

## UPDATE

April - September 2005



Prime Minister Phan Van Khai and President George W. Bush in the White House Oval Office, 21 June 2005 (*White House Photo*)

### **Vietnam Prime Minister Phan Van Khai Visit to Washington DC**

Vietnam Prime Minister Phan Van Khai made a historic visit to United States June 21- 24, 2005, visiting Seattle, Washington DC, New York City, and Boston. His delegation included Deputy Prime Minister Vu Khoan, Minister of Finance Nguyen Sinh Hung, Chairman of the Government Office Doan Manh Giao, and Vice Ministers from the Ministries of Justice, Foreign Affairs, Trade, Finance, Planning & Investment, Health, Public Security, Agriculture, Defense, Training & Education, Transport, Government Office, and Post & Telecom. More than 200 businesses also accompanied the official delegation.

Prime Minister Khai's program in Washington DC included meetings with President Bush, Secretary of Defense Rumsfeld, Secretary of Commerce Gutierrez, US Trade Representative Portman, and Congressional Leaders in both the House and the Senate. A joint

### **UPCOMING HIGHLIGHTS**

(See Page 7 for further details)

September 2005: Vietnam WTO Working Party in Geneva

September 2005: USAID / USVTC / STAR Study Mission on Judgment Enforcement

September 2005: USVTC / USFCS / Ministry of Culture & Information Workshop on Copyright Licensing for Software

September 2005: USVTC / Ho Chi Minh City General Sciences Library Seminar on "Provisional Measures in Intellectual Property Rights Disputes"

October 2005: USVTC / Singapore Ministry of Foreign Affairs / Singapore Customs Study Mission to Singapore

statement between President Bush and Prime Minister Khai was issued pledging further cooperation and the strengthening of bilateral ties on many fronts including defense, trade, science, education, and culture. The two leaders also committed to strengthening ties on transnational issues such as the global fight against terrorism, transnational crime, narcotics, and trafficking in persons, and to deepen cooperation on health and humanitarian issues, including the prevention of pandemics, especially of HIV/AIDS and Avian Influenza. Vietnam's accession to the WTO was discussed as a high priority.

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President Bush also said that he would visit Hanoi when Vietnam hosts APEC in 2006. This joint statement is available at: <http://www.state.gov/p/eap/rls/rm/2005/48443.htm>

The U.S.-Vietnam Trade Council and the US ASEAN Business Council were pleased to have been involved in many aspects of the Prime Minister's visit. We would like to express our sincere thanks to our trip and host committee sponsor companies: ACE, AIG, Boeing, Citigroup, GAP, Motorola, NIKE, New York Life, Procter & Gamble, Vietnam Partners and the Tate Foundation; and Anheuser Busch, Alcoa, Cargill, Caterpillar, ConocoPhillips, Diageo, FedEx, Liberty Mutual, Lockheed Martin, and Unocal. Many thanks also to the Vietnam Chamber of Commerce & Industry and US Chamber of Commerce for being joint organizers of the Business Forum and Gala Dinner in Washington DC.

#### **US Department of Commerce Signing Ceremony, June 21**

At a ceremony on 21 June, Commerce Secretary Carlos M. Gutierrez and Prime Minister Phan Van Khai witnessed the signings of U.S.-Vietnam business and license agreements, including wholly owned life insurance licenses to ACE and New York Life International; purchase agreements between Vietnam Airlines Corporation and Boeing for four Boeing 787-8 Dreamliners; projects with Fluor Corporation, Unocal, International Corporation and Vietnam Oil & Gas Corporation (PetroVietnam) to initiate a major feasibility study jointly funded by the US Trade & Development Agency and Unocal, on the development of a gas pipeline from the Gulf of Thailand to Vietnam; and a contract between Motorola and Vietnam Post & Telecommunications Trading Joint Stock Company for telecom equipment to upgrade base stations in 8 southern provinces in Vietnam.

#### **US-Vietnam Business Forum, June 21**

The U.S.-Vietnam Trade Council, US ASEAN Business Council, US Chamber of Commerce, and Vietnam Chamber of Commerce & Industry were pleased to have jointly organized a US-Vietnam Business Forum - "Trade & Investment: Bilateral U.S.-Vietnam Economic Relations Ten Years After

Normalization". The forum featured keynote remarks by Deputy Prime Minister Vu Khoan, and U.S. Senator Max Baucus. Please click on the link below for a copy of Senator Baucus' remarks on Vietnam's WTO accession and other issues:

<http://finance.senate.gov/press/Bpress/2005press/prb062105.pdf>

#### **CEO Roundtable Dialogue with Prime Minister Phan Van Khai**

Trip and Host Committee Company sponsors attended a CEO Roundtable Dialogue with Prime Minister Khai to discuss issues related to business operations in Vietnam in the context of Vietnam's bid to accede to the WTO. An *Issues Paper* was presented to the Prime Minister outlining the priorities and recommendations of U.S. companies. This *Issues Paper* has been subsequently translated into Vietnamese and disseminated to all relevant ministries and offices in Vietnam. The Trade Council looks forward to monitoring developments and following up on these issues.



