



U.S.-Vietnam Relations in 2011: Current Issues and Implications for U.S. Policy

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Summary

After communist North Vietnam's victory over U.S.-backed South Vietnam in 1975, the United States and Vietnam had minimal relations until the mid-1990s. Since the establishment of diplomatic relations in 1995, overlapping security and economic interests have led the two sides to begin to form a strategic partnership of sorts. In 2010, the Obama Administration indicated its intent to take relations to "the next level," and cooperated with Vietnam to coordinate a multi-country diplomatic push back against perceived Chinese encroachment in the South China Sea.

In the United States, voices favoring improved relations have included those reflecting U.S. business interests in Vietnam's reforming economy and U.S. strategic interests in expanding cooperation with a populous country—Vietnam has 88 million people—that has an ambivalent relationship with China and that is asserting itself on the regional stage. Others argue that improvements in bilateral relations should be conditioned upon Vietnam's authoritarian government improving its record on human rights. The population of more than 1 million Vietnamese-Americans, as well as legacies of the Vietnam War, also drive continued U.S. interest.

Vietnamese leaders have sought to upgrade relations with the United States in part due to the desire for continued access to the U.S. market and to worries about China's expanding influence in Southeast Asia. That said, Sino-Vietnam relations are Vietnam's most important bilateral relationship and Vietnamese leaders must tiptoe carefully along the tightrope between Washington and Beijing, such that improved relations with one capital not be perceived as a threat to the other. Also, some Vietnamese remain suspicious that the United States' long-term goal is to erode the Vietnamese Communist Party's (VCP) monopoly on power.

The United States is Vietnam's largest export market and in some years its largest source of foreign direct investment. Bilateral trade in 2010 was over \$15 billion, a tenfold increase since the United States extended "normal trade relations" (NTR) treatment to Vietnam in 2001. Increased trade also has been fostered by Vietnam's market-oriented reforms. From 1987-2007, Vietnam's annual gross domestic product (GDP) growth averaged over 7%. Since then, Vietnam's economy has been buffeted by economic difficulties that have lowered growth rates and raised inflation. Vietnam is one of the largest recipients of U.S. assistance in East Asia; since the late 2000s, annual U.S. aid typically surpasses \$100 million, much of it for health-related activities. The United States and Vietnam are two of nine countries negotiating a Trans-Pacific Strategic and Economic Partnership (TPP) regional free trade agreement (FTA).

Human rights are the biggest thorn in the side of the relationship. Vietnam is a one-party, authoritarian state ruled by the Vietnamese Communist Party (VCP), which appears to be following 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 on power. Most observers argue that the government, which already had tightened restrictions on dissent and criticism since 2007, intensified its suppression in 2010.

In January 2011, the VCP held a Party Congress that selected Nguyen Phu Trong to become the new VCP general secretary, Vietnam's top post. Vietnam's prime minister, Nguyen Tan Dung, was endorsed to continue his tenure as head of the government. Many Western analysts regard the Congress's results as a sign that steady, incremental improvements in relations with the United States will continue. However, Dung's power base within the VCP appears to have been weakened, which could make bilateral cooperation more difficult on some issues.

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Major Developments in the First Half of 2011

U.S. Ambassador Nominee Held Up over International Adoption Cases

In January 2011, President Obama nominated David Shear to be U.S. Ambassador to Vietnam. More than one Senator reportedly has placed a “hold” on Shear’s nomination due to concerns that the State Department has provided inadequate help to resolve several U.S. families who were matched with Vietnamese orphans but have not been able to bring the children to the United States due to changing requirements in the United States and Vietnam. In 2008, the two countries halted international adoptions due to revelations of improprieties such as forged documents, child-buying, and child abduction.

Sino-Vietnamese Tensions Ebb and Flow over Maritime Claims

In recent years, tensions between Vietnam and China have intensified over competing territorial claims in the South China Sea, particularly over the Spratly Islands. Since at least early 2010, Vietnam’s strategy has been to try to internationalize the dispute, both by encouraging outside powers (particularly the United States) to raise the issue with China and by pressuring China to enter multilateral talks with the other disputants, if not with ASEAN as a whole. China’s preferred approach is to deal with the disputes bilaterally and separately with each country that disputes its claims. One factor influencing leaders in Hanoi is a significant anti-Chinese constituency inside Vietnam.

Sino-Vietnamese tensions over the South China Sea flared most recently in May and June 2011. According to Vietnamese authorities, Chinese fishing vessels—in the presence of Chinese naval ships—twice severed cables being used by Vietnamese boats exploring for energy deposits in waters claimed by both countries. The disputes were heightened by over a month of anti-Chinese protests inside Vietnam and by a simultaneous flare-up in tensions between the Philippines and China over their own competing maritime claims. Throughout the first half of 2011, some Members of Congress expressed concern about the disputes generally, and about China’s actions in particular.

In late June, Vietnam and China appeared to agree to tamp down tensions during a visit to Beijing by a special envoy, Vietnamese Deputy Foreign Minister Ho Xuan Son. After Son met with China’s top foreign policy officials, the two countries issued a joint statement saying they agreed to “peacefully solving the two countries’ disputes at sea through negotiations and friendly consultation,” and on the “the need to steer public opinion in the correct direction, avoiding comments and deeds that could harm the friendship and trust of the peoples of the two countries.”¹ Since early June, the Vietnamese government has broken up a number of domestic protests against China’s actions in the South China Sea, though a few other protests have been allowed to occur. When asked about Son’s visit, China’s Foreign Ministry spokesman said that the two countries also agreed to “oppose the involvement of outside powers in the ... dispute,” an

¹ “VN, China Vow to Resolve East Sea Issue Peacefully,” *Viet Nam News*, updated June 27, 2011.

item that did not appear in the Vietnamese account.² The tenor of the dispute also appeared to be toned down—at least momentarily—in late July, when China and the 10 members of the Association of Southeast Asian Nations (ASEAN) agreed to a set of guidelines to facilitate confidence building measures and joint projects in the South China Sea. The guidelines are part of the process of moving from the 2002 non-binding Declaration of Conduct to an actual Code of Conduct.

As discussed below, since early 2010, the United States has become more involved in the South China Sea disputes, partly in response to requests from Vietnam and other Southeast Asian countries which feel China has become more assertive in the region. In multilateral meetings during the late spring and early summer of 2011, Obama Administration officials appeared to be adopting a less confrontational tone toward China when addressing the South China Sea dispute than they had in 2010. This may be due to a number of factors, including an improvement in overall U.S.-China relations, China's willingness to participate in multilateral Code of Conduct talks, and a feeling in the Administration and in other Southeast Asian governments that a heavy U.S. intervention in the dispute could provoke China. Moreover, whereas in 2010 Obama Administration officials broke new ground, in 2011 they were reiterating and reinforcing positions they had enunciated the previous year: that freedom of navigation in South China sea is a U.S. "national interest," that the United States opposes the use or threat of force by any claimant, and that claims in the South China Sea should be derived from "legitimate claims to land features," which many interpret as an attack on the basis for China's claims to the entire sea.³ Relatedly, the Obama Administration also has continued its policy of upgrading its defense ties with and the capacities of many Southeast Asian militaries, particularly with Vietnamese security forces.

Incremental Developments in the Lower Mekong Initiative

Another Obama Administration program designed to increase the U.S. presence in Southeast Asia is the Lower Mekong Initiative (LMI), comprised of the United States, Vietnam, Cambodia, Laos, and Thailand. On the sidelines of the July 2011 ASEAN Regional Forum Foreign Ministerial in Bali, Indonesia, the LMI foreign ministers held their fourth meeting. The LMI's broad agenda is to foster cooperation and capacity building among the four Southeast Asian participants in the areas of education, health, environment, and infrastructure. During the 2011 meeting, the five foreign ministers continued to expand the forum's institutional capacity and that any new dam construction along the Mekong should be preceded by, in the State Department's words, "thorough assessments" of their potential impact. The United States expects to spend over \$220 for various LMI-related programs in 2011.⁴

Human Rights—Repression Against Dissent Continues

Repression against dissenters and protestors appeared to continue, and in some cases worsen, in the first half of 2011. In one prominent case, lawyer Cu Huy Ha Vu was sentenced to seven years

² "Transcript of PRC FM Spokesman News Conference on 28 Jun 11," translated by Open Source Center, CPP20110628364001.

³ See, for instance, Press Statement by Hillary Rodham Clinton, "The South China Sea," July 22, 2011.

⁴ State Department Press Release, "Lower Mekong Initiative Progress 2010/2011," July 22, 2011; State Department Press Release, "Statement of the Fourth Lower Mekong Initiative Ministerial Meeting," July 22, 2011.

in prison for violating article 88, a national security provision of Vietnam's criminal code that prohibits distribution of propaganda against the state. Among other activities, Vu has sued Vietnamese Prime Minister Nguyen Tan Dung twice for allowing Chinese companies to mine bauxite in the Central Highlands region and for issuing a decree that restricted complaints against the government. Vu is notable because he is a former Foreign Ministry official whose father, Cu Huy Can, was one of Vietnam's most famous poets who served as Agriculture Minister and Minister of Culture under Ho Chi Minh. Other dissidents, journalists, and critics were arrested, detained, or reportedly harassed, some as part of the aforementioned clamp-down on anti-Chinese protests in the summer of 2011. Vietnamese authorities also reportedly forcibly suppressed protests by ethnic Hmong in the Northwest Highlands region, the first such unrest in that region in years.

Vietnamese Victory in WTO Anti-Dumping Case

In July, a World Trade Organization (WTO) dispute settlement panel ruled that the United States was violating WTO rules by using a controversial methodology—called “zeroing”—to calculate punitive anti-dumping tariffs against Vietnamese shrimp exporters. The United States has imposed anti-dumping duties on certain types of Vietnamese shrimp since 2005, when the International Trade Administration (ITA) determined that they were being sold in the United States at “less than fair market value.” In November 2010, the United States extended the anti-dumping duties for another five years. Vietnam requested WTO dispute settlement proceedings in early 2010.

Vietnam's Economic Difficulties Persist

While the Vietnamese economy continues to record steady growth of over 5%, concerns about Vietnam's economic imbalances persist. Specifically, many worry about rising inflation and financial problems in Vietnam's state-owned enterprises. There is also some concern that continued economic instability, combined with Vietnam's dwindling foreign exchange reserves, could make it difficult for the government to finance its growing trade deficit in the future.

