

# CRS Issue Brief for Congress

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## **The Vietnam-U.S. Normalization Process**

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## The Vietnam-U.S. Normalization Process

### SUMMARY

U.S.-Vietnam diplomatic and economic relations remained essentially frozen for more than a decade after the 1975 communist victory in South Vietnam. Washington and Hanoi have incrementally normalized relations over the past decade. The pace has been relatively slow due to continued debate in the United States and Vietnam over improved relations. Congress has played a significant role in the normalization process.

Bilateral relations took a major step forward in February 1994, when President Clinton ordered an end to the 19-year old U.S. trade embargo on Vietnam. The following year, the United States and Vietnam settled diplomatic and private property claims and opened liaison offices in Washington and Hanoi. In April 1997, a U.S. Ambassador was approved by the Senate and took up his post in Hanoi. In March 1998, President Clinton granted a waiver from the Jackson-Vanik amendment that smoothed the way for Overseas Private Investment Corporation (OPIC) and Export-Import Bank support for U.S. business in Vietnam.

On July 13, 2000, the U.S. and Vietnam continued their normalization by signing a sweeping bilateral trade agreement (BTA), which was approved by Congress and signed by President Bush in 2001. Vietnam ratified the agreement shortly thereafter. Under the BTA, the U.S. extended normal trade relations to Vietnam. In return, Hanoi agreed to a range

of trade liberalization measures and market-oriented reforms. In April 2003, the U.S. and Vietnam signed a bilateral textile agreement imposing quotas on Vietnam's textile exports.

Each step in improving bilateral ties has brought controversy, albeit at diminishing levels. U.S. opponents in Congress and elsewhere have argued that Vietnam maintains a poor record on human, religious, and labor rights. Opposition has also come from groups arguing that Vietnam has not done enough to account for U.S. Prisoners of War/Missing in Action (POW/MIAs) from the Vietnam War, though this argument has diminished markedly in recent years.

Forces favoring normalization have included those in Congress and elsewhere reflecting a strong U.S. business interest in Vietnam's reforming economy and American strategic interests in working with U.S. friends and allies to promote stability and development by integrating Vietnam more fully into the existing East Asian order.

Within Vietnam, divisions over the course of the country's reforms have paralyzed Vietnamese leaders in recent years. Reformers in the Vietnamese government seek closer ties with the U.S., especially in economic relations. However, conservatives have resisted foreign influences that might undermine the Vietnamese Communist Party's monopoly of political power.

## **MOST RECENT DEVELOPMENTS**

The U.S.-Vietnam bilateral trade agreement (BTA) entered into force on December 10, 2001, when the two countries formally exchanged letters implementing the agreement. Under the agreement, the U.S. extended temporary normal trade relations (NTR, also known as most-favored nation [MFN] status) to Vietnam. In return, Hanoi agreed to undertake a wide range of market-liberalization measures. (See CRS Report RL30416, *The Vietnam-U.S. Bilateral Trade Agreement*, by Mark Manyin.) The BTA has led to a doubling in the value of U.S.-Vietnam trade flows. Most of this increase is due to a sharp rise in Vietnam's bilateral exports, which more than doubled in 2002. By dollar value, clothing is now Vietnam's largest export item to the United States.

On April 25, 2003, the United States and Vietnam completed nearly three weeks of intense negotiations by signing a bilateral textile agreement that places quotas on 38 categories of Vietnam's clothing exports. The deal was reached after the U.S. side threatened to unilaterally impose more restrictive quotas if the Vietnamese did not agree to U.S. demands.

On April 28, 2003, Vietnam became the first country to be declared by the World Health Organization (WHO) to contain and eliminate Severe Acute Respiratory Syndrome (SARS).

## **BACKGROUND AND ANALYSIS**

### **U.S.-Vietnam Relations, 1975-98**

U.S.-Vietnam diplomatic and economic relations remained essentially frozen for over a decade after the 1975 communist victory in South Vietnam, despite a few U.S. overtures during the Carter Administration that were controversial domestically and were ultimately thwarted by Vietnamese actions.

### **Policy Initiatives During the Carter Administration**

In March 1977, President Carter sent a commission to Vietnam. The United States no longer vetoed Vietnam's application for U.N. membership, paving the way for the July 20, 1977 U.N. Security Council recommendation — undertaken by consensus, without formal vote — that Vietnam be admitted to the United Nations. The United States proposed that diplomatic relations quickly be established between the United States and Vietnam, after which the United States would lift export and asset controls on Vietnam. The Vietnamese responded that they would neither agree to establish relations nor furnish information on U.S. POW/MIAs until the United States pledged to provide several billion dollars in postwar reconstruction aid. Subsequently, they modified this position and provided some limited information on MIAs, even though the United States provided no aid.

The U.S. Congress responded unfavorably to the Carter Administration initiatives and the Vietnamese reaction. In 1977, both houses of Congress went on record as strongly opposing U.S. aid to Vietnam.

Vietnamese actions in 1978 in particular had a long-term negative effect on U.S.-Vietnamese relations. Vietnam expelled hundreds of thousands of its citizens (many of Chinese origin) who then became refugees throughout Southeast Asia; aligned itself economically and militarily with the USSR; and invaded Cambodia, deposing the pro-Chinese Khmer Rouge regime and imposing a puppet Cambodian government backed by 200,000 Vietnamese troops. China conducted a one month military incursion along Vietnam's northern border in 1979 and kept strong military pressure on the North until 1990. In the face of these developments, the Carter Administration halted consideration of improved relations with Vietnam. It worked closely with the members of the Association of Southeast Asian Nations (ASEAN — then made up of Indonesia, Malaysia, the Philippines, Singapore and Thailand) to condemn and contain the Vietnamese expansion and to cope with the influx of refugees from Indochina.

## **Developments During the Reagan and Bush Administrations**

The Reagan Administration opposed normal relations with Hanoi until there was a verified withdrawal of Vietnamese forces from Cambodia, a position amended in 1985 to include a verified withdrawal in the context of a comprehensive settlement. Administration officials also noted that progress toward normal relations depended on Vietnam fully cooperating in obtaining the fullest possible accounting for U.S. personnel listed as prisoners of war/missing in action (POW/MIAs).

