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Vietnam PNTR Status and WTO Accession: Issues and Implications for the United States

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Summary

On December 8, 2006, the House passed legislation (212-184) to grant Vietnam permanent normal trade relations (PNTR) status as part of a more comprehensive trade bill (H.R. 6406). Pursuant to H.Res. 1100, the bill was then coupled with a tax-extension bill (H.R. 6111) and sent to the Senate. The Senate passed the combined bills on December 8 (79-9). On December 20, 2006, President Bush signed the bill into law (P.L.109-432) and, per the law, proclaimed PNTR for Vietnam on December 29, 2006.

Congress considered PNTR in the context of Vietnam's accession to the World Trade Organization (WTO), which Vietnam joined in January 2007. Although Congress had no direct role in Vietnam's accession to the WTO, congressional approval was necessary for the President to extend PNTR to Vietnam. The WTO requires its members to extend *unconditional* most-favored-nation status (MFN), called PNTR in the United States, in order to receive the full benefits of WTO membership in their bilateral trade relations. Until PNTR was granted, the United States had extended *conditional* NTR treatment to Vietnam under Title IV of the Trade Act of 1974, as amended, which includes the so-called Jackson-Vanik amendment (section 402). Title IV prohibits the President from granting certain countries permanent NTR unless the country has met certain conditions.

Vietnam's entry into the WTO does not establish any new obligations on the part of the United States, only on the part of Vietnam. However, Vietnam's WTO accession requires the United States and Vietnam to adhere to WTO rules in their bilateral trade relations, including not imposing unilateral measures, such as quotas on textile imports, that have not been sanctioned by the WTO. Accession to the WTO affords Vietnam the protection of the multilateral system of rules in its trade relations with other WTO members, including the United States. It could help the United States in that Vietnam would be obligated to apply WTO rules in its trade. PNTR status from the United States provides Vietnam more predictability its growing trade relations with the United States and sheds a legacy of the cold war. For the United States, PNTR is another in a series of steps the United States has taken in trade and foreign policy to normalize relations with Vietnam and place distance between current relations and the Vietnam War.

During the congressional debate on PNTR, Members raised issues regarding the conditions for Vietnam's entry into the WTO, other issues pertaining to the U.S.-Vietnam economic relationship, and other aspects of the overall U.S.-Vietnam relationship.

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Status of Vietnam PNTR Legislation

On December 8, 2006, the House passed legislation (212-184) to grant Vietnam permanent normal trade relations (PNTR) status as part of a more comprehensive trade bill (H.R. 6406). Pursuant to H.Res. 1100, the bill was then coupled with a tax-extension bill (H.R. 6111) and sent to the Senate. The Senate passed the combined bills (79-9) on December 8. On December 20, 2006, President Bush signed the bill into law (P.L.109-432) and, per the law, proclaimed PNTR for Vietnam on December 29, 2006. The legislation also codified a provision of the U.S.-Vietnam bilateral agreement on Vietnam's accession to the World Trade Organization (WTO) authorizing the reimposition of quotas on imports of textiles or wearing apparel, if Vietnam subsidizes those industries in violation of WTO rules.

Introduction

On November 7, 2006, Vietnam completed the multilateral component of its WTO membership bid when the WTO General Council approved Vietnam's accession package, the core of which is a combination of all the bilateral agreements that Vietnam negotiated. On November 28, 2006, Vietnam's National Assembly ratified the deal. This move puts Vietnam on track to join the WTO on January 11, 2007.

The United States was a major player in Vietnam's accession process. On May 31, 2006, U.S. and Vietnamese negotiators signed an agreement on the conditions for Vietnam's accession (entry) into the World Trade Organization (WTO). The agreement was just one in a number of steps that Vietnam had to take to complete its quest to join the multilateral trade body.

Vietnam Country Data

Population: 83.5 million (July 2005 est.)
Median Age: 25.5 years (U.S. = 36.3 years)
Area: 329,560 km^2 (slightly larger than New Mexico)
Life Expectancy: 70.61 years (2005)
Per Capita GDP: \$3,000 (2005) purchasing power parity basis
Current Account Balance: - \$1.7 billion (2005)
Primary Export Partners: U.S. 20.2%, Japan 13.6%, China 9%, Australia 7% (2004)
Primary Import Partners: China 13.7%, Taiwan 11.3%, South Korea 10.8%, Japan 10.5%, Singapore 10.5% (2004)
Major Export Items: crude oil, clothing, footwear, marine products
Dong:Dollar Exchange Rate: 15,855 (2005), 15,746 (2004), 15,510 (2003), 15,280 (2002).

Source: CIA *World Factbook*, January 10, 2006.

However, the agreement with the United States was the *last* and, seemingly, the most difficult of the bilateral agreements that Vietnam had to negotiate with twenty-eight WTO members (including the European Union (EU) counting as one but representing twenty-five countries).

Congress' Role. The U.S. Congress has had no direct role in Vietnam's accession to the WTO. Congressional approval of the bilateral agreement was not required for it to go into effect. The agreement itself does not establish any new obligations on the part of the United States, only on the part of Vietnam. However, Vietnam's accession to the WTO will require the United States and Vietnam to adhere to WTO rules in their bilateral trade relations, including not imposing unilateral measures, such as quotas on textile imports, that have not been sanctioned by the WTO.

On the other hand, the Congress had an indirect role to play. As has been the case with U.S. trade relations with most of the other communist and former communist states, U.S. trade relations with Vietnam had been governed by Title IV of the Trade Act of 1974, as amended, which includes the so-called Jackson-Vanik amendment (section 402). Title IV prohibits the President from granting those countries most-favored-nation (MFN), called normal trade relations (NTR) in U.S. law, unless the country has met certain conditions. However, the WTO requires its members to extend *unconditional* MFN (permanent NTR (PNTR)) in order to receive the benefits of WTO membership in their bilateral trade relations. In order for the President to gain the authority to grant Vietnam unconditional MFN/ PNTR status, Congress needed to enact legislation removing Vietnam from Title IV coverage.

During the congressional debate on PNTR Members raised issues regarding the conditions for Vietnam's entry into the WTO and other issues pertaining to the U.S.-Vietnam economic relationship; in particular, the impact of increased imports from Vietnam on the U.S. textile and apparel industry. Members also raised issues pertaining to other aspects of the overall U.S.-Vietnam relationship, such as human rights in Vietnam.

Accession to the WTO is important to Vietnam. It affords Vietnam the protection of the multilateral system of rules in its trade relations with other WTO members, including the United States. Vietnam will also participate in the Doha Development Agenda (DDA) round of negotiations to expand the coverage of the WTO. (Those negotiations have been suspended since July 2006.) PNTR from the United States provides more predictability to Vietnam's growing trade relations with the United States and sheds a legacy of the cold war. For the United States, PNTR is another in a series of steps the United States has taken in trade and foreign policy to normalize relations with Vietnam and place distance between current relations and the Vietnam War. It also places the United States on par with Vietnam's other major trading partners, all of whom have granted Vietnam unconditional MFN status.

Vietnam's membership in the WTO requires it to conduct trade with the United States under a system of multilateral accepted rules. Vietnam's trading practices can be subject to challenges by the United States and other WTO members under the accepted dispute settlement mechanism.

This report provides a brief overview of the U.S.-Vietnam economic relationship, an examination of the WTO accession process and Vietnam's status, an overview of the Jackson-Vanik amendment and PNTR, and an analysis of the issues that were raised during congressional consideration of PNTR for Vietnam. This report will not be updated.

Overview of U.S.- Vietnam Economic Relations

U.S.-Vietnam diplomatic and economic relations remained essentially frozen for more than a decade after communist North Vietnam's victory over U.S.-backed South Vietnam in 1975. Relations took major steps forward in the mid-1990s, particularly in 1995, when the two sides re-established formal diplomatic relations. Since then, the normalization process has accelerated and bilateral ties have expanded, particularly on the economic side of the relationship. The most important step toward normalization since 1995 was the signing of a sweeping bilateral trade agreement (BTA), which was approved by Congress and signed by President Bush in 2001 (P.L. 107-052) Under the BTA, the United States and Vietnam extended mutual MFN (NTR) to one another, that went into effect on December 10, 2001. In return, Hanoi agreed to a range of trade liberalization measures and market-oriented reforms. The climate in trade relations between Hanoi and Washington has sobered considerably since the heady days after the BTA was signed, in part because of difficult bilateral negotiations over the terms of Vietnam's accession to the World Trade Organization (WTO) and anti-dumping duties the United States has leveled against imports of Vietnamese shrimp and catfish.