Introduction

Since 2002, overlapping strategic and economic interests have led the United States and Vietnam to improve relations across a wide spectrum of issues. In 2010, the two countries accelerated this process, effectively forming a partnership on several fronts. Many Obama Administration officials appear to regard Vietnam as a natural strategic partner in Southeast Asia, as indicated by a number of developments. Perhaps most prominently, the two countries mobilized a multinational response to China's perceived attempts to boost its claims to disputed waters and islands in the South China Sea. Additionally, the Obama Administration encouraged Vietnam to be a “full partner” in the ongoing Trans Pacific Strategic Economic Partnership (TPP) free trade agreement negotiations and has given a higher priority to cleaning up sites contaminated by Agent Orange/dioxin used by U.S. troops during the Vietnam War. The two sides also have signed a new agreement on civilian nuclear cooperation and have increased their non-proliferation cooperation.

U.S. Interests and Goals in the Bilateral Relationship

Currently, factors generating U.S. interest in the relationship include growing trade and investment flows, the large ethnic Vietnamese community in the United States, the legacy of the Vietnam War, increasing interaction through multilateral institutions, the perception that Vietnam is becoming a “middle power” with commensurate influence in Southeast Asia, and shared concern over the rising strength of China. U.S. goals with respect to Vietnam include developing more amicable relations, bringing the country more into the mainstream of nations, opening markets for U.S. trade and investment, furthering human rights and democracy within the country, countering China’s increasing regional influence, and maintaining U.S. influence in Southeast Asia. The array of policy instruments the United States employs in relations with Vietnam includes trade incentives and restrictions, foreign assistance, cooperation in international organizations, diplomatic pressures, educational outreach, and security cooperation. Secretary Clinton’s two visits to Hanoi in 2010, in addition to Secretary of Defense Robert Gates’ own trip to Vietnam the same year, appear to signal that strategic concerns about China are taking on a larger role in the Obama Administration’s formulation of U.S. policy toward Vietnam.

Vietnam’s Interests and Goals in the Bilateral Relationship

For Vietnam’s part, since the mid-1980s, Hanoi essentially has pursued a four-pronged national strategy: (1) prioritize economic development through market-oriented reforms; (2) pursue good relations with Southeast Asian neighbors that provide Vietnam with economic partners and diplomatic friends; and (3) repair and deepen its relationship with China, while (4) simultaneously buttressing this by improving relations with the United States as a counterweight to Chinese ambition.⁵ By virtue of its economic importance and great power status, the United States has loomed large not only in Vietnam’s strategic calculations, but also in domestic developments. For instance, Vietnam’s protracted decision from 1999-2001 to sign and ratify the landmark bilateral trade agreement (BTA) with the United States helped to break the logjam that had effectively paralyzed debate in Hanoi over the future direction and scope of economic reforms. Additionally, notwithstanding the legacy of the Vietnam War era, the Vietnamese public appears to hold overwhelmingly positive views of the United States.⁶

There are a number of strategic and tactical reasons behind Vietnam’s efforts to upgrade its relationship with the United States. Many Vietnamese policymakers seek to counter Chinese ambitions in Southeast Asia by encouraging a greater U.S. presence in the region. Vietnam also needs a favorable international economic environment—for which it sees U.S. support as critical—to enable the country’s economy to continue to expand so it can achieve its goal of becoming an industrialized country by 2020.

A Ceiling on the Relationship?

Ultimately, the pace and extent of the improvement in bilateral relations is limited by several factors, including Hanoi’s wariness of upsetting Beijing, U.S. scrutiny of Vietnam’s human rights

⁵ Marvin Ott, “The Future of US-Vietnam Relations,” Paper presented at The Future of Relations Between Vietnam and the United States, SAIS, Washington, DC, October 2-3, 2003.

⁶ State Department Office of Research, *Vietnam: U.S. Image Gets a Boost*, Opinion Analysis, Washington, DC, September 9, 2008.

record, and Vietnamese conservatives' suspicions that the United States' long-term goal is to end the Vietnamese Communist Party's (VCP) monopoly on power through a "peaceful evolution" strategy. However, it is possible that these concerns could be lessened, and the possibilities for strategic cooperation increased, if the United States and Vietnam both believe China is becoming unduly assertive in Southeast Asia.

Congress's Role

Throughout the process of normalizing relations with Vietnam, Congress has played a significant role. Not only has Congress provided oversight and guidance, but it has shaped the interaction by imposing constraints and providing relevant funding, as well as through its approval process for agreements. Many Members have been at the forefront of efforts to highlight human rights conditions in Vietnam, as well as "legacy issues" of the Vietnam War such as recovering the remains of missing U.S. troops. In the 1990s and early 2000s, many Members of Congress who favored improved bilateral relations provided the Clinton and George W. Bush Administrations with political backing for their policies of upgrading relations with Vietnam.

Brief History of the Normalization of U.S.-Vietnam Relations

The United States' post-World War II military involvement in Vietnam began in the early 1960s, with the dispatch of military advisers to assist the South Vietnamese government in its battles with communist North Vietnam and indigenous (i.e., South Vietnamese) communist forces. Thereafter, the U.S. presence escalated. By the time the Nixon Administration withdrew U.S. forces in 1973, millions of U.S. troops had served in Vietnam, with more than 50,000 killed.

U.S.-Vietnam diplomatic and economic relations were virtually nonexistent for more than 15 years following North Vietnam's victory in 1975 over South Vietnam. The United States maintained a trade embargo and suspended foreign assistance to unified Vietnam. Obstacles to improved relations included U.S. demands that Vietnam withdraw from Cambodia (which Vietnam invaded in 1978), U.S. insistence on the return of/information about U.S. Prisoners of War/Missing in Action (POW/MIAs), and Vietnamese demands that the United States provide several billion dollars in postwar reconstruction aid, which they claimed had been promised by the Nixon Administration.

A series of actions by Vietnam in 1978 in particular had a long-term negative effect on U.S.-Vietnamese relations. Vietnam aligned itself economically and militarily with the Soviet Union and invaded Cambodia, installing a government backed by 200,000 Vietnamese troops. China conducted a one-month military incursion along Vietnam's northern border in 1979, which led to nearly three decades of disputes over the land border, and kept strong military pressure on Vietnam until 1990. U.S. policy toward Vietnam was also influenced by the exodus of hundreds of thousands of Vietnamese "boat people," including many ethnic Chinese, who fled or were expelled under Vietnam's harsh reunification program.

Developments in the mid- and late 1980s set the stage for the rapid normalization of ties in the following decade. Inside Vietnam, disastrous economic conditions and virtual diplomatic isolation led the VCP to adopt (at its 6th National Party Congress in 1986) a more pragmatic, less

ideological, line. Hanoi adopted market-oriented economic reforms (dubbed *doi moi*, or “renovation”), loosened many domestic political controls, and began to seek ways to extract itself from Cambodia.

U.S.-Vietnam cooperation on the POW/MIA issue began to improve following a 1987 visit to Vietnam by General John Vessey, President Reagan’s Special Emissary for POW-MIA Issues. As Vietnam withdrew forces from Cambodia in 1989 and sought a compromise peace settlement there, the George H.W. Bush Administration decided to improve relations with Hanoi, which was also interested in restoring ties to the United States. In April 1991, the United States laid out a detailed “road map” for normalization with Vietnam. Later that year, Vietnam allowed the United States to open an office in Hanoi to handle POW/MIA affairs.

In 1993, President Clinton built on the thaw by signaling the end of U.S. opposition to Vietnam receiving international financial assistance. In February 1994, President Clinton announced the end of the U.S. trade embargo on Vietnam. Two months later, Congress passed the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236), which contained a “Sense of the Senate” section expressing that chamber’s support for the normalization of relations with Vietnam. Despite congressional efforts to tie normalization to the POW/MIA issue as well as to Vietnam’s human rights record, President Clinton continued to advance U.S. relations with Vietnam by appointing the first post-war ambassador to Vietnam in 1997 and signing the landmark U.S.-Vietnam bilateral trade agreement (BTA) in 2000. Throughout this period, the normalization process was made possible by Vietnam’s strategic desire to improve relations with the United States, continued improvements in POW/MIA cooperation, Vietnam’s ongoing reform efforts, and by Vietnam’s general cooperation on refugee issues. All of these issues remain on Vietnam’s bilateral agenda.

President Clinton visited Vietnam from November 16-20, 2000, the first trip by a U.S. President since Richard Nixon went to Saigon (now Ho Chi Minh City) in 1969. The visit was notable for the unexpected enthusiasm expressed by ordinary Vietnamese, who thronged by the thousands to greet or catch a glimpse of the President and the First Lady. These spontaneous outbursts, combined with the President’s public and private remarks about human rights and democratization, triggered rhetorical responses from conservative Vietnamese leaders. During the visit, Vietnamese leaders pressed the U.S. for compensation for Agent Orange victims, for assistance locating the remains of Vietnam’s soldiers still missing, and for an increase in the United States’ bilateral economic assistance program.

Progress towards the resumption of normal bilateral relations continued under the George W. Bush Administration. Despite growing concerns about the Vietnamese government’s human rights record, Congress ratified the U.S.-Vietnam BTA in October 2001; the new agreement went into effect on December 10, 2001. Under the BTA, the United States granted Vietnam *conditional* normal trade relations (NTR), a move that significantly reduced U.S. tariffs on most imports from Vietnam.⁷ In return, Hanoi agreed to undertake a wide range of market-liberalization measures. Vietnam’s conditional NTR status was renewed every year until December 2006, when Congress passed P.L. 109-432, a comprehensive trade and tax bill, that granted Vietnam permanent NTR

⁷ Vietnam’s NTR status was conditional because it was subject to annual presidential and congressional review under the U.S. Trade Act of 1974’s Jackson-Vanik provisions, which govern trade with non-market economies. Every year between 1998 and 2006, Vietnam received a presidential waiver from the restrictions of the Jackson-Vanik provisions. From 1998 to 2002, congressional resolutions disapproving the waivers failed in the House. Disapproval resolutions were not introduced between 2003 and 2006, the last year of Vietnam’s conditional NTR status.

status as part of a wider agreement that saw Vietnam become a member of the World Trade Organization (WTO) as of January 11, 2007.⁸

As discussed in the following section, during the Bush Administration, the United States and Vietnam dramatically upgraded diplomatic and strategic aspects of their relationship to the point where the two countries have all-but-normalized bilateral relations, at least from the U.S. point of view. As discussed below, however, many Vietnamese still consider relations to not be completely normalized until the United States provides more compensation for purported victims of “Agent Orange” and/or drops its legal categorization of Vietnam as a non-market economy.

