

Next Steps: Other U.S.-Vietnam Trade Issues and WTO Accession

★ **Are U.S.-Vietnam economic relations now fully normalized?**

Not quite. Vietnam does not have permanent NTR status with the U.S, Vietnam has begun the process of joining WTO, and as a result could be eligible for GSP benefits and PNTR in the future.

★ **What are the Congressional procedures for Vietnam getting Permanent Normal Trade Relations (PNTR)?**

Under Title IV of the Trade Act of 1974, in order for a Non-Market Economy (NME) like Vietnam to attain unconditional MFN status, the President will have to transmit a report to Congress certifying that the immigration objectives have been fulfilled or that the terms and conditions for the accession of Vietnam to the WTO are at least equivalent to those agreed between the U.S. and Vietnam. A congressional vote in both the House and the Senate is required for the extension of PNTR for Vietnam. After Congressional action, the President must determine that the provisions of conditional MFN no longer apply to Vietnam and proclaim the extension of unconditional non-discriminatory treatment to the products of Vietnam.

★ **How does a country like Vietnam get General System of Preferences (GSP) status?**

Under Title V of the Trade Act of 1974, as amended, the President may provide duty-free treatment for any eligible article from any designated beneficiary developing country (BDC). However, the President is prohibited from designating a country a BDC if it is a “communist country” unless (a) its products receive non-discriminatory (MFN) treatment; (b) it is a WTO member and a member of the IMF; or (c) it is “not dominated or controlled by international communism.” Other factors also may prevent designation of a country as a BDC, or lead to loss of BDC status, such as non-recognition of international labor standards or failure to protect intellectual property rights.

★ **How does the BTA help with Vietnam’s negotiations for WTO Accession?**

As described below, WTO accession negotiations will involve both agreement by Vietnam to take on WTO rules, and bilateral negotiations on market access for goods and services. Through the BTA, Vietnam has already taken on core WTO principles such as MFN, national treatment and non-discrimination, transparency and predictability, thereby providing a solid basis for work on Vietnam’s accession. The BTA also covers a substantial portion of WTO disciplines, including the WTO disciplines covering trade in goods, trade in services and trade-related aspects of intellectual property rights, , various IP conventions and the WTO’s Basic Telecom Reference Paper. The tariff and services market access commitments in the BTA have started the process of opening Vietnam’s economy. The access they provide for U.S. products will provide an incentive for other WTO Members to accelerate Vietnam’s accession negotiations..

★ **What procedures would Vietnam have to undertake for WTO Accession?**

WTO accession negotiations follow a well-established pattern. Following are the various stages of the accession process:

- The formal accession process begins by filing a request for accession with the WTO Director-General; the WTO General Council then considers the application and may establish an accession working party. In January 1995, Vietnam applied for accession and the WTO General Council established the Working Party on the Accession of Vietnam, chaired by Ambassador Seung Ho of Korea. The Working Party is open to all Members and to observers such as other interested acceding countries.

- The next stage starts with a factual examination of the trade regime of the acceding government. The acceding government must prepare a Memorandum on its foreign trade regime for the Working Party, describing in detail the acceding country's regime for trade in goods, and policies and practices on intellectual property, services, and trade-related investment measures. Vietnam's Memorandum was circulated to the WTO in September 1996 and discussed at meetings of the Working Party. Vietnam then tabled an initial market access offer for goods and services early in 2002.
- The Working Party met for the fifth time in April 2002, to review Vietnam's initial market access offer and Vietnam's action plans for implementing the WTO agreements on intellectual property (TRIPS), sanitary and phytosanitary (SPS) measures and customs valuation, its legislative reform program, and answers to questions from trading partners regarding Vietnam's trade regime, as well as Vietnam's subsidy and TRIMs programs. Vietnam also met bilaterally to start market access negotiations with 16 countries, including United States, European Union, Japan, Canada, Australia, Switzerland, Norway, Kyrgyzstan, Czechoslovakia, South Korea, Singapore, Thailand, Paraguay, Uruguay, Cuba, and China.
- At an appropriate time decided by the Working Party, discussions then begin on the concrete terms of accession. The acceding country negotiates with WTO Members on these terms, including any transition rules or other special provisions. At the same time, the acceding country continues bilateral negotiations on tariff concessions and on commitments providing market access in services.
- After all bilateral negotiations have been completed, the Working Party prepares a draft Protocol of Accession, a draft decision by the General Council approving the accession, and a report to the General Council providing a record of the Working Party's discussions. The acceding country submits draft schedules that record all the market access commitments to which it has agreed, and the schedules are attached to the draft Protocol. The draft Protocol records the exact terms of membership for the acceding country. All decisions by the Working Party are taken by consensus, including the decision on whether to approve the draft accession package (the Protocol, schedules, decision and report to the WTO General Council).
- After the package is forwarded to the General Council, the WTO General Council adopts the Report and approves the draft Decision and Protocol of Accession. The Protocol and Decision are formally submitted for a vote, but in practice the General Council, too, decides on accessions by consensus. The Protocol is then opened for signature, and 30 days after the acceding government signs and accepts the Protocol, the Protocol enters into force and the country becomes a WTO Member.
- Currently there are 23 countries seeking WTO accession, including Russia, Ukraine, Belarus, Kazakhstan, Tajikistan, Uzbekistan, Laos, Cambodia and others.
- Vietnam has set a goal of acceding to the WTO by 2005, or before the conclusion of the ongoing WTO round.

★ **How will the new round of trade negotiations affect Vietnam's WTO accession negotiations?**

The conjunction between Vietnam's accession talks and the WTO round of trade negotiations offers unique opportunities. As an acceding country, Vietnam will be able to participate in the trade negotiations and bargain for trade concessions to benefit its exports. When Vietnam accedes, it will also benefit from the tariff reductions and agreements by other trading partners. Vietnam's trading partners will also expect Vietnam to participate in any new agreements that emerge from the round.

★ **What does WTO accession for Vietnam mean in terms of U.S. trade law?**

Upon conclusion of negotiations with the U.S. and other trading partners on WTO accession, legislation will be submitted to the U.S. Congress requesting the granting of Permanent Normal Trade Relations (PNTR) for Vietnam. Under Article I of the GATT 1994, members of the WTO are required to provide unconditional MFN treatment to goods of all other members. If necessary, the U.S. could invoke Article XIII of the WTO Agreement (providing for bilateral non-application of WTO obligations), but this would mean U.S. companies would not benefit from the market access and other concessions extended by Vietnam to other members of the WTO.

★ **What are the effects of a Textile Quota Agreement with the U.S. and when will both sides conclude an agreement?**

A bilateral textile agreement would set quota levels on various textile products entering the U.S. from Vietnam. Currently, there are no limits on imports of Vietnamese textile products, but unilateral quotas could be established by the U.S. if a “call” is made by the Committee for the Implementation of Textile Agreements (CITA). The U.S. and Vietnam have conducted initial discussions on an agreement and negotiations are expected to begin in the future.

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