*Guest of Honor U.S. Senator John McCain with USVTC President Virginia Foote*

#### **Gala Dinner in Honor of Prime Minister Phan Van Khai, June 21**

In honor of Prime Minister Khai and his visiting delegation, we were pleased to organize the Gala Dinner attended by more than 600 guests from the U.S. private sector, U.S. Government, diplomatic community, think-tanks, and media. We were honored to have U.S. Deputy Secretary of State Robert Zoellick give welcoming remarks. Prime Minister Khai was introduced by US Senator John

McCain. (For a copy of Senator McCain's remarks, please go to: [http://www.usvtc.org/McCain\\_dinner\\_remarks.doc](http://www.usvtc.org/McCain_dinner_remarks.doc) ) For a webcast of the dinner event, please visit C-Span's website.

### **Congressional Reception Marking the 10th Anniversary of Normalization**

On Wednesday, June 23rd, the US-ASEAN Business Council and the US-Vietnam Trade Council hosted a Capitol Hill reception celebrating the tenth anniversary of the normalization of relations between the US and Vietnam, featuring remarks by H.E. Prime Minister Phan Van Khai, The Honorable Senator John Kerry, The Honorable Senator John McCain and The Honorable Richard Armitage. The reception was also attended by Representative Rob Simmons, Lane Evans and George Miller from the Vietnam Caucus.



*June 23: Prime Minister Phan Van Khai rings the opening bell at the New York Stock Exchange. (Front row, left to right: Edward Cloonan – Vice President, Corporate Affairs, AIG; Martin Sullivan – Chairman, AIG, PM Khai; DPM Vu Khoan; Minister of Finance Hung.*

### **PM Khai's Visit to Seattle, New York, and Boston**

In addition to Washington, DC, Prime Minister Khai visited Seattle, WA; New York, NY; and Boston Massachusetts. In Seattle, the Prime Minister and his delegation were hosted by Boeing, NIKE, and GAP, and visited the Boeing factory facilities. The delegation also visited Microsoft's campus where the Prime Minister met with Chairman Bill Gates. In New York City, Prime Minister Khai was hosted by AIG Chairman Martin Sullivan; the New York Stock Exchange; and the

Asia Society. In Boston, the delegation was hosted by Liberty Mutual, IDG, Harvard University and MIT, and met with U.S. Senator Ted Kennedy and Governor Romney of Massachusetts at a luncheon hosted by Liberty Mutual.

### **U.S.-Vietnam Normalization – 10th Anniversary Celebrations exhibit at the Smithsonian, July 2005**

In commemoration of the 10th anniversary of U.S.-Vietnam normalization, the U.S. Department of State, the Embassy of Vietnam, the U.S.-Vietnam Trade Council and The Freer Gallery of Art and Arthur M. Sackler Gallery organized a reception at the Smithsonian in Washington, DC. The event also featured a Vietnamese Traditional Theater Performance at the Meyer Auditorium. Many thanks to ACE, AIG, Far East National Bank, New York Life, and Proctor and Gamble for their sponsorship.

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

The U.S. and Vietnam recently conducted another round of negotiations from 13-17 June 2005 in Washington, D.C. Vietnam's negotiations were led by Vice Minister of Trade Luong Van Tu. In the lead up to the visit to the U.S. of Vietnamese Prime Minister Phan Van Khai, both sides worked intensively on agricultural and industrial tariffs, non-tariff barriers, services, and Vietnam's multilateral obligations, to narrow the gap and remaining issues left to be discussed. As next steps, both sides will work towards exchanging new offers and other materials and scheduling another round of negotiations in Geneva around Vietnam's next working party meeting in September.

### **USTR Briefing to Companies on Vietnam's WTO Accession**

The U.S.-Vietnam Trade Council and the U.S.-ASEAN Business Council were pleased to have conducted a briefing for companies with Dorothy Dvoskin - Assistant USTR for Asia Pacific and Pacific Affairs, and Elena Bryan - Deputy Assistant USTR for Southeast Asia and Pacific Affairs on issues relating to Vietnam's bilateral negotiations with the U.S. for its accession to the WTO. As a follow-up, an *Issues Paper* outlining U.S. private sector priorities was submitted to USTR. We continue to

monitor developments and work closely with US companies / trade associations and the Vietnamese side on these specific trade priorities.