Major Issues in U.S.-Vietnam Relations

Diplomatic Ties

At some point in the mid-2000s, leaders in both Hanoi and Washington, DC, sought new ways to upgrade the bilateral relationship. Two manifestations of this goal were the U.S. extending Permanent Normal Trade Relations (PNTR) status to Vietnam in 2007 and four annual summits from 2005-2008. The Bush Administration appeared to use these top-level meetings to encourage economic and political reforms inside Vietnam. In 2010, the two countries took a variety of steps indicating that they may be poised to enter a new level of cooperation, particularly on strategic issues.

High Level Visits: Taking Relations to a New Level

During 2010, Secretary of State Hillary Rodham Clinton visited Vietnam in July and October, and Secretary of Defense Robert Gates visited in October. The trips were partly due to Vietnam’s one-year stint as chair of the Association of Southeast Asian Nations (ASEAN), during which time the country served as host for a number of multilateral gatherings. The Obama Administration also used them as occasions to signal its determination to increase its presence in Southeast Asia generally, and upgrade its strategic relationship with Vietnam in particular. Of particular note, during the July ASEAN Regional Forum (ARF) meeting, Vietnamese and U.S. officials orchestrated a multilateral diplomatic push-back against perceived Chinese assertiveness in the South China Sea. In October, Vietnam then convened and secured U.S. attendance in the first-ever ASEAN Defense Ministers’ Meeting + 8 (ADMM Plus, a gathering of the ministers of defense from the 10 ASEAN countries accompanied by their counterparts from Australia, China, India, Japan, Korea, New Zealand, and Russia), in which Secretary Gates participated and reiterated U.S. concerns about China’s actions in the South China Sea. Later that same month, Secretary Clinton traveled back to Hanoi to join in the East Asia Summit (EAS), the first time the United States officially participated in the five-year old gathering.

During one of her visits, Secretary Clinton summed up the new emphasis on Vietnam when she stated that “the Obama Administration is prepared to take the U.S.-Vietnam relationship to the next level.... We see this relationship not only as important on its own merits, but as part of a strategy aimed at enhancing American engagement in the Asia Pacific and in particular Southeast

⁸ See CRS Report RL33490, *Vietnam PNTR Status and WTO Accession: Issues and Implications for the United States*, by Mark E. Manyin, William H. Cooper, and Bernard A. Gelb.

Asia.”⁹ Many Vietnamese officials would like to arrange a bilateral summit, an event the Obama Administration appears to be reluctant to schedule due in part to concerns about a deterioration in Vietnam’s human rights conditions.

The United States Increases Its Involvement in the South China Sea Dispute

Since 2007, even as official Sino-Vietnamese relations have expanded, bilateral tensions have intensified over competing territorial claims in the South China Sea. China has increased seizures of Vietnamese fishing boats, has reportedly warned Western energy companies not to work with Vietnam to explore or drill in the disputed waters, and has announced plans to develop the disputed islands as tourist destinations. Vietnam used its chairmanship of ASEAN in 2010 to “internationalize” the disputes by forming a multi-country negotiation forum, which would force China to negotiate in a multilateral setting.

A primary target of the Vietnamese campaign was the United States, which has followed a policy of neutrality on the claims by the parties, which also include Brunei, Indonesia, Malaysia, the Philippines, and Taiwan. Throughout 2009 and early 2010, some Vietnamese said that while they do not expect the United States to take sides in the dispute, it would be helpful if the United States did more to emphasize, through language or actions, that all parties to the dispute should adhere to common principles, such as promoting transparency, adhering to the rule of law, refraining from undertaking unilateral actions, and committing to the freedom of the seas and navigation.

Obama Administration officials proved receptive to Vietnam’s outreach. Bilateral cooperation was symbolized during the July 2010 ARF Foreign Ministerial meeting in Hanoi. Secretary of State Clinton, Vietnamese Foreign Minister Khiem and counterparts from 10 other nations, including several ASEAN members, raised the issue of the South China Sea. At the meeting, Secretary Clinton said that freedom of navigation on the sea is a U.S. “national interest” and that the United States opposes the use or threat of force by any claimant. In a departure from the heretofore policy of the United States standing on the sidelines of the dispute, she offered to “facilitate initiatives and confidence building measures” consistent with the 2002 Declaration on the Conduct of Parties in the South China Sea. Finally, Clinton stated that “legitimate claims to maritime space in the South China Sea should be derived solely from legitimate claims to land features,” which many interpreted as an attack on the basis for China’s claims to the entire sea.¹⁰ China has declared the South China Sea to be an area of “indisputable sovereignty” and Chinese Foreign Minister Yang Jiechi reportedly verbally attacked those who raised the issue during the meeting.¹¹ Secretary Gates and other defense ministers also raised the issue during the ADMM Plus meeting in Hanoi and October.

In the months after the ARF meeting, China dropped its previous resistance to meet in a multilateral setting to discuss a multilateral Code of Conduct. Preparatory discussions were held in late 2010 and early 2011.

⁹ U.S. Department of State, “Secretary of State Hillary Rodham Clinton Remarks With Vietnam Deputy Prime Minister And Foreign Minister Pham Gia Khiem,” Government Guest House, Hanoi, Vietnam, July 22, 2010.

¹⁰ U.S. Department of State, “Secretary of State Hillary Rodham Clinton Remarks at Press Availability,” National Convention Center, Hanoi, Vietnam, July 23, 2010.

¹¹ John Pomfret, “U.S. Takes a Tougher Tone with China,” *Washington Post*, July 30, 2010.

The Lower Mekong Initiative

One aspect of the Obama Administration's upgrading its relationship with Vietnam appears to be forming partnerships in multilateral fora. One new such group, created in 2009, is the Lower Mekong Initiative (LMI), comprised of the United States and the lower Mekong countries, excluding Burma (i.e. Vietnam, Cambodia, Laos, and Thailand). Foreign ministers from the five countries have held three meetings, the last during Secretary Clinton's October 2010 visit to Vietnam. The LMI's agenda appears to be broad, covering areas such as responses to climate change, fighting infectious disease, education policy, and information-sharing about river management. Under the rubric of the LMI, the Obama Administration as of early 2011 had pledged over \$170 million to support health, environment, and education programs in the region. Also as part of the LMI, the Mekong River Commission and the Mississippi River Commission agreed to pursue a "sister river" partnership to share expertise and best practices in areas such as climate change adaptation, water resource management, and food security. Another motivation for the LMI is to monitor and coordinate responses to the construction of dams – particularly but not exclusively those being built in China – and other projects on the upper portions of the Mekong that are affecting the downriver countries.¹²

Nuclear Diplomacy¹³

As its economy has grown, so have Vietnam's energy demands, which according to one source grew by 15% annually in the first decade of the 2000s.¹⁴ To help keep pace, Vietnam plans to build its first nuclear power plants in the coming decades. The U.S. Department of Energy (DoE) and the Nuclear Regulatory Commission train Vietnamese officials on nonproliferation and nuclear safety best practices related to power plant operation, and assisted with the drafting of Vietnam's Atomic Energy Law, passed in June 2008. The U.S. State Department's Export Control and Border Security Program (EXBS) has provided assistance to Vietnam to strengthen export controls in the country. An effective export control regime is considered a key prerequisite to establishing a nuclear power program in a country.

In a related development, in March 2010, the United States and Vietnam signed a Memorandum of Understanding Concerning Cooperation in the Civil Nuclear Field that is designed to increase cooperation in a number of areas. Then-U.S. Ambassador to Vietnam Michael Michalak said he anticipates the agreement will be a "stepping stone" to a bilateral nuclear energy cooperation agreement, which, under section 123 of the Atomic Energy Act, would be subject to congressional review.¹⁵

In early August 2010, the *Wall Street Journal* reported that the United States and Vietnam had discussed a proposed nuclear cooperation agreement that would not specifically commit Hanoi to refrain from enriching uranium.¹⁶ The State Department spokesman has said that the United

¹² Catharin Dalpino, "Bureaucratic Suspense at Phuket," Asia Security Initiative blog, Posted on July 17, 2009, <http://asiasecurity.mcfound.org/>.

¹³ For more, see CRS Report RS22937, *Nuclear Cooperation with Other Countries: A Primer*, by Paul K. Kerr and Mary Beth Nikitin.

¹⁴ Economist Intelligence Unit, *Vietnam: Energy Report*, December 16, 2009.

¹⁵ U.S. Embassy Hanoi, "Ambassador's Speech Remarks at the Signing Ceremony for Nuclear Cooperation MOU," March 30, 2010.

¹⁶ Jay Solomon, "U.S., Hanoi in Nuclear Talks," *The Wall Street Journal*, August 5, 2010. Uranium enrichment (continued...)

States would welcome a commitment by Vietnam not to pursue enrichment, but that this would be Vietnam's sovereign decision, and Vietnam does have a right to pursue enrichment under the Non-Proliferation Treaty.¹⁷ A commitment to forego enrichment is not required for bilateral nuclear cooperation agreements under U.S. law, and most past 123 agreements, including ones negotiated with Japan, Australia, and India, have not included such a pledge. The recent agreement with the United Arab Emirates included a provision that would preclude enrichment or reprocessing in the UAE, and the United States has pursued similar pledges from other states in the Middle East. However, how this policy would apply to other regions of the world is under interagency review. A senior DOE official said in September 2010, that it would be "inappropriate" at this stage to ask Vietnam to forswear its fuel cycle options as part of a nuclear energy cooperation agreement.¹⁸ The Vietnamese Atomic Energy Institute Director Vuong Huu Tan has said that Vietnam does not plan to pursue enrichment.¹⁹

Vietnam has also supported U.S. nonproliferation initiatives. With DoE assistance under the Global Threat Reduction Initiative, Vietnam has been converting its Soviet/Russian-supplied research reactor in Dalat from highly enriched uranium (HEU) to low enriched uranium fuel, and returning the HEU fuel to Russia. Attending the April 2010 nuclear security summit in Washington, DC, Vietnamese Prime Minister Dung pledged to continue to convert the Dalat research reactor, as well as to join the Global Initiative to Combat Nuclear Terrorism. In December 2010, the United States and Vietnam established a legal framework for U.S.-Vietnam cooperation for full conversion of the research reactor and the return of HEU spent fuel from Dalat to Russia.²⁰

Economic Ties²¹

Economic ties are the most mature aspect of the bilateral relationship, as symbolized by the two countries' participation in the nine-country Trans Pacific Strategic Economic Partnership (TPP) free trade agreement negotiations. Since the mid-2000s, the United States has been Vietnam's largest export market, to the point where in 2010, exports to the United States represented about 18% of Vietnam's total exports. According to the U.S. Embassy in Hanoi, in 2009, U.S. firms were Vietnam's single-largest source of foreign investment.²² China is Vietnam's single-largest trading partner, and its economic importance—particularly as a source of imports—to Vietnam has been growing in recent years. Collectively, U.S. firms have become one of the country's largest sources of foreign direct investment (FDI). U.S. companies' cumulative FDI still lags behind many European and Asian competitors, which had a head start in operating in Vietnam. Since 2002, Vietnam has run an overall current account deficit with the rest of the world.

