

**Business Advisory Group
Working Group Meeting
US-Vietnam ICT Dialogue**

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**Industry
Recommendations
Paper**

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Information and Communications Technology (ICT) plays a critical role in ensuring sustained growth and development in Vietnam. ICT can help economies become more efficient and productive by saving costs in industry supply chains; assisting education programs by enabling wider and less expensive dissemination of information, and providing business and employment opportunities for economies to expand value-added services in information management.

As environmental issues gain greater prominence in the policy thinking of all governments, ICT can perform a beneficial role by improving the efficiency of government and business operations. ICT investment can reduce the energy-density of production by enabling remote communication. It can also enable businesses and government to measure, control and reduce energy usage more effectively. In this way, a greater focus in Vietnam on ICT investment can deliver important developmental dividends.

We encourage the Government of Vietnam and the private sector to collaborate on policy reforms that would integrate ICT into economic governance processes to take the fullest advantage of ICT's productivity-raising potential.

Recent Developments

Recent developments in Vietnam are warmly welcomed by industry. Earlier this year, according to the report done by the United Nations Public Administration Network, Vietnam made considerable advances in deployment of ICT. Almost all indices of Vietnam in the World ICT 2008 ranking increased by 3.0, bringing the country into the middle of the ranking list.

The Vietnamese government's announcement that it will pass the country's first telecommunication law by year's end is highly encouraging. **However, industry would also like to see a draft of the law.** In particular, we applaud the Government's decision to include in the draft law changes that allow telecom operators to buy or re-sell a telecom license to other companies.

The government's promise to clearly define licensing criteria and revise required state ownership stakes in telecom companies are clearly in line with industry's recommendation.

We applaud the Government's decision to adopt international procedures for granting frequencies, telephone numbers, domain names and internet addresses.

These positive developments signify a step in the right direction for Vietnam, and we highly encourage the Government to swiftly and speedily enact the proposed legislation.

A number of issues still remain. Industry continues to see scope for undertaking reforms in four main areas:

- Trade and regulatory liberalization for information technology goods and services
- Addressing current disincentives to innovative industries participating in government procurement contracts
- Enhanced focus on investment in telecommunications (including wireless) and broadband infrastructure, and
- Continued emphasis on capacity building and skills development, across all levels of education and life-long learning

More details about the remaining issues can be found in the next section.

Issues Remain - General Issues

Clear Policies and Procedures. Laws and regulations should be clearly defined, implemented and enforced in order to attract investment. It is essential that the team in charge of reform adhere to the primary purpose of liberalization of the market, which should be to provide both consumer and business users with more varied, efficient and less costly ICT services. The blue print for liberalization of the market and subsequent reforms should be developed taking into account all interested parties in the ICT sector, using public consultation, government workshops and other ways to involve key stakeholders.

Regulatory Independence and Transparency. Regulatory independence is a critical aspect of regulatory effectiveness. We encourage the government of Vietnam to strengthen regulatory independence and transparency because they are keys to creating an environment that fosters competition in the ICT industry. The lack of a transparent rule-making process creates a high degree of uncertainty which often delays investment. Regulatory independence and transparency are also critical in providing the regulator with accurate and up-to-date information about the business environment. They also provide industry with an incentive to follow the rules of engagement and participate in regulatory activities.

Taxation on ICT products. Currently, Vietnam imposes various levels (rates) of import duties and a 5% VAT (Value Added Tax) across the board on ICT products. On Jan 1, 2009, the VAT will increase to 10%. The lack of a single rate of import duties and the VAT increase will make it more expensive for businesses and consumers to invest in ICT. These factors also could promote the illegal import of ICT products into Vietnam. We strongly propose that the Government of Vietnam follows other pro-ICT nations in the region and worldwide in their elimination of the import duties on ICT products while keeping the VAT rate at the same 5% level.

Successful Licensing. Licensing provides the basic certainty and legal security investors need to make significant investments in ICT infrastructure. Licensing criteria and conditions should be applied in accordance with regulations that are developed in a transparent and open manner. Licensing procedures should be streamlined for services not requiring scarce resources, such as spectrum or numbers. This is particularly the case for value-added services which can be provided in a relatively short period of time once the market is liberalized.

Timely and Robust Implementation of WTO Commitments and Principles.

Adherence to the WTO Reference Paper is critical for an orderly and successful liberalization of the ICT sector. Industry encourages the Vietnamese government to establish competitive safeguards in order to prevent anti-competitive practices in the ICT sector, the adoption of interconnection requirements that ensure timely and cost-oriented interconnection with major suppliers of ICT services, and the adoption of universal service obligations that are transparent, non-discriminatory and competitively neutral. With respect to foreign ownership, industry recommends prompt and comprehensive reforms that exceed the spirit and letter of the commitments.

