment). In addition, VN service enterprises can enjoy the benefits of capital, human resources and technology brought about by cooperating with foreign enterprises.

Industry Sector: After joining the WTO, VN industrial production saw high productivity, especially in the industries of which the inputs are agricultural products and those using lots of labour such as fisheries, garments and textiles, shoes, interior products, handicrafts.

Agricultural sector: After joining the WTO, VN agricultural export saw its rank improved in the world market (rice export is ranked the second, pepper – 1st since 2004, rubber – 4th)

Business environment: Joining the WTO is helping to improve the business environment in Viet Nam by:

- making policy systems more transparent.
- eliminating the price management mechanism which used to be applied to some products.
- reducing subsidies in line with WTO commitments.

(b) *Please list any difficulties Viet Nam has faced in meeting its WTO obligations.*

Answer:

The lack of close and timely cooperation among ministries and industries in completing the legal framework in accordance with WTO accession commitments led to delays in the finalisation and promulgation of some legal documents to guide the implementation of WTO accession commitments, making it difficult to implement the commitments.

Lack of human resources, both in terms of quantity and quality, in reviewing and amending the legal system in accordance with WTO regulations, as well as in implementing WTO commitments and obligations.

Viet Nam's capacity to implement WTO obligations is also limited because of its very recent accession and lack of experience in implementing obligations such as notification and answering to enquiries.

(c) *Please summarise Viet Nam's participation in the Doha Round of WTO negotiations.*

Answer:

Since becoming a WTO member, apart from focusing on the implementation of WTO accession commitments, Viet Nam has made effort to join negotiation in Doha Negotiation Round on matters relating to its specific benefits.

Viet Nam has participated in a number of important meetings in Doha Round in its own capacity or as an ASEAN member. Viet Nam has also joined RAMs and taken part in a

Cairns Ministerial meetings as a guest economy. Furthermore, Viet Nam has also sent working group to Trade negotiation Committee Meetings on the sidelines of SOM and restricted Ministerial Conference in Geneva at the end of July 2008

Key issues which Viet Nam concerns within Doha Round Framework include regulations for VRAM in agriculture and non-agriculture negotiation (NAMA), negotiation in rules, tariff deduction by sectorals, sensitive products, preference erosion, etc.. Concerning these issues, Viet Nam has co-ordinated with WTO members who share same view-points to protect its legitimate interests.

Viet Nam hopes that WTO members will continue raising leaders' political will so as to reactivate and conclude Doha Negotiation Round at the earliest opportunity.

2 WTO dispute settlement procedure

- (a) *Has Viet Nam made use of the WTO dispute settlement procedure? If so please describe the issue(s).*

Answer:

In general, WTO Dispute Settlement Mechanism is a quite new matter to Viet Nam. Currently, Viet Nam is researching, training human resources and preparing to take advantage of this mechanism. Viet Nam has been implementing a number of projects of which one of the main activities is training, improving the skills of staff in charge of the issues related to WTO Dispute Settlement Mechanism.

Viet Nam is becoming familiar with WTO Dispute Settlement Mechanism by participating as third party in the case of the USA and India on additional tax and additional duties to some imported goods (DS 360); Thailand and the USA on anti-dumping on shrimp.

Viet Nam is completing the relevant procedures to join the Advisory Centre on WTO Law in order to take advantage of its support in legal issues and official training.

- (b) *Have any of Viet Nam's policies been challenged by any other WTO member? If so please describe the issue(s).*

Answer:

So far, no member has any challenge to the WTO Dispute Settlement Body with regards to Viet Nam's policies.

Trade policy formation

- 1 Please describe how decisions on trade policy are made in Viet Nam. Which organizations have the power and how is the division of work between them? How are**

ministries involved in this decision-making procedure? Could you provide, if available, flow charts describing these procedures and competences?

Answer:

The National Assembly decides the economy's socioeconomic development plans and tasks; The Government implements socioeconomic development plans. Like decisions in other fields, decisions on trade policies are set out in legal documents issued by competent authority. They can be legal documents of the National Assembly (Constitution, laws and resolutions), the Standing Committee of the NA (ordinances and resolutions), State Presidents (order and decisions), the Government (decrees), the Prime Minister (decision) and ministries (circulars). Relevant ministries may contribute their opinions and concerns during the drafting of legislative and their submission.

Pursuant to legal documents of the National Assembly (Constitution, laws and resolutions), the Standing Committee of the NA (ordinances and resolutions), State Presidents (order and decisions), the Government promulgates decrees to detail the implementation of these legislative and specify measures to implement social, economic, national defense, security, financial, monetary, budgetary, etc. plans and other issues within the Government's authority, etc. The Ministry of Industry and Trade is the Government's focal point for industry and trade policies and is entitled to enforce state management authority in industry and trade.

Ministry of Industry and Trade may collect information during the enforcement of legislation and propose changes in trade and industry policies to higher level authorities.

2 Where and at which level of decision making are the following institutions and authorities positioned?

- **National Assembly**
- **Inter-ministerial National Committee on International and Economic Cooperation**
- **Governmental Negotiation Team on International Economic and Trade Affairs**
- **State President and Vice Presidents**
- **Prime Minister**

Answer:

1. The National Assembly

The National Assembly is the only organ with constitutional and legislative powers. The National Assembly determines the economy's the fundamental domestic and foreign policies,

the socioeconomic tasks, national-defence and security issues, the essential principles governing the organization and activity of the State machinery, the social relations and the activities of the citizen. The National Assembly exercises supreme control over all activities of the State.

The National Assembly has the following obligations and powers: to make and amend the Constitution; to make and amend laws; to work out a programme for making laws and ordinances; to decide the economy's socioeconomic development plan; to decide the national financial and monetary policies; to establish, change, or abolish taxes; to set up or suppress government ministries and government organs of ministerial rank; to abrogate all legal documents issued by the economy's President, the Standing Committee of the National Assembly, the Government, the Prime Minister, the Supreme People's Court, and the Supreme People's Office of Supervision and Control, that run counter to the Constitution, the law, and resolutions taken by the National Assembly; to decide fundamental policies in external relations; to ratify or annul international agreements that have been signed or participated in on the proposal of the economy's President; etc.

Contents of the legal documents issued by the National Assembly (and the Standing Committee of the NA):

1. Laws provides for fundamental issues of economic, social, national defense and security, financial, monetary, budgetary, etc. fields.
2. Resolutions are promulgated to decide socio-economic development duties, national budget estimates, allocation and adjustment, etc.
3. Ordinances of the Standing Committee of the National Assembly provides for issues tasked by the National Assembly which will be submitted to the National Assembly for consideration and decision to issue laws after some time of implementation.
4. Resolutions of the Standing Committee of the National Assembly are issued to clarify the Constitution, laws and ordinances, to decide to proclaim wars, emergencies, etc.

2. State President

The economy's President is the Head of State and represents the Socialist Republic of Viet Nam internally and externally. The economy's President is elected by the National Assembly from among its members. He is responsible to the National Assembly for his work and reports to it.

The duties and powers of the economy's President include the followings: to promulgate the Constitution, laws and decree-laws; to have overall command of the armed forces and hold the office of Chairman of the National Defence and Security Council; to negotiate and sign international agreements. On behalf of the Socialist Republic of Viet Nam with the Heads of other States; to approve or join international agreements, except in cases where a decision by the National Assembly is necessary;

The economy's President issues orders and decisions for the accomplishment of his duties and the exercise of his powers. Orders and decisions of the State President are issued to accomplish his powers and duties provided for in the National Assembly's constitutions, laws and resolutions and the Standing Committee of the NA's ordinances and resolutions.

3. Vice Presidents

The economy's Vice-President is be elected by the National Assembly from among its members. He shall assist the President in the performance of his duties and may be delegated by him to perform certain tasks. When the economy's President is incapacitated for work over a long period of time, the Vice-President shall act as President. In case of vacancy of the Presidency, the Vice-President shall be acting President until a new President is elected by the National Assembly.

4. Prime Minister

The Government is the executive organ of the National Assembly, the highest organ of State administration of the Socialist Republic of Viet Nam. The Government and the Prime Minister are accountable to the National Assembly and shall make its reports to the National Assembly, its Standing Committee, and the economy's President.

The Government are tasked with directing the work of the ministries and the organs of the Government, etc.; presenting bills and other projects to the National Assembly and its Standing Committee; ensuring the overall management of the building and development of the national economy; implementing national financial and monetary policies; carrying out socioeconomic development plans; ensuring the overall management of the State's external relations; signing, joining, approving international agreements on behalf of the Government; directing the implementation of international agreements subscribed to or joined by the Socialist Republic of Viet Nam; etc.

The **Prime Minister** is entitled to direct the work of the Government; to suspend or annul decisions, directives and circulars of Cabinet Ministers and other Government members, etc.

Pursuant to legal documents of the National Assembly (Constitution, laws and resolutions), the Standing Committee of the NA (ordinances and resolutions), State Presidents (order and

decisions), the Government promulgates decrees, the Prime Minister promulgates decisions and examines their enforcement.

Government's decrees are issued to:

1. Detail the implementation of law and resolutions of the National Assembly, ordinances and resolutions of the Standing Committee of the NA, order and decisions of State President;
2. Specify measures to implement social, economic, national defense, security, financial, monetary, budgetary, etc. plans and other issues within the Government's authority;
3. Provides for duties, powers, organizations and structures of ministries, ministerial agencies, governmental bodies and other agencies within the Government's power.
4. Regulate issues that need to be regulated to meet national, economy and society management requirements yet not qualified for laws or ordinances. Issuance of such decrees must have the consent of the National Assembly's Standing Committee.

Prime Minister's decisions are issued to regulate measures to run the Government and governmental administrative system, working procedures and other issues under the Prime Minister's authority; etc.

4. Ministries

Ministries are Government organs. Ministers shall be responsible for State administration in the fields and branches under their respective authority throughout the economy and shall be responsible to the Prime Minister and the National Assembly.

Pursuant to legal documents of the National Assembly (Constitution, laws and resolutions), the Standing Committee of the NA (ordinances and resolutions), State Presidents (order and decisions), the Government (decrees), the Prime Minister (decisions) Ministers issue decisions, directives (formerly) and circulars and examines their enforcement.

In legal fields, ministries are empowered to draft and submit to the Government bills and draft resolutions of the National Assembly, draft ordinances and resolutions of the NA's Standing Committee, draft decrees and resolutions of the Governments in accordance with that ministries' approved annual law building plan and program as well as projects and plans assigned by the Government, the PM; to submit to the PM draft decisions, directives and other legal documents within the PM's legitimate authority; issue decisions and circulars to regulate fields and issues within that ministry's state management authority, etc.

Circulars of ministries are issued to:

- Detail the implementation of the National Assembly's laws and resolutions, the Standing Committee of the NA's ordinances and resolutions, State President's order and decisions, the Government's decrees, the Prime Minister's decisions;
- Determine processes, technical standards, economic and technical norms in the fields within such ministry's authority;
- Provide for measures to implement such ministry's state management powers and authority and other issues assigned by the Government.

5. Ministry of Industry and Trade

MOIT is an organ of the Government which is entitled to enforce state management authority in industry and trade, including international economic and trade integration. In the field of international economic and trade integration, Ministry of Industry and Trade has the following duties:

- a) Build and implement international economic and trade integration policies, mechanisms and guidelines;
- b) Collect and build negotiation options and organize negotiations to sign or join multilateral or regional trade agreements; negotiate free trade, economic or trade cooperation and market expansion agreements between Viet Nam and other economies, areas and territories;
- c) Represent Viet Nam's economic and trade interests, propose and enforce Viet Nam's economic and trade related rights and obligations in WTO, ASEAN, APEC, ASEM and other international economic organizations and forums as assigned by the PM;
- d) Be the responsible agency for Viet Nam's international economic and trade integration;

6. The Inter-ministerial National Committee for International Economic Cooperation and Governmental Negotiation Team on International Economic and Trade Affairs

National Committee for International Economic Cooperation is an inter-ministerial agency founded by the PM to coordinate the activities of ministries, ministerial agencies and local governments on international economic integration.

Chairman of the Committee is Deputy PM and Vice Chairman is Minister of Industry and Trade.

A Vice Minister of Industry and Trade cum Head of the **Governmental Negotiation Team on International Economic and Trade Affairs** is Secretary General of the Committee. He is

obliged to coordinate ministries and agencies on building economic and trade negotiating options relating to Viet Nam's market access commitments; collect working plan of negotiation groups and propose negotiation options and report to Minister of Industry and Trade to submit to the PM; coordinate ministries and agencies in international economic integration activities; organize the study and propose international economic integration policies.

3 Which government agency holds the responsibility of formulating and conducting international trade policy? How are (possibly) different positions of ministries coordinated? Who has the strongest decision-making power?

Answer:

Ministers deal with issues and proposals of other ministries, agencies and individuals (including those that ministries have different opinions) within his legitimate state management authority as well as other duties assigned by the Prime Minister. Ministers can make submissions to the Government and to the Prime Minister to resolve issues falling under their authority and contribute opinions to other ministries and agencies about issues falling under such ministries and agencies' authority, but relating to their own authority.

When dealing with issues under their own authority, but relating to other ministries and agencies' functions and authority, ministers and heads of ministerial agencies must ask for such ministries and agencies' opinion. Concerning issues beyond their own authority or issues which are within their authority but they are unable to resolve, ministers and heads of ministerial agencies must work with related ministries and agencies to complete documents to submit to the Government or the PM or consideration and decision.

4 When there are needs to change international trade policy, what procedures are triggered? Who initiates? How are the domestic industries involved in these whole procedures? How are the interests of consumers represented?

Answer:

As mentioned above, the Ministry of Industry and Trade is the government agency in charge of trade and is the Government's focal point for international economic integration. Thus MOIT is either the agency to issue regulations or the focal point to collect information and report/propose to the Government changes in the policy and at to follow up their enforcement.

In addition, during the process of study and proposal, collecting opinions of relevant stake holders (including manufacturers and consumers, wherever appropriate) through consumer associations, business associations, chamber of commerce and industry and the public through mass media is required. In fact, one mandatory step in Viet Nam's legislative promulgation

procedures is that the drafting agency must publicize its explanatory note about the legislative proposal and its impact report on its website for at least 20 days and the draft legislative must be publicized on either the Government's or the drafting agency's website for at least 60 days for comments from all concerned stakeholders and all comments must be collected and considered for application, explanation or rejection.

Part B Questions on specific parts of the IAP

IAP Chapter 1: Tariffs

1 The IAPs of Viet Nam over the period 2001–2008 indicate that Viet Nam has undertaken enormous efforts to reform and liberalize its trade policy in general, and the tariff and non-tariff measures in particular. However, there are still some clarifications needed for better understanding the policy stance of Viet Nam towards the Bogor Goals of APEC.