(...continued)

facilities can produce fuel for nuclear reactors, as well as fissile material for nuclear weapons. Highly enriched uranium and plutonium are the types of fissile material used in nuclear weapons.

¹⁷ State Department Briefing, August 5, 2010.

¹⁸ Daniel Horner, "Lawmakers Eye Fixes to Law on Nuclear Pacts," *Arms Control Today*, October 2010.

¹⁹ "US-Vietnam nuke deal will likely allow enrichment," *Associated Press*, August 7, 2010.

²⁰ U.S. Embassy Hanoi, "U.S. and Vietnam Cooperation on Nuclear Non-Proliferation in Dalat," December 8, 2010.

²¹ For more, see CRS Report R40755, *U.S.-Vietnam Economic and Trade Relations: Issues for the 111th Congress*, by Michael F. Martin.

²² U.S. Embassy Hanoi website, "U.S.-Vietnam Relations 15th Anniversary," <http://vietnam.usembassy.gov/15th-anniversary.html>.

U.S.-Vietnam trade has soared since the early 2000s. As shown in **Table 1**, trade flows exceeded \$18 billion in 2010, more than 12 times the level in 2001, the year before Vietnam received conditional NTR status. Increased bilateral trade also has been fostered by Vietnam's market-oriented reforms and the resulting growth in its foreign-invested and privately-owned sectors. Over 80% of the increase in U.S.-Vietnam trade since 2001 has come from the growth in imports from Vietnam, particularly clothing items. Indeed, Vietnam has emerged as the United States' second-largest source of imported clothing, after China.

Table 1. U.S.-Vietnam Merchandise Trade, Selected Years
(millions of dollars)

	U.S. Imports from Vietnam	U.S. Exports to Vietnam	Total Trade		Trade Balance
			Volume	Change from prior yr.	
1994	50.5	172.2	222.7	—	121.7
2000	827.4	330.5	1,157.9	—	-496.9
2001	1,026.4	393.8	1,420.2	23%	-632.6
2002 (NTR extended) ^a	2,391.70	551.9	2,943.60	107%	-1,839.8
2005	6,522.3	1,151.3	7,673.6	22%	-5,371.0
2006	8,463.4	988.4	9,451.8	23%	-7,475.0
2007 (PNTR Extended) ^a	10,541.2	1,823.3	12,364.5	31%	-8,717.9
2008	12,610.9	2,673.0	15,283.9	24%	-9,937.9
2009	12,366.8	2,966.6	15,333.4	0.3%	-9,400.2
2010	14,784.4	3,539.5	18,323.9	19.5%	-11,244.9
Jan-May 2010	5,296.0	1,391.1	6,687.1	—	-3,904.9
Jan-May 2011	6,449.5	1,725.5	8,175.0	22%	-4,724.0
Major Imports from Vietnam	clothing, footwear, wooden furniture, electrical machinery, coffee, fish and prepared fish products, printers/copiers/faxes				
Major Exports to Vietnam	cotton, passenger cars, machinery and mechanical equipment, meat, plastics, concentrated milk & cream				

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

- a. Normal trade relations (NTR) status was extended to Vietnam in December 2001, when the U.S.-Vietnam bilateral trade agreement went into effect. Thus, 2002 was the first full year in which Vietnam benefitted from NTR status. Likewise, 2007 was the first full year Vietnam received permanent normal trade relations (PNTR) status, which was extended to Vietnam in December 2006.

Trade Initiatives: GSP, TIFA, BIT, and TPP

Obtaining GSP status from the United States has become a major objective for Vietnam. The week before Prime Minister Dung's June 2008 visit to Washington, the Bush Administration announced it would begin a review of whether Vietnam meets the eligibility criteria for designation as a beneficiary country under the GSP program. The primary purpose of the program, which the United States and other industrial countries initiated in the 1970s, is to promote economic growth and development in developing countries by stimulating their exports.²³ The Obama Administration has yet to make a decision about entering Vietnam into the GSP program. Legislation submitted in the 111th Congress, H.R. 1969 and S. 1159 (the Vietnam Human Rights Act), would have prohibited Vietnam's entry into the GSP program unless Vietnam's labor rights regime were certified as making improvements in certain areas, particularly the right of association.

Working level U.S. and Vietnamese trade officials hold regular meetings under the bilateral Trade and Investment Framework Agreement (TIFA) that was signed in June 2007. TIFAs are often viewed as a stepping stone toward an eventual free trade agreement (FTA). The two countries are also continuing to hold "technical discussions" about establishing a bilateral investment treaty (BIT). Substantive negotiations are on hold, pending the Obama Administration's review of a United States model for BITs.²⁴ The most ambitious trade initiative with Vietnam involves negotiating a multilateral free trade agreement under the Trans-Pacific Partnership (TPP).

Trade Friction

As bilateral economic relations have expanded, so have trade disputes. Significant areas of friction include clothing trade, fish (particularly catfish), the United States' designation of Vietnam as a "non-market economy" (NME), Vietnam's record on protecting intellectual rights, and concerns over Vietnam's currency policies.²⁵ Vietnamese officials are particularly concerned about the first three issues, and about the number of anti-dumping suits that have been initiated against Vietnamese exporters for allegedly selling products in the U.S. at prices below their "normal value." In general, while bilateral trade disputes have been irritants, as of early 2011 they have not spilled over to affect the course or tone of bilateral relations. The regular TIFA talks appear to have become the main forum for the two sides to discuss and manage trade disputes.

U.S. Foreign Assistance to Vietnam

As the normalization process has proceeded, the U.S. has eliminated most of the Cold War-era restrictions on aid to Vietnam, and U.S. assistance has increased markedly from the provision of about \$1 million when assistance was resumed in 1991. Since the late 2000s, estimated U.S. aid has surpassed \$100 million, about five times the level in FY2000, making Vietnam one of the

²³For more, see CRS Report RL34702, *Potential Trade Effects of Adding Vietnam to the Generalized System of Preferences Program*, by Vivian C. Jones and Michael F. Martin.

²⁴ "Hormats: BIT To Balance Business Needs With Labor, Environment Goals," *World Trade Online Daily News*, March 10, 2010.

²⁵ Under the terms of its entry into the WTO, Vietnam will retain its designation as a "non-market economy" (NME) until 2019, making it procedurally easier in many cases for U.S. companies to initiate and succeed in bringing anti-dumping cases against Vietnamese exports. Vietnamese officials would like the United States to recognize Vietnam as a market economy.

largest recipients of U.S. aid in East Asia. Estimated U.S. assistance to Vietnam in FY2010 was around \$140 million. For FY2011, the Obama Administration expects to spend over \$120 million on aid programs in Vietnam.

The U.S. bilateral aid program is dominated by health-related assistance. In particular, spending on HIV/AIDS treatment and prevention in Vietnam has risen since President Bush designated Vietnam as a “focus country” eligible to receive increased funding to combat HIV/AIDS in June 2004 under the President’s Emergency Plan for AIDS Relief (PEPFAR).²⁶ Some Vietnamese, as well as some Western aid providers, have questioned the wisdom of allocating these sums of money for Vietnam, which does not appear to have a severe HIV/AIDS problem. Other sizeable U.S. assistance items include programs assisting Vietnam’s economic reform efforts and governance, programs to combat trafficking in persons, and de-mining programs. Cumulatively, the 110th and 111th Congress appropriated \$9 million for cleaning up dioxin storage sites as of April 2010 (see the “Agent Orange” section). 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 Issues” section).

Education Exchanges

The governments of the United States and Vietnam run a number of educational exchange programs. These generally total around \$10 million a year, a sum not included in the above estimates of U.S. assistance. In the 111th Congress, H.R. 2410, the Foreign Relations Authorization Act for FY2010 and 2011, would have transferred control of the Vietnam Education Foundation (VEF), which administers a \$5 million educational exchange program, to the State Department as well as restructure the VEF.²⁷ The House passed the bill on June 10, 2009. It did not receive action in the Senate. Similar attempts (H.R. 6535 and S. 3097) were made in the 110th Congress.

Human Rights Issues

Overview

It is difficult to make country-wide generalizations about the state of human rights in Vietnam, a one-party, authoritarian state. For more than a decade, the Vietnamese Communist Party 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 on power. On the one hand, the gradual loosening of restrictions since Vietnam’s *doi moi* (“renovation”) economic reforms were launched in 1986 has opened the door for Vietnamese to engage in private enterprise and has permitted most Vietnamese to observe the religion of their choice. Since 2004, according to several reports, there have been indications that human rights

²⁶ 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.

²⁷ The VEF was created by the Vietnam Education Foundation Act of 2000 (Title II of P.L. 106-554). The act also authorized the establishment of the Vietnam Debt Repayment Fund at the Treasury Department, into which all payments made by the Government of Vietnam under the U.S.-Vietnam debt agreement, signed on April 7, 1997, are deposited. Under the legislation, VEF receives \$5 million from the Fund each fiscal year through 2018.

conditions have improved for many if not most Vietnamese, including those in the Central Highlands and Northwest Highlands regions, two regions whose large minority populations have made them particular centers of human rights concerns.

On the other hand, the government cracks down harshly on anti-government activity. Indeed, according to numerous accounts, since at least early 2007 the Vietnamese government's suppression of dissent has intensified and its tolerance for criticism has lessened markedly. Furthermore, according to numerous accounts, the government's suppression increased in 2010. Some of the shift may have been associated with political jockeying ahead of the VCP's January 2011 Party Congress. As opposed to a massive suppression, the Vietnamese government's actions appear to be selective, targeting specific individuals and organizations who have called for the institution of democratic reforms and/or publicly criticized government policy on sensitive issues, such as policy toward China. More dissident groups began to publicly appear beginning in 2006. It is unclear to what extent these groups or their various goals are supported by the broader Vietnamese public.