Consistent Global Products and Standards. Use of internationally-accepted standards for ICT and consistent availability of communications services are essential to supporting global business customers. To further rapid development of the ICT market in Vietnam, the Government should encourage operators to adhere to global standards, such as those promulgated by the ITU, for network and protocol design. Mobile penetration has reached 60% as of Q308 with 52 million subscribers and 91% of these subscribers use the global GSM standard. Nonetheless, there is a pent-up demand for broadband access and the global standards for 3G HSPA will provide a smooth transition forward to improve broadband Internet access. As in many other countries, MIC should not dictate the type of network platform needed to provide specific services. Rather it should permit as broad a range of services to be offered on platforms chosen by the service provider (*i.e.*, use of VoIP over converged IP-enabled data and voice networks). MIC's encouragement of network platforms that meet global standardization requirements, and MIC's encouragement of full innovative use of next generation IP technologies, will ensure that Vietnam's carriers remain both competitive and compatible with the global standards that business customers require.

Encryption. For business customers relying on the ICT sector, the security of networks from malicious attacks or unlawful surveillance is a paramount concern. One of the most important tools to promote security is the use of strong encryption algorithms. As MIC works to implement Vietnam's Data Security and Electronic Transactions Law, we urge MIC to ensure that corporate customers retain the ability to use strong encryption to protect their lawful business communications.

Improvement of ICT infrastructure. Many governments worldwide are embarking on structural improvements to their ICT infrastructure over a 5-10 year period in order to increase the capability of their economies to deliver high value-added products and services to the global market. Network improvements include fiber, cable and wireless rollouts to meet broadband connectivity requirements in excess of 10 Mbps per capita. Examples of this are Australia with its WiMAX, Fiber to the Node (FTTN) and Fiber to the Home (FTTH) public/private partnership and the Singapore IDA initiative for Wi-Fi, WiMAX and Fiber territory-wide rollouts. Other countries such as Thailand and Malaysia are now considering similar initiatives and state investments. We encourage Vietnam to consider public/private partnerships for improvement of its ICT infrastructure – at least in the major cities - in the next 5-10 years.

Issues Remain - Telecoms specific Issues

Network Reliability / Quality of Service. Network availability and quality of service ("QoS") is one of the most important factors for a corporation in deciding where to locate a new corporate facility. Every hour a network is not performing as intended, there is a

loss of productivity at a corporate site. MIC should work to ensure that QoS improves nationwide: not only in the dense urban areas where sales offices may be located, but also in the more rural areas where manufacturing or distribution sites tend to be located. To achieve this result, MIC could conduct a benchmarking exercise of QoS standards in the Asia-Pacific region and then require that Vietnamese carriers raise their QoS standards to competitive levels with other countries.

Coordination among Interconnecting Carriers. A lack of coordination between Vietnamese telecommunications carriers has delayed service to customers. An example is the problem with call centers that require access to an international toll-free number. Only calls originating with the carrier which provisioned the toll-free number are able to access the call centre. Calls from other carriers do not go through. MIC should instruct all telecommunications operators that they have a mandatory interconnection obligation with other operators, and that they should have interconnection support teams in place to mutually test and resolve both installation and maintenance issues in a prompt and coordinated matter.

Lead Times to Install New Circuits. It is critical that a telecommunications carrier provides prompt and reliable quotes on how long it will take to install a new network circuit. If a circuit takes too long to install, or if a circuit is not installed on the date promised by a carrier, this has a high economic cost to customers in terms of delayed productivity or delayed job hiring. MIC should influence telecommunications carriers to improve their lead-time service delivery statistics, so that in turn new business sites can be placed in operation.

Customer Care. When providing service to business customers, it is necessary for telecommunications service providers to support 24x7 customer care, with skilled personnel on staff who are able to analyze and respond to any service impairment or outage. With business customers, every hour that a network link is not operating as intended can result lost productivity and revenue. MIC should foster opportunities for Vietnamese carriers to work with global carriers that have experience in providing customer care to global business customers, to help raise the level of experience of customer care staff in supporting 24x7 care centers for business customers.

Access to Submarine Cable Landing Stations. There is wide recognition among developing and emerging countries of the importance of access to low-cost, high speed international bandwidth in driving economic growth, education, social welfare and even national security. The lack of reasonable access to submarine cable landing stations significantly increases the costs of international bandwidth. Vietnam's WTO obligations require it to ensure reasonable, timely and non-discriminatory access submarine cable capacity. Industry encourages the Vietnamese government to take the appropriate steps to carry out that obligation.

