



**EuroCham Position Paper
Vietnam Business Forum: June 2, 2008**

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Honorable Ministers, Ambassadors, Your Excellencies, Ladies and Gentlemen,

On behalf of EuroCham and its affiliated European Business Groups, I would like to thank the Ministry of Planning and Investment and all the authorities represented here today for facilitating this ongoing constructive dialogue with the private sector through the Vietnam Business Forum.

The success of the reforms brought about by the Government of Vietnam are clearly illustrated by the nation's rapid integration into the world economy, consistently high levels of growth, tumbling poverty levels, and Vietnam's continuing rise in regional and international affairs.

Recent months have also seen a range of changes to the legislative environment which we feel can only have a positive effect on business. In particular, we would like to congratulate the Government on the removal of the single distributor requirement formerly included under Circular 9, bringing the nation in line with its WTO requirements and avoiding a potentially stifling effect on importers. We also applaud the Government on the removal of the 3% cap on expatriate employees, a long-awaited step which we feel will aid considerably the further development of both domestic and foreign enterprise.

While the European business community is undoubtedly optimistic about Vietnam's medium-to-long-term prospects, EuroCham shares the Government of Vietnam's concerns about current international and domestic economic trends, in particular inflation and its potential impact on investment and growth. In the open spirit of this dialogue, therefore, we would like to share some of our thoughts on the key issues facing the nation as we speak.

We praise the Government's commitment to curbing inflation, stabilizing the domestic economy and ensuring the nation's continued sustainable development through market-friendly policies geared towards removing hindrances to production, attracting investment, and accelerating exports.

However, we would like to emphasize that as monetary issues are largely at the root of the current inflation problem we feel the Government's focus should remain on monetary policy to resolve this issue domestically.

While Vietnam has certainly been more affected than some other developing countries in recent times, inflation is a global problem and we believe that Vietnam should be wary of the temptation to reintroduce trade barriers in response to these issues, as further controls in this area are likely only to create further distortions in the system. It is important to remember that Vietnam has developed so quickly in the last decade largely due to trade reform, and we are

strongly of the opinion that any re-introduction of restrictions in this area is likely to have a negative impact on growth.

Rather, we would advise the Government to accelerate the structural changes within the economy so as to enhance productivity and maximize the nation's retention of its growth potential.

While we support the Government's efforts to combat inflation by reducing liquidity in the system, including the discussion of a 30% credit cap, we feel it vital that Vietnam ensures its exporters are not negatively affected by these monetary measures. Exporters must continue to have access to adequate credit at an appropriate price if the trade deficit is to be maintained at acceptable levels, and we encourage the State Bank to institute an appropriate scheme to ensure this remains possible.

SOEs and the Equitization process

Given the current need to enhance productivity and efficiency throughout the economy, we would like to underline the potential of the ongoing equitization process in this regard. The equitization of large SOEs has an important role to play in the strengthening of the economy as a whole, as well as in the introduction and promulgation of international best practice in crucial areas such as corporate governance.

It has been suggested that the present stock market situation may serve to slow this process, however we advise the Government to look to the long term and seek to avoid further delays here where possible. EuroCham recommends that the Government seek, rather, to accelerate the equitization process and announce a clear roadmap and timetable to potential strategic partners who will be able to consider the long term potential of these companies over simply their short-term speculative value. We feel this is of particular importance in the banking and telecommunications sectors, for example, where a number of leading international players are interested in participating in the equitization process.

Additionally, in a time when it is more important than ever to allocate government capital wisely, we have some concerns regarding the policy of building up Vietnam's so-called 'National Champions' and the potential negative effect of this on competition. Experience in other countries has shown state-owned capital to be very important, but it can only contribute to a healthy economy when it does not crowd out the private sector. This is particularly important to note in reference to the trend of diversification amongst these companies, many of which continue to have significant proportions of their capital allocated outside their core sectors.

Core assets: Human Resources and Infrastructure

An increasingly tight labour market and infrastructure bottlenecks are key issues which have been both symptomatic of and contributors to the overheating domestic economy.

The concerns of the international business community regarding human resources and training have been much discussed in previous Forums and continue to be amongst the leading issues for the private sector in Vietnam today.

