



**EuroCham Position Paper
Vietnam Business Forum: December 1, 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.

Recent months have seen truly extraordinary events both in Vietnam and around the world as the global financial crisis has shaken both developed and developing economies to their core. While Vietnam has not emerged entirely unscathed, the nation's relatively low levels of exposure to the global financial markets, along with the policies put in place following Vietnam's own crisis earlier this year, mean the effects of the global downturn are likely to be less severe here than elsewhere.

Foreign investors' confidence in Vietnam has been underlined throughout 2008, with strong portfolio investment inflows and FDI hitting record levels with disbursed funding of close to US\$10 billion. Inflation has shown significant declines in recent months, underlining the successful fiscal and monetary policy imposed in the second quarter of the year. The trade deficit has slowed its growth and foreign currency reserves are strong, all encouraging factors in terms of Vietnam's ability to maintain both growth and stability in the face of significant concerns elsewhere in the world.

But with export slowdowns expected due to the impact of the global crisis on the nation's key markets, falling prices for key commodities, and local market sentiment still fragile, we cannot pretend there is not the possibility of hard times ahead and it is crucial that the Government act to mitigate any further negative effects of the crisis on the domestic economy.

We support the Government's downward revision of its growth targets, and tightening of policy to constrain inflation – these have been vital to maintain and enhance macroeconomic stability. However, with likely falls in exports, FDI inflows, and remittances, it is now key that the Government work to control the trade deficit, and thus the current account deficit, in order to hold and build on investor confidence and avoid the potential of a crisis of 'predicted deficits' as was seen in early 2008.

To help ensure the trade deficit is maintained at acceptable levels, Vietnamese enterprises must receive the assistance they need to remain competitive in a climate of reduced global demand for consumer products. Exporters must continue to have access to adequate credit at an appropriate price, and we encourage the State Bank to institute an appropriate scheme to ensure this remains possible.

In a general sense, we feel the correct course for the Government in the present climate is to accelerate the structural changes within the economy so as to enhance productivity and maximize the nation's retention of its growth potential. Now is the time for Vietnam to concentrate on building on its strengths in order to ensure the nation can take advantage of its relative stability and emerge in a positive position as the world economy recovers.

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We believe now is a time when Vietnam should be seeking to develop in a ‘preventative’ manner – when the nation should be working to provide additional incentives to foreign investors to help counterbalance the potential for the annulment of existing FDI commitments (or at the least, a slowing in expected disbursement rates) in a global climate of reduced liquidity. Accelerated liberalization, in particular through the negotiation and implementation of Free Trade Agreements with the EU and other partners, would help to assure the open trade and regulatory environment necessary for international investors and traders to enhance their operations in Vietnam.

SOEs and the Equitization process

While we understand the protective instincts that the current global economic situation is bringing to the fore in many quarters, we warn against the temptation to give in to this by slowing the equitization process in Vietnam. 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.

WTO implementation

We advise also against the temptation to delay any further the full implementation of Vietnam’s WTO commitments. While there may be a temptation to seek to protect local enterprises from competition at a time of potential vulnerability, it is only through the full and timely implementation of the nation’s WTO accession agreement that Vietnam can show to the world that it is truly ‘open for business’ and is a safe and reliable destination for investment even in these turbulent times.

In particular, we note the importance of ensuring the full and timely implementation of Decision 10 so as to open the distribution sector to foreign service providers from January 1, 2009 in a manner consistent with both the letter and spirit of the nation’s WTO commitments. With its young, upwardly mobile population, Vietnam offers an attractive market for foreign retailers, many of whom are willing to make substantial investments in the country given the appropriate opportunity.

The Government would also be able to send a strong signal through speeding the process of implementing the licenses which have been granted to foreign banks to establish 100% foreign-owned subsidiaries under Decree 22. Not only are the delays that have occurred in relation to this costly to the banks involved, but a full and speedy implementation of these commitments would do much to reassure foreign investors as regards the strength and stability of the nation’s banking sector.