The Obama Administration's Approach to Human Rights in Vietnam

Although Obama Administration officials have continuously expressed concerns—including via public criticisms—about human rights incidents, these concerns did not prevent the two countries from significantly improving relations in 2010. Barring a dramatic downturn in Vietnam's human rights situation, Administration officials appear to see Vietnam's human rights situation not as a barrier that will impede short-term cooperation on various issues, but rather as a ceiling on what might be accomplished between the two countries. For instance, congressional criticisms of Vietnam's human rights record appear to be causing the Administration to respond coolly to Vietnamese requests for a leadership summit in 2011.

Background

Since early 2008, press freedoms reportedly also have been curtailed and prominent journalists arrested. For several years before then, the press—which is state-controlled—had been given space to criticize the government on “safe” issues like corruption, economic policy, nature conservation, and environmental pollution.

Beginning in 2009, the government began increasingly targeting bloggers as well as lawyers who represent human rights and religious freedom activists, particularly those linked to a network of pro-democracy activists. Previously, many blogs had been a relatively free space for political discussion. In 2009, authorities reportedly banned anti-government commentary on blogs, a number of prominent bloggers were arrested, and several blogs with political commentary reportedly were hacked and criticized by official news outlets.²⁸ In June 2009, Vietnamese authorities arrested human rights lawyer Le Cong Dinh, reportedly for violating article 88 of Vietnam's criminal code, “conducting propaganda against the government,” which carries a sentence of up to 20 years. Dinh is best known for his defense of Vietnamese bloggers, human

²⁸ Open Source Center Report, “Vietnamese Authorities Seek to Silence, Intimidate Cyber-Activists,” FEA20090710868263, July 9, 2009.

rights defenders, and democracy and labor rights activists. Other lawyers with similar clients, including religious freedom activists, reportedly have been subject to threats and harassment.²⁹

Many of the targeted blogs, bloggers, and lawyers had criticized Vietnam's policy toward China and/or have links to pro-democracy activist groups such as Bloc 8406, the banned Democratic Party of Vietnam, or the banned Independent Workers' Union of Vietnam. There are reports that these groups have received help from expatriate Vietnamese, including some in the United States, a charge that Vietnamese officials often make in conversations with their U.S. counterparts. Yahoo has been accused of allowing Vietnamese authorities to embed monitoring and censoring devices on its applications, particularly its blogging service, which are popular in Vietnam.³⁰

Various ethnic minority groups, most prominently the minorities known as Montagnards who live in the country's Central Highlands region, also report cases of discrimination and repression.³¹ According to several sources, abuses in the Central Highlands appear to have fallen since the last major anti-government protests in 2004, though restrictions on foreigners' access to the region and to Montagnards who have fled to Cambodia complicate accurate reporting. The State Department and other groups have reported that in April 2008, police and soldiers forcibly dispersed Montagnard Christians demonstrating in the Central Highlands, and arrested dozens of protesters.³² Though these demonstrations appear to have been much smaller than the unrest in 2004, they were the largest in years. (For the location of the Central Highlands region, see **Figure 1** at the end of this report.) Some human rights advocates have criticized the U.S. government for failing to advocate sufficiently for the release of the scores, if not hundreds, of Montagnards who have been imprisoned since 2001.

Religious Freedom

According to a variety of reports, most Vietnamese now are able to observe the religion of their choice. However, while the freedom to worship generally exists in Vietnam, the government strictly regulates and monitors the activities of religious organizations. Periodically, authorities have increased restrictions on certain groups. Although the constitution provides for freedom of religion, Vietnamese law requires religious groups to join one of the officially recognized religious organizations or denominations. According to many reports, the government uses this process to monitor and restrict religious organizations' operations. Additionally, many groups either refuse to join one of the official religious orders or are denied permission to do so, meaning that these groups' activities technically are illegal.

²⁹ Human Rights Watch, "Vietnam: Free Prominent Rights Lawyer Le Cong Dinh," New York, June 16, 2009; Ian Timberlake, "Vietnam Arrests Are Part of Long-Running Crackdown: Analysts," *Agence France Presse*, July 14, 2009.

³⁰ Open Source Center Report, "Vietnamese Bloggers Drop Local Yahoo Service Given Perceptions of Collusion With Authorities," FEA20090721872665, July 21, 2009.

³¹ "Montagnard" is a French term meaning "mountain people" that is often used to refer to the various indigenous ethnic minorities in Vietnam's central and northern mountain areas. According to Human Rights Watch, there are approximately one million Montagnards in the Central Highlands, comprised of approximately six ethnic groups. Since the end of the Vietnam War, millions of ethnic Kinh (Vietnam's dominant ethnic group) from Vietnam's lowlands have migrated into the Central Highlands. Coffee and rubber plantations also have sprouted in the region. The ensuing land pressures have resulted the loss of ancestral homeland by many Montagnards. Hundreds of thousands of Central Highlands Montagnards are thought to follow evangelical Protestantism. For more, see Human Rights Watch, *Repression Of Montagnards, Conflicts over Land and Religion in Vietnam's Central Highlands*, April 2002.

³² State Department, "2008 Human Rights Reports: Vietnam," February 25, 2009.

In 2004, the State Department designated Vietnam as a “country of particular concern” (CPC), principally because of reports of worsening harassment of certain ethnic minority Protestants and Buddhists. When the Vietnamese responded by negotiating with the Bush Administration and adopting internal changes, the two sides reached an agreement on religious freedom, in which Hanoi agreed to take steps to improve conditions for people of faith, particularly in the Central Highlands. The May 2005 agreement enabled Vietnam to avoid punitive consequences, such as sanctions, associated with its CPC designation. The agreement was faulted by human rights groups on a number of grounds, including the charge that religious persecution continues in the Central Highlands. Vietnam was redesignated a CPC in the 2005 and 2006 Religious Freedom Reports.

In November 2006, the State Department announced that because of “many positive steps” taken by the Vietnamese government since 2004, the country was no longer a “severe violator of religious freedom” and was removed from the CPC list. The announcement, which came two days before President Bush was due to depart to Hanoi for the APEC summit, cited a dramatic decline in forced renunciations of faith, the release of religious prisoners, an expansion of freedom to organize by many religious groups, and the issuance of new laws and regulations, and stepped up enforcement mechanisms. Over the course of 2006, as part of the bilateral U.S.-Vietnam human rights dialogue, Vietnam released a number of prominent dissidents the Bush Administration had identified as “prisoners of concern.” Vietnam also reportedly told the United States that it would repeal its administrative decree allowing detention without trial. The U.S. Committee on International Religious Freedom, among others, has disputed the Administration’s factual basis for the decision to remove Vietnam from the CPC list, arguing that abuses continue and that lifting the CPC label removes an incentive for Vietnam to make further improvements. On December 17, 2010, the House passed H.Res. 20, calling on the State Department to list Vietnam as a CPC.

Workers’ Rights

Vietnam’s application to join the GSP program and participation in the TPP trade negotiations have focused attention on labor conditions in Vietnam. The government and the VCP’s efforts to maintain one-party rule while adapting to rapid social and economic changes may help to explain the often contradictory trends that can be observed in Vietnam’s evolving labor rights regime.

On the one hand, Vietnamese workers are not free to form their own independent unions. All unions must belong to the Vietnam General Confederation of Labor (VGCL), an organ of the VCP that approves and manages subsidiary unions. According to the State Department’s 2009 Country Report on Vietnam’s human rights practices, “only” 85% of state-owned enterprises, 60% of foreign-invested enterprises, and 30% of private enterprises were unionized.³³ The advocacy group Human Rights Watch has raised concern about the ability of Vietnamese workers to call an official strike, especially at state-owned enterprises (SOEs).³⁴ Vietnamese authorities reportedly have arrested, harassed, and intimidated leaders of independent unions, such as the United Workers-Farmers Organization of Vietnam, a group formed in 2006 that publicly calls for the right to form independent unions. Analysts have observed that the absence of a true right of association in Vietnam has impeded the improvement of labor rights in other areas. Collective

³³ Bureau of Democracy, Human Rights, and Labor, 2009 Country Reports on Human Rights Practices, 2009 Human Rights Reports: Vietnam, U.S. Department of State, Washington, DC, March 11, 2010.

³⁴ Human Rights Watch, *Not Yet a Workers’ Paradise*, New York, NY, May 2009.

bargaining agreements remain the exception rather than the rule. Rapid economic expansion, corruption, and shortages of funds, training, and personnel reportedly have made it extremely difficult for government authorities to enforce Vietnam's labor laws.

On the other hand, many conclude that since the launch of the *doi moi* reforms, worker rights have made progress despite the restrictions on the right to organize. A comprehensive and detailed Labor Code was passed in 1994 and was revised in 2002 and in 2006. Among other advances, the original 1994 code recognized workers' right to strike, albeit under prescribed conditions. The 2006 amendments, prompted in part by a surge in strikes, for the first time allowed workers to choose their own representatives to negotiate disputes at the thousands of enterprises where no union exists. In the past, the VGCL had been the only organization allowed to represent workers. Additionally, the government for the most part has not moved against strikes, despite the fact that most have been technically illegal (because they were organized by "labor associations," and not officially sanctioned unions). It may also help that most strikes appear to be at foreign-invested enterprises.

The Vietnamese government appears to tacitly accept that it has problems with the enforcement of its labor laws. In 2008 and 2009, Vietnam's official news agencies—*Thanhniên* News, Vietnam Net, and Voice of Vietnam News—ran a series of reports in 2008 and 2009 describing problems with Vietnam's protection of worker's rights, the flaws of the VGCL, and efforts to improve working conditions in Vietnam.³⁵ A new Labor Code and Trade Union Law, drafted with assistance from the International Labor Organization (ILO), is expected to be submitted to Vietnam's National Assembly for consideration later in 2010.

The Vietnam Human Rights Act

Since the 107th Congress, when Members of Congress became concerned with Vietnamese government crackdowns against protestors in the Central Highlands region, various legislative attempts have been made to link U.S. assistance to the human rights situation in Vietnam. A number of measures entitled "The Vietnam Human Rights Act" have been introduced, with most proposing to cap existing non-humanitarian U.S. assistance programs to the Vietnamese government at existing levels if the President does not certify that Vietnam is making "substantial progress" in human rights.³⁶

As introduced, the most recent version of the Vietnam Human Rights Act (H.R. 1410 in the 112th Congress) would prohibit increases in many forms of U.S. non-humanitarian assistance to

³⁵ Among these articles are: "Impotent Labour Unions Don't Help Workers," *Thanhniên* News, June 22, 2008; "Government Units to Tackle Labour Disputes," Vietnam Net, February 21, 2009; "Vietnam Works for Harmonious Labour Relations," Voice of Vietnam News, March 18, 2009; Minh Nam, "Flouting of Labor Laws Rife in HCMC: Report," *Thanhniên* News, December 2, 2008; and Minh Nam, "HCMC Officials call to Strengthen Unions, Tighten Labor Laws," *Thanhniên* News, February 12, 2009.

