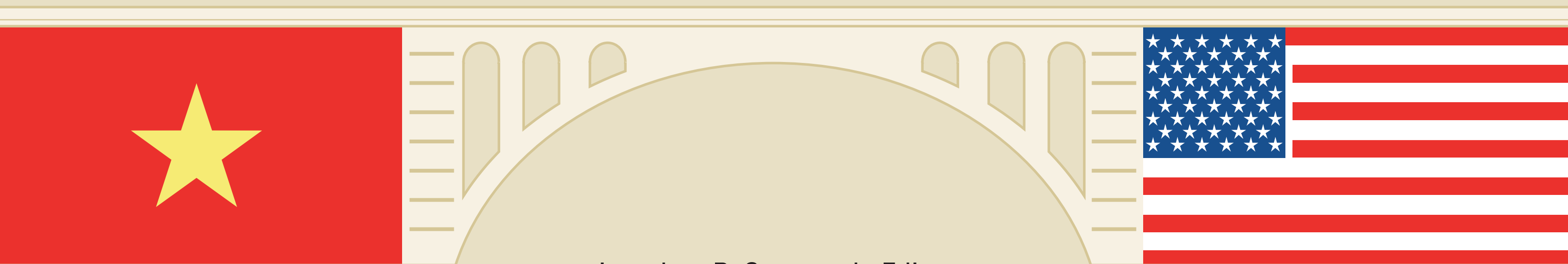
Dialogue on U.S. - Vietnam Relations

DOMESTIC DIMENSIONS



Jonathan R. Stromseth, Editor

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The Asia Foundation

Dialogue on U.S.-Vietnam Relations
DOMESTIC DIMENSIONS

Editor: Jonathan R. Stromseth

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Acronyms

AFL-CIO	American Federation of Labor - Congress of Industrial Organizations
AFTA	ASEAN Free Trade Area
AIPO	ASEAN Inter-Parliamentary Organization
APEC	Asia Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ASEM	Asia-Europe Economic Meeting
BTA	U.S.-Vietnam Bilateral Trade Agreement
BIT	Bilateral Investment Treaty
CETRA	China External Trade Development Council
COMECON	Council for Mutual Economic Cooperation
CRS	Congressional Research Service
DHS	Department of Homeland Security
EU	European Union
FBI	Federal Bureau of Investigation
FDI	Foreign Direct Investment
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
HIRC	House International Relations Committee
IPR	Intellectual Property Rights
IPU	Inter-Parliamentary Union
MARAD	Maritime Administration
MFN	Most Favored Nation
MIA	Missing-in-Action

MOT	Ministry of Trade
NAFTA	North American Free Trade Agreement
NASC	National Assembly Standing Committee
NATO	North Atlantic Treaty Organization
NEC	National Economic Council
NSC	National Security Council
NTR	Normal Trade Relations
ODA	Official Development Assistance
OPIC	Overseas Private Investment Corporation
PNTR	Permanent Normal Trade Relations
POW	Prisoner-of-War
SOE	State-Owned Enterprise
TPA	Trade Promotion Authority
TRIMS	Trade-Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
USCIRF	U.S. Commission on International Religious Freedom
USDA	United States Department of Agriculture
USTR	United States Trade Representative
VCCI	Vietnam Chamber of Commerce and Industry
WTO	World Trade Organization

Introduction

U.S.-Vietnam Relations: An Overview

Jonathan R. Stromseth and Chadwick Bolick
The Asia Foundation

This report is part of a broader research and publication project on U.S.-Vietnam relations being conducted by The Asia Foundation in cooperation with Vietnam's Institute for International Relations (IIR), with funding support from the Henry Luce Foundation. The project supports research activities that examine domestic and international factors affecting the bilateral relationship, especially in the context of economic normalization between the two countries and a changing international environment in the Asia-Pacific region. Ultimately, it aims to promote greater understanding among Americans and Vietnamese about domestic conditions and international factors that affect bilateral relations, leading to more informed policymaking on both sides. This first volume examines domestic factors in both countries that influence bilateral relations. A second volume will address regional and global factors, and a third will summarize the research findings and recommend next steps for improved policies and cooperation.

Political and Economic Normalization

The project is being conducted in the wake of far-reaching changes in the bilateral relationship. Starting from the early 1990s, the evolution of U.S.-Vietnam relations can be divided roughly into two periods: political normalization that culminated in the establishment of diplomatic relations in July 1995, and economic normalization that culminated in the ratification of the Bilateral Trade Agreement (BTA) in late 2001. In the early 1990s, the main focus of U.S. policy toward Vietnam was obtaining the fullest possible accounting of U.S. personnel listed as prisoners-of-war/missing-in-action (POW/MIAs).[1] To this end, the United States welcomed Vietnam's agreement to host a U.S. office in Hanoi to work on POW/MIA affairs in 1991. Subsequently, the United States ended restrictions on American nongovernmental organizations (NGOs) working in Vietnam in 1992; withdrew its opposition to lending from international financial institutions in 1993; and then, in February 1994, lifted the U.S. trade embargo against Vietnam that had been in effect since 1975. The embargo was lifted after several months of high-level U.S. interactions with Vietnam aimed at resolving POW/MIA cases, and a January 1994 vote in the U.S. Senate urging that the embargo be removed.[2] All of these developments paved the way for the normalization of diplomatic relations, which President Bill Clinton announced from the White House on July 11, 1995.

Diplomacy for economic normalization began in earnest in May 1996, when the United States presented Vietnam with a blueprint for a draft trade agreement. At that stage, Vietnamese exports to the United States faced tariffs averaging roughly 40 percent rather than the 3-4 percent faced by exports from countries enjoying "Most Favored Nation" status (now called "Normal Trade Relations" or NTR). Owing to requirements stipulated in the Jackson-Vanik amendment to the Trade Act of 1974, two things needed to occur for Vietnam to receive NTR: (1) a U.S. presidential determination that Vietnam permits free and unrestricted emigration (or a presidential waiver indicating that this waiver as well as

[1] The United States announced a framework for normalization in April 1991. According to this "roadmap," normalization was dependent upon Vietnam providing full cooperation in two main areas: 1) resolution of POW/MIA cases, and 2) implementation of a comprehensive peace settlement in Cambodia. For further discussion of the normalization process, see the articles by Frederick Z. Brown and Le Linh Lan in the bibliography of this volume.

[2] See Mark Manyin, *The Vietnam-U.S. Normalization Process*, CRS Issue Brief for Congress (Washington, DC: Congressional Research Service, updated July 24, 2002), p. 4.

current government practices in Vietnam promote unrestricted emigration); and (2) conclusion of a bilateral trade agreement. Vietnam first received a presidential waiver of the Jackson-Vanik emigration requirements in 1998; however, Vietnam did not receive NTR status until the BTA came into effect in December 2001.[3] The complex story of the negotiation and completion of the BTA — which involved significant delays and renegotiation — is conveyed in the chapters in this volume by Edward Gresser and Nguyen Van Long.

Inked in July 2000 and ratified by the legislatures of both countries in late 2001, the BTA is the most comprehensive bilateral trade agreement ever signed by Vietnam or the United States. The BTA is described as a modern trade and investment agreement because it includes extensive obligations related not just to import tariffs and quotas, but also to transparency, investment, intellectual property protection, market access for services, and business facilitation. Although a number of Vietnam's obligations were due immediately when the agreement came into effect, other obligations will be phased in over time periods ranging from one to ten years (see Appendix III), with most key commitments due within the first three years. Of course, the most significant immediate result was the U.S. granting NTR status to Vietnam on December 10, 2001, which reduced average U.S. tariffs on Vietnam's imports from around 40 percent to 3-4 percent. The results have been dramatic. Fueled by garments, seafood products, and footwear, the total value of Vietnam's exports to the United States increased from $1.05 billion in 2001 to $2.4 billion in 2002. During the first six months of 2003, moreover, Vietnam's exports to the United States nearly equaled the entire amount from last year — reaching $2.24 billion.[4]

U.S. exports to Vietnam have increased as well, growing from $367 million in 2000 to more than $580 million in 2002. In the first six months of 2003, U.S. exports to Vietnam totaled $711 million — on track to top $1 billion in 2003. U.S. exports fall largely into the categories of aircraft, fertilizer, steel, and computers and parts. Foreign direct investment (FDI) in Vietnam by U.S. business interests currently totals more than $1.1 billion, making the United States the eleventh largest investor in Vietnam, with the majority of projects focusing on the energy sector. However, this amount does not include large investments made via U.S. subsidiaries or third countries in Asia.[5]

Symbolically, the most significant bilateral event over the past decade was the visit to Vietnam by President Clinton in November 2000, the first visit by a U.S. president since Richard Nixon traveled to the former Saigon in July 1969. Clinton's visit not only provided closure to the earlier period of war and confrontation, but also underscored the new areas of cooperation that had been developing during the previous decade of political and economic normalization. The visit achieved practical results as well: U.S. and Vietnamese officials agreed to meet later to discuss joint research on the effects of Agent Orange; bilateral de-mining efforts were expanded; agreements were signed on science and technology and bilateral labor cooperation; and the United States provided materials to help locate the estimated 300,000 Vietnamese troops still missing from the Vietnam War. Also during Clinton's visit, the U.S. Agency for International Development (USAID) formally opened an office in Hanoi. As discussed below, ties have developed further under the administration of President George W. Bush, while the level of official U.S. assistance has grown.

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3 Until the BTA came into effect in December 2001, the practical effect of the Jackson-Vanik waiver was to make Vietnam eligible for certain U.S. government credits, or investment or credit guarantee programs (e.g., of the Overseas Private Investment Corporation and the Export-Import Bank of the United States).

4 For a comprehensive review of the BTA's impact to date, see CIEM and STAR-Vietnam (USAID), *An Assessment of the Economic Impact of the United States-Vietnam Bilateral Trade Agreement: Annual Economic Report for 2002* (Hanoi: National Political Publishing House, 2003). U.S. Census Bureau figures for imports from and exports to Vietnam are available at http://www.census.gov/foreign-trade/balance/c5520.html.

5 Singapore holds the number one FDI spot with more than $7.3 billion invested, followed by Taiwan, Japan, and South Korea. For information on U.S. foreign direct investment in Vietnam, see *Vietnam Economic Times*, Supplement Issue 114, August 2003, pp. 6, 12-14.

Expanding Aid, Educational Exchange, and Cultural Contacts

Vietnam and the United States are increasingly expanding relations and exchanges in areas beyond trade, such as economic assistance, development, education, and culture. For example, programs administered by USAID have increased significantly in recent years from about $6 million in 2000 to $16 million in 2003. This aid is divided among programs that support improved urban and industrial environment management ($2 million); improved access to services for vulnerable groups, such as flood victims, persons with disabilities, and people living with HIV/AIDS ($6.5 million); and an accelerated transition to a market economy ($7.5 million). The last includes a large technical assistance project to support timely and effective implementation of the BTA. Total annual U.S. assistance now exceeds $30 million. In addition to the USAID initiatives noted above, U.S. support includes funds for land mine victims, technical assistance on labor issues, and food aid in the form of commodity monetization programs.

U.S. assistance also includes a large Fulbright educational exchange program. With about $4 million in annual funding, the Vietnam program is the largest Fulbright program in the world in dollar terms.[6] In addition, the newly established Vietnam Education Foundation (VEF) supports separate educational exchanges valued at $5 million per year. Under U.S. law, Hanoi is required to repay outstanding loans made to the former Saigon government prior to 1975, and the VEF applies these debt repayments to educational exchanges in science and technology. At present, about 2,500 Vietnamese students are studying in the United States. While many are supported by fellowships from Fulbright and the VEF, as well as from private sources like the Ford Foundation, the vast majority are self-funded students pursuing undergraduate degrees at American universities. The number of Vietnamese students in the United States remains small compared to students from other Asian countries — for example, 47,000 from Japan, 29,000 from Taiwan, and 12,000 from Thailand — but is growing steadily. Meanwhile, the number of young Americans studying and working in Vietnam is growing as well, and is increasingly drawn from the new generation of the large Vietnamese-American population in the United States.

Besides education and business, another major growth area is that of development programs undertaken by American NGOs. Of the approximately 380 international NGOs with offices or permits to operate in Vietnam, slightly more than 100 are American — the largest total from any country. Partnering with Vietnamese organizations and agencies throughout Vietnam, American NGOs are addressing such urgent development problems as poverty alleviation, women's reproductive health, HIV/AIDs, education, injury prevention, demining, and the trafficking of women and children.

Finally, in the cultural realm, Americans are obtaining insights into modern Vietnamese life through a popular exhibition organized jointly by the Vietnam Museum of Ethnology and the American Museum of Natural History (AMNH) in New York City. The exhibit, *Vietnam: Journeys of Body, Mind & Spirit*, opened in New York City in March 2003. It is intended to provide a snapshot of contemporary Vietnamese culture by displaying everyday objects and incorporating video footage of a modernizing Vietnam. The AMNH exhibit has also benefited Vietnamese museums via an exchange program that trains Vietnamese museum employees and curators in modern museum techniques and conservation. While originally designed as a training program, the exhibit has spawned numerous Vietnamese art shows in Manhattan galleries and is contributing to growing American interest in a Vietnam that is no longer associated with war.

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[6] In addition to supporting approximately 50 Vietnamese and American students and scholars in country-to-country exchanges, activities include the Fulbright Economic Teaching Program in Ho Chi Minh City that trains about 60 mid-level managers per year in market economics. This teaching program is managed by the John F. Kennedy School of Government's Center for Business and Government at Harvard University.

Continued Political Tensions and New Trade Disputes

Amidst this increasing cooperation and growing interaction in many areas, political irritants continue to aggravate the bilateral relationship. The most divisive issue is human rights. In September 2001, the U.S. House of Representatives passed the Vietnam Human Rights Act (H.R. 2833) by a vote of 410-1. The act called for a ban on increases in non-humanitarian aid to the Vietnamese government if the president did not certify that Vietnam is making "substantial progress" in human rights. Vietnamese officials harshly criticized the bill at the time, insisting that U.S.-Vietnam ties must strictly adhere to the principle of non-interference in each other's internal affairs. Although the bill eventually stalled in the Senate, as described in the chapter in this volume by Mark Manyin, a new Vietnam Human Rights Act (H.R. 1587) was introduced by 31 U.S. congressmen in the House of Representatives in April 2003. A revised version of this act was subsequently added as an amendment to the House Foreign Relations Authorization Act (H.R. 1950), which the House passed on July 15, 2003. The authorization bill is now pending in the U.S. Senate.

Further aggravating relations are recent state-level initiatives in the U.S. aimed at authorizing that the flag of the former South Vietnam government be flown in public buildings. The issue first arose in Virginia in January 2003, when State House legislators passed such a bill. The U.S. Department of State then contacted the bill's sponsor and said the legislation, if passed by Virginia's Senate, could set back progress in U.S.-Vietnam relations and could have "potentially serious adverse consequences" on the way the United States carries out foreign policy.[7] The bill died in February. This did not deter the State of Louisiana, however. On July 14, 2003, Louisiana's governor signed into law a bill requiring that only the South Vietnam flag be flown in public schools or during state functions.

Alongside these political tensions, new trade disputes have emerged over garment quotas and Vietnamese catfish. In late 2001, the catfish issue came to the fore when U.S. lawmakers moved to restrict Vietnamese catfish exports to the U.S. despite the recent signing of the BTA. In particular, an appropriations bill included a provision that required only the American *ictaluridae* species be called "catfish." This bill passed, forcing the Vietnamese to market their catfish product as *tra* and *basa*. A domestic association, the Catfish Farmers of America, then filed an anti-dumping petition before U.S. government agencies alleging that certain Vietnamese enterprises were "dumping" (i.e., selling at less than fair market value) frozen catfish fillets in the U.S. market. After a yearlong proceeding — during which Vietnam was judged to be a "non-market economy" — the U.S. Department of Commerce agreed with the petitioners and found that the frozen Vietnamese catfish fillets had been dumped in the U.S. market. Shortly thereafter, the U.S. International Trade Commission concluded that the dumped catfish fillets caused material injury to the domestic industry. As a result of these findings, the Department of Commerce has imposed anti-dumping duties on these products ranging from 37 to 64 percent. These developments recently prompted the Vietnam Association of Seafood Exporters and Producers to comment that the U.S. seems inclined to impose another "economic embargo on Vietnam, one product at a time."[8]

Tensions also surfaced over the negotiation of a garment and textile agreement, initialed in Washington on April 25, 2003 and signed in Hanoi on July 17. Under the agreement, 38 categories of garments and textiles are subject to quotas for the first time. U.S. trade officials have estimated that the agreement will allow the shipment of $1.65 billion in Vietnamese goods to the United States in 2003. In later years, the quotas will increase 7 percent annually for cotton products and 2 percent for wool items. At the signing ceremony in July,

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7 "Va. Bill Promoting S. Vietnam Flag Dies," *The Associated Press*, 17 February 2003. Available at www.usvtc.org.

8 Margot Cohen and Murray Hiebert, "U.S.-Vietnam Relations: Rocky Road," *Far Eastern Economic Review*, 24 July 2003, p. 22. See also "The Great Catfish War," *The New York Times*, 22 July 2003.

U.S. Ambassador to Hanoi Raymond Burghardt said: "Reaching this agreement is one more piece in place in the normalization of our trade relationship." In contrast, Vietnamese Trade Minister Truong Dinh Tuyen said Vietnam "would like to lengthen the period of unfettered export of products to the U.S.," adding that Hanoi would have preferred not to sign the agreement.[9] The Vietnamese government has repeatedly voiced concerns that the imposition of quotas will have detrimental effects on its domestic garment and textile industry, which supports about two million jobs. Nevertheless, American textile manufacturers reportedly pushed hard for strict quotas on Vietnam, arguing that Vietnamese exports had grown too rapidly at a time when domestic mills were suffering under a weak U.S. economy.[10] World Trade Organization (WTO) members will phase out similar textile quotas by January 2005. However, as a non-WTO member, Vietnam will not benefit from this phase out and will likely continue to face such quotas until it joins the WTO.

The Domestic Determinants of Foreign Policy

In the world of diplomacy, policymakers are acutely aware of the internal pressures shaping their own policies, but rarely are very cognizant of how similar pressures influence the policies of their foreign counterparts. Yet, domestic factors and developments often exert a major impact on bilateral relations between countries, and the key to developing an effective partnership is the ability of each country to understand the internal pressures of another and anticipate or respond to those pressures in a responsible fashion. As a seasoned American observer of East Asia has stated with regard to relations between the United States and China, such an understanding is necessary if the two countries "are to establish mutual trust and to craft effective, realistic policies that take into account the domestic political realities that inevitably impinge on the relationship in each country."[11]

Domestic factors are particularly conspicuous in U.S. foreign policy. Whether due to the proliferation of institutional actors or the growing influence of societal groups, U.S. foreign policy is replete with examples of how domestic politics shape and restrain U.S. actions abroad, especially in the post-Cold War world. This fact has not been lost on Vietnamese observers. Writing in 1999, a Vietnamese researcher noted that the Vietnamese need to comprehend the U.S. political system and how it affects foreign policy. "There are different private interest groups and government agencies in America which have different opinions about the normalization with Vietnam," he said. "They will influence the pace at which the U.S. government can move its relations with Vietnam forward."[12]

Indeed, the process of economic normalization in U.S.-Vietnam relations has required Vietnamese officials to interact with a broader spectrum of governmental and societal actors in the United States than was the case during political normalization in the early 1990s. Policy choices on economic issues involve a variety of actors in addition to the White House and the State Department, such as the Office of the United States Trade Representative, the Department of Commerce, and the Department of the Treasury. Congress has become more central to the relationship as well. The annual waivers of the Jackson-Vanik amendment and ratification of the BTA have involved congressional action. In addition, these legislative actions have provided opportunities for U.S. advocacy groups focusing on human rights, labor issues, and religious freedom to influence relations with Vietnam. Until Vietnam joins the WTO, it will continue to depend on annual presidential extensions of NTR based on the Jackson-Vanik legislation. The extensions

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[9] "Vietnam-U.S. Garment and Textile Deal Becomes Official," *Financial Times Information* (Global News Wire - Asia Africa Intelligence Wire), 18 July 2003.
[10] Margot Cohen, "U.S., Vietnam Sign a Trade Pact Setting Limits on Textile Exports," *The Wall Street Journal*, 28 April 2003.
[11] Kenneth Lieberthal, "Domestic Forces in Sino-U.S. Relations," in *Living with China*, ed. Ezra F. Vogel (New York: W.W. Norton & Company, 1997), p. 275.
[12] Bui Thanh Son, "Vietnam-U.S. Relations and Vietnam's Foreign Policy in the 1990s," in *Vietnamese Foreign Policy in Transition*, ed. Carlyle Thayer and Ramses Amer (New York: St. Martin's Press, 1999), pp. 212-14.

are likely to be forthcoming, as explained in the chapter by I.M. Destler, but they also will provide opportunities for members of Congress and interest groups to highlight concerns about Vietnam generally.

While recent analyses of bilateral relations have tended to focus on the complications caused by new actors in the U.S. policy environment, few observers recognize that profound complexities are also emerging in Vietnamese foreign relations as a result of the reform program that has been underway since the mid-1980s. Shortly after initiating *doi moi* ("renovation") reforms in 1986, Hanoi adopted a "multi-directional" foreign policy that led to Vietnam's military withdrawal from Cambodia in 1989, rapprochement with China in 1991, restoration of official assistance from Japan in 1992, and then, in 1995, normalization of relations with the United States, membership in the Association of Southeast Asian Nations (ASEAN), and the signing of a framework agreement with the European Union. These changes were implemented to help create external conditions favorable to Vietnam's economic reform program, as explained in the chapter by Vu Xuan Truong, but over time the reforms themselves have affected both the determinants and the decisionmaking processes of Vietnamese foreign policy.

Prior to *doi moi*, Vietnamese foreign policy was primarily the responsibility of the Politburo of the Communist Party, the External Relations Commission of the Party Central Committee, and three government ministries: the Ministry of Foreign Affairs, Ministry of Defense, and Ministry of Interior. During the reform period, however, Vietnam has witnessed a broadening and decentralization of the foreign policymaking process, as economic reform and international economic integration have necessitated that the government specialize in a widening array of issues — the full range of which exceeds the policy expertise of the traditional decisionmaking bodies. Particularly noticeable, with the increasing importance of foreign economic policy in Vietnam, has been the growing role of economic ministries such as the Ministry of Trade, Ministry of Finance, and the Ministry of Planning and Investment. The National Assembly is playing a more active role as well, as described in the chapter by Pham Quoc Bao.[13]

Investigating Domestic Determinants in Vietnam and the United States

The chapters in this volume emerged from papers presented at a bilateral conference at Georgetown University in November 2001, organized by The Asia Foundation in cooperation with Vietnam's Institute for International Relations. The papers were subsequently revised and expanded based on discussion at the conference, and also were updated to cover events through the end of 2002. The volume begins with chapters on the institutional setting in which policy is made in both countries, proceeds to an analysis of the socioeconomic environment in which policy takes place (focusing especially on business interests and the rising importance of foreign economic policy), and ends with a specific case study on the negotiation, signing, and ratification of the landmark Bilateral Trade Agreement. Taken together, the chapters provide a fresh and penetrating look at the domestic institutions, groups, and issues that affect not only the overall foreign policies of each country but also the bilateral relations between them.

The Vietnamese chapters offer the first extensive discussions by Vietnamese authors about the domestic determinants of Vietnam's foreign policy in a bilateral context. The chapter by Phan Doan Nam, a former Assistant Foreign Minister who currently serves as an advisor to IIR, describes how various internal pressures and institutions have affected Vietnamese foreign policy. Discussing the origins of *doi moi*, he points out that the impetus for renovation — and by extension, the diversification of Vietnam's foreign relations that followed — came not from the collapse of the Soviet Union but

[13] For American perspectives on the domestic sources of Vietnamese foreign policy, see the articles by Zachary Abuza, Kent Bolton, and Mark Sidel listed in the bibliography of this volume.

from the government's response to an economic crisis that had domestic roots. With regard to institutions, he describes the predominant role of the Communist Party in developing the general lines of foreign policy as well the interaction between the Party and executive agencies, most notably the Ministry of Foreign Affairs, in putting this line into effect. He also notes that the process of foreign policy decisionmaking can be especially protracted where the United States is concerned. Drawing an historical example from the late 1970s, he describes how lengthy deliberations within the Politburo (on whether to drop Vietnam's demand for post-war reconstruction aid) precluded more rapid diplomatic moves by Vietnam during the failed 1977-78 negotiations with the Carter administration on normalizing relations.[14]

In the next Vietnamese chapter, Pham Quoc Bao offers an original discussion of the National Assembly's role in foreign policymaking in the context of broader reforms to the legislature under *doi moi*. In particular, he explains how the National Assembly ratifies international agreements with foreign governments and organizations, adopts general foreign policy orientations that are expressed in annual resolutions, and addresses specific bilateral issues on a case-by-case basis. He also highlights the role and activities of the Foreign Affairs Committee of the National Assembly between and during the bi-annual sessions of the Assembly, showing how it interacts with the National Assembly Standing Committee (NASC), other Assembly committees, government ministries, and Assembly members in the process of preparing and examining bills and resolutions. To illustrate this process, Bao concludes his chapter by recounting the procedures, dynamics, and actual debates that led to the ratification of the BTA in November 2001. Although it was approved by a safe margin, the debate revealed a "mixed mood" among Assembly members — one colored by opposition to the Vietnam Human Rights Act, recently passed in the U.S. House of Representatives, and concern over new labeling requirements for Vietnamese catfish.

A third Vietnamese chapter, written by Vu Xuan Truong, depicts the rising importance of foreign economic policy since Vietnam initiated *doi moi* in 1986. The chapter not only discusses the origins of the "new thinking" embodied in *doi moi*, showing how foreign policy has been reoriented to support economic reform, but also recounts key developments in Vietnam's path toward international economic integration — including its membership in ASEAN in 1995 and the Asia Pacific Economic Cooperation (APEC) forum in 1998, the signing of the BTA in July 2000, and its ongoing negotiations to join the WTO. On a practical level, the chapter points to a new emphasis in Vietnamese foreign policy, which the author describes as "diplomacy serving economic development." Vietnamese diplomats are allocating more time and effort to expanding Vietnam's external economic relations, Truong notes, often by lobbying individuals and groups to facilitate the entry of Vietnamese goods and services into their host countries. He also describes recent meetings within Vietnam between Vietnamese diplomats and local business people. First convened in late 2001, these meetings have provided the diplomats with first-hand knowledge of local business needs, and presented opportunities for business people to learn how Vietnamese embassies and consulates can promote their interests overseas.

