



**Vietnam Business Forum
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Statement by Mark Gillin, Vice Chairman

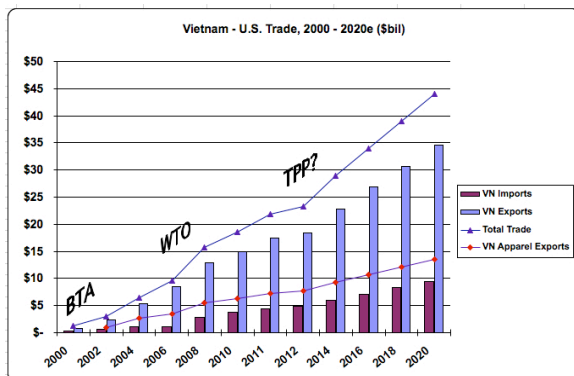
I am pleased to speak about AmCham's perception of the investment climate in Vietnam and I thank the Ministry of Planning and Investment, the World Bank and the International Finance Corporation, as well as the Co-Chairs of the new Vietnam Business Forum Secretariat, VCCI and EuroCham, for their cooperation in bringing together business and government leaders to discuss how to improve business conditions in order to promote economic and social development in Vietnam.

Trade and its related foreign investment brings jobs and income, tax revenues, exports and foreign exchange and technology transfer, and contributes to Vietnam's strategic drive for economic and social development to industrialize, modernize and globalize. It is especially important that FDI representatives be included in the Vietnam Business Forum since FDI factories represented 42% of Vietnam's gross industrial production¹ and 59% of Vietnam's exports in 2011.² AmCham companies were responsible for much of the \$22 billion in Vietnam-U.S. bilateral trade³ in 2011.

There are a number of areas of the investment climate that need improvement in order to elevate Vietnam's competitiveness. Given the brief time we have today, I will focus on a two subjects that deserve special mention: State-Owned Enterprise Reform and the draft revised Labor Code.

Review of Investment Climate

Vietnam-U.S. Trade, 2001 – 2020e



AmCham cooperation with and support of Vietnam's government and business has led to a substantial increase in bilateral trade over the last ten years: from only \$1.5 billion in 2001 when the BTA went into effect (December 2001); to \$9.7 billion in 2006 when Vietnam achieved WTO Accession and Permanent Normal Trade Relations with the U.S. (December 2006); to more than \$22 billion in 2011. If present trends continue, bilateral trade *could* reach **\$44 billion by 2020**.

In addition to this strong growth of trade, an increase of about 17% in 2011 over 2010 levels, there are many indications that foreign investors, especially U.S.

companies, still evaluate opportunities in Vietnam positively. Existing FDI investors increased their

¹ <http://www.amchamvietnam.com/4220>

² <http://www.amchamvietnam.com/4214>

³ <http://www.amchamvietnam.com/493>

investments in Vietnam by \$3.1 billion in 2011, 1.7 times the 2010 level, indicating satisfaction with the investment environment in Vietnam.

Several U.S. based MNCs, with FMCG (fast-moving consumer goods) companies are in the lead, having invested from \$200 to \$500 million each in Vietnam, which is often their fastest growing market globally. This is in the public record and reported regularly in the newspapers.⁴

Moreover, U.S. FDI in higher value-added modern manufacturing is increasing, led by the Intel investment of \$1 billion in an assembly and test facility in Saigon Hi-Tech Park,⁵ and scores of other smaller investments. AmCham now has a "Manufacturing Committee" with about 20 companies involved in "Modern Manufacturing." These companies are successful, and more are coming: One company that came 5 years ago now employs almost 1,000 people, exports about \$50 million/year, and is looking for new land to expand because it expects to triple its business in the next three to five years. AmCham member company Jabil recently had a groundbreaking ceremony to build a \$70 million factory in SHTP, after five years of successful operation in a rented facility.⁶

FDI in Vietnam, 2010 – 2011 (\$billion)

FDI Type	2010	2011	Change
New	\$17.5	\$11.6	66%
Expansion	\$1.9	\$3.1	164%
Total	\$19.9	\$14.7	76%

However, we are concerned that we may be “stalling” in the transition from *U.S.-related FDI* by “partner factories,” largely from Korea and Taiwan, etc., that came to Vietnam just before and after the Bilateral Trade Agreement went into effect in December 2001 to produce low value-added consumer goods, to the “Third Wave” of *U.S. companies’ FDI* in “modern

manufacturing” factories that produce higher value-added products for export to the U.S. and global markets.

