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The Vietnam-U.S. Normalization Process

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SUMMARY

U.S.-Vietnam diplomatic and economic relations remained essentially frozen for more than a decade after the 1975 communist victory in South Vietnam. Relations took major steps forward in the mid-1990s, particularly in 1995, when the two sides opened embassies in each other's capitals. Since then, the normalization process has accelerated and bilateral ties have expanded. Congress has played a significant role in the normalization process.

The most important step toward normalization since 1995 was the signing of a sweeping bilateral trade agreement (BTA), which was approved by Congress and signed by President Bush in 2001. Under the BTA, the U.S. extended conditional normal trade relations (NTR) to Vietnam. In return, Hanoi agreed to a range of trade liberalization measures and market-oriented reforms. Trade — primarily imports from Vietnam — has surged since the BTA was signed. The United States is now Vietnam's largest trading partner.

Until recently, 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.

The next, and final, step toward full normalization would be granting permanent normal trade relations status to Vietnam. This step, which would require congressional approval, almost certainly will be considered in the context of negotiating Vietnam's accession to the World Trade Organization (WTO). Vietnam hopes to join the WTO in 2005, though some analysts believe this is an overly optimistic time frame.

Recently, clashes over Vietnam's human rights record and trade friction over shrimp, catfish, and textiles have soured relations somewhat since the heady days after the BTA was signed. At the same time, some U.S. analysts have suggested that the Bush Administration seek to expand the as yet embryonic security relations between Hanoi and Washington, arguing that Vietnam and the United States share suspicions of China's expanding influence in Southeast Asia. Other observers, however, have argued there is little evidence that Hanoi seeks to balance Beijing's rising power. Regardless of motivation, since 2003 the two sides slowly have expanded military-to-military ties, albeit primarily in symbolic rather than substantive ways.

Vietnamese officials have expressed their eagerness for their Prime Minister to visit the United States in the summer of 2005. They hope the visit not only will accelerate the bilateral World Trade Organization accession negotiations but also will smooth the way for President Bush's expected trip to Hanoi in 2006, when Vietnam hosts the Asia-Pacific Economic Cooperation (APEC) forum summit. The two sides have not had a bilateral summit since 2000, when President Clinton visited Vietnam.

MOST RECENT DEVELOPMENTS

During his one-day visit to Vietnam in May 2005, Deputy Secretary of State Robert Zoellick announced that President Bush and Prime Minister Phan Van Khai would meet in Washington on June 21, 2005. Securing the trip was a top priority for the Vietnamese government, which in recent months appears to be trying to upgrade its relations with Washington. It will mark the first visit to the United States by a Vietnamese prime minister. It is hoped the trip will smooth the way for President Bush's expected trip to Hanoi in 2006, when Vietnam hosts the Asia-Pacific Economic Cooperation (APEC) forum summit. Additionally, the visit will be an occasion to mark the tenth anniversary of the establishment of diplomatic relations between the two countries. 2005 also is the 30th anniversary of communist North Vietnam's defeat of U.S.-backed South Vietnam, and the withdrawal of the U.S. presence in Vietnam after nearly a quarter-century involvement. The U.S. and Vietnam did not restore relations until 1995. To mark the occasion, Vietnamese Prime Minister Phan Van Khai sent out a message urging all former combatants to "close the past, look to the future."

On May 5, 2005, the State Department announced it had reached an agreement on religious freedom with Vietnam. The agreement, which has not been released, enabled Vietnam to avoid negative consequences associated with its designation as a "country of particular concern" (CPC) in the State Department's September 2004 International Religious Freedom Report. The State Department's announcement noted a number of steps recently taken by the Vietnamese government, notably the release of several prominent religious prisoners, the issuance of a new law streamlining the application process for religious groups registering with the government, and the issuance of prime ministerial directives prohibiting forced renunciations of faith and allowing Protestant "house churches" in ethnic minority provinces to operate if they renounce connections to certain expatriate groups. According to information provided by the State Department, the agreement does not appear to carve out new ground, but instead focuses on committing Vietnam to fully implementing its new laws and regulations and to ensuring the compliance of local officials, a goal that often has proved elusive in the past. Vietnam will remain a CPC, at least until the next religious freedom report is released in the fall of 2005.