As regards the nation’s commitments to enhance protection of Intellectual Property Rights, we welcome the adoption of the Inter-Circular providing guidelines for the criminal prosecution against acts of infringement of Intellectual Property Rights. However, certain aspects of the Circular remain to be clarified and we encourage the Government to adopt a pro-IPR stance on these ambiguous provisions so as to help assure a sound business environment and protect the interests of companies and consumers alike.

In addition to allocating increased resources to IPR agencies and enhancing coordination between relevant authorities to enhance IPR protection, we would also be strongly in favour of the formation of a government-business partnership on anti-counterfeiting to improve regulation and awareness in this area, as well as to aid in the transfer of international best practice from more experienced jurisdictions, and EuroCham would welcome the opportunity to play an active role in such a partnership.

Infrastructure

With the slow pace of progress on many infrastructure projects serving as an impediment to both growth and productivity, and the ongoing development of the nation's transport and power networks emerging as issues of particular concern, the current climate and falling input prices also provide an opportunity to remedy this situation and 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 remains 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. Again we encourage the Government to work with the private sector to address this need, as well as to maximize the efficiency of throughput at existing facilities

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. With demand growing by 15% annually and a projected financing gap of more than US\$35 billion in the years 2010-2025 under the Sixth Power Master Plan, it is vital that the Government work to improve the legislative and regulatory framework in this area to attract foreign investors.

Energy efficiency and environmental sustainability

We also see opportunities in the present climate for the Government to increase its focus on sustainable energy use, and in particular electrical efficiency. With power demand significantly outpacing production and Vietnam one of the countries most at threat from global warming, enhanced electrical efficiency stands to bring both important short and long-term benefits to Vietnam. Along with adjustments in electricity pricing policy, and the expansion of the market for energy service companies, we highly recommend the creation of an Energy Efficiency Board in charge of promoting specific action plans and standards (i.e. green building standards) on this vital topic.

Further, in view of the many recent industrial pollution cases, we strongly recommend the Government institute new regulations on industrial sites so as to guarantee environmental protection standards through the strict specification of minimum equipment standards. European regulations provide an excellent example in this regard and EuroCham and its members would welcome the opportunity to aid in the transfer of best practice in this area from the EU to Vietnam.

Taxation

With respect to taxation, 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.

In particular we note the competitive risk associated with the new PIT regulations, which, despite the favourable reductions in tax rates, will result in the total employment costs for expatriate employees rising for many companies due to the newly taxable status of many formerly non-taxable benefits-in-kind, such as housing, schooling, relocation costs, etc. These new regulations compare unfavourably against those in neighbouring regional hubs and risk motivating a foreign ‘brain drain’ as companies choose to base their senior management elsewhere in the region so as to avoid added PIT liability in Vietnam.

Also of concern is the scope for deductibility of advertising and promotional (A&P) expenses under the new Corporate Income Tax Law to come into effect from January 1, 2009. While we welcome the increase in the cap on deductible expenditure from 10% to 15% of total expenses, the new regulations still fall short of the expectations of the wider business community. A&P expenses are fully deductible in the vast majority of jurisdictions, and so this lack of material progress towards the eventual full abolition of the A&P tax cap only serves to reduce Vietnam’s attraction as an investment destination for leading international brands.

Development assistance

Finally, a few words on the barriers hindering continuing development assistance to Vietnam. It is our understanding that a range of difficulties are being met by EU Governments seeking to provide development assistance to Vietnam through budget support (i.e. by providing funds to the Government of Vietnam, which will be transferred to programs through the Government’s own systems).

In particular these include inconsistent guidelines within Vietnamese line ministries and regional authorities on the application of legal requirements, the existence of parallel project management units and other structures within Government authorities of different levels (often applying different rules and systems), and slow and limited reporting structures which make it difficult for donors to comply with the reporting requirements of their own assemblies.

We encourage the Government of Vietnam to work with its European partners to resolve these and related issues to ensure this valuable assistance can continue to benefit the people of Vietnam.

The above are just a few of the key issues of concern to our members. We welcome any comment on the suggestions contained here and are happy to provide further advice or expertise to aid in the consideration or implementation of the changes proposed here.

EuroCham and its members have a firm belief in the great potential of Vietnam, both as a regional leader and as destination for European investment and we are happy to contribute in any way we can to help the nation consolidate and build on its successes. 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.