

DRAFT

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

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INTRODUCTION

This Bilateral Trade Agreement (BTA) Commitments Roadmap attempts to identify the relevant Vietnamese State body responsible for each commitment defined in the BTA with the United States. For each chapter of the BTA, it tries to identify the relevant phase-in period, the actual commitment, and the primary Vietnamese authority relevant to its implementation.

According to the Ordinance on Signing and Implementing International Agreements, the Vietnamese Government (GOV) and its State agencies are charged with overall State management of the implementation of the BTA within the territory of the country.¹ ² The Ministry of Trade (MOT) is the State agency that is tasked with this plan.³ In cases where a new National Assembly (NA) level statutory instrument or amendment is required, the NA in its role as supreme lawmaker of the country must exercise its legislative authority on a proposal of the GOV. Official Dispatch No. 5069 (21 Nov. 2000)⁴ issued by the Office of the Government (GO) has appointed the Ministry of Justice (MOJ) to be responsible to coordinate a review of statutory instruments reported by relevant Ministries/State bodies and to prepare a detailed plan of identification of all the statutory instruments effected by the BTA.

As such, in the beginnings of every chapter of this Roadmap we usually refer to the NA, the GOV, the MOT and the MOJ as agencies that exercise comprehensive supervision over the systematization of statutory instruments affected by the BTA and the implementation of the same.

At the same time, we have tried to identify a specific Ministry/State body with principal jurisdiction over the implementation of each commitment.⁵ In some cases, Vietnamese law defines a single entity as having jurisdiction over a given area, while in others the consent of additional State bodies is required to implement a change. It should also be noted that in many cases a mid-level body will devise and define changes to the law, while its superior body will actually adopt and legislate the actual change. For example, the National Office of Industrial Property (NOIP) may draft and propose amendments to various laws on the protection of intellectual property (except copyright), but the Ministry of Science, Technology and the Environment (MOSTE) would have to issue a Circular guiding implementation in the desired direction. In other cases, different authorities will be involved depending on the nature of the specific product or service at issue.

In the next phase, this BTA Commitments Roadmap will be supplemented to include a description of the particular laws and regulations that could be affected by implementation of each commitment.

¹ Article 31 of the Ordinance on Signing and Implementing International Agreements issued by the SCNA dated 20 August 1998 stipulates that “the GOV conducts uniform State management over the signing and implementing of an international agreement in the entire country.”

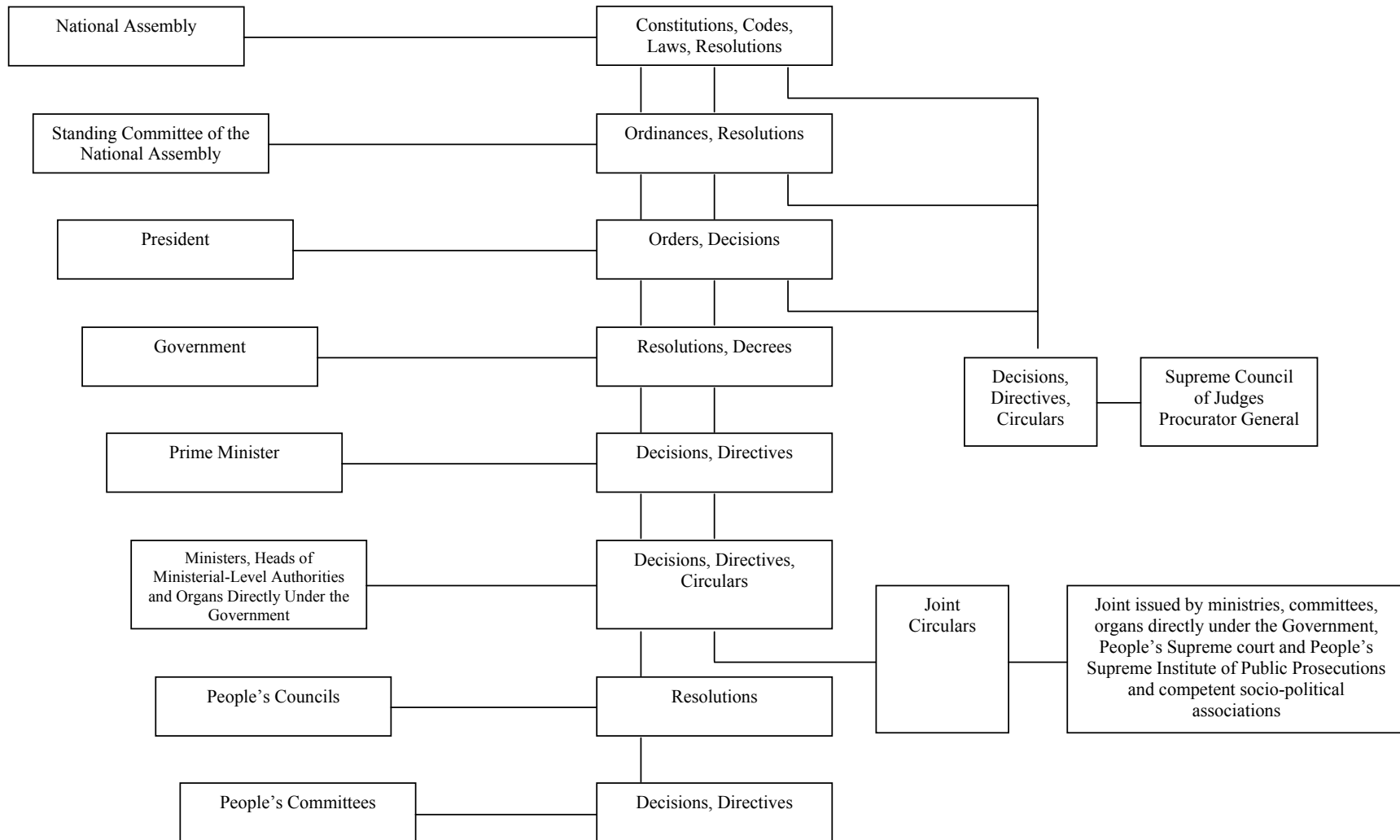
² Article 24.1 of the Ordinance on Signing and Implementing International Agreements

³ Official Dispatch 5069 stipulates that “as per the request of the MOT”.

⁴ Official Dispatch No. 5069/VPCP-TCQT Relating to The Preparation for Post-BTA issued by the GO dated 21 November 2000.

⁵ Article 24 of the Ordinance on Signing and Implementing International Agreements stipulates that “the relevant Ministries, State bodies are, within their scope of authority, responsible to implement international agreements entered by the Socialist Republic of Vietnam”. However, this Ordinance does not mention any specific agencies that are responsible for any specific type of commitment under an international agreement.