³⁶ The Vietnam Human Rights Act was first introduced in the 107th Congress as H.R. 2833, which was passed by the House, 410-1 (roll call 335) on September 6, 2001 and did not receive action in the Senate. In the 108th Congress, H.R. 1587/S. 2784 were introduced. House passed H.R. 1587 by a vote of 323-45 (roll call 391). In the Senate, the bill was not reported out of committee, and attempts to include an abbreviated version in an omnibus appropriation bill did not succeed. In the 109th Congress, another stripped-down version of the act (H.R. 3190) was included in the House-passed version of the Foreign Relations Authorization Act of FY2006/FY2007 (H.R. 2601), which did not receive action in the Senate. In the 110th Congress, the House passed H.R. 3096 on September 18, 2007 (414-3, roll no. 877). The bill did not see action in the Senate. Also in the 110th, a competing version of the Vietnam Human Rights Act, S. 3678, was introduced in the Senate.

Vietnam unless (1) such increases are matched by additional funding for human rights programming, and (2) Vietnam's human rights conditions are certified as improving. The bill would grant the President waiver authority that allows him to exempt any programs that are deemed to promote the goals of the act and/or to be in the national interests of the United States. H.R. 1410 also declares it U.S. policy to increase Radio Free Asia's anti-jamming funding, would require the submission of a stand-alone human rights report for Vietnam, and calls for the expansion of education, cultural, and legislative exchanges with Vietnam.³⁷

Proponents of the Vietnam Human Rights Act argue that additional pressure should be placed on the Vietnamese government to improve its human rights record. Critics have argued that the bill could chill the recent warming of bilateral political and security ties and could weaken economic reformers in ongoing domestic political battles inside Vietnam.

Additionally, in the 112th Congress, H.R. 156 (Royce), the Vietnam Human Rights Sanctions Act was introduced, which would impose financial and immigration/entry sanctions on listed Vietnamese who are deemed to be complicit in human rights abuses.

Refugees in Cambodia

Since 2001, hundreds of Montagnards have crossed into Cambodia to escape continuing unrest in the Central Highlands region. In 2002, Cambodia accepted an offer from the United States to resettle the more than 900 Montagnards who remained following the 2001 protests and crackdown. More than 700 Montagnards have fled to Cambodia since then, particularly after a wave of unrest in April 2004. The United Nations High Commissioner for Refugees (UNHCR) has found the majority of the border-crossers to be political refugees and therefore entitled to asylum. While most of these are being resettled in the United States, Canada, or Finland, others have returned to Vietnam following a January 2005 agreement between UNHCR, Cambodia, and Vietnam in which Hanoi agreed that those returning to Vietnam would not be punished, discriminated against, or prosecuted for fleeing to Cambodia. Vietnam also agreed to drop its refusal to allow UNHCR to monitor the returnees' well-being, though some human rights groups have criticized UNHCR's monitoring visits, as well as its process for screening border crossers in Cambodia. More than 200 individuals, including many who have been recognized as refugees by UNHCR, refused offers to be resettled in third countries outside Southeast Asia. In the past, Cambodia has been accused of abiding by Vietnamese requests to close its borders and repatriate individuals forcibly.

In May 2007, the United States adopted a new policy toward the Montagnards in Cambodia, in which individuals UNHCR deems not to be refugees will not be considered for resettlement in the United States. The move appeared to indicate the United States' official acceptance that Vietnam was honoring its commitments in the January 2005 tripartite agreement. In the year following the policy shift, the United States accepted approximately 100 Montagnards for resettlement.

³⁷ Unlike versions of the bill submitted in the 111th Congress (H.R. 1969 and S. 1159), H.R. 1410 contains no authorizations to implement the bill's provisions, nor does it prohibit Vietnam's entry into the U.S. Generalized System of Preferences (GSP) program. The GSP program expired at the end of 2010, though there are efforts in the 112th Congress to re-authorize its funding.

Human Trafficking

Vietnam is both a source and destination for people trafficked for forced labor and commercial sexual exploitation. Additionally, state-owned and private labor export companies send tens of thousands of Vietnamese construction, fishing, and manufacturing workers overseas, where many are vulnerable to abuse and/or exploitation. In June 2009, the State Department issued its 9th annual report on human trafficking, *Trafficking in Persons Report*. Vietnam was listed as a “Tier 2” country that “does not fully comply with the minimum standards for the elimination of trafficking.” As recently as 2004, it was included on the “Tier 2 Watch-list,” but was upgraded to “Tier 2” in the 2005 report. The 2009 report estimated that there are 500,000 Vietnamese workers outside of Vietnam. It judged the government to be making “significant efforts” to combat trafficking, particularly the cross-border sex trade. However, the report criticized the Vietnamese government for an insufficient focus on domestic trafficking, law enforcement, victim protection, and safeguards on officially sanctioned export labor programs.³⁸

Military-to-Military Ties

In the late 2000s, the United States and Vietnam began significantly upgrading their military-to-military relationship, driven in large measure by Vietnam’s increased concerns about China and enabled by over a decade of smaller, trust-building programs between the two military bureaucracies. In August 2010, the United States and Vietnam held their inaugural Defense Policy Dialogue, a high-level channel for direct military-to-military discussions. Previously, the main formal vehicle for the two militaries to hold regular annual dialogues had been through the U.S.-Vietnam Security Dialogue on Political, Security, and Defense Issues, a forum that is run by the U.S. State Department and Vietnamese Ministry of Foreign Affairs and includes officials from the two countries’ militaries. Other signs of a deepening military-military relationship include:

- the first U.S.-Vietnam joint naval engagement, involving noncombat training (e.g. damage control, a search and rescue drill, and exchange of cooking skills) on board the USS *John S. McCain* in August 2010 while it was berthed at DaNang;
- also in 2010, Vietnamese shipyards repaired two U.S. Military Sealift Command ships;
- in 2011, Vietnam’s Ministry of Defense will for the first time send Vietnamese officers to U.S. staff colleges and other military institutions.³⁹

As has been written by Carlyle Thayer, an expert who follows Vietnamese military matters closely, the two militaries appear to be working out “a program of practical activities that will enhance the professionalism of the Vietnamese military,” including peacekeeping activities, environmental security, multilateral search and rescue coordination and regional disaster response.⁴⁰

³⁸ State Department, *Trafficking in Persons Report*, June 2009.

³⁹ According to Secretary Gates, Vietnam plans to send one officer to the U.S. National War College and one officer to the Naval Staff College. U.S. Department of Defense, “Vietnam National University,” Speech as Delivered by Secretary of Defense Robert M. Gates, Hanoi, Vietnam, Monday, October 11, 2010.

⁴⁰ Carlyle A. Thayer, “Vietnam’s Defensive Diplomacy,” *Wall Street Journal*, August 19, 2010.

In a sign of the degree to which Vietnamese leaders calibrate their ties to the United States with Sino-Vietnamese relations, 2010 also represented the first year that the Vietnamese navy made its port call to China, and the first time China and Vietnam held their first seaborne joint search and rescue exercise.⁴¹

Military Assistance

The United States and Vietnam have had an IMET agreement in place since 2005, allowing Vietnamese officers to receive English language training in the United States. In 2007, the United States modified International Traffic in Arms Regulations (ITAR) regarding Vietnam by allowing licenses for trade in certain non-lethal defense items and services to Vietnam. Such transactions are reviewed on a case-by-case basis. In FY2009, the United States provided foreign military financing (FMF) for Vietnam for the first time. \$500,000 was made available in that fiscal year, with another \$1.35 million requested in FY2010. The Obama Administration requested \$1.1 million in FMF for Vietnam in FY2011.⁴²

One issue that some Members of Congress track is whether the Obama Administration accedes to the reported Vietnamese military requests for spare parts for its American-made Huey helicopters that are leftovers from the Vietnam War.

The Vietnamese government has long sought U.S. assistance in locating and identifying remains for the hundreds of thousands of Vietnamese soldiers who remain missing in action (MIA) from the Vietnam War era. In November 2010, the United States Agency for International Development and Vietnam's Ministry of Labor and Social Affairs reached an agreement on a two-year, \$1 million program of technical assistance to help Vietnam with its MIAs.⁴³

Background

Since the United States and Vietnam normalized relations in the mid-1990s, a growing perception of shared strategic interests has compelled and enabled the two countries' militaries to cautiously establish and expand ties with one another.⁴⁴ Vietnamese concerns about rising Chinese power in the region appear have made Vietnamese policy-makers, particularly civilian leaders, interested in upgrading their security relations with the United States. However, the process of deepening military-to-military cooperation has been slow and incremental, with the United States generally suggesting that more be done, and the Vietnamese side responding cautiously.⁴⁵

In the 1990s, the bulk of military-to-military cooperation consisted of programs dealing with "legacy" issues from the Vietnam War era. The two militaries developed an increasingly cooperative relationship in locating the remains of U.S. missing servicemen.⁴⁶ By the late 1990s,

⁴¹ Carlyle A. Thayer, "Vietnam's Defensive Diplomacy," *Wall Street Journal*, August 19, 2010.

⁴² January 2010 e-mail exchange with Defense Department official.

⁴³ US Embassy Hanoi, "The U.S. Provides \$1 Million in Technical Assistance to Help Vietnam Locate and Identify Soldiers Missing in Action," November 19, 2010.

⁴⁴ For more on the evolution of bilateral military ties, see Lewis M. Stern, "U.S.-Vietnam Defense Relations: Deepening Ties, Adding Relevance," *Strategic Forum*, no. 246 (September 2009).

⁴⁵ Stern, "U.S.-Vietnam Defense Relations;" Carlyle A. Thayer, "Background Briefing: Vietnam's Defence Minister Visits Washington," December 18, 2009, Thayer Consultancy, ABN # 65 648 097 123.

