

## UPDATE

September - December 2005

### Vietnam WTO Working Party Meeting

The latest multilateral discussions took place during the 10th meeting of Vietnam's WTO Accession Working Party in Geneva in mid-September. A multilateral technical meeting (i.e. a sub-group of the working party) on domestic support and export subsidies in agriculture was held on September 16<sup>th</sup>. The working party examined the first revision of Vietnam's membership report, reporting that progress has been made. After the meeting, the Working Party forwarded all comments from members to Vietnam, and they are now awaiting Vietnam's responses. To date, Vietnam has closed bilateral negotiations with more than 20 members and bilateral negotiations continue with six countries: Australia, New Zealand, Mexico, Honduras, the Dominican Republic and the U.S. The Secretariat continues to receive legislation from Vietnam, totaling now over 200 laws, draft laws, and regulations. USVTC is in the process of updating our *WTO Issues Paper*.

### APEC 2006 in Hanoi



The U.S. delegation to APEC 2005 met with Vietnam's President Tran Duc Luong on the sidelines of APEC meetings in Pusan, Korea. Gary Benanav (L), Chairman of New York Life International, led the discussion on Vietnam's WTO accession and the country's plans for APEC 2006.

### UPCOMING HIGHLIGHTS

(See Page 4 for further details)

December 3-12, 2005:  
USAID/USVTC/STAR Study Mission on Securities

December 7, 2005: "Settlement of IPR Disputes: Case Studies - 2005 IPR Seminar Series

December 11-13, 2005: Visit to Vietnam by a Congressional delegation of seven US Senators and staff members led by Sen. Gordon Smith.

December 13-14, 2005: The 6th WTO Ministerial Conference in Hong Kong

March 9-10, 2006: USVTC/USABC Trade Mission to Vietnam

### U.S.-Vietnam WTO Bilateral Negotiations

On the sidelines of the 10<sup>th</sup> Working Party Meeting held in Geneva in September, the U.S. and Vietnam met informally to discuss Vietnam's latest offer. Additional U.S.-Vietnam talks will be scheduled pending the U.S. receiving a new offer from Vietnam. Outstanding issues include market access and rules. [See USTR Briefing with Member Companies, below, for further details].

### Dong Nai Investment Promotion Seminar (DC) – September 27, 2005

The U.S.-Vietnam Trade Council was pleased to collaborate with Georgetown University to organize an investment seminar in Washington, DC. The seminar was a part of a multi-city tour by a

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delegation of government officials and company representatives from Dong Nai Province who visited the U.S. in an effort to promote trade and investment in Dong Nai. The program included participation by Vietnam's Ambassador to the US and presentations by representatives from the Dong Nai People's Committee, the US Department of Commerce, EX-IM bank, OPIC and US companies and individuals with operations in Dong Nai Province. About 50 US business people, potential investors, students and government officials attended.

#### **Customs Update – October 2005**

Vietnam recently passed key amendments to its Law on Customs, and is now in the process of drafting regulations to implement the principles of pre-entry clearance and post-clearance audit. Vietnam has also recently been awarded \$77 million from the World Bank to modernize their Customs regime. The program is expected to be implemented in phases through 2010, with plans to put in place, among other elements: an e-Customs system, x-ray equipment at airports, and container scanners for the seaports of Ho Chi Minh City and Hai Phong. In October, the U.S.-Vietnam Trade Council and U.S.-ASEAN Business Council drafted a Customs Issues Paper providing comments and recommendations on Vietnam's Customs regime. The paper was submitted to Vietnamese Government officials participating in a follow-up Customs study mission held in Singapore in mid-October (for further details refer to *Customs Study Mission* under Technical Assistance Updates below).

#### **Briefing and Dialogue on Vietnam with US Ambassador Michael W. Marine (LA) - October 28, 2005**

The U.S.-Vietnam Trade Council, U.S.-ASEAN Business Council and the Pacific Council co-organized a briefing and dialogue in Los Angeles with the Honorable Michael W. Marine, U.S. Ambassador to Vietnam. The event was hosted by Far East National Bank and moderated by Robert B. Oehler, Senior Managing Director for Asia Banking and Finance with RockVest International Group. Ambassador Marine visited Los Angeles from October 26 to 29 to meet with government representatives,

university faculty and students, business representatives and members of the Vietnamese American community.

