

Statement of
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Testimony Before the
Senate Finance Committee
on PNTR for Vietnam – S.3495
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Chairman Grassley, Senator Baucus and other Members of the Senate Finance Committee, I am pleased to be here today representing the U.S.-Vietnam WTO Coalition, the U.S.-Vietnam Trade Council which is part of the U.S. ASEAN Business Council to testify before your Committee on its consideration of Permanent Normal Trade Relations (PNTR) for Vietnam.

The U.S.-Vietnam WTO Coalition is a coalition of over 120 American companies, farm groups, trade associations, veterans associations, and public interest organizations supportive of Vietnam's accession to the World Trade Organization and the attainment of full U.S.-Vietnam normalization. Many of our members have submitted supporting statements for the record today which I am pleased to request be included in the record. In addition we have a letter signed by former U.S. Cabinet officials including Henry Kissinger, James Baker, Madeline Albright, Bob Rubin, Colin Powell, and Tony Lake to name just a few distinguished names on the list¹. We have also submitted a letter signed by over 130 companies and associations, which I also hope can be included into the record today.

Mr. Chairman, all members of our Coalition view Vietnam's WTO accession as extremely important to their businesses, to the bilateral economic relationship and to US-Vietnam relations overall. We urge Congress to consider S. 3495 granting PNTR to Vietnam so that we may benefit from the market access and other commitments made by Vietnam during this accession process.

Status of Vietnam's Accession

Since embarking on its Doi Moi reform program in 1986, Vietnam has sought to integrate into the international economic community. It became a member of the Association of

¹ July 11, 2006 letter in support of PNTR for Vietnam signed by: Madeleine K. Albright, James A. Baker III, Charlene Barshefsky, Samuel L. Berger, Harold Brown, Warren Christopher, William S. Cohen, Lawrence S. Eagleburger, Carla A. Hills, Michael Kantor, Henry A. Kissinger, Anthony Lake, Colin L. Powell, Robert E. Rubin, George P. Shultz, Robert S. Strauss, and Clayton Yeutter

Southeast Asian Nations (ASEAN) in 1994 and a signatory to the Asia Pacific Economic Community (APEC) in 1998. It has been a little more than ten years since Vietnam first applied to become a member of the World Trade Organization. On May 31, 2006, it concluded with the United States the last of its bilateral agreements. Today, it is on track to become a full member of the WTO by November and is working to complete the multilateral process by the WTO General Council meeting in mid-October. Then on November 18, 2006, Vietnam will welcome world leaders from 21 nations, including President George W. Bush, as the host of the Asia Pacific Economic Forum (APEC) Summit in Hanoi. We hope that it will be able to do so as a full member of the global trading community – and that the U.S. will have met its obligation under the WTO to grant PNTR to Vietnam. It would be a terrible set back to our members if the United States were to have to take the non-application clause in October, meaning that the extensive commitments and trade enhancing measures that Vietnam is committed to would not be extended to Americans.

The U.S.-Vietnam WTO Agreement and Benefits to Business

We applaud the agreement that USTR concluded with Vietnam in May. It is enormously important to U.S. businesses, providing improved market access for U.S. manufactured and agricultural goods. Tariffs for most manufactured goods will be reduced to an average of less than 15%. Tariffs for U.S. priority sectors such as construction equipment, pharmaceuticals, aircraft parts, chemicals, and IT products will, for the most part, have low duties of 0-5%. Such increased market access is expected to directly benefit companies such as Caterpillar, Dupont, Dow Chemicals, Boeing, Eli Lilly, GSK, Merck, Intel, IBM, Johnson & Johnson, Motorola, and Pfizer, and indirectly impact many others.

The U.S. agriculture sector also stands to gain from this agreement with tariffs falling from an average of 26% to less than 15%. This means improved market access for our exports of soybeans; whey; cotton; grapes; apples, pears; selected beef, pork and variety meats; and processed foods. In addition committing to implementing disciplines outlined by the WTO Agreement on Sanitary & Phytosanitary (SPS) Agreement guaranteeing the adoption of scientifically based measures, Vietnam has committed to recognizing the international standards for the inspection of beef, pork, and poultry, and has signed on to a protocol eliminating all BSE-related restrictions on beef.