Picking up on this theme, the ensuing chapter by Pham Chi Lan shows how Vietnamese business interests have been expressed in Vietnamese foreign policy both before and during *doi moi*. Lan focuses especially on the role of the Vietnam Chamber of Commerce and Industry

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14 These negotiations occurred between May 1977 and October 1978. Until late in the negotiations, the Vietnamese insisted that as a condition of normalization, the United States provide Vietnam with reconstruction aid based on Article 21 of the Paris Peace Agreement of 1973 and a letter sent from President Richard Nixon to Prime Minister Pham Van Dong in February 1973. The American negotiating team refused to comply with this demand. The American position, as enunciated by Leonard Woodcock during a mission to Hanoi for President Carter in March 1977, was that the 1973 Paris Agreement, the basis for Nixon's letter, had been invalidated by Hanoi's violations of the agreement in 1974-75. For a neutral account of the negotiations, see Nayan Chanda, *Brother Enemy* (New York: Harcourt Brace Jovanovich, 1986), pp. 136-157, 263-272.

(VCCI) in advancing and diversifying Vietnam's foreign economic relations.[15] As early as 1976, she notes, VCCI merged with the Saigon Chamber of Commerce and began developing relations with other chambers of commerce in Asia and Europe. In the early 1980s, it also became actively involved in developing a policy proposal to the government to diversify Vietnam's import-export trade. As a result, the trade monopoly of the Ministry of Foreign Trade came to an end, and new business links were developed with partners in non-socialist countries. The author also depicts Vietnam's urgent need to further diversify trade relations in the early 1990s following the collapse of the Soviet Union and the Soviet-led Council for Mutual Economic Assistance (COMECON). She explains that it was the demand for economic development and trade promotion that ultimately forced Vietnam to escape from economic isolation, diversify its trade partnerships, and improve relations with foreign countries and international institutions. The chapter concludes with three brief case studies — on South Korea, Taiwan, and Israel — showing how business interests have been the decisive factor influencing the evolution of Vietnam's relations with these countries.

The final Vietnamese chapter, written by Nguyen Van Long, discusses the BTA negotiations as well as the challenges for Vietnam in implementing its commitments under the agreement. He explains how the Ministry of Trade played the key role in negotiating the BTA over nine rounds of negotiations that began in 1996 and ended in July 2000. Owing to the broad scope of the agreement, however, many other ministries participated as well, including those of Planning and Investment; Finance; Industry; Agriculture and Rural Development; Science, Technology and Environment; Justice; Culture and Information; Fisheries; and Foreign Affairs. It was the responsibility of the Ministry of Trade to coordinate with these ministries and guide the overall negotiations with the United States. The chapter also reviews Vietnam's commitments in the BTA in the areas of trade in goods, intellectual property rights, trade in services, investment, and transparency. In discussing implementation issues, the author emphasizes the tremendous challenge for Vietnam not only in carrying out the broad legal reforms required by the BTA, but also in enhancing the competitiveness of Vietnamese goods and services as domestic tariffs, non-tariff barriers, and other protectionist barriers are phased out.

Like the chapters by Vietnamese authors described above, the American chapters address the institutions that formulate U.S. foreign policy, the socioeconomic environment in which it is made, and the negotiations that led to the BTA.

The first chapter, by Frederick Z. Brown, discusses the interactions and dynamics among the principal foreign policy institutions in the United States as well as the far-reaching impact of the terrorist attacks of September 11, 2001. The chapter examines the formal institutions involved in foreign policy (i.e., the National Security Council, Department of State, Department of Defense, and Central Intelligence Agency), the role of Congress, and the growing influence of the media, public opinion, and organized pressure groups. It also reviews the emergence of other institutional foreign policy actors, such as the Office of the United States Trade Representative (USTR) and the recently established Department of Homeland Security. Brown concludes that the main focus of U.S. foreign affairs, including all bilateral relations, is now on handling the threat of international terrorism successfully. Bilateral relations with no connection to this fight will not be ignored, but they will receive a lower priority of attention. He also notes that human rights will remain a contentious issue in U.S.-Vietnam relations due to the presence of human rights and religious freedom advocates in American society and government. With the normalization of relations, he

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[15] The Chamber of Commerce was established by official decree in the early 1960s to promote economic relations between North Vietnam and the rest of the world, including non-socialist countries. For information on the changing role of VCCI and other Vietnamese business associations during *doi moi*, see Jonathan R. Stromseth, "Business Associations and Policy-Making in Vietnam," in *Getting Organized in Vietnam: Moving In and Around the Socialist State*, ed. David Koh and Russell Hiang-Khng Heng (Singapore: Institute of Southeast Asian Studies, forthcoming).

adds, it is necessary to recognize the existence of such interests "as part of the American system, just as Americans must recognize certain political realities in Vietnam." Still, Brown maintains that these problems can be managed by both sides and need not impede overall consolidation of the bilateral relationship.

The next chapter, written by Mark Manyin, focuses on how Congress influences U.S. foreign policy in general and policy toward Vietnam in particular. The chapter first reviews the tools that members of Congress use to affect foreign policy (e.g., amendments to appropriations legislation, public hearings, and congressional resolutions), and then examines the factors that heighten or diminish Congress's foreign policy influence. Manyin also explores changing congressional attitudes toward Vietnam over time, analyzing the ways in which Congress has both hindered and promoted the relationship. Until the early 1990s, he notes, the vestiges of the Vietnam War hurt Vietnam's standing in Congress. But afterward, Congress began to take a more supportive view of normalizing relations with Vietnam.

According to Manyin, an important influence on this change was the 1991-1992 bipartisan Senate Select Committee on POW/MIA affairs, which helped defuse the passion surrounding the POW issue. Another turning point came in January 1994, when the Senate passed a resolution urging the lifting of the U.S. trade embargo on Vietnam. Manyin recounts how several members of Congress who were Vietnam War veterans played a crucial role in convincing colleagues — and the Clinton administration — that the time was right to normalize relations. Without this bipartisan "political cover," he writes, the Clinton administration would have taken longer to move toward a policy of normalization. Finally, Manyin describes how human rights have replaced the POW/MIA issue as a vehicle for congressional critics of Vietnam. He also cautions that with bilateral trade increasing rapidly, Vietnamese officials need to be prepared for high levels of congressional attention to economic relations and Vietnam's implementation of the BTA. A key challenge for Vietnam, he adds, will be to identify new champions of the relationship who can carry it into the future.

Next, I.M. Destler examines the role of organized business and the rise of foreign economic policy in the United States. He opens the chapter with the observation that economic interests have not been the dominant force shaping U.S. trade relations with Vietnam over the past quarter century. Rather, those with stakes in the legacy of the war have played that role. But organized U.S. business has been an important supplemental player in the liberalizing events of the past decade, he says, and is likely to play a growing role in the years ahead. In the main body of his chapter, Destler traces the increasing role of economic interests and business engagement in American foreign policy with the establishment of the USTR and the end of the Cold War. The latter weakened the influence of national security concerns on U.S. trade and economic policy, he notes. This was reflected in President Clinton's creation of the National Economic Council and his initiatives on free trade agreements. Destler also characterizes Clinton's 1994 decision on China to de-link trade and human rights as a "coming of age" for organized U.S. business, which had mobilized and lobbied the government to sever this linkage.

Destler points out that Vietnam brings a weak hand to trade negotiations with the United States because, unlike China and other major trading partners, it occupies only a small share of overall U.S. international commerce. In the short run, he argues, Vietnamese officials must make the most of the present situation and cultivate allies outside established negotiating channels. He suggests focusing on (1) individuals and groups committed, for non-economic reasons, to deepening the bilateral relationship; (2) business firms with important investments in Vietnam; (3) business firms with important exports to Vietnam; and (4) distributors and industrial users of imports from Vietnam. As long as trade remains modest in U.S. terms, Destler says the first category will be the most influential and the fourth will be the least important. However, he maintains that Vietnam can aspire to have much greater influence on U.S. trade policy over the long term if it continues to open up its economy. If American firms increasingly find Vietnam to be a hospitable place to invest and initiate or expand trade, he writes, U.S. business interests will "give increased political priority to lobbying on issues affecting Vietnam because it will be in their interest to do so."

In the final American chapter, Edward Gresser describes the story of the BTA's development and ratification on the U.S. side. Gresser identifies three phases in the BTA's development: an initial phase from 1993-1995 that set the foundation for trade normalization through a series of small economic steps; a bumpy negotiation phase from 1996-2000; and finally a ratification phase lasting from 2000-2001. He also provides a close analysis of the American interest groups that had a stake in promoting or opposing an agreement. These included the familiar business, labor, and foreign policy groups as well as Vietnamese-American community associations, veterans organizations, and families of soldiers listed as MIA. Gresser describes the objectives, internal deliberations, and tactics of the Clinton administration in vivid detail — including considerations of the BTA's risks to the Democratic Party and to the president himself. He also reveals how domestic politics caused delays in U.S. ratification both at the end of the Clinton administration and at the beginning of the current Bush presidency. In the end, of course, the BTA passed both houses of Congress with a broad consensus supporting economic normalization with Vietnam. For Gresser, this quiet conclusion is a sign that the "final stone in the arch of reconciliation is firmly set."

Conclusion

As the chapters in this volume make clear, future progress in U.S.-Vietnam relations will depend increasingly on each side's appreciation of the domestic influences at play as the two countries engage across a broader range of bilateral issues. A common theme running throughout the volume is the growing importance of foreign economic policy. For Vietnam, this was first reflected in the "diversification and multilateralization" of foreign relations early in the *doi moi* period, designed to create external conditions that would support the country's ambitious economic reform program. Subsequently, it has been seen in Vietnam's drive for international economic integration. For the United States, it is reflected in the increasing significance of foreign trade policy in U.S. foreign relations. In both countries, these changes have led not only to more complex bureaucratic interactions in the way that foreign policy is made, but also to growing influence by societal actors and economic trends on the foreign policymaking process. The terrorist attacks of September 11, 2001 have complicated this picture for the United States, bringing national security concerns to the fore once again, but have not reversed the overall trends.

What are the lessons that each country can take away from this study? For Vietnam, as the chapters by the American authors would suggest, it is no longer enough simply to enhance understanding about the domestic sources of U.S. foreign policy. In the new bilateral context in which legacy of war issues are receding and the politics of trade are becoming more salient, Vietnam will need to make strategic choices when cultivating friends and allies in American politics and society. The growing trade and investment relationship has created newly shared interests between the two countries, but it also has engendered new conflicts and disputes. In this context, and with Congress and U.S. lobby groups becoming more central to bilateral relations, who are the future champions in the United States for improved relations with Vietnam? In the long term, as one author in this volume argues, the most politically influential allies will come from key sectors of U.S. business as long as trade and investment continue to develop. But other groups are likely to be receptive as well — including U.S. NGOs with programs in Vietnam, and even young Americans who have studied or worked in the country.

Finally, what lessons does this study suggest for the United States? First, it is no longer possible to view Vietnam as a unitary state that is immune to societal pressures. With a shrinking state sector and a labor force growing at 1.5 million workers per year, Vietnamese policymakers are under considerable pressure to create jobs by promoting faster growth and increased exports. Meanwhile, a formal private sector has emerged in recent years, tripling in size since a landmark Enterprise Law came into effect in January 2000. Through a process of public consultations that has expanded under *doi moi*, the aspirations and grievances of business people are being increasingly felt in domestic policies and laws. As described in one chapter in this volume, such consultations are now also being extended into the foreign policy arena to ensure that Vietnamese diplomats can represent the country's business interests overseas. Lastly, Vietnamese diplomats are no longer the only actors in Vietnam's foreign relations. While the general lines of foreign policy are set by the Party and carried out principally by the Ministry of Foreign Affairs, other government ministries are becoming involved as the widening array of international issues requires specialized expertise. In sum, it is important for Americans to view Vietnam in all of its complexity, both in terms of decisionmaking about foreign policy and the socioeconomic pressures which affect the decisions that are made.

The Institutional Setting

Institutions and the Making of American Foreign Policy: The Impact of September 11 on U.S.-Vietnam Relations

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This essay discusses the dynamics of the principal U.S. institutions involved in the formulation and execution of American foreign policy. Those institutions include the Office of the President and some of the foreign policy entities that serve it: the National Security Council, the Departments of State, Defense, and the Central Intelligence Agency (CIA). The U.S. Congress, the media, public opinion, and organized pressure groups also qualify as "institutions" in any discussion of policy. The essay then discusses the far-reaching impact of the events of September 11, 2001; speculates on how American foreign policy may be focused in the years ahead; and offers some thoughts on how the war against international terrorism may affect the conduct of U.S.-Vietnam bilateral relations.

Institutional Change

How the U.S. government formulates foreign policy can be only partially explained through a simple organizational chart showing the executive branch with its various departments, agencies, commissions, and special representatives. In theory, these organs are under the firm direction of, and rigorously responsive to, the president; in practice, such discipline is rarely the case. The U.S. constitution written by our country's Founding Fathers only briefly prescribed the powers in foreign affairs given to various actors in the government, and it provided no instruction on how these powers would be used in real life situations two centuries later. The constitution gave the Senate powers to "advise and consent" in certain areas of foreign affairs, gave the House of Representatives the authority to originate money bills (which has become influential and frequently decisive in the conduct of foreign affairs), and named the president as commander in chief of the military establishment. But the men who wrote that document were savvy politicians, and they were far too pragmatic to expect that their 18th century view of ways and means to conduct the nation's external affairs could be a precise guide to the future. The passage of time has naturally seen many changes in America's place in the world and, consequently, how foreign policy is devised and conducted. The prime actors — the president and the Congress — have often disagreed and accused each other of overstepping their respective constitutional boundaries. There have been many institutional changes in the past half-century that bear upon the conduct of American foreign policy. Four major changes, including the recently created Department of Homeland Security, are discussed in this paper.

First, in response to Cold War pressures and the United States' emergence as a global power after World War II, the National Security Act of 1947 enhanced the executive powers of the president by creating the National Security Council, headed by a national security advisor, to develop policy alternatives and to coordinate their implementation. The Department of Defense replaced the War Department. Within it were created the departments of the Army, Navy and Air Force headed by civilian secretaries. To unify military planning and implementation, a Joint Chiefs of Staff under a senior military commander as chairman replaced the organizational structure that had overseen the conduct of World War II. The Central Intelligence Agency was created to replace the Office of Strategic Services and a gaggle of other wartime intelligence services. The CIA director was given a second hat as "Director of Central Intelligence" (DCI) or senior coordinator for all American intelligence functions (State, Defense, Federal

Bureau of Investigation, etc.). This responsibility of the DCI has taken on considerable breadth since the events of September 11.

A second significant development was the War Powers Act passed by Congress in 1973 to restrain the "imperial presidency" of Richard M. Nixon and to assert Congress's own constitutional authority. Under the Act, which was approved over Nixon's veto, the president is obligated to consult Congress before committing troops overseas and to report to Congress immediately afterward about the need to continue the mission. The president must terminate the mission within 60 days unless Congress agrees to extend it, a provision designed to forestall the kind of "mission creep" that occurred in Vietnam. The act was a reaction to the August 1964 Tonkin Gulf Resolution that authorized President Lyndon B. Johnson "to take all necessary measures to repel any armed attack against the forces of the United States…" in practical effect tantamount to a declaration of war, a power constitutionally reserved to the Congress. (The House of Representatives passed the Tonkin Gulf Resolution 416-0; the Senate approved the measure 88-2.) Although rejected by later presidents as unconstitutional and rarely invoked by Congress, the War Powers Act symbolizes the national mood that blamed the war on excessive presidential power. To my knowledge, there was very little discussion in Congress regarding possible implementation of the War Powers Act with regard to President Bush's deployment of American military forces to Afghanistan.

Thirdly, with the end of the Cold War and the emergence of the United States as the "unipole" in world affairs, the phenomenon of globalization and the primacy of international economics and trade became prominent themes of what became known as the new world order. A major institutional change in the United States government was the creation of the United States Trade Representative (USTR), an office that quickly accrued great power in foreign affairs by reason of its responsibility for negotiating international trade agreements. Having been elevated to cabinet status, USTR in effect now eclipses the Department of Commerce, and in some instances even the Department of State, in international matters, simply because there is no longer a separation of economic and commercial affairs from the political relationships between nation states. Similarly, the Department of the Treasury has become a major player in foreign policy deliberations, again because the U.S. dollar has become the virtual common currency of globalization. Nowhere have these new realities been more evident than in the long process of political and economic normalization of relations between Vietnam and the United States.

The Framework for Foreign Policy Decisionmaking

The president is obviously at the center of the executive branch's bureaucracy, which formulates the issues for decision and tasks agencies and departments to gather information. The other actors — Congress, public opinion, the media, and various pressure groups — surround the chief executive, attempting either to restrain his actions or, conversely, to urge him onward. But the critical question is how faithfully the president's decisions are actually implemented. President Dwight D. Eisenhower, a former general, noted: "I give the orders as president and nobody follows them." This complaint has been echoed by Eisenhower's successors. It is not so much the structure of the executive branch that determines policy, as it is the myriad political, economic, and psychological factors that act upon the projection of the president's power. In 1939-40, President Franklin D. Roosevelt, in his efforts to assist Great Britain during the darkest days of World War II, was hemmed in by isolationist sentiment in public opinion and hostility in Congress to American involvement in the war. Presidents Johnson and Nixon were similarly constrained by public opinion (and increasingly by Congress after the Tet offensive of 1968) in their conduct of the war in Vietnam. President Bill Clinton's foreign policy team and the president himself were notoriously sensitive to what they perceived as public opinion as measured by polling data. The Clinton administration was sharply criticized for its vacillation and actual missteps on policies toward Haiti, Somalia, Bosnia, and Kosovo, among others.

In addition to the statutory changes and specific cases cited above, it is important to understand the quantum shift in attitude of American society with regard to the U.S. government that took place in the late 1960s and early 1970s. This shift was due to the activist spirit of the 1960s, the turmoil of the domestic civil rights movement, dismay over the assassinations of President John F. Kennedy, Martin Luther King, and Senator Robert F. Kennedy, and of course, popular disagreement over the war in Vietnam. During this period, Indochina dominated the deliberations of the U.S. Senate Foreign Relations Committee. Within the Congress, in the media, and among Americans of all political persuasions, American foreign policy — indeed many aspects of our value system — were examined in the light of the war. The repercussions went well beyond Indochina. The bipartisan congressional consensus that had been the basis for foreign policy under Presidents Harry S. Truman and Eisenhower and that extended into the Kennedy era was soundly shaken. The Watergate scandal and Nixon's forced resignation were the direct result of the president's anxiety over the antiwar movement.

These events and the congressional elections of November 1974 ended official U.S. financial and material support for the government of South Vietnam. President Kennedy's inaugural address call to "go anywhere and pay any price" no longer rang true with either Congress or the American public. At that time, the effects of the Vietnam experience were felt throughout our national life and in particular on the traditional belief about the benign role of America in the world. The Vietnam War era changed profoundly the relationship between the executive and legislative branches of government in making and managing foreign policy. The concept of government service as a noble calling for young Americans was shaken.

The information and communication revolution is a factor that intrudes into every institution involved in the foreign policy process. Compared to a generation ago, there is vastly more information relevant to public policy now available, and it is communicated instantaneously from many sources. Not only is that information massive in quantity and instantly available, it is all too often indiscriminate, undifferentiated, and even contradictory. How can policymakers and the general public evaluate the avalanche of raw data that descends upon them every day? The president, of course, has his experts to organize and evaluate the data. In the past, American foreign policy officials would listen to a relatively small band of elite commentators in the print media (e.g. Walter Lippmann, James Reston). But with the advent of television, popular attitudes were influenced rapidly and deeply: for example in February 1968, Walter Cronkite, reporting from Hue for CBS-TV, bluntly questioned the United States' capability to achieve its objectives in Vietnam. This is but one case where media reporting helped shape perceptions of the American people and influenced the decisions of their government. Today, heads of state and their foreign ministers gain their impressions of breaking foreign news before receiving reports from their diplomats. In sum, in the realm of foreign affairs the media is an institution in its own right that must be taken into account by American policymakers.

It would be impossible to over-emphasize the importance of individual personalities in the high reaches of the U.S. government. We are all familiar with how former National Security Advisor Henry Kissinger, a man of extraordinary intellect and massive ego to match, eclipsed Secretary of State William Rogers, excluding Rogers from negotiations with Vietnam from 1969-73 and then replacing him as secretary in September 1973. Similarly, Zbigniew Brzezinski, President Jimmy Carter's national security advisor, 1977-81, was often at odds with then Secretary of State Cyrus Vance, for example on the issue of normalization of relations with Vietnam.

Bush I and Bush II

During the administration of the elder George Bush, 1989-93, American foreign policy was wrenched from its Cold War framework. With the sudden demise of the Soviet Union and the collapse of Soviet power in Eastern Europe and Central Asia, the United States found itself indisputably the single most powerful nation in the world. This new reality was confirmed by the rapid allied victory over Iraq in the 1990-91 Gulf War, underscored by a stunning display of technological sophistication. While some Democrats were critical of President Bush's determination to roll back Iraq's conquest by force, the Gulf War was conducted for the most part with a high degree of political bipartisanship. What the elder Bush failed to reckon with was that although Americans honor military success, they vote with their pocketbooks. The economic downturn of the early 1990s ended the Bush I administration, and it reaffirmed those indelible truths of American political life: "All politics are local" and "it's the economy, stupid."

The foreign policy decisionmaking process worked well in Bush I (with the president himself making the final decision over strong objections of some of his advisors) in confronting the Iraqi invasion of Kuwait, if not disposing of Saddam. The implementation of that policy in forming a broad coalition, including the major Arab countries, and then bringing off a brilliantly efficient air and land campaign against Iraq was widely praised.

But that was then. The administration of his son, George W. Bush, which took office eight years later in January 2001, initially adopted a general approach to foreign policy that has been seen by many observers, foreign and domestic, as starkly unilateralist and dismissive of the views of America's allies. What the administration describes as "consultation" often appears to be a stance where the United States simply informs its friends of decisions already taken. The rapid American military victory over the Taliban in Afghanistan, underscoring as it did the superiority of American technology and ability to deploy its military might in a terrain where the Soviets had foundered, has reinforced the impression that the United States (with some support from Great Britain) intends to "go it alone." At the same time, the president's black and white approach of "you are either for us or against us" has blunted the willingness of some countries normally disposed favorably toward the United States to cooperate.

The Impact of September 11 and a Fourth Institutional Change

September 11 has radically altered the character of American foreign policy. For the first time in American history, international terrorism is seen as a threat to the survival of the United States government, and indeed our whole society. Americans used to say that where foreign policy was concerned, politics stopped "at the water's edge." This myth has been shattered — now foreign policy begins explicitly at home and is an integral part of our national defense. The game is no longer victory or defeat on a single Cold War battlefield. During the Cold War, mutually assured destruction (MAD) carried an inherent limitation. As the theology of nuclear war developed, both the Soviet and the American sides became convinced of the certainty of global suicide should either employ the ultimate weapon. Arguably, MAD was the key stabilizer in the U.S.-Soviet competition.

Not so in the war against international terrorism. The reason is simple. The cold war was waged between "rational actors," especially where MAD was concerned. The implications of international terrorism are today vastly different. Osama bin Laden and the al Qaeda network have stated unequivocally that their objective is the destruction of the United States. Whether they actually possess the physical capability to grievously injure the country is another matter. The American government has no choice but to take bin Laden's vows seriously, to prepare the strongest defense possible, and to plan for worst-case scenarios in the event of further attacks. At issue is the possible use of nuclear devices or other weapons of mass destruction against the territory of the

United States and its population. It has become axiomatic that September 11 has changed everything.

On November 25, 2002, President Bush signed into law a bill that created a new cabinet-level entity, the Department of Homeland Security (DHS), marking a change in the organization of the executive branch of the United States government that ranks in importance with the National Security Act of 1947. This DHS joins together 22 federal agencies, with 170,000 employees, that have national security responsibilities. These include the Immigration and Naturalization Service, the U.S. Customs Service, the Federal Emergency Management Administration, and the U.S. Coast Guard. The objective of the DHS is to preempt, intercept, and counter international terrorist attacks. Significantly, the CIA and the Federal Bureau of Investigation, two powerful actors in the campaign against international terrorism, are not included in the Department of Homeland Security, an exclusion that could seriously complicate its operations.

The CIA has been resurrected from a bureaucratic decline caused by internal security scandals, the "Iran-Contra" affair in the 1980s, and the decimation of its clandestine service under the drastic personnel reorganizations in the 1970s. Its role has been significantly expanded as a consequence of September 11. It was deeply involved in information-gathering and clandestine operations during the war in Afghanistan, and remains the lead U.S. agency in the continuing effort to pinpoint and neutralize Osama bin Laden. In early November 2002, for example, the CIA, operating in Yemen, neutralized a senior al Qaeda official through the use of a guided missile-bearing "Predator" remotely controlled aircraft.

U.S.-Vietnam Bilateral Relations

What does all this mean for the bilateral relationship between Vietnam and the United States? First of all, the primary focus of U.S. foreign affairs, including all bilateral relations, is now on handling the threat of international terrorism successfully. U.S. bilateral relationships generally will be conducted within that framework. Vietnam no doubt understands the concerns of the United States in this regard. This is not to say that aspects of bilateral relations that have no direct connection to this fight will be ignored, only that they will receive a lower priority of attention.

Immediately after September 11, Vietnam appeared to be relatively forthcoming with regard to sharing information. Enhancement of such cooperation would be a highly positive factor in the bilateral relationship. However, since 2000 the issue of the United States granting asylum to Central Highlanders fleeing Vietnam into Cambodia has become an obvious irritant that would seem to make active cooperation more difficult.

Second, consolidation of bilateral relations will depend in large measure on how well the Bilateral Trade Agreement (BTA) is implemented. The USTR was responsible for concluding successfully the BTA over a period of five years. USTR remains a key player in the bilateral relationship. We are constantly urged to recognize that "Vietnam is a country, not a war," and this frame of reference should certainly be borne in mind. But the concerted and energetic drive to normalize economic relations spurred on by American firms seeking to do business in Vietnam from 1995 onward has largely succeeded. The impetus for further progress will depend heavily on Vietnam's willingness to implement the BTA, particularly if American investors and commercial partners meet with disappointment in the application of the BTA on the ground. While we can hope that situations such as the current U.S. restraints affecting the importation of Vietnamese catfish are the exception rather than the rule, such problems must be addressed realistically yet imaginatively by both sides.