Implementation of the 2001 Bilateral Trade Agreement (BTA)

In general, since the BTA was signed in 2001, U.S. trade officials have praised Vietnam's implementation of the agreement. As discussed below, in retrospect, Vietnam's contentious and prolonged debate over whether to sign the BTA was watershed event that helped break the logjam that for years had stalled economic policymaking. The decision to sign the BTA appears to have fashioned a new consensus in favor of a new economic reformist push. In short order after signing the BTA, the government enacted a series of measures, including passing a new Enterprise Law, passing constitutional amendment giving legal status to the private sector, reducing red tape, creating unprecedented transparency rules for prior publication of new rules and regulations, and, for the first time, giving party members the green light to engage in private business. Adhering to the BTA's implementation deadlines and achieving the government's goal of joining the WTO have helped galvanize the Vietnamese bureaucracy toward enacting many of these and other steps.

Some U.S. industry officials have expressed concern that the government has not met deadlines to implement in law and/or in practice some of concessions, particularly in the services sector. Many of these critics, however, tend to accept the argument that the slippages often are due more to weak capacity than to protectionist intentions, and in 2005 Vietnam passed more than 20 laws and regulations that belatedly address some of these concerns. The belief that Hanoi generally is attempting to comply with its BTA obligations may explain why the Bush

Administration appears not to have criticized harshly Vietnam in areas where implementation has been delayed or incomplete, with the exception of intellectual property rights (see below).

Aggregate U.S.-Vietnam Trade

From 2001 to 2005, bilateral trade has more than quintupled from $1.4 billion to over $7.6 billion (see **Table 1**). Almost all of the increase in trade since the BTA went into effect has been from increased U.S. imports of mainly apparel products from Vietnam, which rose from just over $1 billion in 2001 to over $6.5 billion four years later. The United States is now Vietnam's largest export market, and according to one study**,** U.S. firms constitute the single-largest source of foreign direct investment (FDI) in Vietnam. U.S. FDI has increased by an average of 27 percent a year from 2002 through 2004, compared to just around 3 percent a year from 1996 to 2001.[1] Vietnam ranks 38th as a source of U.S. imports and 58th as a U.S. export market.

Table 1. U.S.-Vietnam Merchandise Trade
(millions of dollars)

	U.S. Imports from Vietnam	U.S. Exports to Vietnam	Total Trade		Trade Balance
			Volume	Change from prior yr.	
1994	50.5	172.2	222.7	—	121.7
2000	827.4	330.5	1,157.9	—	-496.9
2001	1,026.4	393.8	1,420.2	23%	-632.6
2002	2,391.7	551.9	2,943.6	107%	-1,839.8
2003	4,472.0	1,291.1[a]	5,763.1	96%	-3,180.9
2004	5,161.1	1,121.9[a]	6,283.0	9%	-4,039.2
2005	6,522.3	1,151.3	7,673.6	22%	-5,371.0
Jan - Oct. 2005	5,503.5	876.0	6,379.5	—	-4,627.5
Jan - Oct. 2006	7,224.6	891.3	8,115.9	27%	-6,333.3
Major Imports from Vietnam	clothing, footwear, wooden furniture, frozen shrimp, crude oil, cashew nuts, coffee				
Major Exports to Vietnam	aircraft, mining equipment, electronic machinery, steel wire, raw cotton, plastics				

Source: U.S. International Trade Commission. Data are for merchandise trade on a customs basis.

a. U.S. exports from 2003 include Vietnam Airlines' $700 million purchase of several Boeing 777s. U.S. aircraft exports to Vietnam were around $350 million in 2004 and 2005, and dropped to fewer than $5 million in the first eight months of 2006.

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[1] Vietnamese Ministry of Planning and Investment, *The Impact of the U.S.-Vietnam Bilateral Trade Agreement on Overall and U.S. Foreign Direct Investment in Vietnam*, (Hanoi: National Political Publisher, 2005). USAID provided funding and technical support for the development of the Vietnamese report. Economist Intelligence Unit, *Vietnam Country Report*, April 2006; USTR, *2006 National Trade Estimate Report on Foreign Trade Barriers*, March 31, 2006.

In comparison to imports from Vietnam, growth in U.S. exports to Vietnam has been modest, and since 2003 they have been concentrated mainly in aircraft. Indeed, U.S. exports to Vietnam have fallen since 2003, largely because shipments of aircraft and aircraft parts have decreased.

Trade in Apparel

Imports of clothing from Vietnam have been a major issue for U.S. apparel manufacturers before, during, and after the negotiations over Vietnam's WTO accession. Nearly half of the increase in U.S.-Vietnam trade since 2001 has come from a sharp rise in clothing imports from Vietnam, which totaled $2.7 billion in 2005. This contrasts with less than $50 million in 2000 and 2001. By dollar value, apparel (excluding footwear) now represents about 40% of total U.S. imports from Vietnam, which accounted for 4.3% of total U.S. clothing imports in 2005, compared with 0.1% in 2001 (before the 2001 BTA went into effect) and 1.4% in 2002. Increases in U.S. imports of Vietnamese apparel continued well into 2006.

Since 2001, Vietnam's apparel exports to the United States have increased more rapidly than U.S. clothing imports from China. The latter have grown faster after import quotas on textiles and apparel for WTO members expired on January 1, 2005; the continued rise in Vietnamese exports of apparel, however, suggests continuing competitiveness of Vietnamese-produced clothing. Although the dollar amount of its clothing exports to the United States is far less than that of China, Vietnam is the sixth largest exporter of apparel to the United States at about the same order of magnitude of such exporters as India, Indonesia, and Bangladesh, whose clothing exports to the United States also have been rising rapidly. Mexico's apparel exports to the United States, almost equal to those of China in 2001, actually have decreased since then; and apparel exports to the United States by Hong Kong, Honduras, the Dominican Republic, and the Philippines also have fallen or risen slowly (see **Appendix A**).

The growth in U.S. imports of Vietnamese apparel from 2001 to 2002 and in subsequent years has been fairly widespread among product groups, but with outer garments (rather than undergarments and T-shirts, for example) accounting for much of the totals. Thus, trousers, coats, jackets, and other lightweight outer garments accounted for more than half of Vietnamese exports of clothing to the United States in 2005 (see **Appendix B**). In contrast to textile and apparel trade with a number of other countries, the United States imports very small quantities of non-apparel textile end-products from Vietnam. Also, U.S. apparel exports to Vietnam are relatively minimal — equal to less than 1% of imports of apparel from Vietnam in 2004 and 2005 on a dollar basis.

The post-2001 surge in clothing imports from Vietnam followed the granting by the United States of conditional normal trade relations (NTR) status to Vietnam in December 2001 as per the July 2001 BTA. Such status greatly reduced U.S. tariffs on most imports from Vietnam and led to the very large increase in exports of apparel to the United States. Many Members of Congress had urged the Administration to negotiate a special bilateral textile agreement to address this threat. An April 2003 agreement between the United States and Vietnam maintains quotas on 38 categories of Vietnam's clothing exports with the quota-levels increasing annually.

Intellectual Property Rights (IPR)

Beginning in 2002, the Bush Administration has annually placed Vietnam on its "Special 301 watch list" for allegedly poor protection of intellectual property rights, particularly in the areas of music recordings and trademark protection.[2] The BTA required Vietnam to make its IPR regime WTO-consistent by the end of 2003. The United States Trade Representative's 2006 report on foreign trade barriers states that Vietnam has made "considerable progress" in establishing the legal framework for IPR protection, singling out the passage of a new intellectual property law in November 2005. Despite these efforts, the government's enforcement of IPR protection "remains extremely weak," according to the USTR report, which cites industry estimates that piracy rates for software, music, and videos run over 90 percent.[3] The International Intellectual Property Alliance (IIPA) estimated U.S. trade losses from Vietnam piracy at $42.8 million in 2005.[4]

U.S. Bilateral Economic Assistance to Vietnam[5]

As the U.S.-Vietnam normalization process has proceeded, the United States has eliminated most of the Cold War-era restrictions on U.S. aid to Vietnam, and U.S. assistance has increased markedly since around $1 million was provided when assistance was resumed in 1991. U.S. assistance reached an estimated $60 million in FY2005, about three times the level in FY2000. By far the largest component of the current U.S. bilateral aid program is health-related assistance — particularly spending on HIV/AIDS treatment and prevention — which amounted to nearly $40 million in FY2005. Vietnam is a "focus country" eligible to receive increased funding to combat HIV-AIDS under the President's Emergency Plan for AIDS Relief (PEPFAR).[6] In recent years, some Members of Congress have attempted to link increases in non-humanitarian aid to progress in Vietnam's human rights record. (See the "Human Rights" section below.)