The market for U.S. services will also be substantially liberalized in Vietnam with Vietnam's commitment to open up a broad variety of service sectors including banking, insurance, securities, telecommunications, computer-related services, professional services, distribution, and energy services to name only a few of the over 100 services included in the agreement.

But WTO Agreements of course go beyond market access in goods and services. Critical to improving trade facilitation, transparency, predictability and non-discrimination for business, Vietnam's accession compels it to abide by international trade rules including the elimination of non-tariff barriers and other trade distorting domestic programs. Of great significance is Vietnam's commitment to implement upon accession key WTO disciplines including the *Agreement on Customs Valuation*, *Agreement on Trade Related Aspects of Intellectual Property (TRIPS)*; *Agreement on Trade Related Investment Measures (TRIMS)*; *Agreement on Sanitary & Phytosanitary Measures (SPS)*; and *Agreement on Technical Barriers to Trade (TBT)*. As such, companies will have tools to protect their intellectual property rights, and combat measures such as

forced technology transfer, trade distorting subsidies, local content requirements, and other practices that potentially drain jobs and technology away from the US. Vietnam's actions would also be subject to WTO law, practice, and precedent under the WTO's dispute settlement mechanism.

Of note, on our end, strong U.S. remedies against dumping and import surges will remain intact for Vietnamese goods. The agreement includes a provision recognizing that the U.S. may employ special methods, designed for non-market economies, to counteract dumping for 12 years after Vietnam's accession. Specific to the textile and apparel trade, although Vietnam is currently only the 7th largest importer of textiles and apparel accounting for 4% of total U.S. imports², the U.S. sought from Vietnam the immediate elimination of prohibited export subsidies in this sector, and introduced an unprecedented and extremely tough punitive enforcement mechanism with expedited procedures that result in the reintroduction of all current U.S. textile quotas if Vietnam is found to be in violation.

To reap the benefits of Vietnam's WTO accession, we urge Congress to extend Permanent Normal Trade Relations (PNTR) to Vietnam without delay. Without this, the U.S. will be out of compliance with its WTO obligation to grant on a reciprocal basis immediate and unconditional MFN treatment to the products of all WTO members, but more importantly, we risk not receiving the trade concessions and market access that Vietnam will provide and that our competitors from other WTO countries will benefit from. Vietnam is one of the fastest growing markets for U.S. exports in Asia – we cannot afford to miss out on this opportunity.

I note that the United States provides PNTR to virtually all WTO members. Most recently, PNTR has been extended to newly acceded WTO members Ukraine (2006), Armenia (2004), China (2001), Georgia (2000), Albania (2000), Kyrgyz (2000), Mongolia (1999), and Bulgaria (1996). Vietnam is currently one of two trading partners subject to an annual "conditional" waiver in order to receive "conditional" Normal Trade Relations (NTR) status from the U.S.

U.S.-Vietnam Normalization

PNTR for Vietnam is also about continuing to strengthen the broadening and deepening relationship our two nations have built over the last 15 years, shepherded with tremendous success through the Reagan, Bush I, Clinton, and Bush II Administrations, and with strong bipartisan support from Congress. Since 1988, our bilateral relationship with Vietnam has brought progress on all fronts, including the establishment of a joint task force for the seeking of Missing in Action (1992); the lifting of the trade embargo (1993); the extension of diplomatic relations (1995); an Agreement on Sovereign Debt (1997); a memorandum of understanding (MOU) on Labor (2000); the signing of a landmark Bilateral Trade Agreement (BTA) (2001); A Civil Aviation Agreement (2003); A Bilateral Military to Military Cooperation Agreement (2003); A Bilateral Counter Narcotics Agreement (2003); and an ongoing dialogue on human rights and religious freedom including an Agreement on Religious Freedom (2005). These steps forward are a testament to the benefits of engaging with Vietnam.

² This share ranks Vietnamese imports of textiles and apparel at 7th, behind China, Mexico, Honduras, Bangladesh, El Salvador, and Indonesia. China represents 25% of imports to the US

Mr. Chairman, if I may, I would like to submit for the record information on some areas where our continued engagement with Vietnam has brought progress: Throughout the process of normalization, Vietnam has placed high priority on issues important to the U.S. including MIA efforts, emigration goals, and economic integration. Vietnam and the U.S. have also developed important bilateral dialogues on regional issues, human rights and labor standards.