(a) The Viet Nam IAP of 2008 includes different information on the total number of tariff lines. In the section “Applied Tariffs”, the number 9174 appears, whereas in the Tariff Dispersion Table, the number 9000 appears. Please provide a consistent figure.

Answer:

The difference between the two sets of data in Viet Nam IAP 2008 (9174 tariff lines in “Applied tariff” and 9104 tariff lines in “Tariff Dispersion table” in 2008) is due to the Tariff Dispersion table. Viet Nam does not include 70 tariff lines relating to a number of components CKD and auto parts as regulated in details in Annex II – Decision no. 106/2007/QD-BTC dated 20/12/2007 on the issuance of Export tariff schedule and Preferential import tariff schedule.

(b) The structure of Vietnamese tariff rates has undergone substantial fluctuations over the past years. The IAP 2008 states that the Vietnamese government has bound all the tariff lines of Viet Nam. Can the trading partners of Viet Nam expect the tariff rates not to fluctuate, but to be subject to continuous reduction according to its commitment to the WTO?

Answer:

Upon accession to the WTO, Viet Nam has committed to reduce all tariff rates according to the schedule detailed in the WTO accession documents. Viet Nam's export and import tariffs will continue to be reduced in accordance with the WTO commitments.

- (c) *The Vietnamese government during the accession negotiation stated that the number of tariff bands has been reduced considerably. Could you show the dynamics of this change in a table format with years affected?*

Answer:

Please refer to the annual Tariff Dispersion table attached.

- (d) *Considering Viet Nam's commitments made during the accession negotiations, please provide the following:*

- *When will the schedule of Viet Nam's tariff reduction be accomplished according to the accession negotiation?*
- *How will the two tables (Tariff Summary Report for 2007 and Tariff Dispersion Table for 2008) be modified through this implementation of WTO commitments? Please provide the end-year feature of the two tables*
- *Please also provide brief information on the ratio of tariff lines (at the end-year) with tariff rates above 15% (the so-called 'tariff peaks').*

Answer:

Viet Nam will complete the implementation of export and import tariff reductions for tariff lines with WTO commitment deadlines by 2019 at the latest.

Viet Nam 2007 Tariff Summary table and 2008 Tariff Dispersion table fully reflect the implementation of commitments and tariff reduction upon WTO accession, as detailed in the attached Tariff Dispersion table.

In line with WTO commitments, the ratio of tariff lines with tariff rate of above 15% is 33%.

- (e) *What is the relationship between the "Statutory MFN Tariff Ceilings" and the "bound MFN tariff rates" specified in the Schedule of Concessions and Commitments? What is the plan of the Vietnamese government to align the former to the latter?*

Export and import tariff schedules of Viet Nam, as promulgated by the National Assembly, provide the maximum tariff that the Government can set in order to ensure sustainability and transparency of import tariff for the economy. At the same time, Viet Nam import tariff frame table always reflects, in full, Viet Nam's MFN commitments with international organizations. Therefore, there is no need for Viet Nam to revise this Frame Schedule.

- (f) *During the WTO accession negotiations, a "possible" conversion of ad valorem tariffs into a specific tariff or compound tariff provided a source of concern for a number of WTO member economies. Does the Vietnamese government have any plans to do it? What sectors might be*

affected by this conversion, and in which way? Is it assured that the converted tariff does not exceed the bound tariff rate for the affected products?

Answer:

At present, Viet Nam has not had any plan to apply specific tariff for imports. In line with the WTO commitments, the application of specific tariff will not exceed the committed tariff ceiling.

(g) *Price Stabilization Fund: Please describe*

(i) the rationale,

(ii) the operational principle, and

(iii) current application of the Price Stabilization Fund.

How is this fund financed?

Answer:

This issue is not within the scope of the IAP.

(h) *At present, Viet Nam is reported to apply tariff-rate quotas (TRQs) on eggs, sugars, tobacco material and salt, whereas the economy did not apply any of these TRQ instruments in 1998. What motivated Viet Nam to use these TRQs? How are these TRQs administered, especially in allocating the quotas to importers? What is the government planning to do with them in the future? Are there any plans to introduce new TRQs? If yes, for which products?*

Answer:

1.1. Application period for TRQ:

At present, Circular no. 04/2006/TT-BTM dated 6th April 2006 of Ministry of Trade (Ministry of Industry and Trade now) provides guidance and regulation in Decrees No. 12/2006/ND-CP dated 23/1/2006, list of imports under TRQ include sugar, eggs, salt, cigarette materials. In line with that, salt and cigarette material are subject to TRQ starting 1 August 2003. Eggs are subject to TRQ starting 1 January 2004. Viet Nam applied TRQ for sugar starting 1 January 2007.

1.2. Reason for applying TRQ:

The application of TRQ on the mentioned 4 goods is to ensure adequate materials for domestic production (salt, sugar, cigarette materials). This is also aimed at providing conditions for weak production sectors to further develop. This is totally in compliance with Viet Nam's WTO commitments.

1.3. Management and allocation of TRQ

The management and allocation of TRQ are regulated in Circular 04/2006/TT-BTM and totally in compliance with WTO regulations.

TRQ of salt, sugar and cigarette material is allocated for enterprises with direct usage for production and without business operation. For eggs, TRQ is allocated for all businesses who are in need.

1.4. Application plan of TRQ in the future

Viet Nam does not have plan to eliminate or apply management measures of TRQ in the near future.

- (i) *Viet Nam maintains a system of Excise Taxes for 8 items in goods sector and 5 items in the services sector. This system was often quoted as discriminating the foreign products and companies in favor of domestic ones. Is it true? Has it changed during the recent period, especially after the accession to the WTO? How does the Vietnamese government justify the current practice?*

Answer:

Viet Nam is committed under the WTO to ensure there is no discrimination in applying the Exercise Taxes between domestic and imported goods and services. Viet Nam has been strictly implementing its commitments since the WTO's accession.

2 (From Hong Kong, China) (comment)

We commend Viet Nam's effort in bringing down its average applied tariff from 15.9% in 1998 to 11.79% in 2007. We urge Viet Nam for early reduction of the applied tariff to implement its WTO's commitments.

Answer:

Viet Nam has been implementing seriously its commitments under the WTO

IAP Chapter 2: Non-tariff measures

- 1 **The 2008 IAP lists a number of items which are still prohibited import items, including used (i) textiles, shoes, and clothes, (ii) electronics, (iii) household electronics, (iv) household commodities, etc. Used vehicles and related products also seem to be subject to rather stringent import restrictions. What is the rationale of these import restrictions? Please provide, if any, concrete timeline for easing these import bans.**

Answer:

According to Decree No. 12/2006/ND-CP of the government, used commodities (textiles, shoes, electronics, household electronics, household commodities, etc.,) are in the list of items which are prohibited import items.

These non-tariff measures aim to protect health of human, creature, fauna, protect environment, social security and ensure usage criteria of products.

The list is reviewed annually and gradually reduced to ensure that Viet Nam fully observes commitments to international organisations and fora in due time. However, there are, as yet, no special roadmaps for eliminating the list.

- 2 In the Section “General Policy Position”, the IAP states that Viet Nam has diminished gradually the number of quantitative restrained commodities. Could you provide more detailed information on this, including the dynamics of number of reduced restrictions and the name of major items affected by this policy change?**

Answer:

According to Decision No.46/2001/QD-TTg, the government has adjusted the lists of prohibited import and export items, removing some import items out of the list of licensed import items. The government set out a roadmap to eliminate licenses towards import items in the period 2001–2005, aiming to eliminate quotas for rice export, fertilizer import, wine import, identify principles for managing import - export items of sector management. The government is applying new management measures consistent with WTO regulations, such as: tariff quotas, absolute taxes, anti-dumping tax, anti-subsidizing, etc.

According to Decree No.12/2006/ND-CP dated 23/01/2006, the government has removed quotas for some import items out of the List of prohibited import items and the list of licensed import items such as used cars, motorbikes of over 175 cm³, sugar, cigarettes etc.

- 3 Several products, including petroleum, fertilizers, two-wheeled vehicles, twelve-seat tourist buses and downward, iron, steel and cement, etc., are subject to “Discretionary Import Licensing”, whereas no products are subject to “Automatic Import Licensing”. Is there any plan to reform and deregulate this practice? Was it an issue raised and/or discussed during the accession negotiations to the WTO? If yes, what were the comments of WTO members on this practice?**

Answer:

Decree No.12/2006/ND-CP dated 23/01/2006, the government has eliminated issuing import licenses for products such as raw oil, fertilizers, two-wheeled vehicles, 12 seat tourist buses and downward, iron, steel, cement, etc. They can now be imported in the same way as other products.

- 4 The “Minimum Import Price” scheme is an unusual trade policy instrument, not very frequently observed elsewhere. The Vietnamese government has stated that over the period of 1998–2008 the number of groups of products subject to this scheme was reduced from 21 to 7. Could you provide the full list of products and product groups affected by this scheme in 1998 and 2008, respectively? Please give explanation of why Viet Nam was and is still in need of this minimum import price scheme?**

Answer:

The “Minimum Import Price”: Viet Nam has eliminated this method and has been implementing the Custom Value Agreement of WTO.

- 5 Several product categories, including tobacco products, oil products, steel and related products, media products (newspapers, audio-visual products), and aircrafts, are subject to state trading in Viet Nam. It seems that the government did not announce any plans to reform this practice yet. Has the Vietnamese government made plans to reform this in the meantime? If no, do you intend to do it in the near future?**

Answer:

Of the products listed in Question No. 5, only oil products and cigarettes are subject to state trading in Viet Nam at present. Other products are subject to private trading. The government has also allowed petroleum enterprises to adjust the price to the market prices (the government has eliminated the subsidy).

- 6 Please explain the “line management measure” with (i) its definition, (ii) its rationale, (iii) principle of operation, (iv) sectors applied and products affected, etc. How will these measures be changed in the future?**

Answer:

Articles 7. Decree 12 specifically regulates about import – export items under licenses of the sectoral management Ministries. According to that, regulates the Lists of import – export items under the sectoral management and management principles applying the List in each sector. This list is reviewed every year.

- 7 Has the Vietnamese government legislated the trade-remedy measures, such as anti-dumping law, countervailing provisions, and safeguard rules?
If yes, when did it happen? Could you provide the legal texts?
If no, when does the government plan to do it?
In view of this, please provide some statistics about Vietnamese involvement in these three remedy practices, with the economy both as complainant and defendant.**

Answer:

Legal text is attached.

Review of the 2008 Individual Action Plan of Viet Nam

Anti-dumping investigation to Viet Nam

Year	Total	Products	Investigation economies
2009	30	Waterproof rubber footwear and bottoms	Canada
	29	All Fully Drawn or Fully Oriented Yarn/Spin Draw Yarn/Flat Yarn of Polyester (FDY)	India
	28	uncovered innerspring	USA
2008	27	Tarpaulin, made of polyethylene or polypropylene	Turkey
2007	26	Compact Disc-Recordable (CD-R)	India
	25	Compact Fluorescent Lamps (CFL)	India
	24	pocket lighter	Turkey
2006	23	Footwear	Peru
	22	V-belts	Turkey
2005	21	Spoke	Argentina
	20	Compact Fluorescent Lamps (CFL)	Ai Cập
	19	Footwear	EU
2004	18	surfboard	Peru
	17	Compact Fluorescent Lamps (CFL)	EU
	16	Stainless steel fasteners and parts thereof (SSF)	EU
	15	Steel Pine	EU
	14	Bicycle	EU
	13	Tubes of bicycles and cars	Turkey
	12	Ring binder mechanisms	EU
	11	Shrimp	USA
2003	10	Zinc Oxyde	EU
	9	Catfish	USA
2002	8	Lighters	Korea
	7	Pocket Lighters	EU
	6	Waterproof Footwear and Waterproof Footwear Bottoms	Canada
	5	Garlic	Canada
2001	4	Lighters	Ba Lan
1998	3	Footwear	EU
	2	Monosodium glutamate	EU
1994	1	Rice	Colombia

Source: Viet Nam Competition Administration Department

8 (Comment from Hong Kong, China)

We note that Viet Nam maintains NTMs mainly for the reasons of protection of health, safety, security and environment. We urge Viet Nam for early elimination of unnecessary NTMs to implement its WTO's commitments. (page 2 of chapter 2).

Answer:

We note and will consider this comment.

9 Additional question from meeting with IAP experts on 31.03.2009

Please clarify why 70 tariff lines CKD are not included in IAP Tariff Dispersion Table.

Answer:

Petroleum and other finished products in the range 2710.11 including 13 tariff lines (starting with * at the tariff column of the Preferential Import Tariff) are applied under the Decisions of the Minister of Finance for a certain period. See Paragraph 2, Article 4, Decision No 106/2007/QD-BTC dated 20/12/2007 of the Minister of Finance concerning promulgating preferential import or export tariffs.

Regarding CKD spare parts of automobile in the range 87.02, 87.03 and 87.04 including 57 tariff lines (starting with ** at the tariff column in the Preferential Import Tariff), there are no regulations on preferential import tax for CKD spare parts. However, tax can be levied on each spare part (see paragraph 3, article 4, decision 106/2007/QD-BTC) and the Ministry of Finance guide to categorise such products at Annex II, issued together with Decision No. 106/2007/QD-BTC dated 20/12/2007 of the Minister of Finance.

10 Additional question from meeting with IAP experts on 31.03.2009

Please provide an overview of the insurance market

Answer:

A. Legal normative documents regulating insurance business operations include:

Law on Insurance business No 24/2000/QH10 dated 09/12/2000 regulates the organization and operation of insurance business, and defines the rights and obligations of organizations and individuals participating in insurance activities.

Government Decree No 45/2007/NĐ-CP dated 27/3/2007 provides detailed guidance to implement a number of articles of the Law on Insurance business.

Ministry of Finance Circular 155/2007/TT-BTC dated 20/12/2007 provides guidance for the implementation of Government Decree No 45/2007/NĐ-CP dated 27/3/2007.

Government Decree No 46/2007/ND-CP dated 27/3/2007 regulates financial regulations for insurance businesses and insurance brokerage businesses

Ministry of Finance Circular 156/2007/TT-BTC provides guidance for the implementation of the Government Decree No 46/2007/NĐ-CP dated 27/3/2007.

