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U.S.-Vietnam Bilateral Trade Agreement
Commitments Road Map

Shiumei Lin
Alexander Koff

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Chapter I. Trade in Goods

Summary

The U.S.-Vietnam bilateral trade agreement grants reciprocal MFN tariff rates. Vietnam has committed to reducing tariffs in key areas, gradually eliminating non-tariff barriers such as quotas and licenses and expanding trading rights for U.S. individuals and companies.

<u>Target Date for Implementation</u>	<u>Area of Reform</u>
Upon entry into force	MFN and National Treatment Principles Tariff Structure Import Licensing Non-Tariff Barriers Trading rights (phase-in period up to 10 years) Distribution rights (phase-in period up to 7 years)
2 Years	Customs Valuation
3 Years	Tariff Reduction (phase in period of up to 6 years)

Phase-in Period	Area of Reform	Commitment
Upon entry into force	Most Favored Nation (MFN) Principle	Accord MFN conditions for U.S. goods including customs duties, levies & charges; methods of and international transfers of payment; rules & formalities on customs clearance, transit, warehouses and transshipment; internal taxes & charges; laws & regulations affecting sale, offering for sale, purchase, transportation, distribution, storage and use of products; and licenses and quantitative restrictions.
	National Treatment Principle	Accord national treatment on internal taxes or charges; sanitary & phytosanitary standards; and technical regulations.
	Trading Rights	Grant trading rights to domestic enterprises other than those listed in Annex B and C. Grant import trading rights to U.S. enterprises (for use in connection with investors' production) subject to restrictions listed in Annex B and C.
	Tariff System	Adopt tariff system of International Convention on the Harmonized Commodity Description and Coding System.
	Non-Tariff Barriers	Eliminate all import and export restrictions, quotas, licensing requirements, and controls for all product and service categories, other than those permitted by GATT 1994. Restrictions listed in Annexes B and C.
	Commercial Disputes	Accord national treatment to U.S. nationals or companies with respect to competent courts and administrative bodies; encourage adoption of international arbitration rules.
	State Trading	Adoption of non-discriminatory measures by state enterprises in their sales and purchases of imports or exports. Sales and purchases to be made solely in accordance with commercial considerations.

Phase-in Period	Area of Reform	Commitment
<p>Within 2 years of entry into force</p>	<p>Non-Tariff Barriers</p> <p>Customs Valuation</p> <p>Quantitative Restrictions</p>	<p>Limit all fees and charges other than import and export duties and other taxes to an amount approximate to cost of services rendered.</p> <p>Adopt system of customs valuation based on transaction value of imported merchandise, in accordance with standards established in Agreement on Implementation of Article VII of GATT.</p> <p>Ensure uniform and consistent implementation throughout customs territory.</p> <p>Begin phase-out on import quantitative restrictions for industrial products according to Annex B1</p>
<p>Within 3 years of entry into force</p>	<p>Trading Rights</p> <p>Distribution Rights</p> <p>National Treatment Principle</p> <p>Tariff Reduction</p>	<p>Grant trading rights to enterprises invested by U.S. nationals or companies in production and manufacturing sectors. Restrictions listed in Annexes B, C, and D.</p> <p>Allow U.S. nationals and companies to enter into joint ventures with Vietnamese counterparts. Equity contribution limited to 49% of legal capital of joint venture. Restrictions listed in Annexes B, C, and D.</p> <p>Begin phase-out for import trading rights for industrial products according to Annex D1.</p> <p>Allow joint ventures with Vietnamese distributors to be established, with equity contribution limited to 49%. Restrictions listed in Annex D1.</p> <p>Begin phase-out on distribution rights for industrial products as listed in Annex D1</p> <p>Elimination of all exceptions to National Treatment listed in Annex A.</p> <p>Implement tariff reductions according to Annex E</p>

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Phase-in Period	Area of Reform	Commitment
Within 5 years of entry into force	Trading Rights	Complete phase out for bound commitments on imports subject to state trading listed in Annex C1
Within 6 years of entry into force	Trading Rights Distribution Rights Tariff Reduction	Begin phase-out for import trading rights for agricultural products according to Annex D1. Begin phase-out for distribution rights in agricultural products according to Annex D1 Abolish limitation on capital contribution for joint ventures in distribution services. Restrictions listed in Annex D1. Allow U.S. companies to establish 100% U.S.-owned companies to engage in trading activities, subject to restrictions listed in Annexes B, C, & D. Complete tariff reductions according to Annex E.
Within 7 years of entry into force	Trading Rights Quantitative Restrictions Distribution Rights	Allow U.S. companies to establish 100% U.S.-owned companies to engage in trading activities, subject to restrictions listed in Annexes B, C, & D. Complete phase-out for bound commitments on export trading rights as listed in Annex D2. Complete phase-out for import quantitative restrictions on industrial products as listed in Annex B1. Allow 100% U.S. owned distributors to be established. Restrictions listed in Annex D1.