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[2] "Special 301" refers to Section 182 of the Trade Act of 1974. Since the start of the Special 301 provision in 1989, the USTR has issued annually a three-tier list of countries judged to have inadequate regimes for IPR protection: (1) *priority foreign countries* are deemed to be the worst violators, and are subject to special investigations and possible trade sanctions; (2) *priority watch list countries* are considered to have major deficiencies in their IPR regime, which merit bilateral attention in these areas; and (3) *watch list countries*, which maintain IPR practices that are of particular concern, but do not yet warrant higher-level designations.

[3] USTR, *2006 National Trade Estimate Report on Foreign Trade Barriers*, March 31, 2006.

[4] [http://www.iipa.com]

[5] For more on U.S. aid to Vietnam, see CRS Report RL32636, *U.S. Assistance to Vietnam*.

[6] Vietnam qualified for the designation in part because of its demonstrated commitment to fighting the epidemic on its own and because of the competency of its medical institutions. Vietnam is estimated to have about 100,000 people living with the HIV-AIDS virus, a number that is projected to grow significantly.

The Jackson-Vanik Amendment and Vietnam's NTR Status

"Normal trade relations" (NTR), or "most-favored-nation" (MFN), trade status is used to denote nondiscriminatory treatment of a trading partner compared to that of other countries. In practice, duties on the imports from a country that has been granted NTR status are set at lower rates than those from countries that do not receive such treatment. Thus, imports from a non-NTR country can be at a large price disadvantage compared with imports from NTR-status countries.

The Jackson-Vanik Amendment

Section 401 of Title IV of the Trade Act of 1974 requires the President to continue to deny nondiscriminatory status to any country that was not receiving such treatment at the time of the law's enactment on January 3, 1975, but established a procedure (the Jackson-Vanik amendment) to restore MFN status. In effect this meant all communist countries, including Vietnam, except Poland and Yugoslavia.[7] Section 402 of Title IV, the so-called Jackson-Vanik amendment, denies the countries eligibility for NTR status as well as access to U.S. government financial facilities, such as the Export-Import Bank and the Overseas Private Investment Corporation (OPIC), as long as the country denies its citizens the right of freedom of emigration.

These restrictions can be removed if the President determines that the country is in *full compliance* with the freedom-of-emigration conditions set out under the Jackson-Vanik amendment. For a country to maintain that status, the President must reconfirm his determination of full compliance in semiannual reports (due by June 30 and December 31) to Congress. His determination can be overturned by the enactment of a joint resolution of disapproval concerning the December 31st report.

The Jackson-Vanik amendment also permits the President to waive full compliance with the freedom-of-emigration requirements if he determines that such a *waiver* would promote the objectives of the amendment, that is, encourage freedom of emigration. This waiver authority is subject to annual renewal by the President and to possible congressional disapproval via a joint resolution.

Before a country can receive NTR treatment under either the presidential determination of full compliance or the presidential waiver, it must have concluded *a bilateral agreement* that provides for, among other things, reciprocal extension of NTR or MFN treatment. The agreement and a presidential proclamation extending NTR status cannot go into effect unless a joint resolution approving the agreement is enacted. That legislation is to be given fast-track consideration as per provisions of Title IV of the Trade Act of 1974, as amended.

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[7] MFN status had been initially suspended for the Soviet Union all areas under the control of international communism (except Yugoslavia) since 1951, as required by the Trade Agreement Extension Act of 1951. MFN status for Poland was restored in 1960. This authority was superceded first by the Trade Expansion Act of 1962 and then Title IV of the Trade Act of 1974, as amended.

Vietnam's NTR Status

President Clinton first granted Vietnam a waiver of the Jackson-Vanik requirements in 1998. That waiver has been upheld since that time. From 1998 to 2002, resolutions disapproving the waivers failed in the House. Disapproval resolutions were not introduced in 2003, 2004, or 2005. The presidential waiver gave Vietnam access to Export-Import Bank credits and OPIC programs, but Vietnam was ineligible to receive NTR status until the United States and Vietnam entered into a bilateral agreement per the requirements under Title IV. In July 2000, the two countries signed a bilateral trade agreement (BTA). The agreement went into effect after the Congress and Vietnam's National Assembly approved it in 2001. The President signed it into law (P.L. 107-052) on October 16, 2001. On December 10, 2001, conditional NTR for Vietnam went into effect.

Of the countries that have been covered by the Jackson-Vanik amendment only Cuba and North Korea are not accorded U.S. NTR status at all. Besides Vietnam, Belarus and Turkmenistan are granted conditional NTR status under the President's *waiver* authority. Azerbaijan, Kazakhstan, Moldova, Russia, Tajikistan, and Uzbekistan are granted conditional NTR under the *full compliance* provision of the Jackson-Vanik amendment. All other communist and former communist countries have been granted PNTR. Ukraine was granted PNTR on March 23, 2006. President Bush proclaimed PNTR for Vietnam on December 29, 2006.

Implications of PNTR on the U.S.-Vietnam Relationship

PNTR for Vietnam does not have any direct impact on U.S.-Vietnam trade relations. Because Vietnam had conditional NTR, its imports had already been receiving non-discriminatory treatment; and therefore, U.S. importers of Vietnamese products were charged the lower, concessional (MFN) tariff rates.

PNTR does not affect Vietnam's status as a "nonmarket economy" as regards to U.S. antidumping laws. Vietnam had sought but failed to get U.S. removal of the "non-market economy" designation as part of the agreement on WTO accession.[8]

For Vietnam and for U.S. businesses that want to conduct business with and in Vietnam, PNTR provides a sense of predictability. No longer is Vietnam's trade status with the United States be subject to annual reviews and possible termination.

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[8] Because Vietnam would still be designated a "nonmarket economy," in U.S. antidumping duty (AD) cases against Vietnam, AD margins are used using a methodology that invariably leads to higher AD duties than is the case with market economies. The nonmarket/market economy status is determined by the International Trade Administration at the U.S. Department of Commerce after reviewing several criteria — the extent to which a country's currency is convertible, its wage rates are determined by free bargaining between management and labor, joint ventures or foreign investment are permitted, the government owns the means of production, and the government determines prices.

In addition to the practical commercial effects, PNTR has politically symbolic implications. It places U.S. relations on a higher plane. The Jackson-Vanik requirements are viewed by many of the countries that are subject to them as an outdated legacy of the Cold War when U.S. foreign policy was designed to limit Soviet influence, and trade policy was subservient to those foreign policy objectives. U.S. policy now is to expand relations with many of the those countries, and reflects the changing climate in U.S. relations with former Cold War adversaries.

The WTO Accession Process and Vietnam's Status

Vietnam applied to join the WTO on January 1, 1995. Vietnam is scheduled to officially join the WTO on January 11, 2007. The following sections provide an overview of the process that Vietnam went through in order to accede (join).

The Accession Process

The WTO's membership of 149 countries and customs areas spans all levels of economic development, from the least developed to the most highly developed economies. The WTO came into existence in January 1995 as a part of the agreements reached by the signatories to the General Agreement on Tariffs and Trade (GATT). The WTO's primary purpose is to administer the roughly 60 agreements and separate commitments made by its members as part of the GATT (for trade in goods), the General Agreement on Trade in Services (GATS — for trade in services), and the agreement on trade-related aspects of intellectual property rights (TRIPS).

The membership in the GATT/WTO has grown exponentially. The GATT was originally founded in 1947 by 23 countries, and the WTO now has 149 members, accounting for around 90% of world trade. Among the most recent entrants are China and Taiwan, which joined on December 11, 2001, and January 1, 2002, respectively, Armenia, which joined on February 5, 2003, the Former Yugoslav Republic of Macedonia, which joined on April 4, 2003, Cambodia and Nepal which joined in 2004. The most recent entrant is Saudi Arabia, which joined on December 11, 2005. Vietnam will join on January 11, 2007. Ukraine is also near completion of its accession process.