#### **Vietnam WTO Working Party Meeting, May 16, 2005**

Vietnam's 10th and most recent Working Party meeting was held on 20 May 2005. At this meeting, new Working Party Chairman Eirik Glenne urged Vietnam to complete bilaterals in the "next couple of months" if it were to hope for accession in December 2005. Eight new commitments and developments were presented by the Vietnamese side including a proposed revision of excise duties to end discrimination against imported motor vehicles; a similar proposal for excise duty on beer; the elimination of export performance subsidies; a commitment to require supported products made in free zones to be subject to normal customs formalities when entering Vietnam; the setting up of TBT and SPS enquiry points; the extension of trading rights with exceptions for sensitive products such as petroleum, pharmaceuticals, sugar, tobacco, salt, fertilizers, rice and cultural products; and the streamlining of import licensing procedures. The Secretariat also received a series of draft laws, including the draft *Commercial Law*, the draft *Law on Amendments to the Customs Law*, the draft *Law on Conclusion, Accession and Implementation of International Treaties*, the draft *Law on E-Transactions*, the draft *Common Investment Law*, Part VI of the draft *Law on Intellectual Property Rights and Technology Transfer*, and a document comparing the draft revised *Law on Export and Import Duties* to the provisions of the existing Law.

Vietnam has to date concluded bilateral negotiations with the EU (October 2004), Chile (November 2004), Argentina (November 2004), Brazil (November 2004), Singapore (December 2004), Uruguay (April 2005), Korea (June 2005), Japan (June 2005), Canada (June 2005), China (July 2005), Columbia (July 2005), South Korea (July 2005), Iceland (August 2005), India (August 2005), Switzerland (August 2005) and Norway (August 2005). Negotiations with Bulgaria, Cuba, Kyrgyzstan, Turkey and

El Salvador have also been concluded. Vietnam is now working intensively to close agreements with the U.S., Australia, New Zealand and others this summer.

#### **Jackson-Vanik Waiver, June 1, 2005**

Pursuant to the authority vested in the President under the Trade Act of 1974, as amended, and assigned to the Secretary of State by virtue of section 1(a) of Executive Order 13346 of July 8, 2004, the further extension of the Jackson-Vanik waiver for Vietnam was granted. This annual waiver for Vietnam allows goods of Vietnamese origin to continue to receive NTR status from the U.S. It also allows for EXIM, OPIC, TDA, and USAID operations to continue for Vietnam. No disapproval resolution was introduced in Congress this year.

#### **U.S.-Vietnam Religious Freedom Agreement**

On May 5, 2005, the U.S. and Vietnam concluded an agreement that addressed a number of important religious freedom concerns. Under the agreement, Vietnam has affirmed the banning of forced or coerced renunciations of faith, released a number of prominent prisoners of concern, and has begun to register and permit the reopening of churches that had previously been closed. Vietnam has also enacted significant legislative reforms that hold the promise of major improvements in religious freedom in the near future. This is the first bilateral agreement ever reached with a US designated country of particular concern.

#### **US-ASEAN Ambassador's Tour**

U.S. Ambassador Michael Marine traveled with a delegation of his U.S. counterparts in the ASEAN region on the US-ASEAN Business Council's annual *US-Ambassadors Tour* from May 15 - 25, 2005. The Ambassador met separately with corporate members to discuss various issues, including issues on the growing bilateral economic relationship and Vietnam's accession to the WTO.

## **Technical Assistance Updates**

### **WTO Accession**

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

The U.S.-Vietnam Trade Council has worked to assist Vietnamese government counterparts on issues relating to its WTO accession. To meet its legislative goals outlined in *Official Letter 231-TTg-QHQT* issued by Deputy Prime Minister Vu Khoan in March 2005, the Trade Council has provided support such as comments on draft laws, technical memos on specific trade issues, and conducted key study missions for drafting teams. In preparation for negotiations with the U.S. in June and July 2005, the Trade Council in cooperation with Phillips Fox assisted the Ministry of Justice in providing English translations of all WTO related laws for submission. We continue to work on a daily basis with our Vietnamese counterparts to address the remaining issues between the U.S. and Vietnam on their bilateral negotiations. We would like to express our special thanks to the Atlantic Philanthropies for their support.