VIETNAMESE LEGISLATION AND ITS PROMULGATION



Note: The above chart is based on: (1) The Law on Enactment of Statutory Instruments adopted by the National Assembly, Legislature IX, on November 12, 1996 and (2) Decree No. 101/CP of the Government dated September 23, 1997 Providing Detailed Regulations for Implementing a Number of Articles of the Law on Enactment of Statutory Instruments.

ABBREVIATIONS

BTA	:	US - Vietnam Bilateral Trade Agreement
CLHD	:	Cadastral, Land and Housing Department ⁶
DCA	:	Department of Civil Aviation
DCI	:	Department of Culture and Information
DNR	:	Department of National Reserves
DPI	:	Department of Planning & Investment
DT	:	Department of Trade
E&BC	:	Economic and State Budget Committee
GDC	:	General Department of Customs
GDLA	:	General Department of Land Administration ⁷
GDP	:	General Department of Posts
GDS	:	General Department of Statistics
GDT	:	General Department of Taxation
GDTR	:	General Department of Tourism
GO	:	Office of the Government
GOV	:	Government
GVN	:	Government of Vietnam
The Constitution:	:	The Constitution of the Socialist of Vietnam issued in 1992.
Joint Commission:	:	The Joint Commission provided for under Chapter VII, Article 5 of the BTA
JV	:	Joint Venture, a form of foreign direct investment provided for under the LFI
LC	:	Legal Committee

⁶ This Department was established recently by merging the Cadastral Department and the Land and Housing Department

⁷ This is the official name used by the Department itself. However, a better translation based on the Prime Minister's establishment decision should be "General Cadastral Department". At the local level, the Department is known as " Cadastral, Land and Housing Department".

LFI	:	Law on Foreign Investment in Vietnam, adopted by the NA on June 9, 2000
LDI	:	Law on Encouragement of Domestic Investment (Amendment) by the NA, dated May 20, 2000
MARD	:	Ministry of Agriculture and Rural Development
MMB	:	Market Management Bureau
MOA	:	Ministry of Aquaculture
MOC	:	Ministry of Construction
MOCI	:	Ministry of Culture and Information
MOET	:	Ministry of Education and Training
MOF	:	Ministry of Finance
MOFA	:	Ministry of Foreign Affairs
MOH	:	Ministry of Health
MOI	:	Ministry of Industry
MOJ	:	Ministry of Justice
MOLISA	:	Ministry of Labor, War Invalids and Social Affairs
MND	:	Ministry of National Defense
MPS	:	Ministry of Public Security
MOSTE	:	Ministry of Science, Technology and the Environment
MOT	:	Ministry of Trade
MOTR	:	Ministry of Transportation
MPI	:	Ministry of Planning & Investment
NA	:	National Assembly
NAO	:	Office of the National Assembly
NOC	:	National Office of Copyright
NOIP	:	National Office of Industrial Property
PB	:	Politburo
PC	:	People's Committee
PCourt	:	People's Court

PIPP	:	People's Institute of Public Prosecution
PM	:	Prime Minister
PSC	:	People's Supreme Court
SA	:	State Auditors
SBV	:	State Bank of Vietnam
SCNA	:	Standing Committee of the National Assembly
SI	:	State Inspectorate
SP	:	State President
SPC	:	State Pricing Commission
SSC	:	State Securities Commission
VNA	:	Vietnam News Agency
VNTS	:	Vietnam Television Station
VVN	:	Voice of Vietnam

Line Ministries: Means more than one ministry each with its own vertical field of administrative competence over entities operating in such field.

Relevant Issuing Authorities: Means relevant authorities that formulate laws, regulations and administrative procedures.

State Administrative Bodies: Means State administrative bodies that issue administrative decisions concerning activities of entities.

TERMINOLOGY

For the sake of clarity, the nomenclature for Vietnamese legislative and administrative materials referred to in this Road Map, in descending order of importance, is as follows:

Laws – <i>Luật</i>:	Basic laws (include: “Codes” – Bộ Luật) enacted by the National Assembly.
Ordinances – <i>Pháp lệnh</i>:	Promulgated by the Standing Committee of the National Assembly, and proclaimed by the President.
Resolutions – <i>Nghị quyết</i>:	Adopted by the National Assembly and the Standing Committee of the National Assembly.
Order – <i>Lệnh</i>	Issued by the President.
Decrees – <i>Nghị định</i>:	Promulgated by the Government, a cabinet-like organization to which the National Assembly delegates certain administrative law-making function.
Regulations – <i>Quy định</i>:	Promulgated by the Government to implement Law and Codes.
Directives – <i>Chỉ thị</i>:	Issued by the Prime Minister.
Circulars – <i>Thông tư</i>:	Issued by the various Ministries and other state bodies with ministerial-level status.
Inter-Ministerial Circulars – <i>Thông tư liên bộ</i>:	Jointly issued by various ministries.
Decisions – <i>Quyết định</i>:	Issued by Ministries and the People’s Committee.
Notices – <i>Thông báo</i>:	Issued by various government departments.

A schematic diagram depicting the hierarchy of State bodies involved in the promulgation of Vietnamese legal instruments is set forth on page 5.

CHAPTER I. Trade in Goods

Summary

The U.S.-Vietnam Bilateral Trade Agreement (BTA) 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)

Relevant Authorities

Tariff measures

Under the Law on Import/Export Duties, the National Assembly is responsible for issuing the Tariff of Commodity Groups subject to Import/Export Duties which stipulates margin of duties applicable to groups of commodities. The Government is responsible for issuing the Import/Export Tariff (the "Tariff") in details based on the Tariff of Commodity Groups subject to Import/Export Duties. In the Decrees guiding the implementation of the Law on Import/Export Duties, the Government authorizes the Ministry of Finance to issue the Tariff but still retains the authority to decide the tariff reduction in accordance with multilateral or bilateral agreements.

Non-tariff measures

By the way of overview, the Ministry of Trade (MOT) is assigned as "clue" agency responsible for non-tariff measures such as import/export licenses, quotas and quantitative restriction. The MOT works with other relevant ministries to set forth the management rules regarding the import and trade of specific goods.