B. Market shares of domestic and foreign invested Insurance businesses (year 2008)

Mode of business	Domestic insurance businesses (%)	Foreign invested businesses (%)
Non- life insurance	96	6
Life insurance	33	67
Insurance brokerage	25	75

11 Additional question from meeting with IAP experts on 31.03.2009

Please provide Tariff data from 2005-2008

Answer:

Individual Action Plan: Tariff Dispersion List 2005

	0%	1-5%	6-10%	11-15%	16-20%	>20%	Details	Total
All commodities	3115	1932	1140	196	840	3466		10,689
Agriculture excluding fish	132	217	129	44	145	580		1247
Fish and fish originated products	6	1	6	0	0	130		143
Petroleum and gas complex	15	15	3	2	2	0		37
Weed, wood pulp, paper and furniture	194	92	89	6	39	210		630
Textile and clothing	54	47	25	21	108	904		1159
Leather, rubber, shoes, tourist apparels	12	152	23	4	43	111		345
Metal	475	278	204	17	90	137		1201
Chemical and photography devices	778	321	211	18	99	153		1580
Transportation equipments	98	125	143	34	26	600		1026
Non-electric machineries	783	259	89	27	136	142		1436
Electric machineries	239	123	127	15	96	166		766
Minerals, gems, metals	57	196	20	5	4	114		396
Other manufactured commodities	272	106	71	3	52	219		723

Individual Action Plan: Tariff Dispersion List 2006

	0%	1-5%	6-10%	11-15%	16-20%	>20%	Details	Total
All commodities	3138	1917	1116	217	839	3457		10,689
Agriculture excluding fish	132	221	126	49	144	531		1247
Fish and fish originated products	6	1	6	0	0	130		143
Petroleum and gas complex	22	10	1	2	2	0		37
Weed, wood pulp, paper and furniture	194	92	89	6	39	210		630
Textile and clothing	54	47	25	21	108	904		1159
Leather, rubber, shoes, tourist apparels	15	149	23	4	43	111		345
Metal	470	268	219	17	90	137		1201
Chemical and photography devices	779	320	208	18	98	153		1580
Transportation equipments	98	121	102	63	42	435		1026
Non-electric machineries	791	277	86	15	129	138		1436
Electric machineries	239	123	136	14	88	166		766
Minerals, gems, metals	66	182	20	5	4	114		396
Other manufactured commodities	272	106	71	3	52	219		723

Individual Action Plan: Tariff Dispersion List 2007

	0%	1-5%	6-10%	11-15%	16-20%	>20%	Details	Total
All commodities	3260	2209	1213	891	1072	2465		11,110
Agriculture excluding fish	131	212	130	56	134	569		1232
Fish and fish originated products	6	1	4	0	1	129		141
Petroleum and gas complex	7	10	2	16	2	0		37
Weed, wood pulp, paper and furniture	202	92	89	6	46	200		635
Textile and clothing	54	170	12	531	388	5		1160
Leather, rubber, shoes, tourist apparels	41	123	32	4	35	110		345
Metal	465	324	241	24	78	120		1252
Chemical and photography devices	800	340	221	18	89	148		1616
Transportation equipments	120	191	152	111	93	581		1248
Non-electric machineries	821	315	101	90	68	128		1523
Electric machineries	264	139	142	27	81	145		798
Minerals, gems, metals	77	185	16	5	4	113		400
Other manufactured commodities	272	107	71	3	53	217		723

Individual Action Plan: Tariff Dispersion List 2008 under MFN and WTO's commitments

		0%	1-5%	6-10%	11-15%	16-20%	20-40%	>40%	Total
All commodities	MFN 2008	2766	1913	965	768	808	1704	197	9104
	WTO 2008	1124	1948	1688	784	1163	2125	342	9174
Fish and fish originated products	MFN 2008	7	2	0	0	1	151	0	161
	WTO 2008	6	0	2	0	1	152	0	161
Leather, rubber, shoes, tourist apparels	MFN 2008	26	113	35	5	30	82	7	298
	WTO 2008	5	76	84	5	38	81	9	298
Petroleum and gas complex	MFN 2008	5	8	1	5	2	0	0	34
	WTO 2008	0	0	0	4	1	29	0	34
Weed, wood pulp, paper and furniture	MFN 2008	106	94	79	11	40	166	0	496
	WTO 2008	77	103	92	12	38	174	0	496
Chemical, photography devices	MFN 2008	720	287	172	23	74	106	0	1382
	WTO 2008	111	348	623	94	91	113	2	1382
Textile and clothing	MFN 2008	59	153	11	440	259	0	5	927
	WTO 2008	1	178	14	470	259	0	5	927
Other manufactured commodities	MFN 2008	256	87	49	4	37	198	0	631
	WTO 2008	237	102	50	3	39	200	0	631
Metal	MFN 2008	367	242	171	25	63	117	4	989
	WTO 2008	106	196	213	19	237	208	10	989
Minerals, gems	MFN 2008	79	174	12	6	4	78	24	377
	WTO 2008	12	176	57	3	18	71	40	377
Non – electric machineries	MFN 2008	219	145	111	40	80	164	2	757
	WTO 2008	108	142	139	25	142	191	10	757
Electric machineries	MFN 2008	707	297	103	91	57	100	4	1356
	WTO 2008	331	433	221	51	140	165	15	1356
Agriculture excluding fish	MFN 2008	129	214	136	77	115	480	57	1208
	WTO 2008	90	163	165	62	140	472	116	1208
Transportation equipments	MFN 2008	86	97	85	41	46	62	94	558
	WTO 2008	40	31	28	36	19	269	135	558

IAP Chapter 3: Services

1 The 2008 IAP sets out many reforms of various service sectors.

Please summarise the reforms the Government considers to be the most significant.

Answer:

During 2008, the National Assembly and Ministries responsible for service sector have continuously improved the legal documents norms and guidelines to their portfolios to comply with the WTO's commitments. The most significant measures are as follows:

Taxation: Following the ratification of the Individual Income Tax Law and the Enterprise Tax Law by the National Assembly, the Government and the Ministry of Finance issued decrees, ordinances to guide the implementation of these Laws. These documents regulate many issues related to individual incomes of foreigners in enterprises, service supply organisations, income tax of domestic and foreign enterprises and organisations in Viet Nam.

Telecommunications: Government Decree No 121/2008/ND-CP dated 3/12/2008 regarding investment in this sector.

Legal services: Government Decree on management of foreign cooperation: Government Decree No. 77/2008/ND-CP dated 16/7/2009 on legal consultation; Government Decree No 66/2008/ND-CP dated 28/5/2008 on legal assistance for enterprises.

Distribution service: Government Decree No 40.2008/ND-CP dated 07/4/2008 on production and business of wine.

Other services: Government Decree No 52/2008/ND-CP dated 22/4/2008 on security services; Government Decree No 34/2008/ND-CP dated 25/3/2008 on employment and management of foreigners working in Viet Nam.

3(a:1) Business services legal

1 Additional comments from the Government of Viet Nam on the scope of professional operation of foreign lawyers and foreign law organizations:

Foreign lawyers may carry out consultancy of foreign legal matters. Foreign lawyers may carry out consultancy of Vietnamese legal matters if they have a Vietnamese bachelor degree of law and meet all similar requirements for a Vietnamese lawyer. Foreign lawyers may not participate in prosecutions with the position of a defendant, benefit protector of the party, representative, protector of legal rights and benefits of the party before Viet Nam prosecution agency.

Foreign law organizations may carry out consultancy of legal matters and other legal services. They may not assign foreign lawyers to take part in prosecution with the position of a defendant, benefit protector of the party, representative, protector of legal before Viet Nam prosecution agency. Foreign law organization may assign Vietnamese lawyers to consult on Vietnamese legal matters, participate with the position of representative, protector of legal rights and interests of the party before Viet Nam Court in cases that fall under the profession scope of the foreign law companies, except criminal cases.

3(a:2) Business services accounting

- 1 (From Japan related to IAP Chapter 3 a2: Discriminatory Treatment/ MFN)
Are those requirements written in “Current Entry Requirements” of “Discriminatory Treatment/ MFN” are imposed on only foreign accounting service suppliers?**

Answer:

They do not apply as the International Treaty is prioritized to apply according to the Decree No. 105/2004/ND-CP of the government dated 30/03/2004 upon independent audit (Article 8) and the Resolution No. 71/2006/NQ-QH11 dated 29/11/2006 ratifying the Protocol on Viet Nam’s accession to the WTO.

3(b:3) Communication services: telecommunication

- 1 (From Hong Kong, China)
We note under “Foreign Entry” that “Foreign exploiters are allowed to form joint ventures with Viet Nam’s licensed telecommunication enterprises with capital participation up to 49%”. We suggest the foreign restriction ownership of telecommunications business operation should be gradually removed (page 3 of Chapter 3(b:3)).**

Answer:

Relevant decisions are under consideration.

3(b:4) Communication services: audio-visual

- 1 (From Hong Kong, China)
As set out in Chapter 3 (b:4) of Viet Nam’s IAP, no discriminatory or non-MFN measure is in place for audio-visual services. However, we note from Viet Nam’s schedule of specific commitments made in the WTO GATS context that Viet Nam currently maintains three MFN exemptions on audio-visual services which are all of indefinite duration. We would like to seek clarification from Viet Nam as to whether there are any existing non-MFN measures being maintained for the services. If not,**

would Viet Nam consider removing the exemptions from its GATS offers to be tabled for the current round of WTO Services negotiations? If immediate removal is considered not possible at this juncture, would Viet Nam at least set down a specific expiry date for the exemptions in its offers? (page 9 of Chapter 3(b:4))

Answer:

This may be a technical mistake. Another reason is that the regulations indicated in previous IAP did not allow foreign entry, hence, we made technical mistakes by listing list limitations and discriminatory provisions. The Law on Cinema promulgated and come into effective from January 2007 provides in details regulation on audio-visual activities and services. The Law and its guideline documents allow some discrimination between domestic and foreign products, such as regulation on time and duration to project Vietnamese films and soap operas.

It should be noted that audio-visual services is one of the most sensitive sectors, with capacity to have strong influence on socio-politic life and communications. Not only Viet Nam, but also other economies try to protect and improve cultural industry and audio-visual is one of the most important component of that industry. However, protection policies and regulations are different from economy to economy. The Government of Viet Nam has a policy to preserve national culture and to bring into play the economy's tradition as well as to acquire the world's cultural value on a selective basis. Viet Nam currently maintains three MFN exemptions on audio-visual services in order to achieve above said targets as well as strengthen and stimulate cultural cooperation and links between the economies concerned. Another reason to maintain these MFN exemptions is to promote moral and cultural values of Viet Nam. These measures aim to promote cultural values both within Viet Nam and those economies which take part in bilateral and/or plurilateral agreements. We do not expect to revise these measures in the near future.

2 (From Hong Kong, China)

We also note from Viet Nam's schedule of specific commitments under the GATS that commercial presence for most of the audio-visual services scheduled therein is only allowed in the forms of business cooperation contracts or joint ventures with Vietnamese partners, and foreign capital contribution is subject to a ceiling of 51%. We however could not locate those limitations from Chapter 3 (b:4) of Viet Nam's IAP. We would thus like to seek Viet Nam's clarification as to whether those limitations are actually in place on the ground. If Viet Nam's existing regime is indeed more liberal than what it has committed under the GATS, would it consider reflecting its existing

regime in its future GATS offers so as to enhance the legal certainty and predictability of its regime?

Answer:

It must be noted that commitment under WTO GATS, especially market access for mode 3, is more open than our domestic policy. For example, Law in Cinema has not provided any provisions on foreign entry in film production. Foreign investment is allowed only in the form of BCC and other bilateral and plurilateral cooperation agreements. IAP may contain some technical mistakes by not listing limitations and requirements, but previous legal documents have sought out where foreign investment was not permitted. We have not updated the Law in Cinema.

Up to now, we have only two joint ventures, in which foreign investors have taken part and in which their capital exceed more than 51%. However, these two cases were accepted only in parallel with investment in cinema and/or studio construction, renovation, restoration. They obtained investment licenses before official membership of Viet Nam in WTO and when there was no cinema and/or studio which met international standard for noise, lighting etc. These two joint ventures met the economic need test. Others are applied in line with Viet Nam commitment in WTO. Amendment of Law in Cinema, which is being considered by the National Assembly, aims at regulations to meet our commitment. However its amended, market access and foreign capital distribution conditions will not be no more than our commitment to the WTO.

3(d) Distribution services

1 (From Japan)

IAP Chapter: 3 (d) on distribution services and discriminatory treatment/ MFN.

“Retail units mean outlets for retailing” described in Viet Nam’s schedule of the WTO; this does not seem to comply with the description of “Current Entry Requirements” of “Discriminatory Treatment/ MFN”. Please clarify.

Answer:

As of 01/01/2009, distribution enterprises with 100% foreign ownership can be established in Viet Nam. However, for foreign distribution companies, the establishment of retail sales outlets in addition to the first retail outlet shall be considered on a case by case basis and shall depend on the number of service providers existing in a geographic area, market stability and geographic size. This clause is for concreting the term “economic needs test” (ENT) in the Viet Nam’s WTO-Commitment for opening the distribution service.

3(g) *Financial services*

1 (From Australia)

Please note any prospects for further improvement or deregulation of financial services in accordance with WTO and/or FTA commitments.

Answer:

To develop the draft Decree to replace Decree No.118/2003/ND-CP upon administrative punishment in insurance business.

2 (From Australia)

In the IAP Viet Nam notes that operational requirements in insurance are implemented in the following documents:

- **Insurance Law.**
- **Decree numbered 45/2007/ND-CP and Circular numbered 155/2007/TT-BTC**
- **Decree numbered 46/2007/ND-CP and Circular numbered 156/2007/TT-BTC**

Please explain the main requirement/regulations/rules in the relevant Laws and Decrees.

Answer:

Main requirements/regulations/principles are stated in the following Laws and Decrees.

- Law on Insurance business adjusts organising and activities in insurance business, identifies rights and obligations of organisations, individuals participating in insurance.
- Decree No. 45/2007/ND-CP dated 27/03/2007 details the implementation of some articles of Law on Insurance Business, applying to activities of insurance business, reinsurance business, insurance intermediation business and insurance agency.
- Ordinance No. 155/2007/TT-BTC guides the implementation of Decree No. 45/2007/ND-CP dated 27/03/2007 of the government.
- Decree No. 46/2007/ND-CP dated 27/-3/2007 regulates financial mechanism of insurance companies, the establishment, organising and operation of insurance intermediation companies under the regulations of Law on Insurance Business.
- Circular No. 156/2007/TT-BTC guides the implementation of Decree No. 46/2007/ND-CP dated 27/03/2007 of the government.

3 (From Australia)

Classification of foreign banks: is a locally incorporated foreign bank subsidiary regarded as a 100% foreign invested bank?