Third, the operation of the BTA will have the effect of significantly increasing Vietnam's exports over the next decade. Already, Vietnam's exports to the United States have increased from about 1.05 billion in 2001 to almost 2.4 billion in 2002. Assuming full implementation, American direct investment can also increase substantially. Both developments will be beneficial to Vietnam's economy and will in turn enhance the prosperity (and hence the stability) of Vietnamese society. However, it would be a mistake to conclude that the consumption capacity of the large American middle class — no matter how many shopping malls we build — is infinite. The American market's ability to absorb manufactured goods imported from Asia is large but nonetheless limited. The economy has yet to bounce back fully from the recent recession. Consequently, the BTA by itself cannot be seen as the savior of the Vietnamese economy.

Fourth, the presence of human rights and religious freedom advocates on the White House staff and in the Congress means that the Vietnam Human Rights Act (known as H.R. 2833), which the government of Vietnam strongly objects to, will remain a contentious bilateral issue. The Congress has displayed an active interest in promoting the observance of human rights internationally since 1975, when it levied on the Department of State a country-by-country reporting requirement. In 1998, Congress passed the International Religious Freedom Act and created the U.S. Commission on International Religious Freedom, which recommends the use of sanctions on countries that are deemed abusive of religious freedom. The Commission concerns itself with many other countries besides Vietnam.

H.R. 2833 was passed by a wide margin in the House of Representatives but did not come to the floor of the Senate in 2001. The Senate did not take up the bill during 2002. However, its supporters remain determined to see this legislation, or similar legislation, enacted in 2003. With a larger Republican majority in the House of Representatives and with the Senate now in Republican hands as a result of the November 2002 elections, the issue is by no means closed. The U.S. Commission on International Religious Freedom has supported adoption of the Act. With normalization of our bilateral relations, both sides must recognize the existence of such interest groups — and the American sentiments they represent — as part of the American system, just as Americans must recognize certain political realities in Vietnam. Again, these are problems that must be managed by both sides; they must not impede the overall consolidation of the bilateral relationship.

Lastly, in my opinion a key element in broadening the foundation of the bilateral relationship is to strengthen the strategic dialogue on Asian security issues with the administration and the Congress. The strategic dialogue obviously includes enhancement of military-to-military relations. Vietnam's membership in the Association of Southeast Asian Nations (ASEAN) and its unique geographic location carry an inherent significance for the United States that should work to the advantage of Vietnam. There has been considerable speculation regarding the future of Cam Ranh Bay once the Russians depart definitively. While Vietnam has made perfectly clear that Cam Ranh will never again become a base for foreign forces, it would seem logical that it can eventually become the site of ship visits, commercial development, and a tourist destination.

But a strategic dialogue comprehends much more than this. People-to-people and institution-to-institution contacts should be increased rapidly, including communication between the National Assembly and the Congress. There should be room to expand the existing modest program in higher education sponsored by the Ford Foundation and Fulbright Program, among others. The kind of constructive program conducted by The Asia Foundation and other nongovernmental organizations can be immensely helpful to Vietnam — and also to Americans seeking to understand Vietnam. The creation of the Vietnam Education Foundation, with funds that come from debt payments Vietnam is making to the United States, should become an important element in this effort.

Institutions and Processes in Vietnamese Foreign Policymaking: Implications for Policy Toward the United States

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As in other countries, foreign policymaking in Vietnam is a long and complicated process because it concerns relations with many countries and important international institutions. Apart from that, a country's foreign policy always follows its internal policy in order to best serve national interests. It means that the interests of every stratum of the people should be reflected in its foreign policy. In this connection, this chapter will describe at length the processes and institutions involved in Vietnamese foreign policymaking as well as the corresponding domestic factors that affect it.

To show the complications in this foreign policymaking process, the chapter will also deal with the relationship and interplay between policymaking institutions in Vietnam when foreign policy is actually formulated. In order to help the reader get a clearer picture of this process, some concrete examples from recent historical experiences will be provided. As this paper will discuss the implications of Vietnam's foreign policymaking process for its policy toward the United States, two examples are provided from the experience of Vietnam-U.S. relations: (1) Vietnam's attitude toward the question of the U.S. government's promise to help Vietnam heal the wounds of war as stipulated in Article 21 of the Paris Agreement on Vietnam signed in January 1973; and (2) the issue of troops listed as missing-in-action (MIA), which has been the main concern of the United States.

In the conclusion, the author will try to draw some implications for Vietnamese foreign policy toward the United States in the future.

The Formulation of Vietnamese Foreign Policy

The main objective of this chapter is to describe how our foreign policy is formulated. Vietnam is a socialist country under the leadership of the Communist Party of Vietnam. The Party exercises its leadership through its strategy and policy, which are carried out not only by Party members but also by the whole society. To work out strategy and policy, the Party convenes its National Congress every five years. At each National Congress, the general secretary of the Party has to present a political report in which the general lines of the Party on domestic and foreign policy are laid down. This policymaking process is a collective one. It takes months, even years, to come to the final draft. In preparing the work of the National Congress, the Party sets up various ad hoc committees on various subjects. The Committee for Foreign Affairs has the responsibility to draft the section of the political report dealing with the international situation and foreign policy in the following five or ten years.

The second step in the preparation of the Party political report is the discussion and approval of the draft by the Central Committee. The third step is the decision of the Central Committee to make public the draft of the political report for national discussion. Every citizen of Vietnam, whether a Party member or not, has the right to participate in the discussion of the political report. They have the right to make recommendations to the Central Committee. The fourth step includes discussions in the Central Committee about the recommendations and amendments put forward by the people through public discussion. Only after that can the draft of the political report be presented to the National Congress. Here again the delegates to the Party Congress will make recommendations and amendments before the report is adopted.

Once the general lines of the Party strategy and policy are adopted by the National Congress of the Party, the whole nation — specifically the executive branch and all mass organizations — have the duty to work out their concrete plans of action to carry out the Party directions.

The next phase of our policymaking process is for the government to present to the National Assembly its programs for carrying out the Party line; the prime minister himself is responsible for this task. In the domain of foreign policy, sometimes the prime minister entrusts the foreign minister to report to the National Assembly. The foreign minister has to explain or reply to all questions put forward by members of the National Assembly. Based on the general line worked out by the National Party Congress and approved by the National Assembly, the Foreign Ministry formulates its plan of action to put the Party line on international affairs into effect. The Foreign Ministry has the duty to handle the daily relations with foreign countries and international agencies.

Deputy foreign ministers and assistant foreign ministers support the foreign minister to fulfill his duty. Each is in charge of one geographical region or specific international domain with the help of the regional departments, departments on international law and treaties and national borders, and departments on international institutions. In order to coordinate the work of all regional and functional departments since 1978, we have established the foreign policy planning staff and now the Department of Foreign Policy, which serves as a direct assistant to the leadership of the ministry.

The role of the Institute for International Relations (IIR) in the policymaking process of the Foreign Ministry is also significant. IIR is entrusted by the foreign minister with two functions: first, to train young diplomats for the ministry and other departments for international relations; and second, to carry out strategic research as a think tank for the ministry in its foreign policymaking process.

The Foreign Ministry is a strong institution within Vietnam's executive system and is usually headed by a member of the Politburo. In handling its daily work, in case of very important matters, it can seek the approval of the whole Politburo or its key members like the party secretary general, the president of state, and the prime minister. In case of an emergency, especially during wartime, the Foreign Ministry can recommend that the Politburo convene a special session of the Central Committee to discuss the problems and adopt the necessary resolution which the whole Party will follow. An example of this is the resolution to launch a diplomatic offensive adopted by the Party Central Committee in 1967 leading to the Paris talks in May 1968 between Vietnam and the United States to reestablish peace in Vietnam. Another example is the resolution of the Politburo in July 1972 deciding to change the strategy from war to peace, leading to the signing of the Paris Agreement in January 1973.

In sum, the overall responsibility for the conduct of our external relations lies with the Ministry of Foreign Affairs. To carry out the Party line on foreign policy, however, the Ministry of Foreign Affairs has to cooperate with the Party's Commission for External Relations on matters relating to political parties in power in other countries; as well as with the Defense Ministry on security-related matters, and with the Finance and Trade ministries on international trade and commerce. Apart from the Commission for External Relations, the other ministries mentioned above are not foreign policy institutions, but their cooperation is very important for the Ministry of Foreign Affairs to carry out successfully the tasks entrusted to it by the Party. In some cases, these ministries have a big say in helping the Party to formulate its foreign strategy.

So in reality, Vietnam has many institutions, formal and informal, involved in the foreign policymaking processes, but all of them are under the leadership of the Party, which has the final say in deciding a foreign policy. Once the leadership of the Party passes a resolution, every ministry must carry it out.

Domestic Factors in the Vietnamese Foreign Policymaking Process

Since independence in 1945, Vietnam has experienced severe problems with some major powers and neighbors. Resolution of such problems is vital to the survival of any nation, particularly when they concern national defense and reconstruction. Usually national defense is a priority that follows the construction of a country's basic institutions, but in this case the reverse was true. From 1945 to the end of the Cold War, Vietnam suffered successive aggression from different great powers in collaboration with its neighbors. Thus, during this period, the question of national defense was of first priority. Only after the signing of the Paris Peace Agreement on Cambodia in 1991 could Vietnam dedicate itself fully to the task of national construction.

I say "fully" because in reality Vietnam had already adopted *doi moi* (renovation) after the Sixth Party Congress in 1986. Many people still think that the change in Vietnam's foreign policy resulted from the collapse of the Soviet Union and the Eastern European socialist countries, which were the country's main supporters. This is not true, even though at that time Vietnam still received a great deal of aid from the Soviet Union, equivalent to $2 billion annually. In fact, the driving forces behind the course of renovation were domestic. In 1985-1986, Vietnam suffered from a severe economic crisis. Our economy was on the brink of collapse due to poor management. The economic policy carried out during wartime, based on state subsidies, state command and bureaucracy, became an obstacle to the development of production, so Vietnam had to enact reforms and change its basic economic thinking and governance.

A related question is why Vietnam was able to carry out the renovation course only since 1986. Many of our leaders, especially at the provincial level, actually wanted and tried to initiate some kind of reform of the economy as early as the end of the 1970s, but they were unable to do so due to disagreement in the top leadership about the basic theories and priorities of socialism. Fortunately, Vietnam had a new leadership by mid-1986, which decided to launch *doi moi* to save the economy from collapse. As a result, Vietnam also had to modify its foreign policy to support the reforms enacted as part of the renovation process.

In reality, only after the settlement of the Cambodian crisis could Vietnam enter a new phase of development in which national reconstruction became the first priority of any agenda. The seventh, eighth, and ninth National Party Congresses in 1991, 1996, and 2001, respectively, set forth the task of our foreign policy as follows: create favorable international conditions for the reconstruction and defense of the country. In order to implement the new strategy formulated by the Party, the general approach of Vietnam's foreign policy is to be friends to all countries in the world community striving for peace, cooperation, and development. The Party also set forth the guiding principles for a foreign policy of independence, self-reliance, and multilateralization and diversification of relations with other countries and international institutions. This policy has enjoyed the full support of all strata of people because it serves their interests. While people may have differing opinions on a given subject, being soft on some and tough on others, it would be a mistake to try and divide members of the Politburo simplistically into hawks and doves when it comes to foreign affairs. All the leaders are elected by the people to represent their interests. As a small country, Vietnam wants to live in peace with other nations. In this regard, Vietnam's national interests conform to the interests of all countries in the world community — that is, peace, stability and development.

In order to create a favorable environment, regionally and internationally, for the reconstruction and defense of the country, Vietnam attaches great importance to the development and improvement of the relations with its neighbors and the major powers, while unceasingly maintaining traditional, friendly relations with old allies all over the world.

Frankly speaking, during the Cold War Vietnam was not able to maintain good relations with most of its neighbors or with all the great powers because of the confrontation between the two major blocs. Just after regaining independence, Vietnam sought to establish good relations with its neighbors, but again failed to do so due to foreign interventions. This could be seen clearly in Vietnam's relations with the United States, France, and the United Kingdom. In the atmosphere of the Cold War and facing the danger of losing national independence again, Vietnam had no other alternative but to lean to the socialist camp for national defense and economic rehabilitation.

That is why Vietnam immediately started to normalize relations with all its neighbors and the major powers when the Cold War ended. As a result, Vietnam was able to find a negotiable solution to the Cambodian crisis in cooperation with its friends in ASEAN. Vietnam fully normalized relations with its neighbors and became a member of ASEAN in 1995. In addition, normal diplomatic relations between Vietnam and China were resumed in 1991. And thanks to the efforts of both sides, Vietnam and the United States established diplomatic relations in 1995 and signed a bilateral trade agreement in 2000. At present Vietnam has diplomatic relations with about 170 countries in the world. It is recognized that Vietnam is now a country, not a war, and it can be said that Vietnam's foreign policy has deep roots in domestic requirements and considerations.

The Impact of Policymaking Processes and Institutions on Vietnamese Foreign Policy (especially toward the United States before normalization)

Although Vietnam and the United States had already normalized diplomatic relations in 1945, destiny kept the two countries at loggerheads for half a century. History will show which side was responsible for this stalemate. From the Vietnamese side, however, it was Vietnam's policymaking processes and its institutions that did not allow a quick decision on every question, especially those relating to Vietnam-U.S. relations. The two examples below clearly illustrate this point.

The first concerns attitudes toward the question of U.S. contributions toward healing the wounds of war in Vietnam, as stipulated in Article 21 of the Paris Agreement on Vietnam in 1973. To make the Vietnamese side confident in the U.S. commitment on this matter, President Richard M. Nixon even sent a letter to Vietnamese Prime Minister Pham Van Dong in February 1973 promising that Washington would provide Vietnam with $3.25 billion in reconstruction aid over a five-year period. Subsequently, the United States and Vietnam started to negotiate in Paris from March to July 1973 on the question of how to use this aid. By the end of July 1973, the two delegations hammered out a document describing in detail not only the list of goods to be supplied to Vietnam, but also the procedures for implementation. After finishing this job, the U.S. delegation left Paris saying they had to report to the president. They never returned to Paris again, however. Given the difficulties facing President Nixon as a result of the Watergate scandal, the Vietnamese leaders decided to wait.

When Jimmy Carter replaced Nixon's successor Gerald R. Ford as president of the United States, he decided to start the process of normalizing relations with Vietnam. In July 1977, the United States did not veto Vietnam's application to the United Nations and commenced negotiations on normalizing relations with Vietnam without conditions. Nevertheless, the negotiations proceeded very slowly because the U.S. delegation, headed by Richard Holbrooke, would not agree to discuss the question of U.S. reconstruction aid as stated in the 1973 Nixon letter. Given the complexity of the situation in the world at that time and in the United States itself, Vietnam's Ministry of Foreign Affairs proposed that Vietnam should hasten the process of normalizing relations with the United States by giving up the demand for reconstruction aid. This proposal won the support of three key members of the Politburo — General Secretary Le Duan, Premier Pham Van Dong, and Le Duc Tho, the chief negotiator of the Paris Agreement with Henry Kissinger. They wanted a consensus within the Politburo, however, and asked the Ministry of Foreign Affairs to explain the situation to other members of the

Politburo in order to win their support. As a result of these deliberations, the Vietnamese side could only initiate the agreement on the normalization of relations without conditions in October 1978. By then it was too late. Carter decided to normalize relations with China first and delayed the normalization of relations with Vietnam. An opportune time didn't come for another 17 years.

The second episode concerns our handling of the question of MIAs. This is a more complicated question. It is difficult for us to achieve a consensus on the handling of this question not only in the Politburo of the Party, but also among different agencies of the government and especially among the people. There were many factors that made it difficult to reach a national consensus, although the Vietnamese side realizes this is a humanitarian question.

First, the United States maintained a hostile attitude toward Vietnam after the war by colluding with China, and by imposing an economic embargo against Vietnam. Vietnam's reaction was: why should we cooperate with them when they try to isolate us and remain hostile to us? Second, although ordinary people realize that this is a humanitarian question, they of course also think about the fate of Vietnam's MIAs. Many Vietnamese think the United States should do more to help Vietnam on this issue. This is also a humanitarian question for Vietnam. Third, the war mentality still haunted the Vietnamese people's spirit, especially within the military. The suspicion could not be overcome overnight. To let U.S. helicopters hover over people's heads in searching for U.S. MIAs reminded them of the wartime atmosphere. Some people still doubted whether the United States was really searching for their MIAs, and suspected that it was instead trying to make an excuse to carry out spy missions. Fourth, most of the Vietnamese people, including many leading figures in the Party and Government, raised questions over U.S. sincerity: why shouldn't the U.S. normalize relations first and settle the question of MIAs later? The United States still has thousands of MIAs from World War II and the Korean War; why did they focus so much attention on their MIAs in Vietnam?

These questions show that Vietnam met many difficulties in settling problems with the United States, which for decades was considered the No.1 enemy.

However, the Sixth Party Congress in 1986 and especially Politburo Resolution No. 13, passed by the Politburo in May 1988, adopted new approaches in foreign policy. At the same time, the attitude of the United States became more flexible and realistic. This was apparent in talks between Vietnam's Foreign Minister and the U.S. Secretary of State in 1988 and especially in the decision of President George Bush to send a personal emissary on MIAs, General John W. Vessey, to Vietnam during the same year.

Conclusion

Although the relations between the two countries have been fully normalized with the ratification of the Vietnam-U.S. trade agreement, it does not mean that bilateral relations can develop rapidly. As a result of Vietnam's processes of foreign policymaking and its institutions, no decision about improving the relations with the United States can be made without caution or suspicion. So far, U.S. policy toward Vietnam in many cases has not helped to accelerate Vietnam's policymaking processes, and sometimes it makes it worse due to U.S. double standards.

The second factor that does not permit Vietnam to go faster in its relations with the United States is the suspicion still haunting the Vietnamese people when dealing with the United States. Former President Bill Clinton made it clear that there was an ulterior motive of the United States toward Vietnam in his speech on the decision of the U.S. to normalize relations. He said that normalizing relations would "advance the cause of freedom in Vietnam, just as it did in Eastern Europe and the former Soviet Union."[1] So in a word, the two sides

[1] The White House, Office of the Press Secretary, *Remarks by the President in Announcement on Normalization of Diplomatic Relations with Vietnam,* July 11, 1995. Available at: http://www.ibiblio.org.

need more confidence-building measures in order to improve bilateral relations.

In Vietnam, the United States is still seen as an ambitious great power that wants to impose its will on other countries. Every move toward more rapid improvement of relations with the United States should be considered carefully and cautiously. In spite of continuing suspicions, however, Vietnam will try its best to improve relations with the United States based on our supreme national interest. Vietnam will treat the United States on an equal footing, without leaning toward other big powers against the United States. The ball is now in the U.S. court.

The Role of Congress in U.S. Foreign Policy and U.S.-Vietnam Relations

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Introduction: The Advantages of a "Weak" State

Since the time of the Vietnam War, the U.S. Congress has strongly influenced American policy toward Vietnam, in ways that have both promoted and hindered the relationship. Congress's role in foreign policymaking in general — and toward Vietnam in particular — often seems confusing to non-Americans. The constitutional division of powers in the United States means that the U.S. often appears to have a cacophony of voices speaking on foreign policy, representing interests that are global, national, and highly local.

While the division of foreign policy powers may frustrate foreign countries by creating doubts about the ability of the presidents to deliver on promises, a relatively weak (in structural terms) executive can confer enormous advantages to a country in international negotiations. Skilled presidents can use their lack of ultimate decision-making power to demand concessions, on the grounds that if concessions are not obtained, the agreement will not be ratified by the legislature.

Moreover, having multiple voices on foreign policy allows a country to experiment with foreign policy options that a unitary government might consider too risky or threatening. Indeed, executive branch officials occasionally use members of Congress to float trial balloons by proposing initiatives that the president is unwilling or unable to initiate at the moment. In the case of Vietnam-U.S. relations, for instance, Congress's seat at the foreign policymaking table allowed individual members in the 1980s and 1990s to take the lead in hastening the normalization process.

This paper identifies the ways Congress influences U.S. foreign policy in general and U.S. policy toward Vietnam in particular. It is divided into three parts. The first two discuss the tools that the members of Congress use to affect foreign policy, and the factors that tend to heighten or diminish Congress's foreign policy influence. The third section explores the shifts in congressional attitudes toward Vietnam and offers some predictions for the future.

Congress's Foreign Policy Tools

The authors of the U.S. Constitution, suspicious of overbearing executive authority, deliberately divided foreign policy powers between the executive and legislative branches. Congress's role in foreign policy formation derives from Article 1 (principally, Sections 7 and 8) of the Constitution, which grants Congress certain powers, including the power to raise revenue, regulate international commerce, declare war, raise and support a military, and to "make all Laws" deemed "necessary and proper...." Additionally, Article 2 (Section 2) gives the Senate the special powers of confirming presidential appointees, and of ratifying treaties.

The bifurcation of authority often makes it difficult to identify when and where a particular U.S. policy originated, decide when a proposal actually influences policy, and determine when a modification creates a new policy.[1] As a general rule, the president, as the head of state, is the initiator of U.S. foreign policy, with the Congress playing a reactive role. On this point, the his-

[1] Richard F. Grimmet, *Foreign Policy Roles of the President and Congress*, CRS Report RL30193, June 1, 1999, p. 1.

torian Edwin Corwin made an observation on U.S. foreign policy that is still relevant today: "While the president is usually in a position to *propose*...the Congress [is] often in a technical position at least to *dispose*. The verdict of history, in short, is that the power to determine the substantive content of American foreign policy is a *divided* power, with the lion's share falling usually, though by no means always, to the president."[2]

The Budget Process

Congress's most important foreign policy tool is the power of the purse. The president's need to have Congress pass the annual budget provides members of Congress with a vehicle to restrict the president's freedom of action or require the president to undertake new foreign policy initiatives. Often, these congressional measures take the form of amendments to (or insertions into) appropriations legislation that the president is unlikely to veto.[3] The passage of the so-called Jackson-Vanik amendment is one example of Congress using the budgetary process to affect foreign policy. In 1974, the Nixon administration was attempting to normalize trade relations with the Soviet Union, as part of its policy of détente. Congress defied the administration by passing amendments to the Trade Act of 1974 that made the granting of Most Favored Nation (MFN) treatment to most communist countries conditional upon those countries liberalizing their emigration policies.[4] As is well known in Vietnamese government circles, another requirement of the Jackson-Vanik amendments is that the United States must sign a bilateral trade agreement, which is subject to congressional approval, before commercial relations can be fully normalized.

Congressional Oversight

Congress also influences U.S. foreign policy through its ongoing oversight of executive branch activities. The most common examples are hearings, which may be held by any congressional committee on any subject within its jurisdiction. Hearings provide members with an opportunity to shape U.S. policy by raising questions for public discussion. During the Vietnam War, for instance, Senate Foreign Relations Committee hearings contributed to public opposition to U.S. policy in Southeast Asia. Members of Congress can also use their oversight duties to support a particularly controversial presidential policy. As will be discussed below, President Clinton's normalization of relations with Vietnam was made politically possible by the bipartisan public support and prodding given by several members who were veterans of the Vietnam conflict, most notably Senators John Kerry, John McCain, Bob Kerrey, and Chuck Robb.

Other examples of congressional oversight include conducting investigations and imposing reporting requirements on the executive branch, such as the requirement that the president report to Congress on human and religious rights conditions in various countries. The Senate's confirmation and treaty-approving powers also provide it with a powerful means of exercising oversight, and influence, over the president's foreign policy. Additionally, members of Congress frequently travel to foreign countries to oversee and take positions on U.S. foreign policy.

Congressional Resolutions

Every year, individual members of Congress introduce large numbers of resolutions expressing the sense of the House, Senate, or both. When passed, these resolutions in effect become the official policy of the legislative

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2 Edward S. Corwin, *The President, Office and Powers,* 1787-1957 (New York: New York University Press, 1984), p. 171, as cited in Grimmet, p. 1.

3 Grimmet, p. 17.

4 Grimmet, p. 18. Over the years, this emigration requirement has become interpreted to mean liberalization of human rights more broadly defined.

branch. They therefore may be considered a channel of communication between the Congress and the president, and between the Congress and foreign countries.[5] Resolutions generally are considered to be a weak tool; since they are not legally binding, the executive branch often ignores them. However, resolutions can play an important role in gauging the level of congressional support or opposition to controversial policies. For instance, as will be discussed below, in 1994 President Clinton waited to order an end to the U.S. trade embargo on Vietnam until after the Senate had passed a resolution supporting such a move.

The Determinants of Congressional Influence

Congress's ability and willingness to modify and initiate foreign policy has ebbed and flowed over the years, as the relative power of the two branches changed in accordance with the needs of the day. The degree of congressional influence depends on two primary variables: the presence or absence of a foreign policy crisis, such as a war; and the particular issue-area involved.

Foreign Policy Crises

Typically, the pendulum swings toward the presidency during times of foreign policy crises, which place a premium on having one national voice and quick, centralized decision-making. Thus, the following historical periods are often considered to be ones of presidential dominance:

- 1789-1820s (formation of the republic; War of 1812)
- 1861-1869 (American Civil War; Reconstruction period)
- 1898-1918 (Spanish-American War, World War I)
- 1936-early 1970s (World War II, Cold War, and Vietnam conflict)

In the late 1960s and early 1970s, the distrust of the presidency brought about by Watergate and the failure of U.S. policy in Vietnam led Congress to reassert its role in forming U.S. foreign policy. Individual members of Congress such as Senator William Fulbright emerged as prominent critics of Presidents Johnson and Nixon, most notably by holding hearings that gave opponents of the War a platform. It was during this period that Congress increased its resources greatly, by creating the Congressional Budget Office and the Office of Technology Assessment, and by expanding the capacities of the General Accounting Office and the Congressional Research Service.

During the presidencies of Ronald Reagan and the first George Bush, the pendulum swung back somewhat toward the presidency, though by most measures, not nearly to the extent that it had been at the height of the Cold War. Congress had become too accustomed to a role in foreign policy, and now had the institutional power to assert itself. Divided government — with the Democrats in firm control of the House and often of the Senate — provided an additional political rationale for challenging the President's foreign policy prerogative. Furthermore, the thawing of the Cold War and the perceived decline in U.S. economic power provided openings for Congress to directly challenge the executive branch's foreign policy rationale. Thus, during the 1980s, Congress pushed the Reagan and first Bush administrations to become increasingly assertive in foreign economic policy, particularly in U.S. trade relations with Japan. Congress also acted to reverse U.S. policies toward South Africa and Latin America.