As Vietnam withdrew forces from Cambodia in 1989 and sought a compromise peace settlement there, the Bush Administration decided on July 18, 1990, to seek contacts with Hanoi in order to assist international efforts to reach a peace agreement in Cambodia.

Regarding the issue of the POW/MIAs, following a visit to Hanoi by a U.S. presidential delegation in 1987, Vietnam returned hundreds of sets of remains said to be those of U.S. MIAs. Some, but not most, were confirmed as American. Altogether, from 1974 to 1992, Vietnam returned the remains of over 300 Americans. Virtually all U.S. analysts agree that the Vietnamese “warehoused” several hundred remains and tactically released them in increments. The number of such remains and whether any are still held, is not known with any certainty. (For details, see CRS Issue Brief IB92101, *POWs and MIAs: Status and Accounting Issues*.)

In April 1991, the United States laid out a detailed “road map” for normalization with Vietnam, welcomed Vietnam's willingness to host a U.S. office in Hanoi to handle POW/MIA affairs, and pledged \$1 million for humanitarian aid (mainly prosthetics) to Vietnam. The U.S. office began operation in mid-1991, and the aid was transferred by the end of FY1991. Also in 1991, the United States eased travel restrictions on Vietnamese diplomats stationed at the United Nations in New York and on U.S. organized travel to Vietnam.

In 1992, Vietnamese cooperation on POW/MIA matters improved, especially in the area of allowing U.S. investigators access to pursue “live sightings” reports. Important

developments encouraged U.S. officials, armed with evidence (including photographs of extensive Vietnamese archival information on U.S. POW/MIAs) to request greater access to such data. Vietnamese representatives agreed. The United States pledged, and subsequently paid out, \$3 million of humanitarian aid (mainly prosthetics and aid to abandoned or orphaned children) for Vietnam; agreed to restore direct telecommunications with Vietnam; agreed to allow U.S. commercial sales to meet basic human needs in Vietnam; and lifted restrictions on projects in Vietnam by U.S. nongovernmental organizations. The United States pledged and provided a disaster assistance grant to Vietnamese flood victims and provided additional aid to help Vietnam with malaria problems. In November 1992, the United States lifted restrictions on U.S. telephone service to Vietnam, allowing direct service between the two countries. In December, the United States eased some restrictions on U.S. companies doing business in Vietnam.

Coinciding with these developments, the Senate Select Committee on POW/MIA affairs conducted what many consider the most extensive independent investigation of the POW/MIA issue undertaken. The committee, chaired by John Kerry and vice-chaired by Bob Smith, operated from August 1991 - December 1992. In early 1993, the committee issued its report, which concluded that there was some evidence that POWs were alive after the U.S. withdrawal in 1973, and that although there was no “conspiracy” in Washington to cover up live POWs, the U.S. government had seriously neglected and mismanaged the issue, particularly in the 1970s. The committee’s televised hearings played a major role in defusing much of the passion that had surrounded the POW issue.

Apart from Cambodia and the POW/MIA matter, the Reagan and Bush Administrations concerned themselves with a third problem — humanitarian issues. Major progress in negotiations with Vietnam resulted in plans to: facilitate emigration from Vietnam of relatives of Vietnamese-Americans or permanent Vietnamese residents of the United States; regulate the flow of Vietnamese immigrants to the United States and other countries under the so-called Orderly Departure Program managed by the U.N. High Commissioner for Refugees; resolve the issue of the estimated several thousand Amerasians (whose fathers are Americans and whose mothers are Vietnamese) who reportedly wish to emigrate from Vietnam to the United States; and obtain release from Vietnamese prison camps and the opportunity to immigrate to the United States of thousands of Vietnamese who worked for the United States in South Vietnam or were otherwise associated with the U.S. war effort there.

Meanwhile, U.S. officials in Congress and the Administration expressed repeatedly their concern about the large numbers of political prisoners said to be in Vietnam, warning that human rights is a central feature of U.S. foreign policy and could not but affect U.S. policy toward Vietnam.

## **Developments During the Clinton Administration**

Early moves to improve relations during the Clinton Administration included the President’s announcement on July 2, 1993, that the United States would no longer oppose arrangements supported by France, Japan, and others allowing for resumed international financial institution aid to Vietnam; however, he said the U.S. economic embargo on Vietnam would remain in effect. A high-level U.S. delegation visited Hanoi in mid-July to press for progress on POW/MIAs; the delegation gave the Vietnamese leaders U.S.

documentary evidence that would help settle Vietnamese MIA cases; the delegation also disclosed that U.S. consular officials would henceforth be stationed in Hanoi. Individual Members of Congress played an important behind-the-scenes role in encouraging the Clinton Administration to take many of these, and subsequent, steps.

President Clinton's September 13, 1993, renewal of his authority to maintain trade embargoes included an eased version of the one on Vietnam that allowed U.S. companies to bid on development projects funded by international financial institutions in Vietnam. Also in September, 1993, the Administration approved \$3.5 million in U.S. aid to extend two humanitarian programs (prostheses and orphans) in Vietnam.

On February 3, 1994, President Clinton ordered an end to the U.S. trade embargo on Vietnam. The action came after many months of high-level U.S. interaction with Vietnam in resolving POW/MIA cases, and a January 27, 1994 vote in the Senate urging that the embargo be lifted, language that was attached to broad authorizing legislation (H.R. 2333). The language was controversial in the House, but H.R. 2333 passed Congress; it was signed into law (P.L. 103-236) on April 30, 1994.

On January 25, 1995, the United States and Vietnam settled bilateral diplomatic and property claims and opened liaison offices in Washington and Hanoi on February 1, and February 3, 1995, respectively. The Treasury Department announced on March 9, 1995, that it was unblocking accounts in which Vietnam or its nationals had an interest. On July 11, 1995, President Clinton announced that he would establish ambassadorial-level relations with Vietnam. The FY1996 State Department Appropriations bill (H.R. 2076) included language barring funding for full diplomatic relations with Vietnam until more progress was made on POW/MIA issues. President Clinton vetoed H.R. 2076 on December 19, 1995. On August 6, 1995, Secretary of State Christopher opened the U.S. Embassy in Hanoi, and Vietnam's embassy in Washington opened on August 5, 1995. An attempt in the Senate to restrict trade ties with Vietnam failed on September 20, 1995.

