



**Statement of Matthew P. Daley
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Senator Boxer, thank you for the opportunity to testify at today's hearing. My name is Matthew Daley, President of the US-ASEAN Business Council, a private, non-profit organization which works to expand trade and investment between the United States and the member countries of ASEAN, an acronym for the Association of Southeast Asian Nations. Consisting of over 120 leading American companies, the US-ASEAN Business Council has for two decades promoted American interests in Southeast Asia. Our corporate members have in common a long term perspective on the relationship with the Southeast Asian nations, a commitment to the rule of law and to high standards of corporate social responsibility. The Council's Vietnam Committee Chair is the General Electric Company, while its Vice-Chair is the largest single investor from any sector and any country in Vietnam, ConocoPhillips.

The Council's has long judged that strong commercial ties are integral to the strengthening of the bilateral relationship between the United States and Vietnam. We think that transparency, access to information and communications, respect for the rule of law and government accountability help to foster a favorable business climate that contributes to America's other objectives. Over the past two decades, the United States – Vietnam relationship has seen significant strengthening of these commercial and bilateral ties. The relationship has progressed from the lifting of the trade embargo in the 1990s and improving cooperation on POW/MIA affairs, where we support efforts to obtain the fullest possible accounting for our civilian and military personnel, to the normalization of diplomatic relations in July 1995 and subsequent normalization of economic relations with the passage of the Bilateral Trade Agreement. Most recently, the Council and its Vietnam WTO coalition members supported granting Vietnam Permanent Normalized Trade Relations with the United States and Vietnam's accession to the World Trade

Organization in January 2007. Since 1999, the United States and Vietnam have seen a growing warmth in their relationship with the historic visit to Vietnam of President Clinton in 2000 and President Bush in 2006. In return, Prime Minister Phan Van Khai came to the United States in 2005 and President Nguyen Minh Triet visited States in 2007. The Council was honored to host the Prime Minister and the President during their visits to Washington, DC. Most recently, during the United Nations General Assembly meeting in September 2007, we were also honored to host the current Prime Minister, Prime Minister Nguyen Tan Dung. As we look back upon the history of the post war period we would like to recognize the tremendously important role played by Senator John Kerry and Senator John McCain in furthering the reconciliation between our two nations.

As the United States continues to engage Vietnam, tens of thousands of young bright Vietnamese have had opportunities that were unthinkable in the past to come to America for their studies through exchange programs funded by the US government, universities, private businesses, and increasingly by themselves. The number of Vietnamese students coming here has been rising steadily, reaching over 6,000 last year, a 31.3% increase over the previous year. Many came for higher education in the sciences and engineering, but others also came for studies in social science and the humanities. In the narrow commercial sense, these students represent the sale of intellectual goods and services to Vietnam, but they are far more significant. After returning to Vietnam, these people are making tremendous contributions towards changing their country in the private sector, the government sector¹, the academic sector. They use the United States as the benchmark and standard to calibrate these goals and their country's progress. The US Ambassador to Vietnam, Michael Michalak, sees this as a great avenue to help Vietnam and its people and identifies one of the top 3 priorities during his term there to double the number of Vietnamese students coming to the United States.

At the Council, we see Vietnam as an exciting new frontier for even greater trade and investment opportunities as we strive to meet Prime Minister Nguyen Tan Dung's challenge to make the United States the number one investor in Vietnam. With Vietnam's accession to the WTO and PNTR with the United States, Vietnam is set to undergo a new era of reform and opening. As it works to meet these WTO and PNTR commitments, it must implement and pass legislation that will streamline its bureaucracy, open up key sectors for competition, equitize its state owned enterprises, work towards a market pricing regime, and build the institutions that will enable the government to follow through with its commitments. These steps will take time, but Vietnam is well on its way to meet its commitments. Recently, the Vietnamese government announced

¹ The current Deputy PM Nguyen Thien Nhan who's in charge of education, technology and rural development, among other things, is a former Fulbright student.

legislation and plans that cover the expansion of trading and distribution rights, a master plan for radio and broadcast, a review of its criminal code in order to criminalize intellectual property violations, the opening of the banking sector to wholly owned foreign institutions, and a master plan to develop and apply the biotechnology sector, to name but a few policy departures.

In addition, the government of Vietnam remains active in its engagement with the United States government as it works on a number of initiatives including the recently signed Trade and Investment Framework Agreement (TIFA) and the Bilateral Investment Treaty (BIT) that is currently under consideration. In each case, the Vietnamese government has welcomed insight and input from the United States and active engagement with the United States' private sector. This point was strongly underscored during the December, 2007 TIFA dialogue headed by the Chairman of the Office of the Government, Minister Nguyen Xuan Phuc.

