



**EuroCham Position Paper**  
**Vietnam Business Forum: December 4, 2007**

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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 Vietnamese 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 successful WTO accession, consistent levels of high economic growth, tumbling poverty levels, and Vietnam's continuing rise in regional and international affairs.

In particular we are pleased to note the strengthening ties, both political and economic, between Vietnam and the 27 Member States of the European Union – a fact underlined by last week's historic visit to Vietnam by President Jose Manuel Barroso .

EuroCham congratulates the Government on its successes, and pledges its continued support as the nation continues in its ambitious agenda of growth and reform in the months and years ahead.

However, while the Government's commitment to the ongoing development of the business environment has been praiseworthy and its achievements significant, there remain a number of areas of concern to EuroCham members which we believe are worthy of discussion in this forum:

**Human Resources, Education and Training:**

Human Resources, education and training continue to be leading issues for all businesses in Vietnam. The increasing difficulty being faced by enterprises across the private sector in their efforts to attract and retained skilled professional staff, especially at the managerial level, remains one of the primary concerns of our members. This difficulty, coupled with rising wage expectations, 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 and risks having a negative effect on the country's attraction as a destination for foreign investment.

In such a climate the imposition of additional costs on employers can only have a negative effect on growth and in this light we note that the recent addition of a 1% Trade Union Contribution is an added burden to investors which risks having a negative impact on employment.

We have in the past recommended the lifting of restrictions on the establishment of foreign-invested educational establishments and the positive encouragement of reputable training providers to establish a presence in Vietnam and we reiterate these recommendations here today. Educational reform is vital to the nation's future, and now is the time to ensure the Vietnam of tomorrow will be rich in the innovation and dynamism that only world-class education and training can provide.

On a positive note we would like applaud the Government for its intended removal of the 3% cap on foreign employees, a step which will help many enterprises to better meet their human resource requirements in the current climate.

**WTO compliance:**

While I think I speak for all our members when I express EuroCham's approval of the speed and spirit with which Vietnam has begun to meet its WTO commitments over the past 11 months, there remain certain areas of vital concern.

Protection of intellectual property rights is crucial not only to international businesses, but to Vietnam's own creative industries. In particular, we urge the Government of Vietnam to accelerate the enactment of a circular penalising piracy on a commercial scale in line with its WTO commitments and in doing so to set an example for its partners in ASEAN and elsewhere in the region.

EuroCham is also greatly concerned about the apparent WTO conflict represented by the restriction of importers to a single distributor per category of product under Decree 23's Implementing Circular 09, an issue I know will be addressed in some detail by the Manufacturing and Distribution Group later today.

In general, we feel it important to note that while there is awareness of Vietnam's WTO commitments at a central level, there remains a need for further education on the changes underway at lower levels. One strategy to address this need would be the establishment of a central organisation dedicated to the study and promulgation of WTO-compliant policy and EuroCham would be glad to assist the Government of Vietnam in this objective were it deemed appropriate.

A final and particular concern of EuroCham's in relation to the implementation of the nation's WTO commitments is the ongoing delay by the State Bank of Vietnam in processing the applications submitted for the establishment of 100% foreign-owned banks in Vietnam. The nation's WTO accession package included the commitment to open the sector to 100% foreign-owned banks from April 2007 and we would like to see this commitment adhered to fully and in the shortest time possible.

**Taxation:**

A perennial concern of both businesspeople and non-businesspeople alike, it should be no surprise that taxation is amongst the key concerns of EuroCham members.

A leading issue which has been brought to our attention is the imposition of VAT on promotional goods under Circular 32, a tax burden which is both illogical and damaging to business.

The MOF's recent revocation of Official Letter 1766 abolishing the tax deduction on certain categories of marketing and advertising expenses for 2007 and beyond has also been a cause

of some instability and confusion in the business community. This decision appears to contradict all indications given previously by the Government, including in this Forum. EuroCham and its members would appreciate some clarification from the Government on this particular issue.

Also of concern is the reduction in the period for submission of refund applications for taxation on raw materials. The reduction from a 60- to a 45-day deadline is almost impossible for many businesses to meet and is forcing enterprises to push for early settlement of contracts with international partners in an attempt to meet the Government's requirements.

Additionally, our members eagerly await information on the Government's Wine and Spirits 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.