Since mid-December 2004, Vietnam has reported over 30 cases, at least 14 of them fatal, of the H5 avian influenza (also known as the "bird flu"), raising concerns that the disease is re-emerging after an outbreak in early 2004 spread across Asia. The wartime and tsunami supplemental, H.R. 1268, which was passed by the House on May 5 and the Senate on May 10, 2005, includes $25 million to help combat the disease, of which the U.S. embassy in Hanoi expects approximately $4 million to be used in Vietnam.

BACKGROUND AND ANALYSIS

U.S.-Vietnam Relations, 1975-1998

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 to December 1992. In early 1993, the committee issued its report, which concluded that there was "no compelling evidence" that POWs were alive after the U.S. withdrawal from Vietnam, 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 (1) facilitate emigration from Vietnam of relatives of Vietnamese-Americans or permanent Vietnamese residents of the United States; (2) 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; (3) 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 (4) 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. 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.

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.

Economic relations steadily improved over the next several years, culminating in the signing of a bilateral trade agreement in 2000 (see below). While 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. In November 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.

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*.) Under the BTA, which by law required congressional approval, the U.S. extended conditional normal trade relations (NTR) status to Vietnam, a move that significantly reduced 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 foreign direct investment.

The agreement paved the way for President Bush to extend *conditional* NTR treatment to Vietnam. NTR treatment is conditional because Vietnam's trade status is still 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, 2004, President Bush renewed Vietnam's year-long waiver of Jackson-Vanik amendment restrictions on bilateral economic activities. Vietnam has received a presidential waiver every year since 1998. From 1998 to 2002, resolutions disapproving the waivers failed in the House. Disapproval resolutions were not introduced in 2003 and 2004. In addition to granting Vietnam conditional NTR treatment, the Jackson-Vanik waiver also allows the U.S. Overseas Private Investment Corporation (OPIC) and the U.S. Export-Import Bank to support U.S. businesses exporting to and/or operating in Vietnam.

Implementation of the BTA. In the first three years after the BTA was signed, Hanoi apparently implemented most of its initial commitments. Some observers have expressed concern that the government has not implemented in law and/or in practice many of the concessions that were due to be phased in by December 2004, particularly in the services sector, though the criticisms tend to accept the argument that the slippages often are due more to weak capacity rather than to protectionist intentions. This belief may also explain why the Bush Administration appears not to have harshly criticized Vietnam in those areas where implementation has been poor or incomplete, with the exception of intellectual property rights (see below).

Table 1. U.S.-Vietnam Trade, 1998-2004
(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
2000	827.4	330.5	1,157.9	-496.9
2001	1026.4	393.8	1,420.2	-632.6
2002	2391.7	551.9	2,943.6	-1,839.8
2003	4472	1,291.1[a]	5,763.1	-3,180.9
2004	5161.1	1121.9	6,283.0	-4,039.2
Major Imports from Vietnam	clothing, frozen shrimp, footwear, wooden furniture, petroleum products, cashew nuts, coffee, travel bags			
Major Exports to Vietnam	aircraft, mining equipment, electronic machinery, steel wire, raw cotton, plastics			

Source: U.S. International Trade Commission. Data are for merchandise trade on a customs basis.
a. U.S. exports in 2003 include Vietnam Airlines' $700 million purchase of four Boeing 777s. In 2004, U.S. commercial aircraft exports totaled over $360 million.

