

Statement of Virginia B. Foote, President, U.S.-Vietnam Trade Council

Testimony Before the

Senate Foreign Relations Committee

Subcommittee on East Asia and Pacific Affairs

February 12, 2004

Senator Brownback and Committee Members, I am pleased to be here today representing the U.S.-Vietnam Trade Council to testify before your Committee to review "Trade and Human Rights: The Future of U.S.-Vietnamese Relations."

The U.S.- Vietnam Trade Council, founded in 1989, is a trade association with strong membership from the American business community and offices in Washington D.C., and Vietnam. We have worked through the Council and our Education Forum, to help improve relations between the United States and Vietnam with educational exchange programs, annual conferences, Congressional delegations, and programs designed to provide technical assistance on international trade norms and standards. We are working to develop a new trade law curriculum for the law schools in Vietnam. During the NTR process, we chaired a coalition of over 270 associations and companies who support trade relations with Vietnam and we now play a key role in assisting WTO accession. I hope my full testimony can be submitted for the hearing record.

Today, I would like to discuss the importance of continuing to engage Vietnam on all issues that face our broadening and deepening bilateral relationship. With the war further and further behind us, we now have a new and successful beginning for our two nations.

The U.S. and Vietnam are engaged on a whole range of issues new to the post-war relationship, economic relations being among the most important. The U.S. and Vietnam have mostly normalized trade relations with a comprehensive Bilateral Trade Agreement (BTA) and NTR status that began in December 2001 and continued work on Vietnam's accession to the WTO.

Ten years after the lifting of the post-war embargo by the U.S., and with the BTA just having had its second anniversary, U.S. participation in Vietnam's economy is of growing significance. As of September 2003, total year-to-date bilateral trade stood at nearly \$5 billion. Comparisons made on pre-BTA statistics (Year 2001 and YTD 2003) indicate that U.S. exports to Vietnam and Vietnamese exports to the U.S. for 2003 will have close to tripled.¹ U.S. investment in the Vietnamese economy stands at approximately \$1.44 billion in committed capital and is growing.

The Reagan, Bush, Clinton and Bush administrations have all followed a policy of both economic and political normalization with Vietnam through a step-by-step process. As our timeline shows, this process has proceeded successfully, albeit slowly, through four administrations. Overall it has led to the lifting of the trade embargo in 1994, the establishment of diplomatic relations in 1995, and the exchange of ambassadors in 1997. Economic normalization includes the initial waiver of the Jackson-Vanik amendment in 1998, and granting NTR status in 2001. An aviation agreement, a textile agreement, a counter-narcotics agreement and many high level visits, were some of the steps forward taken in 2003. Our military to military relations made history last year with the visit of the

¹ 2001: U.S. Exports to Vietnam = USD\$460,892,072; Vietnam Exports to U.S. = USD\$1,052,626,287
2002: U.S. Exports to Vietnam = USD\$580,154,302; Vietnam Exports to U.S. = USD\$2,394,745,628.
2003 YTD: U.S. Exports to Vietnam = USD\$1,162,584,666; Vietnam total exports to U.S. = USD\$3,621,737,436.

Vietnamese Minister of Defense to the Pentagon, a U.S. naval ship visit to Vietnam, Vietnam pledged both cash and in kind donations to our post-war efforts in Iraq, and our CINCPAC Commander Admiral Thomas Fargo is in Vietnam now. On the economic side, WTO accession and PNTR lie ahead.

Throughout the process of normalization, Vietnam has greatly enhanced its efforts on issues of high priority to the U.S. including MIA efforts, emigration goals, and economic integration. Vietnam and the U.S. have also developed important bilateral dialogue on regional issues, human rights and labor standards.

Remarkably, every year we have seen economic, political and diplomatic progress.