Answer:

Government Decree No. 22/2006/ND-CP dated 28 February 2006 on the organization and operation of branches of foreign bank, joint venture banks, 100% foreign-invested banks, representative offices of foreign credit institutions in Viet Nam stipulates as follows:

“Branch of foreign bank is a dependent of the Parent Bank, having no legal status in accordance with Vietnamese law, being guaranteed in writing by the Parent Bank for all obligations and commitments of the branch in Viet Nam” and

“100% foreign invested bank is a bank being incorporated in Viet Nam with 100% foreign invested chartered capital; more than 50% of which must be invested by a foreign bank (Parent Bank). 100% foreign invested bank is a legal Vietnamese entity which is established under the form of a limited liability company and bases its operation in Viet Nam.”

4 (From Australia)

Under licensing and qualification requirements of service providers, the IAP notes that item 2 Article 106 of the Law on credit organisations requires that:

- **Branches of foreign banks must have a provided capital of at least the legal capital level as regulated by the Government and**
- **Their managers must be of full civil capacity.**

(a) Please explain whether their capital has to be kept locally or in the originating economy.

Answer:

Article 28 of Law on Credit Institutions No.02/1997/QH10 dated 12 December 1997 stipulates: “The part of its legal capital contributed in cash has to be deposited to a frozen non-interest account opened at the State Bank at least 30 days prior to the commencement of operation. Such an amount of capital shall be released only after the commencement of operation by the credit institution”.

Capital of a foreign bank branch is stipulated at Article 34 of the Circular of the Governor of the State bank of Viet Nam No. 03/2007/TT-NHNN dated 05 June 2007 guiding the implementation of several articles of the Decree No. 22/2006/ND-CP dated 28 February 2006 of the Government on the organization and operation of foreign bank branches, joint venture banks, 100% foreign owned banks, representative offices of foreign credit institutions in Viet

Nam: “For the paid-in capital that is being deposited at overseas credit institutions, the foreign bank must make a commitment (which is signed by its competent representative) ensuring the full remittance of the capital amount into Viet Nam right after being requested by the State Bank.”.

(b) *Please explain the meaning of full civil capacity: is it a residency requirement?*

Answer:

Definition of “Full Civil Acts Capacity of a Person” is stipulated at Article 17 and Article 19 of the 2005 Civil Code: “Civil acts capacity of a person is capacity of a person who can by his acts be able to set up and carry out his civil rights and obligations”; And “Adults has full civil acts capacity, unless otherwise stipulated at Article 22 and Article 23 of this Code”

Definition of “Resident” is stipulated at Article 4 of Ordinance of Foreign Exchange No. 28-2005-PL-UBTVQH11 as follows:

“Residents means organizations and individuals in the following categories:

(a) Credit institutions established and carrying on business activities in Viet Nam (hereinafter referred to as credit institutions);

(b) Economic institutions established and carrying on business activities in Viet Nam except for entities stipulated in sub-clause (a) above (hereinafter referred to as economic institutions);

(c) State bodies, units of the people’s armed forces, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations and social funds and charitable funds of Viet Nam operating in Viet Nam;

(d) Diplomatic representative offices and consulates of Viet Nam in foreign economies;

(dd) Representative offices in foreign economies of the entities stipulated in sub-clauses (a), (b) and (c) above;

(e) Vietnamese citizens residing in Viet Nam; Vietnamese citizens residing overseas for a duration of less than twelve (12) months; and Vietnamese citizens working for any of the organizations stipulated in sub-clauses (d) and (dd) above and the individuals accompanying such citizens;

(g) Vietnamese citizens traveling overseas for purposes of tourism, study, medical treatment or visits;

(h) Foreigners residing in Viet Nam for a duration of twelve (12) months or more, except for foreigners coming to Viet Nam for study, medical treatment, tourism, or to work for diplomatic representative offices, consulates or representative offices of foreign organizations in Viet Nam.”

These two definitions are completely unrelated.

5 (From Australia)

Chapter capital:

The IAP notes that one of the conditions mentioned in item 1 Article 22 of the Law on credit organisations states that “Joint venture banks, 100% foreign invested banks must have the chapter capital of at least the legal capital level as stipulated by the Government.” What is the definition of chapter capital?

Answer:

This was a mistake; the right word is charter capital.

6 (From Australia)

Capital contributions:

The IAP sets out conditions for capital contributions of foreign credit organisations as follows:

- (1) Branches of foreign banks can only contribute capital, buy shares of enterprises and other credit organisations when they are empowered and provided capital by the mother bank to do so.**
- (2) The rate and form of chapter capital distribution of the foreign party and Viet Nam party in joint venture banks are decided up to the two parties’ negotiation and must be clearly stated in the Regulation. The maximum capital distribution rate of the foreign party is no more than 50% of the chapter capital of the joint venture banks, except for special cases decided by the Prime Minister.**
- (3) The rate of chapter capital distribution of the foreign party and Viet Nam party in joint venture financial lending companies is decided up to the two parties’ negotiation and approved by Viet Nam State Bank. The foreign party’s share is no less than 30% of the company’s chapter capital.**
- (4) The rate of chapter capital distribution of the foreign party and Viet Nam party in joint venture financial companies is decided up to the two parties’ negotiation**

and approved by State Bank. The foreign party's share is no more than 40% of the company's chapter capital.

Please explain the reasons for the upper and lower percentage limits in 2, 3 and 4 above.

Answer:

Regulations on capital contribution are stipulated in the existing legal documents and are in conformity with Viet Nam's international commitments.

In particular, regulations on capital contribution are stipulated in the following documents:

- Article 46 of Government Decree No. 22/2006/ND-CP;
- Item 5.1 of Circular No. 06/2005/TT/NHNN providing guidance for the implementation of several articles of the Government Decree No. 16/2001/ND-CP dated 2/5/2001 on organization and operation of financial leasing company and Decree No. 65/2005/ND-CP dated 19/5/2005 of the Government on the amendment and supplement to some articles of Decree No. 16/2001/ND-CP dated 2/5/2001 on organization and operation of financial leasing company;
- Article 1 of Government Decree No. 81/2008/NĐ-CP dated 29/7/2008 of the Government on the amendment and supplement to some articles of Government Decree No. 79/2002/NĐ-CP dated 4/10/2002 on organization and operation of finance company.

The current ratios of capital ownership of the local and foreign investors in the Vietnamese banks, which are stipulated in the Government Decrees are corresponding to the reality. It's necessary to have a roadmap approved by the Government for changing these ratios.

7 (From Chinese Taipei

It is our understanding that foreign banks in Viet Nam are prohibited from receiving foreign currency deposits from local residents. We would like to ask the Viet Nam government to describe the rationale of imposing such a restriction on foreign banks. Is there any possibility for Viet Nam to relax such a restriction?

Answer:

According to Viet Nam's commitments in banking sector under WTO, foreign banks are allowed to accept deposits in foreign currency from Vietnamese natural persons and legal entities.

Foreign bank branches are allowed to accept unlimitedly deposits in Vietnamese Dong from Vietnamese legal entities. Viet Nam may limit the right of a foreign bank branch to accept

deposits in Vietnamese Dong from Vietnamese natural persons according to the schedule below:

- 1 January 2007: 650% of legal paid-in capital;
- 1 January 2008: 800% of legal paid-in capital;
- 1 January 2009: 900% of legal paid-in capital;
- 1 January 2010: 1,000% of legal-paid-in capital;
- 1 January 2011: Full national treatment.

8 (From Hong Kong, China)

We note from Chapter 3 (g) of Viet Nam’s IAP that foreign credit organizations are subject to certain discriminatory measures in terms of operation period and capital contribution. Nevertheless, we could not locate those measures from Viet Nam’s schedule of specific commitments under the GATS. We would like to seek Viet Nam’s advice as to how those discriminatory measures are considered consistent with its existing GATS commitments for financial services? (pages 15 - 16 of Chapter 3(g)).

Answer:

According to recent regulations, there’s no discrimination in terms of operation period between local banks and foreign banks in Viet Nam.

In the Part 7.B of the banking and other financial services in the Schedule of Specific Commitments in Services under WTO, there’s regulation on the equity participation of the foreign investors including foreign credit institutions at the Vietnamese commercial banks.

3(j) Recreational and cultural services

1 (From Japan)

Are there any limitations or requirements on Foreign Entry of recreational and entertainment services?

Answer:

We have been preparing to launch some Act and/or Mandatory Law to regulate recreational and entertainment sectors. These future mandatory rules shall not conflict with our commitments in WTO and other FTAs Viet Nam has signed. It means that foreign entry of commercial presence is allowed only in form of business cooperation contracts or joint ventures with Vietnamese partners who are legally authorized to provide recreational and entertainment services with foreign capital contribution not exceeding 49% of the legal capital of the joint ventures.

In addition, there are current regulations applied to both domestic and foreign suppliers on a non-discriminatory basis. Content of recreation and entertainment services must comply with domestic regulation and must have content censored by Viet Nam's competent authorities. Viet Nam retains all rights to maintain or adopt any measures in relation to market access and national treatment applied for mode 1 and 4. However, any future regulation must be consistent with our commitments in WTO/GATS.

3(k) Transport services

1 Port and airport capacity

(a) *Please comment on plans to improve the capacity of Viet Nam ports and airports to cope with the growth of trade, including the construction of additional infrastructure and upgrading of information technology.*

Answer:

Airport infrastructure

Currently, the civil aviation industry has been managing 22 airports, including 5 international airports and 18 local airports (5 international airports include: Noi Bai, Cat Bi, Da Nang, Phu Bai and Tan Son Nhat).

- Northern Airport Corporation is operating 7 airports.
- Central Airport Corporation is operating 7 airports.
- Southern Airport Corporation is operating 8 airports.

Up to date, there are 21 (out of 22) airport master plans to 2015 with orientation to 2025 have been approved. Accordingly, these airports will be upgraded to enhance capacity, so as to meet the increasing demands of passenger air-transport and enable local socio-economic development. The periodical investment in infrastructure includes new constructions and extensions of stations for passengers, goods, landing and taxi lanes, terminals and equipments to serve the flights and extend the land to improve the airports.

During 2009 – 2010, Cam Ranh and Can Tho airports will be upgraded to international airports.

Towards 2020, several airports will be newly constructed, including international airports such as Long Thanh (capacity: 80 million passengers annually), Phu Quoc (capacity: 4 million passengers annually) and local airports such as Lai Chau, Than Thiet, Lao Cai, Quang Ninh, Thanh Hoa, An Giang with the capacity of 0.5 – 2 million passengers per annum.

In the master plan toward 2020, Viet Nam will have 28 airports, including 9 international airports (Noi Bai, Cat Bi, Da Nang, Cam Ranh, Phu Bai, Chu Lai, Phu Quoc, Tan Son Nhat and Long Thanh).

Seaport infrastructure

Facing with the opportunities and challenges as an official WTO member, Viet Nam port system has the task of receiving a variety of ships, especially ships with large loading capacity, handling most of import and export goods, helping cost deducting, enhancing competitive capability of Vietnamese goods in international arena. To meet that requirement, Viet Nam seaport system has to develop in both hardware and software. It means that infrastructure must be upgraded as well as applied modern management structure and enhancing capability in port operation so as to build a Viet Nam modern seaport system and sea exploration capacity. Government has drawn up a break-through plan for construction, making full use of potentials and advantages of seaports at present and those will be developed in future. Viet Nam Maritime Directorate is implementing project on comprehensive construction and planning of Viet Nam seaport system up to 2020 and prospectus towards 2030.

Seaport operation management: In order to achieve common benefits from available seaport assets, Viet Nam seaport system should have a responsible organisational structure with close coordination to effectively operate in a competitive environment. Management model should be adjusted properly since each port bears different geographic and exploration conditions relating to seaports, goods, warehouses, economic condition and transportation networks (ferries, road and railway transportation).

Currently, Viet Nam seaport managers have been improving on knowledge on seaport operation, technology, facilities as well as skills to match with future development.

- (b) *What is the expected role of the private sector (including public-private partnerships) for investment in ports and airports?*

Answer:

Airport infrastructure

Local and international individuals and organizations are allowed to construct airports under the Vietnamese legislation on investment and construction. This kind of investment and construction should comply with the master plan to develop the airport system and the detailed airport master plan which have been approved by the authorised State agencies.

Currently, airports in Viet Nam are under the management of the Ministry of Transport. The Ministry of Transport encourages investors to invest in airports in Viet Nam under the

regulations of investment in construction. Up to date, in Viet Nam, there are 02 investors that have been approved to invest in airports: Changi International Airport Corporation (CIA) to invest in Phu Bai International Airport and the group of Vietnamese investors (led by BIDV and Viet Nam Airlines) to invest in Cam Ranh airport.

Seaport infrastructure

Article 64 of Viet Nam Maritime Law stipulates: “local and international individuals and organizations are permitted to invest, construct seaports, groups of seaports in line with regulations of the law.

Individuals, organizations invest, construct seaports, groups of seaports make decision on forms of management and operation of seaports, groups of seaports

In this sense, Viet Nam Government has carried out open policies so as to attract investment from many financial resources to seaport infrastructure. Contents of agreements on Marine transportation either signed or in process of negotiation between Viet Nam and other economies are also relating to investment in building seaport infrastructure in line with Article 64 of Viet Nam Maritime Law

IAP Chapter 4: Investment

1 Viet Nam has introduced an Investment Law and the Enterprise Law. Please summarise the experience of implementing this legislation and any problems encountered?

Answer:

Problems

Several regulations under the laws are still indefinite; guiding documents do not cover all necessary contents and some are incompatible with other regulations. This leads to different understanding and interpretations among competent authorities and investors.

Experiences

Guiding regulations should be issued on time. In fact, there are 6 Decrees, 3 Circulars and ministerial decisions have been promulgated.

The Task Force on Implementation of Enterprise Law and Investment Law was established in 2006. The taskforce has successfully undertaken the supervision and guidance on the implementation of the two laws.

2 Are there any restrictions on repatriation of profits?

Answer:

Investors are allowed to transfer all capital, profits and other legal assets after undertaking taxation obligations. The Government, for national financial and monetary security, can promulgate restricted measures of transfer (Ordinance on foreign currency 2005).

3 The review of the 2005 IAP review cited the following issues which were considered to have an negative effect on inward investment:

- (1) restrictions on the transfer of ownership, including a requirement for central government approval;**
- (2) constraints on issuing stock**
- (3) requirements on the management structure of joint ventures;**
- (4) limitations on ability to use land rights as collateral; and**
- (5) limitations on the period of investment licenses — authorisation for a joint venture is normally limited to 20–30 years, with renewal requiring government approval.**

Have there been any policy changes to deal with any of these issues?

Answer:

There have been substantial improvements and changes dealing with the issues mentioned above. Those can be found in the Investment Law, Enterprise Law 2005 and documents providing guidelines for the implementation of those laws.

Transfer of ownership: investors shall be entitled to assign their capital in their enterprises and perform the procedures for registration of members in the register of members or registration of shareholders in the register of shareholders in accordance with the Law on Enterprises and relevant laws.