U.S.-Vietnam Trade Flows. The BTA led to a sharp rise in U.S.-Vietnam trade, which in 2004 was worth over $6.2 billion, more than four times the level in 2001 (see **Table 1**), and nearly thirty times the level when relations were normalized in 1994. The United States is now Vietnam's largest trading partner. Most of the increase in trade has been from rising imports from Vietnam, which have grown fivefold, to $5.1 billion. U.S. exports to Vietnam have grown far more modestly, particularly if the hundreds of millions of dollars of U.S. aircraft exports in 2003 and 2004 are dropped from the totals.

A Bilateral Textile Agreement. Most of the increase in U.S.-Vietnam trade since 2001 has come from a sharp rise in clothing imports from Vietnam, which were over $2.6 billion in 2004, up from the $45 million-$50 million range that Vietnam had recorded in 2000 and 2001. By dollar value, clothing is now the largest item the United States imports from Vietnam. In 2002, Vietnam accounted for 1.38% of U.S. textile and apparel imports, while over half of Vietnam's textile and apparel exports go to the U.S. market. The BTA contains no restrictions on Vietnamese textile exports to the United States, but a 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.

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. In May 2004, the Bush Administration announced it was cutting Vietnam's textile quotas by 4.5% in 2004 because Vietnamese firms were found to be shipping clothing into the United States that had not been made in Vietnam. In July 2004, the United States agreed to allow Vietnamese clothing exporters, many of whom had already exhausted their 2004 quotas, to exceed their 2004 quota by borrowing against their 2005 quota allotments. In December 2004, Vietnam's deputy trade minister, his son, and a dozen others were jailed for allegedly receiving up to $1 million in bribes for handing out quota allotments for textile and garment shipments to the U.S. That same month, the European Union and Canada announced they would grant Vietnam quota-free access to their markets.

Vietnam's Bid to Join the World Trade Organization (WTO). The final step toward full legal normalization between the United States and Vietnam would be granting permanent NTR (PNTR) status to Vietnam. This step, which would require congressional approval, is likely to be considered in the context of negotiating Vietnam's accession to the World Trade Organization (WTO), a goal the United States has supported. January 1, 2005 saw the expiration of the global system of import quotas on textile and apparel products for WTO members. Because Vietnam is not a WTO member, its clothing industry generally is a severe disadvantage compared with its competitors that operate under quota-free trade in textiles and apparel. For this reason, after the BTA was signed, Vietnamese leaders set a goal of joining the WTO by the beginning of 2005. That goal has now been shifted to the end of 2005, a time frame that some Vietnamese leaders publicly have begun to describe as unrealistic. Vietnam has concluded bilateral accession agreements with six WTO members, including the European Union, and currently is negotiating agreements with over twenty countries, including the United States. The United States and Vietnam held their seventh round of talks in Washington in mid-March. The next round of bilateral talks and of "working party" multilateral talks at the WTO have not been scheduled. To avoid a repeat of the experience with China, which allegedly has not passed the legal instruments to implement many parts of its WTO accession agreements, the United States and other trading partners are insisting that Vietnam show progress on and present drafts of implementing legislation. Vietnam's National Assembly is scheduled in 2005 to consider 30 laws, codes, and ordinances affecting nearly every aspect of commercial life. The full Assembly holds two month-long legislative sessions, in May and October. Vietnam's accession to the WTO almost certainly would require Congress to decide whether or not to extend permanent normal trade relations (PNTR) status to Vietnam.

Shrimp. In December 2003, an alliance of U.S. shrimpers and processors initiated an anti-dumping petition against imports of frozen and canned shrimp from several countries, including Vietnam. Foreign shrimp accounts for over 85% of the U.S. market. In 2002, Vietnam was the fourth-largest foreign supplier of shrimp. Shrimp represents Vietnam's

third-largest export item, as well as an important source of employment and hard-currency earnings. In November 2004, the Commerce Department issued a final ruling assessing duties ranging from 4% to 25% on most of Vietnamese imports. Almost all of the over 35 Vietnamese shrimp exporters targeted in the case were hit with duties of less than 5%. The higher tariff rates went into effect in January 2005, after the U.S. International Trade Commission (ITC) made a final determination that the U.S. shrimp industry had been "materially injured or threatened with material injury" from increased imports.