The entry into force of the BTA was a key step to further progress in normalizing relations as it is the most comprehensive trade agreement Vietnam has ever signed, and the most comprehensive NTR trade agreement the U.S. has ever negotiated. In exchange for sweeping commitments from Vietnam including providing greater market access for trade in goods and services, protecting intellectual property rights, improvements in the investment regime, and far greater transparency, the U.S. granted Vietnam normal trade tariffs – moving Vietnam from column two to column one in the U.S. tariff code. Equally important, the Vietnamese government has committed to important reforms in the areas of trading rights, transparency, customs, investment, services, and intellectual property rights. Approval of the trade agreement ensured that exports from U.S. companies receive treatment in Vietnam no less favorable than products of foreign competitors. While the negotiations between the U.S. and Vietnam were long and difficult, it was the discussions between and among the Vietnamese that were probably the most important. The result is that the BTA is an important blueprint or roadmap for Vietnam to follow while tackling some of the more difficult issues of economic reform which lie ahead. It is a roadmap of economic reform commitments that will help guide them into WTO.

Last week, the Trade Council released a 70 plus page two-year progress report on the BTA and issues faced by U.S. companies in Vietnam. You can see from this report, *The U.S.-Vietnam Bilateral Trade Agreement: A Survey of U.S. Companies on Implementation Issues*, that while challenges remain in implementation, Vietnam has undertaken serious efforts to meet their commitments and has met with tremendous success. Vietnam has issued an impressive amount of new legislation, and much effort has been made to ensure that these are BTA and WTO compliant. To help track these efforts, the Trade Council's Education Forum has been publishing a monthly *Catalog of Legal Updates*, which compiles summaries of new laws, decrees and regulation that address commercial law reform and with possible impact on BTA implementation. As of the end of 2003, Vietnam has established a new customs valuation regime based on transaction pricing, issued legislation for border enforcement of intellectual property rights, expanded the scope of foreign legal practice in Vietnam, and instituted new mechanisms to introduce more transparency into its system. Efforts are currently being undertaken to strengthen the capacity and authority of its judicial system in order to further encourage the rule of law. Overall, U.S. companies remain optimistic about Vietnam's future and potential, and look forward to continuing their business relationships – the tripling of trade and the growth in investment in such a short period of time bodes well.

The structure of Vietnam's economy as a whole is also undergoing rapid change. The Enterprise Law, which came into effect in January 2000, marked a turning point in Vietnam's efforts to revitalize the domestic private sector. Ho Chi Minh City alone has 37,000 private small and medium sized enterprises (SMEs) registered under the new Enterprise Law, and 45,000 enterprises have been registered country wide. The number of enterprises founded in the six months after the law went into effect equaled the total number of enterprises founded in the previous nine years.

Foreign Direct Investment continues to grow as well. New reforms in licensing procedures were partially responsible for an upsurge in foreign investment last year. Latest figures show that the foreign invested sector and the private sector now represents 60% of Vietnam's economy.

These changes are not only strengthening market access for American companies in Vietnam, they are also greatly benefiting the people of Vietnam. Per capita has nearly doubled since the late 1990's, from less than \$250 in the late 1990's to \$440 in 2003. Vietnam was removed from the U.N. Conference on Trade and Development (UNCTAD) list of least developed countries last year. Their purchase power parity calculation puts per capita at over \$2,000. Over the last decade, UNCTAD estimates that Vietnam has reduced the percentage of families living below the official poverty level to less than 30%, from an initial rate of 70%. The number of people below the much lower "food poverty line," has also declined from 25 % to 15 %, indicating that the very poorest segments of the population have experienced improvements in their living standards. The World Bank also reports that the poverty rate has fallen by half in the past ten years, one of the sharpest declines of any country.

The BTA contributes to lifting Vietnam out of endemic poverty by increasing trade, investment, and development in Vietnam, as well as promoting market reforms, including greatly expanded trading rights. Furthermore, by expanding trade and extending the rule of law in Vietnam, the BTA encourages access to information and greater transparency for domestic enterprises as well. Vietnam has great potential for development as a significant trading partner worldwide. Over half the 80 million population is under the age of 25 and the literacy rate is over 90%. The work ethic, entrepreneurial talent, and emphasis on education is strong. The economic continues to grow at an impressive rate year after year, last year's accomplishment of 7% growth is expected to be repeated in 2004.