Congressional influence over foreign policy peaked again during the 1990s. The removal of the Cold War rudder that had guided U.S. policy for 50 years led to a search for a new paradigm. Bill Clinton captured the presidency in 1992 with an explicitly domestic agenda; foreign policy was to be a secondary concern. Congress threw itself into the vacuum, particularly after the Republicans secured a majority in both Houses in 1994. The Clinton

[5] Grimmet, p. 14.

years saw Congress force the executive branch to undertake initiatives ranging from major policy commitments, such as the development of a missile defense system to more narrow ones like the imposition of conditions on military relations with Indonesia. In contrast, normalization with Vietnam was a case where the Clinton administration, with the assistance of individual members of Congress, was out in front of the majority in Congress.

The current consensus on the administration of George W. Bush is that the war on terrorism has swung the balance of power back toward the presidency. It remains to be seen, however, whether this shift is temporary or long-standing. The longer a sense of crisis persists, the longer and more successfully the President is likely to seek congressional deference in foreign policy.

Issue Areas: Trade and Human Rights

Congressional influence over foreign policy also varies by issue area. In general, Congress is best able to take the initiative, or block presidential initiatives, on narrow issues. In part, this is due to the difficulties of marshaling hundreds of lawmakers to support a broad policy initiative. Also, it is due to Congress being in many ways closer to the American people. Members of Congress often find themselves to be the best voice of interests, particularly economic ones that percolate up from American society. Many of these interests tend to be parochial, and thus their advocates often find them passed over by the executive branch, which has to be concerned with the broader elements of U.S. foreign policy. It is not surprising, for instance, that complaints about Vietnamese catfish imports entered the policy domain through the Congress, during the Senate's confirmation hearings of U.S. Trade Representative Robert Zoellick.

Human rights have become another issue tailor-made for Congress to assert itself. Since Congress does not have the responsibility for executing foreign policy, it has the luxury of insisting that political and religious freedoms be included on the U.S. foreign policy agenda. Additionally, allegations of human rights abuses are often most forcefully raised by members of exile communities and non-governmental organizations, groups that members of Congress are better prepared to hear and represent than the executive branch.

Congress has been principally responsible for institutionalizing human rights on the U.S. foreign policy agenda. Even when promoting human rights has been official policy, presidents typically find it difficult to maintain this priority while managing broader security and economic concerns, as Presidents Jimmy Carter and Clinton discovered. To counter this tendency, Congress has used all its tools available to try to elevate the importance of human rights. In 1975, Congress required that the State Department monitor and report to Congress on human rights conditions in all recipients of U.S. foreign aid. In 1998, Congress elevated religious rights on the foreign policy agenda by passing the International Religious Freedom Act, which was signed by President Clinton. The law created the U.S. Commission on International Religious Freedom (USCIRF) and the State Department Office of International Religious Freedom. The latter is headed by an ambassador at large, who is subject to Senate approval and must report to Congress annually on the state of religious freedom in other countries. The law also identified sanctions to be placed on countries if they are found to have engaged in or tolerated particularly severe forms of religious persecution.[6] The House International Relations Committee, Senate Foreign Relations Committees, and the USCIRF have held hearings on the religious rights situation in selected countries.

Congress and U.S. Policy Toward Vietnam

For the past 25 years, Congress has taken a special interest

6 See Vita Bite, *Religious Persecution Abroad: Congressional Concerns and Actions*, CRS Report 97 968F, January 15, 1999.

in Vietnam, at a level out of proportion to Vietnam's actual strategic or economic importance to the United States. In 2000, for example, the monthly report that the Congressional Research Service (CRS) produces on Vietnam, *The Vietnam-U.S. Normalization Process*, received nearly twice as many requests from congressional offices as the CRS's monthly report on U.S.-Japan relations. Since the end of the Vietnam War, no president has been able to act on Vietnam without producing intense, often impassioned congressional responses.

Congress's peculiar fascination with Vietnam has been primarily due to the emotional legacies of the Vietnam War, particularly after the Vietnamese withdrawal from Cambodia and the resettlement of most of the "boat people" effectively removed Vietnam from U.S. strategic thinking in Southeast Asia. Until the early 1990s, the vestiges of the war hurt Vietnam's standing in Congress. This situation gradually reversed itself over the course of the 1990s, to the point where the desire to close the chapter on the Vietnam War actually helped the U.S.-Vietnam bilateral trade agreement (BTA) sail through both Houses in 2001. The agreement's leading proponents on Capitol Hill were Vietnam War veterans. And American unions offered little opposition to the pact in part because their rank and file viewed it as an "end of War" issue.

Congress's Role in the Normalization Process

Until the mid-1990s, congressional interest in Vietnam was dominated by a desire to obtain a full accounting for U.S. prisoners-of-war/missing-in-action (POW/MIAs). In 1977, both Houses passed resolutions opposing U.S. aid to Vietnam following Hanoi's refusal to provide information on American POW/MIAs until after it received a promise of billions of dollars in aid. A widespread belief pervaded Capitol Hill that Vietnam was "warehousing" several hundred remains and releasing them incrementally to gain tactical advantage in negotiations with the United States. Faced with strong pressure from veterans groups, Congress throughout the 1980s continued to insist that normalization could not occur until Vietnam cooperated in providing information on POW/MIAs, a position that became official U.S. policy. Members of Congress also expressed their concern about human rights in Vietnam, focusing on the plight of political prisoners, and about the situation of Vietnamese refugees.

Starting in the early 1990s, Congress began to take a more supportive view of normalization. A major contributor to this change was the bipartisan Senate Select Committee on POW/MIA affairs, which between August 1991 and December 1992 conducted what many consider the most extensive independent investigation of the POW/MIA issue undertaken. Chaired by John Kerry and vice-chaired by Senator Bob Smith, the committee's report concluded that there was some evidence that POWs were alive after the U.S. withdrawal in 1973, and that although there was no "conspiracy" in Washington to cover up live POWs, the U.S. government had seriously neglected and mismanaged the issue, particularly in the 1970s. Perhaps most importantly, the committee's televised hearings were cathartic for many Americans; they played a major role in defusing much of the passion that had surrounded the POW issue. The committee is an excellent example of how Congress can use its oversight and investigative powers to influence U.S. policy.

Legislatively, a turning point was passed on January 27, 1994, when, following months of high-level interaction with Vietnam on resolving POW/MIA cases, the Senate approved a resolution urging the lifting of the U.S. trade embargo on Vietnam. The following week, President Clinton formally ended the embargo. The language of the Senate resolution, attached to authorizing legislation, proved controversial in the House, but ultimately survived.

Following the lifting of the embargo in 1994, each step toward normalization confronted passionate yet declining opposition from Congress. As before, the key to overcoming opposition was progress on the POW/MIA

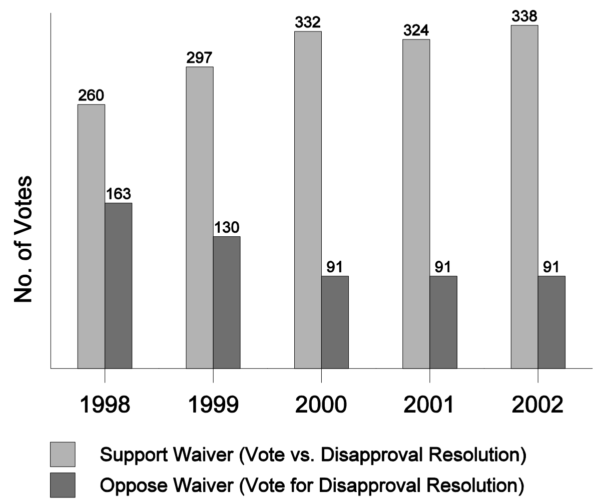

Figure 1: House Votes on Vietnam's Jackson-Vanik Waiver, 1998-2002

issue. The increased support for normalization is indicated by the steadily increasing support for presidential waivers of the Jackson Vanik amendment restrictions (see Figure 1), and by the overwhelming margins by which the U.S.-Vietnam BTA was passed in late 2001.[7]

A number of factors were responsible for the shift in congressional opinion on Vietnam. Most importantly, Vietnamese-U.S. cooperation on resolving POW/MIA issues began to convince members of Congress that the Hanoi regime was sincere about improving relations and could be a reliable partner. Other signs of change in Vietnam — the withdrawal from Cambodia, the *doi moi* economic reforms, the change in leadership following the Sixth and Seventh Party Congresses in 1986 and 1991 — contributed to the transformation in perceptions on Capitol Hill. Changes in Congress and the United States helped as well. The passage of time and the U.S. victories in the Cold War and the Gulf War had dulled the emotional edge of Vietnam War-era issues. Also, the leadership of several members of Congress who were veterans of the Vietnam conflict was crucial in convincing colleagues that it was time to support bilateral normalization. Additionally, led by Senators John Kerry, John McCain, Bob Kerrey, Chuck Robb and Ambassador Pete Peterson (a former congressman), these members worked behind the scenes to persuade the Clinton administration that the time was right to accelerate the normalization process. President Clinton initially was reluctant to do so because throughout his first term he was dogged by allegations that he had avoided military service in Vietnam in the 1960s. Without the bipartisan political cover afforded by these veterans in Congress, it certainly would have taken the Clinton administration longer to push a policy of normalization.

Human Rights

With the defusing of the POW/MIA issue, Vietnam's human rights record has emerged as the sorest point of bilateral contention. In particular, congressional critics of normalization have seized upon human rights as a vehicle for opposing the policy. These members, who tend to come from the far right on the political spectrum, are kept well-informed of accounts of persecution by overseas Vietnamese, exiled ethnic minority groups, and religious organizations. Congressional critics have intensified their campaign in recent years, even as most individual Vietnamese began to enjoy more personal freedom than perhaps at any time since Vietnamese reunification. Until recently, the legislative results of their efforts generally were confined to a number of resolutions condemning the Vietnamese government for persecuting one or more groups. Their most ambitious project to date, the Vietnam Human Rights Act (H.R. 2833), sought to up the ante.

The act was introduced by Congressman Chris Smith in late June 2001 and passed the House in a 410-1 vote in early September. It ultimately stalled in the Senate due to an anonymous "hold" placed on the measure by at

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7 These restrictions prohibit the President from normalizing commercial relations with selected socialist and formerly socialist countries if they do not meet certain requirements regarding freedom of emigration.

least one member.[8] Its supporters were able to achieve such a lobsided victory in the House in part because the act was weakened to such an extent that even the champions of U.S.-Vietnam normalization could vote in favor, particularly since they knew that it was unlikely to pass the Senate. As originally proposed, the act would have created a congressional-executive commission on Vietnam to monitor how well Vietnam lives up to internationally recognized human rights standards. It would have withheld bilateral, non-humanitarian aid unless Vietnam received a presidential certification that it is meeting certain human rights conditions. U.S. support for aid from international financial institutions would have been subject to a similar requirement. The bill also required that additional money should be allocated toward promoting democracy in Vietnam, through support of non-governmental organizations and Radio Free Asia broadcasts.

Realizing that most of these measures were likely to doom the bill in the House, its sponsors allowed most of them to be eliminated or significantly watered down. The commission on Vietnam was eliminated. The final bill banned only *increases* in non-humanitarian aid absent an affirmative presidential certification. U.S. support for international institution aid is effectively freed of any conditionality. Most importantly, the bill allowed the president to waive the provisions of the act even if Vietnam is not found to have met its human rights standards.

Although the act stalled in the Senate, it is likely that in the future its supporters will try to circumvent the "hold" by inserting the act's provisions into an amendment to another bill.

Congress's Likely Role in Future U.S.-Vietnam Relations

Congress's perception of Vietnam has undergone a remarkable transformation over the past decade, from that of a war to a country. In large measure, this shift may be attributed to the Vietnamese government, which through its actions has demonstrated an eagerness to undertake domestic reforms, cooperate with the United States on POW/MIA cases and other issues, and rejoin the international community. Because of these steps by Hanoi, wartime legacies moved from blocking to aiding the normalization process.

In the coming years, however, Vietnam will be less able to use the war to its advantage on Capitol Hill, as history's resonance fades and becomes largely confined to the few remaining normalization issues between Vietnam and the United States. The war may also remain a subtext — albeit a diminishing one — of clashes over human rights, as many minority ethnic and religious groups in Vietnam fought with U.S. and South Vietnamese forces. In other areas — such as trade and security issues — U.S. relations with Vietnam will be treated on their own terms, judged by their present strengths and future potential. In particular, with U.S.-Vietnam trade likely to increase significantly in the next few years, Vietnamese officials will have to brace themselves for a high level of congressional attention to bilateral economic relations and Vietnam's implementation of the BTA.

Also, contrary to conventional wisdom, the war on terrorism is likely to increase congressional scrutiny of Vietnam's human rights situation. Unlike other Asian countries — such as Indonesia — that are the targets of human rights accusations, Vietnam as yet has little to offer the U.S. in combating terrorism. Hanoi may there-

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8 "Holds" are informal devices that permit a single senator or any number of senators to stop — sometimes temporarily, sometimes permanently — floor consideration of measures or matters that are available to be scheduled by the Senate. A hold, in brief, is a request by a senator to his or her party leader to delay floor action on a measure or matter. It is up to the Senate majority leader to decide whether, or for how long, he will honor a colleague's hold. Scheduling the business of the Senate is the fundamental prerogative of the majority leader, and it is done in consultation with the minority leader. Holds are unique to the Senate. Although there have been attempts to end the practice of anonymous holds, the practice still continues. See Walter Oleszek, *"Holds" in the Senate,* CRS Fact Sheet on Senate Legislative Process: 98-712 GOV.

fore prove to be a “safe” outlet for human rights proponents, who may find their arguments on other countries’ abuses falling on deaf ears. Furthermore, the Jackson-Vanik waiver process will continue to provide an annual vehicle for Congress to continue to monitor Vietnam’s domestic situation closely; a vehicle that few other countries have to face. As mentioned earlier, Vietnam’s most important backers in Congress have been veterans of the Vietnam War. The challenge for Vietnam will be to identify new champions of the bilateral relationship — perhaps looking in the ranks of the Vietnamese-American community — who can help to carry it into the future.

The Vietnamese National Assembly in Foreign Policymaking

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Discussing differences in the foreign policy approaches of the United States and Vietnam, a foreign diplomat in Vietnam observed that U.S. foreign policy is i*ssue-related*, whereas Vietnamese foreign policy is more an extension of the lines and policies set by the Vietnamese Communist Party. Vietnam's foreign policy direction is relatively consistent within the five-year periods between the National Congresses of the Communist Party. The main tenets of foreign policy are codified in the political report of each Party Congress, and are further defined by Party Central Committee meetings (plenums). In this context, decisions by the government and the National Assembly on foreign policy matters often have their origins in Party lines and policies. National Assembly decisions focus on the ratification of international agreements, foreign policy orientations that are expressed in annual resolutions, and specific bilateral issues handled on a case-by-case basis.

Constitutional Power of the National Assembly in Foreign Affairs

The National Assembly's power in foreign policy, according to article 84 (13) of the 1992 Constitution (amended in December 2001), is to "decide on the fundamental external policies; to ratify or annul international treaties signed in person by the State President;[1] [and] ratify or annul other international treaties signed or acceded to at the proposal of the State President." In practice, the role of the National Assembly has changed significantly over the years, especially in the period since *doi moi* began. During the course of current administrative reform and following the trends toward globalization, many debates for a more efficient government have addressed the need for further renewal of the organization and operation of the National Assembly. The amendments to the 1992 Constitution at the very end of 2001 inserted a number of changes to facilitate a better functioning National Assembly. To name only a few: confidence votes were introduced; full-time deputies (e.g., those who have no other profession aside from being a member of the National Assembly) were increased from 8 percent to 25 percent of the total; and the oversight function over the issuance of legal documents was transferred from the People's Procuracy system to the National Assembly at the national level and the People's Councils at the local levels. The role of the National Assembly in foreign policymaking cannot be isolated from this broader course of change.

Questions and Approaches

In order to describe the changes in the operation of the National Assembly in foreign policymaking, this chapter will discuss the following main questions:

- How does the National Assembly help to implement Party guidelines or decide fundamental policies in external relations?
- To what extent is the National Assembly actually involved in foreign policy as an actor in the formulation or implementation process?
- What is the role of the Foreign Affairs Committee and other committees in matters of external relations?

[1] "Resolution No. 51/2001/QH10 on Amendments and Supplements to a Number of Articles of the 1992 Constitution of the Socialist Republic of Vietnam," *Official Gazette*, no. 9-10 (8-15 March 2002), p. 7.

In addressing these questions, examples are given to familiarize foreign readers with the National Assembly's foreign policymaking procedures. The chapter concludes with a brief case study on how the National Assembly discussed and ratified the new bilateral trade agreement between Vietnam and the United States.

Functional Role of the National Assembly in Foreign Policy

The Constitution recognizes the National Assembly's supremacy in lawmaking, policymaking, and oversight of government activities. This supreme position, as compared to other state bodies, derives from the constitutional role of the National Assembly as "the highest representative organ of the people and the highest organ of state power in the Socialist Republic of Vietnam."[2] This supremacy could be interpreted as: (i) among other state agencies, the National Assembly is the body with the highest state power to decide state affairs at the macro-level; and (ii) there is a division of labor between the state agencies, and the National Assembly is vested with the power to deal with certain types of issues of a fundamental nature. In a word, it is the body that can coordinate and overrule decisions of other state organs where it is permitted to do so by the Constitution.

Foreign affairs issues that are discussed and decided by the whole National Assembly are of the following nature:

General orientations and strategies. Debate by the National Assembly on foreign policy orientations for the coming year occurs at its year-end session, and usually focuses on issues that are multilateral in nature. To facilitate the debate, the government (often the Minister of Foreign Affairs on behalf of the Prime Minister and the President of State) reports to the National Assembly about the foreign affairs activities of the state and presents the government's viewpoint on world issues. The National Assembly then enters into floor debate, sometimes preceded by small group discussions, to review these activities and viewpoints before voting to adopt general foreign affairs orientations and strategies in the form of a statement to be included in a legally binding resolution on socio-economic tasks for the coming year.[3]

Specific bilateral issues. Debate on bilateral affairs is usually avoided unless a particular issue draws the attention of lawmakers, or a review of bilateral issues is needed to ratify a bilateral agreement. If a particular issue attracts the attention of members of the National Assembly, the matter could be placed on the agenda of a session and may result in a resolution of the whole National Assembly, which expresses the attitude of the Assembly toward the specific issue. Unlike the legal normative resolutions, this type of resolution is non-binding and political in nature. In the May 2000 session, many members of the National Assembly called for discussion and a statement after some U.S. Congressmen introduced a human rights resolution into the House of Representatives which, in the view of these members, constituted interference into Vietnam's internal affairs.[4]

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[2] See Article 83 of the 1992 Constitution in *The Constitutions of Vietnam: 1946-1959-1980-1992* (Hanoi: The Gioi Publishers, 1995), p. 183.

[3] According to Article 20(1) of the Law on the Promulgation of Legal Documents, enacted in 1996 and amended in 2002, "resolutions are issued by the National Assembly to decide the socio-economic development plans, national fiscal and monetary policies, policies on nationalities, religion, external relations, defense, security." See *Official Gazette,* no. 2 (31 January 1997), p. 14. Article 20 was not amended in 2002.

[4] At this session, when members of the National Assembly received information that a non-binding resolution had been introduced into the U.S. House of Representatives criticizing both the human rights situation in Vietnam and the role of the Vietnamese Communist Party (as stipulated in Article 4 of the Constitution), many members urged the National Assembly Standing Committee to bring the matter to the whole National Assembly for discussion and appropriate action, such as approval of a resolution to condemn the U.S. House resolution. The Standing Committee then instructed the Foreign Affairs Committee of the National Assembly to study the issue. The Deputy Chairman of the Foreign Affairs Committee, Phan Quang, also requested a meeting with U.S. Ambassador to Vietnam, Douglas "Pete" Peterson, on May 18 to present the Committee's views on the resolution. Subsequently, a written report of the Foreign Affairs Committee was sent to the delegations of the National Assembly for their information; the matter ended there, and, in this case, did not result in a resolution. For further information, see "Uy ban Doi ngoai cua QH Viet Nam Phan ung ve Nghi quyet cua Ha Vien My Can thiep Tho bao Cong viec Noi bo cua Viet Nam" [Foreign Affairs Committee of Vietnam's National Assembly Reacts to Resolution of the U.S. House of Representative Rudely Interfering in the Internal Affairs of Vietnam], *Nhan Dan*, 19 May 2000, p.8; and *Congressional Record*. Washington, D.C.: Congressional Record Online via Government Printing Office [www.access.gpo.gov], May 3, 2000, pp. H2417-H2422.

International agreements. The National Assembly also discusses and approves ratification of international agreements with foreign governments or organizations, including both multilateral and bilateral agreements. International agreements that are signed by the President of State must be ratified by the National Assembly. Agreements not signed by the president, but by other state authorities, must either be ratified by the president or submitted by the President to the National Assembly for ratification if approval by the legislature is deemed necessary. Successful debate on an agreement by the National Assembly leads to the adoption of a resolution for ratification by the Assembly, which provides enforcement rules and instruction to the government to make necessary diplomatic and executive steps to implement the agreement. This type of resolution is legal normative and binding in nature.

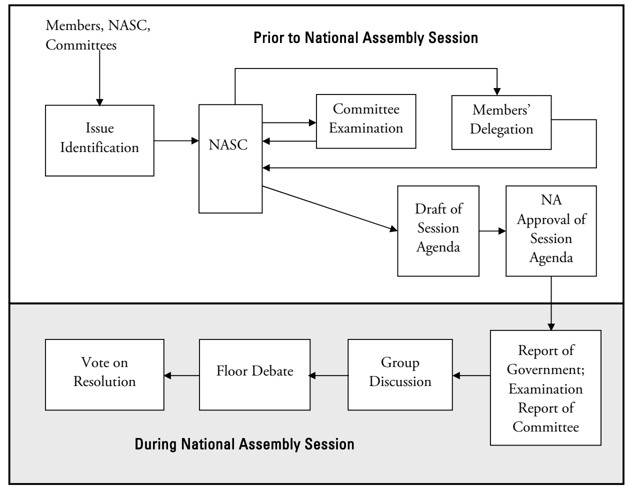

Figure 1: National Assembly Procedures for Adopting a Resolution or Bill

National Assembly procedures for discussing and ratifying international treaties are relatively similar to the discussion and adoption of resolutions in general. The flow chart in Figure 1 illustrates this process by showing the normal way in which the National Assembly raises and deals with issues that end up in a resolution. For example, if the president proposes ratification of an international agreement with the National Assembly before a regular session takes place, the National Assembly Standing Committee (NASC) will likely forward it to the Foreign Affairs Committee for study and examination. Subsequently, the Foreign Affairs Committee will issue an "examination report" regarding the NASC's proposal. If it is satisfied with the result, the NASC will circulate the report and proposal to delegations of the National Assembly for discussion and solicitation of constituents' opinions. Feedback and opinions from the delegations will serve as grounds for the NASC to decide whether to include the matter in the agenda of a National Assembly session.

In a session, members of the National Assembly listen to reports from the government and the committees — followed by group discussion, floor debate, and adoption of a resolution, to be drafted by the Foreign Affairs Committee and the secretarial board of the session (*Doan Thu ky Ky hop*), formed by the members of the National Assembly. If at any stage the National Assembly is not happy with the draft of a resolution, or a majority vote is considered to be unlikely, the chairperson of the session can ask the National Assembly to postpone the voting to allow for additional study, group discussion, and floor debate prior to the vote.

Regarding ratification of international agreements in particular, the role of National Assembly committees is very important. An international agreement often involves at least two committees of the National Assembly. First, the Foreign Affairs Committee is in charge of examining an agreement with respect to foreign affairs policy, general principles, and international law. Second, as with any bill, the Law Committee is in charge of examining the agreement with respect to its "constitutionality, legality and uniformity" with the current legal system[5] and for recommending changes to the bill or changes to current domestic legislation. An agree-

[5] Article 32(3) of the Law on the Promulgation of Legal Documents, *Official Gazette*, no. 2 (31 January 1997), pp. 16-17.

ment might also involve a different professional field of responsibility overseen by another committee of the National Assembly (e.g., the land border agreement reached between Vietnam and China involved the competency of the National Defense and Security Committee). To avoid duplication, the Foreign Affairs Committee will then chair a "joint examination meeting" with input from other committees. An examination report presented by representatives of the Foreign Affairs Committee will include all viewpoints and deliberations by that and other committees.

Foreign Affairs Activities of the National Assembly

External relations activities are carried out by the Chairman of the National Assembly, groups within the National Assembly, and by parliamentary friendship groups of Vietnam. These actors engage in *parliamentary diplomacy and cooperation* by participating in inter-parliamentary institutions and forums, and by carrying out exchanges with other parliaments on a bilateral basis. The National Assembly believes that these activities help to promote understanding, peace, security, and cooperation among peoples of different nationalities. Toward this end, representatives of the people conduct dialogue with other parliaments to consolidate and support cooperation among governments.

For example, the National Assembly has participated in the Inter-Parliamentary Union (IPU) since 1976, inheriting its membership in this body from the former Republic of South Vietnam. The National Assembly sends delegations to IPU sessions and has participated actively in all IPU forums. In practice until now, the Chairman of the Foreign Affairs Committee has headed Vietnam's delegations to the IPU. Other participants in the delegation are National Assembly members invited from different committees and constituencies, and are chosen according to the topics of IPU meetings. As a result of support from the Swedish Parliament (Riksdag) within the IPU support program, the National Assembly has installed a computer network and connection to constituencies in all 61 provinces, and has learned and applied many experiences of modern parliamentary life as it works toward efficiency, openness, and transparency. For instance, the solicitation of public views on major draft laws has occurred on an increasing basis during *doi moi*. In addition, live broadcasts of "Question Time," where members of the Assembly question cabinet members, have been carried out regularly since 1998, and the official website of the National Assembly was inaugurated in 2000.