#### **USAID / USVTC Study Mission on Omnibus Legislation for WTO Implementation**

In June 2005, USVTC conducted a study mission to Washington DC to assist Vietnam in the drafting and enactment of an omnibus law to address its “*upon accession*” WTO commitments. This study mission was led by the Ministry of Justice with the participation of key staff of the National Assembly, and the Office of the Government. Delegation members consulted with USTR, the Senate Finance Committee, House Ways & Means Committee, and legal practitioners in Washington DC on the comparative approaches undertaken to implement the Uruguay Round, NAFTA, and other trade agreements implemented by other countries. This study mission is organized through a grant from USAID.

#### **Memo on Vietnam PNTR**

We have recently issued an updated memo on Permanent Normal Trade Relations (PNTR) for Vietnam. The memo addresses U.S. legal obligations, Congressional procedures, and past practices with regard

to extending PNTR to Jackson-Vanik countries. Please click on the following link to view this document:

[http://www.usvtc.org/trade/wto/PNTR%20WTO\\_FAQ28July2005.pdf](http://www.usvtc.org/trade/wto/PNTR%20WTO_FAQ28July2005.pdf)

#### **USVTC / NZAID Joint Workshop on WTO Accession, June 21-24, 2005**

The U.S. – Vietnam Trade Council was pleased to work with New Zealand’s International Aid & Development Agency (NZAID) to organize two workshops on “Utilising Mechanisms of World Trade Law” in Hanoi and HCMC. Two international trade law professors from the Faculty of Law at the Victoria University of Wellington trained 28 government officials in Hanoi and 60 participants in HCMC on trade barriers, key WTO agreements and WTO exceptions, and compared bilateral trade agreements, regional free trade agreements and the WTO system. The two professors were interviewed by the HCMC University of Economics *Business Hotline Program* to be broadcasted on Vietnam radio and aired on VTV throughout August 2005.

#### **Memo on State Trading and Safeguards**

To address issues relating to state trading, non-market economies, and safeguards, a technical memo providing comparative analysis was provided to the Government of Vietnam for its consideration for WTO accession. This memo was written by Sidley Austin Brown & Wood LLP in cooperation with the Trade Council.

#### **Memo on Subsidies & Incentives in Export Processing Zones (EPZs)**

To address Vietnam’s obligations with regard to the WTO Agreements on Trade Related Investment Measures (TRIMS) and Subsidies & Countervailing Measures (SCM), a technical memo providing comparative analysis and recommendations was presented to the Government of Vietnam for its consideration. This memo was written by Sidley Austin Brown & Wood LLP in cooperation with the Trade Council.

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

Since 2000 and on a cumulative monthly basis, 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. The Catalog is prepared with the assistance of Phillips Fox and is available on our website.

### **Customs & Trade Facilitation**

#### **Report on Express Delivery Services**

The US-ASEAN Business Council is pleased to release “*Express Delivery Services: Integrating ASEAN to Global Markets*” - a report and policy recommendations on regulatory issues faced by the express delivery services sector in the ASEAN region, including recommendations for Vietnam in the areas of customs and trade facilitation, market access, national treatment, and fair competition. This report is written in cooperation with Federal Express, UPS, APL, Unisys, and Boeing. It will be made available in English, Malay, Thai, and Vietnamese. This report was presented to Customs Director Generals at the Council’s annual briefing for ASEAN Customs DG’s in June 2005 in Brunei. Please contact the Council for a copy of this report.

#### **Memo providing comments on Vietnam’s Draft Law on Customs**

To address Vietnam’s obligations with regard to the WTO Agreement on Customs Valuation (CVA), a memo providing comments and recommendations on Vietnam’s draft Customs Law was submitted to the Government of Vietnam for its consideration prior to the law’s ratification in the National Assembly in May 2005. This memo was written by Sidley Austin Brown & Wood LLP in cooperation with the Council.

### **Right of Appeal and Transparency**

#### **US Federal Register Fellowship Program for Vietnam Official Gazette**

The U.S. - Vietnam Trade Council was pleased to work with the U.S. Federal Register to organize a two-week internship for Vietnamese officials from Vietnam’s Official Gazette. The internship was organized to support capacity building for Vietnam’s Official Gazette in its efforts to

ensure greater transparency in accordance with Chapter VI of the U.S.-Vietnam Bilateral Trade Agreement (BTA). This study mission was organized through a grant from USAID, in cooperation with Vietnam’s Steering Committee on BTA Implementation.