To assist with implementing this very important Agreement, U.S. government programs provide tremendously affective technical assistance to help implementation of the Bilateral Trade Agreement. Through a grant from the U.S. Agency for International Development (USAID) and the added support and participation of our member companies, the Trade Council's Education Forum has been involved in this program helping to provide technical assistance on commercial and legal reform to Vietnamese ministries, government agencies, and businesses with portfolios covering issues raised by the BTA and the WTO. AID has additional extremely valuable programs on commercial law reform and business development that contribute greatly to overall understanding.

The United States should continue to be involved in this process. It is in our interest to see an economically healthy and internationally engaged Vietnam. American involvement in the process of economic reform is most welcome in Vietnam and will be extremely important to overall development in the long run. American companies set high standards for trade, investment, labor and business practices. American technology is greatly admired in Vietnam. American companies are actively involved in training and technical assistance programs in Vietnam, through the Trade Council and individually. American products are popular. U.S. government programs are effective. Our business community, particularly with the extensive involvement of the Vietnamese-American businesses, continues to play a key role in the normalization of economic relations and BTA implementation, and look forward to WTO accession.

Vietnam has made solid progress on the political reforms as well. Following the initial "road map" for diplomatic and economic normalization laid out under the Bush Administration in April 1991, the bilateral relationship on many fronts has made a great deal of progress and been strongly supported on a bipartisan basis by Congress. With Congressional veterans such as Senators John McCain and John Kerry leading the way, a broad based group of Senators and Congressmen have supported the step by step process of normalization. In 1998 the first waiver of the Jackson-Vanik Amendment was issued, which Congress upheld by a vote of 260 in favor and 163 opposed. The initial Jackson-Vanik waiver in 1998 allowed trade support programs, such as loans from the Overseas Private Investment Corp

(OPIC), the Export-Import Bank (EXIM) and other credits for American business to establish operations in Vietnam. In December 1999, EXIM and the State Bank of Vietnam completed the framework agreements, which allowed EXIM to begin operations in Vietnam. Congress renewed the waiver in 1999 by a vote of 297 in favor and 130 opposed. In 2000 the margin increased positively again to 332 in favor and only 91 opposed. The 2001 vote was 324-91 in favor of renewing the waiver: the 2002 vote was 338-91.

U.S. policy pegged the Jackson-Vanik waiver to progress on the Resettlement Opportunity for Vietnamese Returnees (ROVR) program specifically and immigration in general. Although it was extremely difficult to reach agreement initially, the implementation of the ROVR program has been fairly smooth. The State Department reports that the government of Vietnam has cleared all but a handful of the nearly 20,000 ROVR cases. The Orderly Departure Program overall has also been successful. Approximately half a million Vietnamese have come to the United States under ODP and only a small number of ODP cases remain to be processed. Since the initial waiver of the Jackson-Vanik amendment, the Vietnamese have allowed all remaining ODP cases – including the Montagnard cases which are of particular concern to the U.S. – to be processed under the new and more responsive system developed initially just for ROVR cases.

In addition, the U.S. and Vietnam are jointly pursuing answers on the 1429 missing in Vietnam, of the 1875 missing in Southeast Asia. Since the end of the war, 708 Americans have been accounted for, including 492 in Vietnam. Additionally, the Department of Defense has confirmed the fate of all but 35 of 196 individuals in the “last known alive” discrepancy cases. The U.S. has maintained a permanent staff to visit crash sites and interview witnesses throughout the country since 1993, with teams of experts going to Vietnam monthly. The U.S. and Vietnam have provided reciprocal access to information on MIAs from the war and have conducted 75 Joint Field Activities on missing cases since 1988. President Bush most recently certified Vietnam issuing a determination that Vietnam “is fully cooperating in good faith with the United States.” While borne out of controversy, suspicion, and anguish, it has become a model program, greatly supported by veterans and families, and an excellent example of the benefits of engagement.