In Southeast Asia, the Vietnamese National Assembly was admitted as a full member of the ASEAN Inter-Parliamentary Organization (AIPO) in September 1995 at the 16th AIPO General Assembly in Singapore. In September 2002, the National Assembly hosted the 23rd AIPO General Assembly meeting in Hanoi as the group's chair. Many members of the National Assembly in different committees and constituencies have attended AIPO general assembly meetings and ad-hoc committee meetings. This is the best opportunity for members of the National Assembly to be involved in the negotiation and formulation of multilateral foreign policy.[6]

Role of the Foreign Affairs Committee of the National Assembly

The Foreign Affairs Committee is one of seven specialized committees of the National Assembly.[7] Like the other specialized committees, the Foreign Affairs Committee examines and prepares legislative matters within its issue area that are scheduled to be discussed in

[6] Vietnam's National Assembly is also a member of the Parliamentary Assembly of the Francophone (APF), and is a founding member of the Asia-Pacific Parliamentary Forum (APPF). In 1999, the Vietnamese National Assembly joined the Asian Association of Parliaments for Peace (AAPP). In addition, it is a member of the Asian Forum of Parliamentarians for Population and Development (AFPPD), the International Medical-Parliamentarians' Organization (IMPO), and the Asia-Pacific Parliamentarian Cooperation for Environment and Development (APPCED).

[7] For further information on the structure and functions of the National Assembly, see "The National Assembly in a Nutshell," *Nghien cuu Lap phap*, Special English Edition of the Legislative Studies Magazine (August 2001), pp. 57-65.

a National Assembly session. In this way, it has a supervisory role over foreign affairs activities carried out by the government. It may send a supervisory delegation abroad to oversee the activities of Vietnamese diplomatic missions, or dispatch delegations within the country to oversee foreign affairs-related activities at home. Examples of the latter include its supervision of border provinces in 1998 to review the situation of border trade and smuggling control, and its supervision of the management of foreign borrowing and foreign aid in 1999, 2000, and 2001. The resulting recommendations of the Foreign Affairs Committee on these issues led to amendments of government regulations on border trade control, the management and use of foreign aid (including ODA and NGO funds), and a draft decree on debt management.

An example of the role of the Foreign Affairs Committee in preparing for ratification of an international agreement is the U.S.-Vietnam bilateral trade agreement (BTA). In 2000, after the signing of the BTA, the Foreign Affairs Committee asked the Ministry of Trade to brief its members (as well as members of the Law Committee and the Economic and Budget Committee) on the process of negotiating the BTA and the main issues covered in the agreement. Hearings with representatives of state agencies and business representatives were also organized by the committee to identify issues, problems, and challenges. In addition, during the first six months of 2001, the Foreign Affairs Committee facilitated meetings with visiting U.S. senators and congressmen in order to promote understanding and exchanges of views on the BTA in preparation for ratification.[8]

After the 9th session (May-June 2001), the NASC received a proposal from President Tran Duc Luong to submit the BTA for ratification by the National Assembly in its year-end session of 2001. Because of the complexity of the BTA and its relevance to other laws and regulations in Vietnam, the Foreign Affairs Committee chaired several hearings with government agencies to provide information on BTA negotiations, the main contents of the agreement, and implementation issues. The Law Committee, Economic and Budget Committee, and National Defense and Security Committee attended the hearings and cooperated with the Foreign Affairs Committee to examine the BTA in various aspects. The Economic and Budget Committee discussed economic aspects and implementing measures of the BTA, while the Law Committee provided views on the constitutionality of the agreement and its consistency with domestic laws. A roadmap for legal compliance and dispute settlement was discussed. Subsequently, the Foreign Affairs and other National Assembly committees reported the results of the examination to the NASC. The NASC then agreed to send the BTA (and the opinions of the committees) to the delegations of the National Assembly for review and feedback prior to the beginning of the 10th session.

In sum, the Foreign Affairs Committee, like other committees, is involved in foreign affairs issues in between National Assembly sessions. It helps the NASC and the National Assembly prepare views on legislation and policy concerning foreign affairs in general and the ratification of international agreements in particular. It also chairs drafting committees formulating resolutions on the ratification of international agreements.

Case Study: Ratification of the Vietnam-U.S. BTA

This section describes the role of the National Assembly as a whole in discussing and ratifying an international agreement during a National Assembly session. The ratification of the Vietnam-U.S. BTA is used as a case study to illustrate this process.

Approval of the agenda: On November 19, 2001, before opening the session, the National Assembly met to approve the working agenda proposed by the NASC.

8 Report of the Foreign Affairs Committee to the National Assembly, dated 5 June 2001, on the foreign relations activities and work of the National Assembly from the 8th Session (December 2000) to the 9th Session (May-June 2001) of the 10th National Assembly. See *Ky yeu Quoc Hoi Khoa X - Ky hop Thu chin* [Record of the 10th National Assembly - Session 9] (Hanoi: Office of the National Assembly, August, 2001).

In this meeting, the members approved consideration of the BTA for ratification in this session.[9]

Introduction of issue: As noted above, the members of the National Assembly had already had opportunities to study and discuss the BTA with their constituencies. However, the presidium of the National Assembly session could not be certain of the result or smooth handling of this issue during the scheduled floor debate.[10] As is the precedent, the NASC arranged to hear the reports of the government and the Foreign Affairs Committee on the BTA during the first days of the session. The report of the Foreign Affairs Committee outlined opportunities and challenges facing Vietnam in implementing the BTA. It also drew the members' attention to the volume of new or revised legislation that would be needed in order to implement the BTA.[11]

Group discussion: In general, large National Assembly delegations like those from Hanoi and Ho Chi Minh City hold discussions within their own delegations, whereas smaller delegations often merge into groups to facilitate discussions on pending legislation. Issues and questions raised by the members in the group discussions, together with an unofficial canvassing of the likely voting result (sought by the Office of the National Assembly), are recorded in writing and sent to a secretarial board for compilation. In this case, the group discussion reflected different opinions about the BTA. In all group discussions, members talked specifically about the Vietnam Human Rights Act passed by the U.S. House of Representatives (H.R. 2833) as well as new U.S. labeling requirements for Vietnamese catfish. Many members condemned the Vietnam Human Rights Act as clear interference in Vietnamese internal affairs, saying it represented a lack of respect toward the independence and sovereignty of Vietnam. The catfish labeling requirements were seen as a barrier to trade since these requirements would create difficulties for Vietnamese exporters from the Mekong Delta to enter the U.S. market.

Drafting the resolution to ratify the BTA: In its position as the "examination authority," the Foreign Affairs Committee was entrusted with the duty to coordinate government authorities and other committees of the National Assembly to respond to questions and comments raised by members in group discussion. It also was entrusted with the responsibility to propose a draft of the resolution on ratification of the BTA prior to the floor debate.

Floor debate: This was scheduled for the afternoon on November 28, near the end of the session. To start the debate, the National Assembly Chairman asked the then Minister of Trade, Vu Khoan, on behalf of the Prime Minister, to deliver a report dealing with questions and issues raised by the members in the group discussion.

Subsequently, 11 members of the National Assembly registered to speak. The first, Nguyen Huu Khanh from An Giang Province, said he appreciated the signing of the BTA because it would boost economic cooperation between Vietnam and the United States. However, he also drew attention to the difficulties faced by his constituency in exporting catfish to the U.S. market because of the new labeling requirements. In introducing this issue to the floor debate, Khanh warned the government that it must carefully protect Vietnamese interests in the course of implementing the BTA. Ten other members — from Dak Lak, Nghe An, Hanoi, Can Tho, Yen Bai, Ho Chi Minh City, Ha Nam, Quang Ninh, Vinh Phuc, and Dong Nai — expressed concerns about the Vietnam Human Rights Act as well as the catfish issue. Still, most

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9 Approval of the agenda items for the session is undertaken through a majority voting mechanism. Preparations for discussing an issue before debate are important for National Assembly members, as they often oppose projects about which they are not well informed.

10 The presidium is not a formal legal institution, but in practice refers to the persons chairing the session. They are the Chairman of the National Assembly and his deputy chairmen. The presidium is assisted by the secretarial board of the session with the Chairman of the Office of the National Assembly as its head.

11 In the first analysis by the Ministry of Justice, about 130 current regulations would be directly affected by BTA implementation; of these, about 53 pieces of legislation would need to be amended or reissued.

expressed support for ratification of the agreement. The floor debate reflected a mood of mixed sentiment toward the BTA and its possible implementation. This sentiment made it difficult for the Foreign Affairs Committee and the secretarial board to predict the voting results.

The Foreign Affairs Committee was then asked to report to the National Assembly on members' opinions concerning the wording of the draft resolution for ratifying the BTA. It took considerable time after the floor debate to work out and finalize a compromise version of the resolution. In the end, the National Assembly ratified the BTA on November 28, 2001 when members voted to approve Resolution 48/2001/QH10 on Ratification of the Vietnam-U.S. Bilateral Trade Agreement. Passed by a vote of 278 in favor and 85 against, with 17 absentees, the resolution states that the NASC, government, and judicial agencies "shall expeditiously formulate concrete and [uniform] action programs, [and] amend and supplement legal documents according to the schedule of the agreement."[12]

Conclusion

In sum, the National Assembly is empowered with approving the foreign policy orientation of the government for each legislative term and for each year. The government is responsible for carrying out foreign affairs policy according to this orientation. In addition to this power, the National Assembly ratifies those international agreements signed by the president of state and may review those signed by other governmental bodies. This constitutional role of the National Assembly is exercised by the whole National Assembly during its sessions, while the Foreign Affairs Committee supervises the implementation of the foreign affairs policy of the government (and examines legislative bills and foreign policy -related issues) in between the sessions of the National Assembly, in order to prepare necessary agenda items for National Assembly sessions. Other committees of the National Assembly and the Ethnic Council, in their capacity as standing bodies of the National Assembly, share this responsibility and cooperate with the Foreign Affairs Committee in respect to their specialized mission entrusted by law.

12 The resolution appears in *Vietnam Law and Legal Forum* 8, no. 88 (December 2001), section on New Legislation, pp. 1-2.

The Societal and Economic Environment

Vietnamese Foreign Policy and Economic Renovation

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Foreign policy is said to be an extension of domestic policy. The determinants of foreign policy are therefore comprised of both long-term and short-term objectives related to the political, economic, and cultural advancements of a country. In this way, foreign relations activities must be consistent with and supportive of domestic pursuits. In times of war, foreign policy and its activities have to win external support and assistance for the struggle for independence and freedom; in times of peace, foreign policy can be used to make other nations aware of the need for (and convince them to render) greater aid. Broader economic cooperation and enhancement of trade and investments to the country are also top priorities of foreign relations activities.

The New Thinking

Major world events taking place at the end of 1980s and early 1990s caused great changes in many parts of the globe. The Cold War came to an end and many countries shifted from an arms race to an economic race. Economic and social development became of great importance. Now, growing interdependence among economies is seen as an inexorable trend, and competition in the international market has become increasingly fierce. These trends have significant effects on all countries, large or small, with no exceptions.

In Vietnam, the economic system of excessive centralization of management, red tape, and subsidization brought about enormous difficulties, severe shortages of consumer goods and food, and triple-digit inflation. In the areas of trade and official development assistance (ODA), Vietnam lost its principal markets and supporter with the collapse of the Soviet Union and the socialist governments in Eastern European countries. These events added even more difficulties to the problems facing the Vietnamese economy. During the second half of the 1980s and the early 1990s, Vietnam was indeed facing an economic dilemma. New thinking and new ways of doing things were sought to meet these challenges. Thus, the Vietnamese Government launched the *doi moi*, or renovation, policy. In Vietnam, we have the proverb *"Cai kho lam lo cai khon"* that can be translated as "Facing enormous challenges, you are even wiser." This proverb was very applicable to Vietnam, as it had already been proven true in the past struggles for independence.

Vietnam's new thinking in various areas has gradually developed since the mid-1980s, and great importance has been attached to economic development. In the areas of trade and ODA, the urgent need was to diversify import and export markets and to seek new sources of ODA. Foreign direct investment (FDI) was recognized as an important source of capital, while more markets and more partners were needed.

Foreign Policy in Support of Economic Renovation

Since early in the *doi moi* period, the core focus of Vietnam's foreign policy has been to support economic development by befriending all countries in the world community and striving for peace, independence, and development.[1] In the mid-1990s, the main task of foreign policy was further defined as "consolidating the peaceful environment and creating further favorable

[1] See Communist Party of Vietnam, *7th National Congress* (Hanoi: Vietnam Foreign Language Publishing House, 1991), p. 43.

international conditions to step up socio-economic development and national industrialization and modernization in service of national construction and defense, making active contributions to the common struggle of the world's peoples for peace, national independence, democracy and social progress."[2] This policy was updated again at the beginning of the new millennium, with greater emphasis placed on international economic integration. As stated in the political report of the Ninth Party Congress, convened in April 2001, the "government, all the ministries, agencies and enterprises are to soon design and execute respective international economic integration plans with rational roadmaps and concrete programs of action, promoting the initiatives of the ministries, agencies and enterprises; to press ahead with a shift in economic structures and renewal in socio-economic management mechanisms, further complete the legal system, and improve the competitiveness of enterprises and the economy as a whole."[3]

The active implementation of this foreign economic policy since the beginning of *doi moi* has resulted in several important developments, including:

- Formulation of the Law on Foreign Direct Investments in 1987 and subsequent adjustments to create better investment conditions. The law and related government decrees have helped to attract more than $36 billion of registered capital, of which half has been disbursed.
- Normalization of credit relations in 1992 with multilateral lenders such as the World Bank, International Monetary Fund and Asian Development Bank, paving the way for ODA and loans for infrastructure projects and structural reforms of the economy.
- Successful negotiations with the Paris and London Clubs of international donors in 1993, leading to the establishment of the annual Consultative Group meetings for pledging ODA to Vietnam. Total pledged ODA reached $17.5 billion by the end of 2001, with annual total disbursements exceeding $1 billion since 1998.
- Membership in the Association of South East Asian Nations (ASEAN) in 1995. In a related development, Vietnam began to fulfill ASEAN Free Trade Area (AFTA) tariff requirements in 1996, with integration into this free trade area to be completed in 2006.
- Completion of the Framework Agreement on Economic Cooperation with the European Union in 1995, helping to expand Vietnamese exports (particularly garments and textiles, shoes, and agricultural products) to this large market.
- Normalization of relations with the United States in 1995, marking the virtual complete worldwide recognition of Vietnam and diplomatic relations with all major powers and other countries.
- Membership in the Asia Pacific Economic Cooperation (APEC) forum in 1998.
- Signing of the bilateral trade agreement (BTA) with the United States in July 2000 and ratification of the agreement by the United States and Vietnam in late 2001. The agreement provides Normal Trade Relations (NTR) status (formerly known as Most Favored Nation, or MFN) to both countries, helping to boost Vietnamese exports to the U.S. market.
- Application for accession to the World Trade Organization (WTO) in 1994 and continued negotiations toward this end. It is hoped that the negotiations will result in Vietnam's entry into the WTO within a few years, perhaps as early as 2005. After admission, Vietnam will have more opportu nities to expand its exports to other countries; in return, Vietnam will have a higher capability to import goods and services from other countries.

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2 Communist Party of Vietnam, "Political Report of the Central Committee (VIIth tenure) to the VIIIth National Congress," *VIIIth National Congress Documents* (Hanoi: The Gioi Publishers, 1996), p. 77.

3 Communist Party of Vietnam, *9th Party Congress Documents* (Hanoi: The Gioi Publishers, 2001), pp. 60-61.

- Continuation of regional and international economic integration according to a roadmap defined by the Vietnamese Government.
- New emphasis on "diplomacy serving economic development," in which all diplomatic missions in foreign countries prioritizes the expansion of economic relations with those respective countries.

Diplomacy Serving Economic Development

Peace and stability are the essential preconditions for economic development. That is why diplomatic activities are always designed for the purposes of strengthening peace and stability in Vietnam, and contributing to peace and stability in the region and throughout the world. Immediately after the reunification of Vietnam, many Vietnamese delegations at different levels traveled to other countries, particularly countries within the Asia-Pacific region, to explain our long-term policy of peace, friendship, and mutually beneficial cooperation. Foreign delegations visiting Vietnam have also stressed the same ideals. Foreign Ministry officials and Vietnamese diplomats abroad have done all they can to strengthen peace and stability in Vietnam and in the region, creating more favorable environments for economic growth.

Vietnam came out of its wars at a low level of development. We needed a large amount of support and assistance in the reconstruction of the country and to help develop the economy. Like diplomats from other countries, Vietnamese diplomats are responsible for winning the support and assistance of the international community. Diplomats and other officials have gone out of their way to project the goodwill, good intentions and the justifiable goals of the people of Vietnam to the world community. The results are encouraging, as the world community has an increasingly better understanding of Vietnam, and renders greater support and assistance to the Vietnamese people in their development efforts. High annual levels of ODA exemplify the international support that is being provided to Vietnam.

These tasks described above have been the diplomatic community's major focus over the past 25-30 years, and will be carried with greater efforts in the years to come. However, there also are new areas of diplomacy necessary to further promote economic development. Today, the Ministry of Foreign Affairs and all representative missions of Vietnam in foreign countries are allocating more time, effort, and resources to facilitate and expand economic relations between Vietnam and foreign countries. In this connection, the Foreign Ministry and diplomatic missions are required to analyze international economic relations, forecast global economic trends, and gather information on economic development experiences of other countries. The government uses this analysis and information when formulating economic policies, especially those relating to foreign economic activities.

The Foreign Ministry and diplomatic missions are in a particularly good position to collect economic and technical information of various kinds and then forward this information to economic ministries, provinces, and cities in Vietnam. Ambassadors and other diplomats can help the country, an industry, a province, or even an individual company, by lobbying certain groups or individuals in their host country with a view to facilitating the access of Vietnamese goods and services to that country. Diplomats are expanding their functions to include, among other tasks, facilitating the introduction of companies to new markets and partners, assistance in arranging commercial trips, support for a company's marketing activities, and defending the legitimate interests of Vietnamese companies and business people.

As an example of these trends, two meetings were held in November 2001, one in Hanoi and one in Ho Chi Minh City, between Vietnamese ambassadors and consuls-general, on the one hand, and Vietnamese business people from northern and southern Vietnam, on the other. The purpose of these meetings was to discuss cooperation to expand Vietnamese exports and to attract greater foreign direct investment to Vietnam. At this meeting the heads of Vietnamese representative missions in foreign countries gained the opportunity to learn more about companies' needs and to discuss issues of importance to the companies. For their part, business people gained a better understanding of how Vietnamese embassies and consulates can promote their business interests in foreign countries. It was recommended that this type of meeting should be repeated in the future. This was the first time that ambassadors and consuls-general had met the directors of major companies, and the result was encouraging. It was a good beginning, and it is hoped that this kind of meeting will continue and lead to concrete results.

In fact, however, the idea of diplomacy serving economic development is not entirely new. When the war was coming to an end, in 1974, the Economic Department was established in the Ministry of Foreign Affairs to help develop economic relations between Vietnam and other countries. The Economic Department has since grown with a better understanding of and greater experiences in international economic affairs; it coordinates closely with other departments within the ministry and assists the ministry in making greater contributions to the economic development of the country.

At the end of 1990s, the Department of Multilateral Economic Cooperation also was established in the Foreign Ministry in response to the increasing requirements of regional and global integration. This department is assigned to study the WTO, APEC, and AFTA. The department helps the ministry, together with other ministries, make contributions to and conduct negotiations with these organizations. Also at the end of 1990s, the Economic Information Division was set up in the Foreign Press Service Center (a unit of the Foreign Ministry) to help Vietnamese companies explore economic opportunities in foreign countries.

Better Coordination Needed

With globalization increasing rapidly, the number of ministries, organizations, companies, and people interacting with foreign countries is rising fast. As in other countries, because so many people and organizations are becoming involved in the external economic activities, the question of coordination is very important. Bearing this in mind, the Foreign Ministry, together with other ministries, has made recommendations on how to improve coordination among various ministries and governmental bodies — particularly the ministries of Trade, Foreign Affairs, Planning and Investment, and Finance, as well as the Office of the Government and the Vietnam National Administration of Tourism. Coordination is improving steadily, and has contributed to achievements and results in the areas of ODA, FDI, imports, exports, and tourism.

Within the Foreign Ministry itself, coordination among the three economic units — the Economic Department, the Department of Multilateral Economic Cooperation and the Economic Information Division — has been positive. However, there is still room for improvement. The three economic units and regional departments in the ministry have worked together with the aim of making greater contributions to the expansion and effectiveness of foreign economic relations. With increasing usage of the Internet, faxes, telephones, and other means of communication, representative missions in foreign countries now have more opportunities to establish close links with other ministries, cities, and provinces in an effort to enhance the economic development of the country.

Improved coordination is important in light of the pressing development needs of the country. To bridge the development gap between Vietnam and other regional countries and improve the living standards of the Vietnamese people, Vietnam will need $60 billion over the next five years, of which 40 percent is expected to come from foreign countries in the form of ODA and FDI. In addition, Vietnam will need to have an annual trade expansion of 15 percent. The total trade value of Vietnam in 2001 was about $30 billion, a small amount compared to other countries. However, it is a significant figure if compared with Vietnam's GDP, constituting nearly 100 percent of GDP and forming an important sector of the economy. Apart from that, labor exports and international tourism are expected to post double-digit annual increases.

As economic activities involving foreign countries and companies continues to expand rapidly, coordination efforts among departments within Ministry of Foreign Affairs, among ministries, between ministries and localities, and between representative missions and companies, will become increasingly vital and complex. Improvements in coordination will enhance efficiency, save resources, and make greater contributions to economic development. While coordination generally is good, there is still room for improvement.

Business Interests in Vietnamese Foreign Affairs

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Vietnam's diplomatic policy, dating back to the restoration of its independence in 1945, reflects the Vietnamese government's consistent attachment of economic and business interests to foreign relations. This chapter highlights the role of economic and business interests in these relations by describing the historical evolution of the country's foreign economic policy, the establishment of the Vietnam Chamber of Commerce and Industry (VCCI), and the initiation of economic renovation. The chapter concludes with three case studies that show how business interests have affected the development of Vietnam's relations with South Korea, Taiwan, and Israel.

Historical Development of Vietnam's Foreign Economic Policy

Although Vietnam's independence was declared in September 1945, formally establishing the Democratic Republic of Vietnam (DRV), French armed forces returned shortly thereafter to begin a nine-year war of re-conquest. In January 1950, despite the war, the DRV expressed its intention to establish diplomatic relations with foreign countries, and received strong support from the Soviet Union, China, and other socialist countries. As early as 1952, it concluded its first trade agreement with China, and then extended economic and commercial relations to members of the socialist bloc in Europe. These relations helped to create additional resources to serve the needs of the continuing war for independence.

When the war ended in 1954, Vietnam was temporarily divided into two parts. The DRV (North Vietnam) embarked on reconstructing and developing an economy that was very poor, backward, largely dependent on agriculture, and with only a few industrial establishments left by the French. Its very first diplomatic activities focused on concluding several agreements on economic cooperation and exchange of commodities with socialist countries in July 1955; and signing trade agreements with France in late 1955, with India and Indonesia in 1956 and 1957, and later, with the then United Arab Republic (the temporary union of Egypt and Syria), Cambodia, and Iraq. Business relations were opened up with companies in Japan and Hong Kong in 1955, and then with many others, including Singapore, Sri Lanka, the former West Germany, Italy, Belgium, the Netherlands, Great Britain, Switzerland, and Sweden. Perhaps the most noticeable agreement was that with France, completed soon after the war's end. With many other Asian and Western countries, the DRV also attended to developing trade relations — or at least the exchange of goods — in the absence of official diplomatic arrangements. The total number of economic and trade partners of North Vietnam increased to 40 countries in 1965, and 28 of them were non-socialist.

Establishment of Chamber of Commerce

In April 1963, the Chamber of Commerce (the forerunner of today's Vietnam Chamber of Commerce and Industry) was founded to serve and promote the business interests of North Vietnam, particularly in relations with non-socialist partners. The Chamber soon developed connections with relevant business associations and institutions abroad, as well as with foreign companies having an interest in doing business with the North. The interests of domestic firms were also taken into account,

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and Hong Kong and Singapore became the first places where DRV trade representative offices were established. Commercial sections were attached to several embassies or consulates-general in major business partner countries, such as Japan and France, to look after and promote the business interests of the government and local companies in relation with partners in these countries and territories.

Between 1964 and 1975, trade and economic relations between North Vietnam and the world were heavily influenced by another war, this time with the United States and its allies. Relations with many countries and companies were interrupted, and the number of countries that maintained commercial links with Hanoi decreased to 27 by 1975. The DRV's diplomacy and foreign affairs in this period concentrated on convincing various forces in foreign countries to support Vietnamese people and to demand that the U.S. government withdraw from the conflict. Further diplomatic measures were aimed at easing the U.S.-led economic blockade, and marshaling international support against the U.S. bombing of roads and key economic centers in North Vietnam and its prohibition of the entry of foreign merchant vessels into the port of Hai Phong.

The government and Chamber of Commerce made repeated appeals to the DRV's trading partners, seeking continued business ties and commodity exchanges. In the context of warfare and an economic blockade, the maintenance of commercial relations with the outside world was of great economic and political importance for Hanoi.

When Vietnam formally reunified in 1976, the country was at a very low level of development with a poor and backward economy heavily damaged by the war. To rebuild the national infrastructure, create jobs for the population, and stabilize the socio-economic situation in the southern part of Vietnam — which had strong links with and dependence on foreign markets — the government rapidly extended its diplomatic and commercial relations with many countries in Southeast Asia, the West, and other parts of the world. Realizing that Vietnam would badly need foreign investment, the government also issued the Regulations on Foreign Direct Investment in Vietnam in April 1977. Unfortunately, just as new relations and economic cooperation were just being opened up, another conflict in the region, this time in Cambodia, arose and complicated Vietnam's foreign relations. Vietnam was forced into a position of economic isolation and suffered a severe trade embargo. Under such circumstances, Vietnam decided to join the Soviet-led COMECON bloc in July 1978, and signed a 10-year Economic Cooperation Agreement with the Soviet Union. Vietnam also entered into economic cooperation agreements with many Eastern European countries. Much effort was made to promote the economic and commercial ties with other countries but the results were modest. In the 10 years from 1976 to 1985, trade turnover grew slowly and 80 percent of the country's trade was conducted with COMECON countries. The economy was stagnant under its centrally planned mechanism and prolonged external difficulties.

During that period, the Chamber of Commerce intensified its efforts to help local enterprises overcome difficulties and isolation in foreign economic relations. In 1976, the Chamber merged with the Saigon Chamber of Commerce in the south to become a national organization. The Chamber quickly established relations with major chambers of commerce and business associations in Southeast Asia, Hong Kong, Japan, Australia, West Germany, France, and Great Britain. Significantly, the Chamber also established contacts with the American Chamber of Commerce (AmCham) in Hong Kong and its counterparts in Singapore, Thailand, and elsewhere in Asia.