#### **USTR Briefing with Member Companies on Vietnam's WTO Accession - November 4, 2005**

The Council was pleased to organize a briefing by USTR for member companies on progress towards Vietnam's WTO accession and the status of bilateral negotiations with the U.S. USTR representatives included Dorothy Dwoskin – Assistant USTR for Southeast Asia & APEC Affairs, Elena Bryan – Deputy Assistant USTR for Southeast Asia & APEC Affairs, Greg Hicks – WTO office, Director of Trade Policy Review, and Cecilia Kline – Director of WTO Accession. During the meeting, the business community discussed with USTR the desire to have a PNTR vote before the August recess in 2006 if a commercially acceptable agreement can be reached.

#### **Congressional Staff Delegation Update (DC) - November 30, 2005**

The U.S.-Vietnam Trade Council organized an update meeting for congressional staff members that participated in a study mission to Vietnam in March and April 2005. Delegation members included Isaac Edwards (Sen. Murkowski), Jim Stowers (Sen. Lincoln), Jon Sheiner (Con. Rangel) and Bob Holste (Con. English). Also present were sponsors and company representatives including Christine Ramsdell (Boeing), Shawn Gallagher (AIG), Tim Fisher (MetLife) and Raymond Sander (New York Life).

## **Technical Assistance Updates**

### **WTO Accession**

#### **Jack P. Tate Foundation II Grant**

The Tate Foundation II awarded the Council a substantial grant to support on-going educational and technical work on Vietnam's accession to the WTO. Our very special thanks go to the Tate Foundation.

#### **Bilateral and Multilateral Negotiations**

Over the past six months, the Council has worked to assist Vietnamese government

counterparts in meeting legislative requirements relating to Vietnam's WTO accession process. To meet the legislative goals outlined in *Official Letter 231-TTg-QHQT* issued by Deputy Prime Minister Vu Khoan in March 2005, the Trade Council continues to provide support such as comments on draft laws, technical memos on specific trade issues and technical assistance such as study missions, briefings and in-country workshops. To support ongoing negotiations with the U.S., the Trade Council, in cooperation with Phillips Fox, has been assisting the Ministry of Justice in providing English translations of all WTO-related laws requested by USTR.

#### **Joe Damond visits Hanoi on WTO Issues**



*Joseph Damond, Board Member of VTC and former chief negotiator of the BTA at USTR, and now with PhMRA (L) and Ginny Foote speak to AmCham Members on Vietnam's WTO Accession Process and next steps (Hanoi, November 14, 2005).*

#### **Virginia Foote Accompanies Former U.S. Chief BTA Negotiator to Hanoi to Support Vietnam's WTO Accession Process – November 9 to 14, 2005**

Joe Damond, Deputy Vice President for International Affairs at PhRMA, USVTC Board Member and former Chief BTA negotiator, made a technical assistance visit to Hanoi in mid-November for meetings with officials from the Ministries of Trade, Foreign Affairs, Planning and Investment as well as other key trade advisors and local journalists to discuss outstanding issues relating to Vietnam's WTO accession, particularly those issues of greatest concern to the US. In addition, Ms. Foote and Mr. Damond were keynote speakers at an AmCham luncheon in Hanoi on "WTO Accession: Benefits to

Companies", providing updates on the status of Vietnam's WTO accession process and next steps for the country to move forward.

#### **"Catalog of Legal Updates: Vietnam Trade Policy Regime" - Monthly**

On a cumulative monthly basis since 2000, USVTC has compiled the *Catalog of Legal Updates*, identifying laws and regulations promulgated by Vietnam as they relate to obligations under the BTA and WTO accession. The "*Vietnam Trade Policy Regime: Catalog of Legal Updates*", focuses on legal developments with a view towards what Vietnam has undertaken or will undertake for its WTO accession. Highlights from November include updates on: the proposed new law on investment, the proposed cap on foreign participation in the Vietnamese securities market, foreign exchange controls, foreign loan controls, guidelines on the organization and operation of securities investment funds and fund management companies, and caps on foreign employees. The Catalog is prepared with the assistance of Phillips Fox and monthly updates are available on our website.