Remarkably, every year we have seen progress on all fronts of the bilateral relationship - economic, political and diplomatic.

Freedom of Emigration

The Jackson-Vanik Amendment was first waived for Vietnam in 1998 and, since then, has been renewed annually. The initial waiver was pegged to progress on the Program on the Resettlement Opportunity for Vietnamese Returnees (ROVR) and emigration in general. Although it was difficult to reach agreement initially, the implementation of the ROVR program has been very successful. The State Department reports that the government of Vietnam has cleared all but one case of the nearly 20,000 ROVR cases, and is close to completing this program.

The Orderly Departure Program (ODP) overall has also been successful. Approximately half a million Vietnamese have come to the United States under ODP and only a small number of ODP cases remain to be processed. Since the initial waiver of the Jackson-Vanik Amendment, the Vietnamese have allowed all remaining ODP cases – including the Montagnard cases which are of particular concern to the U.S. – to be processed under the new and more responsive system developed initially just for ROVR cases.

The cooperative relationship in this area continues to grow. Late last year, our two nations announced a joint *Program on Humanitarian Resettlement* to further facilitate the resettlement of individuals who had qualified under the ODP program but that were unable to apply or process their application before the program closed in 1994.

The success of our engagement in this area has greatly enhanced travel between our two nations – for veterans, tourists, business people and Vietnamese Americans. During 2005, over 350,000 visas were issued, 65% were for Vietnamese-Americans.

Labor Rights

Vietnam has made profound changes to its legal framework and practices to promote labor rights and standards. In 1992, it became an official member of the ILO and has since ratified 15 ILO Conventions, including four core conventions: Equal Remuneration Convention (No. 100), Discrimination (Employment and Occupation) Convention (No. 111), Minimum Age (No. 138), and the Worst Forms of Child Labor Convention (No. 182).³ Conventions 29 and 105 on forced labor are expected to be ratified mid 2006.

Vietnam's governing Labor Code, most recently amended in 2002, incorporates a number of workers' basic rights including: freedom to chose employer (Article 30), standard work week (Article 68), overtime limits and pay (Article 61), leave, holidays,

³ Labour and Social Issues Emerging from Vietnam's Accession to the WTO, (18) Paper, Ministry of Labour, Invalids and Social Affairs (MOLISA).

and rest (Article 71, 73, 74 & 78), minimum wage, bonuses (Article 64), maternity leave (Article 114 & 144), severance entitlements (Article 17 & 42), workplace safety (Article 97 & 100), etc. Significantly, Vietnam's National Assembly is now reviewing an amendment to the Labor Code, which would allow independent associations. Revisions are also expected to strengthen collective bargaining and the tripartite mechanism to protect workers. This amendment is currently scheduled to be passed in 2006.

U.S.-Vietnam cooperation in this area is based on a five year Memorandum of Understanding on Labor signed in November 2000. This MOU has resulted in an annual dialogue on labor rights and included \$8 million in technical assistance for the development of social insurance, employment service centers to match job seekers with employment, improvement of employment opportunities for the handicapped, improvement of industrial relations and reduction and settlement of labor disputes, the development of appropriate policies for HIV/AIDS positive employees, and the prevention, withdrawal, and rehabilitation of child labor. Since November 2001, projects in these six fields have been successfully launched, with strong support from Vietnam on implementation. We hope the labor MOU can be renewed this year.

Although more than 289 strikes were recorded from January to May 2006 - a strong indication of industrialization and urbanization - this has led the National Assembly to discuss ways to improve the labor code relating to a labor-management and improve mechanisms that can address employee concerns. Vietnam's continued integration into the global economy through its WTO accession will be an opportunity to help Vietnam promote improved labor standards according to international best practices.

Human Rights and Religious Freedom

In human rights, profound changes have taken place in Vietnam in the last twenty years. Indeed, one of the key factors in bringing positive changes and expansion of religious freedom and human rights has been Vietnam's integration with the international community and incremental steps to increase personal freedoms and respect human rights. 18 political prisoners have been released in the last couple years, 4 political prisoners remain incarcerated.