Intellectual Property Rights (IPR). Since 2002, the Bush Administration has 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.[1] The BTA requires Vietnam to make its IPR regime WTO-consistent in 2003. Although it has made numerous regulatory and legal changes to this end, the Vietnamese government's IPR enforcement has been widely faulted.

U.S. Bilateral Economic Assistance to Vietnam. (For more on U.S. aid to Vietnam, see CRS Report RL32636, *U.S. Assistance to Vietnam*, by Mark Manyin) As the normalization process has proceeded, the U.S. has eliminated most of the Cold War-era restrictions on U.S. aid to Vietnam, and U.S. assistance has increased markedly from around $1 million when assistance was resumed in 1991 to over $50 million anticipated in FY2005. The level of assistance has more than doubled since FY2000. By far the two largest components of the U.S. bilateral aid program are food assistance and health-related assistance, which together comprised about 60% of the nearly $200 million in aid the United States has provided to Vietnam since U.S. assistance began to increase substantially in FY1999. Spending on HIV/AIDS treatment and prevention in Vietnam has risen, especially since President Bush's June 2004 designation of Vietnam as a "focus country" eligible to receive increased funding to combat HIV-AIDS under the President's Emergency Plan for AIDS Relief (PEPFAR).[2] The United States provided $10 million in PEPFAR funds in FY2004, and officials expect that figure to rise significantly in FY2005. Other sizeable assistance items include de-mining activities, educational exchanges, and programs assisting Vietnam's economic reform efforts. In recent years, some Members of Congress have attempted to link increases in non-humanitarian aid to progress in Vietnam's human rights record. (See the "Human Rights and Religious Freedom" section.)

The Vietnamese government has asked for increased U.S. aid, and in 2004 invited the U.S. Peace Corps to visit Vietnam to discuss opening programs in Vietnam. In May 2004,

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[1] "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 CRS Report 98-454, *Section 301 of the Trade Act of 1974*, by Wayne Morrison.

[2] Vietnam qualified for the designation in part because of its demonstrated commitment to fighting the epidemic on its own and because of the competency of its medical institutions. Vietnam is estimated to have about 100,000 people living with the HIV-AIDS virus, a number that is projected to grow significantly.

Vietnam was not selected as one of the first 16 countries eligible for the Millennium Challenge Account (MCA), President Bush's major new foreign aid initiative. Vietnam was deemed ineligible despite meeting the technical requirements for MCA eligibility because it scored very low on some of the indicators used to measure political freedom. In September 2004, Vietnam again received low scores on the indicators of political and civil liberties maintained by the Millennium Challenge Corporation to determine eligibility for the MCA.

Political and Security Ties

Vietnam and the United States gradually have been expanding their political and security ties, though these have lagged far behind the economic aspect of the relationship. In the past two years, however, Vietnam's leadership appears to have decided to expand their country's ties to the United States, though it is still unclear how far, how fast, and in what form any new security relationship will develop. In November 2003, Vietnamese Defense Minister Pham Van Tra visited Washington and the guided missile frigate USS *Vandergrift* and its 200 soldiers made a four-day call at the port of Saigon. Both events were firsts since the end of the Vietnam War. In February 2004, Admiral Thomas Fargo, Commander in Chief of the U.S. Pacific Command, visited Vietnam for three days. In July 2004, the guided missile destroyer U.S.S. Curtis Wilbur became the first U.S. warship to make a port call at Danang, the site of a major U.S. military base during the Vietnam War, since the end of the war. Vietnamese military officers increasingly participate in U.S.-led conferences and academic programs. Since FY2002, the Bush Administration has requested funds for Expanded International Military Education and Training (E-IMET) courses to enhance English language proficiency among Vietnamese military officers. No funds have been disbursed, however, because Vietnam and the United States have not yet signed an IMET agreement, reportedly due to the Vietnamese Ministry of Defense's concerns about outside scrutiny of its officers for human rights abuses. Outside of the military arena, in April 2004, the U.S.-Vietnam Congressional Caucus was launched by Representative Rob Simmons and Representative Lane Evans. In August 2004, drug enforcement officials from various U.S. agencies held a week-long training session in Vietnam, the first such joint counternarcotics training session.