In November 2000, President Clinton became the first U.S. President to visit Vietnam since the end of the war. During the President’s trip ten new business partnerships were announced and our two countries concluded numerous bilateral agreements. One of these was an Agreement on Scientific and Technological Cooperation to facilitate cooperation between American and Vietnamese scientists in areas such as health, technological innovation and entrepreneurship, disaster mitigation and marine and water resource management. Increased cooperation in the prevention and treatment of infectious diseases, including typhoid fever and HIV/AIDS, will strengthen Vietnam's ability to meet critical health challenges. Environmental projects operate through the U.S. Asia Environmental Partnership and cooperation grows on Agent Orange research. The Vietnam Education Foundation was established. The Fulbright program was strengthened.

To look at labor issues, the U.S. and Vietnam also signed a Memorandum of Understanding on Labor in November 2000. The MOU has resulted in an annual dialogue on labor rights and includes a \$3 million technical assistance program working with the ILO to strengthening labor protection, skills training, employment services, social insurance and safety nets, employment of the disabled, industrial relations and child labor. The child labor provisions focus on street children and child trafficking. Workplace education and prevention programs on HIV/AIDS are also included in the MOU. These projects are ongoing and in 2003 Vietnam passed several new amendments to the Labor Code. The use of collective bargaining also grew in 2003, with an estimated 60% use in foreign owned enterprises and 40% and growing in private companies.

The Labor Code incorporating standards of internationally recognized worker rights and ILO conventions. The Labor Code stipulates a number of workers’ basic rights including: freedom to choose employer (Article 30), standard work week (Article 68), overtime limits and pay (Article 61),

leave, holidays, and rest (Article 71, 73, 74 & 78), minimum wage, bonuses (Article 64), maternity leave (Article 114 & 144), severance entitlements (Article 17 & 42), workplace safety (Article 97 & 100), etc. In recent years, the Government of Vietnam has sent labor experts to the U.S., the UK, Singapore, New Zealand, South Korea, and Hong Kong in its efforts to update the Code.

In April 2002, Vietnam's National Assembly passed the Law on Amendment of and Addition to a Number of Articles of the Labor Code. The Assembly made changes and revisions to 56 articles of the Labor Code, updating and amending existing law and clarifying points, which had been unclear in the previous regulations. In a major shift, foreign enterprises were allowed to directly recruit and hire staff without going through employment agencies and middlemen. The new code also clarifies regulations on wage and salary scales, which had been the subject of some dispute under existing Circular 11. Some 56 amendments were made including articles 17, 27, 41, 69, 85, 140 and 166.

Since 1992, Vietnam has ratified 15 ILO conventions, including three of the ILO's eight core human rights conventions: No. 100, equal pay for men and women for work of equal value (ratified by Vietnam in 1997); No. 111, prohibiting discrimination in employment (1997); and No. 182, prohibiting the worst forms of child labor (2000). Currently, the Vietnamese are working on a plan to gradually ratify the remaining core ILO conventions and hope to ratify both forced labor conventions and the minimum age convention soon. With offices in Hanoi, the ILO has 24 ongoing projects, 6 of which the ILO defines as promoting fundamental principles and rights.

Another important issue is the rights of women. Women share an equal status to men under the law in Vietnam and continue strides to gain equality in practice. They are free to practice and participate in any religion, work any job, attend school at all levels, drive, vote, participate in government, and hold top leadership positions in universities, businesses, and in national and provincial governments. In the National Assembly, for example, women hold 27% of the total seats ranking Vietnam second in the Asia Pacific region and 9th worldwide for women in the National Assembly. Several American women's rights groups and foundations have had exchanges and programs in Vietnam.