⁴⁶ Officially, more than 2,000 Americans who served in Indochina during the Vietnam War era are still unaccounted (continued...)

a substantial permanent U.S. staff in Vietnam was deeply involved in frequent searches of aircraft crash sites and discussions with local Vietnamese witnesses throughout the country. The U.S. Defense Department reciprocated by allowing Vietnamese officials access to U.S. records and maps to assist their search for Vietnamese MIAs. Additionally, the United States spent millions of dollars annually in demining assistance in Vietnam, through the State Department's NADR account, which includes non-proliferation, counterterrorism, demining, and related activities. The United States continues to fund many of these demining programs in Vietnam.

Since at least the early 2000s, the Pentagon and State Department have sought to expand and deepen security relations and military ties with Vietnam. A decade later, many of these efforts have borne fruit, albeit slowly and incrementally. An IMET agreement was signed in 2005, followed two years later by the United States allowing sales of non-lethal defense items to Vietnam. Additionally, U.S. naval vessels now regularly call on Vietnamese ports, and Vietnamese military officers increasingly participate in U.S.-led conferences and academic programs. Joint counter-narcotics training programs also have been established. The military-to-military relationship has developed a multilateral dimension, in part due to Vietnam's policy of seeking a more visible role in international organizations.

Vietnam War “Legacy” Issues

Agent Orange⁴⁷

One major legacy of the Vietnam War that remains unresolved is the damage that Agent Orange, and its accompanying dioxin, have done to the people and the environment of Vietnam. For the last 30 years, this issue has generally been pushed to the background of bilateral discussions by other issues considered more important by the United States and/or Vietnam. As the relationship has improved and matured, and with most other wartime “legacy” issues presently resolved, the issue of Agent Orange/dioxin has emerged as a regular topic in bilateral discussions.

In the last few years, the people of Vietnam and the Vietnamese government have become increasingly concerned about the issue of Agent Orange. According to various estimates, the U.S. military sprayed approximately 11 million-12 million gallons of Agent Orange over nearly 10% of then-South Vietnam between 1961 and 1971. One scientific study estimated that between 2.1 million and 4.8 million Vietnamese were directly exposed to Agent Orange. Vietnamese advocacy groups claim that there are over three million Vietnamese suffering from serious health problems caused by exposure to the dioxin in Agent Orange.

Recently, the U.S. government has shown a greater willingness to cooperate on some aspects of the issue. Since 2007, Congress has appropriated \$21 million for dioxin removal and health care facilities in DaNang. However, the Vietnamese government and people would like to see the United States do more to remove dioxin from their country and provide help for victims of Agent Orange.

(...continued)

for. Hundreds of thousands of Vietnamese remain missing.

⁴⁷ For more on the Agent Orange issue, see CRS Report RL34761, *Vietnamese Victims of Agent Orange and U.S.-Vietnam Relations*, by Michael F. Martin.

In June 2010, the U.S.-Vietnam Dialogue Group on Agent Orange/Dioxin (Dialogue Group), a bi-national committee of individuals and organizations involved in this issue, released a proposed 10-year, \$300 million “action plan” designed to provide “a significant part of the long-term solution to the Agent Orange/dioxin legacy in Vietnam.”⁴⁸ While the Dialogue Group does not make specific recommendations on how to fund the plan, it does state, “The U.S. government should play a key role in meeting these costs, along with other public and private donors, supplementing an appropriate continuing investment from the government and the people of Vietnam.”

Vietnam War Resettlement Programs

In November 2005, the United States and Vietnam announced the reopening of certain categories of the Orderly Departure Program (ODP), under which over 550,000 Vietnamese were resettled in the United States between 1979 and 1999. Also during this time, another 300,000 Vietnamese came to the United States through other programs. The latest reopening is limited to those who were unable to apply or who were unable to complete the application process before the ODP closed in 1994. The omnibus Consolidated Appropriations Act, 2008 (H.R. 2764), which President Bush signed into law on December 26, 2007, extended the application closing date from the end of 2007 to the end of 2009. On a related matter, Section 7034(d) of P.L. 111-8, the Omnibus Appropriations Act of FY2009, which was signed into law on March 11, 2009, extended to the end of 2010 the deadline for certain adult sons and daughters of former Vietnamese re-education camp detainees who wish to apply for resettlement into the United States. The previous closing date had been September 30, 2009.

POW/MIA Issues⁴⁹

Since the 1990s, the annual State Department appropriations act has included language prohibiting the use of funds to expand the United States diplomatic presence in Vietnam beyond the level in effect July 11, 1995 (when the two countries opened embassies in each others’ capitols), unless the President makes a certification that several conditions have been met regarding Vietnam’s cooperation with the United States on Prisoner of War/Missing in Action (POW/MIA) issues. That certification has been issued every year since the requirement was put in place, though President Bush listed specific steps for how cooperation could be improved.

Officially, more than 2,000 Americans who served in Indochina during the Vietnam War era are still unaccounted for.⁵⁰ Hundreds of thousands of Vietnamese remain missing. From 1975 through the late 1990s, obtaining a full accounting of the U.S. POW/MIA cases was one of the dominant issues in bilateral relations. Beginning in the early 1990s, cooperation between the two sides increased. By 1998, a substantial permanent U.S. 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 have allowed U.S. analysts access to numerous POW/MIA-related archives and records. The U.S. Defense Department has

⁴⁸ U.S.-Vietnam Dialogue Group on Agent Orange/Dioxin, “Declaration and Plan of Action: Addressing the Legacy of Agent Orange in Vietnam,” Aspen Institute, June 2010.

⁴⁹ For more on the POW/MIA issue, see CRS Report RL33452, *POWs and MIAs: Status and Accounting Issues*, by Charles A. Henning.

⁵⁰ Official U.S. policy does not remove a name from the rolls of those unaccounted for unless remains are identified.

reciprocated by allowing Vietnamese officials access to U.S. records and maps to assist their search for Vietnamese MIAs, a topic that continues to be of interest to the Vietnamese government. The increased efforts have led to substantial understanding about the fate of several hundred U.S. POW/MIA cases, though the United States continues to press Vietnam to provide more cooperation in specific areas. During Secretary of Defense Rumsfeld's June 2006 trip to Vietnam, the two countries discussed expanding their cooperation on recovering remains, including the possibility of using more advanced technology to locate, recover, and identify remains located under water.⁵¹ Congress continues to take an interest in the POW/MIA issue.⁵²

Hundreds of thousands of Vietnamese remain missing from the Vietnam War period. For years, Vietnam has expressed interest in receiving U.S. help in locating and identifying the remains of these MIAs. In November 2010, the U.S. Agency for International Development (USAID) and Vietnam's Ministry of Labor and Social Affairs (MOLISA) agreed to a two-year program under which the United States will spend \$1 million to help Vietnam locate and recover the remains of the hundreds of thousands of Vietnamese soldiers missing from the Vietnam War.

Conditions in Vietnam

For the first decade after reunification in 1975, Vietnamese leaders placed a high priority on ideological purity and rigid government controls. By the mid-1980s, disastrous economic conditions and diplomatic isolation 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 many aspects of central state planning, cut subsidies to state enterprises, reformed the price system, and opened the country to foreign direct investment (FDI). After stalling somewhat in the late 1990s, economic reforms were accelerated in the early 2000s, as Vietnam made sweeping changes that were necessary to enter the WTO. Politically and socially, the country became much less repressive, even tolerating some expressions of dissent in certain areas that had been considered sensitive.

Beginning in 2008, there were some signs that the consensus around pursuing an open market liberalization strategy had begun to fray, as more conservative-minded forces began to push against reformist elements. Vietnam's economic troubles in 2008 and 2009 may have contributed to this possible shift in policy momentum.

⁵¹ Office of the Assistant Secretary of Defense (Public Affairs), "Press Availability with Secretary Rumsfeld in Vietnam," June 5, 2006.

⁵² For instance, in February 2009, H.Res. 111 (King, R-NY) was introduced. It would establish a Select Committee on POW and MIA Affairs to conduct a full investigation of all unresolved matters relating to any United States personnel unaccounted for from the Vietnam War and several other conflicts. In the 110th Congress, on July 10, 2008, the House Armed Service Subcommittee on Military Personnel held a hearing on oversight and the status of POW/MIA activities. Additionally, in May 2008, the House passed H.Res. 986 (roll no. 366), stating that the House "will not forget" and "will continue to press for a full accounting of" U.S. military and civilian personnel who remain unaccounted for from the Vietnam conflict.

Economic Developments

Vietnam's Economic Troubles of 2007-2011

Since late 2007, Vietnam's economy has been buffeted by economic difficulties that have increased social strife and raised concerns about the country's economic stability. In 2007 and the first half of 2008, the country experienced first soaring inflation and then acute, downward pressure on the country's currency, the dong. The problems caused by inflation were particularly onerous, as the prices of some food items rose by over 50%, leading workers in a number of factories to go on strike demanding higher wages. By late 2008, the rapid increase in the inflation rate had halted, allowing the government to shift its priority to spurring growth as the global financial crisis' effects began to hit Vietnam.

Although restrictions on international financial transactions limited Vietnam's direct exposure to the global financial and credit crises, the secondary effects created new pressures on Vietnam, which is heavily dependent on trade and foreign direct investment inflows. In response to the crisis, Hanoi lowered corporate tax rates, cut interest rates, allowed the *dong* to depreciate against the U.S. dollar, and unveiled a stimulus package that the International Monetary Fund estimated to be worth roughly \$4 billion. Some selected figures illustrate Vietnam's vulnerability to the global slowdown and collapse in commodity prices: exports are equivalent to 80% of GDP; about 60% of Vietnamese exports go to the United States, the European Union, and Japan; and oil revenue accounts for 30% of the government's revenue.⁵³ In 2009, Vietnam's exports fell by around 10% compared with 2008 levels, and its imports decreased by around 13%. However, like many Asian developing countries, Vietnam's economy avoided some of the harsher effects of the slowdown. Real GDP growth for 2009 was 5.3% and 6.8% for 2010. The Vietnamese government estimates that the economy grew by around 5.6% in the first six months of 2011.⁵⁴

Nonetheless, GDP growth of 7% is a key threshold in the minds of many Vietnamese policymakers for creating the jobs necessary for the VCP and the government to maintain social stability. Thus, compared to the 8% growth rates Vietnam experienced for much of the 2000s, the 2008-2011 period likely has felt like a recession to many in Vietnam. Compounding the challenge of whether to prioritize spurring growth or fighting inflation prices are signs that the latter is recurring; Vietnam's consumer price index rose by over 9% in 2010 and over 16% in the first six months of 2011.⁵⁵

Background

During the 25 years since the *doi moi* reforms were launched, Vietnam was one of the world's fastest-growing countries. Agricultural production has soared, transforming Vietnam from a net food importer into the world's second-largest exporter of rice and the second-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, and the government has set a goal of

⁵³ Economist Intelligence Unit, *Vietnam Country Report*, May 2008.