In addition, the Chamber became actively involved in developing a new policy proposal to the government for supporting the establishment of export-import companies that would be attached to different industries and localities and allowed to conduct direct trade with foreign partners. From 1981-1985, a number of new export-import companies were established. Although all of them were state-run companies operating under the supervision of different ministries or local authorities, they broke the monopoly of the Ministry of Foreign Trade and its 25 trading companies and helped to diversify Vietnam's export-import trade. While most of the "old" companies focused on traditional ties with socialist countries under governmental arrangements, most of the new companies quickly established business links with partners in non-socialist countries. Vietnamese diplomacy during this period duly took into account the efficiency and enthusiasm shown by these new players, and tried to help maintain and develop commercial ties between Vietnam and various countries in the region and other parts of the world in the context of the complicated political disputes and conflicts in the region.

The Beginning of *Doi Moi* and Economic Reform

By the end of 1986, Vietnam announced the introduction of its historic policy of *doi moi*, initiating a profound and comprehensive reform process with economic renovation at its core. Vietnam's foreign policy changed significantly in the direction of multilateralization and diversification of external relations. In this new context, the role of foreign economic relations became especially important. The Sixth Congress of the Communist Party of Vietnam affirmed: "Whether the task of stabilizing and developing the economy in the initial stage as well as the cause of scientific and technological development and socialist industrialization in our country will be carried out rapidly or not depends to a large extent on the expansion and heightening of the effectiveness of our external economic relations."[1]

The external economic policy for the initial phase of renovation was defined as:

- Promotion of exports in order to meet the need for imports;
- Expansion of economic, scientific, and technological cooperation with other countries;
- Diversification of trade partnerships and trading activities in an open-door orientation;
- Step-by-step integration of the national economy with the world economy to link the domestic market with the international market;
- Reform of the export-import management mechanism;
- Investment in economic, scientific, and technological infrastructure.

Bold reform measures were introduced in 1987-1988, and business and economic interests were stressed in all domestic and external economic activities. Trade restrictions were eased, more export-import companies were set up, and all companies were given the right to widen their scope of operations. At the end of 1987, the Law on Foreign Direct Investment was promulgated and was considered by foreign investors as one of the most liberal foreign investment laws in the region.

Doi moi, from its initial days, brought about very positive results. In agriculture, the annual output of food grains increased from 18 million tons in 1985 to 21.5 million tons in 1989. From the status of a net importer of food, Vietnam suddenly had a surplus in food supply and became the third largest rice exporter in the world. The production of many important manufactured items witnessed significant growth — especially consumer goods, light industrial products, and crude oil (a new export item of Vietnam). Macro-economic stabilization was gradually achieved and inflation was put under control.

Encouraged by domestic economic performance as well as new domestic requirements related to the market mechanism and open door policy, the external economic relations of Vietnam expanded and changed rapidly. From 1986-1990, total export value rose 28 percent annually, from which hard currency earnings increased 33 percent per year. In 1990, exports from Vietnam to hard-currency markets yielded earnings of $1.352 billion

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1 "Political Report," *6th National Congress of the Communist Party of Vietnam: Documents* (Hanoi: Foreign Language Publishing House, 1987), pp. 94-95.

— more than four times the amount earned in 1985 — and surpassed the exports to ruble-denominated markets. As for foreign investment inflows, in the first two years (1988-1989) after the implementation of the Law on Foreign Direct Investment, 107 projects were licensed with total registered capital of over $900 million, and in 1990, 111 projects were licensed with total registered capital of $803 million.

In the early 1990s, the Soviet Union and COMECON bloc collapsed, causing a sudden, sharp decline in external financial aid and an interruption of major trade transactions with Vietnam's traditional markets. Many policymakers worried whether Vietnam could provide substitutes for resources formerly supplied by the socialist bloc. However, the newly established economic mechanism was showing positive effects in Vietnam. Although the economy suffered from adverse effects for a short period, it did not collapse or fall into chaos. The increased demand for exports and imports spurred Vietnam to quickly expand its commercial ties with other markets and partners, first with regional countries. Almost immediately, Japan, Singapore, South Korea, Hong Kong, Australia, Thailand, and Taiwan replaced the former Soviet Union and East European countries as Vietnam's major trade partners. They supplied Vietnam with all the important items for which Vietnam had previously relied on COMECON sources, such as oil, fertilizer, cement, chemicals, and fibers. However, exports were a more difficult problem: items that were previously sold in the COMECON bloc now proved to be of insufficient quality and competitiveness to be sold in the broader international markets. However, due to the growth in crude oil output and the increase in other exports such as rice and other agricultural produce, seafood, and forest products, Vietnam still succeeded in developing export markets in the region.

It was the demand for economic development and promotion of business interests that forced Vietnam to seek ways to escape from its economic isolation, diversify its trade partnerships, improve its relations with foreign countries and international institutions, and integrate into regional and world markets. Starting in the autumn of 1993, relations between Vietnam and major international financial institutions were resumed. Some Western countries, particularly Japan and France, decided to provide official development assistance (ODA) to Vietnam. Between October 1993 and the end of 1995, three international meetings on ODA for Vietnam were convened in Paris, where donors made commitments to extend a total of $6 billion in ODA to support Vietnam's economic reform and development. Foreign investment flows to Vietnam grew. By the end of 1995, total registered foreign investment in Vietnam reached $16.7 billion, of which $5.3 billion had been disbursed. The foreign invested sector accounted for 6.3% of GDP in 1995. Export-import activities were even more dynamic. In 1995 export revenue totaled $5.449 billion, while imports were valued at $8.115 billion. Two-way trade with Asia-Pacific nations accounted for 70 per cent of the total, while trade with European states accounted for 20 per cent. FDI and exports became the two engines for economic growth in Vietnam.

The year 1995 also witnessed three important landmarks for Vietnamese diplomacy: the admission of Vietnam into the Association of South East Asian Nations (ASEAN), the conclusion of the Framework Agreement on Economic Cooperation with the European Union (EU), and the normalization of relations between Vietnam and the United States. Following these important developments, Vietnam made various efforts in the late-1990s to enhance bilateral economic and commercial cooperation with many foreign countries, particularly those in Southeast Asia and East Asia. It also started negotiations with the United States for a bilateral trade agreement, and began expanding relations with Russia and countries in Eastern Europe, West Asia, Africa, and North, Central and South America.

With regard to multilateral economic cooperation, Vietnam participated extensively and intensively in the cooperation mechanism and programs of ASEAN, joined the Asia Pacific Economic Cooperation (APEC) forum, took part in the Asia-Europe Economic Meeting

(ASEM), and applied and began negotiations for membership in the World Trade Organization (WTO). The relations with the community of foreign and international donors continued to be strengthened with an ODA commitment of more than $2 billion each year from 1996-2000. However, foreign investment showed a sharp decline after 1997 due to the impact of the regional financial crisis as well as problems in the domestic business environment. Export-import performance continued to grow but at a slower rate, except for 1999-2000 when export revenue rose sharply due to: (i) an increase in the international prices of crude oil, coffee, and seafood; and (ii) the new liberalization of the trading system in mid-1998 which allowed all enterprises, including private ones, to export freely.

In sum, historical features and developments of Vietnam in the 20th century — particularly 30 years of involvement in prolonged and costly wars, decades of economic isolation during the Cold War period, and the failure of centrally planned management systems — have left consequences that remain with us today. Many people therefore do not realize how important the role of business is in foreign relations between Vietnam and other countries. Alongside political interests, business interests pushed Vietnam to build, expand, and develop its relations with other countries; to participate in regional and international organizations; and to integrate into the regional and world economy. The wisdom and flexibility of Vietnam in developing diplomatic relations has helped the country to avoid the negative impact of major fluctuations in the world economy, and to overcome crises in order to survive and grow.

Business Interests in Vietnamese Foreign Affairs: Three Case Studies

In bilateral relations, business interests can be even more important and decisive than other factors at some historical points. Three examples of this are provided below, starting with Vietnam's relations with South Korea.

South Korea. In 1982, when the world was still in the Cold War period, Vietnam maintained close political relations with the Democratic People's Republic of Korea (North Korea) since both countries were socialist. However, business interests prompted Vietnam to explore and develop trade with the Republic of Korea (South Korea). The high economic growth and competitiveness of South Korea in supplying some products that Vietnam needed, as well as the potential of exporting Vietnamese products to its large and prosperous market, drew the attention of Vietnamese enterprises. In the early 1980s, Vietnam had to import large quantities of fertilizer, agro-chemicals, textile fibers, pulp, and paper products to meet domestic demand. In addition to sourcing these items from the Soviet Union, Vietnam received some hard-currency loans from the Swedish Government to finance imports from non-socialist markets through limited tenders.

At first, because of limits on direct relations between Vietnam and foreign partners, only a few Japanese and European firms could bid on the tenders — and in most cases only Japanese firms could win. Then Vietnamese firms realized that they could buy these products at a cheaper price if South Korean suppliers could bid as well. Also, direct exports of anthracite coal, timber, and some agricultural products could be more beneficial if traded among Vietnamese exporters and South Korean buyers instead of buying and selling through third countries. The Vietnam Chamber of Commerce and Industry took the initiative after thorough study and discussions with major domestic trading companies such as Agrexport, Textimex, Coalimex, Imexco HCMC, and Unimex Hanoi. The Chamber submitted a proposal to the Vietnamese Government seeking permission to open up direct trade with South Korean firms. With the support of the Ministry of Foreign Affairs and the Ministry of Foreign Trade, the government approved VCCI, as a nongovernmental organization, to contact certain South Korean firms.

On the South Korean side, the government in Seoul assigned Samsung Co. as the first direct trade counter-part with Vietnam. In June 1982, the first Samsung business mission visited Vietnam and signed the initial contracts, worth a total of about $1 million, with Vietnamese companies on the basis of counter trade. The performances of the first contracts were excellent and encouraged many other Vietnamese firms to become involved in direct transactions. The two-way trade expanded fast, and increased ten-fold within five years.

In addition, through arrangements between VCCI and South Korean universities and economic research institutes and with the support of South Korean firms, a number of key Vietnamese economists had an opportunity to study South Korea's development experience. Ten years after it began, as trade between the two nations reached $100 million, diplomatic relations between Vietnam and South Korea were officially established. Nowadays, South Korea is one of Vietnam's leading trade and investment partners, and there are regular exchanges of high-ranking official delegations between the two countries.

Taiwan. Relations with China over the decades have made Vietnam cautious in its stance toward Taiwan. However, the island is undoubtedly an Asian "economic tiger" and its promising business and investment potential proved to be attractive to Vietnam. Taking into account the high interest shown by local companies — particularly in Ho Chi Minh City where there is a big and active Chinese-Vietnamese business community — VCCI suggested that the government allow VCCI and local companies to start business contacts with the Taiwanese.

In 1988, the government signaled its approval and VCCI contacted the China External Trade Development Council (CETRA), Taiwan's international trade promotion organization, and arranged business links between partners on both sides. The relations were conducted carefully and in a limited way through non-governmental arrangements. However, ties grew rapidly thanks to the dynamism and mutual interest shown by businesses. In the early 1990s, both sides reached agreements on investment guarantees, double-taxation avoidance, and the establishment of representative offices for the protection of each other's interests.

Taiwan has been the largest investor in Vietnam for many years. Even now, Taiwanese investment in Vietnam is much larger than the investment by mainland Chinese interests. Vietnam's diplomacy in this case proved to be very flexible and efficient in finding appropriate channels and formulas to serve the country and its business interests.

Israel. Vietnam has long maintained official relations with many Arab and Middle Eastern countries that have been in conflict with Israel. However, positive developments in the Middle East in the early 1990s created an opportunity for Vietnam to access Israeli economic and technological development, and Vietnamese businesses spoke with VCCI about starting commercial contacts and exchanges with Israel. Recognizing the efficiency of their trade transactions with Israeli firms based in Singapore and Hong Kong, VCCI made a proposal to the government on opening up direct trade between Vietnam and Israel. Following a quick response from the government, VCCI hosted the first Israeli business mission to Vietnam in early 1992, and brought three delegates, including a Vietnamese diplomat, to Tel Aviv in December of the same year. One year later, official diplomatic relations were established between the two countries. Nowadays, despite a relatively small volume of trade and investment between the two sides, there have been many opportunities for cooperation in trade, science, and technology.

At present, Vietnam has diplomatic relations with many countries throughout the world. Vietnam also maintains commercial relations with 165 countries, among which 80 have signed bilateral trade agreements with Vietnam, and 72 are committed to applying most favored nation status to Vietnam. With a steady course of renovation and with its motto of "being a friend to all countries in the world," Vietnam endeavors to promote mutually beneficial economic and commercial cooperation with other countries, proceed with international integration, and contribute to the development of peace, stability, and prosperity throughout the world.

The Rise of Foreign Economic Policy in the United States and the Role of Organized Business

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It is useful to open with a negative: economic interests have not been the dominant forces shaping U.S. trade relations with Vietnam over the past quarter-century. Those with stakes in the legacy of the war played that role, such as families who wanted closure on troops reported as prisoners-of-war or missing-in-action (POW/MIAs) or veterans who pressed normalization and mutual forgiveness. But organized U.S. business was an important supplemental player in the liberalizing events of the past decade, culminating in the signing and legislative enactment of the Bilateral Trade Agreement (BTA). And as the POW/MIA issues continue to fade, U.S. economic interests are likely to play a growing role in the years to come.

That impact will not always be positive from a Vietnamese perspective. A senator from Louisiana can, and did, act to protect producers in her state by winning enactment of a law forbidding the use of the word "catfish" to label an important Vietnamese export. This action was taken in 2001 over the objections of executive branch and congressional trade policy leaders, and further entrenched through its inclusion in the 2002 farm legislation. Other special interests will doubtless intrude in the future — some supportive of expanded trade relations between the two nations, others not.

For Americans seeking insight into their government's policymaking process toward Vietnam, therefore, and for Vietnamese concerned with influencing that process, it is important to begin this analysis with discussion of the general rise of economic and business influence over U.S. international economic policy during the past half-century.

From Subordinate Force to Central Concern

The United States was by far the world's largest economy throughout the 20th century. Hence economic diplomacy has been an important instrument of U.S. influence, and business interests have always played a role in shaping that diplomacy. Important examples of U.S. foreign economic policy in the wake of World War II included the Bretton Woods monetary agreements, the negotiation of the General Agreement on Tariffs and Trade (GATT), and the launching of the Marshall Plan to rescue and restore the economies of war-ravaged Western Europe. Among recent cases are the granting of Permanent Normal Trade Relations (PNTR) status to China in 2000 upon conclusion of its agreement to join the World Trade Organization (WTO), and the November 2001 Doha agreement to launch a new round of global trade negotiations.

From 1945 through the 1960s, however, U.S. international economic policy was not driven primarily by U.S. economic interests. Rather, it was dominated by broad foreign policy and national security concerns, particularly the need to buttress Cold War alliances against the Soviet Union and China by strengthening the economies of the North Atlantic Treaty Organization (NATO) nations and Japan. The lead agencies shaping policy were those driven by this agenda: the State Department and the National Security Council.[1] This agenda had overriding national priority, of course, and a tragic misreading of the nature of the Cold War conflict would lead the United States into terrible conflict in Vietnam. But it was possible to subordinate foreign economic policy to Cold War purposes because the U.S. economy was

[1] They were and are part of a broader grouping of agencies (including the Department of Defense and the Central Intelligence Agency) that I have labeled elsewhere the "security complex." See Destler, "A Government Divided: The Security Complex and the Economic Complex," in *The New Politics of American Foreign Policy*, ed. David A Deese (New York: St. Martin's Press, 1994), pp. 132-47.

not only dominant in the world but also well insulated against the world. As late as 1960, the sum of U.S. exports and imports totaled only 9 percent of gross domestic product (GDP).

But this priority did not go unchallenged. From the early 1950s onward, the U.S. textile industry — one of the first hurt by global competition — insisted on steps to limit imports from lower-wage countries. By the 1960s, pressures from Congress and business, reflecting the rising importance of international transactions to the U.S. economy, led to policy and organizational steps giving domestic concerns and interests greater weight.

The Creation of the USTR. An important early step was the transfer of trade policy leadership from the State Department to a new office designed to increase priority to U.S. business concerns. Members of Congress had long complained that trade negotiations were led by diplomats who know foreign nations better than their own. When President John F. Kennedy sought legislation in 1962 (parallel to today's Trade Promotion Authority, or "fast-track") authorizing the ambitious new round of GATT trade negotiations that came to bear his name, Congressman Wilbur Mills, a Democrat from Arkansas who was chair of the powerful Ways and Means Committee, which had jurisdiction over trade law, insisted that the U.S. negotiating team be led not by State but a new entity based in the White House. Kennedy complied with this legislative command, creating in 1963 a Special Representative for Trade Negotiations.

The initial role of this new trade office was to coordinate overall U.S. policy, balancing foreign policy and domestic economic interests. Over time, it was to give increasing attention to the latter. In the 1970s, Congress would strengthen this office: in 1974 by making it a statutory entity and giving its head Cabinet rank; in 1979 by forcing President Jimmy Carter to enhance its jurisdiction and rename it the Office of the United States Trade Representative (USTR), effective in January 1980.[2]

Other policy and organizational steps reflected the growing weight of domestic interests affected by the global economy. In 1971, President Richard M. Nixon ordered a halt to supporting the value of the dollar through the sale of gold, granting his administration greater flexibility on domestic economic policy in the run-up to his 1972 re-election campaign, but also bringing an end to the Bretton Woods fixed-rate currency system. Nixon also established White House coordinating institutions for international (and overall) economic policy parallel to the National Security Council, whose role in economic matters declined. Every president thereafter replicated this practice, establishing an institutional advocate for connecting U.S. foreign economic policy with overall U.S. economic interests.[3]

By this time, oil shocks and global food shortages were underscoring the increased integration of the U.S. and global economies. By 1980, the proportion of U.S. trade (exports plus imports) to GDP had risen to 20.5 percent, a more than doubling in 20 years.[4] This meant growing international trade and investment opportunities for U.S. businesses, particularly the multinational corporations. Still, the business interests most likely to take the political initiative during the 1970s and 1980s were those hurt by trade — textiles, steel, autos, and semiconductors. Their activism in seeking protection from imports was exacerbated by the sudden soaring of the

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[2] For a fuller account of the creation and evolution of USTR, see Destler, *American Trade Politics*, 3rd edition (Washington, D.C.: Institute for International Economics and the Twentieth Century Fund, 1995), pp. 19-21 and 107ff.

[3] The name and precise shape of the economic policy coordinating institution changed with virtually every administration, until President Bill Clinton established the National Economic Council in 1993. For detail on this, see Destler, *The National Economic Council: A Work In Progress* (Washington, D.C.: Institute for International Economics, Policy Analysis No. 46, 1996), esp. pp. 1-8.

[4] This figure would reach 26 percent in 2000. These percentages are calculated from the figures for GDP and exports and imports of goods and services in Table B-1 of successive editions of *Economic Report of the President*, published annually in January or February by the President's Council of Economic Advisers.

U.S. trade deficit in the mid-1980s, to 12-digit figures unprecedented in global economic history. By contrast, businesses doing well internationally tended to stay out of politics unless the President or the USTR urged them to engage in order to right the political balance.

Things changed in the 1990s. Economic interests became, for a time, the overriding forces in U.S. foreign economic policy. And internationally minded business began to take greater initiative in pressing to keep markets open and reduce existing trade barriers, particularly when the trading partner was China.

"The Economy, Stupid"[5]

Several forces converged as William Jefferson Clinton began his successful run for the presidency. The Cold War ended rather abruptly, weakening the influence of national security concerns on U.S. trade and economic policy. At the same time, American elites were suffering a crisis of economic confidence, reflecting sluggish growth since the early 1970s, recession, and concern that other nations — Japan in particular — were surpassing the United States.[6] Charging then President George H.W. Bush with fecklessness in domestic economic management and international economic competition, Clinton promised to "focus like a laser beam" on the nation's economic problems. During his campaign, he managed to cut into the Republican Party's normal business support by gaining the backing of high-technology firms wanting a strong response to foreign competition. Once in office, he announced a "rebalancing" of U.S. policy toward Japan with enhanced attention to the economic dimension. He created a new National Economic Council (NEC) parallel to the NSC and charged with development of policy to combat international economic competition.

Clinton cast himself as a centrist "new Democrat" and free trader, unlike many of his party colleagues who had followed organized labor's move to a trade-restrictive stance. He won congressional approval of the North American Free Trade Agreement (NAFTA), completed the GATT negotiations establishing the WTO, and negotiated commitments to achieve free trade within the Western Hemisphere and among the Asia-Pacific Economic Cooperation (APEC) nations by early in the 21st century. And in the sharp trade conflict with Japan from 1993-95, U.S. policy was focused not on closing American markets but on getting Tokyo to open Japanese markets.

Internationalist business supported these initiatives and (for the most part) the tough approach to Japan. Ironically, however, what energized U.S. business leaders most was the issue where Clinton did not seem to be giving priority to economics, the U.S. relationship with China. Due to a law (known as "Jackson-Vanik") enacted in 1974 with the Soviet Union in mind (and being applied today to trade with Vietnam), the president had to decide every year to continue granting normal tariff rates to Chinese imports. Carter and Ronald Reagan had done so without controversy. But the Tiananmen Square massacre of June 1989 transformed American attitudes toward Beijing, and thereafter George H.W. Bush had faced annual congressional opposition when he acted to extend normal trade relations. In his campaign, Clinton had denounced Bush for "kowtowing" to "the butchers of Beijing," and promised that he would link continuation of favorable tariff treatment to China's human rights performance.

Organized business was uncomfortable with this stance, fearing that Clinton might end up delivering on this trade threat, and believing that curtailing Chinese trade would lead to retaliation against U.S. companies without doing anything positive for Chinese citizens. When, in early 1994, it seemed that Beijing's recalcitrance on

[5] This was the wording of a famous sign posted at Clinton campaign headquarters, reminding workers there of their overriding issue.

[6] It was around this time that East Asia specialist Chalmers Johnson made his oft-quoted remark, "The Cold War is over; Japan won."

human rights might drive Clinton to impose some form of trade sanctions, business organizations mobilized to sever the trade-rights linkage. The economic agencies in the executive branch — Commerce, USTR, Treasury, and others — did not conceal their sympathy for this position. This could only undercut whatever leverage on the matter the United States might have had with China, and then Secretary of State Warren Christopher was in fact humiliated when he pursued the human rights agenda in Beijing that spring. In May 1994, Clinton bowed to the inevitable and declared that linkage was no longer effective. Henceforth, the United States would maintain open trade relations with China for their own intrinsic value, and pursue human rights concerns by other means.

The Rise of Business Engagement

Clinton's China decision marked a "coming of age" for organized U.S. business as a force lobbying for open trade. Through most of the post-World War II period, U.S. firms were divided on trade issues, and those threatened by global trade tended to be more active because they absorbed immediate losses from imports, and because protection — if attainable — would provide them direct and tangible gains. Those who profited from export or import trade tended, by contrast, to stand aside from the political arena. For them, business was good and tending to it could make it still better. They saw potential benefit if the USTR could negotiate reductions in foreign trade barriers, but it was unclear when such gains would come and which firms would pocket them. Hence there was a political imbalance within the business community — the protectionists cried louder, and were more often heard.

By the 1990s, however, this balance seemed to be changing. Globalization meant that fewer large industries were not in some way engaged in, and dependent on, international trade and investment. Even longstanding protectionists like textile makers began to see that trade rules could help them take advantage of foreign opportunities — and that industry in fact supported the NAFTA agreement once its details were crafted in ways that gave it advantage. And the mainstream internationalist companies — such as Kodak, Motorola, and Caterpillar — became more dependent on, and committed to, an open trading system. So, pro-trade organizations like the Business Roundtable and the National Association of Manufacturers became more active. One apparent result was that in the mid- to late-1990s, when the United States experienced trade deficits and import growth remarkably similar in magnitude to those of the mid-1980s, there was not the same broad protectionist response — the steel industry was vocal, but others were not.[7] And the internationalist businesses were more active.

They did not just lobby Congress, of course. At least as important was their influence on the executive branch in the course of trade negotiations. Businesses frequently had strong views about which foreign trade barriers were impeding their sales. And negotiators at USTR and other executive agencies wanted to know these views — because they wanted trade negotiations to be effective in knocking down other nations' trade barriers, and because they wanted the support of internationally minded industries. Indeed, during a major trade round U.S. negotiators consciously work to build a broad coalition of business supporters, who can help with Congress when the final agreement is submitted for approval.[8]

Despite its enhanced activism, however, internationally oriented U.S. business still did not tend to take the initiative in support of broad new trade negotiation authority. When Clinton sought renewal of "fast-track" in 1997, in fact, many held back for months fearing that

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[7] See I. M. Destler and Peter J. Balint, *The New Politics of American Trade: Trade, Labor, and the Environment* (Washington, D.C.: Institute for International Economics, Policy Analysis No. 58, 1999), p. 1.

[8] For an insightful discussion of how executive branch officials court and "use" business support, see Gilbert R. Winham, *International Trade and the Tokyo Round Negotiation* (Princeton, N.J.: Princeton University Press, 1986), pp. 315-17.

the president would tilt too much toward groups seeking to bring labor and environmental standards onto the trade-negotiating agenda. As a result, a new coalition of anti-globalization activists — who did not hold back in pressing their opposition — succeeded in lining up enough votes in opposition that the president and then House Speaker Newt Gingrich were forced to withdraw the legislation without a House floor vote.

Foremost among the opponents of trade liberalization was organized labor. Ever since import competition hit major U.S. industries in the 1960s and 1970s, the AFL-CIO, the United Auto Workers, and other unions had pressed to win protection for their products, to slow down initiatives toward further trade liberalization, and to put labor rights on the international negotiating agenda. Through the mid-1990s, they were usually unsuccessful in blocking trade-liberalizing legislation, though they were able to woo many labor-dependent Democrats to their side of the issue.[9] But in 1997, as earlier noted, they out-lobbied organized business, which was late to engage.

Business did not make that mistake again in 2000, when the issue was granting permanent normal trade status to China. Impressed with the range of Beijing's commitments to open its economy, and determined not to be left behind in this huge and rapidly growing market, business groups worked assiduously and successfully to win enactment of legislation granting the People's Republic of China PNTR status. Critical was the fact that China presented not only a trade opportunity of vast potential magnitude, but also an investment opportunity. Companies operating inside China wanted to remain there and expand their operations. Companies not yet there wanted to be. Having a China presence and a China strategy was viewed as essential to a firm's global competitiveness in the 21st century.