The Decree on Import/Export (as amended) entrusts a number of government departments with import/export management responsibilities as follows:

- The MOT is principally responsible for the State management of import/export activities and but State management functions also involve the responsibilities of various other ministries and local People's Committees (PC) and Management Boards of Industrial Zones and Export Processing Zones.
- Proposals for import/export quotas are submitted by the ministries concerned and these proposals are collected and forwarded by the MPI for approval by the Prime Minister (PM).
- The MPI further presents proposals for the designation of mostly state-owned enterprises which control the import/export of certain essential commodities. The actual appointments are made by the PM.
- The import/export of certain commodities requires specific import/export permits which are generally issued by the MOT.
- The MOT, the MOF, the State Bank (SBV) and the General Department of Customs (GDC) are responsible, among others, for the signing and implementation of foreign trade contracts; the issuance of import/export permits; and the collection of import/export duties.
- The MOT periodically fixes prices or pricing methods for determining the minimum prices of certain import/export goods. Local authorities may also draw up lists with fixed import/export prices that apply specifically in their locality.

Customs Valuation

The Government decides which commodities whose prices are subject to the state control for customs valuation. Based on the Government's decision, the Ministry of Finance is authorized to issued the Table of Price for Customs Valuations in details. The General Department of Customs is authorized to determine the price at the border gate for customs valuations of non-commercial import.

Trading Right

The MPI also works with relevant ministries to develop the policies on encouragement of foreign investment and protection of trading rights of domestic enterprises. The Government, based on the proposal of the MPI and relevant ministries, decides the business lines of foreign investment projects that are subject to conditions (in the form of Business Cooperation Contracts or Joint Venture). The Ministry of Planning & Investment (MPI) and People's Committees (PCs) are responsible for issuing licenses for setting up businesses and granting trading rights.

Phase-in Period	Area of Reform	Commitment	Relevant Authority
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. (I.1.)	<p>NA : -Legislates tariff structure⁸</p> <p>GOV : -Oversees compliance and implementation with laws and resolutions issued by the NA by way of reviewing reports of relevant Ministries/Ministerial-level bodies⁹</p> <p>GOV : -Proposes/organizes drafts of new laws or amendments of current laws relating to tariff structure and customs matters and submits the same to the NA, the SCNA, issues Decrees¹⁰</p> <p>MOJ : -Has the authority to supervise the implementation of the BTA¹¹</p> <p>MOJ : Systemizes statutory instruments relating to tariff structure and customs issues affected by the BTA.¹² Generally, the MOJ is responsible to evaluate any law/ordinance projects for the GOV's consideration before the <i>same is submitted to the NA or SCNA.</i>¹³</p> <p><i>Different agencies are identified below</i></p>

⁸ According to Article 83 of the Constitution and Article 13 of the Law on Enactment of Statutory Instrument by the NA, the NA is the sole agency that has the authority to promulgate the constitution and laws. We usually refer to the NA when there is any issue relating to a promulgation of or an amendment to a law.

⁹ Article 84.2 of the Constitution

¹⁰ Article 112.3 of the Constitution

¹¹ Article 31 of the Ordinance on Signing and Implementing International Agreements

¹² Based on Official Dispatch No. 5079, the MOJ is responsible to prepare a comprehensive plan of identifying all the statutory instruments [of all areas in issue] effected by the BTA.

¹³ Article 29.3 of the Law on Enactment of Statutory Instruments

Phase-in Period	Area of Reform	Commitment	Relevant Authority
			<p><i>as those specifically responsible for the implementation and supervision of these commitments¹⁴:</i></p> <p>MOF : Sets specific tariffs, import levies, duty exemption, duty refund; internal taxes and charges</p> <p>GDC : Regulates customs clearance, transit, warehouse, transshipment</p> <p>SBV : Regulates foreign exchange control; methods of payment</p> <p>MOT : Import/export regulations; import/export licenses/quotas Stipulates exemptions for free trade area; customs unions, frontier areas Inspects and supervises internal transport and domestic circulation of goods¹⁵</p> <p>MOTR : Regulates internal transport</p> <p>MARD : Regulates the import, issues rules on sale, purchase, transport, distribution, storage. use of agricultural. fisherv.</p>

¹⁴ Article 24 of the Ordinance on Signing and Implementing International Agreements stipulates that “the relevant Ministries, State bodies are, within their scope of authority, responsible to implement international agreements entered by the Socialist Republic of Vietnam”. However, this Ordinance does not mention any specific agencies that are responsible to a commitment of an international agreement. Given this, there is more than one State agency that may be found to be related to the commitments in question.

¹⁵ Conducted by Market Control Authority under the Ministry of Trade

¹⁶ The MPI works with other relevant ministries to formulate the policy for protection of domestic production such as MOARD for agricultural products and forest products, MOI for industrial products including also cigarettes, consumer goods, automobiles, motorcycles and engines, MOH for medicine and medical equipment and cosmetic, etc.

¹⁷ The Government has the authority to stipulate the quantity restriction and the prohibition of import and export. The MOT is authorized to grant quota with opinions from the relevant ministries such as MOARD for agricultural products and forest products, MOI for industrial products including also cigarettes, consumer goods, automobiles, motorcycles and engines, MOH for medicine and medical equipment and cosmetics, etc.

¹⁸ The MOT is authorized by the Government in *Decree on Import/Export Duties* to design and interpret the tariff.

¹⁹ The Government decides to eliminate quantity restriction and prohibition of import and export upon the proposal of the MOT and other line ministries. The MOT is authorized to implement the Government’s decision.