Our relationship has strengthened in other areas as well. American travel to Vietnam has grown dramatically. Veterans, tourists, businesspeople, and family members are traveling, working and involved in charitable activities in Vietnam. Veterans groups organize visits for their members and their families. Remittances from overseas Vietnamese are estimated at \$2-3 billion annually. In 1997 Vietnam issued 98,000 visas for Americans to travel to Vietnam, over 66,000 for Vietnamese Americans. In 2000 the total was 152,928 visas, approximately 137,000 of which were for Vietnamese Americans. In 2001 this number grew to 230,470. In 2003 over 300,000 Americans traveled to Vietnam, 2/3 of that number were Vietnamese-Americans. Over Tet this year in January 2004, over 100,000 visas were issued – mostly for Vietnamese-Americans. A most historic visit was made this year by former President Nguyen Cao Ky. This first visit back to Vietnam by a leader of the South Vietnam government since the end of the war was widely covered by both U.S. and Vietnamese press.

Since our two countries set out on the path to normalized relations, the U.S. and Vietnam have enjoyed many successes, while also suffering a few setbacks. The BTA has been overall extremely successful though not without problems. Seafood exports to the U.S. have risen dramatically from Vietnam but catfish and shrimp imports have been hit with anti-dumping suits from U.S. producers. Textile production in Vietnam was cut nearly in half with the quota levels imposed by the U.S. U.S. automotive companies are concerned about recent tariff level increases in Vietnam. The IPR laws are greatly improving while enforcement lags behind. Licensing of U.S. investment in services is moving slowly. Some Vietnamese products have lost seemingly legitimate copyright protection in the U.S. Both sides have a list of complaints that the BTA Joint Committee works through – a not so unusual trade relationship.

And as Vietnam entered the coffee export market in the late 1990's, almost overnight it became the second largest coffee exporter after Brazil and coffee prices plummeted. Serious land right disputes and workers dislocation emerged in the Highland where ethnic, religious and political differences are also long standing. Very serious disturbance happened in early 2001. There is no question that the remote areas of the Central Highland and Northwest areas need additional economic development assistance and greater religious freedom, and since the disturbances in 2001, the national and provincial governments have made efforts – successful efforts -- to reduce the economic hardship in the Highlands, crack down on local government corruption and repression, and have made some progress for greater religious freedom. And more needs to be done.

The situation in the Highlands is extremely complex and difficulties there cannot be reduced to one issue or one event. Vietnam is a country of 80 million with 54 ethnic minorities, of which the Kinh ethnic group makes up 87% of the population. There is overall harmony between the ethnic and religious groups, but prejudices and suspicions do exist. While no ethnic group has separate territory, the nearly 10 million minority groups are largely located in the Central Highlands and Northwest provinces and tensions have risen in the Highlands as the coffee boom drew Kinh farmers into the area. Some minority groups over the years have had aspirations for independence or autonomy. Military and political movements for separate states, such as FULRO as an organization and Dega as an independent republic, date back to the war period. These movements exist today – possible more outside Vietnam than inside – but the disturbances in 2001 are believed by some, fairly or unfairly, to have been aided by, funded by, or instigated by these movements.

Added to these developments is the growth of evangelical religion in Vietnam and the particular new style of house churches. And yet even here, some progress has been made recently for evangelical worship.

Vietnam now formally recognizes six religions – Buddhist, Catholic, Cao Dai, Hoa Hao, Islam and Protestant faiths. According to the U.S. estimates, approximately 50 percent of the population follow Buddhist traditions, with some 33,000 clergy and 14,600 places of worship.