In recent years, more attention has been given to ensuring fundamental human rights including socio-economic, cultural, civil and political rights as well as equal rights among ethnic groups. Living standards, rule of law, and poverty reduction has improved greatly improved and the number of religious followers and dignitaries as well as houses of worship continues to grow.

United States' engagement with Vietnam has brought fruitful results including the promulgation of a new legal framework, including "*Decree 22* implementing a new *Ordinance on Belief and Religion*, and the Prime Minister's *Instruction on Protestantism*, reflecting many of the issues our two nations have been working on over the last few years and representing significant improvement over previous policy. In May 2005, both sides exchanged letters outlining an *Agreement on Religious Freedom* in which Vietnam committed to fully implement new legislation on religious freedom and render previous contradictory regulations obsolete, instruct local authorities to strictly and completely adhere to the new legislation and ensure their compliance, facilitate the process by which religious congregations are able to open houses of worship, and give special consideration to prisoners and cases of concern raised by the United States regarding the granting of prisoner amnesties.

- Freedom of Worship

Vietnam formally recognizes six religions – Buddhist, Catholic, Cao Dai, Hoa Hao, Islam, and the Protestant faith. The *National Constitution* grants the right to freedom of beliefs and religions. Accordingly, religious and non-religious citizens are equal before the Law and strictly prohibit any discrimination for religious reasons.⁴

There has been in recent years a steady rise in the number of new churches and followers. There are currently about 20 million followers of the six main religions, including 10 million Buddhists, 5.5 million Catholics, 2.3 million Cao Dais, 1.3 million Hoa Haos, close to 1 million Protestants, and about 65,000 Muslims. In addition, there are dozens of millions who practice the Kinh ethnic group's folklore indigenous creeds or the ethnic minority groups' primitive beliefs. Altogether, up to 80 per cent of the Vietnamese population practice one religion/creed or another.

Catholics make up over 8% of the population making Vietnam one of the largest Catholic populations in Asia outside the Philippines, with 6000 Catholic churches and over 1000 charities. Vietnam's relationship with the Vatican is well established. There are currently 2 Cardinals, 1 Archbishop, 36 bishops, 2410 priests and 11,147 parish priests, and 4,390 students in seminary both in Vietnam and overseas. While there have been complaints on the government's limitation of the number of priests ordained, these numbers continue to grow on an annual basis. Restrictions on the release of religious materials have also been eased. From 2003 to the first quarter of 2005, the Religious Publishing House published 913 religious items (4,314,000 copies), of which 1,831,000 belong to Buddhism, 1,237,000 Catholicism, 895,000 Protestantism, 333,000 Hoa Hao and 18,000 Caodaiism.

The Protestant church in Vietnam is seeing the fastest growth rate, possibly due to close relationships with organizations outside Vietnam and radio programs coming in from the region. Protestants represent 1.2 percent of the population, half of which are evangelical worshippers and two thirds from minority groups. Most protestants in Vietnam's Central Highlands are in the evangelical faith. Evangelical Church organizations in Northern Vietnam have been in existence since the 1960s. Significantly, in 2001, a Southern Evangelical Church of Vietnam was established; in 2003, the SECV opened a Government-sanctioned theological school in Ho Chi Minh City.

It may be useful to note to the Committee that there are dozens of religious-based American organizations working in Vietnam whose efforts have facilitated the promotion of religious tolerance. These include the Quakers, Mennonites, Catholic Relief Service, Church World Service, World Vision, Maryknoll, Lutheran World Mission, Adventist Development and Relief Agency, Christian and Missionary Alliance, Latter Day Saint Charities, Samaritans Purse, and Assemblies of God.

- Central Highlands and Northwest Provinces

While the situation in the Central Highlands and Northwest provinces are extremely complicated, the economic and social development there continues to show positive

⁴ Article 70 of the Vietnamese Constitution states that: "Citizens have the right to freedom of beliefs and religion, to follow or not to follow a religion. All religions are equal before the Laws."

trends, benefiting many including the region's ethnic minorities. In 2005, more than 48 Protestant chapter churches were established.