In 2011, Vietnam’s total newly registered and additionally increased capital reached \$14.7 billion, according to the Foreign Investment Agency,⁷ down 24% compared with 2010. On a positive note, the increase of existing FDI reached \$3.1 billion, 1.65 times the level of increased FDI in 2010 (\$1.89 billion), which indicates that foreign investors evaluate the investment environment in Vietnam very positively. However, new FDI is down even more, down 34% compared with 2010’s level.

And in February, 2012, the **Foreign Direct Investment Confidence Index**, released by global management consulting firm A.T. Kearney based on an annual survey of global companies with more than \$2 trillion in annual revenues, showed that Vietnam was the only Asian nation to fall in the rankings, dropping from 12th in 2010 to 14th in 2011.⁸ In the meantime, Indonesia moved up from 20th place in 2010 to 9th in 2011 and FDI there hit a record \$19.3 billion, double the previous year’s level. In addition, Malaysia moved up from 21st to 10th so clearly, Vietnam has some strong competition for FDI in ASEAN.

⁴ "Coca-Cola invests another \$200 million" <http://www.amchamvietnam.com/?id=3143>
 "PepsiCo to invest \$250 million; opens 6th plant in Vietnam" <http://www.amchamvietnam.com/3938>
 "Crown expands beverage can production in Vietnam" by 1.5 billion cans/yr to reach 4.7 billion cans/year <http://www.amchamvietnam.com/?id=4312>
 "Cargill to double production from 750,000 tons in 2012 to 1.5 million tons by 2015" <http://en.baomoi.com/Info/Cargill-Vietnam-still-leading-the-way/5/245545.epi>
 "P&G commits to second factory," investment to reach nearly \$200 million <http://www.amchamvietnam.com/?id=4162>
 "Honeywell appoints Vietnam president" <http://www.amchamvietnam.com/?id=4637> and <http://honeywell.com/sites/cn/News/Documents/Honeywell%20Vietnam%20Overview%20-%2020110627.pdf>
⁵ <http://www.youtube.com/watch?v=nNVT0qMZE48&feature=related>
⁶ <http://daidung.com.vn/en/projects/chi-tiet/75/jabil-vietnam.html> and <http://trungdung.vn/jabil-vietnam-factory/>
⁷ <http://www.amchamvietnam.com/5241> : FDI in Vietnam in 2011
⁸ <http://www.amchamvietnam.com/5286> FDI rivals turn up the heat on Vietnam

In recent years, AmCham has provided a number of recommendations to the Vietnamese government, in cooperation with VCCI and other business associations in the Vietnam Business Forum including recommendations for the revised Labor Code and Minimum Wage issues, the Price Control Law, Decree 46 and Work Permits for Foreigners, Health Care issues, Food Safety Law, Direct Selling, and Electricity Pricing and Power Development Plan. The response has not been as positive as the responses to our recommendations in 2002-2008 regarding the healthy development of apparel trade between Vietnam and the U.S. that proved to be so successful.

Similarly, there have been many recommendations from international organizations regarding Vietnam's investment promotion and competitiveness strategy,⁹ but the response has not been very positive in this area either. While many of Vietnam's leaders seem to agree with the analyses and recommended strategies, there seems to be a lack of initiative about how to execute the strategy: "Where Vietnam should start, and how to do it", is still an unanswered question."¹⁰

The risk is not only that Vietnam may fail to make the transition to a middle-income, "modern-manufacturing" and services based economy, but also may find that it is not competitive even in "partner factory" production of low value-added consumer goods compared with other emerging markets and production bases such as Myanmar¹¹ (population = ~ 60 million; percapita GDP = ~ \$700/year) and Bangladesh.¹² This could lead to a loss of existing FDI and millions of jobs in Vietnam.

So, to conclude this review of the investment climate before moving to our two key issues, let me summarize by saying that few investors disagree that Vietnam has huge potential. However, the country is struggling to live up to its full potential, hindered by slow progress on a list of perennial barriers to investment. The country needs to make tangible progress on the issues we continually raise at these forums, as well as other problems that are detracting from Vietnam's image as an attractive destination for foreign investment.

Revised Labor Code • Industrial Relations

On March 24, 2012, VCCI – HCMC organized a meeting with MOLISA and National Assembly Social Affairs Committee representatives for industry associations, foreign business associations, and factory and company managers to discuss the latest draft of the revised Labor Code. AmCham and AmCham companies have been extensively involved in consultations on industrial relations and the revised Labor Code issue since 2008 and have attended nearly 40 meetings on this topic in over four years, starting after the widespread strikes with violence that occurred mostly in FDI factories in the Southern Key Economic Region, and the concerns expressed by FDI and Vietnamese business associations to