Agent Orange. Vietnamese leaders have pressed the U.S. for compensation for Agent Orange victims, and for assistance locating the remains of Vietnam's soldiers who are still missing from fighting with the United States. During President Bill Clinton's five-day trip to Vietnam in 2000, the United States took some small steps toward meeting these demands, including agreeing to set up a joint research study on the effects of dioxin/Agent Orange and the provision of materials to help locate the estimated 300,000 Vietnamese troops missing from the Vietnam War. Over three million Vietnamese suffering from the alleged effects of Agent Orange were part of a class action suit filed in U.S. Federal District Court in Brooklyn against the chemical companies that manufactured the defoliant. The case was dismissed in March 2005, in a ruling that was widely publicized in Vietnam. In April 2005, the Bush Administration discontinued funding of a grant to conduct research in Vietnam on the possible relationship between Agent Orange and birth defects. The justification for the decision was that the Vietnamese Ministry of Health had not given its approval for the study.

Human Trafficking. On June 14, 2004, the State Department issued its fourth annual report on human trafficking, Trafficking in Persons Report. The report reviews recent trends in the fight against trafficking and rates countries according to whether they meet "minimum

standards" with regard to their anti-trafficking commitment and policies. Vietnam was one of 42 countries included in a "Tier 2 Watch-list" that requires the State Department to issue an interim report because despite efforts by the listed countries to come into compliance, they do not meet the minimum standards.

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. Although Vietnam opposed the U.S.-led invasion of Iraq, after the war it sent $500,000 in rice aid, perhaps in an attempt to maintain its place as Iraq's largest supplier of rice. 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.

Human Rights and Religious Freedom

In recent years, tensions between the United States and Vietnam over human rights issues have increased. The United States and Vietnam did not hold their annual human rights dialogue in 2003 and 2004 "due to insufficient progress" on key human rights issues. In his first major speech after assuming his post in 2005, U.S. Ambassador Michael Marine said that there must be "tangible progress from Vietnam in the areas of human rights and religious freedom...if relations between our two countries are to continue to blossom."

It is difficult to make categorical generalizations about the state of human rights in Vietnam. Vietnam is a one-party, authoritarian state ruled by the Vietnamese Communist Party (VCP). For the past several years, the VCP appears to have followed a strategy of permitting most forms of personal and religious expression while selectively repressing individuals and organizations that it deems a threat to the party's monopoly. A moderately vibrant press has sprouted and is more or less tolerated, so long as it keeps criticism of the government to "safe" issues like low-level corruption, environmental pollution, and trafficking of women and children. However, the government has cracked down harshly on anti-government protests by various ethnic minority groups, most prominently the Montagnards in the country's Central Highlands and the Hmong in the Northwest Highlands. Although there is evidence that some of the protests were affiliated with expatriate groups that seek to overthrow the Communist Party, in the main the complaints were against local government corruption and against encroachment of ancestral lands by recent ethnic Vietnamese settlers. Furthermore, in its effort to control the Internet, the government also has stepped up repression of so-called cyber dissidents for alleged offenses such as criticizing the government's record on fighting corruption, criticizing the signing of land-border agreements with China, and for calling for greater political accountability and political competition.