Controversy continued in 1995 and 1996 over provisions in legislation (H.R. 1561) that would place conditions on upgrading U.S. relations with Vietnam, and that would admit additional boat people from camps in Hong Kong and elsewhere to the United States. H.R. 1561 passed Congress in March 1996, but was vetoed by the President, and the veto was sustained on April 30, 1996. A modified version of the Vietnam provisions in H.R. 2076 was signed by President Clinton on April 26, 1996, as part of H.R. 3019, the Omnibus Appropriations bill (P.L. 104-134). To comply with the provisions, President Clinton issued Presidential Determination 96-28 on May 30, 1996, saying that Vietnam is cooperating in full faith with the United States on POW/MIA issues.

On April 10, 1997, the Senate approved former Vietnam War POW and Member of Congress Pete Peterson as U.S. Ambassador to Vietnam.

In Vietnam in late June 1997, Secretary of State Albright urged greater economic reform and better human rights; she signed a bilateral agreement on copyrights and said that the U.S. Trade and Development Program would conduct business in Vietnam.

On December 18, 1997, National Security Adviser Sandy Berger said the Administration was consulting with Congress on granting Vietnam a waiver from the

Jackson-Vanik amendment that would smooth the way for Overseas Private Investment Corporation (OPIC) and Export-Import Bank to support U.S. business activities in Vietnam. On March 11, 1998, President Clinton granted the waiver, and a formal agreement on OPIC was signed eight days later. On November 30, 1999, OPIC signed its first financing agreement — a \$2.3 million loan to Caterpillar Inc.'s authorized dealership in Vietnam — for American business in Vietnam since the end of the Vietnam War. The U.S. Export-Import Bank announced on April 10, 1998 that it was ready to finance sales to Vietnam. On December 9, 1999, the Ex-Im Bank signed two framework agreements with the State Bank of Vietnam to facilitate project financing cooperation between the two agencies.

On June 3, 1998, President Clinton issued a required annual waiver on Jackson-Vanik amendment restrictions regarding Vietnam, China, and other countries. Joint disapproval resolutions were introduced in the Senate (S.J.Res. 47) and the House (H.J.Res. 120) on June 4, 1998. They were reported adversely by the Senate Finance Committee and the House Ways and Means Committee. H.J.Res. 120 was defeated in the House on July 30, 1998, roll call #356 (163 - 260).

On June 3, 1999, President Clinton again issued an annual waiver on Jackson-Vanik amendment restrictions on U.S. interactions with Vietnam. Joint resolutions disapproving the President's action were introduced in the Senate (S.J.Res. 28, June 7) and the House (H.J.Res. 58, June 9). On July 20, the Senate rejected a motion to discharge S.J.Res. 28 from committee, effectively defeating the measure, roll call #214 (5-94). On August 3, the House voted down H.J.Res. 58, roll call #365 (130-297). The measure received 33 fewer votes than it had the previous year.

On June 2, 2000, President Clinton announced his third annual waiver of Jackson-Vanik amendment restrictions for Vietnam. Joint resolutions disapproving the President's action were introduced in the Senate (S.J.Res. 47) and the House (H.J.Res. 99). On July 26, 2000, the House voted down H.J.Res. 99, roll call 441 (91-332). The measure received 39 fewer votes than it had in 1999, and 72 fewer votes than it had in 1998. Until the U.S.-Vietnam bilateral trade agreement — which was signed on July 13, 2000 — goes into effect the waiver does not change Vietnam's current, non-most-favored-nation (MFN), trade status with the United States. Instead, in the absence of an approved trade agreement, the waiver only allows OPIC and Export-Import Bank support for U.S. business in Vietnam. In order for the agreement to go into effect, it must be approved by Congress and the Vietnamese National Assembly.

## **Recent U.S.-Vietnam Relations**

### **Economic Ties — the Bilateral Trade Agreement**

On December 10, 2001, a sweeping bilateral trade agreement (BTA) between the United States and Vietnam entered into force. (See CRS Report RL30416, *The Vietnam-U.S. Bilateral Trade Agreement*.) The two sides had signed the deal, which by law required congressional approval, in July 2000, but it had taken over a year to complete the ratification process. Under the BTA, the U.S. will extend temporary normal trade relations status (NTR, formerly most-favored nation [MFN]) to Vietnam, a move that would significantly reduce

U.S. tariffs on most imports from Vietnam. In return, Hanoi agreed to undertake a wide range of market-liberalization measures, including extending NTR treatment to U.S. exports, reducing tariffs on goods, easing barriers to U.S. services (such as banking and telecommunications), committing to protect certain intellectual property rights, and providing additional inducements and protections for inward foreign direct investment.

The agreement paved the way for President Bush to extend *temporary* NTR treatment to Vietnam. NTR treatment would be temporary because Vietnam's trade status would still be subject to annual Congressional review under the U.S. Trade Act of 1974's Jackson-Vanik provisions, which govern trade with non-market economies. On June 3, 2002, President Bush renewed Vietnam's year-long waiver of Jackson-Vanik amendment restrictions on bilateral economic activities. Congress can attempt to reject the waiver by passing a joint disapproval resolution. On July 23, 2002, by a vote of 338-91 (roll call #329), the House rejected H.J.Res. 101, which would have disapproved the President's waiver renewal.

**Implementation of the BTA.** Vietnam's implementation of the BTA is likely to be closely monitored by Congress, particularly during the annual debate over whether to extend Vietnam's NTR status. Most of Vietnam's concessions are due to be phased in within three to five years. However, a number of reforms took effect upon the BTA's entry into force on December 10, 2001. These include according national treatment (i.e. not discriminating between foreign and domestic enterprises) business activities, allowing all enterprises to import and export, eliminating most non-tariff barriers, streamlining the process for foreign investors to obtain licenses and approval, and publicizing laws, regulations and administrative procedures pertaining to any matter covered by the Trade Agreement. Hanoi appears to have taken steps to implement nearly all of these initial commitments. In May 2002, senior officials from Washington and Hanoi launched a Joint Committee on Development of Economic and Trade Relations, a consultative body called for in the BTA.