Timely release of wireless broadband spectrum. Open mobile broadband internet is strategic to Vietnam. There is a close correlation between broadband connectivity and GDP growth. Scarce wireless broadband spectrum resources should be employed as effectively and as soon as possible to enable Vietnam to quickly build nationwide wireless broadband infrastructure.

- Technology and Service neutrality within wireless broadband spectrum should be employed to allow market forces to determine the most effective means of deploying networks.

- License issuance should encourage candidates to use the spectrum immediately and the ability to deploy nationwide networks should be encouraged.
- Review current licensing regulations/fees for individual wireless broadband connectivity.
- The national spectrum plan should be public knowledge to foster awareness of spectrum allocation/ownership/availability and to encourage creative as well as efficient use of this scarce resource.
- Bands should be allocated in 2.1 GHz according to international standards
 - 2x15 MHz paired in 1920-1980/2110-2170 MHz and 5 MHz unpaired in 1900-1920 MHz

Finalization of 3G Licensing. The Vietnam Government and the Ministry of Information and Communications have spent the past few years developing the 3G regulatory framework and licensing policies for the 2.1 GHz band. Vietnamese citizens and mobile network operators will benefit from the new services and applications that will be enabled via 3G licensing and urges the Government to move forward and finalize the licensing process as expeditiously as possible.

Finalization of Broadband Wireless Access (BWA) Licensing. The Vietnamese Government already has a framework of the Spectrum Policy for Broadband Wireless Access for the 2.3 GHz and/or 2.5 GHz band. The timely and independent release of this policy and assignment of spectrum will accelerate broadband penetration in the country. Citizens and business including those in the rural areas will benefit from greater availability of broadband connectivity.

Issues Remain - IT Hardware and Software specific Issues

Procurement. Of particular concern are the following provisions in *July 17, 2006 VN-PM No. 169 Decision: Regulations on Procurement of Information Technology Products by the Organizations Using State Budget*. (Also as clarified in DD223). It is urged that these provisions be eliminated or substantially modified to promote a non-discriminatory, transparent, merit-based and technology-neutral procurement policy for IT goods and services that will advance Vietnam's economic and technological development.

Legal Framework. Vietnam has enacted domestic legislation to build and strengthen its IPR protection regime as well as to move into compliance with various trade commitments, including TRIPS. These efforts signify a considerable step forward. However, deficits remain in current legislation, particularly regarding criminal liability and sanctions for copyright infringement.

Enforcement Activities. The copyright industries remain interested in working with the Government of Vietnam in a partnership to provide training to improve the effectiveness of enforcement activities (including for instance the Department of Economic Police and the MOCI). We would also like to see a gradual expansion of training on IP issues to judges and relevant legal/bar associations.

Promotion of the value and importance of IP protection and respect for IP. In addition to enforcement, we believe the Government of Vietnam can and should play a key role in building public awareness of the benefits of IP and designing and implementing programs that foster respect for IP. As with training activities in

furtherance of improving enforcement activities, we believe there is the potential for strong public-private partnerships.

Software. Currently Vietnam spends 87% of the National IT Budget on hardware development/purchases. In order to fully participate in the Information Society and Digital society, Vietnams needs to rebalance this to focus more on software development and implementation.

IT Services Specific Issues

IT graduates. The current lack of IT graduates and skilled English-proficient IT work force is seriously hampering Vietnam's ability to take advantage of its geographic location and competitive labor rates. Often Vietnam is compared to India, yet India may often have more trained experienced IT staff in one company than Vietnam has IT graduates each year. Vietnam should begin implementing plans to help develop its young, English-proficient and keen IT work force.

Service-skills needed for 21st century jobs – Services are playing an increasingly important role in the global economy, representing 2/3 of the worlds' GDP. The government of Vietnam has implemented policies to promote the growth of the service sector but additional focus is critical to develop the needed multidisciplinary skills to support the growing services industry. The government should promote service innovation and provide support and funding for education in service-based skills and research.

Churn Rate. Due to the lack of IT graduates and accredited / experienced IT staff the churn rate is more than 20% for ICT companies. This obviously creates a real head ache for all ICT companies in Vietnam, and is not good for the work force. Job hopping is counter productive as it does not allow for solid development, growth and expertise by is merely a sideways movement and certainly not a forward one. This can impact projects being delivered on time, and hampers the growth of the company.