Over the past six years, starting with the signing of the Bilateral Trade Agreement, United States businesses have expanded their operations into vast sectors of the Vietnamese market. The US-ASEAN Business Council's members operate in the financial services, information technology, manufacturing, entertainment, insurance, retail, fast food, and energy markets. They are contributing to the fastest economic development in Vietnam in 11 years, reaching a GDP growth rate of 8.5% in 2007. The path of United States trade and investment with Vietnam is striking. Since the passage of the BTA in 2001, trade between the United States and Vietnam has grown tenfold. Within one year after the United States granted Vietnam PNTR status and helped it join the WTO, exports of United States goods to Vietnam has almost doubled from \$1.1 billion in 2006 to over \$1.9 billion last year. The value of imports from Vietnam has also grown from about 1 billion USD in 2001 to over 10 billion by the end of year 2007. We expect the imbalance to diminish as Vietnam becomes more prosperous. United States investment in Vietnam has increased. During the first two months of 2008, the United States was the number one investor in Vietnam, with new investments of over 1.3 billion USD. This lies in sharp contrast to total investments made over the past two decades of just over 3.2 billion USD.² As the government continues to open new sectors such as banking and other services, United States companies seek to have a growing share in these markets.

Among the projects nearing completion or recently completed in Vietnam include Black & Veatch's first electric substation and transmission line project for the Saigon Hi-Tech Park in Ho Chi Minh City. This project received an excellence in safety award

² "Foreign direct investment projects licensed from 1988 to 2006 by main counterparts" *General Statistics Office of Vietnam*. http://www.gso.gov.vn/default_en.aspx?tabid=471&idmid=3&ItemID=6227.

from the National Institute of Labor Protection in Vietnam and includes a first of its kind installation of a portion of underground line to ensure reliable energy delivery in the Hi-Tech park. In the past year an agreement was reached between Vietnam Airlines and Boeing for the purchase of a dozen Boeing 787 -7 Dreamliners worth an estimated 2 billion USD. As Vietnam Airlines moves to modernize its fleet to provide the safest and most up to date equipment for its customers, one may anticipate future sales. The largest single investor in Vietnam, ConocoPhillips, currently holds investments amounting to over 1.3 billion USD. Intel has also announced a 1 billion USD investment in Vietnam. In December 2005, AES in partnership with Vinacomin, has signed a MOU with Government of Vietnam to develop a BOT coal fired power project of 1000 to 1200 MW capacity. The total investment is estimated to be 1.5 billion USD. Ford Vietnam Limited also holds the largest automotive investment in Vietnam at 102 million USD. During the January 8, 2008 summit in Vietnam organized by the *Economist*, Stuart Dean of General Electric and the chair of the Council's Vietnam committee announced plans to expand local operations, regarding Vietnam as a new tiger in Asia thanks to an abundant workforce and efficient operations.³

Through cooperation with the United States government, our members also participate in a number of capacity building projects in Vietnam to create the environment and legal landscape that leads to the most up to date and transparent systems. Among these are the United States Trade and Development Agency funded programs for standards implementation and customs valuation that look to ensure that as Vietnam implements its commitments, it does so to international standards. These standards enable our companies to operate in an environment that is conducive to transparency and fairness in competition. Member corporations also engage in other United States government sponsored projects including the latest State Department organized US– Vietnam Joint Commission on Science and Technology held in late February 2008 as well as the October 2007 Department of Commerce US – Vietnam Information and Communication Technologies Commercials Dialogue. These forums engage the United States private sector and establish channels of communication with the Vietnamese government during the policy and legislative formulation process.

In addition to these projects, the Council's members also contribute to Vietnam's social welfare through a variety of local projects on health and education. As a Globally Integrated Enterprise, the IBM Corporation has developed a number of collaborative partnerships in Vietnam to foster the skills and educational base in the information technology services sector. These arrangements include investing in early learning through its KidSmart program, Reinventing Education Program and tertiary level support and training through its newly launched Career Education in IBM Software program,

³ "Great Opportunities in Vietnam." *Vietnam Net Bridge*. <http://english.vietnamnet.vn/reports/2008/02/767899/> February 8, 2008.