Constraints on issuing stock: the management structure of joint venture under the Foreign Investment Law is replaced with the corporate governance under the Enterprise Law 2005. The Enterprise Law 2005 provides a series of regulations to improve corporate governance, including minority shareholders protection and internal governance structures.

Limitations on ability to use land rights as collateral: the duration of a foreign invested project shall be commensurate with the requirements for operation of the project and shall not exceed fifty (50) years. Where necessary, the Government shall decide on a longer duration for each project, but the maximum duration shall not exceed seventy (70) years.

- 4 Please summarise any other complaints about Viet Nam’s policy on investment and any changes made or expected to be made to respond to these concerns.**

Answer:

- 5 Please update Table 2.6 in the previous IAP review.**

Answer:

Updated and included in the review.

- 6 (From Canada)**

Viet Nam states that it provides investors with the following guarantee: “Ensure fair treatment among foreign investors and gradually diminish discrimination between internal and foreign investors.”

(a) Could Viet Nam please confirm that “fair treatment among foreign investors” is consistent with the concept of Most Favoured Nation treatment?

(b) Could Viet Nam also elaborate on its plans to diminish the discrimination between domestic and foreign investors to establish a level playing field for all investors, consistent with the idea of National Treatment?

Answer:

Article 4 of the Law on Investment 2005 states that the State shall provide equal treatment before the law to all investors from all economic sectors, and as between domestic investment and foreign investment; and the State shall encourage and facilitate investment activities.

The Law on Investment and the Law on Enterprises 2005 are typical illustrations that Viet Nam has considerably reformed its investment climate toward the establishment of a level playing field for all investors. The two legislations establish a common business legal framework for both foreign and domestic investors as well as for private and public enterprises.

7 (From Canada)

Viet Nam also states that it provides investors with this guarantee: “Apply the principle of not retroacting in case foreign investors’ interests are damaged when there are changes in Viet Nam’s legal system.”

(a) Could Viet Nam please clarify the meaning of this statement?

(b) Is this a statement of intent to refrain from making legislative changes that would adversely affect a foreign investor’s interests (i.e. reference to the ideas of a ratchet mechanism and standstill provision)?

Answer:

If a newly promulgated law or policy contains higher benefits and incentives than those to which the investor was previously entitled, then the investor shall be entitled to the benefits and incentives pursuant to the new law as from the date the new law or policy takes effect.

In a case where a newly promulgated law or policy adversely affects the lawful interests to which an investor was entitled before such new law or policy took effect, the investor shall be guaranteed entitlement to the incentives stipulated in the Investment Certificate or shall be subject to continued entitlement to the existing rights and incentives.

8 (From Canada)

Transparency:

(a) Could Viet Nam please indicate whether its website on foreign investment is currently operational, and whether the decrees and relevant regulations/legislation are available on-line and in English?

Answer:

The official website on foreign investment is www.fia.mpi.gov.vn where decrees and relevant regulations/legislations are available on-line and in English.

(b) Could Viet Nam please detail its consultative process for allowing stakeholders, including foreign investors to comment on draft laws or policy change related to investment?

Answer:

According to the Law on Legal Normative Documents 2008, the agencies presiding over the formulation of legal normative documents have to consult relevant bodies and applicable entities of the documents; drafts of legal normative documents must be available on the Government Website or Websites of the agencies for at least 60 days.

9 Expropriation and compensation:

Could Viet Nam please indicate by which criteria it determines “reasonable” compensation?

Answer:

In a case of real necessity for the purpose of national defense and security and in the national interest, if the State acquires compulsorily or requisitions an asset of an investor, such investor shall be compensated or paid damages at the market prices at the time of announcement of such compulsory acquisition or requisition. Payment of compensation or damages must ensure the lawful interests of investors and be made on the basis of non-discrimination between investors. Procedures and conditions for compulsory acquisition and requisition shall be implemented in accordance with laws. The law on property expropriation 2008 provides details and guidelines for the expropriation process.

10 Performance requirements:

Does Viet Nam maintain any rules on technology transfer?

Answer:

The Government creates favorable conditions for technology transfer and ensures the legitimate rights and interests of technology transfer parties, including capital contribution by technology in order to implement investment projects in Viet Nam in accordance with the law on intellectual property and the law on technology transfer.

Technology transfer is compulsory in cases where technology is used for public purposes, non beneficial, national defense and security, disease prevention and treatment, or other public urgent demands. It is also compulsory for projects of breeder plants and animal development, or cultivating, storage and processing of agricultural, forestry, aquaculture products in areas with difficult socio-economic conditions.

11 Settlement of disputes:

Could Viet Nam please indicate whether it allows transparency through the public availability of documents and open hearings in dispute settlement cases?

Answer:

The guidelines on this issue are being finalised. It is expected that all proceedings and documents will be available to the public, except in cases where parties declare them to be commercial-in-confidence. It is essential to protect confidential information and the participation of a third party may prejudice the rights of the respondent State.

IAP Chapter 5: Standards and conformance

- 1 What are the main challenges that Viet Nam faces in promoting alignment of its standards with international standards and participating in international standardisation activities and Mutual Recognition Arrangements?**

Answer:

When adopting international standards as Viet Nam national standards, we implement a translation method. This approach has required more cost and time for adoption.

- 2 The overview table notes that Viet Nam has set up a website of an agency to inform about TBT and Q&A about TBT. Please provide the address of that website.**

Answer:

Website: <http://www.tbvn.org>

- 3 Participation in projects and training courses held by APEC:**

- (a) Please list some of the training courses attended by people from Viet Nam?*

Answer:

Training Course on Water Meters, 23-26 September, 2008, Ha Noi, Viet Nam

- (b) Has Viet Nam received any other technical co-operation on standards and conformance from other APEC economies?*

Answer:

Viet Nam has not received any other technical co-operation on standards and conformance from other APEC economies.

- 4 (From Canada)**

Viet Nam states that the most important standards are “fully” posted for public consultation. Can Viet Nam elaborate on the criteria that are used to determine which standards are important enough to be posted for public comment?

Answer:

All draft standards are posted on website for public comment for 60 days.

- 5 (From Hong Kong, China)**

We note and appreciate the efforts of Viet Nam in aligning their standards with international standards – about 39% of their national standards could align with international standards systems and the alignment process would continue. We also noted that Viet Nam had participated actively in plurilateral/bilateral recognition

arrangements of conformity assessment in the regulated sector. As Viet Nam reported that they had “inked 18 MoUs and cooperation agreements with domestic and overseas standard organisations”, it would be a good reference if the 18 agreements could be listed out in the IAP. (page 14 of chapter 5).

Answer:

List of MOUs and agreements signed and implemented from 2000 to 2007

- Agreement in the field of standardization metrology and certification between the Ministry of Science, Technology and Environment of Viet Nam and The State committee of Russia for standardization metrology and certification (signed 01/03/2001);
- Agreement in the field of mutual recognition of the results of works on certification and testing between the Ministry of Science, Technology and Environment of Viet Nam and The State committee of Russia for standardization metrology and certification (signed 01/03/2001);
- MOU on cooperation in the field of testing and R/D concerning the electrical industries between the Directorate for Standards and Quality of Viet Nam and Korea Electrotechnology research institute (KERI) (signed 03/12/2001);
- Agreement on cooperation in the field of standardization metrology and conformity assessment between the Directorate for Standards and Quality of Viet Nam and the State bureau of Quality and technical supervision of the People’s republic of China (signed 18/02/2001);
- MOU on cooperation in the field of the standards for product certificates for components and parts of motorcycle carried out by CQC between the Directorate for Standards and Quality of Viet Nam and China Quality Certification Center (signed 26/09/2003);
- MOU on cooperation in the field of standardization, metrology and quality management between the Directorate for Standards and Quality of Viet Nam and State administration for quality managements of Democratic people Republic of Korea (signed 20/11/2003);
- Cooperative agreement on mutual recognition of conformity assessment result between the Viet Nam economic and cultural office in Chinese Taipei and the Chinese Taipei economic and cultural office, Ha Noi, Viet Nam (signed 12/08/2004);

- MOU on cooperation to enhance the ability for TCVN and ASTM International standards between the Directorate for Standards and Quality of Viet Nam and ASTM International (signed 15/02/2004);
- MOU on cooperation in the field of the standardization, metrology and conformity assessment between the Directorate for Standards and Quality of Viet Nam and Bureau of Standards, Metrology and inspection, Chinese Taipei (signed 08/09/2005);
- MOU on cooperation in the field of standardization, conformity assessment and the mutual exchange of information and publication between the Directorate for Standards and Quality of Viet Nam and The American national standards Institute (signed 14/09/2006);
- MOU on cooperation in the field of petroleum technology and quality control between the Directorate for Standards and Quality of Viet Nam and Korea institute of petroleum quality (KiPEq) (signed 21/10/2006);
- MOU on cooperation in the field of the standardization, conformity assessment, metrology and accreditation between the Directorate for Standards and Quality of Viet Nam and Emirates authority for standardization and metrology (signed 04/09/2007);
- Agreement on cooperation in the field of standardization metrology and conformity assessment between the Ministry of Science and Technology of Viet Nam and The State committee of Belarus for standardization (signed 14/12/2007).

IAP Chapter 6: Customs procedures

1 Customs Modernisation Strategy

(a) *Please provide an update on the implementation of this strategy.*

Answer:

Noticeable achievements in customs reform and modernization made by Viet Nam Customs in 2008 include the following:

The government has developed and issued the Master Plan on “Customs Reform, Development and Modernization in 2008-2010 period” attached by 04 Action Plans on Information Technology Development; Capacity Building on customs enforcement; Reinforce Post Audit Clearance (PCA) activities; Enhance PCA and Customs Valuation techniques.

At the moment, Viet Nam Customs is implementing Customs Modernization Strategy to 2020 and at the same time carrying out the component on “Strategy management” under the Customs Modernization Project funded by the World Bank.

Completed the objectives set in the pilot stage of e-customs procedures, continue to develop and update related softwares.

Facilities have been upgraded and improved, especially for IT.

Develop a project on the application of IT to reform administrative management at the Headquarters, use the internet to deliver documents, email, send and receive reports, etc.

(b) *What are the major problems Viet Nam has encountered in improving its customs procedures*

Answer:

Viet Nam Customs try to simplify and reform our procedures by reforming the traditional procedures and applying e-customs.

Some problems encountered when reforming the traditional procedures are:

- The implementation of the Revised Kyoto Convention standards requires appropriate revisions in domestic laws and regulations.
- The requirement on enhancing the application of IT, which need both practical experience and financial resources.
- Cooperation with related agencies.

Regarding e-customs, Viet Nam does not have practical experience on e-customs procedures as it is not only new to the customs administration but also to the business community. Viet Nam Customs is currently carrying out the pilot stage to improve e-customs procedures before actual application in larger scale.

(c) *How far has Viet Nam gone in adopting APEC standards on custom procedures?*

Answer:

Since Viet Nam became a member of APEC in 1998, Viet Nam Customs has actively studied and applied APEC standards and guidance to our procedures by joining the Revised Kyoto Convention in 2008, implementing WTO Agreement on Customs Valuation, Transparent, IPR, enforcement activities, etc. In 2007, Viet Nam Customs issued the Action Plan to implement APEC SAFE Framework.

However, Viet Nam Customs has to face with difficulties and limitations in a developing economy. To support our efforts, it would be very helpful if Viet Nam Customs could receive

support and assistance from international organizations, other Customs Administrations and from the private sector.

(d) *Has Viet Nam completed the implementation of the GATT Customs Valuation Agreement?*

Answer:

All rules and methods set in GATT Agreement came in to effect in Viet Nam. A database on valuation of goods was built to facilitate the work of customs officers. Companies also can search for valuation of specific goods in the customs website.

2 APEC's Trade Facilitation Action Plan is encouraging a Single Window for customs clearance.

(a) *Is Viet Nam participating in this collective action plan?*

Answer:

Yes, Viet Nam is participating in this collective action plan.

(b) *If so, what is the experience with implementation?*

Answer:

Viet Nam Customs is implementing the CAP on Single Window (SW) and is a member of the APEC Working Group on SW. According to ASEAN Agreement on SW, Viet Nam will have its National SW (NSW) in 2012.

The Ministry of Finance (Viet Nam Customs) was appointed by the Government to be the lead agency in establishing and implementing its NSW and Viet Nam Customs is now carrying out the planning stage to establish an electronically oriented NSW.

3 The overview notes that the customs website has been upgraded. Please provide the address of that website.

Answer:

Address is: <http://www.customs.gov.vn>

4 In 2006, Viet Nam announced a partnership with FedEx to help improve customs procedures at some of Viet Nam's major airports. What has been the experience with that project? Has there been any follow-up or other partnerships with the private sector to improve customs administration?

Answer:

The project was implemented in 02 main international airport named Noi Bai International Airport (in Ha Noi) and Tan Son Nhat International Airport (in Ho Chi Minh City) in 60 days with 02 USA big express companies: Fedex (in Ha Noi) and UPS (in HCM city).

The project assisted Viet Nam Customs to develop a pilot computer system to receive and process electronic customs declaration forms applied to express goods by airway before the goods arrive in order to enhance security and improve the speed of procedures for express cargo at international airports of Viet Nam and risk management capacity of customs based on the advanced information.

The project also helped Viet Nam Customs to partly implement the Customs-Business pillar of the WCO SAFE Framework.

5 Please comment on any other recent initiatives to expedite cargo processing.

Answer:

- Continue to review and improve technical procedures to be more simplified and transparent.
- Expand the implementation of e-customs procedures.
- Standardize goods classification techniques and apply HS code to the goods subjected to the control of other Ministries or Departments.
- Complete the development of risk management criteria.
- Maintain the network among customs, state bank of Viet Nam and treasury department.

6 Has Viet Nam received any technical co-operation from other APEC economies to improve customs administration?

Answer:

Viet Nam Customs has received valuable support from APEC in organizing workshops on Time Release Survey, WCO Framework and funds for customs officers to attend workshops, seminars, training courses hosted by APEC or APEC Members.

7 Viet Nam joined the Tokyo Convention on simplifying and harmonizing customs procedures in 2008.

(a) *Please describe the benefits gained from joining this convention.*

Answer:

The Revised Kyoto Convention is an international standard convention on customs procedures, thus by joining this convention, Viet Nam Customs made a remarkable improve in its position to meet international level. Moreover, the implementation of the RKC will support Viet Nam Customs in its reform and modernization process.

(b) *What problems have been experienced in implementing the convention?*

Answer:

In implementing the convention, Viet Nam Customs has to cope with many difficulties and limitations in a developing economy especially IT infrastructure. Some basic standards of the convention are not covered in current customs legislation, IT infrastructure does not meet all of the requirements needed to implement e-customs procedures. However, in the next 3–5 years, Viet Nam will try to implement all the convention rules, ensure the availability of domestic legal framework and prepare needed resources in line with the standards of the convention.