The continuing difficulty being faced by enterprises in their efforts to attract and retain skilled professional staff, especially at the managerial level, remains one of the primary concerns of

our members and has become a key factor affecting the ability of both foreign and domestic businesses operating in Vietnam to maintain their competitive edge in a global market.

We applaud the Government for its efforts in this area, in particular the recent approval of plans for European-invested universities in Vietnam, and encourage further liberalization to help subvert the potential negative effect of a human resources shortage on the country's attraction as a destination for foreign investment and ensure the Vietnam of tomorrow will be rich in the innovation and dynamism it requires to develop into a true regional leader.

Further concern regarding labour issues is warranted by the recent illegal strike action at a number of foreign owned manufacturing plants and factories. The manufacturing sector is of vital importance to the further economic development of Vietnam and is the prime investment target of foreign investment. The sector creates added value, contributes manufacturing skills, export proceeds, makes available the transfer of skills and know-how and enhances the image of Vietnam and Vietnamese products abroad.

EuroCham is concerned by the increasing number of reports from manufacturers facing strikes held without following the procedures stipulated in the Revised Labor Code.

We are aware that most of the recent strikes have been organized by workers demanding higher pay to cope with rising inflation, and while EuroCham recognizes the workers' legitimate right to go on strike and shares their concerns regarding inflation, we request the central and provincial authorities to take prompt action to ensure the procedures set forth by the Labor Code are understood and respected.

As regards infrastructure, we feel the slow pace of progress on many projects is serving as an impediment to both growth and productivity, with the ongoing development of the nation's transport and power networks emerging as issues of particular concern.

While we recognize the priority that must be given to the Government's battle against inflation, we feel it important to emphasize that this should not serve to distract from these and other key issues.

We encourage the Government to involve the private sector to help accelerate the infrastructure project program and speed completion of those key projects underway and pending.

With container shipping demand already challenging terminal capacity, the state of the nation's ports has emerged as an issue of the utmost importance and one which risks having a severely limiting effect on future investment if not addressed comprehensively and as a matter of urgency.

In relation to the power sector, the rolling power cuts experienced around the nation over the last year serve to underline the ongoing development needed in this area if Vietnam is to meet the demands posed by its rapid and continuing growth.

Currency alternatives: the euro

In the current context of global economic uncertainty, we would like to raise awareness of the need for alternatives to the dollar in tenders and other transactions.

Recent research shows the euro share of global foreign exchange reserves recorded by currency rose from 18% at the start of 1999 to around 25% by the end of 2003, it has remained

steady since then, and it is predicted the euro's share of global foreign exchange reserves should rise to 30-40% by 2010.

Four factors are likely to be key in this – the recent weakness of the US dollar, changes in exchange rate regimes (e.g. change from a dollar peg to a basket of currencies with the euro as a core element, as has been implemented successfully elsewhere in the region), the central banks' growing investment requirements, and an increasing focus on returns. The prospect of a further rise in the euro exchange rate should bolster the role of the euro as a reserve currency in the next one or two years and we would suggest that international and Vietnamese companies can use the euro as an alternative currency for bids in Vietnam.

Taxation

With respect to taxation legislation, EuroCham welcomes many of the improvements contained in the current tax reform package for 2009. However, with many of our members shouldering effective tax burdens of up to 50% or more, we believe that further improvement is both possible and necessary in order to further stimulate economic activity.

Here, we fully endorse the paper prepared by the tax sub-group of the Manufacturing & Distribution Working Group of the VBF. In the area of IT, this includes the proposal to consider a lower EIT rate of 20% instead of the 25% rate currently proposed, the full removal of the advertising and promotional spending cap, a practical solution for the deductibility of employee bonuses and other benefits, a clearer definition of “scientific and technological development” for S&T Development Funds, a broadened definition of tax incentives for investment expansion, and the need for a regulatory framework for private pension schemes. Regarding Personal Income Tax, this concerns clear compliance guidelines with regard to taxation of income from securities, offshore income, interest deductibility and employee share schemes.

While we support the Government's changes to the VAT regime recently made under Circular 30, we also share the view of the M&D Working Group on the practicality issues surrounding VAT on free promotional goods (specifically the need to issue zero-value VAT invoices) and exported services as well as input VAT claims on low-value items.