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Phase-in Period	Area of Reform	Commitment
Within 8 years of entry into force	Trading Rights	Complete phase-out for distribution rights on agricultural products as listed in Annex D1
Within 9 years of entry into force	Trading Rights	Complete phase-out for import trading rights on agricultural products as listed in Annex D1
Within 10 years of entry into force	Quantitative Restrictions Trading Rights Distribution Rights	Complete phase out for import quantitative restrictions on agricultural products as listed in Annex B1. Complete phase-out for bound commitments on import trading rights for industrial products as listed in Annex D1 Complete phase-out on distribution rights for industrial products according to Annex D1.

Annexes:

Annex A Exceptions to National Treatment in Vietnam
Phase-out within 3 years of entry into force

Annex B1 Import Quantitative Restrictions – Industrial Products
Phase-out within 2 – 7 years of entry into force

Import Quantitative Restrictions – Agricultural Products
Phase-out within 3 – 10 years of entry into force

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Annex B2	Export Quantitative Restrictions Unbound
Annex B3	Prohibited Imports
Annex B4	Export Prohibitions
Annex C1	Imports Subject to State Trading and Phase-Out Schedule Unbound to phase-out within 5 years of entry into force
Annex C2	Exports Subject to State Trading and Phase-Out Schedule Unbound
Annex D1	Phase-Out Periods for Restrictions on Import Trading Rights and Distribution Rights – Industrial Products Import Trading Rights commitments from Unbound to phase-out within 0 -- 7 years of entry into force. Distribution Rights commitments from Unbound to phase-out within 0 – 7 years of entry into force Phase-Out Periods for Restrictions on Import Trading Rights and Distribution Rights – Agricultural Products Trading Rights commitments from Unbound (not yet committed) to phase-out within 3 - 6 years of entry into force, with no phase-out for some trading rights. Distribution Rights commitments from Unbound (not yet committed) to phase-out within 3 - 5 years of entry into force Note: Phase-out periods for Import Trading and Distribution Rights begins on the date when joint ventures are first permitted, i.e., 3 years after entry into force.
Annex D2	Phase-Out Periods for Restrictions on Export Trading Rights Unbound to phase-out within 3 – 7 years of entry into force
Annex E	Tariffs – Industrial Products Current tariff schedule and tariff reduction commitments to be implemented within 3 years of entry into force. Tariffs -- Agricultural Products Current tariff schedule and tariff reduction commitments to be implemented within 3 years of entry into force (some meat products to be implemented within 6 years of entry into force)

Chapter II. Intellectual Property

Summary

With two exceptions, the following outlines Vietnam's timetable for implementation of the intellectual property chapter of the BTA. First, should Vietnam complete its accession to the WTO before the expiry of the below time-periods, Vietnam "shall comply fully" with those BTA obligations that coincide with those of the WTO TRIPS Agreement. (Article 18.3.) Second, Vietnam shall immediately comply with any obligations "to the extent possible under its existing laws." (Article 18.4.)

<u>Target Date for Implementation</u>	<u>Area of Reform</u>
12 Months	Trademark Registration Trademark Refusal and Cancellation Patent Registration
18 Months	Copyright Protection Trade Secrets Protection
24 Months	Enforcement Procedures Literary & Artistic Works Protection Industrial Property Protection New Varieties of Plants Protection Sound Recordings Protection Integrated Circuits Protection Industrial Designs Protection
30 Months	Phonograms Protection Satellite Signals Protection Terms of Protection Enforcement Remedies