⁹ [Sustaining Vietnam's Growth: The Productivity Challenge \(McKinsey Global Institute\) Feb 2012](#); [Summary: World Bank Update on Vietnam's Economic Development, Dec 6, 2011](#); [World Bank Vietnam development report 2012 : market economy for a middle-income Vietnam, Dec 6, 2011](#); [ILO Vietnam Industrial Relations and Labour Code Reform Project: Final Evaluation, Aug 2, 2011](#); [Vietnam Competitiveness Report, 2010 – Michael Porter, et. al. Nov 20, 2010](#); [Prime Minister's Official Letter: Time to take stock of foreign direct investment, May 20, 2008](#); [UNCTAD Investment Policy Review of Vietnam, Nov 2007 ~ Oct 2008](#); [OECD Policy Framework for Investment \(Executive Summary\), Feb 14, 2008](#)

¹⁰ <http://www.amchamvietnam.com/5301>

¹¹ <http://www.amchamvietnam.com/?5337> "Seeking ways to paint a better FDI picture (VIR). "We are planning to expand our business in Myanmar as its politics are stable and the country offers cheaper labour costs than Vietnam. Besides that, in Vietnam, difficulties in accessing capital and unstable macroeconomic policies on tax and land are presently causing us many difficulties." Statistics from the Japan External Trade Organisation (Jetro) show that the total number of Japanese FDI projects from 2008 to 2011 in Thailand was 1,393, in Indonesia 1,045 and in Vietnam 572. <http://www.amchamvietnam.com/5391> Myanmar: the Next Tiger? Hub for Low-Cost Manufacturing (BusinessWeek)

¹² <http://www.amchamvietnam.com/?id=5390> "Bangla Desh: the Next Apparel Sourcing Hot-Spot?" (McKinsey)

the Government.

In 2008, the [Prime Minister's Decision 1129/QĐ-TTg, 18 Aug 08](#), "Action Plan for the Implementation of [Directive No. 22-CT/CW, 5 Jun 2008 of the Secretariat of the Party Central Committee](#) established a framework

"... for enhancing leadership, and providing direction for the development of harmonious, stable and progressive labor relations within enterprises. With a view to perfect the legislative environment so that strikes at enterprises could take place in a legal manner, to maintain the harmonious, stable employer-employee relations for the protection of legitimate rights and interests of both sides while at the same time ensuring a stable investing environment and social order, the Prime Minister hereby requests that Ministries, line agencies and competent local entities to execute the Directive by implementing an action plan that started with Review, revise, supplement the Labor Code and its implementing legal documents."

Reviewing the contents of the March 18, 2012 version of the draft revised Labor Code, **we conclude that it will not achieve the objectives** of Directive 22 and Prime Minister's Decision 1129.

For example, AmCham and all business associations, both Vietnamese and foreign, unanimously proposed that both provisions in the law for overtime and maternity leave be revised to meet international guidelines, as recommended by the International Labour Organization (ILO), in order to be competitive with neighboring countries that are competing with Vietnam for FDI.

However, our recommendations on overtime and maternity leave¹³ to make Vietnam more competitive as an FDI destination were not included in the March 18 version of the draft revised Labor Code. Instead, overtime would remain generally limited to 200 hours per-year, and two options would increase maternity leave to either five or six months.

These provisions restrict flexibility and reduce productivity of factories in particular, and of Vietnam in general. We need to realize that Vietnam's "Industry sectors which generated the highest sectorial share in gross domestic product (GDP) in 2009 (42 per cent), experienced **zero [emphasis added]** average annual increase in labour productivity between 2007 and 2009. The lack of productivity growth limits the scope for improvement of working conditions."¹⁴ "Without the adequate education and skills of the labor force, Vietnam might get caught in the low productivity trap that will also hamper its competitiveness in a very crowded global market. The upgrading and enhancement of skills as well as improved access to training ..., are a necessity to insure higher productivity, decency of jobs with increasing incomes, and economic development in the short and long run."

There are many similar troublesome provisions in the March 18 version of the draft revised Labor Code that will make Vietnam's labor market non-competitive.

In summary, AmCham members are discouraged by the lack of progress on revisions to Vietnam's Labor Code. Years of cooperative effort on the Labor Code revisions have not yet produced an outcome that keeps Vietnam a competitive destination for manufacturing many of the goods that have driven Vietnam's economy forward and raised the standard-of-living for millions of Vietnamese citizens.

Vietnam's Labor Code revision and Industrial Relations environment will have a major impact on current and future FDI. As mentioned above, new FDI in 2011 was down 26% compared with 2010.

¹³ AmCham Statement at National Employers' Conference re revised Labour Code, Oct 24, 2011 <http://www.amchamvietnam.com/5063>

¹⁴ Vietnam Employment Trends 2010, pg xv and pg 21, MOLISA National Centre for Labour Market Forecast and Information

Vietnam is also losing opportunities to attract modern manufacturing FDI, which is going to neighboring countries, such as Indonesia and Malaysia, while lower value-added manufacturing may go to more cost competitive countries.

