



## INTERNATIONAL TRADE UPDATE

### The International Trade and Dispute Resolution Practice of Sidley Austin LLP

From our offices throughout the United States, Europe and Asia, the International Trade and Dispute Resolution group assists companies, governments and trade associations worldwide on transactional, regulatory, dispute settlement and policy matters. Success in the global marketplace requires an understanding of the rules that today govern every aspect of the international economy. Our team of seasoned negotiators, dealmakers, litigators and policy advisers draws on extensive private sector and government experience to help companies and governments shape these rules and resolve disputes arising under them. Combined with our broad-based transactional practice, our practice is a critical component to offering seamless global solutions to our clients.

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### Vietnam Joins WTO

On Tuesday, November 28, Vietnam approved the terms of its accession to the WTO. Vietnam will become a WTO member on December 28, 2006.

WTO accession is a significant milestone in the 11-year effort by the Socialist Republic of Vietnam to liberalize its economy, one of the fastest growing in Asia. WTO accession will open Vietnam's market to goods and services from other WTO member countries. It will also contribute to economic growth by giving businesses in Vietnam access to lower-cost inputs and enhanced telecommunications and financial services, as well as guaranteeing a stable and transparent regime for trade.

WTO accession builds on the 2000 U.S.-Vietnam Bilateral Trade Agreement (BTA), which normalized Vietnam's trade relations with the United States. WTO accession will give Vietnam access to other markets in Asia and around the world.

Highlights of the accession agreement include:

- Tariff cuts to 15% or less on over 94% of Vietnam's imports of **manufactured goods**. Import tariffs on key products in the construction equipment, pharmaceutical and aircraft sectors will be as low as 0 to 5%. Vietnam has also agreed to reduce its export duties on steel scrap — a first in the WTO.
- Vietnam will join the **Information Technology Agreement (ITA)** and eliminate all tariffs on ITA products such as computer software and hardware.
- Foreign **securities** firms will be permitted to establish joint ventures, with up to 49% foreign ownership, and engage in the full range of capital markets services; in five years, their subsidiaries in Vietnam can be wholly owned. Also in five years, foreign securities firms will be allowed to provide asset management, investment advisory services, and settlement and clearing services through branches in Vietnam. Vietnam's capital market will be more open than China's.
- As of April 1, 2007, foreign commercial **banks** will be permitted to establish wholly-owned banks in Vietnam and to operate on a nondiscriminatory basis. They will immediately be able to establish joint venture banks, wholly-owned finance companies and financial leasing companies; foreign-invested banks will be able to take unlimited local currency deposits from legal entities and foreign credit

institutions will be able to issue credit cards. Foreign commercial banks with assets of over \$20 billion will immediately be allowed to establish branches in Vietnam.

- Foreign **insurance** companies will be permitted to operate through 100% foreign-owned subsidiaries; in five years, foreign insurance companies will be permitted to open branches offering non-life insurance.
- Vietnam will permit majority-owned foreign **telecommunications** services in: basic public telecommunications services offered on a non-facilities basis (fixed and mobile services offered by leasing transmission capacity from a Vietnamese company); private data networks; satellite services; and submarine cable services.
- Vietnam will permit foreign **energy services** firms to compete in **oil and gas** exploration and development projects.
- Vietnam will progressively eliminate restrictions on the type of goods that foreign-invested companies can import as well as restrictions on their ability to distribute products. Foreign companies will be able to establish joint ventures in the **wholesale distribution, retail and franchise** sectors, and in 2009, will be permitted to establish wholly-owned enterprises.
- Vietnam will implement the Agreement on **Trade Related Aspects of Intellectual Property Rights** (TRIPS), thus enhancing domestic protection of patents, trademarks and copyrights.
- Vietnam will continue to be treated as a “**non-market economy**” for purposes of antidumping proceedings for up to 12 years after its accession.
- With Vietnam’s accession, U.S. discriminatory import quotas on Vietnam’s exports of **textiles and apparel** will

cease and Vietnam will end prohibited subsidies in this sector.

- The Bush Administration has committed to two U.S. Senators that for the next two years, it will actively monitor imports to determine whether to initiate an **antidumping** investigation against textiles or apparel imported from Vietnam.

### Next Steps

In order for U.S. companies to benefit from Vietnam’s WTO concessions, Congress must adopt legislation providing permanent normal trade relations (PNTR) status to Vietnam. Vietnam PNTR legislation is now pending and Congressional approval is expected in early December.

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Members of Sidley’s International Trade and Dispute Resolution Group served as advisors to the U.S.-Vietnam Trade Council of global businesses invested in Vietnam, from the beginning of negotiations on the BTA through the completion of WTO accession. They worked closely with both businesses and governments on these agreements

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