### **Infrastructure:**

Infrastructure continues to be an issue of primary importance to investors, with the ongoing development of the nation's transport and power networks emerging as issues of particular concern.

With container shipping demand expected to exceed terminal capacity this year, 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 this 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.

Unfortunately, potential shifts in power regulations threaten the future of some foreign-invested power projects and thus the health of the investment environment as a whole. In particular, the Electricity Law's Article 23.5 is of concern, bestowing electricity purchasers with the right to require producers to adjust their prices and thus casting doubt on the ongoing economic feasibility of investment in the sector.

As regards the telecoms sector, foreign investors are very much interested in participating in the equitisation process announced by the Government as part of its WTO commitments, and would appreciate some clarity on the Government's roadmap for this process and the conditions to be offered to foreign operators willing to become strategic partners.

### **FTA negotiations**

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

The leading role accorded Vietnam in this process says much about the healthy state of Vietnam-EU relations and the esteem in which Vietnam is held as one of the European Union's leading partners in the region.

EuroCham would like to pledge its full support to the Government of Vietnam in this area and looks forward to assisting both parties to reach a comprehensive agreement to the benefit of all stakeholders.



In order to best enable such an agreement to be reached, EuroCham would be pleased to see the Government of Vietnam take the lead in putting certain pressing points on the FTA agenda.

Firstly, we would like to see Vietnam commit to international best practice in the area of Government Procurement Principles, with the implementation of transparent tender and bidding processes in accord with international standards.

We would also like to see the implementation of capital markets standards for portfolio investment in Vietnam (namely investment in the nation's fledgling stock exchange) with the enactment of legislation to battle insider trading.

Finally, we would like to see a commitment in the EU-ASEAN FTA to the principle of mediation in disputes between all domestic and foreign investment partners through the international system (using the International Centre for the Settlement of Investment Disputes) rather than under local jurisdiction as at present, making investment in Vietnam both faster to implement and more feasible for the many would-be investors who are discouraged by the present system.

As regards the pace of negotiations and the level of ambition of such an agreement, we believe an EU-ASEAN FTA should be rapidly concluded, while at the same time being comprehensive. Importantly, if the agreement is to have the maximum benefit for all stakeholders, commitments should not be based on the lowest common denominator. We encourage Vietnam to show leadership in this process and consider any mechanism that would allow each ASEAN member to undertake obligations commensurate to their level of development even if such commitments are not identical.

### **Banking and Finance:**

While we leave in-depth discussion of the bulk of issues related to Banking to the VBF Banking Working Group, there is one issue we would like to emphasise in relation to this sector.

The State Bank of Vietnam has asked all banks to operate the Vietnam dong/US dollar exchange rate within a band which it sets daily. However, the only way to make that band effective is for the State Bank to either be a buyer or a seller of US dollars at both ends of the band, which it currently does not do. As a result the market finds its own levels which are outside the band, thereby making it irrelevant.

EuroCham would like to suggest that the State Bank consider either widening the band to 1% or ensures that it becomes a buyer and seller of US dollars to banks within the range indicated by the market.

### **Pharmaceuticals:**

Finally, a few words on the Pharmaceutical sector. Vietnam's WTO accession schedule, coupled with the Commercial and Investment laws, create significant market access barriers for the multinational pharmaceutical industry. Foreign companies are only permitted to operate as representative offices and must engage a Vietnamese company to import, distribute or market their products. As a result, companies are not able to conduct information dissemination activities and control the quality of information presented to physicians, which can limit physicians' ability to provide the most appropriate medical care for their patients.



There are a number of regulatory requirements for innovative medicines that are not aligned with scientific, evidence-based standards and international practice. The most significant concern is the requirement that multinational companies conduct local clinical trials prior to registration of medicines. The duplication of clinical trials already conducted outside of Vietnam places an excessive burden on multinational pharmaceutical companies and delays physician and patient access to innovative medicines.

EuroCham and its members in the research-based pharmaceutical industry would welcome the opportunity to work with the Government of Vietnam to address these issues and ensure that government policies improve access to life-saving innovative medicines for the benefit of Vietnamese patients.

To conclude, with the economic relationship between Vietnam and the 27 Member States of the European Union becoming ever more promising, 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.

These are exciting times for all of us, and we look forward to working with 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.