State-Owned Enterprise Reform

Nobody will be surprised to hear that Vietnam needs to focus on emerging challenges, especially the restructuring of State-Owned Enterprises (SOEs), and the public investment program.

We agree with the World Bank's analysis in its December, 2011 Update on Vietnam's Economic Development. "The question is how to raise public investment efficiency, and improve transparency across the board, which is needed to support Vietnam's middle income status. In the longer run, Vietnam's ambition to maintain high growth into the next decade will require as bold a set of reforms as the one adopted with Doi Moi. Vietnam needs a level-playing field to maximize its potential. As people become more educated and production becomes more sophisticated, civil society's demands for predictability, trust and a level playing field with "competitive neutrality" will grow. Transparency is a critical element in this. Concentration of economic power in a small number of large firms undermines efforts at economic and social development. Large firms and industries that circumvent rules to their advantage are promoting corruption, and undermining efficiency, which damages the country's potential. The governance challenges are complex, but Vietnam's medium-term outlook will be much better if they are addressed sooner rather than later."¹⁵ And "There needs to be a greater emphasis on efficiency of public investment, restructuring of SOEs, and other structural reforms even if this means some moderation in short-term growth."¹⁶

We at the Vietnam Business Forum need to ask not just the Government, but also the World Bank and the Asian Development Bank (ADB) and others that are generously supporting Vietnam's economic and social development for more specific information about what plans are made, what specific steps have been taken and what additional steps will be taken to achieve the necessary reform of State-Owned Enterprises.

For example, in December 2009, the ADB Board of Directors approved a \$630 million multi-tranche financing facility for the [Viet Nam SOE Reform and Corporate Governance Facilitation Program](#), which continued the ADB's support to the government's SOE reform agenda through financial and technical assistance.¹⁷ The intent was to carry out further reforms of state-owned enterprises (SOEs) making them more efficient, profitable and transparent in a bid to spur economic growth and open up opportunities for the private sector.

According to the ADB announcement accompanying the approved financing facility, "ADB's new program will provide training and other assistance to government institutions involved in the SOE reform process, such as the Debt and Asset Trading Corporation. The outcome of the restructuring will be general corporations, made up of sub-groups of companies that can operate independently, secure financial resources from capital markets on their own without having to rely on the government, and which will meet all the conditions for an eventual listing."

"Turning major corporations into more profitable and efficient businesses will have multiple benefits

¹⁵ World Bank Update on Vietnam's Economic Development, Dec 6, 2011 <http://www.amchamvietnam.com/5178>

¹⁶ WB Update, Dec 6, 2011, pg 7 http://www-wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2011/12/07/000333038_20111207235237/Rendered/PDF/659380WP00PUBL0ecember020110English.pdf

¹⁷ ADB to loan Vietnam \$ 630 million to reform large SOEs, spur growth <http://www.amchamvietnam.com/?id=3426>

including facilitating policies promoting equal treatment of SOEs and private companies, thus enhancing private sector development.”

We look forward to learning more about the positive achievements of this and similar programs.

Conclusion

In conclusion, we will need to see real results from our cooperation and consultations in the months ahead. As we all know, a World Bank study in 1998¹⁸ confirmed that development assistance by itself does not promote economic growth. Rather, it is foreign direct investment and trade, and the accompanying transfer of technology and skills, that promotes growth. Countries, regions, and cities and localities need good economic policies, a good legal and regulatory system, transparent and efficient government agencies, and good public infrastructure, including transport, electric power, telecommunications, education and healthcare systems, etc., to attract investment, promote trade, and spur economic and social development.

We in AmCham believe that Vietnam has great potential and the investment environment has been generally positive; however, we are concerned that Vietnam may become stuck in the “middle-income trap,” and may not succeed at the transition from low-skill, low value-added, low-wage manufacturing to higher-skill, higher value-added, higher income manufacturing and services.

Vietnam needs to make real progress on the issues addressed above, which are detracting from Vietnam's image as an attractive destination for foreign investment.

Vietnam's ambition to maintain high growth into the next decade will require as bold a set of reforms as the one adopted with Doi Moi.

Vietnam's leaders, both government and business leaders, need to lead.

On behalf of all AmCham members,

Xin chúc toàn thể quý vị có mặt hôm nay nhiều sức khỏe, hạnh phúc và thành công.
I would like to wish distinguished participants good health, happiness and success.

Xin chân thành cảm ơn. Thank you very much.

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¹⁸ <http://web.worldbank.org/external/default/main?pagePK=478097&theSitePK=477633&contentMDK=22307401&noSURL=Y&piPK=477636>