The Drive to Liberalize Trade with Vietnam

Also of interest to U.S. business was Vietnam. That nation was much smaller than China, of course, and seemingly less committed to economic reform. But it was viewed as having substantial upside potential, with its large population and capable labor force. American companies did not wish to be left behind there, but in the late 1980s and early 1990s, that is exactly what happened due to the U.S. economic embargo put in place at the end of the long and bitter war.

The influence of organized business on Vietnam policy was more limited than on policy toward China. First of all, their existing stakes were small or nonexistent due to the embargo — hence it was hard for them to justify major lobbying. More important was the impact of non-economic issues: the legacy of bitterness and humiliation many Americans felt from losing the war, and the determination of activist families of soldiers missing-in-action to block any steps toward economic rapprochement until the government in Hanoi had done all it possible could to help locate and identify soldiers' remains. This was a deeply emotional issue, and not the sort on which business could easily engage. What was necessary was advocacy of normalization by Americans who also had claims to having suffered from the wartime experience.

This came, of course, from Vietnam veterans. Increasingly, men who had served in combat during the war made the decision that, as a personal matter, they would support reconciliation with the former enemy. And as important as the rank-in-file was their leadership. Senator John McCain, a former prisoner of war in Vietnam, lent his formidable name and energy to the cause. President Clinton believed personally that the time had come to open up relations with Vietnam, but his political standing on military issues was weak, owing in particular to his well-publicized avoidance of Vietnam service. In military and political parlance, he needed

[9] See Destler, "Trade Politics and Labor Issues: 1953-95," in *Imports, Exports, and the American Worker,* ed. Susan M. Collins (Washington, D.C.: Brookings Institution, 1998), pp. 389-408.

"cover." This the U.S. Senate provided in January 1994 when, following intensive bilateral work in Vietnam on POW/MIA cases, it passed a resolution calling on the president to lift the economic embargo. Clinton did so almost immediately.

Neither the Senate nor the administration saw this mainly as an economic issue. Of the 42 senators who voted against lifting the embargo before all MIAs or POWs were accounted for, 29 were Republicans.[10] Had the matter been framed as a trade issue, the party balance would surely have been the other way — as it was consistently on trade with China.

With Clinton's action lifting the embargo, U.S. trade with Vietnam could resume — and some did. But it labored under a severe handicap, as Vietnamese products were denied the MFN tariff rates granted to virtually all other U.S. trading partners. In fact, in the mid-1990s Vietnam was one of just five countries denied such rates (in a group that included Libya and Taliban-ruled Afghanistan). And it was the only one of the five with which the U.S. did significant trade. This meant that Vietnamese goods faced not the typical 4 percent tariff paid on imports from its competitors, but rates averaging around 40 percent.

After the embargo was lifted and diplomatic relations resumed, however, the way was now clear for the United States to correct this anomaly by negotiating a bilateral trade agreement with Vietnam. As talks progressed, Clinton employed a provision of the Jackson-Vanik legislation to provide an annual waiver, which made Vietnam eligible for certain U.S. government credits, or investment or credit guarantee programs (e.g., of the Overseas Private Investment Corporation and the Export-Import Bank). Vietnam received NTR status when the BTA came into effect on December 10, 2001.[11]

The Economy Surges, and Priority Recedes

By this time, the overall U.S. priority on foreign economic policy had receded from its 1993-95 peak. The U.S. economy had rebounded spectacularly, entering a remarkable period of technology-generated growth. Economic rivals, and Japan in particular, were doing much worse. In addition, the post-Cold War world generated its own set of international security challenges — tensions in the Taiwan Straits, for example, and civil conflict in the nations of the former Yugoslavia. Clinton, like his predecessors, found himself pulled into such crisis issues. The East Asian financial crisis of 1997-99 posed a new foreign economic challenge, and business lent its support to the provision of "rescue packages" to limit the damage to the nations concerned — and to U.S. exports. Business was joined, in this instance, by organized labor, and legislation to enhance the resources of the International Monetary Fund was enacted in late 1998.

Throughout the decade of the 1990s, the U.S. economy continued to internationalize. The sum of exports and imports rose to 26 percent of GDP by 2000. For the modest and declining share of economic actors engaged in goods production, the impact of trade was much greater. The nation entered the 2000 presidential election season enmeshed more deeply than ever in the global economy, and seeming — at least in others' eyes — to dominate that economy. For much of the world, "globalization" and "Americanization" were synonyms. Yet trade policy was stymied — not due to protectionist pressures, but rather due to the social issues-based opposition exemplified by the protesters who disrupted the 1999 ministerial meeting of the WTO in Seattle. And the domestic stalemate was exacerbated by bitter partisan conflict that had begun to spill over into the trade policy realm, particularly in the House of Representatives.

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[10] U.S. Senate. 103rd Congress, 2nd Session. S. Amdt. 1266. *Congressional Record* ONLINE 27 January 1994. Available at http://thomas.loc.gov.

[11] On the specific Jackson-Vanik votes, see the chapter in this volume by Mark Manyin. On negotiation of the Bilateral Trade Agreement, see the chapter by Edward Gresser.

The George W. Bush Administration

George W. Bush emerged from his wafer-thin electoral victory with an agenda that included restoration of the "fast-track" negotiating authority that had lapsed under Clinton, which the new President soon renamed Trade Promotion Authority (TPA). He also inherited the bilateral agreement with Vietnam, which the Clinton administration had completed but not sent to Congress for its necessary approval. For a time, this agreement was caught up in the politics of the broader trade issue. With business support for the BTA solid and opposition waning, Robert Zoellick, U.S. Trade Representative under Bush, saw it as an attractive component in a comprehensive trade bill that would include the Jordan Free Trade Agreement, also completed by Clinton, and TPA. But senior trade Democrats objected, wanting — they said — to vote separately on those measures that had broad consensus support. The Democrats prevailed. House Joint Resolution 51 approving the U.S.-Vietnam agreement was passed by voice vote, as a stand-alone measure, by the House in September 2001, and by an 88-12 vote in the Senate a month later.

Like the resolution to end the embargo seven years before, these Vietnam trade votes did not reflect the normal trade-political divisions. In the Senate, only two Democrats were opposed. On the House vote on Vietnam trade that year, only 33 Democrats voted to overturn President Bush's extension of NTR, together with 57 Republicans and the House's two Independents. Democratic leader Richard Gephardt of Missouri, who had consistently opposed normal trade with China, voted with the 172 Democrats to sustain the growing U.S.-Vietnam trade relationship. U.S. business stood, of course, in favor of the agreement and NTR, and this certainly contributed to the overwhelming margins of support. But at bottom, the House and Senate votes were about Vietnam more than they were about trade.

In the meantime, the Bush administration pressed Congress on its larger priority, TPA legislation. House Ways and Means Chairman Bill Thomas, a Republican from California, both reflected and exacerbated partisan divisions by rebuffing senior Ways and Means Democrats and negotiating a "bipartisan" bill with a group of moderate junior members of that party lead by Rep. Calvin Dooley, Democrat of California. Thomas and Dooley reached constructive compromises on a range of issues, including how to address labor and environmental matters, but Dooley had little leverage with his colleagues. Senior Ways and Means Democrats Charles Rangel, Sander Levin, and Robert Matsui declared the Thomas bill inadequate and proposed an alternative; when the Republicans refused to negotiate a compromise, they were hardened in their opposition. In the end, just 21 Democrats voted in favor, and in a frenetic House floor campaign in early December that eked out a 215-214 victory, House Republican Whip Tom DeLay of Texas won the deciding votes by granting demands from textile congressmen to restrict access of apparel from Andean and Central American nations.

There were partisan tensions in the Senate as well, with the central Democratic demand being a major expansion of the assistance program for trade-displaced workers to broaden coverage and provide, for the first time, subsidized health insurance. But a compromise was reached, and the legislation was passed by a comfortable 68-30 margin. After a summer conference between the two houses to reconcile differences in their bills, TPA became law in August 2002.

U.S. Economic Interests and Future U.S.-Vietnam Trade Relations

By promising prompt congressional action on trade agreements negotiated under its authority, TPA will strengthen the administration's hand in the WTO talks authorized at the November 2001 Doha trade ministerial meeting. USTR Zoellick will also use the renewed authority to move forward toward a Free Trade Area of the Americas, and in negotiations for bilateral free trade agreements with a range of countries and regions.

Until Vietnam joins the WTO, it will not be a partner in bilateral and regional FTA negotiations involving the United States. It will be a bystander in the global trade talks as well. In addition, as a non-member of the WTO, it will be subject (like China before 2001) to unilateral U.S. trade sanctions under the so-called Section 301 authority, and will not enjoy recourse to the WTO's dispute settlement mechanism to review national anti-dumping rulings. Vietnam will also depend on annual presidential extensions of NTR tariff treatment. These extensions are likely to be forthcoming, but they will offer an opportunity for members of Congress to highlight concerns about Vietnam generally.

A further disadvantage that Vietnam faces is its small share of overall U.S. international commerce. Though U.S.-Vietnam trade has been expanding rapidly in percentage terms, it remains, at $2.97 billion in 2002, less than two-tenths of one percent of U.S. global trade, and just under two-thirds of one percent of U.S. trade with the East Asia/Australia region.[12] In addition, Vietnam ranked forty-eighth among nations as a source of U.S. imports in 2002, and sixty-fourth as a destination for U.S. exports. For all of these reasons, Hanoi brings a weak hand to trade negotiations with the United States. How should it play this hand? Vietnamese officials need to think in both short-run and long-run terms.

In the short run, they must seek to make the most of their current situation. This means going beyond established negotiating channels and locating and cultivating allies in the U.S. policymaking process: individuals or groups who, for their own reasons, favor expanded trade and interchange with Vietnam. They might begin with four categories:

- Individuals and groups committed, for non-economic reasons, to deepening the bilateral relationship[13];
- Business firms with important *investments* in Vietnam;
- Business firms with important *exports* to Vietnam; and
- Distributors and industrial users of *imports* from Vietnam.

As long as trade remains modest in U.S. terms, the first of these categories will be the most important in influencing U.S. trade policy toward Vietnam, and the last will be the least important.

Over the long term, however, Vietnam can aspire to much greater influence on U.S. trade policy. It is a nation of enormous economic potential, and it is beginning to realize that potential. A decade or more of growth at rates achieved by reformist China — or by Vietnam itself in the mid-1990s — would quickly elevate the economic importance of Vietnam to the United States, and to the broader Asia-Pacific region as well.

Whether this can be achieved will depend, in large part, on domestic Vietnamese economic policy. If there is renewed commitment to opening up (again, China is the proper example), then trade with the United States is likely to continue its rapid rate of increase, and U.S. firms will increasingly find Vietnam to be a hospitable place to invest their funds and initiate or expand trade. U.S. business interests will then give increased political priority to lobbying on issues affecting Vietnam because it will be in their interest to do so. And that, over the long term, is the best way for Vietnam to build political support for its economic interests in the United States.

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[12] U.S. Census Bureau figures for exports plus imports: U.S. with Vietnam, $2.97 billion. U.S. International Trade Commission figures for exports plus imports: U.S. with East Asia/Australia: $458 billion; U.S. global: $1,856 billion. Available at http://www.dataweb.usitc.gov.

[13] Included here are certain veterans' organizations and individuals like Senator John McCain, who unsuccessfully fought to revoke the prohibition on labeling Vietnamese imports as "catfish."

Case Study:
Negotiating & Ratifying the Bilateral Trade Agreement

The Bilateral Trade Agreement with Vietnam in Fin-de-Siecle U.S. Trade Policy

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In Washington and Hanoi alike, the ratification of the U.S.-Vietnam Bilateral Trade Agreement (BTA) placed the final stone in the arch of postwar reconciliation. As such, the BTA marked the end of one era and the beginning of a new one. And certainly for Americans, it was a step with historic meaning and emotional significance.

From another angle, though, the BTA was simply one among a number of major Clinton administration trade initiatives. Its negotiation and ratification took place at a moment — perhaps, in the wake of the September 11, 2001 terrorist attacks, a moment that has passed — in which trade policy became central not only to foreign policy and economic strategy, but domestic politics. And in this sense, it raised technical issues and domestic political challenges similar to those raised by the other major trade debates of the late 20th century.

Its unique character, as the final page in the process of reconciliation, allowed it to conclude with a degree of consensus the other trade agreements — the North American Free Trade Agreement (NAFTA), the creation of the World Trade Organization, normalization with China and even the free trade agreement with Jordan — could not achieve. The following paper reviews the decisions that successive U.S. administrations made as the BTA progressed in an effort to understand why this might be.

The BTA in American Trade Policy

The BTA, to begin with, was one among 306 international trade agreements concluded during the Clinton administration. Most of these were narrow affairs affecting only very specific companies or industries — agreements to set textile quotas for Ecuador, settle metal dumping cases with Russia, or ease sales of cherries to Japan. But a few were far more ambitious, leading to substantial changes in the American trade regime — and the BTA should be placed in this latter group.

In substantive terms, while trade flows between the U.S. and Vietnam are small, no American agreement in the 1990s made greater market access concessions to a foreign partner than did the BTA with Vietnam. And in political terms, the BTA was matched in complexity by perhaps only four other agreements — NAFTA, the Uruguay Round talks that created the World Trade Organization, the integration of China into the trading system, and the free trade agreement with Jordan.

The technical challenge. Before reviewing the decisions leading to conclusion of the BTA, it may be worth looking at its nature.

In technical terms, the American side of the BTA in essence compressed sixty years of postwar trade policy into a single commitment. This, of course, was the grant to Vietnam of “Normal Trade Relations” (NTR, formerly termed “Most Favored Nation” status, or the tariff levels applied to goods from the vast majority of American trading partners).

Owing to a law passed in 1974 (the so-called “Jackson-Vanik Amendment,” named for its sponsors Charles Vanik and Henry Jackson, which barred non-market economies from receiving NTR status), Vietnam had remained ineligible for any of the eight rounds of tariff cuts the U.S. had made in the decades since the Second World War. By the 1990s, this led to a remarkable disadvantage. Vietnam’s goods faced tariffs averaging about 40 percent, while most of the world faced a tariff of about 2.5 percent.

The end of the Cold War, together with Vietnam's domestic reform process and ASEAN membership, had made this policy seem peculiar and anomalous by the mid-1990s. But the anomaly was the result of a law passed by Congress, and thus could not be removed by executive action alone. The Jackson-Vanik law required two things in turn for a grant of NTR: first, a certification by the U.S. government of freedom of emigration rights (stemming from the law's original purpose, which was to encourage free emigration for Jews from the Soviet Union)[1]; and second, conclusion and congressional approval of a bilateral trade agreement.

The political challenge. In earlier years, the second step might have been routine, and this was in fact the case when Congress ratified the bilateral trade agreement with China in 1980. But by the mid-1990s, when serious work toward the BTA began, approval of any trade agreement was far from routine.

In an era of peace and sustained growth, trade policy had become more ambitious, covering services industries, intellectual property, and other topics as well as tariff policy. It had become more central to U.S. economic strategy and foreign policy as well. And it became, particularly with respect to developing countries, more controversial; those who had feared Japanese competition in the 1980s now wondered whether developing countries would be able to use low wages to draw investment and jobs away from the United States.

As a result, the major agreements of the 1990s made up some of the most difficult debates of the Clinton era. Such agreements were time-consuming — all five of the major agreements noted above spanned two or more administrations — and raised more intense social and political debates than similar agreements had in the past. Some of these debates were common to all the major agreements. To oversimplify slightly, the major agreements passed in the 1990s aroused opposition on economic or other grounds from labor unions, textile industries, some agricultural groups (southern catfish farmers in the case of Vietnam), and some environmental associations. This posed an especially difficult dilemma for the Democratic Party, as its base constituencies were among the groups most critical of the agreements. On the other hand, the agreements won support on economic and strategic grounds from large multinational businesses, the country's foreign policy elites, and most of the press.

Each agreement also raised some unique issues and debates. In the case of the BTA there were three:

- First, the BTA brought to the debate a wider set of participants than earlier trade agreements. The familiar business, labor and foreign policy groups were joined by a set of groups for whom trade policy was new and unfamiliar: Vietnamese-American community associations, military veterans of the Vietnam War and national veterans organizations like the Veterans of Foreign Wars and American Legion, and family members of soldiers still listed as missing-in-action (MIA) in Vietnam and Laos.
- Second, the Vietnam War had been a formative experience for many of the administration's senior political and foreign policy officials. For these people, normalization with Vietnam had an emotional significance that earlier trade agreements lacked.
- Third, for the White House political staff in the Clinton administration, the president's opposition to the Vietnam War during the 1960s and early 1970s raised political concern about potential exploitation of the BTA by the Republican Party.

The resulting political dynamics were at times quite difficult for the Clinton administration to manage. As it moved toward completion of the BTA, the adminis-

[1] A former member of Senator Jackson's staff once privately told the author of this paper that China, and by implication other countries, had been included in the Jackson-Vanik Amendment by mistake.

tration had to choose its trade policy priorities carefully, recognizing that support within the Democratic Party might erode as the number of trade bills grew. It likewise had to balance its support for trade liberalization generally against a need — very strong, as the 2000 elections approached — for party solidarity. And it had to consider the public's reaction to a trade normalization project overseen by a president who had opposed the Vietnam War.

The political process leading to approval of the BTA, therefore, was slow and at all times affected by other trade policy and political needs. In retrospect, it had three phases: an initial one, controlled largely by the administration and lasting from 1993-1995, which laid the foundations for trade normalization through a series of smaller economic steps; a second of negotiations, whose pace was in large part decided by the Vietnamese government and which lasted from 1996-2000; and a third from 2000-2001 of ratification, which Congress controlled.

Phase I: The Administration's Choices, 1993-95

To begin with, the administration was faced with political decisions: whether to proceed with trade normalization at all, and if so, at what pace.

These initial decisions were made relatively early in the Clinton administration's first term. It inherited from the previous Bush administration two positive trends. First, the major American foreign policy dispute with Vietnam had been resolved with the peace agreement in Cambodia. Second, the most powerful domestic issue — the fate of the Americans listed as missing-in-action during the war — seemed well-handled, as the Defense Department reported in the course of 1993 that Vietnam was working in good faith to address the American concerns about these men.

Outside these two issues, the administration had few constraints in setting Vietnam policy. Progress on accounting for the MIAs was the main concern of the general public, and of the veterans' groups most directly interested in relations with Vietnam. These in turn were the top concerns of the administration's political and foreign policy decisionmakers. The Vietnamese-American community, in contrast to the Cuban-American community in debates on trade with Cuba, was divided — some favored economic engagement as a matter of principle, others hoped to do business with Vietnam, and still other groups hoped to maintain political distance. And at this juncture, the business constituencies typically most concerned with trade policy, though favorable in concept to normalization, were more concerned with China policy, NAFTA, and other issues.

During 1993, therefore, the administration decided that a larger process of normalization, involving both diplomatic and economic issues, was feasible in concept and desirable in practice.[2] Some of its senior officials may have felt that it would have valuable strategic benefits. But in contrast to normalization with China twenty years earlier, which had emerged from Cold War strategic calculation, most administration officials simply seem to have felt that given the passage of time, and progress on the issues of most concern to the U.S., diplomatic and economic estrangement from Vietnam had become an anachronism. Furthermore, many of the Clinton administration's senior officials appear to have seen in normalization with Vietnam a chance to heal a wound remaining open since their youth. This seems clearly to have been the case for the president himself.

In deciding to proceed, the administration also decided to accept such domestic risks as normalization might raise at home. Such risks are common to all major trade agreements, as failure in any major policy initiative damages an administration. They are perhaps especially high for a contemporary Democratic administration, given

[2] The author thanks Joe Damond and Ambassador Charlene Barshefsky in particular for their recollections of these decisions.

the emotional opposition to trade liberalization among some of the Democratic Party's key elements. In the Vietnam case, these risks were amplified — in retrospect, overstated — by White House staffers concerned that normalization might bring a broader political backlash.

Nonetheless, the administration moved ahead. And as progress on MIA case investigations continued, initiatives in other areas began to match it. Those steps the administration could take toward economic normalization, as opposed to those which required negotiation with Hanoi, or congressional ratification, proceeded with the formal end of the postwar trade embargo in 1994, and support for multilateral loans in 1995. Preparatory work for the BTA itself began in December 1995, when the first American negotiating team visited Hanoi.

Phase II: Negotiating the BTA

A year later, the administration was ready to move to negotiate the trade agreement itself, and the second phase began.

This was the most complex of all the tasks involved in full normalization. It was the only one for which the administration required formal congressional assent, and it thus required substantial domestic consensus building. It also involved a great deal of technical work, both to develop an accurate picture of the Vietnamese trade policy regime and to set specific negotiating objectives. And, of course, its conclusion required the approval of the Vietnamese government.

As a result, this second phase was time-consuming. From the first negotiating mission in 1995 through the signature in July 2000, the negotiations took nearly twice as long as those for NAFTA, and included perhaps three basic decisions.

Setting negotiating goals. First, the administration set a general goal for the shape of the agreement and specific goals for specific chapters within it.

The crucial step in this process was the decision to approach the BTA not only as the end-point of trade normalization, but as the first step in Vietnam's eventual WTO membership and participation in any future APEC free trade initiative. This required a much broader agreement, touching most of the major issues that the Uruguay Round of GATT negotiations had concluded a year earlier — e.g. services trade, intellectual property, and investment.

The administration thus set broader goals than it had in previous Jackson-Vanik agreements. It sought substantial market access, both through reducing formal trade barriers and through addressing underlying legal problems (contradictory laws, high degrees of discretion for different ministries, or mandatory discrimination in some areas between domestic and foreign producers) that could effectively nullify market access commitments. And perhaps looking back to the lost opportunity of trade normalization with China in 1980, which was followed by nearly 15 years of negotiations on WTO membership, it sought a comprehensive agreement from which Vietnam could move on to WTO accession talks with comparative ease.

As the talks proceeded, the administration carried out a series of lower-level debates on particular elements of it. Some of these revolved around the relationship of the BTA to other priorities. Some in the government argued that including an investment chapter might reduce leverage for the Bilateral Investment Treaty (BIT) program. Others raised the possibility of withholding MFN treatment in services sectors to maintain leverage for future negotiations and concessions from Vietnam on WTO accession. These ideas were ultimately not adopted. Others reflected the advice of private-sector groups operating in or hoping to export to Vietnam.

Negotiating with Vietnam. The negotiation of the agreement is not the principal subject of this paper. However, in passing, the Vietnam agreement followed a general pattern of successful trade policy. While most press coverage of negotiations and agreements stresses confrontation and pressure, the most effective tactic is the ability to make the case that the agreement is in the interest of the negotiating partner. In this case, the U.S. was able to stress a very large and simple benefit, in the grant of NTR that would follow ratification; and also make a dispassionate case about the disadvantages that would follow — lost investment, marginalization within the larger Asia-Pacific economy — if Vietnam remained static as China entered the WTO.

The talks moved slowly but reasonably steadily. The U.S. and Vietnam exchanged market access proposals in 1997, with Vietnam presenting its first comprehensive offer in April 1998. A further year passed until Ambassador Richard Fisher and the Vietnamese reached a comprehensive "agreement in principle" in the summer of 1999. After this there was a hiatus. Talks on the agreement's conclusion broke down at the Auckland Asia Pacific Economic Cooperation (APEC) meeting in September, and did not reach their conclusion until the signature in Washington in July 2000.

The perception within the U.S. government was that the Vietnamese government might not have grasped the full scope of the commitments it had undertaken, and balked at making an uncomfortable and unfamiliar series of decisions. But while negotiators found the breakdown frustrating, some White House officials — who hoped to avoid controversy in the immediate aftermath of the presidential impeachment debate and the Kosovo conflict in the spring of 1999 — were more relieved than upset.

Domestic consensus-building. In parallel with its internal deliberations and the negotiations with Vietnam, the government began preparing for the third phase of the agreement — that of ratification — through consultations with groups interested in trade policy, relations with Vietnam, or both. These included both groups always interested in trade agreements (Congress, business, organized labor and foreign policy professionals), and groups with particular interest in Vietnam, including MIA families, veterans' organizations, and Vietnamese-American community groups.

These consultations seem to have been fairly effective. Labor unions, which campaigned strongly and emotionally against trade normalization with China, also opposed the BTA, but devoted little or no time and resources to the issue. Businesses and foreign policy specialists endorsed it enthusiastically. Vietnamese-American groups and veterans' organizations, initially suspicious on anti-communist grounds, became more amenable (although not always favorable) when briefed on provisions of the talks dealing with transparency, trading rights, distribution, and other measures which have socially liberalizing or rule-of-law effects.

Phase III: Ratification in Congress

The first two phases of the process, while prolonged, seemed well managed by the administration. The last phase, ratification in Congress, was not.

The BTA, in retrospect, had uniquely strong support within Congress. A group of Vietnam War veterans — Senators John McCain and John Kerry, Ambassador Douglas "Pete" Peterson — who enjoyed great credibility with other members of Congress on Southeast Asian affairs — had overseen and supported it from the beginning. And it had the advantage of a legislative procedure, built into the Jackson-Vanik Amendment, which guaranteed a rapid vote.[3]

Both the Clinton administration and the succeeding Bush administration, however, having announced full support for the agreement, then chose to withhold it from Congress to address concerns arising from other trade priorities. Viewed from Hanoi, their behavior may

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[3] The Jackson-Vanik Amendment authorizes administrations to grant NTR status to "non-market" economies when two conditions are met: certification that the country in question allows free emigration, and Congressional passage of a Bilateral Commercial Agreement. It also creates a special procedure for passage of such agreements: after administrations submit these agreements to Congress, Congress must vote on them within 90 days and is unable to amend them.

appear baffling, comic or even sinister. In the context of American politics, it may still appear baffling or comic. Both administrations seem to have badly misjudged the political situation in Congress and made a simple task much more difficult. But neither was acting in a sinister fashion; rather, each was simply attempting to reconcile different priorities and manage the politics of trade.

Clinton administration decisions. The Clinton administration certainly viewed the Vietnam trade agreement as a major achievement and an important element of its trade legacy. But its top trade policy priorities in the year 2000 were elsewhere. It hoped first to pass Permanent Normal Trade Relations (PNTR) for China, consistent with U.S. commitments to the Chinese government on signature of China's WTO accession agreement; second, to minimize splits over trade policy within Democratic Party during a presidential election; and third, to avoid creating new problems for Democrats as a Republican administration took office.