Membership in the WTO commits its members to fundamental principles in trade with other members, including:

- **Most-favored nation (MFN) treatment**: The imports of goods and services originating from one member country will be treated no less favorably than imports of goods and services from any other member country. MFN is to be unconditional. In practical terms, this means that in most cases a country cannot apply a higher import tariff to a good from one member country than it applies to like goods from any other member country.

- **National treatment**: Imports of goods and services are treated no less favorably than like goods and services produced domestically.

In practical terms this means that governments cannot discriminate against imports in the application of laws and regulations, such as regulations to protect consumer safety or the environment.

- **Transparency:** Government laws and regulations that affect foreign trade and investment are to be published and available for anyone to see. Procedures to implement the laws and regulations are to be open.

- **Lowering Trade Barriers Through Negotiations:** Since the GATT's creation, its members have conducted eight rounds of negotiations to lower trade barriers. At first these negotiations focused on lowering tariffs. Over time, the rounds have broadened GATT/WTO coverage to include nontariff barriers, such as discriminatory government procurement practices, discriminatory standards, and trade-distorting government subsidies. The last completed round, the Uruguay Round (1986-1994), resulted in the most ambitious expansion of rules to cover, for the first time, trade in agricultural products and services and government policies and practices pertaining to intellectual property rights protection and foreign investment regulations that affect trade. The current round, the Doha Development Agenda (DDA), was launched in November 2001.

- **Reliance on tariffs:** In order to promote predictability and openness in commerce, the WTO requires member countries to use tariffs and avoid using quotas or other nontariff measures when restricting imports for legitimate purposes, such as on injurious imports.

- **Dispute settlement:** As part of its function to administer the rules established under the agreements, the WTO provides a mechanism for the settlement of disputes between members where the dispute involves alleged violations of WTO agreements. Moreover, each member's trade regime is reviewed by the WTO Secretariat from time-to-time to ensure that it conforms to WTO rules.[9]

The collapse of the Soviet Union and its East European bloc and the movement of many developing countries toward liberal trade policies have spurred interest in joining the WTO. Article XII of the agreement that established the WTO sets out the requirements and procedures for countries to "accede": "Any state or customs territory having full autonomy in the conduct of its trade policies is eligible to accede to the WTO on terms agreed between it and WTO members."

The accession process begins with a letter from the applicant to the WTO requesting membership. The WTO General Council, the governing body of the WTO when the Ministerial Conference is not meeting, forms a multilateral Working Party (WP) to consider the application. Membership on the WP is open to any

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[9] Based on WTO background information located at [http://www.wto.org].

interested member-country. More than sixty member countries, including the United States, are part of the WP for Vietnam's accession.

The applicant submits a memorandum to the multilateral WP that describes in detail its current trade regime. The applicant and the WP then negotiate to determine what legislative and structural changes the applicant must make to meet WTO requirements and to establish the terms and conditions for entry of the applicant into the WTO. The WP's findings are then included in a "Report of the Working Party" and form the basis for drawing up the "Protocol of Accession."

While it negotiates with the WP, the applicant must also conduct bilateral negotiations with each interested WTO member. During these negotiations the WTO member indicates what concessions and commitments on trade in goods and services it wants the applicant to make in order to gain entry, and the applicant indicates what concessions and commitments it is *willing* to make until the two agree and set down the terms. The terms of the bilateral agreements are combined into one document which will apply on an MFN basis to all WTO members once the applicant has joined the WTO. The accession package is conveyed to the General Council or Ministerial Conference for approval.

Article XII does not establish a deadline for the process. The length of the process depends on a number of factors: how many legislative and structural changes an applicant must make in its trade regime in order to meet the demands of the WP; how quickly its national and sub- national legislatures can make those changes; and the demands on the applicant made by members in bilateral negotiations and the willingness of the applicant to accept those demands. The Vietnamese National Assembly has passed, or is committed to pass, laws in response to demands from WTO members. Because WTO accession is a political process as well as a legal process, its success depends on the political will of all sides — the WTO member countries and the applicant country. A formal vote is taken in the WTO that requires a 2/3 majority for accession, although in practice the WTO has sought to gain a consensus on each application. The process can take a long time: China's application took over 15 years.

Bilateral Agreement with the United States

Vietnam's bilateral agreement with the United States is not a free trade agreement, such as NAFTA or CAFTA. It establishes conditions for Vietnam's entry into the WTO but imposes no new conditions on the United States. For that reason it does not require congressional approval as with FTAs.

Vietnam's agreement with the United States was the last of the 28 bilateral agreements. Following is a summary of its contents.[10]

The most controversial issue, at least for the U.S. **textile and apparel** industry, is what reforms would Vietnam make regarding government subsidies for its textile

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[10] Office of the United States Trade Representative. *Trade Facts: Vietnam's Accession to the World Trade Organization (WTO).* May 31, 2006.

and apparel industry, and what protections would the U.S. industry be given against surges in U.S. textile and apparel imports from Vietnam.

The U.S.-Vietnam bilateral WTO accession agreement commits Vietnam to remove all WTO-prohibited trade government export subsidies for its textile and apparel industry by the time of accession. The agreement includes an enforcement mechanism that is in effect for the first 12 months after Vietnam's accession. Under this mechanism, if the United States or any other WTO member has reason to believe that Vietnam has not fulfilled this commitment, it could seek consultations with Vietnam. If the consultations do not resolve the issue, then the United States (or other WTO member) could seek the authority of a third party in the form of a neutral WTO arbitrator who would then determine whether Vietnam is in compliance. If the arbitrator determines that Vietnam is not in compliance, then the United States would be authorized to re-impose those quotas on textile and wearing apparel imports from Vietnam before Vietnam entered the WTO. Those quotas could be in force up to 12 months. If the arbitrator does not render a decision within 120 days of the filing of the complaint, then the United States would automatically be authorized to impose the quotas.[11]

Among other concessions regarding **manufactured goods**, according to the Office of the USTR, Vietnam will:

- accede to the WTO's Information Technology Agreement (ITA) upon accession, thus eliminating tariffs on information technology products, such as computers, cell phones, and modems;
- reduce tariffs on 80% of chemical products as required by the WTO Chemical Harmonization Agreement;
- eliminate tariffs or aircraft and engines within seven years of its WTO accession;
- lift the ban on large motorcycles (e.g. Harley Davidson models) and reduce tariffs on SUVs and on autoparts;
- eliminate tariffs on 91% of medical equipment products within five years of accession and eliminate tariffs on 96% of imports of scientific equipment within three years of accession;
- bind tariffs for about 90% of the tariff lines pertaining to agriculture and construction equipment at 5% or less and on all wood products at an average of 4%;
- lift restrictions on imports of commercially available goods that include encryption technology;

[11] These procedures are spelled out in Section 3 of H.R. 5602.

- reduce export duties on ferrous and other scrap metals by up to 51% of current duty levels within five to seven years of its accession; and

- require state-owned and controlled enterprises to a make purchases, that are not for government use, on commercial terms.

Regarding trade in agriculture products, Vietnam has committed to:

- reduce tariffs on about 3/4 of U.S. agricultural products (including beef, pork, dairy, fruits, nuts, processed foods, soybean products, cotton and hides and skins, and grains) to rates of 15% or lower from an average applied rate of 27%;

- adhere to the WTO agreement on sanitary and phytosanitary measures, meaning that its measures will have to be science-based upon accession;

- recognize the U.S. food safety inspection regimes for beef, poultry, and pork as equivalent to is own, thus eliminating the need for duplicative inspections; and

- permit imports of bone-in beef and beef offal after the signing of the agreement (even before accession to the WTO).

The bilateral agreement also includes commitments in services trade under which Vietnam has agreed to:

- allow foreign banks, as of April 1, 2007, to establish 100%-owned subsidiaries in Vietnam;

- permit foreign securities firms to establish joint ventures with up to 49% foreign ownership as of the date of accession and 100% foreign-owned subsidiaries five years after accession, and allow foreign securities firms to have branches in Vietnam for some securities activities;

- grant national (non-discriminatory) treatment to foreign financial firms in all financial services subsectors;

- allow upon accession foreign-owned insurance companies to operate 100% foreign-owned subsidiaries and permit, five years after accession, foreign insurance companies to open direct branches that sell non-life insurance;

- eliminate all restrictions on foreign insurance company sales of any line of insurance product one year after accession;

- extend national treatment to foreign insurance companies operating in Vietnam; and

- open its markets to foreign providers of telecommunications, energy, express delivery, transportation, business, distribution, environmental, and hotel and restaurant services.