Phase-in Period	Area of Reform	Commitment
Within 12 months of entry into force	<p>Trademarks</p> <p>Patents</p>	<p>Implement a system for the registration of trademarks</p> <p>Enforce cancellation or refusal of trademarks that have been adopted by others according to Article 6 bis of the Paris Convention.</p> <p>Implement system for registering patents.</p>
Within 18 months of entry into force	<p>Copyright</p> <p>Trade Secrets</p>	<p>Provide protection for copyright and related rights including all types of computer programs and compilations of data or other material constituting intellectual creations.</p> <p>Provide protection for trade secrets</p>
Within 24 months of entry into force	<p>National Treatment</p> <p>Literary and Artistic Works</p> <p>Industrial Property</p> <p>New Varieties of Plants</p>	<p>Accord national treatment with regard to intellectual property right protection.</p> <p>Accede to Berne Convention for the Protection of Literary and Artistic Works, 1971.</p> <p>Accede to the Paris Convention for Protection of Industrial Property, 1967</p> <p>Accede to the International Convention for the Protection of New Varieties of Plants, 1978 or the International Convention for the Protection of New Varieties of Plants, 1991</p>

Phase-in Period	Area of Reform	Commitment
	<p>Sound Recordings</p> <p>Integrated Circuits</p> <p>Industrial Designs</p> <p>Enforcement</p>	<p>Provide protection for existing sound recordings</p> <p>Provide protection for “layout designs” and integrated circuits</p> <p>Provide protection for independently created industrial designs that are new or original</p> <p>Implement procedures in domestic law against infringement of intellectual property rights.</p> <p>Apply criminal procedures and penalties in cases of “willful trademark counterfeiting or infringement of copyrights or neighboring rights on a commercial scale.”</p> <p>Adopt procedures to enable a right holder to lodge applications for the suspension of the release of goods into free circulation at the border.</p>
<p>Within 30 months of entry into force</p>	<p>Phonograms</p> <p>Satellite</p> <p>Terms of Protection</p>	<p>Accede to Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms.</p> <p>Accede to the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, 1974.</p> <p>Provide term of protection of 75 years from first authorized publication of work.</p>

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Phase-in Period	Area of Reform	Commitment
	Enforcement	Provide term of protection of 100 years from creation of work, if work is not published within 25 years of its creation. Implement system of making available appropriate remedies, including civil and criminal remedies for violations on protection of encrypted program carrying satellite signals.

Chapter III. Trade in Services

Summary

According to Annex G of the bilateral trade agreement, Vietnam will allow for increased market access and will accord most-favored-nation status or national treatment to U.S. service operators. These will be phased in within periods of up to 3 years for accounting, auditing and book-keeping services; 3 years for construction and related engineering services; 3 years for architectural services; 3 years for engineering and integrated engineering services; 3 years for computer related services; 3 - 5 years for travel agents and tour operators services; 3 – 6 years for insurance services; 3 – 7 years for distribution services; 3 – 10 years for banking services; 2 – 6 years for telecommunication services; 5 years for audiovisual services; 5 years for management consulting services; 5 years for taxation services ; 5 – 7 years for advertising services; 5 – 7 years for market research services; and 7 years for educational services.

<u>Target Date for Implementation</u>	<u>Area of Reform</u>
Upon entry into force	Market Access and Legal Entity Restrictions Transparency in Licensing National Treatment
2 Years	Telecommunication - Value-added (up to phase in of 3 years)
3 Years	Telecommunication – Internet Services Insurance (up to phase-in of 5 years for reinsurance and 6 years for statutory)
4 Years	Telecommunications - basic telecom
6 Years	Telecommunications - voice telephone
8 Years	Banking – national treatment on local currency deposits (for legal entities)
9 Years	Banking – national treatment on local currency deposits (for natural persons)

Phase-in Period	Area of Reform	Commitment
Upon entry into force	<p>Most-favored-nation principle</p> <p>Licensing</p> <p>Monopoly and exclusive supplier behavior</p> <p>Numerical restrictions</p> <p>National treatment and land-lease rights</p> <p>Procedures to verify professionals</p>	<p>Allow for all services except ones identified in Annex G above to receive treatment no less favorable than suppliers from other countries (MFN). Institute the appropriate judicial, arbitral or administrative tribunals or procedures.</p> <p>Administer prompt, consistent and transparent procedures for service suppliers in sectors that require licensing.</p> <p>Ensure that monopolies and exclusive suppliers do not act in a manner inconsistent with commitments on services under Chapter III of bilateral trade agreement.</p> <p>Remove inconsistencies such as limitation like numerical quotas based on number of suppliers, total value of service transactions, number of natural persons employed, measures which restrict or require specific types of legal entities, and limitations of foreign capital participation in investments.</p> <p>Provide national treatment for service suppliers as inscribed in Annex G, including land-lease rights.</p> <p>Establish procedures to verify competence for U.S. professionals where necessary.</p>
Within 2 years of entry into force	Telecommunications	Allow for establishment of joint ventures with capital contribution of up to 50% for value-added services.