#### **STAR-Vietnam/USVTC Study Mission on Enforcement of Judgments – September 27 to October 8, 2005**

In September, U.S.-Vietnam Trade Council organized a study mission to San Francisco and Washington, DC, to support Vietnam's efforts to draft a new Judgment Enforcement Code (due for promulgation by the National Assembly in November 2005) and related provisions in the Civil Code in order to give administrative agencies and the courts the legal tools needed to enforce court judgments effectively. The delegation was led by Vice Minister of Justice Madame Le Thi Thu Ba, and included Madame Nguyen Thi Bac, Vice Chairwoman of the NA Law Committee, Mr. Nguyen Binh, Deputy Director of the MOJ Civil and Economic Legislation Department, Mr. Nguyen Thanh Thuy, Deputy Director of the MOJ Civil Judgment Enforcement Department, Mr. Luong Vinh Phuc, Director of the HCMC Civil Judgment Enforcement Agency, Mr. Nguyen Khanh Ngoc, Deputy Director of the MOJ International Law Department, Mr. Nguyen Van Luat, Director of the Judicial Science Institute at the Supreme People's Court, Mr. Nguyen Van Thong, Chief of

Division for the Ministry of Public Security and Do Van Quang, Official in Central Internal Affairs Commission.

**Technical Assistance on Mutual Judicial Assistance: Follow-up to the Enforcement of Judgments Study Mission - October 31, 2005**

USVTC coordinated with the Ministry of Justice and Marcia Wiss (Adjunct Professor at Georgetown Law School and Partner with Hogan & Hartson LLP), to organize an informal discussion on mutual legal and judicial assistance to assist the Vietnamese in their efforts to draft a new bill that will improve the speed and efficiency of judicial cooperation and to regularize and facilitate its procedures. The meeting included twenty legal experts and court officials from the Ministry of Justice, the courts, Supreme People's Procuracy and other relevant ministries. Professor Wiss also met with the Enforcement of Judgments delegation while in DC in September.

**1st Regional LawAsia Conference on International Trade Law (HCMC) – October 7 - 8, 2005**

USVTC President Virginia Foote participated in a regional conference on international trade law, which was co-organized by LawAsia and the HCMC Bar Association. This is the first regional conference on International Trade Law held in Vietnam. The topic for Session 7 was "Trade Law and the WTO" and Virginia spoke about the status of Vietnam's accession to the WTO, purpose and procedures relating to PNTR for Vietnam, and other US trade law procedures and processes.

**Customs & Trade Facilitation**

**ECA Customs Study Mission to Singapore - October 10-14, 2005**

To support implementation of the amended Customs Law, the USVTC and the Singapore Ministry of Foreign Affairs hosted a four-day study mission to Singapore for ten delegates from the General Department of Vietnam Customs. The study mission aimed to improve trade facilitation using pre-entry clearance, risk management strategies and post-clearance audit techniques, including

the application of e-technologies. While in Singapore, the group worked with Singapore Customs, Singapore Immigration and Checkpoint Authority and FedEx. In addition, delegates briefed U.S. companies on their priority issues of concern submitted to Vietnam as an "issues paper" by the USABC Customs Working Group. Funding for this mission was provided by the U.S. Bureau of Economic and Cultural Affairs and the Government of Singapore.

**Intellectual Property Rights**

**USVTC 6<sup>th</sup> IPR Seminar on "Provisional Measures of IPR Disputes" - 14 September 2005**

In coordination with the General Sciences Library of HCMC, the Trade Council organized a half-day workshop on legal procedures for examining, detaining, seizing and destroying products that violate intellectual property rights laws. Mr. Nguyen Van Vien, an international attorney with Frasers law firm moderated. The keynote speaker was Judge Nguyen Hoang Dat, Tribunal Vice President at the HCMC Civil Court. Participants in the panel discussion included Ms. Nguyen Thi Bich Duong - Vice Head of the HCMC Market Management Board, Ms. Truong Thuy Trang - Vice Director of the HCMC Department of Science and Technology, Mr. Nguyen Cong Hoa - Economic Policeman and Ms. Hien - Legal Representative for Effem Foods Inc. (a division of Mars Co.). Approximately 100 lawyers, judges, government officials and business representatives attended.