During the bilateral negotiations, the two sides discussed Vietnam's restrictions on imports of printed media products, including Bibles. It is unclear whether the bilateral accession agreement deals with this issue and/or whether the issue will be discussed by the Working Party.

Vietnam's Accession Status

The bilateral agreement with the United States was only one of 28 bilateral accession agreements that Vietnam signed. The conditions that Vietnam has agreed to under all the bilateral agreements apply to Vietnam's trade with all other WTO members, including the United States. The provisions of the bilateral agreements were combined to become part of the protocol of accession for Vietnam.

In addition to the bilateral agreements, Vietnam had to complete the negotiations with the 63-member WTO working party. Intellectual property rights protection was a concern of the United States and some other working party members. Vietnam recently passed a new IPR law and the working party members are waiting to see the regulations on how the law will be implemented. A number of contentious issues arose during these negotiations. For example, Vietnam had insisted that it be granted a period of time within which its obligations under the WTO Agreement on Subsidies and Countervailing Measures (ASCM) are phased in rather than imposed immediately upon accession. Vietnam argued that as a developing country it was entitled to this special and differential treatment. The working party members resisted this demand.

Working party members also raised issue with the Vietnam government's policy of discriminating against companies in Vietnam that have foreign-ownership and domestically-owned enterprises in extending importing rights. Vietnam allows locally-owned firms to import products that are part of their product line and does not require them to obtain an import license. Foreign-owned firms can only import goods that are used as inputs in final production or that would be used in establishing an enterprise. Under the 2001 U.S.-Vietnam bilateral trade agreement (BTA), Vietnam granted U.S.-owned firms special trading rights not accorded to other foreign-owned firms. However, as a WTO member, Vietnam can no longer discriminate among WTO members nor between foreign and domestically-owned firms.

Some working party members also raised the issue of Vietnam's ban on certain types of printed matter that contain "culturally reactionary and superstitious material." They are concerned that the restriction might be used to prevent imports of Bibles.

Implications for the U.S.-Vietnam Trading Relationship

Vietnam's accession will likely mean changes in how the two countries conduct their trade relations. The two countries are now bound by WTO rules. In practice this will mean, for example, that the United States will not be able to impose unilateral restrictions on imports from Vietnam, such as quotas on apparel imports, unless they have been sanctioned by the WTO.

In addition, the two countries will be able to use the dispute settlement body to challenge one another's the trade practices, if they suspect those practices violate WTO rules. For example, Vietnam might challenge U.S. antidumping measures against Vietnamese imports or the U.S. might challenge Vietnam's trade-distorting subsidies.

Overall Significance of the Issues for Vietnam and the United States

Vietnam's accession to the WTO arguably has been the focal point for the general improvement and deepening of U.S.-Vietnam relations that has occurred over the past three to five years. This trend was symbolized in June 2005, when President Bush hosted Vietnamese Prime Minister Phan Van Khai at the White House — the first trip to the United States by a Vietnamese head of state — and the two spoke of their desire to move bilateral relations to "a higher plane." President Bush also publicly backed Vietnam's bid to join the WTO. A variety of economic, strategic, and historical factors have motivated the two countries to improve relations and obtain Vietnam's membership in the WTO.

U.S. Interests

Economically, PNTR and WTO accession for Vietnam obviously has much less significance for the United States than it does for Vietnam given the small share in U.S. trade (0.3%) that Vietnam occupies. Nevertheless, the twin issues can be considered as steps in fulfilling broader U.S. trade and foreign policy objectives. In the trade area, PNTR status for Vietnam is consistent with the policy of the Bush Administration and the Clinton Administration before it to normalize trade relations with former adversaries, most prominently China but also Cambodia, Laos, and the former communist states in Eastern Europe and the former Soviet Union. Vietnam's accession to the WTO could help the United States manage its trading relationship with Vietnam in that Vietnam would be obligated to WTO rules thus providing some discipline in the relationship.

In addition, the United States has been strengthening trade ties with East Asian countries with a free trade agreement with Singapore and free trade agreement negotiations with Thailand, South Korea, and Malaysia. The United States is also undertaking an initiative to strengthen economic ties with the members of the Association of Southeast Asian Nations (ASEAN), of which Vietnam is a member, as a counterweight to the growing influence of China.

As for Vietnam's intrinsic economic importance to the United States, it represents to certain U.S. export sectors a potentially large (80 million people) developing market. For most of the past twenty years, since *doi moi* (renovation) economic reforms were launched in 1986, Vietnam has been one of the world's fastest-growing economies, generally averaging around 7%-8% real annual gross domestic product (GDP) growth.[12] Additionally, Vietnam's relatively low wages and highly educated population appeal to some U.S. multinational corporations that see Vietnam as an important site for foreign direct investment (FDI), often as a way to avoid an over-reliance upon factories and suppliers in China. Nike, for instance, has an extensive presence in Vietnam. Vietnam is thought by some to be an attractive export and investment opportunity in a variety of sectors, including computer hardware and services, telecommunications equipment and services, and energy-related machinery and services.[13]

In addition to fulfilling some commercial objectives, U.S. PNTR and support for Vietnam's WTO accession Vietnam are seen by many as tools to meet certain foreign policy objectives. For example, they can serve important tools for the United States to expand cooperation with a country that has an ambivalent relationship with China. While the United States is not actively promoting the development of multiparty democracy in Vietnam, WTO membership is believed by many to be a important means to promote increased pluralism, accountability, and adherence to the "rule of law" in Vietnam's political system. PNTR also has symbolic significance as milestone in a series of steps to normalize relations with Vietnam and to place greater distance from the legacy of the Vietnam war that this and previous administrations have undertaken. Finally, in the near term, President Bush attended the Asia Pacific Economic Cooperation (APEC) summit in Hanoi in November 2006.

Vietnam's Interests

For Vietnam, it is believed that joining the WTO will have significant economic effects, despite the fact that Vietnam already enjoys NTR status with its major trading partners, including the United States. An important example is Vietnamese clothing industry, which is expected to experience a significant boost in exports when Vietnam joins the WTO.[14] In 2005, the apparel industry's contribution to Vietnam's total exports was about 15%. WTO entry is expected to give a boost to inward FDI, by further entrenching and expanding not only Vietnam's integration into the global economy but also its own domestic economic reforms. U.S. companies have been

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[12] By the mid-1980s, disastrous economic conditions led the country to adopt the *doi moi* economic reforms. Under *doi moi*, the government gave farmers greater control over what they produce, abandoned central state planning, cut subsidies to state enterprises, reformed the price system, and opened the country to foreign direct investment.

[13] U.S. and Foreign Commercial Service and U.S. State Department, *Doing Business In Vietnam: A Country Commercial Guide for U.S. Companies,* March 6, 2005.

[14] Economist Intelligence Unit, *Vietnam Country Report*, April 2006. January 1, 2005 saw the expiration of the global system of import quotas on textile and apparel products for WTO members. Until Vietnam joins the WTO, its clothing industry generally is considered to be at a disadvantage compared with its competitors that operate under quota-free trade in textiles and apparel.

major investors in Vietnam. Since 1988, U.S.-related FDI has been over $2.5 billion. From 2002-2004, U.S. companies invested more in Vietnam than firms from any other country.[15]

Additionally, joining the WTO fits Vietnam's broader economic strategy. Since the late 1980s, Vietnam has become increasingly dependent upon foreign trade in general, and in particular with the United States, which is now Vietnam's largest export market. (See **Table 2** and **Table 3**) In the 1990s and early 2000s, as Vietnam deepened its integration into the global economy and as global trade rules expanded, Vietnam was forced to commit to an "open market industrialization" strategy. By entering into a bilateral trade agreement (BTA) with the United States (a condition for obtaining conditional NTR from the United States), by pushing to join the WTO, and by participating in the ASEAN Free Trade Area (AFTA), Vietnam is attempting to achieve its goal of becoming an industrialized country by 2020 in effect without the benefits of protectionism and subsidization that the East Asian tigers employed in an earlier era.[16] A major presumed motivation for continued economic reforms is finding employment for the over 1 million new entrants to the labor force every year. Indeed, job creation is perhaps is the key to the vibrancy of the ruling Vietnamese Communist Party (VCP), as economic growth increasingly becomes its main source of legitimacy.