"Country of Particular Concern" Designation. In September 2004, for the first time Vietnam was designated as a "country of particular concern" (CPC) in the State

Department's International Religious Freedom Report. The CPC designation means that by law, within 90 days (extendable for another 90-day period), the President must decide on a course of action, including sanctions, with regard to Vietnam's religious rights situation. The President extended the review period, meaning that a decision was to have been made by March 15, 2005. In mid-March, the State Department requested "a little bit more time" from Congress in deciding on a course of action. Since Vietnam was designated as a CPC, there have been reports of additional repression in the Central Highlands region, the Vietnamese government has released several prominent religious prisoners, and the prime minister has issued instructions allowing Protestant "house churches" in ethnic minority provinces to operate if they renounce connections to certain expatriate groups.[3] In March, Ambassador-at-Large for International Religious Freedom John Hanford spent several days in Vietnam for consultations. The Bush Administration's CPC decision is thought to be a key determinant of whether Vietnamese Prime Minister Phan Van Khai will make a trip to Washington in the summer of 2005.

In recent years, the report notes, restrictions and harassment have worsened noticeably for Protestant churches popular among ethnic Montagnard groups in the Central Highlands region, and among Hmong groups in the Northwest Highlands. In his briefing to accompany the 2004 report, Ambassador-at-Large for International Religious Freedom John Hanford placed particular emphasis on the "widespread," "systematic," "government-sponsored" closing of churches and forced renunciations of faith in these regions, where anti-government protests over land use policy and other matters have flared in recent years. (For a discussion of the Montagnard/Central Highlands refugee issue, see "Unrest in the Central Highlands" below.) The report also catalogs a recent crackdown against leaders of the banned Unified Buddhist Church of Vietnam and arrests of prominent Catholics. The report noted that in most geographic areas — particularly around Ho Chi Minh City, where there is a large concentration of Roman Catholics — local officials are relatively tolerant, and most Vietnamese in these regions appear to be able to observe their beliefs without much government interference.

The Vietnam Human Rights Act. In large measure due to Vietnam's crackdowns in the Central Highlands, attempts have been made in the 107th and 108th Congresses to link U.S. aid to the human rights situation in Vietnam. The most prominent example, the Vietnam Human Rights Act (H.R. 1587/S. 2784 in the 108th Congress), proposed capping existing non-humanitarian U.S. assistance programs to the Vietnamese government at FY2004 levels if the President did not certify that Vietnam is making "substantial progress" in human rights, including religious freedom. Had it been enacted, the immediate substantive impact of H.R. 1587 on U.S. assistance would likely have been purely symbolic because at present, no U.S. non-humanitarian assistance is given directly to the government of Vietnam. The act also would have required the executive branch to produce annual reports on Vietnam's human rights situation and would have authorized funds to promote democracy in Vietnam and to overcome the jamming of Radio Free Asia. Critics argued that the bill could chill the warming of bilateral political and security ties that has been taking place slowly over the past several months. The Vietnamese government strongly condemned the

[3] The released prisoners included Father Thadeus Nguyen Van Ly and Dr. Nguyen Dan Que. They were among the individuals whose release had been requested by several members of Congress in recent years.

bill as an interference in its internal affairs. Proponents of the measure argued that it would have pressured the Vietnamese government to improve the country's human rights situation. On July 19, 2004, by a vote of 323-45, the House passed H.R. 1587. Attempts to include stripped-down versions of H.R. 1587 in the FY2005 Consolidated Appropriations Act (H.R. 4818) did not succeed.

POW/MIA Issues

In recent years, the United States and Vietnam have devoted increased resources to POW/MIA research and analysis. 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." 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 less than 30% in 2002. 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.

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.

Vietnam's economic situation has improved since the financial crisis. In 2000, GDP growth rebounded to the 7% level — one of the highest in Asia — and has remained there since. FDI commitments have increased, to around 8% of GDP in 2003. However, Vietnam remains a poor country; about one-third of Vietnamese children under five years of age suffer from malnutrition. Per capita gross domestic product (GDP) is estimated at just over $410, equivalent to $2,300 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.