We believe that consistent and clear measures taken by the Government to lower the nominal but more importantly effective tax rates for all companies operating in Vietnam will send an important message to the business community and help to keep the country on a strong growth path.

Our members in the shipping sector are also particularly concerned about the current double taxation burden being imposed upon them through the freight tax regime.

The Ministry of Finance assesses 3% freight tax of which only 1% can be exempted against documentation as per details in the relevant double tax agreement between Vietnam and foreign countries. The legal basis of freight tax is (according to Circular 16/1999/TT/BTC) corporate income tax. As such, our interpretation is that in the spirit of the double tax agreement all 3% should be exempted. We consider it a direct tax which is already paid for in our members home bases – a stance in which we are supported by a range of legal professionals.

A number of representations have been made on this issue, including through this forum, but we have not seen any progress in this important area to date.



Additionally, in the Wine and Spirits sector our members continue to eagerly await information on the Government's import tariff reduction schedule in the years to 2013 and plan for the implementation of a linear system of taxation (Special Consumption Tax) on products 20 degrees proof and above by 2010 in line with the nation's WTO commitments.

Towards an EU-ASEAN FTA

Looking ahead, we are very pleased by the prospect of the EU-ASEAN FTA currently under negotiation, an initiative which stands to offer significant gains to Vietnam and its ASEAN partners.

An FTA between the EU and ASEAN would signify a reduction and/or elimination of more than 90% of tariffs in the goods area and would bring benefits to both sides, with studies suggesting that by 2020 the gains to ASEAN members from such an agreement will reach some 2% of GDP.

An FTA would also provide the stable framework and legal certainty necessary for EU investors and traders to continue their operations in Vietnam in the long term.

As the coordinator designated and agreed by the ASEAN Member States, Vietnam has a key role and a key opportunity to lead the negotiations on this FTA.

EuroCham is working closely with the Delegation of the European Commission to Vietnam on this and would like to pledge its full support to the Government of Vietnam in order to assist both parties to reach a timely and comprehensive agreement to the benefit of all stakeholders.

WTO implementation

Vietnam has taken great strides since joining the WTO, but there remain areas of concern, with delays in relation to the implementation of certain key commitments threatening to negatively affect many of our members.

Uncertainty as to the timeline for the opening of particular sectors are causing significant difficulties for would-be market entrants in a number of industries and we would like to respectfully suggest that such delays are detrimental to both Vietnam's economy and the nation's further sustainable development.

A key example is the lack of clarity for implementation of the WTO commitment to allow fully foreign-owned pharmaceutical companies to import and market their products in Vietnam. While Vietnam has committed to allowing pharmaceutical companies to establish a fully foreign owned legal presence by January 1st, 2009, at present there is no clarity for the roadmap to achieve this and our members in the international Research and Development-based Pharmaceutical Industry are therefore seriously concerned that a significant delay in implementation of this commitment may become a reality.

Delays have also been seen in the granting of approval for foreign banks to establish 100% foreign-owned subsidiaries as scheduled by April 1st, 2007 under Vietnam's WTO accession agreement. While we are very pleased that H.E. Prime Minister Nguyen Tan Dung formally announced the decision of the Government to grant such licenses to two European banks during his official visit to London in March this year, we would now like to urge the State Bank of Vietnam to fulfill this commitment in a timely fashion and in doing so send an important message to other potential investors.



Further clarification is also needed on the implementation of certain commitments, particularly in the area of retail services and distribution. A particular concern of our members in this area is the scope of Decree 101 and the status of the 30% cap on the acquisition of shares or participation in the capital of domestic enterprises.

We support the further discussion of these matters at the Working Group level of this forum and remain fully at the disposal of the Government of Vietnam should it wish to consult on any of these issues.

To conclude, we would like to offer our ongoing support to the Government of Vietnam in its efforts to pilot the nation through the sometimes turbulent waters of its international economic integration. All of the issues we have noted here today can be resolved given time and dedication, and we dedicate ourselves to providing any assistance we can to aid in their resolution.

We look forward to working with the Government of Vietnam and all our members and partners, both Vietnamese and European, to maximize their success in an ever more vibrant Vietnam.

I thank you for your time.