**Upcoming Highlights**

**Senate Delegation Visit to Vietnam - December 11 - 13, 2005**

A delegation of seven U.S. Senators and Congressional staff members is scheduled to participate in a mission to China, Cambodia, Vietnam and Thailand during the second week of December. The delegation, which will include Senator Gordon Smith (R - Oregon), Senator Trent Lott (R - MS), Senator Robert Bennett (R - Utah), Senator Ron Wyden (D - OR), Senator Jim Bunning (R - KY), Senator John Cornyn (R - TX),

Senator Mike Crapo (R – ID), the Senators' wives and key staff, will be in Hanoi on December 11th and 12th to discuss WTO, APEC, avian influenza, and MIA issues with Vietnamese Government officials, U.S. Embassy personnel and U.S. company representatives. USVTC, USABC and AmCham will organize a joint breakfast with the delegation and our Member companies and participate in a dinner hosted by Ambassador Michael W. Marine.

#### **WTO Memos and Issues Paper – December 2005**

USVTC is preparing memos on outstanding issues to assist with U.S.-Vietnam discussions on multilateral and bilateral issues pertaining to WTO accession.

#### **USAID/USVTC/STAR Study Mission on Financial and Securities Market Development - December 3 to 10, 2005**

STAR-Vietnam and USVTC are organizing a study mission to Washington, DC and New York City from December 2 to 10. The purpose of the mission will be to assist Vietnam's Ministry of Finance and State Securities Commission to develop and implement its strategy for financial and securities market development through 2010. The delegation from Vietnam, led by Chairman Tran Xuan Ha of the Vietnam State Securities Commission, will include Vietnam's Vice Minister of Justice Hoang The Lien and key decision makers from the Ministry of Finance and State Securities Commission. During their short visit to the U.S., delegates are looking forward to studying the U.S. experience in developing its legal and regulatory frameworks governing the financial sector, and assessing what aspects are applicable and adaptable to Vietnam. During their visit, the delegation will meet with the U.S. Securities and Exchange Commission, Department of Treasury, Federal Reserve, U.S. Congress (Senate Banking Committee), New York Stock Exchange, as well as major investor and self-regulatory groups.

#### **USVTC 7<sup>th</sup> IPR Seminar: "Settlement of IPR Disputes" - December 7, 2005**

The U.S.-Vietnam Trade Council and the Ho Chi Minh City General Sciences Library are pleased to be organizing the 7<sup>th</sup> of our seminar series on intellectual property rights

issues. The upcoming program will focus on "Settlement IPR Disputes", using case study examples from Vietnam and international best practices. At the seminar, the Honorable Judge Nguyen Hoang Dat, Deputy Chief of the Ho Chi Minh City Civil Court, will provide an overview of civil court procedures for IPR disputes in Vietnam and provide examples from recent cases. In addition, Tom Treutler, an IP expert and attorney with Baker & McKenzie, will present international best practices in IPR dispute settlement and review case outcomes settled in Vietnam, including court cases & administrative proceedings on trademark infringement and unfair competition. Participants include judges, lawyers, lawyer trainees, law school faculty and students and local government officials.

#### **USABC-ITPC Business Dialogue: "U.S.-Vietnam Relations and U.S.-Vietnam Trade and Investment Relations" - December 9, 2005**

The U.S.-Vietnam Trade Council and the Ho Chi Minh City General Sciences Library are pleased.

#### **USABC Vietnam Trade Mission, March 9 & 10, 2006**

USABC will organize a trade mission to Vietnam for U.S. businesses. The purpose of this mission is to maintain an open dialogue with senior government officials and show US businesses' continued interest in Vietnam. More details to follow.

#### **USVTC Congressional Staff Delegation to Vietnam, April 2006**

USVTC plans to organize a trip for Congressional staff members Vietnam during the 2006 Easter recess. The tentative itinerary for the trip would include visits to Hanoi, Da Lat and HCMC. More details to follow.