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Upon entry into force	National Treatment Principle	<p>Accord national treatment on internal taxes or charges; law and regulations affecting internal sale, offering for sale, purchase, transportation, distribution, storage and use.</p> <p>Prepare, adopt and apply sanitary & phytosanitary measures, technical regulations and standards in the manner to accord national treatment and in consistence with provisions of GATT 1994 or only to the extent necessary to protect human, animal or plant life health, environment, national security requirements, prevention of deceptive practices.</p>	<p>forestry products and material for agricultural, fishery, forestry production</p> <p>MOCI : Regulates the import, issues rules on sale, purchase, transport, distribution, storage, use of cultural products</p> <p>MOI : Regulates the import, issues rules on sale, purchase, transport, distribution, storage, use of industrial products</p> <p>MOH : Regulates the import, issues rules on sale, purchase, transport, distribution, storage, use of medicine and medical equipment, cosmetic</p> <p>GOV : Legislates types of fees and charges and authorizes authorities responsible for setting and collecting specific fees and charges</p> <p>MOF : Guides the implementation Authorized authorities: Set and collect specific fees and charges</p> <p>MARD : Regulates on sale, purchase, transport, distribution, storage, use of agricultural, fishery, forestry products and material for agricultural, fishery, forestry production</p> <p>MOCI : Regulates on sale, purchase, transport, distribution, storage, use of cultural products</p> <p>MOI : Regulates on sale, purchase, transport, distribution, storage, use of industrial products</p> <p>MOH : Regulates on sale, purchase, transport,</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Upon entry into force	Trading Rights	Grant trading rights to domestic enterprises other than those listed in Annex B and C.	<p>distribution, storage, use of medicine and medical equipment, cosmetics</p> <p>MOP/MOND: Regulates on sale, purchase, transport, distribution, storage, use of products for special uses of armed forces</p> <p>MOSTE : Regulates goods quality control; import of used equipment and machinery, import of equipment linked with technology transfers, technical regulations</p> <p>MPI and relevant ministries¹⁶ : Formulates policy for protection of domestic production</p> <p>MOT & line ministries¹⁷: Administer quantity restriction and prohibition of import and export of relevant products</p> <p>MOT : Approves import plans</p>
Upon entry into force	Tariff System	Grant import trading rights to U.S. enterprises (for use in connection with investors' production) subject to restrictions listed in Annex B and C.	<p>Adopt tariff system of International Convention on the Harmonized Commodity Description and Coding System.</p> <p>NA : Legislates tariff structure</p> <p>MOF¹⁸ : Designs and interprets specific tariff following HS</p> <p>GDC : Imposes and collects tariffs</p>
Upon entry into force	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.	<p>GOV¹⁹ : Eliminates quantity restrictions and quotas</p> <p>MOT and line Ministries : Eliminates licensing requirements and controls for all products and service categories</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Upon entry into force	Expansion and Promotion of Trade	Encourage and facilitate the holding of trade promotional event such as trade fairs, exhibition, mission and seminars Allow the import and re-export on a duty free basis of all articles for such event	MOT : Permits the holdings of trade promotional events MOCI : Permits the holdings of press conference PM or PCs : Permits the holding of conference seminars MOT : Approve the temporary import and re-export of articles for trade promotions events
Upon entry into force	Government Commercial Offices	Allow the establishment of government commercial Offices and facilitate the commercial promotion activities of those offices	MOT : Permits the establish and management the operations
	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.	MOT : Eliminates import/export licensing requirements MOT & relevant ministries: Administer quantity restrictions and prohibitions of import and export NA or SCNA: Legislates the adjudication of commercial disputes and enforcement of foreign judgements MOJ/SPC : Issues guidelines for implementation subject to the supervision of the NA, SCNA
	State Trading	Adoption of general principles of non-discriminatory treatment in the Agreement for governmental measures affecting imports or exports of private traders Sales and purchases to be made solely in accordance with commercial considerations.	MOT/ MORA/ MOI/ MOCI/ GDP/ SBV: Adjust regulations on import/export of commodities in Annex C Lines Ministries: Stipulate standard terms and conditions for sale/purchase contracts, sourcing criteria.

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Within 2 years of entry into force	Non-Tariff Barriers	Limit all fees and charges other than import and export duties and other taxes to an amount approximate to cost of services rendered.	NA : Legislates internal taxes and fees and charges GOV : Regulations in details on internal taxes, fees and charges and authorizes authorities responsible for setting and collecting specific fees and charges MOF : Guides the implementation of regulations on internal taxes, fees and charges MOF & PCs: Set specific fees and charges
Within 2 years of entry into force	Customs Valuation	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. Ensure uniform and consistent implementation throughout customs territory.	GOV : Gradually eliminates commodities for which the government controls the import/export price for customs valuation MOF : Price table of commodities for which the government controls the import/export price for customs valuation GDC : Rules on criteria and customs procedures for using invoice price for customs valuation Administers customs valuation throughout the territory and Price table of commodities for which the government does not control the import/export price for customs valuation but the enterprises do not satisfy criteria for using invoice price for customs valuation

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Within 2 years of entry into force	Quantitative Restrictions	Begin phase-out on import quantitative restrictions for industrial products according to Annex B1	GOV : Determines quantitative restrictions for imports and export MOT & Line Ministries: Administer quantitative restrictions and prohibitions of imports and exports
Within 3 years of entry into force	Trading Rights	<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>	MPI/MOT & Line Ministries : Formulate policy on granting trading rights MPI ²⁰ : Grants trading rights, stipulates lists of areas restricted or prohibited for foreign investment MPI ²¹ : Issues investment licenses for projects in Group A as approved by the Prime Minister and projects in Group B except for projects of which the authority to issue license is granted to PCs PCs ²² : Issues investment licenses for projects in Group B for projects of which the authority to issue license is granted to PCs MPI/MOT/MOI : Formulates policy on trading rights MPI ²³ : Grants trading rights

²⁰ In consultation with the MOT and the relevant ministry such as MOI, MARD, MOCI or MOH

²¹ In consultation with the relevant ministry such as MOI, MARD, MOCI or MOH

²² In consultation with the relevant ministry such as MOI, MARD, MOCI or MOH

²³ In consultation with the MOT and the MOI

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Within 3 years of entry into force	Distribution Rights	Allow joint ventures with Vietnamese distributors to be established, with equity contribution limited to 49%. Restrictions listed in Annex D1.	MPI ²⁴ : Issues investment licenses for projects in Group A as approved by the Prime Minister and projects in Group B except for projects of which the authority to issue license is granted to PCs PCs ²⁵ : Issues investment licenses for projects in Group B for projects of which the authority to issue license is granted to PCs
Within 3 years of entry into force	National Treatment Principle	Begin phase-out on distribution rights for industrial products as listed in Annex D1 Elimination of all exceptions to National Treatment listed in Annex A.	MPI/MOI : Formulates policy on granting distribution rights MPI ²⁶ : Grants distribution rights NA : Eliminates SCT ²⁷ , supplemental tax MOI : Determines restrictions on inputs for production of cigarettes and cigars
Within 3 years of entry into force	Tariff Reduction	Implement tariff reductions according to Annex E	GOV ²⁸ : Determines tariff framework reduction MOF : Sets specific reduced tariff
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	GOV : Determines lines of business subject to state trading

²⁴ In consultation with the relevant ministry such as MOI, MARD, MOCI or MOH

²⁵ In consultation with the relevant ministry such as MOI, MARD, MOCI or MOH

²⁶ In consultation with the MOI

²⁷ SCT: special consumption tax

²⁸ The Government retains the authority to decide the framework reduction under its jurisdiction and authorizes the MOF to issue the specific tariff based on the GOV's framework.