8 (From Peru)

When does Viet Nam expect to adopt the ATA Carnet Convention?

Answer:

At the moment, Viet Nam Customs is studying contents of ATA Carnet Convention and will make efforts to join the Convention early.

9 (From Peru)

Implementation of advance classification ruling system:

(a) *Could the Advanced Classification ruling be requested by e-mail?*

Answer:

Companies can apply for advanced classification ruling to the customs by email with all the information on the goods as name, images, technical specifications, etc.

(b) *What is the timeframe for expecting an answer?*

Answer:

Upon receiving all required information, customs will response on the classification after 5 days.

(c) *Could these answers be appealed and claimed?*

Answer:

If the companies do not agree with advanced classification results made by the customs based on information provided via email, they can request the customs to re-classify based on documents and the actual goods.

10 (From Peru)

Alignment with WTO valuation agreement:

Viet Nam has set up its database system assessment in accordance with the guidelines of the WCO in the development and use of a national database of valuation as a risk assessment tool to accelerate trade facilitation. Is this data base system in the public domain or is it only for internal use?

Answer:

This data base system is for internal use only.

11 (From Peru)

Kyoto Convention:

We would like to know how the Customs Service of Viet Nam prepared for the implementation of the Revised Kyoto Convention rules.

Answer:

Before joining the Convention, Viet Nam has interpreted the convention rules to domestic laws and regulations on customs and developed an Action Plan for the implementation of RKC right after the convention come into force in Viet Nam.

After the joining, Viet Nam Customs cooperated with related ministries and agencies to establish an inter-agency working group to implement the convention. The working group will be the lead body in proposing new or revised regulations and other conditions required for the successful implementation of the convention in the next 3-5 years to come.

12 (From Peru)

Risk management techniques:

What kind of channel selection uses Viet Nam Customs for controlling goods during clearance process?

Answer:

Based on risk management results, the exported, imported goods will be in: Green lane (no examination); Yellow lane (documents check) or Red lane (physical examination including documents check).

Main criteria to make decision on the lane of goods are: company's records on compliance; risk analysis process on specific cargo; random selection for examination.

- 13 The IAP notes that the Ministry of Finance is carrying out the experimental e-commerce customs procedures at the Departments of Customs in Haiphong and Ho Chi Minh City. What has been the experience of this experiment? Has it been extended to other ports or airports?**

Answer:

Electronic customs is tested in Hai Phong and HCM City according to Prime Ministerial Decision 149/2005/QD-TTg. According to figures from the Ministry of Finance, the from-a-distance declaration model of customs conducted stays at 67%. This number shows that enterprises have been active in making e- declaration, reducing meetings between enterprises and customs agencies, lessening burdensome and passiveness. Moreover, enterprises' consciousness of conforming to the law has been improved.

The above result affirms that the e-customs procedure is an obligatory demand in the context of Viet Nam's being a member of the WTO. E-customs is implemented to ensure the appropriation and compatibleness with the common development and the integration with the customs of the region and the world.

The from-a-distance declaration model of customs is also one of the measures to speed up the modernization of customs. With this model, time and cost for complying with all formalities and traveling are reduced remarkably. On the other hand, customs agencies have more time in information analyzing and processing because of not having to put figures in. The quality of information has been improved leading to high accuracy.

IAP Chapter 8: Competition policy

- 1 The IAP notes that Competition Law No. 27/2004/ took effect from the date of July 1st 2005. Please comment on the experience with implementing this law, and the problems which have come up.**

Answer:

Viet Nam's Competition Law has taken effects for 3 years. In the initial stage of implementing the Law, we (the Competition Administration) have focused on the following tasks:

- Disseminate the Competition Law to raise the awareness of the government's agencies, enterprises and the society about the importance, role and significance of the Law as well as functions, responsibilities and organising of the body implementing the Competition Law;
- Improve the enforcement mechanism;

- Improve the capacity of the staff;
- Accelerate market supervision (supervision of policies and laws, competition activities in the markets);
- Accelerate consultancy with enterprises;
- Develop the coordinate mechanism with sub – management agencies and relevant agencies;
- Investigation;
- Promote international cooperation for better experiences;

During the implementation, we have encountered some certain difficulties:

- The community is not fully aware of the importance of the Competition Law and its effects on the economy.
- The Competition Administration is newly established so there are some limitations of finance as well as of human resources (lack of staff, inexperience, lack of independence). Most of the staff are not trained in competition in depth. Besides, most of them are young and inexperienced.

2 At the end of the competition policy matrix, the IAP notes cooperation with America, Australia, Canada, Japan, UNDP, UNCTAD in the process of developing Competition and Antitrust Law. Please comment on how the APEC process and APEC working groups have helped to draft and implement Viet Nam’s competition policy.

Answer:

Since 2003, during the period of developing the Competition Law, the Competition Administration Department has been strongly supported by the Policy Implementation Assistance Project (PIAP), Canada and some other international organisations. There are some obstacles in implementing the Competition Law in Viet Nam, too. Major economies such as the United States, EU, Japan, Canada and Australia have more than 100 years experience in applying anti-monopoly policies. Therefore, the Competition Administration Department considers it a priority to cooperate with foreign agencies to learn from their experience.

In the framework of APEC, we hope that APEC member economies will assist Viet Nam in implementing the Competition Law through: organising workshops to discuss and exchange experiences, organising training courses such as investigation, market research skills etc., to

improve the capacity of staffs as well as learn other economies' experience to improve Viet Nam's competition Law.

3 (From Chinese Taipei)

In the section Competition Institution (including Enforcement Agencies), Cumulative Improvement Implemented to Date, there is a passage: “currently, depending on management field, the following offices are managing and regulating competition activities: Ministry of Industry and Trade (Competition Administration Department), Ministry of Finance (Department of prices), Ministry of Planning and Investment, Ministry of Culture, Sports, and Tourism of Viet Nam, Ministry of Science and Technology, Ministry of Information and Communications of Viet Nam.”

We would like to request Viet Nam to elaborate further. How does Viet Nam's Competition Administration Department coordinate the offices among the various ministries to manage and regulate competition activities?

Answer:

During the implementation of the Competition Law, the Competition Administration Department has cooperated with line agencies based on the principles of each agency's role and function. According to that, the Competition Administration Department will supervise and warn against anti-competitive activities to ensure a healthy and equal competition environment in each area; investigate and deal with activities in breach of the Competition Law. Line agencies are responsible for managing in economic and technical issues, ensure that there is no discrimination in market access, coordination and information sharing in specific investigations.

The Competition Administration Department has established relations with some affiliated agencies through signing memorandum of understanding, establishing working groups between the agencies and cooperating in specific cases.

IAP Chapter 9: Government procurement

1 The IAP notes that a new Law on Tendering has taken effect.

(a) Please comment on the experience with implementing this law, and the problems which have come up.

Answer:

Achievements

The legal system on public procurement has been established comprehensively increasing the extent of open bidding (31% of all packages in 2007, compared with 26.5% in 2006), decreasing the extent of limited bidding (4.16% of all packages in 2007, compared with 8.6% in 2006). This has saved money for the state budget (approximately 4% of the total spending on public procurement).

Post review on procurement has been strengthened.

The publishing/disclosing of procurement information has been strengthened.

The rights of bidders have been enhanced: they may file complaints on finding that their rights are affected.

Shortcomings

The legal documents relating to public procurement came out only recently (e.g.: guidelines on price adjustments)

The efficiency on public procurement still needs to be improved.

The quality of preparation stage (procurement plan, bidding documents) for bidding needs to be improved.

- (b) *Please comment on how the APEC process and APEC working groups have helped to draft and implement Viet Nam's competition policy.*

Activities of APEC working group concentrate on sharing information on best practices available. This has contributed relevant international experiences to support the process of law/policy making.

2 (From Chinese Taipei)

We would appreciate further information on the following:

- (a) *the threshold for open tendering*
- (b) *the bid bond amount for which the tendering suppliers must pay*
- (c) *the performance bond amount for which the awarded suppliers must pay*
- (d) *any regulations regarding "cap on liability and liquidated damages" in the contract.*

Answers:

- (a) No threshold for open tendering. All procurements must apply open tendering, except for the special circumstances that are justified for other methods.
- (b) The bid bond amount for which the tendering suppliers must pay: maximum 3% of the estimated cost of package.

- (c) The performance bond amount for which the awarded suppliers must pay: maximum 10% of the contract price.
- (d) Regulations regarding “cap on liability and liquidated damages” in the contract: in the contract form incorporated in standard bidding documents.

3 Hong Kong, China (comment)

We commend Viet Nam’s efforts in recent years in developing a comprehensive legal framework for improving its GP regime. We appreciate that Viet Nam will continue with its efforts in moving towards an open, fair and transparent GP regime. (page 2 of chapter 9).

Answer:

Comment noted.

IAP Chapter 10: Deregulation/regulatory review

1 The IAP notes that several Ministries and branches have been reorganized to make them more effective.

- (a) *Please describe some of these reorganisations, explaining their objective and the extent to which they have been implemented.*

Answer:

After the passage of Resolutions No. 01/2007/QH12 dated 31 July 2007 of the national Assembly regarding organizational structure of the Government of the 12th National Assembly, the Government issued Resolution No. 45/2007/NQ-CP dated 7 August 2007 regarding the plan for implementation of this Resolution of the National Assembly. To date, the Government of the 12th National Assembly has been restructured to be composed of 22 Ministries and Ministry-equivalent agencies on the basis of merging, splitting or dissolving of some Ministries and Ministry-equivalent agencies and incorporation of 4 Government-affiliated agencies into relevant Ministries.

The purposes of the Government restructuring are as follows:

- To realize the resolutions passed by the Communist Party of Viet Nam (CPV) with regard to public administration reform, the creation of Ministries that are of a multi-disciplinary and multi-sectional character, streamlined, rationalized and appropriate with the reality of Viet Nam.
- To correct and to overcome overlapping and duplication in terms of functions, responsibilities, duties and authority amongst Ministries and central sectoral agencies

according to a guiding principle that each function/ duty should only be allocated or assigned to one single organization which will be responsible for implementation and will be held accountable for the performance of such a function/ duty.

- To restructure, to reshuffle and to improve the organizational structure to ensure a unified and smooth character of the public administration.

What has been done to date includes the following:

- The Ministry of Industry and the Ministry of Trade have been merged to produce the Ministry of Industry and Trade;
- The Ministry of Fisheries and the Ministry of Agriculture and Rural Development have been merged to produce the Ministry of Agriculture and Rural Development;
- The Ministry of Culture – Sports – Tourism has been established on the basis of merging the Government Committee on Sports and Games to the Ministry of Culture and Information, and transferring the General Department of Tourism which used to be a Government-affiliated entity to this Ministry to become one of its components;
- The Ministry of Information and Communication has been established on the basis of the Ministry of the Ministry of Post and Telecommunication and the functions of administration of newspapers and publishing activities transferred from the Ministry of Culture and Information in terms of functions, responsibilities, duties, staffing indicative norms/ quotas and personnel matters;
- The National Committee on Population, Family and Children has been dissolved and its functions, responsibilities and duties have been transferred to relevant Ministries as follows:
 - Responsibilities and duties of State management of population matters and the complete block of personnel in charge of population matters have been transferred to the Ministry of Health;
 - Responsibilities and duties of State management of family matters and the complete block of personnel in charge of family matters have been transferred to the Ministry of Culture-Sports-Tourism;
 - Responsibilities and duties of State management of children matters and the complete block of personnel in charge of children matters have been transferred to the Ministry of Labor, Invalids and Social Affairs; and
 - The Central Committee Commendation and Award, the Government Committee on Religious Affairs and the Government Committee on Information Security

have been merged to the Ministry of Home Affairs to become components of this Ministry.

To date, the Government has issued various Decrees governing functions, responsibilities, authority and organizational structure of Ministries. Accordingly, Ministries are currently in the process of reshuffling, rationalizing and improving their respective functions, responsibilities, duties, and organizational structure of their affiliated entities to make sure that State management of sectors and fields is well executed as required.

(b) *How is the Government planning to assess the effectiveness of these reorganisations?*

Answer:

It is planned that in 2010, to prepare for the organizational structure of the Government of the 13th National Assembly, the Government will conduct reviews of the execution of the restructuring performance by the 12th Government, focusing on evaluation of the model of Ministries that are of a multi-disciplinary and multi-sectional character. Evaluation will primarily be focused on the following:

- The execution of State management function by Ministries and central sectoral agencies;
- The organizational structure of Ministries and Ministry-equivalent agencies;
- The problem of overlapping and duplication of functions, responsibilities and duties amongst Ministries and central sectoral agencies;
- The status and progress of public administration reform, especially administrative procedure reform with regard to execution of State management by Ministries and central sectoral agencies; and
- The issue of central-local decentralization.

2 Please describe some recent progress in state enterprise reform and some of the problems which have come up.

Answer:

Completion of legal framework to foster State-owned enterprises reform process:

Continue completion of legal regulations on transforming State-owned enterprises to operate under Enterprise Law, including the issuance of Government Decree No. 95/2006/ND-CP on transforming SOEs to one member limited companies; the issuance of Government Decree No. 109/2008/ND-CP on assigning, selling SOEs to

transform to private enterprises; the amendment of Government Decree on transforming SOEs to equitized companies.

Amend regulations on defining SOEs to provide guidance for reconstructing, transforming and fostering SOEs reform process, including the issuance of Decision 38/2007/QD-TTg on regulating criteria and classification from 100% SOEs to 100% State enterprises, majority State ownership enterprises and others; Amending policies on redundant workers as a result of SOEs reform process; on disbanding, merging, unifying, reconstructing SOEs...

Continue to refine law regulation system on the operation of state enterprises while state enterprises adjusting to operating under the Law on Enterprise.

Fostering SOEs equitization is a fundamental solution to SOEs reform process.

By August 2008, Viet Nam has equitized 3786 SOEs and parts of SOEs. Equitized SOEs operate equally with private and foreign invested enterprises. Viet Nam has extended the scope of equitized enterprises, without limitation on the scale of equitized enterprises. Equitized enterprises include economic groups (such as BaoViet Insurance and Finance Group), large-scale general companies (such as VINACONEX), State commercial banks (such as Vietcombank, Vietinbank)

Assigning, selling SOEs.

This is an innovative solution to SOEs which the State does not need to own, or can not be equitized. The important reform is extension of scope and scale of SOEs sold, not depending on how large State ownership in enterprises is, permitting foreign investors to hold shares in SOEs, selling SOEs by auction, enhancing transparency in assigning, selling SOEs etc... Since 1999, there has been 400 SOEs assigned or sold.