Phase-in Period	Area of Reform	Commitment
<p>Within 3 years of entry into force</p>	<p>Accounting, Auditing and Book-keeping Services</p> <p>Banking and Other Financial Services</p> <p>Distribution Services</p> <p>Insurance Services</p> <p>Telecommunication Services</p> <p>Travel Agency and Tour Operator Services</p>	<p>Remove licensing procedure for branches of U.S. accounting, auditing and book keeping service suppliers. Branches granted permission to supply to local entities.</p> <p>Abolish legal entity restrictions on U.S. financial service suppliers permitting other legal forms besides banks and leasing companies.</p> <p>Allow for U.S. financial institutions with 100% U.S. invested capital to take initial mortgage interest in land-use rights held by foreign enterprises.</p> <p>Provide national treatment to U.S. banking and financial services suppliers with regard to central bank rediscounting, swap, and forward facilities.</p> <p>Allow for U.S. distribution service suppliers to establish joint ventures with Vietnamese partners with capital contribution limited to 49%.</p> <p>Allow for U.S. insurance service suppliers to establish joint ventures with authorized Vietnamese partners, with capital contribution limited to 50%</p> <p>Allow joint ventures of insurance service suppliers to engage in statutory insurance business.</p> <p>Allow for U.S. telecom value-added service suppliers to establish joint venture with authorized Vietnamese partners, with legal capital contribution limited to 49%.</p> <p>Allow U.S. internet service suppliers to establish joint venture with authorized Vietnamese partners, with legal capital contribution limited to 49%.</p> <p>Increase limitation on U.S. legal capital contribution in travel agencies and tour operator service suppliers from 49% to 51%.</p>

Phase-in Period	Area of Reform	Commitment
Within 4 years of entry into force	Telecommunications	Allow establishment of joint ventures in basic telecommunications services with capital contribution of up to 49%.
Within 5 years of entry into force	Advertising Services Audiovisual Services Insurance Market Research Services Taxation services Travel Agency & Tour Operator Services	Increase legal capital limitation for joint ventures involving U.S. advertising service suppliers from 49% to 51%. Increase U.S. capital contribution for joint ventures involving U.S. audiovisual service suppliers from 49% to 51%. Allow establishment of 100% U.S invested capital insurance service suppliers Increase legal capital limitation for joint ventures involving U.S. market research service suppliers from 49% to 51%. Remove branch licensing requirement for taxation service suppliers. Branches granted permission to supply to local entities. Abolish legal capital limitation on U.S. travel agency and tour operator service suppliers.
Within 6 years of entry into force	Distribution Services Insurance Services Telecommunications	Abolish capital contribution limitations for U.S. distribution service suppliers. Allow for 100% U.S. invested insurance service suppliers to engage in statutory insurance business. Allow joint ventures with Vietnamese partners in voice telephone services, with capital contribution of up to 49%.

Phase-in Period	Area of Reform	Commitment
<p>Within 7 years of entry into force</p>	<p>Advertising Services Distribution Services Educational Services Market Research Services</p>	<p>Abolish legal capital limitation on joint ventures for U.S. advertising service suppliers.</p> <p>Allow distribution service suppliers with 100% U.S. invested capital to be established.</p> <p>Allow U.S. educational service suppliers with 100% U.S. invested capital to be established.</p> <p>Allow U.S. market research service suppliers with 100% U.S. invested capital to be established.</p>
<p>Within 8 years of entry into force</p>	<p>Banking and Other Financial Services</p>	<p>Allow full national treatment on accepting dong deposits from Vietnamese legal persons based on ratio of paid-in capital for U.S. banks. Phased out by increase in percentage of paid-in capital over first 8 years.</p> <p>Allow U.S. financial institutions to issue credit cards on national treatment basis.</p>
<p>Within 9 years of entry into force</p>	<p>Banking and Other Financial Services</p>	<p>Allow U.S. banks to establish 100% subsidiary banks.</p> <p>Provide full national treatment on accepting dong deposits from Vietnamese natural persons based on ratio of paid-in capital. Phased out by increase in percentage of paid-in capital over first 9 years.</p>