Table 2. Vietnam's Growing Dependency on Trade

	1991	1996	2001	2005
Export/GDP Ratio	24%	30%	46%	62%
Imports/GDP Ratio	25%	42%	44%	65%
Total Trade/GDP Ratio	49%	72%	90%	127%

Source: Derived from Economist Intelligence Unit Country Report, various years.

[15] Vietnamese Ministry of Planning and Investment, *The Impact of the U.S.-Vietnam Bilateral Trade Agreement on Overall and U.S. Foreign Direct Investment in Vietnam*, (Hanoi: National Political Publisher, 2005). USAID provided funding and technical support for the development of the Report. Economist Intelligence Unit, *Vietnam Country Report,* April 2006.

[16] Steve Parker, of the U.S.-Vietnam STAR Project, is the source for this insight during conversations held in October 2003 with Mark Manyin.

Table 3. Vietnam's Growing Dependency on Trade with the United States

	1996	2001	2004
Percentage of Vietnam's Total Exports Going to the U.S.	3.6%	7.2%	18.8%
Vietnam's Exports to U.S. as a Percentage of Vietnamese GDP	1.3%	3.3%	9.7%

Source: Derived from Economist Intelligence Unit Country Report, various years.

Entry into the WTO appears to have broad support in leadership circles in Vietnam, despite the economic hardship that is expected to come to Vietnamese state-owned enterprises and private firms facing reduced state subsidies and increased competition from abroad. Hanoi's decision to sign the BTA in 2000 appears to have been a cathartic moment for domestic debates about economic policy. Prior to the signing of the BTA, the reformist momentum was widely observed to have dissipated, in large measure due to perhaps the worst infighting and political deadlock Vietnam had experienced since reunification. The deadlock can be simplified as disagreements between reformers and conservatives over how far to continue the economic reforms and concomitant integration into the international community. Many conservatives feared that economic rationalization would increase unemployment, in particular by forcing the government to curtail subsidies to state-owned enterprises. Conservatives also felt that economic reform would affect Vietnam's sovereignty and undermine the "socialist foundations" of the country's economic and political systems and thereby erode the VCP's monopoly on power. Vietnam's consensus-based decision-making style, combined with the absence of any paramount leader, only exacerbated the effect of these divisions.

These arguments were brought to a head during the debate over whether to sign the BTA with the United States, a decision that took more than a year after an agreement in principle had been reached. The BTA broke the policymaking logjam a new political consensus emerged in favor of reform that new leaders endorsed at VCP's 9th Party Congress in 2001. In short order after signing the BTA, the government enacted a series of measures, including passing a new Enterprise Law to give a boost to privately-owned businesses, passing a constitutional amendment giving legal status to the private sector, reducing red tape, creating unprecedented transparency rules for prior publication of new rules and regulations, and for the first time giving party members the green light to engage in private business. In sum, many observers agree that for the foreseeable future, Vietnam has embraced deeper integration into the global economy as the key to the country's economic policy.

Issues Regarding PNTR for Vietnam

As the debate over PNTR for Vietnam and discussion of Vietnam's accession to the WTO proceeded, a number of issues were raised. Because PNTR and WTO accession are ostensibly about trade, some of the debate centered on trade-related issues. Probably the most controversial issue was Vietnam's exports of wearing apparel. But the debate also touched on non-trade, non-economic issues.

Imports of Vietnamese Apparel

The accession agreement contains no restrictions on Vietnamese clothing exports to the United States, but Vietnam agreed to terminate all funding under a major textile subsidy program upon the date of formal U.S. and Vietnam government approval. Textile and apparel quotas now applied to Vietnam will be removed upon accession; Vietnam has agreed to eliminate all of its WTO-prohibited textile/apparel subsidy programs by the date of accession; and textile and apparel quotas can be re-imposed for one year if Vietnam does not eliminate textile and apparel subsidy programs.

U.S. textile groups had pushed for either the extension of current import quotas on Vietnam's textile and apparel exports not subject to WTO disciplines, or the creation of a safeguard mechanism similar to the one included in China's accession agreement. Among the major elements of that agreement were (a) the United States (and other WTO members) retain the right to impose safeguard measures specifically applying to textiles and apparel through the end of 2008, allowing continuation of some quotas in cases where a surge in Chinese exports cause or threaten to cause market disruption to domestic producers, and (b) China will significantly lower its tariffs on a wide range of textile and apparel products, and not impose new nontariff barriers.[17]

The industry wanted the accession agreement to allow restraints to be imposed in the future in the event of a surge of imports of apparel from Vietnam, but with streamlined procedures that would promote quicker action. That safeguard would be lifted once Vietnam eliminated its export subsidies. U.S. officials reportedly have insisted that such an issue must be addressed in the multilateral working party negotiations, without making a specific commitment to do so, according to informed sources.[18] Under the industry's proposal the restrictions would stay in place until Vietnam eliminates its export subsidy programs.

It is unlikely, however, that future increases in Vietnamese exports of clothing to the United States would be as rapid as they have been recently. Because Vietnam has not been a WTO member, many observers believe that the expiration of import

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[17] To ensure that the WTO agreements would fully apply between the United States and China (once China joined the WTO), P.L. 106-286 was enacted (October 10, 2000) creating mechanisms to monitor China's compliance with WTO and other trade agreements, and authorizing the President to grant China permanent normal trade relations (PNTR) status after it joined the WTO. China officially joined the WTO on December 11, 2001, and the President extended PNTR status to China on December 27, 2001. P.L. 106-286 also requires the U.S. Trade Representative (USTR) to annually issue a report assessing China's compliance with its WTO trade obligations.

[18] "USTR Cool to Textile Industry Demands for Vietnam Safeguard," *Inside U.S. Trade*, May 5, 2006. "U.S., Vietnam Reach Bilateral WTO Agreement; Textile Groups Blast Pact," *International Trade Reporter*, May 18, 2006.

quotas on textile and apparel products for WTO members on January 1, 2005, put Vietnam's apparel industry at a disadvantage versus its competitors that have been operating under a quota-free regimen since that date.[19]

The U.S. textile and apparel industry is not satisfied and strongly opposes the bilateral agreement because, according to industry representatives, it will allow imports of subsidized Vietnamese textiles and apparel into the United States and unfairly compete with U.S. producers. Auggie Tantillo, the president of the American Manufacturing Trade Action Coalition said:

> The U.S. textile industry explicitly told the Administration that it would not support any agreement with Vietnam that did not include adequate safeguards because Vietnam has a non-market communist economy with a heavily subsidized state-owned textile industry just like China. There are no adequate safeguards in this deal. In its present form, we are left with no choice but to urge Congress to oppose this flawed agreement.[20]

USTR officials, when asked why the agreement does not include a safeguard mechanism similar to one included in the agreement with China, have responded that while textile and apparel imports from Vietnam are increasing, Vietnam is a much smaller producer and exporter of those products than is China and would not pose the competitive threat that China does. In addition, the officials stated that once Vietnam has entered the WTO, the United States would have available the dispute settle mechanism with which to resolve issues with Vietnam.[21]

Senator Elizabeth Dole (NC) and Senator Lindsey Graham (SC) placed temporary holds on S. 3495 that would allow Vietnam to receive PNTR. The Senators had concerns about the potential impact of Vietnamese imports on the U.S. textile industry. They lifted their holds on September 29, 2006, after the Bush Administration agreed to establish a mechanism to monitor imports of textiles from Vietnam and have the Commerce Department self-initiate antidumping investigations when warranted.[22]

In contrast to the criticism by U.S. apparel manufacturers, U.S. retailers and apparel importers supported the negotiations and approved of the accession agreement, seeing it as an opener to lower-priced merchandise, an enforcer of a more

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[19] Despite this disadvantage, however, the value of Vietnamese clothing exports to the United States increased from 2004 to 2005 by just over 6%, whereas imports of clothing into the United States from all countries increased by around 6.8%. (Percentages were computed using the Harmonized Tariff System codes 61, 62, 63, and 65)

[20] American Manufacturing Trade Action Coalition. Press Statement. *Bush Administration Reaches WTO Accession Agreement with Vietnam. U.S. Industry Will be Big Losers.* May 15, 2006.