**U.S.-Vietnam Trade Flows.** The BTA has led to a sharp rise in U.S.-Vietnam trade, which in 2002 was worth over \$2.9 billion, more than double the value in 2001 (see **Table 1**). Since 1997 the U.S. has run a trade deficit with Vietnam. Imports from Vietnam are concentrated in a handful of products. Clothing, shrimp, fuel products and footwear accounted for over three-quarters of total imports from Vietnam in 2002. Most of the \$1.4 billion increase in imports came from a sharp rise in clothing imports, which increased to over \$900 million, up nearly nineteen-fold from the \$45-\$50 million range that Vietnam had recorded in 2000 and 2001. By dollar value, clothing is now the largest import item from Vietnam. In 2002, Vietnam accounted for 1.38% of U.S. textile and apparel imports, while 33% of Vietnam's textile and apparel exports went to the U.S. market.

**A Bilateral Textile Agreement.** The BTA contains no restrictions on Vietnamese textile exports to the U.S., but the safeguard provision would allow the U.S. to impose quotas on textile imports in the event of a surge of imports. During the congressional debate over the BTA, many Members urged the Bush Administration to negotiate a bilateral textile agreement soon after the BTA came into effect. On April 25, 2003, the United States and Vietnam completed nearly three weeks of intense negotiations by signing a bilateral textile agreement that places quotas on 38 categories of Vietnam's clothing exports, including cotton pants and cotton knit shirts/blouses, the two most important items. The deal was reached after the U.S. side threatened to unilaterally impose more restrictive quotas if the Vietnamese did not agree to U.S. demands. Additionally, the talks were nearly derailed by

an April 2003 finding by the U.S. Customs Service charging that some apparel imports labeled as Vietnamese were actually produced in China. On labor rights, the agreement calls for Vietnam to reaffirm its commitments to and cooperate with the International Labor Organization, and to continue its bilateral programs with the U.S. Labor Department. These provisions are far less detailed and comprehensive than the labor provisions included in the U.S.-Cambodia textile agreement, which several Members of Congress had said should be used as a model for a U.S.-Vietnam agreement.

**Table 1. U.S.-Vietnam Trade, 1994-2003**

(millions of dollars)

	U.S. Imports from Vietnam	U.S. Exports to Vietnam	Total Trade	Trade Balance
1994	50.5	172.2	222.7	121.7
1995	199.0	252.9	451.9	53.9
1996	319.0	616.1	935.1	297.1
1997	388.2	277.8	666.0	-110.4
1998	553.4	274.2	827.6	-279.2
1999	601.9	277.3	879.2	-324.6
2000	827.4	330.5	1,157.9	-496.9
2001	1,026.4	393.8	1,420.2	-632.6
2002	2,391.7	551.9	2,943.6	-1839.8
Major Imports from Vietnam	clothing, frozen shrimp, petroleum products, footwear, coffee			
Major Exports to Vietnam	industrial & electronic machinery, fertilizer, raw cotton			

**Source:** U.S. International Trade Commission. Data are for merchandise trade on a customs basis.

**The Catfish Dispute.** The first significant potential post-BTA trade dispute surfaced in 2001, when American catfish farmers and their supporters charged that imports of Vietnamese catfish varieties (also known as *basa* and *tra*, from the *pangasius* family of catfish) — which have increased sharply in recent years — were improperly labeled as “catfish” and sold at a lower price than the North American varieties, which are of the *ictaluridae* catfish family. Section 10806 of the 2002 U.S. Farm Act (P.L. 107-171) prohibits non-*ictaluridae* fish from being marketed as “catfish” in the United States. On June 28, 2002, the American Catfish Farmers Association filed an anti-dumping petition against imports of Vietnamese frozen fish fillets. On August 8, the U.S. International Trade Commission issued a preliminary affirmative determination that there is “a reasonable indication” that imports of Vietnamese *tra* and *basa* fish threaten material injury to the U.S. catfish industry. This paved the way for the Commerce Department’s International Trade Administration (ITA) to proceed with an investigation into whether Vietnamese fish are being dumped on the U.S. market. On January 27, 2003, ITA announced its preliminary decision that Vietnamese exporters have indeed been dumping, by an average margin of 64% below “fair market value.” A ITA determination is scheduled to be issued on June 16, 2003. If this decision also finds that dumping has taken place, and if the International Trade Commission issues a determination (due on July 31, 2003) that the dumping has injured U.S. catfish farmers, antidumping tariffs will be assessed on the Vietnamese exporters.

Vietnam's exports of catfish increased from over 3 million metric tons (MT) in 1999 to over 18 million MT in 2002, capturing over 10% of the U.S. market.

**Intellectual Property Rights (IPR).** In April 2002, the Bush Administration placed Vietnam on its "Special 301 watch list" for allegedly poor protection of intellectual property rights, particularly in the areas of music recordings and trademark protection.<sup>1</sup> The BTA requires Vietnam to make its IPR regime WTO-consistent by the middle of 2003.

**U.S. Bilateral Economic Assistance to Vietnam.** U.S. aid to Vietnam has increased sharply in recent years. Programs administered by the United States Agency for International Development (USAID), for instance, rose from under \$2 million in 1996 to over \$8 million in 2001. The U.S. has pledged \$33.6 million in bilateral assistance for 2003. In FY2002, total U.S. assistance to Vietnam — which includes USAID programs — exceeded \$30 million, including funds budgeted for food assistance (\$11 million), the Fulbright exchange program (\$4 million), HIV/AIDS programs (\$8.5 million), land mine victims and orphans (\$3 million), a U.S. Department of Labor technical cooperation program (\$1.5 million), and technical assistance to help Vietnam understand, develop, and implement trade reforms (\$4.6 million). This total includes \$5 million that is budgeted for a new educational exchange program — the Vietnam Education Foundation — that Congress authorized in 2000 but is only due to be implemented in 2003. In November 2000, USAID officially opened an office in Hanoi, its first presence in Vietnam since the end of the Vietnam War.

## Political Ties

Secretary of State Colin Powell visited Hanoi from July 24-26, 2001, to attend the ASEAN Regional forum (ARF). While in Vietnam, Powell held meetings with senior Vietnamese leaders.