The difficulties in the Central Highland cannot be reduced to one issue or one event. Vietnam is a country of 80 million with 54 ethnic minorities, of which the Kinh ethnic group makes up 87% of the population. While there is overall harmony between the ethnic and religious groups, strong prejudices and suspicions do exist. Tensions have emerged among the minority groups in the Central Highlands and Northwest provinces in recent years with the coffee boom drawing Kinh farmers into the area. The Northwest provinces include porous national borders.

Some minority groups over the years have had aspirations for independence or autonomy. Military and political movements for separate states, such as FULRO as an organization and Dega as an independent republic date back to the war period. These movements still exist today – possible more outside Vietnam than inside – but the disturbances in 2001 are believed by some, fairly or unfairly, to have been aided by, funded by, or instigated by these movements.

- Gender Equality

Vietnam has gone a long way towards gender equality. According to UNDP assessments, gender equality in primary and lower secondary education has been achieved. Literacy rates among women under 40 years old have gradually increased during the 90s are now close to the nation's target of 95% literacy rate for women.

The ratio of women working in executive and legislative bodies is also on the rise. Female elected representatives currently account for 27.3% in the National Assembly⁵ during the 2002-2007 term.⁶ The proportion of women working in local authorities is lower but is also on the rise. Several American women's rights groups and foundations have had exchanges and programs in Vietnam.

Overall, Vietnam continues to take steps in the right direction. We must continue to engage with Vietnam assist further improvements to human rights and religious freedom. It is our continued engagement that allows American organizations and NGOs⁷ working in Vietnam to promote religious tolerance. Denying Vietnam's PNTR will only discourage further reforms, slow down the free flow of ideas and information exchange, and restrict the development of human rights and religious freedom in the country.

Bilateral Military Relationship

Progress on the seeking of our personnel still missing-in-action (MIA) was established as the cornerstone for U.S. normalization with Vietnam. Since 1992, the President has continuously certified Vietnam as "cooperating in good faith with the United States."

The U.S. and Vietnam have provided reciprocal access to information on MIAs from the war and have to date conducted 75 Joint Field Activities on missing cases since 1988.

⁵ 2002-2007 term

⁶ The second highest ratio in the Asia-Pacific region only after New Zealand

⁷ Some of these include The Quakers, Mennonites, Catholic Relief Service, Church World Service, World Vision, Maryknoll, Lutheran World Mission, Adventist Development and Relief Agency, Christian and Missionary Alliance, Latter Day Saint Charities, Samaritans Purse, and the Assemblies of God.

Both nations are jointly pursuing answers on the 1380 missing in Vietnam, of the 1981 cases missing there. Since the end of the war, 841 Americans have been accounted for, including 601 in Vietnam. Additionally, the Department of Defense has confirmed the fate of all but 48 of 196 individuals in the “last known alive” discrepancy cases. The U.S. has maintained a permanent staff to visit crash sites and interviewed witnesses throughout the country since 1993, with teams of experts going to Vietnam monthly. While borne out of controversy, suspicion, and anguish, this cooperation has since become a model program, greatly supported by veterans and families, and an excellent example of the benefits of engagement.

It is this engagement that has allowed our bilateral military relationship to grow beyond the basis of seeking our missing-in-action. In 2003, U.S.-Vietnam military to military relations made history with the visit of Vietnamese Minister of Defense to the Pentagon. This visit was reciprocated most recently with the visit of Defense Secretary Donald Rumsfeld to Hanoi last month. Today, U.S. naval ships regularly call on ports in Vietnam and the two sides have agreed to increase exchanges and education programs at all levels of the military.

BTA Implementation, WTO Accession, and Overall Economic Reform

Thirteen years since lifting of the post-war trade embargo by the U.S., and four-and-a-half years into the entry into force of the U.S.-Vietnam Bilateral Trade Agreement (BTA), U.S. participation in Vietnam’s economy is of growing significance. In 2005, total bilateral trade stood at nearly \$8 billion, up by 21% in 2004. Comparisons made on pre-BTA statistics (Year 2000) indicate that U.S. exports to Vietnam and Vietnamese exports to the U.S. for 2005 have increased more than six times.⁸ U.S. and U.S. related investment in the Vietnamese economy stands at approximately \$2.6 billion in committed capital and is growing.⁹ The U.S. is Vietnam’s number one trading partner.