Transforming State enterprises to one member liability limited companies so as to transform 100% SOEs ownership to operate under Enterprise Law.

Objective of this solution is to foster reform process of 100% State ownership enterprises management which operate under the same legal framework with other enterprises. Up to now, there have not been official statistics about the transformation process in 2008 (by December 2007, 350 State member liability limited companies had been formed). Viet Nam plans to keep 400 100% State ownership enterprises which have operation in national defence, security and some other areas. The remaining will be equitized or transformed to multi-ownership enterprises.

Continuing reform process of 100% State ownership enterprises operating under SOEs Law.

Currently, there are 1350 SOEs including independent SOEs, General SOEs, member enterprises which are audited independently from general companies and group of mother – subsidiary companies. These enterprises will operate for a short time before being transformed to equitized and liability limited companies according to Enterprise Law.

Below is a summary on results of the reform and renovation of operational mechanism of state-owned enterprises:

- Viet Nam has taken many measures for the purpose of management and operational renovation of the state-owned enterprises; gradually approached international practices on State-owned enterprises' management, especially after joining to the WTO. Viet Nam intends to set a limitation to newly-established state enterprises, not provide budgetary finance for business operations; and to make amend the legal framework to put them on a equal footing with other enterprises.
- In trade relations, the Government has directed for the state trading enterprises to buy and sell on the basis of commercial calculation and not contrary to the international practices.
- Presently, procurement of the state-owned enterprises do not basically belong to Government procurement; the State does not consider state-owned enterprises as tools to carry out procurement activities of the government. Several state-owned enterprises are entitled to take part in government procurement activities but completely on a commercial basis, basing on bidding legal documents with equal competition of other enterprises

To fulfill equitisation

There are more than 900 state enterprises to be privatised and most of them are state economic corporations, companies and giant state-owned enterprises. This is not a small challenge due to the slowed down speed of privatising over the past time. During the year of 2007–2008, only 25% of the planned privatisation was achieved. One of the reasons is due to the falling stock values and the increased inflation. This makes an impact to IPO plans of the state-owned enterprises. From the end of 2007 some IPOs of the state-owned enterprises have failed, even for giant, branded and efficient state-owned enterprises. Another reason of the failure is that legal provisions on value estimation of good geographical location has been included into the enterprises' value during the process of equitisation, considerably increasing the value of enterprises.

In the coming years, in order to accelerate speed of privatisation, Viet Nam will make solutions to overcome the above obstacles.

Focus on reform of state ownership and management of state ownership towards practices of the economic market:

Studying the possibility of separating organisation and management of state enterprises' ownership from state administrative agencies in order to limit direct or indirect impact of state agencies to commercial decision of state enterprises. Professionalising state owned enterprises; eliminating the mechanism of state management which functions state ownership of enterprises (excluding non-benefitted enterprises).

Taking measures to reform state enterprises in order to ensure the implementation of WTO accession's commitments, including WTO principles of non-discrimination and market mechanism for state enterprises; solutions to assure the impact of state owners to decision of state enterprises is in conformity with those of other owners. The state owned agencies promulgate directly of their own decisions relating to enterprises but via a representative of state owners at the enterprises; reducing state-owned direct investment into enterprises; completing the mechanism of testing, supervising and estimating the efficiency of implementing function of state owners in business and commercial decision of state enterprises.

3 The IAP notes that in October 2008, Viet Nam has established a Steering Committee for the administrative reform of Government.

Please provide the composition of this Steering Committee, whether it has met and what are its main priorities.

Answer:

Following the Resolution No.01/2007/QH12 dated 31 July 2007 of the National Assembly upon the organising of the Government session XII, the Government promulgated the Decree No. 45/2007/NQ-CP dated 07 August 2007 about the schedule to implement the National Assembly's resolution. Till now, the government has implemented reorganising Ministries, line-Ministries including 22 Ministries and line-Ministries, in the spirit of merging or dismissing some Ministries, line-Ministries and transformed 4 Governmental agencies into Ministries.

Targets:

- Implement the Party's Resolutions on administration reform, establishing organising of multi-functional Ministries, simple, reasonable, suitable to Viet Nam's reality.

- Deal with the overlapping of functions, missions among the Ministries, sectors, in the principle that each task is assigned to only one organisation.
- Reorganise the organisations to ensure the consistency of the administration system.

The fulfilled tasks:

- Merge the Ministry of Industry with the Ministry of Trade into the Ministry of Industry and Trade;
- Merge the Ministry of Aquaculture with the Ministry of Agriculture and Rural Development into the Ministry of Agriculture and Rural Development;
- Establish the Ministry of Culture, Sport and Tourism, in the spirit of merging the Sport Commission with the Ministry of Culture – Information, transform the Tourism Administration from the Government to this Ministry;
- Establish the Ministry of Information and Telecommunication, based on the Ministry of Telecommunication and receive the functions, missions, organising of journalism management, publication from the Ministry of Culture and Information;
- Dismiss the Population, Family and Children Commission and transform its functions to the following competent Ministries:
 - Transform function of population management to the Ministry of Health Care.
 - Transform function of family management to the Ministry of Culture, Sport and Tourism.
 - Transform children management to the Ministry of Employment, Soldiers and Society.

The Government has promulgated Decrees to regulate functions, missions, rights and organising of the Ministries. According to that, the Ministries have been reorganising, improving their functions, missions and organising of related agencies to ensure the implementation of their state management.

It is scheduled that in 2010, in preparedness for the organising of the Government in XIII th National Assembly, the Government will review, assess the implementation of the 12th session of the Government; in which, focus on reviewing, assessing the organising of the multi-functional Ministries. Some contents are:

- The functional implementation of the state management of Ministries/ Agencies;
- Organising of the Ministries, line – Ministries;

- The overlapping situation of functions, missions among Ministries/Agencies;
- Administration reform, especially administration reform in implementation of state management of Ministries/Agencies;
- Allocation of management among the Ministries, the Central and local.

4 The IAP states that the Government will loosen the management of import and export and foreign agency: import and export licenses.

(a) Please provide a list of products where import licenses are required?

(b) Please provide a list of products where export licenses are required?

(c) Does the government intend to remove products from these lists?

Answer:

List of import – export licences:

The list of products requiring import- export licenses are stated in the Annex 2 (list of import - export products under the licenses of the Ministry of Trade, (now the Ministry of Industry and Trade) and Annex 3 (List of products under sectoral management), promulgated together with Decree No. 12/2006/ND-CP dated 23 January 2006 of the government. These lists are also described in Viet Nam’s IAP 2008.

The list of products under import automatic licenses are also stated in the Ordinance No. 17/2008/TT-BTC dated 12 December 2008 of the Ministry of Industry and Trade.

IAP Chapter 11: Implementation of WTO obligations

Please see questions and answers relating to the WTO in the General comments/overview section.

IAP Chapter 12: Dispute mediation

1 Viet Nam has promulgated an Investment Law for both domestic and foreign investors.

(a) Please describe any problems that have come up in the implementation of this new law.

(b) Have there been any disputes with private investors since the new law has been introduced

Answer:

Problems:

Several regulations under the laws are still partly unclear; guiding documents do not cover all necessary contents, and some are incompatible with other regulations. This leads to different understanding and interpretations among competent authorities and investors.

Experiences:

Guiding regulations are being issued on time. 6 Decrees, 3 Circulars and ministerial decisions have been promulgated.

The Task Force on Implementation of Enterprise Law and Investment Law was established in 2006. The taskforce has successfully undertaken the supervision and guidance on the implementation of the legislation.

FTAs and RTAs

1 The overview of Viet Nam's objectives for entering into FTAs or RTAs notes that: The scopes of adjustment and liberalisation stated in Bilateral and Regional Free Trade Agreements that Viet Nam signed need to meet the criteria and standards of the World Trade Organisation.

(a) *Has Viet Nam joined the WTO as a developing economy?*

Answer:

Yes. Viet Nam became an official member of the WTO from 11 January 2007. At that time, Viet Nam's GDP per capita in 2006 and 2007 was 715 USD and 833 USD, respectively. With this, Viet Nam is still in the list of less developed economies according to criteria of the UN.

(b) *In the opinion of the Viet Nam Government, what are the relevant criteria which FTAs and RTAs signed by Viet Nam need to meet?*

Answer:

The relevant criteria which FTAs and RTAs signed by Viet Nam need to meet the following criteria, inter alia:

- To bring into full play competitive advantages of the economy;
- To create preferential market access for Viet Nam's spearheading export products;
- To support modernization and industrialization process and structural adjustment of Viet Nam and;
- Timeframe and level of commitments to be commensurate with the capability of the whole economy.

(c) *Are there any RTAs or FTAs which have not been notified to the WTO?*

Answer:

Almost all RTAs/FTAs which Viet Nam signed as a member of ASEAN have been jointly notified to the WTO by all ASEAN Member States and Dialogue Partners with the support of the ASEAN Secretariat. Some RTAs/FTAs are under process of notification to the WTO.

(d) *If so, what is the reason they have not been submitted?*

Answer:

See above

2 The ASEAN FTA, the most important FTA for Viet Nam is not discussed in the IAP.

(a) *Is this agreement described elsewhere?*

Answer:

Full text of AFTA Agreement can be found on the website of ASEAN Secretariat (www.aseansec.org).

(b) *Please summarise the benefits and problems of membership of the ASEAN FTA.*

Answer:

Benefits and problems of membership of ASEAN FTA:

Benefits:

- Expanded ASEAN market of more than 500 million people, relatively high economic growth rate
- Reduction and elimination of tariff rates and removal of non-tariff barriers for preferential market penetration
- Negotiating leverage with dialogue partners
- ASEAN is an important import market with abundant resources and materials for domestic industries

Problems:

- Wide development gap among Member States
- Similar structure of exports products among Member States

3 China – ASEAN framework agreement.

In Article 3 the basic agreement for reducing tariffs on trade in goods is as follows:

(a) Normal Track: Products listed in the Normal Track by a Party on its own accord shall:

- i. have their respective applied MFN tariff rates gradually reduced or eliminated in accordance with specified schedules and rates (to be mutually agreed by the Parties) over a period from 1 January 2005 to 2010 for ASEAN 6 and China, and in the case of the newer ASEAN Member States, the period shall be from 1 January 2005 to 2015 with higher starting tariff rates and different staging; and
- ii. in respect of those tariffs which have been reduced but have not been eliminated under paragraph 4(a)(i) above, they shall be progressively eliminated within timeframes to be mutually agreed between the Parties.

(b) Sensitive Track: Products listed in the Sensitive Track by a Party on its own accord shall: have their respective applied MFN tariff rates reduced in accordance with the mutually agreed end rates and end dates; and where applicable, have their respective applied MFN tariff rates progressively eliminated within timeframes to be mutually agreed between the parties

(a) *When applied MFN tariffs are reduced in line with this agreement, are they reduced for all trading partners, or only for other parties to these agreements?*

Answer:

Applied MFN tariffs are reduced only for other Parties in the Agreement.

(b) *What products has Viet Nam listed in its Sensitive Track for this agreement, and what are the agreed rates for reducing MFN tariff rates for imports from China?*

Answer:

Sensitive List of Viet Nam under ACFTA includes: green tea, rice, sugar, spirits and brandy, tobacco, crude oil and petroleum, cement, paper, tyres, textile materials, tiles, automotives and automotive parts, wooden furniture. MFN tariff rates of all tariff lines in Normal Track of Viet Nam (imposed on imports from ASEAN economies and China) will go down to 0% in 2015.

4 Articles 4 and 5 of the China – ASEAN framework agreement note the intention to enter into negotiations to liberalise and facilitate trade in services and investment.

(a) *Have these negotiations commenced?*

Answer:

Yes, these negotiations have commenced. After the conclusion of the China – ASEAN Framework Agreement, ASEAN and China entered into negotiations to liberalize and facilitate trade in services and investment.

(b) *If so, please summarise the progress that has been made?*

Answer:

The Agreement on Trade in Services of the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and China entered into force on 1 July 2007. Until now, ASEAN has finalised the first package of commitments on trade in services and has embarked on negotiating the second package of commitments.

Agreements on Investment of the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and China have been finalized and is scheduled to be signed by ASEAN Economic Ministers at the side line of the 14th ASEAN Summit in March, 2009.

5 Article 11 of the China – ASEAN framework agreement notes the intention to set up a dispute settlement procedure. What progress has been made to set up a dispute settlement procedure?

Answer:

The Agreement on Procedures and Dispute Settlement Mechanism between ASEAN and China, which was signed in November 2004, applies to disputes among the Parties rising from the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and China.

6 The Committee on Trade and Investment of APEC has drawn up model chapters for FTAs and RTAs. Have negotiators from Viet Nam found these to be useful in the design of their FTA or RTA agreements?

Answer:

Yes, negotiators from Viet Nam found these model chapters useful because they provide a good template for us in services negotiation under existing FTA and RTA agreements and other bilateral and regional Free Trade Agreements in the time to come.

7 The FTA and RTA agreements listed in the IAP are between ASEAN and other economies. Does Viet Nam intend to negotiate any FTA or RTA agreement between Viet Nam and other non-ASEAN economies?

Answer:

The latest bilateral FTA, which Viet Nam had with an non-ASEAN economy, is the Viet Nam-Japan Economic Partnership Agreement on 25 December 2008. Viet Nam may kick off

other FTAs with other non-ASEAN economies in the future if those FTAs are feasible and may bring about trade benefits for both sides.

8 Please comment on recent progress in implementing the bilateral trade agreement with the United States.

Answer:

The Bilateral Trade Agreement (BTA) between Viet Nam and the United States entered into force on 10 December 2001. Since then, Viet Nam and the USA have been following strictly all commitments made in the Agreement. The agreement has contributed to significantly increasing trade volume between the two economies and the USA has become the sixth important trading partner and the biggest export market of Viet Nam as well.

9 (From Japan)

- (a) *Part 1: Description of current agreements, Agreement #5: Comprehensive economic partnership agreement between ASEAN and JAPAN. The status should be “take effect”. Date of entry into force is 12/1/2008.*

Answer:

Agree.

- (b) *For accuracy, the wording of “General provisions” and “Institutional framework and dispute settlement” should be in line with that of the actual Agreement.*

Answer:

Agree.

- (c) *In “Provisions relating to treatment of goods”, the name of Annex 1 should be written in correct as “Schedules for the Elimination or Reduction of Customs Duties” related to goods trade regulates the schedule of the Parties for the reduction or elimination of tariffs in the agreed time frame. And for Product scale should be written as “all products are categorized according to the Agreement.*

Answer:

Agree.

- (d) *For “Rules of origin”, the content should be about 2,400 line: General Rule (CTH or VA 40 %), Others: Product specific Rules.*

Answer:

Agree.