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Within 6 years of entry into force	Trading Rights	Begin phase-out for import trading rights for agricultural products according to Annex D1.	MPI/MOT/MOARD: Formulate policy on granting trading rights MPI ²⁹ : Grants trading rights
	Distribution Rights	<p>Begin phase-out for distribution rights in agricultural products according to Annex D1</p> <p>Abolish limitation on capital contribution for joint ventures in distribution services. Restrictions listed in Annex D1.</p> <p>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.</p>	<p>MPI/MOARD : Formulate policy on granting distribution rights MPI³⁰ : grants distribution rights</p> <p>MPI³¹ : Issues investment licenses for projects in Group A as approved by the Prime Minister and projects in Group B except for projects for which the authority to issue license is granted to PCs</p> <p>PCs³² : Issues investment licenses for projects in Group B for projects for which the authority to issue license is granted to PCs</p> <p>MPI³³ : Issues investment licenses for projects in Group A as approved by the Prime Minister and projects in Group B except for projects for which the authority to issue license is granted to PCs</p> <p>PCs³⁴ : Issues investment licenses for projects in Group B for projects for which the authority to issue license is granted to PCs</p>
Within 6 years of entry into force	Tariff Reduction	Complete tariff reductions according to Annex E.	GOV : Determines tariff framework reduction MOF : Sets specific reduced tariff

Phase-in Period	Area of Reform	Commitment	Relevant Authority
<p>Within 7 years of entry into force</p> <p>Within 7 years of entry into force</p> <p>Within 7 years of entry into force</p>	<p>Trading Rights</p> <p>Quantitative Restrictions</p> <p>Distribution Rights</p>	<p>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.</p> <p>Complete phase-out for bound commitments on export trading rights as listed in Annex D2.</p> <p>Complete phase-out for import quantitative restrictions on industrial products as listed in Annex B1.</p> <p>Allow 100% U.S. owned distributors to be established. Restrictions listed in Annex D1.</p>	<p>MPI³⁵ : Issues investment licenses for projects in Group A as approved by the Prime Minister and projects in Group B except for projects of which the authority to issue license is granted to PCs</p> <p>PCs³⁶ : Issues investment licenses for projects in Group B for projects for which the authority to issue license is granted to PCs</p> <p>MPI/MOT & relevant ministries : Formulate policy on granting trading rights</p> <p>MPI³⁷ : Grants trading rights</p> <p>GOV : Determines quantity restrictions</p> <p>MPI³⁸ : Issues investment licenses for projects in Group A as approved by the Prime Minister and projects in Group B except for projects for which the authority to issue license is granted to PCs</p> <p>PCs³⁹ : Issues investment licenses for projects in Group B for projects for which the authority to issue license is granted to PCs</p>
<p>Within 8 years of entry into force</p>	<p>Trading Rights</p>	<p>Complete phase-out for distribution rights on agricultural products as listed in Annex D1</p>	<p>MPI/MOARD: Formulate policy on granting distribution rights</p> <p>MPI⁴⁰ : Grants distribution rights</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Within 9 years of entry into force	Trading Rights	Complete phase-out for import trading rights on agricultural products as listed in Annex D1	MPI/MOARD: Formulate policy on granting trading rights MPI ⁴¹ : Grants trading rights
Within 10 years of entry into force	Quantitative Restrictions	Complete phase out for import quantitative restrictions on agricultural products as listed in Annex B1.	GOV : Eliminate quantity restriction MOT & MOARD: regulate & administer quantity restriction
Within 10 years of entry into force	Trading Rights	Complete phase-out for bound commitments on import trading rights for industrial products as listed in Annex D1	MPI/MOT/MOI: Formulate policy on granting trading rights MPI ⁴² : Grants trading rights
Within 10 years of entry into force	Distribution Rights	Complete phase-out on distribution rights for industrial products according to Annex D1.	MPI/MOI : Formulate policy on granting distribution rights MPI ⁴³ : Grants distribution rights

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.
- 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

The following outlines Vietnam's timetable for implementation of the intellectual property chapter of the BTA, subject to two exceptions. Firstly, 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 TRIPS⁴⁴ Agreement. (Article 18(3)) Secondly, 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

Relevant Authorities

Intellectual property rights are governed by Part VI of the Vietnamese Civil Code⁴⁵. They include copyrights and industrial property rights (i.e., patents, utility models, trademarks, industrial designs and appellations of origin).⁴⁶ In October 2000, the definition of industrial property was expanded to include business secrets, trade names and rights against unfair competition.⁴⁷ As a result, Vietnamese law currently provides protection for most of the same intellectual property objects as in the United States, except for semiconductor chips, biotechnology and trade dress.

Copyright is administered by the National Office of Copyright (NOC), a department of the Ministry of Culture and Information (MOCI). All other forms of intellectual property fall under the principal administrative jurisdiction of the Ministry of Science, Technology and the Environment (MOSTE). MOSTE has responsibilities for research and development, technology development, standardization, metrology and quality control, environmental protection and intellectual property protection. It governs the operation of the National Office of Industrial Property (NOIP) and the Board of Appeal, which holds the final appellate power in intellectual property matters.

The NOIP, formerly the National Office of Inventions (NOI), is an executive body of MOSTE. The primary functions of the NOIP are to conduct examinations and grant patents, utility models, industrial designs, trademarks and appellations of origin, to oversee the administration of industrial property activities and to ensure compliance with current laws and procedures dealing with intellectual property matters.

On the enforcement side, a comprehensive reorganization of the central and local market management agencies was introduced under Decree No. 10 (23 January 1995)⁴⁸. Accordingly, the CMMB and the Ministry of Trade’s Market Management Office have been merged into the Department of Market Management (DMM). It operates at the national level with its main office in Hanoi. At the provincial level, there are Market Management Bureaus (MMBs), and at the district level, Market Management Groups (MMGs). In addition, each ministry in charge of protecting intellectual property rights (MOSTE and MOCI) has its own investigation bureau to supervise industrial property rights activities or copyright activities and impose administrative penalties.

The Economic Police become involved in enforcement of intellectual property rights when there is an allegation of criminal activities. The Customs authorities, under the General Department of Customs, may also accept complaints from organizations, legal entities and private individuals where counterfeits are imported or exported.

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Within 12 months of entry into force	Trademarks	Implement a system for the registration of trademarks	NOIP : Administer trademark registration systems GOV : Issues regulations on trademark registration