President Clinton visited Vietnam from November 16-20, 2000, the first trip by a U.S. President since Richard Nixon went to Saigon (now Ho Chi Minh City) in July 1969. The purpose of the trip was largely symbolic, to highlight the degree to which the U.S. and Vietnam have normalized their relations since the Vietnam War. The visit was notable for the unexpected enthusiasm expressed by ordinary Vietnamese, who thronged by the thousand to greet or catch a glimpse of the President and the First Lady. These spontaneous outbursts, combined with the President's public and private remarks about human rights and democratization, triggered rhetorical responses from conservative Vietnamese leaders.

Vietnamese leaders pressed the U.S. for compensation for Agent Orange victims, for assistance locating the remains of Vietnam's soldiers who are still missing from fighting with

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<sup>1</sup> "Special 301" refers to Section 182 of the Trade Act of 1974. Since the start of the Special 301 provision in 1989, the USTR has issued annually a three-tier list of countries judged to have inadequate regimes for IPR protection, or to deny access: 1) *priority foreign countries* are deemed to be the worst violators, and are subject to special investigations and possible trade sanctions; 2) *priority watch list countries* are considered to have major deficiencies in their IPR regime, but do not currently warrant a Section 301 investigation; and 3) *watch list countries*, which maintain IPR practices that are of particular concern, but do not yet warrant higher level designations. See Wayne Morrison, *Section 301 of the Trade Act of 1974*, CRS Report 98-454.

the U.S., and for an increase in the U.S.' bilateral economic assistance program (the U.S. pledged \$21.9 million in bilateral aid to Vietnam in 2000). During Clinton's trip, the U.S. took some small steps toward meeting these demands, including the following: U.S. and Vietnamese officials agreed to meet later in 2000 to discuss joint research on the effects of dioxin/Agent Orange; bilateral de-mining efforts were expanded; a science and technology agreement was signed; a bilateral labor cooperation agreement was signed; the U.S. provided materials to help locate the estimated 300,000 Vietnamese troops missing from the Vietnam War; OPIC opened a \$200 million line of credit to help U.S. companies finance projects in Vietnam; and the U.S. announced that it would double its aid for HIV/AIDS prevention in Vietnam.

## Human Rights

On humanitarian issues, U.S. law (P.L. 105-277, signed October 21, 1998), requires the Administration report annually on:

- Vietnam's release of political and religious prisoners;
- Vietnam's cooperation with the United States to obtain full and free access to persons of humanitarian interest to the United States for interviews and possible transfer to the United States.

The U.S. State Department and human rights groups have reported that Vietnam's human rights situation worsened in 2002, particularly with regard to the treatment of ethnic minorities, unregistered religious groups, and individual citizens criticizing the government. There were reports that several prominent dissidents were harassed and/or detained. Hanoi also retains strict controls over the Vietnamese press. During his July 2001 trip to Vietnam, Secretary of State Powell reportedly raised the issues of human and religious rights in his conversations with Vietnamese leaders, though he refrained from raising the issue in his public appearances. During the last annual "human rights dialogue" with Vietnam, U.S. officials reportedly raised a number of specific issues of concern, while Vietnam urged the U.S. to do more to alleviate the continued suffering caused during the Vietnam War. (For a discussion of the Montagnard/Central Highlands refugee issue, see "Unrest in the Central Highlands" below.)

On the matter of religious freedom, U.S. law (P.L. 105-292, signed October 27, 1998), requires the State Department to report to Congress annually on the state of religious freedom in other countries. Vietnam's respect for the freedom of worship appears to vary by region. In some areas — particularly around Ho Chi Minh City, where there is a large concentration of Roman Catholics — local officials are relatively tolerant, and Vietnamese religious officials have reported an increase in religious activity and observance. In August 1999, for example, authorities allowed approximately 200,000 Catholics to attend a special Mass in central Vietnam, in what was thought to be the largest event not arranged by the Communist Party in its 24 years in power. The Catholic Church claims eight million followers out of Vietnam's 76 million, predominantly Buddhist, population.

However, the State Department report noted that in other regions — particularly those populated by ethnic minorities — authorities allow Vietnamese little discretion in practicing their faith. Indeed, according to Western human rights watch groups and the State Department officials, over the past several months the government has increased its

repression of unofficial religious organizations, particularly those in rural areas populated by ethnic minorities. Throughout the country, the government requires religious groups to register, and uses this process to monitor and restrict the operations of religious groups. Local officials reportedly continue to detain and imprison Vietnamese citizens for their religious beliefs. Recently, Western news sources have uncovered evidence of police raids on unofficial Christian groups, and in October 2001, a prominent Catholic priest, Father Nguyen Van Ly, was sentenced to 15 years in prison for anti-government activities. On April 3, 2003, the Vietnam Human Rights Act of 2003 (H.R.1587) was introduced. The measure would ban increases (over FY2003 levels) in non-humanitarian aid to the Vietnamese government if the President does not certify that Vietnam is making "substantial progress" in human rights. The act allows the President to waive the cap on aid increases. Vietnamese officials have criticized the bill, arguing that U.S.-Vietnam ties must be based upon non-interference in each other's affairs.

## Security Issues

**Anti-Terrorism Cooperation.** Vietnam has given the U.S. modest support in the anti-terrorism campaign. Hanoi has twice granted overflight rights to U.S. military planes, provided \$300,000 in supplies to the Afghanistan reconstruction effort, and instituted name and asset checks on suspected terrorists and terrorist organizations. Vietnam also supported the U.S.-ASEAN Counterterrorism Declaration issued in Brunei in July 2002, though Vietnam joined with Indonesia to oppose any reference to the use of U.S. forces into the region. Part of Vietnam's motivation for cooperating on counterterrorism may be to try to secure U.S. support for what Hanoi describes as "terrorist" groups that operate within Vietnam — such as the Montagnard tribes in the Central Highlands — and expatriate groups in U.S. that have been giving the Montagnards assistance, occasionally through violent means.