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 the

late 1990s was virtually paralyzed, as reformist and conservative elements within the Party battled to a stalemate over how to deal with the major economic and demographic forces transforming the country. The former group called for a steady roll-out of new reforms and increased integration into the global economy. The latter feared 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 produced only piecemeal economic reforms, though implementing the BTA may force more significant changes.

The Ninth Party Congress. The decision to sign the BTA appears to have broken the policymaking logjam by fashioning a new consensus in favor of a reformist push that was effectively endorsed by the leadership changes at Ninth Party Congress in April 2001. 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, Vietnam's Communist Party selected **Nong Duc Manh** as its Secretary General, the Party's top post. Manh (b. September 11, 1940) is generally considered to be more moderate than his predecessor, **Le Kha Phieu** (b. December 27, 1931), 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 Ninth 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.

Looking ahead to the 10th Party Congress in 2006, Vietnam's leadership is trying 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. A key issue for the VCP leadership is combating official corruption. Vietnam regularly is ranked near the bottom of surveys of foreign executives on corruption in various countries.

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, many of whom moved under government-sponsored resettlement programs. 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, and in April 2004, thousands of protesting Montagnards reportedly clashed violently with police and local authorities. Speaking before Vietnam's National Assembly, a deputy prime minister accused the Montagnard Foundation, a U.S.-based group of Montagnard exiles, for organizing the demonstrations, but acknowledged that the government's "inefficiency and weaknesses" have contributed to the continued protests in the Central Highlands. In August 2004, the

government reportedly decided it temporarily will stop sending people to resettle in new economic zones in the Central Highlands. There have been reports — denied by Hanoi officials — that the Vietnamese government arrested scores of Montagnard Christians in the Central Highlands in December 2004, at the same time that Cambodia reportedly closed its border to asylum seekers from Vietnam. In February 2005, the government declared it would allow outlawed "house churches" to operate provided they have no connection to FULRO, the United Front for the Liberation of Oppressed Races, the Montagnard guerrilla group that fought alongside the United States during the Vietnam War. A former FULRO leader, Kok Ksor, is the president and founder of the Montagnard Foundation.

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 April 2001 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.

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 its "omnidirectional" policy 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. An issue that may be considered in the 10th Party Congress in 2006 is how much continued utility Vietnam gains from its omnidirectional foreign policy, which has successfully restored cordial relations with the rest of the world, but has left Vietnam without truly warm relations with any one country or grouping of countries.

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.

In recent years, Hanoi has improved ties with many of its neighbors. 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 traveled 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.

LEGISLATION

H.R. 967 (Saxton)

Prohibits normal trade relations (NTR) treatment from being extended to the products of any country the government of which engages in certain violations of human rights. Introduced February 17, 2005; referred to House committee. Status: Referred to the House Committee on Ways and Means Subcommittee on Trade.

H.R. 1450 (Tancredo)

Requires additional tariffs be imposed on products of any nonmarket economy country, including Vietnam, until the President certifies to the Congress that the country is a market economy country. Introduced March 17, 2005; referred to the House Committee on Ways and Means.

H.R. 1130 (Waters)

The Jubilee Act of 2005. Provides for the cancellation of debts owed to international financial institutions by poor countries, including Vietnam. Introduced March 3, 2005; referred to the House Committee on Financial Services.

S. 599 (Kerry)

Eliminates tariffs on certain types of tuna imported from ASEAN member countries, up to the quantity of such duty-free imports from beneficiary nations of the Andean Trade Promotion and Drug Eradication Act. Restricts eligibility to those ASEAN nations that provide and enforce internationally recognized worker rights and environmental protections. Introduced March 10, 2005; Senate Committee on Finance.

H.Res. 228 (Davis)

Observes the 30th anniversary of the "tragic event" of the fall of South Vietnam to the communist forces of North Vietnam. Introduced April 21, 2005; passed by the House May 3, 2005 (416-0).