which aims to create skilled engineers and programmers through a cooperation with Hanoi University of Technologies and DTT. The chair of the Vietnam Committee, the General Electric Company, conducts a wide range of activities in Vietnam including volunteer work for environmental clean up on Nha Trang beach, donations for emergency relief work after the many devastating natural disasters including VND 1 billion for the victims of Can Tho Bridge collapse. GE, through its Foundation also offers 3-year scholarships for qualified, but disadvantaged Vietnamese students to attend leading Vietnamese universities, and also offers leadership development work for Vietnam's promising rising leaders. The Committee's Vice Chair, ConocoPhillips works with non governmental organizations (NGOs) such as Operation Smile. ConocoPhillips also builds orphanages and homes in local communities where it operates, and grants scholarships to students studying at the Hanoi University of Mining and Geology. Another member company, Chevron, has a number of community-based programs active in Vietnam. The most far-reaching of Chevron's projects is jointly managed by Michigan State University and Can Tho University, and is designed to reduce poverty in the Mekong Delta region by linking school improvements with community development. The project focuses on helping farmers diversify sources of income by training teachers, students and farmers in sustainable agricultural practices such as organic vegetable growing as well as improved animal husbandry and aquaculture. These highlight but a few of the many programs carried out by the Council's member corporations in Vietnam.

Vietnam's high GDP growth rate, reaching 8.5% last year, and the rising wealth of the Vietnamese population has led to the reduction of poverty from 60% in 1993 to 14% today. Vietnam has consistently exemplified a country that has fought poverty effectively. These accolades were given by no other than Kofi Annan, the former Secretary General of the United Nations who noted Vietnam's achievements towards reaching the Millennium Development Goals. The country's success in alleviating poverty was also noted by Ajay Chibber, Country Director of the World Bank. Mr. Chibber observed that, remarkably, unlike other emerging economies, there has only been a very small increase in wealth inequality among the populace especially between urban and rural areas.⁴ Poverty reduction is inclusive and countrywide. The government must be applauded for its far reaching economic development activities paying particular focus on the central highlands and northern poorer provinces. Over the past year, ministry directives have increasingly focused on development projects in some of the poorest regions and provinces including Son La and Nghe An. Combined, these achievements provide the people of Vietnam a higher standard of living.

⁴ "Vietnam Leads Way in Tackling Poverty." *Thanh Nien News*.
<http://www.thanhniennews.com/politics/?catid=1&newsid=35780>. February 16, 2008.

Vietnam's soon to be finished distribution legislation will allow it to become a retail market destination. Today, it already ranks among the top markets for retailers as noted by the latest AT Kearney report. Wealth has allowed the Vietnamese populace to buy goods that they could never have afforded to buy in decades past. Lower tariffs and taxes have allowed both common and luxury goods to enter the market. On January 1, 2008 over 700 tax rates on over 30 categories of goods were slashed by 1- 6 percent to conform to Vietnam's WTO commitments. Even more impressive, sales of automobiles surged 156% year on year in January to over 12,000 vehicles sold. The Vietnamese population is becoming wealthier as they pull themselves out of poverty. The Vietnamese government is working to become a middle income country with a per capita GDP of 1000 USD by 2009. In 2004, the International Monetary Fund (IMF) reported that Vietnam's per capita GDP was just over 550 USD. The IMF estimates that by end of 2008, Vietnam's GDP per capita will be close to 920 USD.⁵

With all these economic reforms taking place, concerns remain in a number of areas including corruption, judicial reform, intellectual property rights and fair competition. On IPR and competition, Vietnam is moving steadily towards formulating policies and legislation to tackle these issues and we look forward to reviewing them with the Vietnamese government. Prime Minister Nguyen Tan Dung has made corruption one of his main priorities, setting up a task force headed by the Chairman of the Office of the Government to pursue whatever policy is necessary to identify, prevent, and eliminate corruption among all ranks. Following Vietnam's celebration of its Lunar New Year this past February, the Prime Minister once again called on the ministries to be vigilant of corruption in the system, calling for renewed efforts to eradicate it, viewing corruption as the greatest threat to the survival of the country's political system. In fact the Prime Minister directed state agencies' to improve the provision of information to the media about corruption inspections and investigations to ensure "objectiveness, accuracy, and conformity with the regulations."⁶

The Council and its members realize that over the past two decades the political and human rights situation in Vietnam has moved along an uneven path and much remains to be done. In this respect, our members have traditionally encouraged the promotion of the rule of law, increasing respect for labor rights, promoting human rights, and encouraging environmental protection in countries in which they operate. In

⁵ "Vietnam GDP per capita", current prices, International Monetary Fund.

<http://www.imf.org/external/pubs/ft/weo/2007/02/weodata/weorept.aspx?sy=2004&ey=2008&scsm=1&ssd=1&sort=country&ds=.&br=1&pr1.x=75&pr1.y=9&c=582&s=NGDPDPC&grp=0&a=> Run March 10th, 2008.