Bilateral security ties have slowly been improving in recent years. In mid-March 2000, U.S. Defense Secretary William Cohen visited Vietnam, the first trip by a U.S. defense secretary in nearly 30 years. In the aftermath of the September 11, 2001 terrorist attacks, Vietnam granted U.S. military planes permission to fly through Vietnamese airspace. In February 2002, then-commander-in-chief of the U.S. Pacific Command, Admiral Dennis Blair, visited Vietnam and reportedly discussed Vietnam's plans for the Cam Ranh Bay military base, which will be abandoned by Russia when its lease expires in 2004. In May 2002, Hanoi for the first time sent military observers to the annual U.S.-Thailand-Singapore "Cobra Gold" military exercises. There are reports that Vietnamese Defense Minister Pham Van Tra will visit the U.S. by the end of this year or in early 2003 in what would be Vietnam's first official military visit to the United States since the end of the Vietnam War. Additionally, the commandant of the U.S. Marine Corps plans to head to Hanoi later this year to discuss ship visits.

The U.S. has also begun to cooperate with Vietnam on combating trade in illicit drugs. Drug trafficking through Vietnam has risen dramatically in recent years, due to the country's proximity to heroin-producing areas in Laos and Burma, and to methyl-amphetamine producing regions in southern China. In February 2000, the U.S. Drug Enforcement Agency opened an office in Hanoi in February 2000. On June 22, 2000, U.S. "drug czar" Barry McCaffrey visited Vietnam to expand bilateral anti-narcotics efforts.

## POW/MIA Issues

President Clinton's receipt of the presumed remains of U.S. servicemen during his trip to Vietnam was a symbol of the increased resources devoted by Vietnam to POW/MIA research and analysis in recent years. By 1998 a substantial permanent staff in Vietnam was deeply involved in frequent searches of aircraft crash sites and discussions with local Vietnamese witnesses throughout the country. The Vietnamese authorities also had allowed U.S. analysts access to numerous POW/MIA-related archives and records. The U.S. Defense Department has reciprocated by allowing Vietnamese officials access to U.S. records and maps to assist their search for Vietnamese MIAs.

The increased efforts have led to substantial understanding about the fate of several hundred of the over 2,000 Americans still unaccounted for in Indochina. On September 21, 1998, U.S. Ambassador to Vietnam Peterson told the media in reference to Americans still listed as missing from the Vietnam War that "...it is very, very, very unlikely that you would expect to see any live Americans discovered in Vietnam, Cambodia, or Laos." He noted that investigations of 121 reported sightings of missing Americans have ended in a "zero outcome, not even a trace." Official U.S. policy, however, does not "remove a name from the rolls" of those unaccounted for unless remains are identified. (For more on the POW/MIA issue, see CRS Issue Brief IB92101, *POWs and MIAs: Status and Accounting Issues*.)

## Vietnam's Situation

Ever since communist North Vietnamese forces defeated U.S.-backed South Vietnam in 1975, reunified Vietnam has been struggling with how to maintain a balance between two often contradictory goals — maintaining ideological purity and promoting economic development. For the first decade after reunification, the emphasis was on the former. By the mid-1980s, disastrous economic conditions led the country to adopt a more pragmatic line, enshrined in the *doi moi* (renovation) economic reforms of 1986. Under *doi moi*, the government gave farmers greater control over what they produce, abandoned central state planning, cut subsidies to state enterprises, reformed the price system, and opened the country to foreign direct investment.

### Economic Developments

For the first decade after the *doi moi* reforms were launched, Vietnam became one of the world's fastest-growing countries, averaging around 8% annual GDP growth from 1990 to 1997. Agricultural production doubled, transforming Vietnam from a net food importer into the world's second-largest exporter of rice and third-largest producer of coffee. The move away from a command economy also helped reduce poverty levels from 58% of the population in 1992 to 37% in 1997.<sup>2</sup> A substantial portion of the country's growth was driven by foreign investment, primarily from Southeast Asian sources, most of which the government channeled into the country's state-owned sector.

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<sup>2</sup> *Vietnam Development Report 2000: Attacking Poverty* (Draft), Joint Report of the Vietnam Government-Donor-NGO Working Group, November 15, 1999, p. ii.

By the mid-1990s, however, the economic reform movement had stalled, as disagreement between reformers and conservatives paralyzed economic decision-making. The economy staggered after the 1997 Asian financial crisis, as real GDP growth fell to 5.8% in 1998, and 4.8% in 1999. Foreign direct investment (FDI) plummeted to \$600 million in 1999, the lowest level since 1992.

Over the last two years, Vietnam's economic situation has improved somewhat. Growth rebounded to 6.7% in 2000 and 6.8% in 2001, and is expected to be at the 6-7% level in 2002. FDI commitments have increased, to the moderate level of \$2.3 billion in 2001. However, Vietnam remains an overwhelmingly poor country; about one-third of Vietnamese children under 5 years of age suffer malnutrition. Per capita gross domestic product (GDP) is estimated at \$370, equivalent to \$1,850 when measured on a purchasing power parity basis. Growth continues to be impeded by Vietnam's failure to tackle its remaining structural economic problems — including unprofitable state-owned enterprises, a weak banking sector, massive red tape, and bureaucratic corruption — as major impediments to continued growth. In recent months, there have been signs that the government has redoubled its commitment to economic reforms.

Rapid growth has transformed Vietnam's economy, which has come to be loosely divided into three sectors: the state-owned, the foreign-invested, and the privately owned, which make up roughly 50%, 30%, and 20% of industrial output, respectively. For much of the 1990s, Vietnam's foreign-invested enterprises (FIEs) were among the country's most dynamic. Since the 1997 Asian financial crisis, the private sector has also made impressive gains, to the point where privately owned firms employ nearly a quarter of the workforce. Most of the giant state-owned enterprises (SOEs), meanwhile, are functionally bankrupt, and require significant government subsidies and assistance to continue operating. In 1990, 2.5 million people were employed by state firms. In 2001, this figure was down to 1.6 million.

**Overseas Vietnamese.** In an effort to boost its economy, Hanoi in late October 1999 announced that overseas Vietnamese (*Viet Khieu*) will be allowed to travel to Vietnam without visas. The program is designed to encourage the estimated 2.5 million Vietnamese living abroad to visit and work in their home country. Remittances from overseas Vietnamese totaled over \$2 billion in 2002, over 5% of the country's annual GDP.