Phase-in Period	Area of Reform	Commitment	Relevant Authority
	Patents	<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>	<p>NOIP : Hears appeals/cancellation actions MOSTE : Hears appeals of NOIP decisions GOV : Issues regulations on cancellation or refusal of trademarks</p> <p>MOSTE/NOIP: Administer patent registration system</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>	<p>GOV/MOCI /NOC: Administer copyright registration/protection system; define objects of copyright</p> <p>GOV/MOSTE: Administer system for recognizing and protection other forms of IPRs</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</p>	<p>MOSTE/MOCI: Devise and administer regulations on recognition & enforcement of intellectual property, including US judicial decision in Vietnam</p> <p>GOV/MOFA/ MOJ/MOCI/ NOC: Involved in negotiation with World Intellectual Property Organization (WIPO) for Accession</p> <p>MOSTE/NOIP: Involved in negotiation with World Intellectual Property Organization (WIPO) for Accession</p> <p>GOV/MOFA/ Involved in negotiation with</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
	<p>Sound Recordings</p> <p>Integrated Circuits</p> <p>Industrial Designs</p> <p>Enforcement</p>	<p>Protection of New Varieties of Plants, 1978 or the International Convention for the Protection of New Varieties of Plants, 1991</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>MOJ/MOSTE/ NOIP: World Intellectual Property Organization (WIPO) for Accession</p> <p>MOCI/NOC: Administer copyright protection NA: Issue Copyright Laws</p> <p>GOV/MOSTE /NOIP or MOCT/NOC: Administer IPR⁴⁹</p> <p>MOSTE/NOIP: Administer Industrial Design Protection</p> <p>NA : Can adopt new Civil Procedural Code SPC : Drafting new Civil Procedural Code GOV/MOJ/ PSC/MOSTE : issues decrees/circulars governing enforcement /GDC: GOV : Issues Decree on copyright enforcement</p> <p>GOV/MOJ: Issue decree on copyright infringement PSC : Provide guidelines to lower cost regarding case settlement</p> <p>GOV : Issued the decree implementing the Ordinance on Customs, which governs the GDC's right of suspension release of goods into free circulation at the border.</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Within 30 months of entry into force	Phonograms	Accede to Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms.	GOV/MOFA/ MOJ/MOCI/ NOC: Involved in negotiation with World Intellectual Property Organization (WIPO) for Accession
	Satellite	Accede to the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, 1974.	GOV/MOFA/ MOJ/MOCI/ NOC: Same as above
	Terms of Protection	Provide term of protection of 75 years from first authorized publication of work (if the protection term for copyright is not calculated upon the life of the author)	NA : Legislates
		Provide term of protection of 100 years from creation of work, if work is not published within 25 years of its creation.	NA : Legislates (Art. 766 of the Civil Code).
	Enforcement	Implement system of making available appropriate remedies, including civil and criminal remedies for violations on protection of encrypted program carrying satellite signals.	GOV/MOCI: Issues decree/circular on protection of encrypted program carrying satellite signals. NA : Legislates

CHAPTER III. Trade in Services

Summary

Subject to Annex G of the bilateral trade agreement, Vietnam, over time, 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	Relevant Authority
	<p>Monopoly and exclusive supplier behavior</p> <p>Numerical restrictions</p> <p>National treatment</p> <p>Procedures to verify professionals</p>	<p>Ensure that monopolies and exclusive suppliers do not act in a manner inconsistent with commitments on services under Chapter III of the 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 use rights.</p> <p>Establish procedures to verify competence for U.S. professionals where necessary.</p>	<p>Line Ministries in relevant service sectors: administrative supervision.</p> <p>Line Ministries: Proposes restrictions/relaxation thereof within their respective fields</p> <p>MOJ : Legal services MOF : Accounting/Auditing and book keeping/insurance, taxation services MOC : Architecture/engineering MOSTE/GDP: IT, computer and related services MOCI : Advertising GDP : Telecommunications MOT : Distribution MOET : Education SBV : Banking GDTR/MOT/PC: Travel MOH : Health and medical services</p> <p>MOJ : Legal services MOF : Accounting/Auditing and book keeping/insurance, taxation services MOC : Architecture/engineering MOSTE/GDP: IT, computer and related services MOCI : Advertising GDP : Telecommunications MOT : Distribution</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
			MOET : Education SBV : Banking GDTR/MOT/PC : Travel MOH : Health and medical services
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.	NA : Legislates telecommunications law GDP : regulates and propose industry policy MPI : license for establishment
Within 3 years of entry into force	Accounting, Auditing and Book-keeping Services Banking and Other Financial Services Distribution Services	Remove licensing procedure for branches of U.S. accounting, auditing and book keeping service suppliers. Branches granted permission to supply to local entities. Abolish legal entity restrictions on U.S. financial service suppliers permitting other legal forms besides banks and leasing companies. 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. Provide national treatment to U.S. banking and financial services suppliers with regard to central bank rediscounting, swap, and forward facilities. Allow for U.S. distribution service suppliers to establish joint ventures with Vietnamese partners with capital contribution limited to 49%.	GOV/MOF: Issues regulatory requirements, licensing GOV/SBV : Provides implementing regulations for the Law on Credit Institutions NA : Legislates Land Law GOV : Revises regulations on foreign investment and issues regulations on mortgages of land use rights SBV/GDLA: Issues implementing regulations. SBV : Provides regulatory basis GOV : Provides regulatory basis MPI/MOT : Licensing

Phase-in Period	Area of Reform	Commitment	Relevant Authority
	<p>Insurance Services</p> <p>Telecommunication Services</p> <p>Travel Agency and Tour Operator Services</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 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>	<p>GOV : Issue implementing regulations for the Law on Insurance Business</p> <p>PM/MOF : Licensing</p> <p>GOV : Issue implementing regulations</p> <p>MOF : Licensing</p> <p>GOV : Internet regulations</p> <p>MPI/GDP/MOCI/MPS: Licensing, regulates and propose internet policy</p> <p>GOV/GDTR: Issues regulations</p> <p>MPI : Licensing</p>
Within 4 years of entry into force	Telecommunications	Allow establishment of joint ventures in basic telecommunications services with capital contribution of up to 49%.	<p>NA : Legislates telecommunications law</p> <p>GDP : Regulates and propose industry policy</p> <p>MPI : License for establishment</p>
Within 5 years of entry into force	<p>Advertising Services</p> <p>Audiovisual Services</p> <p>Insurance</p>	<p>Increase legal capital limitation for joint ventures involving U.S. advertising service suppliers from 49% to 51%.</p> <p>Increase U.S. capital contribution for joint ventures involving U.S. audiovisual service suppliers from 49% to 51%.</p> <p>Allow establishment of 100% U.S invested capital insurance service suppliers</p>	<p>GOV/MOCI: Regulates advertising</p> <p>MPI : Licensing</p> <p>MOCI : Regulations on audio visual service</p> <p>PM/MPI : Licensing</p> <p>GOV : Issue implementing regulations for the Insurance Law</p> <p>PM/MPI : Licensing</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
	<p>Market Research Services</p> <p>Taxation services</p> <p>Travel Agency & Tour Operator Services</p>	<p>Increase legal capital limitation for joint ventures involving U.S. market research service suppliers from 49% to 51%.</p> <p>Branch licensing to be made on a case by case basis. The numbers of the service providers to be decided by the MOF. Service supplying companies with U.S. capital are only permitted to supply services to foreign invested enterprises and foreign funded projects in Vietnam.</p> <p>Abolish legal capital limitation on U.S. travel agency and tour operator service suppliers.</p>	<p>MPI : Licensing GOV/MOT: Provide regulatory basis</p> <p>GOV : regulates accounting, auditing and taxation services MOF/GDT : licensing</p> <p>GOV/GDTR</p>
Within 6 years of entry into force	<p>Distribution Services</p> <p>Insurance Services</p> <p>Telecommunications</p>	<p>Abolish capital contribution limitations for U.S. distribution service suppliers.</p> <p>Allow for 100% U.S. invested insurance service suppliers to engage in statutory insurance business.</p> <p>Allow joint ventures with Vietnamese partners in voice telephone services, with capital contribution of up to 49%.</p>	<p>GOV : Provide regulations MPI/MOT : Licensing</p> <p>GOV : Issue implementing regulations MOF : Licensing</p> <p>GOV/GDP : Regulations MPI : Licensing</p>
Within 7 years of entry into force	<p>Advertising Services</p> <p>Distribution 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>MOCI : Regulations MPI : Licensing</p> <p>GOV/MOT: Regulations MPI : Licensing</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
	<p>Educational Services</p> <p>Market Research Services</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>PM/MPI /MOET : Licensing</p> <p>GOV/MOT: Regulations MPI : Licensing</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>SBV : Licensing</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>	<p>NA : Legislates Law on Credit Institutions GOV/SBV : Provide implementing regulations SBV : Licensing</p> <p>SBV : Provide regulatory basis and licensing</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