Chapter IV. Investment Relations

Summary

<u>Target Implementation Date</u>	<u>Area of Reform</u>
Upon entry into force	Transparency in Investment Licensing TRIMS – trade balancing, foreign exchange controls Expropriation Protection Dispute Settlement Mechanisms
2 Years	Investment Licensing/Registration (phase in of up to 9 years) Discriminatory Pricing (phase-in of up to 4 years) Restrictions on Capital Contribution (phase-out varies according to sector)
5 Years	TRIMS - Local Content and Quantitative Export Restrictions
7 Years	TRIMS - Performance Requirements

Phase-in Period	Area of Reform	Commitment
Upon entry into force	<p>Non-discrimination</p> <p>Investment Licensing and Registration</p> <p>Trade Related Investment Measures (TRIMS)</p> <p>Profit Repatriation</p> <p>Expropriation Protection</p> <p>Dispute Settlement</p>	<p>Ensure overall non-discriminatory treatment for U.S. investors.</p> <p>Eliminate discriminatory prices and fees for installation of telephones, telecommunication services, water and tourist services; refrain from imposing new discriminatory prices</p> <p>Streamline licensing and approval system; ensure transparency for laws, regulations and administrative procedures; ensure application to central, provincial and municipal levels of government and to state-owned-enterprises.</p> <p>Eliminate trade balancing requirements and foreign exchange controls for imports</p> <p>Guarantee U.S. investors rights of profit and capital repatriation</p> <p>Guarantee U.S. investment against unlawful expropriation</p> <p>Institute dispute settlement mechanisms and procedures allowing international arbitration</p>
Within 2 years of entry into force	Investment Licensing and Registration	Implement investment registration procedures for investment projects in industrial zones and export-processing zones; projects with export rate of at least 50% of products, and projects having investment capital of up to USD 5 million. Grant projects requiring registration national treatment and freedom to select local partner, form, operation and apportionment of investment.

Phase-in Period	Area of Reform	Commitment
	<p>Minority investor's rights</p> <p>Non-discrimination</p> <p>Capital contribution</p>	<p>Implement investment registration procedures for investment projects in industrial zones and export-processing zones; projects with export rate of at least 50% of products, and projects having investment capital of up to USD 5 million. Grant projects requiring registration national treatment and freedom to select local partner, form, operation and apportionment of investment.</p> <p>Eliminate organization and management requirements for joint ventures.</p> <p>Eliminate discriminatory prices and fees for motor vehicles, international port charges, and subscription charge for local telephone service.</p> <p>Eliminate minimum requirement of 30% legal capital contribution for joint ventures and U.S. owned enterprises.</p> <p>Eliminate right of first refusal to interest transfers for Vietnamese partners, nationals or companies.</p> <p>Allow U.S. nationals and companies to establish joint stock companies and issue bonds or shares to the public.</p> <p>Eliminate restrictions on mortgage and transfer of land use rights for U.S. enterprises</p>
Within 4 years of entry into force	Non-discrimination	Eliminate discriminatory prices and fees for all other goods and services including electricity and air transport
Within 5 years of entry into force	TRIMS	Eliminate Trade Related Investment Measures including local content requirements for imports and exports, and export restrictions based on volume or value of local production.

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Phase-in Period	Area of Reform	Commitment
Within 6 years of entry into force	Investment Licensing & Registration	<p>Implement investment registration procedures for investment projects in manufacturing with investment capital of up to USD 20 million.</p> <p>Ensure that specified projects not subject to exemption, investment licensing, or registration be granted national treatment.</p>
Within 7 years of entry into force	TRIMS	Eliminate requirements for exporting 80% of production in sectors listed under Annex H.
Within 9 years of entry into force	Investment Licensing & Registration	Implement investment registration procedures for all other investment projects not identified in list maintaining licensing requirement.

Chapter V. Business Facilitation

Summary

<u>Target Implementation Date</u>	<u>Area of Reform</u>
Immediate	Import Rights for operational equipment Non-discrimination in business operations Right to Engage

Chapter VI. Transparency and the Right to Appeal

Summary

<u>Target Implementation Date</u>	<u>Area of Reform</u>
Immediate	Publication of laws, regulations and procedures Import licensing procedures Administration of judicial procedures