## Political Trends

Vietnam's experiments with political reform have lagged behind its economic changes. A new constitution promulgated in 1992, for instance, reaffirmed the central role of the Communist Party in politics and society, and Vietnam remains a one-party state. Although personal freedoms have increased dramatically, Hanoi still does not tolerate signs of organized political dissent. In subtle ways, however, the decision to prioritize economic development above ideological orthodoxy has led the Party to slowly loosen its former stranglehold on political power. Recognizing that Party cadres often were ill-suited to administering its own policy directives, for instance, the Party created a more powerful and professionalized executive branch in the 1992 constitution. The new constitution also gave more influence to the legislative branch, the National Assembly, in part because the Party realized it needed to make the organs of government more responsive at the grass-roots level. Over the past decade, the Assembly has slowly and subtly increased its influence. In December 2001, constitutional amendments were passed allowing the Assembly to hold no-

confidence votes against the government, and to dismiss the president and prime minister (though not the general secretary of the Party).

Rapid economic growth, increased integration with the global economy, and weak domestic institutions have caused a rise in corruption and a decline in the Vietnamese Communist Party's (VCP) authority, alarming many Party hard-liners. As a result, Vietnamese policy-making in recent years has been virtually paralyzed, as reformist and conservative elements within the Party have battled to a stalemate over how to deal with the major economic and demographic forces transforming the country. The former group calls for a steady roll-out of new reforms and increased integration into the global economy. The latter fears that economic reform will lead to the loss of government control over the economic means of production and financial and monetary levers; they also fear the possible infiltration of heterodox outside ideas. Vietnam's consensus-based decision-making style, combined with the absence of any paramount leader, has meant that these divisions have produced only piecemeal economic reforms, though implementing the BTA may force more significant changes.

**The 9<sup>th</sup> Party Congress.** Vietnamese Communist Party Congresses, which are held every five years, often are the occasions for major leadership realignments and set the direction for Vietnam's economic, diplomatic, and social policies. At its ninth Party Congress that ended on April 22, 2001, Vietnam's Communist Party selected **Nong Duc Manh** as its Secretary General, the Party's top post. Manh (60) is generally considered to be more moderate than his predecessor, **Le Ka Phieu** (69), a conservative who was ousted after a heated struggle. Significantly, Manh's selection was made possible when the Party's Central Committee rejected — an unprecedented move — the Politburo's decision to endorse Phieu for another term. Manh, the former speaker of Vietnam's National Assembly, is an ethnic Tay, making him the first member of an ethnic minority to head Vietnam's Communist Party. In other significant moves, the 9<sup>th</sup> Party Congress reduced the size of the Politburo (from 19 to 15 members), retired seven Politburo members, and shrunk the Central Committee from 170 to 150 members.

Manh's selection as Secretary General is but the latest in a long string of seemingly contradictory personnel shifts and policy moves that Vietnam-watchers have been struggling to interpret for signs that the economic reformers or hard-liners have gained the upper hand. Manh's selection has not yet resulted in the expected acceleration of reforms, as he has devoted most of his attention to an anti-corruption campaign that features greater local supervision of local authorities and the dismissal of some senior party leaders. A sign that Manh may have begun to try to revive the *doi moi* (economic renovation) process occurred in January 2002, when he directed the Party to begin considering how to develop the private sector and whether Party members should be allowed to start their own businesses.

Vietnam's new leadership will have to confront the problem of how to reverse the Communist Party's declining legitimacy. Attracting new recruits into the Party has become increasingly difficult, particularly among young Vietnamese — a major problem since more than half of the population is under the age of 25. Some prominent retired military leaders, including war hero General Vo Nguyen Giap, have publicly called for the Party to become more democratic.

**Unrest in the Central Highlands Region.** Additionally, over the past several years, there have been reports of protests and riots by peasants in the Central Highlands provinces against local government corruption and by ethnic minorities against encroachment on their ancestral lands by recent settlers. In February 2001, thousands of minorities, primarily from Montagnard groups, protested in the Central Highlands, the largest-scale social unrest in years. The Vietnamese government dispatched military troops and local police to quell the unrest, and in the spring of 2001 launched a crackdown against the protesters. There are reports that the government has continued its crackdown into early 2003.

Vietnam has accused U.S. groups of providing financial and logistical support to the protestors. Hanoi has also criticized the United States for granting asylum to 24 Vietnamese refugees, all members of the Central Highlands minority groups that protested, who fled into Cambodia following the unrest. Some refugees reported that the Vietnamese government has imprisoned and tortured many protestors. Hundreds of asylum seekers from Vietnam remain in Cambodia. A repatriation agreement signed in January 2002 by Vietnam, Cambodia, and the United Nations High Commissioner for Refugees (UNHCR) crumbled after Vietnam refused to abide by its agreement to allow the UNHCR access to the Central Highlands to monitor refugee returns. To settle the dispute, Cambodia in late March 2001 accepted an offer from the United States to resettle the more than 900 Montagnards that remained in Cambodia. There is speculation that Vietnam's acquiescence to the plan was obtained by Cambodia's pledge to close its borders to future asylum-seekers from Vietnam.

**Vietnam's Response to SARS.** On April 28, 2003, Vietnam became the first country to be declared by the World Health Organization (WHO) to contain and eliminate Severe Acute Respiratory Syndrome (SARS), which apparently was first spread to Vietnam in February 2003 by an American businessman traveling from Hong Kong. The disease infected at least 63 people, five of whom died. Most of the victims were hospital workers. On April 29, the U.S. Center for Disease Control downgraded its traveler's notification for Vietnam from a travel advisory to a travel alert, not advising against travel, but informing travelers of a health concern and advising them to take certain precautions. The Vietnamese government has been praised for its quick and relatively transparent response to the SARS outbreak. After consulting with the WHO in early March, Hanoi mobilized virtually the entire government to identify and isolate infected individuals. A task force was formed that reported to the prime minister. Information gathering was centralized. Infected buildings and individuals were quarantined. And an immigration screening system has been set up.