[21] Office of the United States Trade Representative. *Conference Call on the U.S.-Vietnam Bilateral WTO Accession Agreement on Market Access on May 14, 2006.* Transcript released on May 15, 2006.

[22] "Dole, Graham Withdraw Holds on Vietnam Trade Bill," September 29, 2006 Press Release from the Offices of Senators Elizabeth Dole and Lindsey Graham.

level playing field, and a reducer of uncertainty. Thus, both the United States Association of Importers of Textiles and Apparel and the National Retail Federation issued press releases praising the agreement.[23] However, these and other groups of retailers have raised concerns regarding the Bush Administration's initiative to monitor apparel imports from Vietnam and self-initiate antidumping investigations. In an October 11 letter to Commerce Secretary Carlos Gutierrez and USTR Susan Schwab, the groups implied that they are prepared to withdraw their support if their concerns are not addressed.[24] Relatedly, in early November, Senators Dianne Feinstein (CA) and Gordon Smith (OR) reportedly sent a letter to U.S. Trade Representative Susan Schwab and Commerce Secretary Carlos Gutierrez raising their concerns about the Administration's move and asking for a response to the letter before the Senate votes on the PNTR bill. According to one source, retailers and importers wanted a commitment in writing that when considering whether to self-initiate an anti-dumping investigation, the Commerce Department only will consider the impact of Vietnamese imports on makers of apparel, and not makers of apparel inputs, and that the U.S. only will look at like and comparable products.[25]

Human Rights and Religious Freedom[26]

In recent years, Congress has devoted considerable attention to Vietnam's human rights record Vietnam is a one-party, authoritarian state ruled by the Vietnamese Communist Party (VCP). Since at least the late 1990s, the VCP appears to have followed a strategy of generally relaxing most restrictions on most forms of personal and religious expression while selectively repressing individuals and organizations that it deems a threat to the party's monopoly on political power. Vietnamese living in the country's urban areas generally enjoy wide and expanding latitude to exercise their civil, economic, and religious liberties. In contrast, conditions are more restrictive in more rural areas, particularly in the country's Central Highlands and northwestern regions. The government has cracked down harshly on anti-government protests by various ethnic minority groups, most prominently the Montagnards in the country's Central Highlands, where clashes between protestors and government security forces have flared periodically since 2001. Both areas are populated by ethnic minority groups, among which are many who belong to non-registered Protestant denominations.

Many observers have pointed to evidence of improvements in the general human rights situation in Vietnam in 2005 and 2006, even as conditions remain difficult for certain individuals, groups, and in certain regions. In the Central Highlands, there are signs that the level of government repression has diminished since April 2004, when thousands of protesting Montagnard tribal groups reportedly clashed violently

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[23] United States Association of Importers of Textiles and Apparel. "Importers Congratulate U.S. and Vietnam Negotiators on WTO Accession Agreement," May 15, 2006; National Retail Federation. "Retailers Welcome Trade Agreement With Vietnam," May 31, 2006..

[24] *Inside U.S. Trade.* October 13, 2006.

[25] "Bush Administration Seeks to Clear Hurdles for Vietnam PNTR Vote," *Inside US Trade* November 10, 2006.

[26] For more on these topics, see CRS Report RL33316, *U.S.-Vietnam Relations*.

with police and local authorities. The State Department's 2005 report on human rights in Vietnam, released in March 2006, describes the Vietnamese government's human rights record "unsatisfactory," an improvement over past reports, which had used the term "poor."[27] Also, as part of the regular U.S.-Vietnam human rights dialogue, Vietnam in 2006 has released a number of prominent dissidents the Bush Administration had identified as "prisoners of concern." Vietnam also reportedly told the United States in October that it would repeal its administrative decree allowing detention without trial, a longstanding U.S. goal.[28]

On the other hand, some Members of Congress have called attention to individual human rights cases involving Vietnamese-Americans detained during trips to Vietnam. The arrest of one Floridian, Thong Nguyen Foshee, was raised by Secretary of State Condoleezza Rice with her Vietnamese counterparts and reportedly has led Florida Senator Mel Martinez to place a "hold" on the Senate version of the PNTR bill (S. 3495).[29] Foshee and several other individuals, including two other Vietnamese Americans, were arrested in September 2005 while visiting family members in Vietnam on charges of plotting violence against the Vietnamese government. After U.S. concerns were raised, Vietnamese authorities announced that Foshee and the six other individuals would be brought to trial, ending their indefinite detention.[30] On November 10, Foshee and the others were tried, found guilty, and sentenced to 15 months in prison, with credit given for their time in detention before the trial. This put the seven defendants in a position to be released in December 2006. On November 12, however, Foshee's daughter reported that Vietnamese authorities had released and deported her mother for "humanitarian reasons."[31] The following day, Martinez lifted his hold. The other six defendants apparently remain imprisoned.

Religious Freedom. Although the freedom to *worship* generally exists in Vietnam, the government strictly regulates and monitors the activities of religious *organizations*, and periodically has increased restrictions on certain ones. Vietnamese law requires religious groups to join one of the officially-recognized religious organizations or denominations. According to many reports, the government uses this process to monitor and restrict the operations of religious organizations. Additionally, many groups either refuse to join one of the official religious orders or are denied permission to do so, meaning that these groups' activities technically are illegal.

In 2004, the State Department designated Vietnam for the first time a "country of particular concern" (CPC) — or a "severe violator of religious freedom" —

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[27] State Department, *2005 Country Report on Human Rights Practices for Vietnam.*

[28] P. Parameswaran, "Vietnam to Abolish Detention without Trial ahead of Bush Visit: Official," *Agence France Presse,* October 31, 2006.

[29] Glenn Kessler, "A Prisoner of Global Impact," *Washington Post,* October 27, 2006.

[30] Grant McCool, "Vietnam Charges 3 U.S. Citizens with 'Terrorism'," *Reuters,* November 2, 2006.

[31] Glenn Kessler, "Vietnam Frees U.S. Citizen Convicted of Terrorism," *Washington Post*, November 13, 2006.

principally because of reports of worsening harassment of certain groups of ethnic minority Protestants and Buddhists. To the surprise of many, the Vietnamese government responded by negotiating with the Bush Administration and adopting some internal changes. After months of talks, in the spring of 2005, the United States and Vietnam reached a controversial agreement on religious freedom, in which Hanoi agreed to take steps that were designed to improve conditions for people of faith, particularly in the Central Highlands. The agreement, which has not been released publicly, enabled Vietnam to avoid punitive consequences, such as sanctions, associated with its CPC designation. The agreement has been faulted by human rights groups on a number of grounds, including the charge that religious persecution continues in the Central Highlands. Vietnam was redesignated a CPC in the 2005 Religious Freedom Report.

On November 13, 2006, the State Department announced that because of "many positive steps" taken by the Vietnamese government since 2004, the country was no longer a "severe violator of religious freedom" and had been removed from the CPC list. The announcement, which came two days before President Bush was due to depart to Hanoi for the APEC summit, cited a dramatic decline in forced renunciations of faith, the release of religious prisoners, an expansion of freedom to organize by many religious groups, and the issuance of new laws, regulations, and stepped up enforcement mechanisms.[32] Some human rights group, including the U.S. Committee on International Religious Freedom, disputed the factual basis of the decision and criticized the move as premature.[33]

The Vietnam Human Rights Act. Some Members of Congress have attempted to link U.S. aid to the human rights situation in Vietnam. The most prominent example, the Vietnam Human Rights Act (H.R. 3190 in the 109th Congress), proposes capping existing non-humanitarian U.S. assistance programs to the Vietnamese government at FY2005 levels if the President does not certify that Vietnam is making "substantial progress" in human rights, including religious freedom.

Diplomatic and Military Issues

Prime Minister's Trip to the United States. Vietnam and the United States gradually have been expanding their political and security ties, though these have lagged far behind the economic aspect of the relationship. In the past four years, Vietnam's leadership appears to have decided to expand their country's political and security ties to the United States. During Vietnamese Prime Minister Phan Van Khai's visit to the United States in June 2005, he and President Bush spoke of their desire to move bilateral relations to "a higher plane," Bush backed Vietnam's bid to enter the WTO, and pledged to visit Vietnam when it hosts the 2006 Asia

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32 State Department Special Briefing, "Ambassador-at-Large for International Religious Freedom John V. Hanford III on the Release of the State Department's 2006 Designations of Countries of Particular Concern for Severe Violations of Religious Freedom," November 13, 2006.