Internet. The internet in Vietnam is stable enough, but the QOS is simply not in place and having connections from multiple providers does not really help given that all the connections eventually go back to VDC who effectively control the internet. In January 2007 following an earthquake near Taiwan the connection to Vietnam was severed and pretty much all internet traffic was cut off.

The administrator of .VN is DOT VN a US based corporation in California with offices in Hanoi and HCMC), that appears to have a sole license for all .VN names. The home page at <https://www.dot.vn/vnnic/vnnic/home.jsp> makes this clear that is sole provider with an unlimited length contracts with VNNIC to perform this function.

The established price to register the 2nd level of .VN extension domain name has been set initially at \$200.00 per name per year. This is non-refundable. For domain names .COM.VN, .NET.VN , .ORG.VN extension domain names has been set initially at \$100.00 per name per year.

This compares with an average of \$10 in other countries where there is competition amongst registrars. There also appears to be no domain dispute resolution procedure. Anecdotal reports indicate that complaints over misuse of .vn names to DOT VN have not been resolved. Article 13 of Decision 27 does not have any provision for the misuse of trademarks, famous names or other IP related reasons to withdraw a domain name, nor is there any provision in D27 for a registrant to prove a business connection to register a name.

Internet Cost. The cost of internet access, especially leased lines for outsourcing and MNC companies is prohibitively expensive, this has a huge impact on the cost of communication placing Vietnam as one of the most expensive in the region.

Foreign Recruitment Cap. One way of overcoming a potential short fall of local skilled / trained ICT people is through the hiring of foreigners. This is useful to pass on knowledge to local staff, and often essential for MNC companies for senior management positions. The current cap of 3% seriously limits foreign companies looking to find an alternative way of delivering a project with a lack of local resources.

Service minded. Vietnam needs to address how it can become more customer-oriented, and deliver much higher levels of customer service. Being reactive is not enough, failing to update and report to the client and meet deadlines is not acceptable to foreign companies nor is the tendency to “shift blame.”

IP and Piracy. Vietnam has made very good progress in this area, yet there is still work to be done. Vietnamese business does not realize the impact of using pirated software for business. Apart from the obvious initial loss of revenue to the owner of the software Vietnam is opening itself to other serious threats. Software updates and patches are not normally available for pirated software, leaving business open to hackers, viruses etc. using pirated software normally means there that companies don't know how to sue the software which impacts the value and competitive advantage for the business.

Strengthening existing and establishing additional resources to protect intellectual property rights are needed not just to combat software piracy but also cable or signal piracy as well. Modification on criminal code should be based on existing law. Improved government enforcement and additional resources will help further investigations and increase piracy prosecutions.

e-Government. Almost all indices of Vietnam in the World ICT 2008 ranking increased by 3.0, bringing the country into the middle of the ranking list. Vietnam's e-Government ranking rose by 16 steps. This is a considerable advance for Vietnam's ICT industry. However, Vietnam is still in the bottom five of the rankings for Southeast Asia. We encourage the Government to speed up the e-Government project to support the need of citizens and to improve the country's ICT index.

Industry's General Recommendations

1. Action-oriented engagement (“deeper” regulatory discussion to share views, exchange information and jointly collaborate on several strategic and regulatory issues for mutual interest, speakers at seminars, possible pilot projects, etc.).

2. Vietnam should develop a more comprehensive technology and service – neutral National ICT Strategy and in the process create a public-private dialogue to help in drafting the strategy
3. Vietnam should create a public-private working group that facilitates public-private sector dialogue that focuses on ICT issues
4. In the spirit of transparency, Vietnam should allow a public comment session for everyone to comment on existing or upcoming ICT regulation, in particular industry is very keen in seeing the draft telecom law.

Industry's Proposals for the Action Plan

1. Specific items of interest the private sector would be able to contribute to:
 - a. Support capacity-building programs to improve ICT literacy and professional ICT skills by sharing technical expertise and assistance. Member companies welcome proposals from MIC that reflect Vietnam's needs and will likewise craft capacity building proposals to fit both industry and Vietnam's needs.
 - b. Share information/recommendations on policy priorities that would help to advance high speed connectivity (such as broadband and wireless broadband) and therefore reduce the digital divide.
 - c. Share information/constructive inputs on spectrum harmonization and frequency management work especially from the perspective of technology availability/standardization, disaster relief, broadband, 3G, WiMax and digital broadcasting.
 - d. Support workshops or seminars on new or existing technology that promotes technology and service – neutrality.
2. Industry welcomes and supports US Technical Assistance & Training Facility roundtables or study missions on ICT such as a TDA-funded e-government study visit for Vietnam