Catholics make up slightly over 8% of the population making Vietnam has the second largest Catholic population in Asia. Only the Philippines have more Catholic worshipers and freedom of worship is evident everywhere on Sundays. Relations with the Vatican are well established, discussions are ongoing for a papal visit, and a second Vietnamese Cardinal was ordained in October 2003. There are now two Cardinals, 1 Archbishop, 36 bishops, 2410 priests and 11,147 parish priests, and 4,390 students in seminary both in Vietnam and overseas. There are an estimated 6000 Catholic churches in Vietnam and over 1000 charities. Complaints include the government's limitation on the number of priests ordained, though these numbers continue to grow on an annual basis and with a reported three times the number ordained in 2003 over 2002. The U.S. religious freedom assessment of Vietnam reports an easing of restrictions on religious materials.

In our mid-January 2004 discussion with the new Cardinal, Jean-Baptiste Pham Minh Man, we asked him about freedom of religion in Vietnam. His request for further freedom for the church was in the area of charitable work and education. Limited now to orphanages, some charities, and schools for the very young, the Cardinal expressed his strong desire that the church be able to open schools at all levels and establish charities to work with those victims of "social evils" such as drug addicts, the homeless, and sex workers, particularly in HCMC.

The Protestant church is seeing the fastest growth rate. Possibly due to close relationships with organizations outside Vietnam and radio programs coming in from the region, the number of followers of Protestantism, particularly Evangelical Christians is growing. Protestants are estimated to be 1.2 percent of the population, with half of that number being evangelical worshippers and two thirds of the number from minority groups. Estimates vary, but there are estimated to be 800,000 – 1 million Protestants in Vietnam, up from some 200,000 in the pre-war period with 250,000 – 300,000

living in the Highlands and 200,000 living in the Northwest. In the Highlands most are in the evangelical faith community. While the northern Evangelical Churches have had an organization since the 1960's, a very important development and sign of progress was the establishment of the Southern Evangelical Church of Vietnam (SECV) in April 2001, with several hundred churches now registered. Further progress came in 2003 when the SECV opened a Government-sanctioned theological school in HCMC in February 2003.

It may be helpful to remind the committee that there are dozens of religious based American organizations working in Vietnam including: The Quakers, Mennonites, Catholic Relief Service, Church World Service, World Vision, Maryknoll, Lutheran World Mission, Adventist Development and Relief Agency, Christian and Missionary Alliance, Latter Day Saint Charities, Samaritans Purse, Assemblies of God, and so on whose testimony might also be helpful. There many dozen NGO groups working in Vietnam with excellent projects.

In closing, my argument to you today, is that the bi-partisan policy of four Administrations of a step-by-step process of engagement and normalizing relations with Vietnam has produced positive results for Americans and Vietnamese. It has served the economic and diplomatic interests of the U.S., human rights concerns, and has resolved some of the toughest war legacy issues. There are believed to be 40-60 Vietnamese in prison for what the U.S. considers political or religious beliefs or actions. While this is 40-60 too many, this is a number that further U.S. engagement can help address.

Vietnam and the U.S. share a tragic history, which both countries remain mindful of, and yet both sides work hard to build a new future. Normalization of relations, a growing economy, relations and engagement with the outside world, and a growing sense that their future and national security is secure, these are what has made Vietnam a country making progress. We must look at Vietnam as a whole – good and bad. We must fairly assess progress annually. Of course not everyone in the U.S. and not everyone in Vietnam supports our normalization goals or the improving of ties. Given our history, that is more than just understandable. Given our history, it is all the more remarkable that it has been veterans and Vietnamese-Americans that have often led the way for normalization.

U.S. involvement in a market based economy and on the whole range of programs that make up a fully normalized relationship will continue to contribute to Vietnam's increased openness, increased transparency in government, a rise in living standards, greater international economic integration, and political development. But more important to the U.S., this policy of normalization has also ensured that American business and diplomatic goals are met and that American ideals are advanced. The post war-embargo was lifted ten years ago this month. How far we have come in those ten years are proof the policy works, year after year.

On behalf of the members of the U.S.-Vietnam Trade Council, we urge the continued engagement with Vietnam for the benefit of citizens of both countries, and as an example to the world.