Relevant Authorities

The Ministry of Planning and Investment (MPI) (and its provincial/municipal counterparts, the Department of Planning & Investments (DPIs)) has overall jurisdiction over the licensing and regulation of foreign direct investment in Vietnam under the Foreign Investment Law⁵⁰. It is also the primary drafting body for legislation governing foreign direct investment adopted by the NA. It also drafts implementing regulations for issuance in the form of a decree by the Government (GOV), and it issues Circulars further elaborating on such regulations.

Line Ministries issue Circulars governing foreign direct investment in their respective areas of competence. The State Pricing Commission (SPC) regulates prices of commercial goods in accordance with Government policy, and shares with the Ministry of Finance (MOF) overall regulatory authority over the fees charged by State Bodies. The GOV regulates foreign portfolio investment in Vietnamese Joint Stock Companies, and the State Securities Commission (SSC) regulates the same where such companies are listed on the Vietnam Securities Exchange.

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Upon entry into force	Non-discrimination	Ensure overall non-discriminatory treatment for U.S. investors. Eliminate discriminatory prices and fees for installation of telephones, telecommunication services, water and tourist services; refrain from imposing new discriminatory prices	NA : Legislates Foreign Investment Law GOV : Issues Decree governing foreign investment (direct and portfolio) MPI : Regulates foreign direct investment through Circulars, licensing PM : Introduces measures to encourage foreign investment MOF : Reduce or abolish charges and fees GDP : Regulates pricing SPC : Regulates pricing PC : Ensures implementation
	Investment Licensing and Registration	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.	NA : Legislates Foreign Investment Law GOV : Decrees MPI : Circulars, Licensing PC : Licensing
	Trade Related Investment Measures (TRIMS)	Eliminate trade balancing requirements and foreign exchange controls for imports	MOT : Circulars SBV : Foreign Exchange Controls
	Profit Repatriation	Guarantee U.S. investors rights of profit and capital repatriation	NA : Legislates Foreign Investment Law GOV : Decrees SBV : Foreign Exchange Controls
	Expropriation Protection	Guarantee U.S. investment against unlawful expropriation	NA : Legislates Foreign Investment Law GOV : Decrees MPI : Circulars

Phase-in Period	Area of Reform	Commitment	Relevant Authority
	Dispute Settlement	Institute dispute settlement mechanisms and procedures allowing international arbitration	NA : Legislates Foreign Investment Law, Civil Procedure Law MOJ : Administers Judicial System
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.	MPI : Circulars, licensing PC : Licensing Management Board for Industrial Zones: Licensing
	Minority investor's rights	Scale back "consensus" principal at Board of Management level of JVs. [done] Eliminate de facto consensus requirements, (i.e., requirement for Vietnamese party to a JV to sign on a technology license to such JV from a foreign technology licensor.).	GOV : Decree MPI : Circulars MOSTE : Drafts and issues Circular on Technology Transfer
	Non-discrimination	Eliminate organization and management requirements for joint ventures. Eliminate discriminatory prices and fees for motor vehicles, international port charges, and subscription charge for local telephone service.	NA : LFI MOTR : Vehicle registration fees, port charges GDC : Customs Fees GDP : Telecom charges
	Capital contribution	Eliminate minimum requirement of 30% legal capital contribution for joint ventures and U.S. owned enterprises.	NA : LFI GOV : Decrees MPI : Circular

Phase-in Period	Area of Reform	Commitment	Relevant Authority
		<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>	<p>NA : LFI</p> <p>NA : Legislates LFI, Law on Domestic Investment and Enterprise Law</p> <p>SSC : Regulates public issue of securities</p> <p>SBV : Circulars governing debt instruments</p> <p>NA : Land Law, Law on Credit Institutions</p> <p>SBV : Circulars on mortgage lending</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	<p>MOTR : Transport charges</p> <p>SPC : Price regulation</p>
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.	<p>MPI : Circulars, licensing</p> <p>MOT : Circulars, trade policy import/export plan</p>
Within 6 years of entry into force	Investment Licensing & Registration	Implement investment registration procedures for investment projects in manufacturing with investment capital of up to USD 20 million.	<p>NA : Legislates licensing authority</p> <p>MPI : Circulars</p> <p>PC : Implements at local level</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
		Ensure that specified projects not subject to exemption, investment licensing, or registration be granted national treatment.	NA : Legislation MPI : Circulars
Within 7 years of entry into force	TRIMS	Eliminate requirements for exporting 80% of production in sectors listed under Annex H.	MOT : Trade policy, import/export plan MPI : Circulars, Licensing PC : Licensing
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.	NA : Legislates scope of registration process MPI : Draft and Issues Circulars on investment registration procedures DPI/PC : Implements registration procedures

CHAPTER V. Business Facilitation

Summary

Target Implementation Date

Immediate

Area of Reform

Import Rights for operational equipment
 Non-discrimination in business operations
 Right to Engage

Relevant Authorities

Although the Ministry of Planning & Investment (MPI) and the Ministry of Trade (MOT) play the leading role in this Chapter, various authorities from the central to local level are also involved. The business sectors covered by this Chapter are subject to horizontal and vertical administrative regulation.