### **USAID / USVTC / STAR BTA Implementation Study Mission - Administrative Review and Judicial Appeal**

To support Vietnam’s WTO and BTA obligations with regard to maintaining administrative and judicial tribunals, USVTC in cooperation with USAID’s STAR Project was pleased to conduct a study mission on the practices of administrative review and judicial appeal as Vietnam sets out to amend and supplement its *Law on Complaints and Denunciations* and the *Ordinance on Settling Administrative Cases*. The delegation was led by Senior Vice Chairman of the Law Committee of the National Assembly, Tran The Vuong, with the participation of officials from the National Assembly, Government Inspectorate, Communist Party, and the Supreme People’s Court. The legislation as mentioned above is expected to be addressed by the National Assembly in November 2005.

### **Intellectual Property Rights**

#### **Ambassador’s Roundtable on IPR, 28 April 2005**

USVTC was pleased to have been part of the Roundtable on IPR hosted by U.S. Ambassador to Vietnam Michael W. Marine. The meeting brought together U.S. Government representatives with representatives of major U.S. firms active in Vietnam to discuss the serious and growing problem of infringements on copy-rights, trade-marks and patents. Following the roundtable, participants were invited to a luncheon with Vietnamese officials responsible for IPR enforcement and locally based IPR lawyers. At the luncheon, two keynote speakers addressed the issue of “Public/Private Partnerships in IPR Enforcement”. The Roundtable and luncheon were organized to explore how the U.S. Embassy and private companies can work together on this issue.

### **USVTC / HCMC Economics University “Business Hotline” TV and Radio Show on E-Government**

As part of the USVTC-supported “*Business Hotline*” TV and Radio series, programs on “Improving enterprises’ management capacity” and “E-Government” were recently recorded. The two programs aired in May and June on Vietnam Television and were broadcasted on Vietnam Radio. A second recording of the program on “E-Government” is currently underway and is expected to be aired soon. This program will analyze the experiences of neighboring countries such as Singapore, China, and Thailand. The “*Business Hotline*” program is a joint USVTC project with the Ho Chi Minh City University of Economics. Filmed monthly and broadcast weekly on radio and television, the programs provide analysis and discussions of key international economic issues facing Vietnam today.

#### **Other areas**

### **USAID / USVTC / STAR Study Mission in Support of the Uniform Enterprise Law (UEL)**

To support the drafting of its Unified Enterprise Law (UEL), USVTC in cooperation with USAID’s STAR Project was pleased to conduct a study mission for Vietnamese officials from various capacities including the Central Institute for Economic Management (CIEM); Ministry of Planning & Investment, Office of the National Assembly, Ministry of Justice, and Office of the Government. The UEL is expected to be addressed by the National Assembly in November 2005 and together with Vietnam’s *Common Investment Law* (also to be addressed in November 2005), will be key to helping Vietnam meet its National Treatment obligations under the BTA and the WTO.

#### **Upcoming Highlights**

### **USAID / USVTC / STAR Study Mission on Judicial Enforcement September 2005**

As part of the technical assistance in support of judicial reform for Vietnam, USVTC and USAID’s STAR Project will host a delegation led by Vice Minister of Justice Nguyen Thi Thu Ba on a study mission to Washington DC in September 2005.

Participants from the Ministry of Justice, Police, Supreme Court and National Assembly will also be included. This study mission is expected to support Vietnam’s efforts to draft a new *Judgment Enforcement Code* in order to give administrative agencies and the courts the legal tools to enforce court judgments effectively.

### **USVTC/USFCS Workshop on Copyright Licensing for Software, Fall 2005**

USVTC is pleased to be collaborating with the U.S. Foreign Commercial Service on its second copyright licensing workshop this fall. The next workshop will focus on copyrighted licensing for software and address the process and requirements for obtaining a license to use and share copyrighted software within a Government office space. This workshop will be organized in cooperation with the Ministry of Culture and Information.

### **USVTC 6<sup>th</sup> IPR Seminar - “Provisional Measures of IPR Disputes” - 14 September 2005**

The U.S.-Vietnam Trade Council and the Ho Chi Minh City General Sciences Library are pleased to be organizing the 6<sup>th</sup> of our seminar series on intellectual property rights. The upcoming program will focus on “Provisional Measures of IPR Disputes”. The IPR seminar series focuses on legal and practical aspects of intellectual property rights protection and enforcement. Participants will include government officials, lawyers, judges, faculty members and students from local universities.

### **USVTC Customs Study Mission to Singapore, October 2005**

To assist Vietnam on the drafting of its decree on E-Customs, USVTC is pleased to be hosting the Vietnam General Department of Customs on a study mission to Singapore. The program is a follow up to assistance provided on the draft Customs Law Amendments conducted through study missions to the U.S. and Singapore in December 2004 and January 2005 respectively. This mission is jointly funded through a grant from the U.S. Department of State Bureau for Educational Exchange (ECA) and the Singapore Ministry of Foreign Affairs.