⁶ "Vietnam PM Renews Anti-Corruption Push." *Thanh Nien News*.

<http://www.thanhniennews.com/politics/?catid=1&newsid=35639> February 10, 2008.

2007, Vietnam regressed in some respects including those allowing for free speech and freedom of assembly. At the same time we have seen the government work towards greater religious freedom, freedom of movement, and greater collaboration with international groups on issues ranging from legal reform to human trafficking. While we respect the broad goals of the Vietnam Human Rights Act of 2007, we believe, based on past experience that providing positive models and encouragement in Vietnam, rather than a policy of sanctions, will bring about more significant change for the people of Vietnam. Our view is informed by our own experience working quietly with the government of Vietnam in this area.

Internalizing human rights and legal reform are under way in Vietnam. This will be a long and complex path. Already through cooperation with a number of aid agencies, including the United Nations Development Program (UNDP), the Danish International Development Agency (DANIDA), the Canadian International Development Agency (CIDA), and the Swedish International Development Agency (SIDA), Vietnam is embarking on a number of judicial reform, good governance, and human rights programs. These programs include those run by UNDP in partnership with Vietnam's Ministry of Foreign Affairs to understand international human rights mechanisms as well as restructuring its judicial system under their "Assistance for the Implementation of Vietnam's Legal System Development Strategy to 2010" and farther reaching "Judicial Reform Strategy to the year 2020". These reforms look to review issues ranging from criminal and civil policy legislation and judicial procedures to international cooperation in the judicial sector.⁷ Following the passage of the Bilateral Trade Agreement, the United States Vietnam Trade Council has also conducted a number of programs on judicial and administrative reform to transform Vietnam's legal system. As Vietnam moves forward, these programs will help implement a judicial regime that is in line with both its national legal system as well as international standards.

We endorse the Vietnamese government's attempt to engage with the overseas Vietnamese community. Granting 5 year visa exemptions for overseas Vietnamese is a step forward. In addition, the current Ambassador to the United States, Ambassador Le Cong Phung held his first ever press conference with a wide range of media including, *Nguoi Viet*. *Nguoi Viet*, a newspaper based out of Orange County, California, serves the largest community of Vietnamese outside of Vietnam.

⁷ For more information on these programs please see: <http://www.undp.org.vn/undpLive/System/What-We-Do/Focus-Areas/Democratic-Governance/Project-Details?contentId=1765&categoryName=Rule-of-law-and-Access&CategoryConditionUse=Subject-Areas/Democratic-Governance/Rule-of-law-and-Access&> & <http://www.danidadevforum.um.dk/en/menu/Topics/GoodGovernance/Programmes/CountryProgrammes/Asia/Vietnam/>

In addition the Vietnamese government has reviewed and extended laws allowing housing permits for foreigners to include not only overseas Vietnamese but those that have long term interests in the country.⁸ These steps are gestures of goodwill made by the Vietnamese government in its engagement with foreign individuals including many investors.

Vietnam has shown a willingness to engage with the international community and the United States on other issues as well. Vietnam has increasingly cooperated with the United States on human trafficking and religious freedom issues. These efforts led the United States Department of State to remove Vietnam from its list of Countries of Particular Concern for religious freedom in 2007. On human trafficking, Vietnam has made significant strides to eliminate trafficking by providing funding and implementation for its 2004-2010 National Program of Action which includes a comprehensive package including prosecution, prevention, and protection against trafficking. Most recently, the Vietnamese police shut down a baby trafficking ring involving the arrest of four Vietnamese citizens.

Vietnam is a vibrant country that is coming into its own. Its dynamic leadership is well on its way towards transforming the economy into that of an industrialized nation by 2020. As it works to alter its bureaucracy, statues, and legal system to allow for growth, Vietnam will continue to aspire to even higher standards. American assistance programs in Vietnam are part of the process. These programs are not rewards for good behavior. Rather, they address basic humanitarian needs while others set the agenda for reforms. We do not think they should be curtailed as the inevitable disappointments arise. Instead, we need to focus on the trend lines and press forward. At the Council, we look forward to the opportunity to work with the Vietnamese and American governments as they pursue a broad range of reforms and continue to engage in activities that lead to both the economic and social welfare of its populace. I thank you, Senator, for the opportunity to testify at today's hearing.

⁸ "Vietnam Builds a Future for Itself." *The Financial Times*. <http://www.ft.com/cms/s/0/d1bf34ce-ecb4-11dc-86be-0000779fd2ac.html>. March 8, 2008.