33 "USCIRF Disappointed About Removal of Vietnam from U.S. Government's List of Religious Freedom Violators," USCIRF Press Release, November 13, 2006.

Pacific Economic Cooperation (APEC) summit. The two countries also signed an International Military Education Training (IMET) agreement and announced an agreement to resume U.S. adoptions of Vietnamese children, which Hanoi halted in 2002. Protesters, including many Vietnamese-Americans, appeared at every stop on Khai's trip.

Security and Military Ties. Since the late 1990s, U.S. officials have expressed an interest in expanding security and military ties. Vietnam generally was cool to the idea, reportedly for two reasons: certain Vietnamese officials were wary of antagonizing China and some in the Vietnamese Ministry of Defense were concerned about outside scrutiny of its officers for human rights abuses. Over the past two years, however, Hanoi has become more responsive to U.S. entreaties, as symbolized by the signing of an IMET agreement in 2005, under which two Vietnamese officers will attend in 2006 a U.S. air force language school in Texas for English classes. In June 2006, Secretary of Defense Donald Rumsfeld visited Vietnam and reportedly agreed with his Vietnamese counterpart to increase military-to-military cooperation and exchanges. According to Rumsfeld, the two sides discussed additional medical exchanges, an expansion of U.S. de-mining programs, and additional English language training for troops taking part in international peacekeeping missions.[34] According to one report, the Vietnamese inquired about acquiring certain U.S. military equipment and spare parts.[35]

POW/MIA Issues

Opposition to granting PNTR to Vietnam may also come from individuals and groups who argue that Vietnam has not done enough to account for U.S. Prisoners of War/Missing in Action (POW/MIA) from the Vietnam War. This argument has diminished markedly since the mid-1990s, when the United States and Vietnam began devoting increased resources to POW/MIA research and analysis. By 1998 a substantial permanent staff in Vietnam was deeply involved in frequent searches of aircraft crash sites and discussions with local Vietnamese witnesses throughout the country. The Vietnamese authorities also have allowed U.S. analysts access to numerous POW/MIA-related archives and records. The U.S. Defense Department has reciprocated by allowing Vietnamese officials access to U.S. records and maps to assist their search for Vietnamese MIAs. The increased efforts have led to substantial understanding about the fate of several hundred of the over 2,000 Americans still unaccounted for in Indochina. On September 21, 1998, U.S. Ambassador to Vietnam Peterson told the media that "it is very, very, very unlikely that you would expect to see any live Americans discovered in Vietnam, Cambodia, or Laos." Official U.S. policy, however, does not remove a name from the rolls of those unaccounted for unless remains are identified.[36] During Secretary of Defense

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[34] Office of the Assistant Secretary of Defense (Public Affairs), "Press Availability with Secretary Rumsfeld in Vietnam," June 5, 2006.

[35] Michael R. Gordon, "Rumsfeld, Visiting Vietnam, Seals Accord To Deepen Military Cooperation," *New York Times*, June 6, 2006.

[36] For more on the POW/MIA issue, see CRS Report RL33452, *POWs and MIAs: Status and*
(continued...)

Rumsfeld's June 2006 trip to Vietnam, the two countries discussed expanding their cooperation on recovering remains, including the possibility of using more advanced technology to locate, recover, and identify remains located under water.[37]

Legislation and Latest Developments

On June 13, 2006, companion bills — S. 3495 (Baucus) and H.R. 5602 (Ramstad) — authorizing permanent normal trade relations (PNTR) for Vietnam were introduced in the Senate and the House. On November 13, 2006, under suspension of the rules, the House voted 228-161 (Roll no. 519) in favor of H.R. 5602 but short of the two-thirds vote necessary for passage.[38] On December 7, 2006, Rep. Bill Thomas introduced H.R. 6406 that combined Vietnam PNTR authorization with other trade measures, including: reauthorization of the Generalized System of Preferences (GSP) program; reauthorization of the Andean Trade Preferences (ATPA) program; reauthorization of textile-related provisions of the African Growth and Opportunities Act (AGOA); authorization of trade preferences for Haiti, and a temporary suspension of duties on 500 products. On December 8, 2006, the House passed H.R. 6406 (212-184). Pursuant to H.Res. 1100, the bill was then coupled with a tax-extension bill (H.R. 6111) and sent to the Senate. On December 9 (legislative day December 8) the Senate passed the combined bills (79-9). On December 20, 2006, President Bush signed the bill into law (P.L.109-432) and, per the law, on December 29, 2006, proclaimed PNTR for Vietnam.

In the meantime, on November 7, 2006, Vietnam completed the multilateral component of its WTO membership bid when the WTO General Council approved Vietnam's accession package, the core of which is a combination of all the bilateral agreements that Vietnam negotiated. On November 28, 2006, Vietnam's National Assembly ratified the deal. Vietnam is scheduled to officially join the WTO on January 11, 2007.

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[36] (...continued)
Accounting Issues, by Charles A. Henning.

[37] Office of the Assistant Secretary of Defense (Public Affairs), "Press Availability with Secretary Rumsfeld in Vietnam," June 5, 2006.

[38] Rachel Van Dongen, "Delay for Vietnam Bill in House Signals More Trouble for Bush's Trade Agenda," *CQ Today*, November 14, 2006; Martin Vaughan, "House GOP Leaders Look To Revisit Vietnam Vote On Wed.," *Congress Daily PM*, November 14, 2006.

Appendix A. U.S. Imports of Apparel, Top 10 Countries of Origin

(millions of dollars)

Country	1997	2001	2002	2003	2004	2005
China	7,279	8,597	9,250	10,997	13,106	19,298
Mexico	5,317	8,112	7,718	7,178	6,930	6,307
Hong Kong	4,021	4,278	3,924	3,755	3,915	3,550
India	1,505	1,941	2,063	2,170	2,368	3,158
Indonesia	1,656	2,284	2,103	2,173	2,407	2,874
Vietnam	26	48	896	2,375	2,565	2,731
Honduras	1,689	2,438	2,503	2,569	2,745	2,686
Bangladesh	1,442	2,101	1,887	1,849	1,978	2,373
Dominican Republic	2,234	2,285	2,176	2,134	2,063	1,852
Philippines	1,617	1,914	1,834	1,864	1,807	1,847

Source: U.S. International Trade Commission and U.S. Department of Commerce.

Note: Data are for merchandise trade on a customs value basis, using the North American Industrial Classification System. Countries are listed in order of 2005 ranking.

Appendix B. U.S. Imports from Vietnam of Selected Apparel Items

(millions of dollars, except where indicated)

Product Group	1997	2001	2002	2003	2004	2005	2006: Increase from 2005 First Nine Months
Jerseys, pullovers, cardigans, waistcoats, and similar articles, knitted or crocheted	[a]	8	195	508	454	440	27%
Women's or girls' trousers, bib and brace overalls, breeches, and shorts of woven textile fabrics	1	4	109	347	282	352	31%
Men's or boys' trousers, bib and brace overalls, breeches, and shorts of woven textile fabrics	[a]	1	87	294	188	210	45%
Men's or boys' overcoats, carcoats, capes, anoraks (incl. ski jackets), etc. (except suit-type jackets and blazers) of woven fabrics	[a]	[a]	61	141	224	178	6%
Men's or boys' shirts of woven textile materials	7	11	39	98	132	146	6%
Women's or girls' overcoats, carcoats, capes, anoraks (incl. ski jackets), etc. (except suit-type jackets) of woven textile fabrics	[a]	[a]	48	97	167	133	-2%
Men's or boys' shirts of knitted or crocheted textile fabrics	2	7	45	112	122	116	13%
Women's or girls' suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts of knit textile fabrics	1	1	58	112	93	107	49%
Garments of felt and other nonwoven fabrics or of other textile fabrics coated or impregnated with plastics, rubber, etc.	[a]	[a]	23	33	100	104	29%
Women's or girls' blouses, shirts, and shirt blouses of knitted or crocheted textile fabrics	2	4	26	81	88	88	32%

Source: U.S. International Trade Commission and U.S. Department of Commerce.
Note: Product categories are based upon the Standard Industrial Trade Classification.
a. Less than $500,000.