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Upon entry into force	Import Rights to facilitate business	Allow U.S. companies to import and use office and other equipment used in connection with its activities in Vietnam	MOT : Regulates imports, issues import permits MPI : Defines types of equipment and import scope MOSTE : Regulates quality control, approves import of used equipment
	Non-discrimination	Allow U.S. companies access to office space and accommodations on a non-discrimination basis and at market prices	MOC/MPS : PC : Notary Office: Notarizes lease agreements for foreign companies

Phase-in Period	Area of Reform	Commitment	Relevant Authority
	Right to engage	<p>Provide access to government provided products and services including public utilities at fair and equitable prices and in no event at prices greater than those charged to nationals or other parties.</p> <p>Allow U.S. companies to engage agents, consultants and distributors on prices and terms agreed to by both parties for their production and investment activities</p> <p>Allow direct contact and direct sales with companies, end-users and other agencies and organizations whose decisions affect potential sales</p> <p>Allow U.S. companies to conduct market studies.</p> <p>Allow U.S. companies to stock an adequate supply of samples and replacement parts for after-sales service for investment products</p> <p>Allow U.S. companies to advertise products and services through direct agreement with advertising media and by direct mail</p>	<p>MPI/MOF : Regulates principles PC : DPI issues certificates of one price entitlement MOF/SPC/ GDP/DCA: Regulate prices</p> <p>NA : Legislates Commercial Law MPI : Circulars MOT : Circulars Line Ministries: Circulars</p> <p>MOT and Line Ministries PC : DPI :</p> <p>PC : Issues licenses to ROs. MPI/DPI : Issues licenses to FIEs.</p> <p>MPI : Grants FIEs the rights to stock the samples and replacement parts MOT : Regulates import/export trade</p> <p>MOT : Regulates promotions and other trade-related activities MOCI : Regulates advertising PC : Registration of Representative offices</p>

CHAPTER VI. Transparency and the Right to Appeal

Relevant Authorities

The Ministry of Justice (MOJ) has responsibility for regulating and administering the judicial system in accordance with codes and laws adopted by the National Assembly (NA). In the absence of a law on civil procedure or evidence, the People's Supreme Court (PSC) provides guidelines on matters of procedure and rules of evidence for the people's courts.

Where administrative procedures are concerned, however, the NA legislates issues regarding citizens' right to appeal, and most ministries stipulate first instance appeal procedures in Circulars that define the process within their respective areas of competence.

Phase-in Period	Area of Reform	Commitment	Relevant Authority
Upon entry into force	Transparency	<p>Publication of all laws, regulations and administrative procedures pertaining to any matter covered by the Trade Agreement before they come into effect.</p> <p>Provide access to economic and sectoral data, including foreign trade information. Not required to provide confidential information that may impede the law or that is contrary to State or private interests, but must be able to provide information mentioned in the agreement administered by the WTO.</p>	<p>GO : Has authority to publicize as well as manage the publication of all the statutory instruments at the central level in the Official Gazette⁵¹.</p> <p>SOJ : Releases statutory instruments issued by the PCs, People's Councils⁵²</p> <p>GDS : Compiles and releases statistical information on the national economy</p> <p>PM : MOT : Compiles trade data Chief of the State Budget Department of the MOF : Entitled to decide on the providing State budget data/database</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
		<p>Make readily and quickly available unpublished laws, regulations and administrative procedures.</p> <p>Designate and publish an official journal on all measures of general application.</p> <p>Ensure that all import-licensing procedures both automatic and non-automatic are implemented in a transparent and predictable manner, in accordance with the WTO Agreement on Import Licensing Procedures.</p>	<p>The Minister of the MOF :</p> <p>MPI : Compiles investment data</p> <p>SBV : Compiles balance of payments data</p> <p>Line Ministries: Compile sectoral data</p> <p>Line Services: Compile local data</p> <p>SP : Issues orders, decisions to publicize all laws and resolutions passed by the NA and ordinances or resolutions passed by the SCNA.</p> <p>GO : Publicize as well as manage the publication of all the statutory instruments at the central level in the Official Gazette⁵³.</p> <p>SOJ : Store, update and publicize all legal documents issued by the PCs and the People's Councils.</p> <p>GO : Publishes an official journal of statutory instruments at the central level.</p> <p>MOJ/MOCI : Publishes such official journal if they are in foreign languages</p> <p>MOJ :</p> <p>MOT : Regulates import-licensing procedures, clear authorization or designation to the Services of Trade; supervises the implementation of the procedures</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
	<p>Judicial procedures</p> <p>Transparency</p>	<p>Reveal all central government procurement tenders of above US\$500,000 in value</p> <p>Allow U.S. companies to comment on formulations of laws, regulations and administrative procedures.</p> <p>Administer laws in uniform and impartial manner.</p>	<p>promulgated, supervises the implementation of the import-licensing procedures of the Service of Trade</p> <p>GDC : Regulates customs procedures and requirements; responsible for their compliance with the import-licensing procedures issued by the MOT.</p> <p>SOT : Local administration of MOT regulations</p> <p>Customs at border: Local administration of procedures promulgated by the higher authorized bodies (i.e. GDC, MOT or even the Services of Trade).</p> <p>MPI : Issues information ad hoc</p> <p>MOC : same</p> <p>Line Ministries: same</p> <p>The relevant authority in charge of drafting work and the MOJ⁵⁴</p> <p>MOJ : Vets drafts of any statutory instrument at the central level. In addition, it is entitled to make a plan for indentifying the law effected by the BTA for a preparation of post-BTA⁵⁵ implementation. As such, the MOJ should have an overall view on the legal framework.</p> <p>PSC : -Adjudication,</p>

Phase-in Period	Area of Reform	Commitment	Relevant Authority
		<p>Maintain administrative and judicial tribunals and procedures for prompt review and correction of administrative action relating to matters covered by the Agreement. Procedures are to include the right to appeal a decision to a judicial body.</p>	<p>-Reports to the SCNA on the implementation of the relevant commitments in the BTA⁵⁶</p> <p>PIPP : Reports to the SCNA on the implementation of the BTA⁵⁷</p> <p>MPS : Enforcement</p> <p>MMB : Enforcement</p> <p>Below are State agencies/organizations with whom an entity can lodge an administrative claim:</p> <p>PM : Supervises the implementation and revokes/cancels any unlawful decisions, directions of Ministers, Heads of ministerial-level agencies, Presidents of the PCs⁵⁸.</p> <p>GOV⁵⁹ : Ensures the uniformity of statutory instruments promulgated by the Ministries, ministerial-level agencies, governmental agencies, People's Councils, PCs</p> <p>MOJ : Has overall jurisdiction on the legal framework in Vietnam Line Ministries and other agencies at the ministerial level</p> <p>Relevant state bodies</p> <p>PCs</p> <p>PCourts</p>