The debate over China, which reached its climax during a debate in the House of Representatives in May 2000, had badly fractured the Democratic Party. The party's political base by and large viewed PNTR with anger and fear. Barely more than a third of the Democratic House members supported the administration when the question came to a vote in late May, on what all agreed was the most important trade and foreign policy debate of the 106th Congress. As the negotiations on the agreement with Vietnam reached their conclusion in the summer of 2000, the White House feared that another trade debate might compound the damage, and decided not to seek a vote in the fall.

The administration had a second opportunity to submit the agreement after a newly elected Congress convened in January of 2001. Here it again decided not to do so, based reportedly on the advice from Democrats in the House of Representatives. While not opposed to the BTA, they were looking ahead to the trade agenda under George W. Bush, and hoped to secure a first vote on the free trade agreement with Jordan to reassure the Democratic base about the possibility of including labor and environmental provisions in future trade agreements. Thus, just as the previous Bush administration had signed NAFTA but delayed submission, so the Clinton administration left the initiative with the new Bush administration.

Bush administration decisions. The Bush administration had a different but in some ways similar problem. Its top trade priority was Congressional approval of Trade Promotion Authority ("TPA," a legislative procedure previously called "fast track," is meant to facilitate passage of future agreements).[4] Entering office, it viewed Democrats as strongly supportive of the BTA as well as the free trade agreement with Jordan, but as generally unwilling to support TPA. So it held both agreements back, hoping to trade endorsement of these agreements for Democratic support of TPA.

Ambassador Bob Zoellick, the newly appointed U.S. Trade Representative, memorably characterized this approach as one designed to force Democrats to make a "binary decision" on who is for trade and who is against it. His hopes proved unrealistic, however; congressional Democrats largely scoffed at the threat, believing that the administration would not be willing to jeopardize relations with Vietnam (or Jordan) and would have to produce the two agreements sooner or later.

This led to a reversal of the typical pattern of congressional trade debates, in which administrations are enthusiastic about passing them and Congress is reluctant to take them up. In this case, the opposite happened — Congress pressed and pushed an administration to submit an agreement, with Senate supporters of the agreement finally using their power to block administration trade policy nominees to force its submission.

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4 See "Administration Offers its 2001 International Trade Agenda: Expanding Trade, Expanding Freedom, Expanding Prosperity," at http://www.ustr.gov/releases/2001/05/01-27.pdf.

Passage. In the end, the concerns of the Clinton administration were misguided and the hopes of the Bush administration misplaced. The BTA did not split the Democratic Party, as the Clinton administration had feared; it was in fact the first trade agreement since the 1980s to draw more Democratic than Republican support. Neither, contrary to Bush administration hopes, did the BTA prove of any value as a bargaining chip.

Instead, just as the Clinton administration had initially decided trade normalization with Vietnam was the right policy on its own merits and irrespective of other concerns, Congress refused to link the BTA to other administration priorities.

Conclusion

To sum up, the story of the BTA was in many ways typical for trade policy in the 20th century. It brought familiar actors and constituencies into the field, to strike poses familiar from previous debates. And it followed a pattern of political decisionmaking, technical negotiation and then debate in the legislature common to all of the most ambitious trade agreements of the 1990s.

But it is also, of course, a unique story, with subplots ranging from party politics, through debates within the Vietnamese-American community and the memories of military veterans and anti-war protesters. Most striking, perhaps, is the sharp contrast the conclusion of debate on the BTA offers to the other major contemporary trade agreements.

Despite the best efforts of business communities, newspaper editors and foreign policy elites, the domestic American controversies over NAFTA, the WTO, China, and Jordan seem likely to persist for years to come. Debate on the BTA, by contrast, seems to have ended in a firm and broadly shared consensus for normal relations with Vietnam. And this in turn may reflect a fact of great interest.

The BTA is a normalization of trade relations with a particular country, rather than a decision to change American trade regime in a fundamental way. So as a matter of trade policy, the debate's quiet conclusion is unsurprising. However, as the conclusion to the American debate over relations with postwar Vietnam, it is somewhat startling; and it is a sign that this final stone in the arch of reconciliation is firmly set.

The Bilateral Trade Agreement: Negotiations, Commitments, and Implementation Issues

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Since 1986, Vietnam has been aware of the demand for international economic integration and has put forward appropriate policies to realize this process under a general foreign policy of independence, sovereignty, openness, diversification, and multilateralization. To this end, the negotiation and signing of the Vietnam-U.S. Bilateral Trade Agreement (BTA) represents a significant recent event in Vietnam's integration process — one which included joining the Association of Southeast Asian Nations (ASEAN) in 1995, participating in the ASEAN Free Trade Area (AFTA), and becoming a member of the Asia Pacific Economic Cooperation (APEC) forum in 1998.

After nine rounds of negotiation, occurring between September 1996 and July 2000, the two sides reached an agreement and signed the BTA on July 13, 2000. The BTA is remarkable in that it includes provisions covering not only trade in goods, but also trade in services, investment, and intellectual property rights. In addition, it represents the first trade agreement that Vietnam has negotiated on the basis of World Trade Organization (WTO) principles, an important consideration as Vietnam applied to join the WTO in December 1994 and is in negotiations to facilitate its eventual WTO accession.

BTA: Historical Development and Mechanism of Negotiation

The Ministry of Trade (MoT) of Vietnam is the functional agency that manages Vietnam's trade activities in international economic relations, and thus it played the key role of negotiating and signing the BTA. Due to the broad scope of the BTA, Vietnam is obliged to make considerable adjustments to its legal and policy framework. Therefore, other ministries also participated in the development and negotiation of the BTA — including Planning and Investment; Finance; Industry; Agriculture and Rural Development; Science, Technology and Environment; Justice; Culture and Information; Fisheries; and Foreign Affairs. The MoT undertook the role of coordinating these ministries and other agencies in the process of creating guidelines and carrying out negotiations on the BTA.

At the same time, because of the importance and implications of the commitments stipulated in the BTA for Vietnam's economy, the MoT consulted enterprises on the content of the agreement. The MoT carried out consultations with state-owned enterprises (SOEs) and private companies regarding detailed commitments relating to the goods and services that these enterprises and companies produce.

During the process of negotiating the BTA, the two sides reached an in principle agreement in the summer of 1999. However, both countries conducted more negotiations after this time and agreed to further amend some articles. The delay in signing from the summer of 1999 to July 2000 was needed in part to give Vietnam adequate time to ensure the agreement served its national interests, and also took into proper consideration its low level of development and its status as a country in the throes of integration into the world economy. Compared to the 1999 version of the agreement, Vietnam secured additional preferential conditions in the final 2000 agreement, e.g.:

- Provisions on telecommunication services were adjusted as follows: for services that involve value added, U.S. companies can contribute up to 50 percent of joint venture capital within two years (three years in the case of internet services); for basic telecommunications (i.e., mobile phones), U.S. companies can contribute up to 49 percent of the capital within four years; and for fixed-line tele phone service, the maximum joint venture capital for U.S. companies is 49 percent within six years.

- The deadline for abolishing the regulation specifying that the general director (or first deputy general director) of a joint venture company be a Vietnamese citizen was extended to three years.
- An article on the legislative level of investment was replaced by the stipulation that SOEs are obligated to fulfill commitments in this respect if they are entrusted by the government to undertake a state management function.
- National treatment of deposit-taking activities of U.S. banks will be phased in after eight years.
- An article on government procurement transparency was removed.
- An article on concession balance was removed.

In return, Vietnam agreed with the U.S. request to reduce the limitation period by one or two years for U.S. companies providing services to foreign-invested enterprises in such fields as auditing, architectural services, and computer and construction design services.

Vietnam's Commitments in the BTA

In the agreement, Vietnam made many important commitments that will affect Vietnam's socio-economic status as the BTA is implemented. Therefore, it may be helpful to provide a brief overview of the commitments before assessing the effects.

Trade in goods. The content of the commitments pertaining to trade in goods was relatively comprehensive in scope. In the agreement, Vietnam committed that Normal Trade Relations (NTR) will be granted to commodities imported from the United States with certain exceptions. American companies have immediate trading rights in Vietnam, or will receive such rights as they are phased in based on a maximum phase-in schedule of six years. Vietnam also agreed to remove and reduce tariffs by 20-50 percent on a wide range of industrial and agricultural products which the U.S. has strong potential to export, such as air-conditioners and refrigerators, electric motors, ceramic sanitary wares, photographic and film-related products, mobile phones, milk and dairy products, processed meat and fish, fruit and vegetables, vegetable oil, and other goods. These tariff cuts will be phased in from three to six years after the agreement comes into effect. In terms of non-tariff barriers, Vietnam agreed gradually to remove quantitative restrictions, such as the number and type of licenses, and apply technical, customs, and sanitary standards under WTO rules and principles. Furthermore, Vietnam agreed to extend trading rights (the right to import and export) to U.S. persons and firms in most sectors, subject to specific "transition periods" which were set on a product by product basis.

Intellectual property rights. Chapter II of the agreement covers the commitments of the two parties regarding the establishment, use, exploitation, and protection of intellectual property rights. Apart from the requirements of each side to provide the other with treatment no less favorable than it accords to its own nationals regarding intellectual property rights, Vietnam also complies with provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the WTO in the short-term schedule with respect to all fields of protection.

Trade in services. Vietnam committed that within two to seven years after the agreement comes into effect, it will provide U.S. companies and individuals with market access to a wide range of sectors and sub-sectors such as business services, communication and information services, construction and related integrated technical services, education, financial services, healthcare, and tourism.

Investment. Vietnam committed to extend NTR to the United States with respect to the establishment, expansion, acquisition, management, operation, sale, or other disposition of covered investments by the United States. In addition, Vietnam committed to the gradual removal of trade-related investment measures (TRIMs) that are not consistent with the TRIMs Agreement, e.g. the requirement to develop domestic raw material resources after five years, the requirement on export after seven years, and the requirement on investment capital after seven years. Vietnam shall not nationalize investment projects and will create favorable conditions with respect to overall investment policy, such as ensuring that investors can use land as collateral and have land transfer rights.

Transparency provisions. Vietnam committed to implement an open and transparent policymaking process in all areas covered by the agreement.

The preceding paragraphs constitute a brief outline of Vietnam's commitments in the BTA. Through studying and considering these commitments, we can offer some comments on the possible effects of implementation of the agreement on Vietnam's economy.

BTA Implementation Issues

U.S. Implementation of the BTA. BTA implementation already has led to considerable growth in Vietnamese exports to the United States. Since the United States implemented the BTA by extending NTR to Vietnam in December 2001, Vietnamese exports to the United States have grown from approximately $1.05 billion in 2001 to nearly $2.4 billion in 2002. Export growth has been especially rapid in seafood, clothing, furniture, and leather products. However, BTA implementation on the U.S. side has also raised a dispute over new barriers placed on imports of Vietnamese catfish.

FDI and Industrial Development. The United States ranks about tenth among all foreign investors in Vietnam, with 182 investment projects and total registered capital of $1.6 billion during the 1988-2002 period. U.S.-invested projects mainly focus on the fields of industry and infrastructure construction. The implementation of BTA commitments on developing the investment relationship between Vietnam and the United States raises several issues, of which two are of particular interest. First is the adjustment of the legal system and policies on investment, and second is the construction of an appropriate industrial development policy when the commitments on investment of the agreement are implemented.

Vietnamese commitments in the BTA are highest in the area of investment, as compared to other bilateral and multilateral conventions on investment that Vietnam has signed and implemented so far. In accordance with the principle of "most favored nation" treatment, these commitments will be applied to investors from all countries with which Vietnam has signed agreements on encouraging and protecting investment. This requires Vietnam to adjust some current regulations to create a uniform legal framework on investment.

Over the past few years, while implementing the policy on opening the economy to attract foreign investment, the current system of Vietnamese laws and policies on investment has been built and adjusted toward removing discrimination and establishing a uniform legal foundation among foreign investors, as well as between foreign and domestic investors. The adjustment of investment laws and policies aims not only at realizing individual commitments to one or more particular agreements, but also at improving the Vietnamese investment environment and enhancing FDI attraction in general. Consequently, many investment-related commitments contained in the BTA are consistent with current laws on investment. However, work that needs to be implemented in the near future includes:

- Formulating an enterprise law applicable to both foreign and domestic investors;
- Perfecting the policy system aimed at improving the business environment for foreign-invested companies, focusing especially on policies related to land, finance, foreign exchange management, labor, technology, and the environment;

- Quickly implementing multilateral conventions on investment such as the Washington Convention of 1965 on the settlement of investment-related disputes between the state and citizens of other states, and the WTO's agreement on trade-related investment measures.

Vietnam is a country in economic transition and thus the development of its industrial sector through the attraction of foreign direct investment plays an important role in the national development strategy. For this reason, undertaking commitments related to investment in the BTA (corresponding to TRIMs and WTO terms) will require the Vietnamese government to change its protectionist policy for infant industries, and formulate appropriate new policies for developing its industrial sector. For example, the BTA stipulates that five years after it comes into effect, requirements on localization proportions (i.e., the percentage of local vs. imported content of mechanical, electronic, motorbike, automobile, and other goods) as well as preferential import duties should be eliminated. These provisions may result in Vietnamese industries operating only in the assembly process or manufacturing of spare parts with low value added. This example shows that in order to develop its infant industries, Vietnam will need to make adjustments and promulgate new policies aimed at fostering domestic industries.

Services Sector. Vietnam's services sector has made remarkable progress over the past few years, both in terms of productivity growth and in percentage contribution to GDP. In the early 1990s, the growth rate of this sector reached more than 10 percent annually; after 1996, it slowed with the overall economy and in response to the Asian financial crisis. Along with Vietnam's integration into the international economy and participation in ASEAN, APEC, and the Asia-Europe Meeting (ASEM), Vietnam has made commitments that have begun to open up the services sector. External service suppliers are permitted to operate in most sectors, and Vietnam's own service industries are expanding.

U.S. service suppliers have gradually entered the services market in Vietnam, mainly in the areas of auditing, banking, and insurance. It can be said that implementation of the BTA — in which commitments regarding trade in services compromise a significant portion of the Agreement — will facilitate further market access for U.S. service suppliers. Furthermore, Vietnam's commitments under the BTA related to services will enhance the competitiveness of its own service sector, as well as reduce input costs and improve quality. At the same time, Vietnam's commitments to open the services sector likely will create new competitive pressures. Vietnamese firms will find it difficult to compete with U.S. companies, particularly in fields in which the U.S. is traditionally strong, such as legal consulting, telecommunications, banking, and finance. It will be a serious challenge for Vietnamese firms to compete in the coming 5-10 years, as the phase-in schedule for various service sectors begins just two years after implementation for such sub-sectors as accounting, design, consulting, and architecture.

Labor, Employment, and Other Social Issues. Although employment issues are not directly mentioned in the BTA, the fulfillment of related commitments is likely to raise a lot of issues relating to labor, employment, and other social issues. Vietnam's Labor Code was enacted in June 1994 and subsequently amended in April 2002. Such issues as labor standards have been clearly and comprehensively stipulated in the code. In recent years, however, it has become apparent that the awareness of these labor standards among both employees and employers is still limited. The current situation requires a rapid improvement of labor standards in order to be consistent with the integration process of Vietnam's economy in general, and implementation of the BTA in particular. Labor standards have particular significance for enterprises exporting goods and services to the U.S. market.

In general terms, implementation of the BTA will bring about equality for both U.S. and other foreign businesses in the Vietnamese market. It will therefore present challenges for Vietnamese enterprises to cope with rapidly transforming production structures toward specialization and internationalization as well as increasing competitiveness. During this process, the possibility of many Vietnamese businesses having to face difficulties, contraction, and even bankruptcy must also be taken into account. Many laborers have already become unemployed during the reform process and the number of redundancies will inevitably increase. Such redundancies will become a burden on both society and the state budget and must be addressed and resolved by the Vietnamese government.

Finally, the BTA stipulates that investors of both parties can transfer and recruit foreign managers as well as employees for their investment and business activities in Vietnam. Realization of this stipulation will require prompt revisions and adjustments to existing regulations and the promulgation of new ones as well.

Conclusion: The Significance of the BTA For Vietnam's Integration Process

The BTA marks a significant step in the normalization process between Vietnam and the United States, and creates positive conditions for increasing trade relations between the two countries. Furthermore, because the BTA was formed on the basis of existing WTO principles, it also marks a positive step toward Vietnam's integration into the world economy. In 2001, Vietnam began negotiations on market opening provisions related to its application for accession to the WTO. The commitments made in the BTA lay the foundation for Vietnam's initial offers in these negotiations. According to some experts, Vietnam's BTA commitments are not as comprehensive as those likely to be carried out in negotiations for WTO membership. Successful implementation of the BTA is thus a prerequisite for Vietnam to gain a favorable position in international trade relations and to be well prepared in terms of capacity and experience for joining the WTO.

The BTA presents a great opportunity for trade and investment growth between the two countries. At the same time, implementation of the agreement will result in tremendous challenges for Vietnamese government agencies as well as businesses. In the first place, adjustments and improvements must be made to the legal system and economic policies with a view to ensuring serious implementation of requirements stipulated in the BTA. It also is imperative to spur administrative reform, as well as investment structure reform, in order to enhance the development and competitiveness of Vietnamese goods and services under new circumstances in which tariffs, non-tariff barriers, and other protectionist measures are removed.

Appendix I: Foreign Policymaking in the U.S. and Vietnam: Domestic Dimensions

Riggs Library, Georgetown University
November 29-30, 2001

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Appendix II: Chronology of U.S.-Vietnam Relations

February 3, 1994

President Clinton lifts the trade embargo against Vietnam, in effect since 1975.

January 28, 1995

United States and Vietnam sign agreements settling property claims and establishing liaison offices in Washington, D.C. and Hanoi.

May 15, 1995

Vietnam provides presidential delegation with documents on missing Americans, later hailed by the Pentagon as the most detailed and informative of their kind.

July 11, 1995

President Clinton announces the "Normalization of Relations" with Vietnam.

August 6, 1995

Secretary of State Warren Christopher visits Hanoi and officially opens U.S. Embassy.

May 1996

United States presents Vietnam with a blueprint for a trade agreement.

April 10, 1997

U.S. Senate confirms Douglas "Pete" Peterson, Vietnam war veteran and former prisoner of war, as U.S. Ambassador to Vietnam.

May 9, 1997

Ambassador Peterson assumes post in Hanoi; Vietnamese Ambassador to the U.S. Le Van Bang goes to Washington.

August 1997

U.S. government, under the United States Agency for International Development (USAID), begins a commercial law program.

March 11, 1998

President Clinton issues a waiver of the Jackson-Vanik Amendment for Vietnam, paving the way for OPIC, Ex-Im Bank, USDA, and MARAD activities in Vietnam.

March 26, 1998

Minister of Planning and Investment Tran Xuan Gia and Ambassador Pete Peterson finalize signing of the OPIC bilateral for Vietnam.

July 25, 1999

United States Trade Representative Ambassador Richard Fisher and Vietnam Trade Minister Tuyen agree to a bilateral trade agreement in principle.

August 3, 1999

The Jackson-Vanik waiver passes the House by a vote of 297-130.

December 9, 1999

Ex-Im and the State Bank of Vietnam complete the framework agreements which allow Ex-Im to begin operations in Vietnam.

March 13, 2000

Secretary of State William Cohen becomes the first Secretary of Defense to visit Vietnam since the end of the war.

May 3, 2000

U.S. House passes House Concurrent Resolution 295, which urged Hanoi to repeal all laws restricting freedom of expression. It is referred to Senate Committee on Foreign Relations.

July 13, 2000

Vietnam Minister of Trade Vu Khoan and USTR Ambassador Charlene Barshefsky sign an agreement on trade relations at USTR. President Clinton announces the conclusion of a bilateral trade agreement from the White House.

July 26, 2000

The Jackson-Vanik waiver passes the House by a vote of 332-91.

November 16-20, 2000

President Clinton visits Vietnam with Commerce Secretary Norman Mineta, USTR Ambassador Charlene Barshefsky, Senator John Kerry, First Lady Hillary Rodham Clinton, and daughter Chelsea.

January 2001

The Vietnam Education Foundation Act of 2000 established by an Act of Congress, which will provide annual funding of $5 million until 2019 for Vietnamese students to study in the United States.

April 2001

Vietnam holds 9th Party Congress and confirms National Assembly Chairman Nong Duc Manh as new Secretary General of the Communist Party.

June 1, 2001

President Bush renews the Jackson-Vanik waiver for Vietnam.

June 8, 2001

President Bush transmits the request for Normal Trade Relations (NTR) for Vietnam and implementation of the trade agreement to Congress.

July 26, 2001

The Jackson-Vanik waiver passes the House by a vote of 324-91.

September 6, 2001

BTA passes by voice vote in the U.S. House of Representatives. U.S. House passes the Vietnam Human Rights Act (H.R. 2833) by a vote of 410-1.

October 3, 2001

BTA passes without amendment by 88-12 vote in the U.S. Senate.

October 10, 2001

Ambassador Nguyen Tam Chien presents Letter of Credence to President George W. Bush at the White House.

October 16, 2001

President Bush signs the BTA into law.

November 28, 2001

BTA ratified by Vietnam National Assembly, 278-85.

December 3, 2001

Ambassador Raymond Burghardt sworn in as U.S. Ambassador to Vietnam.

December 7, 2001

BTA signed into law by Vietnamese President Tran Duc Luong.

December 10, 2001

U.S.-Vietnam Bilateral Trade Agreement signed into force at a Blair House ceremony with Deputy Prime Minister Dung, Trade Minister Vu Khoan, and USTR Ambassador Robert Zoellick.

March 3-6, 2002

The first Vietnamese-U.S. scientific conference on Agent Orange opened in Hanoi, with the participation of hundreds of U.S. and Vietnamese researchers.

April 8, 2002

Ministry of Justice reports that after an initial review of all laws issued by ministries and central bodies, approximately 150 laws were found to have inconsistencies in relation to the provisions of the BTA.

May 6-7, 2002

Deputy USTR Ambassador Jonathan Huntsman in Hanoi to open BTA Joint Committee.

May 13, 2002

Farm bill including a catfish provision requiring Vietnam to rename its catfish product signed by President Bush.

June 1-8, 2002

Minister of Justice Nguyen Dinh Loc visits the U.S. on BTA implementation.

June 3, 2002

Jackson-Vanik waiver signed by President Bush.

June 12-22, 2002

Deputy Prime Minister Nguyen Manh Cam visits Texas, New York, Massachusetts, and Washington, D.C.

June 28, 2002

Catfish Farmers of America file an anti-dumping petition against Vietnam.

July 18, 2002

Ways and Means Committee hearings on Jackson-Vanik renewal.

July 23, 2002

The Jackson-Vanik waiver passes the House by a vote of 338-91.

August 8, 2002

U.S. International Trade Commission determines that there is a reasonable indication that U.S. industry is threatened with material injury by reason of imports of certain frozen fish fillets from Vietnam.

November 8, 2002

Department of Commerce determines that Vietnam is a non-market economy for the purposes of anti-dumping and countervailing duty proceedings.

April 3, 2003

Congressman Chris Smith reintroduces the Vietnam Human Rights Act (H.R. 1587) into the U.S. House of Representatives.

June 17, 2003

U.S. Department of Commerce issues its final determination in the catfish investigation, concluding that Vietnamese producers have sold frozen catfish fillets at less than fair value, with margins ranging from 36.84 to 63.88 percent.

July 15, 2003

Vietnam Human Rights Act is added as an amendment to the House Foreign Relations Authorization Act (HR 1950). The authorization bill passes in the House on July 15 and is sent to the Senate.

July 17, 2003

Vietnam-U.S. Garment and Textile Agreement signed in Hanoi by Vietnamese Minister of Trade Truong Dinh Tuyen and U.S. Ambassador Raymond Burghardt.

July 23, 2003

U.S. International Trade Commission (ITC) issues its final determination concluding that catfish imports from Vietnam have materially injured the U.S. catfish industry. The ITC's affirmative determination enables the Department of Commerce to issue an antidumping order imposing duties in the range of 36.84 - 63.88 percent.

*Information drawn from website of the U.S.-Vietnam Trade Council (www.usvtc.org) and news sources.

Appendix III: BTA Implementation Schedule, AFTA, and WTO

U.S.-Vietnam Bilateral Trade Agreement

- Trading rights for U.S. firms will be liberalized in three to six years.
- Tariff rates on a limited range of industrial and agri cultural items (about 250) will be reduced by 30 to 50 percent over three years.
- Quantitative restrictions on most products will be removed in three to seven years. Restrictions on steel and cement will be removed after six years and those on petroleum products after seven years.
- In the services sector, Vietnam will provide more market access than low and middle income countries under the Uruguay round, and only slightly less than the larger transition economies.
- Majority U.S. ownership of banks will be allowed after three years. National treatment will be granted in the possible equitization of state-owned commercial banks. National treatment of deposit-taking activities will be phased in after eight years.
- One-hundred percent U.S. equity in financial leasing and in other leasing activities will be allowed after three years.
- Majority U.S. ownership of insurance firms will be allowed after three years. Restrictions on the operation of joint ventures will be eliminated after three years (and for wholly U.S.-owned companies, after six years). Wholly U.S.-owned firms, will be permitted after five years.
- Immediate introduction of one-hundred percent U.S. equity in a range of technical services, including in legal, accounting, engineering, computer-related, and construction areas.
- All WTO-inconsistent measures regarding investment (e.g., local content requirements) will be phased out within five years.
- WTO-consistent protection of intellectual property rights is to be introduced in 12-18 months.
- All laws and decisions governing issues in the agreement will be published. Administrative or judicial tribunals for review will be established, as will the right of appeal.

ASEAN Free Trade Area (AFTA)

- Tariffs on the vast majority of tariff lines (95 percent, according to preliminary estimates) on ASEAN imports will be reduced to at most 20 percent by the start of 2003, and to 0-5 percent by beginning of 2006.
- Average tariffs on manufactures from ASEAN countries will be cut by 50 percent by early 2004.
- Average tariffs on ASEAN imports of textiles, leather, wood products, non-metallic mineral products (e.g. glass and ceramic products) and food products will fall by more than 60 percent by early 2004.

WTO

- Vietnam made its initial offer on specific commitments in services in January 2002.
- The fifth meeting of the Working Party on accession of Vietnam, held in April 2002, reviewed the status of Vietnam's bilateral access negotiations and action plans for implementation of a number of WTO agreements, including those related to investment and intellectual property rights.
- The sixth meeting, held in December 2002, marked the beginning of negotiations.

Source: The World Bank, *Vietnam: Delivering on Its Promise*, Development Report 2003 (Hanoi: December 2002), p. 19.

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