## **Foreign and Defense Policy**

For many years, a major impediment to Vietnam's development was the strong international sanctions imposed in response to Vietnam's 1978 invasion and subsequent 11-year occupation of Cambodia. Faced with a cutoff of much aid from the Soviet bloc, the Vietnamese in the early 1990s increased their flexibility on a Cambodian settlement, moved to accommodate China on sensitive issues, and stepped up action on the POW/MIA and other humanitarian issues with the United States. In the mid-1990s, Hanoi continued the process of rejoining the world political community by joining the regional political group, the Association of Southeast Asian Nations (ASEAN), the regional security forum, the ASEAN Regional Forum (ARF), and the regional economic group, the Asian Pacific Economic Cooperation (APEC) forum.

Vietnam has had periodic spats with its neighbors over the islands in the South China Sea. In 1974, China seized the Paracel island chain from Vietnam. In 1988, the Vietnamese and Chinese navies clashed over conflicting claims to the Spratly Islands, parts or all of which are also claimed by Taiwan, Malaysia, the Philippines, and Brunei. Although most of the Spratlys are low-lying reefs and rocky outcrops, the sea bed beneath them is thought to contain massive oil and gas reserves, and the 155,000 square miles of surrounding waters are home to rich fishing grounds. Hanoi's latest flare-up in the Spratlys occurred in October 1999, when Vietnamese troops on Tennent Reef fired at a Filipino reconnaissance plane flying low over a suspected Vietnamese military installation.

In recent years, Hanoi has improved ties with many of its neighbors, the October 1999 incident with Manila notwithstanding. Most significantly, Vietnam has moved to fully normalize relations with mainland China. Following Chinese Prime Minister Zhu Rongji's four-day visit to Vietnam in early December, for instance, the two sides signed a long-elusive land border treaty on December 30, 1999. In late December 2000, Vietnamese President Tran Duc Long travelled to Beijing, where he signed an agreement establishing the two countries' sea border in the Gulf of Tonkin. The two countries, however, still have overlapping claims to the Spratly Island chain in the South China Sea, differences that led to military clashes in the late 1980s. Along with other Southeast Asian nations, Vietnam has tried — thus far unsuccessfully — to convince China to agree to a multilateral code of conduct for the South China Sea. Vietnam did not push the issue in 2001 during its tenure as chair of the standing committee of the Association of Southeast Asian Nations (ASEAN).

Shortly after assuming the ASEAN chair, Vietnam rebuffed United Nations Secretary General Kofi Annan's suggestion that it convene a troika of ASEAN ministers to help start a dialogue between Myanmar's military government and dissident Aung San Suu Kyi. A Vietnamese official said that Hanoi had rejected the idea because it constituted an unwarranted "interference" in Myanmar's affairs. During the 2000 annual meeting of ASEAN Foreign Ministers, participants had agreed that the organization should form a troika of officials to resolve political and security problems of common concern in the region.

In 1999 and 2000, Vietnam improved its historically troubled relations with Cambodia, sending a high-level delegation to Phnom Penh, strongly supporting Cambodia's entry into ASEAN in early 1999, and pledging to resolve outstanding border disagreements by the end of 2000. On November 26, 1999, Vietnam signed a cross-border agreement with Laos and Thailand to harmonize and simplify regulations governing flows of goods, vehicles, and people. The deal is part of the proposed \$350 million, 240 mile East-West Transport Corridor highway project designed to link areas of Laos and Thailand to the port of Da Nang in central Vietnam. There have been reports that Vietnamese troops have assisted the Laotian regime in combating an insurgency by ethnic minorities. In March 2001, Russian President Vladimir Putin visited Vietnam, where the two countries signed a new strategic partnership agreement, and restructured Vietnam's Soviet-era debt to Russia. In the summer of 2001, the Russian Defense Minister announced that Moscow would not renew its lease of the Cam Ranh Bay military base on Vietnam's southeast coast. The lease, which the Soviet Union and Russia had held since the late 1970s, is due to expire in 2004.

## Issues for Congress

If past events are any guide, future steps to improve U.S.-Vietnam relations are likely to remain controversial in the United States and Vietnam. Potential issues of concern to the U.S. Congress could include:

- Consideration of a Presidential waiver of Jackson-Vanik restrictions;
- Calling attention to Vietnam's record on human, religious, and labor rights, and possibly linking these issues to the Jackson-Vanik waiver or to U.S. non-humanitarian assistance to Vietnam;
- Pushing for the U.S. and Vietnam to negotiate a bilateral agreement on trade in textiles;
- Granting of Generalized System of Preference (GSP) status to a range of Vietnamese imports.
- Increase of U.S. foreign assistance.

Congress plays a funding, authorizing, or oversight role in each of these issues. Congressional supporters of warmer U.S. relations with Vietnam include Members who support growing U.S. business interests in Vietnam. Many Members also supported Clinton Administration arguments that improved relations with Vietnam help U.S. strategic interests in working closely with friends and allies to promote stability and development by integrating Vietnam more fully into the East Asian regional order. The Clinton Administration contended that increasing U.S. economic, political, and other interaction with Vietnam is a good way to promote political liberalization in the country. Finally, there are Members who believe that the United States is more likely to elicit Vietnamese cooperation on POW/MIA, human rights, or other sensitive issues through a policy of closer "engagement," rather than one that restricts ties until Vietnam meets firm U.S. conditions.

Against these advocates are those Members who are sharply critical of the Vietnamese government's repressive political regime and human rights' violations, including suppression of religious freedom; those who represent U.S. constituencies concerned with poor labor conditions in many industries in Vietnam; those who see no significant U.S. interest in stimulating the economic development of this regime; and those who represent some Vietnamese-American constituencies that strongly oppose the current Hanoi government.

## LEGISLATION

### **H.R.1587 (C. Smith)**

Bans increases (over FY2003 levels) in non-humanitarian aid to the Vietnamese government if the President does not certify that Vietnam is making "substantial progress" in human rights. The act allows the President to waive the cap on aid increases. Introduced April 3, 2003; referred to House International Relations Committee and House Financial Services Committee.

### **H.R. 1019 (Royce)**

Authorizes \$17 million to overcome Vietnam's jamming of Radio Free Asia and of the Internet. Introduced February 27, 2003; referred to House International Relations Committee.