- (e) *In “Provisions relating to treatment of services, investment and government” it should be referred to investment.*

Answer:

Agree.

10 (From Japan)

Part 2: Agreement under negotiation. Agreement #2: Viet Nam-Japan Economic Partnership Agreement

- (a) *Investment and Governmental procurement are not included in the Agreement Scope in fact, so they should be deleted from “Agreement Scope”. Also, Competition should be added to “Agreement Scope.”*

Answer:

Investment is not included in the Agreement Scope, so it shall be deleted from “Agreement Scope”. However, Government Procurement is referred to Article 106 of Chapter 11 so we still keep it in “Agreement Scope”. We agreed to add competition to “Agreement Scope”.

- (b) *For accuracy, the wording should be in line with that of the actual Agreement. “Movement of business persons” should be “Movement of natural persons” and “Customs procedures and trade facilitations” should be “Customs procedures”.*

Answer:

Agree.

11 (From Hong Kong, China)

Implementation of WTO obligations (including ROO)

While we acknowledge that Viet Nam only acceded to the WTO in early 2007, we would like to see its early action to implement the WTO obligations as necessary. (pages 3 – 4 of chapter 11). We suggest Viet Nam provide more information on the implementation of the Trade-Related aspects of Intellectual Property Rights (TRIPS) Agreement and any planned improvements. (page 3 of chapter 11).

Answer:

Establishment and operation of a TRIPS-compliance intellectual property protection system is one of prerequisite requirements for accession to the WTO. According to the TRIPS Agreement, each Member shall provide adequate and effective protection of IPRs of nationals of other WTO Members based on national treatment and most favoured nation (MFN) treatment principles. Namely, each WTO Member shall establish a legal system and a mechanism for IPR protection (including copyright and related rights, industrial property

rights and rights to plant varieties) in compliance with minimum standards on content, scope, protection terms and enforcement (against IPR infringements) as described in the TRIPS Agreement.

In order to meet with the above-mentioned requirements, in the whole 11 year negotiation process for becoming Member of the WTO (from 1995 to 2006), Viet Nam had developed an IPRs Action Plan towards WTO membership. In the framework of this Action Plan, a series of legal documents was promulgated and amended, therefore, IPRs subject matters, one after another, had been protected, the protection system has been step by step developed improved to comply with requirements of the TRIPS Agreement. The IP Law 2005 and Government's Decrees on guiding the implementation of this Law in several fields, such as copyright and related rights (Decree No. 100/2006/ND-CP), industrial property rights (Decree No. 103/2006/ND-CP), plant varieties (Decree No. 104/2006/ND-CP), enforcement and the State's management of IPRs (Decree No. 105/ND-CP) and sanction of administrative violations in the field of industrial property (Decree No. 106/2006/ND-CP) were drafted and promulgated on the basis of the requirements of the TRIPS Agreement and were reviewed and suggested closely by other WTO Members.

In addition to the legal system, the State's mechanisms of management and enforcement of IPRs of Viet Nam have been improved continuously in terms of equipments and human resources.

Therefore, the negation process of Viet Nam towards WTO membership finished based on the existence of a system of IPR protection in Viet Nam that almost complies with minimum requirements set out in the TRIPS Agreement with a relative fully-constituted legal mechanism and an apparatus of State agencies with relatively sufficient competence for enforcement possibility.

In order to become a Member of the WTO, Viet Nam committed to comply with all requirements of the TRIPS Agreement at once from the accession date (i.e. 11 January 2007) without any transitional period.

In addition to general commitments, Viet Nam has had other certain commitments, such as promulgation of circulars guiding the implementation of the Criminal Code to ensure criminal sanctions against intentional activities of trademark counterfeit and piracy in commercial scale, and promulgation of legal tools to ensure the legal use of computer software of the State's authorities and the legal broadcast of programs of the State's broadcasting organisations.

As from the end of the negotiation process, Viet Nam has incessantly encouraged the IPR system to fully comply with international standards, mainly focusing on improving the legal system and enforcement of IPRs.

The mechanism of IPR establishment of Viet Nam has been fully-constituted since the promulgation of Circular No. 01/2007/TT-BKHHCN of 14 February 2007 of the Ministry of Science and Technology on procedures of establishment of industrial property rights.

The mechanism of IPR enforcement has been promptly improved by competent authorities of Viet Nam through the promulgation of: (i) Joint Circular No. 01/2008/TTLT-TANDTC-VKSNDTC-BCA-BTP of 29 February 2008 of the Supreme People's Court, the Supreme People's Procuracy, Ministry of Public Security and Ministry of Justice providing guidance for penal liability for infringements of intellectual property rights; and (ii) Joint Circular No. 02/2008/TTLT-TANDTC-VKSNDTC-BVHTT&DL-BKH&CN-BTP of 03 April 2008 of the Supreme People's Court, the Supreme People's Procuracy, Ministry of Culture, Sport and Tourism, Ministry of Science and Technology, and Ministry of Justice providing guidance for application of some legal provisions in dispute settlement on intellectual property rights before courts. In the near future, the Criminal Code of Viet Nam shall be amended and supplemented to corresponding to the IP Law. In addition, Viet Nam has issued a legal document guiding the granting, revoking of certificates of industrial property assessor, certificates of organizations having full conditions to do industrial property examination (Circular No. 01/2008/TT-BKHHCN of 25 February 2008 of Ministry of Science and Technology).

List of current legal documents on IPRs and information concerning IPR enforcement and improvement of public awareness of IPRs are indicated in next pages of the IAP 2008 of Viet Nam.

Trade facilitation

General questions

- 1 There is no information on trade facilitation which is an important component of progress towards the Bogor goals. When can a progress report on trade facilitation be made available?**

Answer:

Answers on Trade Facilitation were provided to the review team and are covered in the report.

Ministry of Industry and Trade of Viet Nam is in the process of coordinating with related ministries/agencies to consolidate further information on the implementation of the Action Plan on Trade Facilitation and will soon send to APEC members.

2 APEC leaders have endorsed the second phase of the Trade Facilitation Action Plan.

(a) *What are the policies being pursued by the Government of Viet Nam to reduce transactions costs?*

Answer:

Vietnamese government has been seriously implementing measures on trade facilitation in line with commitments made to APEC. Following the achievements under TFAP period 1, relevant Ministries and sectors continue to promote TFAP1's achievements, paving the way for the implementation of TFAP 2.

So as to reduce additional 5% of transaction cost in 2010 under the TFAP 2 framework, the Vietnamese government encourages relevant Ministries and sectors to carry out further measures on trade facilitation in the option list of TFAP 2 and new measures based on its own capability. Viet Nam has participated actively in important Pathfinder initiatives of APEC such as Single Window Custom Initiative under the framework of Sub-committee on Customs Procedures, Data Privacy Initiative under the framework of Sub-committee on Standards and Conformance. Regarding e-commerce, Viet Nam has gradually completed legal documents on paperless trading, extended the implementation of e-custom procedures and the National Single Window in 2012, contributing to paperless trading within APEC. In the field of business mobility, Viet Nam has been participating actively in the APEC Business Travel Card (ABTC) program to create favourable conditions for the mobility of businessmen in the region, and coordinating with APEC members to implement immigration cooperation program as well. So far, 10,106 people have entered Viet Nam using ABTC and 3,801 Vietnamese citizens hold an ABTC.

(b) *What are the main problems experienced in implementing such reforms?*

Answer:

As a developing economy, which joined APEC later than most others, Viet Nam has faced several difficulties in the implementation of trade facilitation. One of these difficulties is Viet Nam's inadequate policy system, which is needs further revision in order to provide a legal framework for trade facilitation activities. For example, e-commerce has been known in Viet Nam for only a very short time. With a view to facilitating e-commerce development, the Government of Viet Nam has been issuing new laws and policies to form a legal framework for e-commerce development. Another difficulty is the shortage of human resources. Viet

Nam needs to train its personnel in information technology to modernize customs procedures so as to implement single-window customs under ASEAN and APEC. Information technology infrastructure in customs and e-commerce needs to be upgraded to meet the demands of the implementation process.

- (c) *Has Viet Nam received technical assistance from other APEC economies to help implement trade facilitation measures?*

Answer:

ECOTECH activities are strong points of APEC. In the course of participating in APEC working groups, Viet Nam has learned from experiences of APEC members in applying measures in the four areas of TFAP. Viet Nam would like SCCP, SCSC, ECSG and MBG to build specific measures to enhance capacity for developing members in TFAP-2 implementation, so as to help these members to get benefits and accelerate trade facilitation process in the region.

Business mobility

1 Viet Nam is participating in the APEC Business Travel Card program.

- (a) *How many people have entered Viet Nam using the APEC Business Travel Card?*

Answer:

There have been 10,106 people entering Viet Nam using ABTC Card.

- (b) *How many Viet Nam citizens have obtained APEC Business Travel Cards?*

Answer:

There have been 3,801 Vietnamese citizens obtaining ABTC Card.

- (c) *What has been the experience (and any problems) implementing the APEC Business Travel Card program?*

Answer:

So far, we do not encounter many problems in implementing the APEC Business Travel Card program.

2 Many Asia Pacific economies do not require visas for tourists. Has Viet Nam considered visa-free travel for tourists?

Answer:

Currently, Viet Nam is implementing visa exemption for citizens of many economies without discriminating purposes of entry (including the purpose of tourism). If not being under of visa exemption, it is required a visa for tourists to enter Viet Nam.

Individual Action Plan on Paperless Trading

1 Please set out the main constraints on increasing the use of paperless trading.

Answer:

Paperless trading is the trading in which electronic means and information technology are used to increase the effectiveness of trade activities, to reduce methods of traditional goods exchange through papers, to simplify processes related to trade.

The implementation of paperless trading in Viet Nam in the passing years witnessed active changes; however, its effectiveness is still low. Through surveys, obstacles of using paperless trading are listed as follows:

Transaction security and safety is regarded as the biggest obstacle of increasing the use of paperless trading. With paperless trading, in the transaction process, customers usually have to reveal much information to website administrators or service providers. That sensitive private information is disclosed can lead to disturbing or threatening actions and spam. Therefore, data privacy is an important issue that many APEC seminars on e-commerce cover.

In the process of paperless trading implementation, e-payment ranks the second in the biggest obstacles. Enterprises seem concerned about using paperless procedures in the context of a weak e-payment system. Consumers have not had enough knowledge of e-payment services. Therefore, at present, the amount of cash circulated remains at a high level.

Another obstacle is the awareness of enterprises as well as Vietnamese people. For a long time, Vietnamese have had the habit of traditional shopping. To bring paperless trading into people's life is not easy as it requires changes of the awareness and opinions of people.

Moreover, the uncompleted legal environment and the weak infrastructure of information technology have not created favorable conditions for the use of paperless trading.

2 Has Viet Nam received technical co-operation from other APEC economies on paperless trading?

Answer:

In the cooperation framework of APEC, Viet Nam participated in several technical assistance programs and projects on paperless trading:

- Viet Nam attended the APEC Symposium on ebXML for Internet Paperless Trading and Collaborative e-Business in Thailand, July, 2004. The objectives of this symposium were to discuss all issues regarding the development and maintenance of standards and framework for the exchange of trade- related e-documents among APEC economy members, to enhance understanding and sharing technical know-how in achieving the paperless trading goal via of e-documents and e-services interchange projects based on XML and ebXML standards including other related technologies,
- Viet Nam E-commerce Association (Vecom) and APEC Digital Opportunity Center (ADOC) signed a cooperation memorandum on opening the APEC- Viet Nam E-learning Digital Center. The center, built with the direct assistance of Chinese Taipei aims at providing e-commerce knowledge from basic to advanced level and skills of practising with computers. Each training course lasts for one month with approximately 20 learners.
- Viet Nam participated in researching and contributing ideas to the APEC project “APEC Guidance for Electronic Commerce”, Using the Best Practices of E-government Procurement Systems” Stage 2 prepared by the Association for Cooperation with Economies of Asia and Pacific Region (Russia) in June, 2008.

Viet Nam IAP Peer Review: Corrigendum

Custom (page 35-36)

1. Page 35, Custom part, para 2: Change: “Viet Nam has made extensive efforts to improve the efficiency of its customs procedures, including by participation in the relevant specialist working groups of APEC and the collective action plan to set up a national single window, which is expected to be operating by 2010” to “Viet Nam has made extensive efforts to improve the efficiency of its customs procedures, including by participation in the relevant specialist working groups of APEC and the collective action plan to set up **its** national single window, which is expected to be operating by **2012**”

2. Page 36, to add one more bullet after bullet 1 as follows:

- Viet Nam Customs is implementing Customs Modernization Plan for the 2008-2010 period and establishing the Modernization Strategy to 2020, which focuses on information technology development including finalizing legal documents for the implementation of e-customs procedures; capacity building on customs enforcement; reinforcement of Post Audit Clearance (PCA) activities; enhancing PCA and customs valuation techniques.

3. Last paragraph from “To help overcome...global trade” should be read as follows:

“As noted in the answers to questions on the IAP, it is not proving easy to make all the intended improvements requiring extensive regulatory changes. Progress is also constrained by general weaknesses and limitations of a developing country which include IT infrastructure as well as practical experience and financial resources.

In addition to the internal efforts, to help overcome these problems, Viet Nam is mobilizing and utilizing several sources of support and assistance from international organizations, other customs administrations and private sector.”

Standards and conformance (page 34-35)

4. Page 34, 1st para, the first sentence “The Directorate for standards, Metrology and Quality is responsible for standardization and conformance setting and monitoring standard activities in Viet Nam” should be modified as follows: “The Directorate for standards, Metrology and Quality is government body responsible for standardization and conformance in Viet Nam”.

5. Page 34, 1st para, the second sentence “The Law on Standards and Technical Regulation was enacted in 2006, the Law on Product and Goods Quality was enacted in 2007 and the Law on Metrology is awaiting approval by the National Assembly” should be modified as follows: “The Law on Standards and Technical Regulation was enacted in 2006, the Law on Product and Goods Quality was enacted in 2007 and the Law on Metrology is drafting to be submitted to the National Assembly in 2010”.

6. Page 35, the 2nd paragraph should be read as follows:

“Viet Nam is a member of all the main international, regional standards and related organizations, including the Asia Pacific Laboratory Accreditation Cooperation, International Laboratory Accreditation Cooperation and has signed 18 MOUs and cooperation agreements with international and other national standards bodies”.

7. Page 36, the 1st paragraph should be read as follows: “Viet Nam has joined APEC mutual recognition agreements for electrical and electronic equipment and for food as well as the ASEAN mutual recognition agreement for electrical and electronic equipment. It is one of the pathfinders on Sectoral food MRA led by Thailand and one of the participant in APEC toy safety initiative led by USA”.