Through the U.S.-Vietnam Bilateral Trade Agreement (BTA), U.S. companies, many of whom are members of this Coalition, have established strong partnerships with Vietnam, including strong public-private partnerships, often working with the extremely effective USAID and Fulbright programs to provide technical assistance on commercial and legal reform in the areas such as Customs, SPS, TBT, investment law, intellectual property rights, insurance, banking, securities, telecommunications. These partnerships which we have been honored to be a part of, have made Vietnam one of the countries in Asia in which the U.S. private sector is most involved and where the US Government has some of its most effective programs. Again, this is a great testimony to the benefits of the ongoing dialogue between our two nations.

While BTA implementation has not been without its challenges, Vietnam has undertaken serious efforts over the last four years to meet its commitments. Since 2001, Vietnam has issued an impressive amount of new legislation, and has made much effort to

⁸ Source: TradeStats Express™ - National Trade Data, CIA Factbook and CRS Report on US-VN Relations, March 2, 2006.

⁹ *The Impact of the U.S.-Vietnam BTA and its impact on overall and U.S. Foreign Direct Investment in Vietnam*, STAR Vietnam and Vietnam Foreign Investment Agency, National Political Publisher, December 2005

ensure that its laws are BTA and WTO compliant.¹⁰ For its WTO accession, Vietnam's National Assembly has passed more than 50 laws in the last two years alone to come into compliance with the various WTO agreements – all of which will have entered into force by this month (July 2006) – ahead of its accession.

Economic liberalization is, of course, not only strengthening market access for American companies but also benefiting the people of Vietnam. Vietnam's per capita income has nearly tripled since the 1990's, from less than \$250 to \$610 in 2005. Today, Vietnam's purchase power parity calculations puts per capita at over \$2,700. Over the last decade, UNCTAD estimates that Vietnam has reduced the percentage of families living below the official poverty level to less than 30%, from an initial rate of 70%. The number of people below the lower "food poverty line," has also declined from 25% to 15%, indicating that the very poorest segments of the population have experienced improvements in their living standards. These numbers are historic. The World Bank reports that the poverty rate has fallen by half in the past ten years, one of the sharpest declines of any country.

Economic reform through Vietnam's WTO accession will contribute to lifting Vietnam out of endemic poverty by increasing trade, investment, and through the Enterprise law the developing private sector and burgeoning SME sector in Vietnam. A greater share of the economy and labor force now operate in the non-state private sector. Furthermore, by promoting the rule of law in Vietnam, WTO accession will facilitate greater access to information and transparency for both domestic and foreign companies operating in Vietnam. These changes are viewed by its young and vibrant population of 85 million, over half of which is under 25, with much excitement and hopefulness for the future.

Overall, U.S. companies are optimistic about Vietnam's future and potential as well, and we look forward to continuing our relationships. We are confident that Vietnam is serious about its WTO commitments and will undertake implementation diligently. The United States should continue to be involved in this process. It is in our interest to see an economically healthy and internationally engaged Vietnam. It is a 2000 year old country with a bustling population and an optimistic future.

In closing, I stress again the importance of U.S. involvement in Vietnam's economic development. It is our engagement in developing a market-based economy for Vietnam and a whole range of other programs that make up a fully normalized relationship that will continue to contribute to Vietnam's increased openness, increased transparency in government, rising living standards, greater global integration, and political development. Our policy of normalization has also ensured that American goals are met and that American ideals are advanced. How far we have come with this former enemy proves that this policy has worked year after year.

Mr. Chairman, PNTR for Vietnam is another step in this journey and we urge you and your colleagues to vote in favor of extending PNTR to Vietnam as expeditiously as possible to meet the timeline of accession. Thank you.

¹⁰ To help track these efforts, the Trade Council's Education Forum has been publishing a monthly ***Catalog of Legal Updates***, which compiles summaries of new laws, decrees and regulation that address commercial law reform and with possible impact on BTA and WTO implementation. The *Catalog* is now more than 100 pages in length.