⁵⁴ General Statistics Office of Vietnam Press Release, "Socio-Economic Statistics for 1st Half of 2011," July 1, 2011.

⁵⁵ Ibid. 2010 data from General Statistics Office of Vietnam Press Release, "Socio-Economic Statistics for 2010," January 4, 2011.

becoming a middle-income country by 2020. A substantial portion of the country's growth was driven by foreign investment.

Economic growth and the reform movement, however, have not always advanced smoothly. In the mid-1990s, the momentum behind continued economic reforms stalled, as disagreement between reformers and conservatives paralyzed economic decision-making. The economy slowed markedly after the 1997 Asian financial crisis, as real GDP growth fell to less than 5% in 1999. The decision in 2000 to sign the BTA with the United States appears to have broken the policymaking logjam by fashioning a new reformist consensus that was effectively endorsed by leadership changes in the 2001, during the VCP's 9th Party Congress. After signing the BTA, the government enacted a series of measures, including passing a new Enterprise Law, passing a constitutional amendment giving legal status to the private sector, reducing red tape, and creating unprecedented transparency rules requiring the publication of many types of new rules and regulations before they are implemented. Adhering to the BTA's implementation deadlines and achieving the government's goal of joining the WTO have helped galvanize the Vietnamese bureaucracy toward implementing many of these steps. Demographic pressure is a major impetus for the renewed emphasis on economic reforms; with more than half of the population under the age of 25, Vietnamese leaders must find a way to provide jobs for an estimated 1 million new entrants to the workforce annually.

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 domestically owned private firms employ around a quarter of the workforce.

Despite the impressive macroeconomic advances, Vietnam remains a poor country; the World Bank in 2005 estimated that about one-third of Vietnamese children under five years of age suffered from malnutrition.⁵⁶ Per capita GDP in 2009 was just under \$3,000 when measured on a purchasing power parity basis.⁵⁷ Economists point to Vietnam's failure to tackle its remaining structural economic problems—including unprofitable state-owned enterprises (SOEs), a weak banking sector, massive red tape, and bureaucratic corruption—as major impediments to continued growth. Some economists criticized the government's latest five year development plan, issued in 2005, that focuses on the development of heavy industries such as electricity, energy, steel, and mining. The previous plan emphasized lighter industries such as foodstuffs, textiles, and electronics. According to some sources, many if not most of Vietnam's SOEs are functionally bankrupt, and require significant government subsidies and assistance to continue operating. Although more than 2,500 SOEs officially have been partially privatized since 1990 under the government's "equitization" program, most of these are small and medium-sized firms, and the government still owns substantial stakes in them. Other SOE reform measures are being discussed.

⁵⁶ World Bank, "Vietnam at a Glance," September 12, 2005.

⁵⁷ Central Intelligence Agency, *World Factbook*, April 1, 2010.

Controversial Bauxite Plan for Central Highlands

In the spring of 2009, the Vietnamese government announced that state-run Vietnam National Coal & Mineral Industries Group was forming a \$460 million joint venture with Aluminum Corp. of China Ltd to mine bauxite in Vietnam's Central Highlands.⁵⁸ The venture appears to be part of a larger Vietnamese government plan to dramatically expand the exploitation of the Highlands' bauxite reserves, which reportedly contains the world's third-largest reserve of the ore. Bauxite is used as a raw material to make aluminum.

Inside Vietnam, the announcement has triggered opposition. Criticism has focused on the project's expected environmental impact, on fears of increased Chinese influence, and on worries that ethnic minorities and local industries (such as coffee plantations) would be adversely affected. The campaign against the project appears to have brought together a disparate group of critics, including 97-year-old General Vo Nguyen Giap, the military leader of North Vietnamese forces against France, South Vietnam, and the United States from the 1940s through the 1970s.⁵⁹

Vietnam's Politics and Political Structure

In general, 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 VCP in politics and society, and Vietnam remains a one-party state. In practice, the Communist Party sets the general direction for policy while the details of implementation generally are left to the four lesser pillars of the Vietnamese polity: the state bureaucracy, the legislature (the National Assembly), the Vietnamese People's Army (VPA), and the officially sanctioned associations and organizations that exist under the Vietnamese Fatherland Front umbrella.

The Party's major decision-making bodies are the Central Committee, which has 175 members, and the Politburo, which has 14 members. Membership on the Politburo generally is decided based upon maintaining a rough geographic (north, south, and central) and factional (conservatives and reformers) balance. The three top leadership posts are, in order of influence, the VCP general secretary, followed by the prime minister, and the president. Since the death in 1986 of Vietnam's last "strong man," Le Duan, decision-making on major policy issues typically has been arrived at through consensus within the Politburo, a practice that often leads to protracted delays on contentious issues.

Leadership Team Selected at the 11th Party Congress

Vietnam is undergoing a leadership transition. In mid-January 2011, the ruling Vietnamese Communist Party (VCP) held a weeklong National Congress, the 11th since the Party was founded. Party Congresses, held every five years, are often occasions for major leadership realignments and set the direction for Vietnam's economic, diplomatic, and social policies.

At the 11th Party Congress, delegates selected Nguyen Phu Trong (66 years old), formerly the chairman of Vietnam's National Assembly, to serve as the next VCP general secretary, Vietnam's top post. Prime Minister Nguyen Tan Dung (61, pronounced "zung") retained his membership in

⁵⁸ James Hookway, "Once Enemies, Vietnam Now Fights for China Funds," *Asia Wall Street Journal*, May 2, 2009.

⁵⁹ Seth Mydans, "Lion of War Retakes Field in Mine Fight," *International Herald Tribune*, June 29, 2009.

the 14-member Politburo, a move that virtually all analysts agree ensures the National Assembly will reappoint him to the post when it convenes in May. Likewise the Assembly is expected to ratify the Congress' decision to select Truong Tan Sang (61) as Vietnam's next president, a largely ceremonial position.⁶⁰ Dung and Sang are both believed to have sought to become general secretary. Vietnam's foreign minister, Pham Gia Khiem, was not re-elected to the Party's Central Committee, which means that he will likely step down at or before the National Assembly's summer session.

Many Western analysts regard Vietnam's ruling triumvirate as pragmatic and in favor of continuing steady, incremental improvements in relations with the United States. The Party Congress also is believed to have endorsed continuity in Vietnam's economic policy, particularly the pursuit of a high GDP growth strategy, and strong support for state-owned enterprises, which are to be reformed and restructured in order that they can be more competitive in a market socialist economy.⁶¹ There appears to have been a near-consensus that Vietnam should continue to pursue its goal of become a "modernity-oriented industrialized nation by 2020," as articulated by General Secretary Trong in his closing remarks to the Congress.⁶²

Throughout 2010, there were rumors that Prime Minister Dung, who has served since 2006, would be replaced at the Congress, particularly because of his connection to the financially troubled state-owned enterprise, Vinashin, and public outcries against his plans to allow Chinese and other mining companies to dramatically expand bauxite mines in the country's Central Highlands region. Despite his apparent re-appointment, Dung's power base is believed to have been reduced at the Congress. Trong and Sang are both believed to be assertive rivals. In November 2010, for instance, Trong called for the National Assembly to hold a vote of no confidence in Dung over his role in Vinashin's financial troubles.

The National Assembly⁶³

Over the past 10 years, Vietnam's legislative organ, the National Assembly, has slowly and subtly increased its influence to the point where it is no longer a rubber stamp. In recent years the Assembly has vetoed Cabinet appointments, forced the government to revise major commercial legislation, and successfully demanded an increase in its powers. These include the right to review each line of the government's budget, the right to hold no-confidence votes against the government, and the right to dismiss the president and prime minister (though not the VCP general secretary).

- Over the past year, the legislature has blocked government plans to build an expensive high-speed rail project and has questioned the prime minister over his role in the Vinashin debacle, prompting him to apologise to it.
- At the 2011 election only 42 of the 500 people elected to the NA were non-CPV members, compared with 43 out of 493 in the 2007 election. (fn EIU July 2011)

⁶⁰ The former president and VCP general secretary had both served two, five-year terms, and—in keeping with recent tradition—had stepped down for age and health reasons.

⁶¹ For instance, in a January 2011 article, Dung stated that the state sector, including state-owned enterprises, play "the leading role" in the economy. Nguyen Tan Dung, "PM Highlights Development Strategy for 2011-2020," *Vietnam News Agency Online*, January 3, 2011.

⁶² Vietnamese News Agency, "Closing Speech by New Party General Secretary," January 19, 2011.

⁶³ CRS Research Associate Lam Van Phan contributed to this section.

During its 7th session held in June 2010, the National Assembly amended several bills introduced by various Ministries (including a controversial law on mining), and questioned the merits of plans to build a high-speed passenger rail line from Hanoi to Ho Chi Minh City. On June 19, 2010, the Vietnamese National Assembly (VNA) voted to reject a resolution to build a high speed rail connecting Hanoi and Ho Chi Minh City. The project is estimated to cost \$56 billion dollars (USD), approximately 60.5% of Vietnam's GDP in 2009. Prime Minister Nguyen Tan Dung supported the project as a necessary investment in the infrastructure of the country. It is unclear whether this is an exercise in power by an increasingly independent National Assembly or whether it is a public expression resulting from internal political maneuverings between the conservative and reformist elements within the Vietnamese Communist Party.

It remains to be seen how much influence the Assembly will ultimately have over policymaking, given the VCP's dominant role and the centralization of decision-making in Vietnam. More than 85% of parliamentarians are Party members, and the VCP carefully screens all candidates before elections are held. Moreover, the Communist Party and the central government generally have *encouraged* the National Assembly's evolution into a more robust body, to help create the legal system and culture most Vietnamese leaders feel are necessary to support a modern, middle-income state. The next elections for National Assembly members will occur in May 2011.

Sino-Vietnam Relations

Since the late 1990s, when China began espousing its "new security concept" of cooperation with its neighbors, improvements in Sino-Vietnamese relations have accelerated, most notably with the signings of a land border treaty in 1999 and a sea border treaty for the Gulf of Tonkin in 2000. For Vietnamese leaders, this process has been fraught with ambivalence. On the one hand, maintaining stable, friendly relations with its northern neighbor is critical for Vietnam's economic development and security, and Hanoi does not undertake large-scale diplomatic moves without first calculating Beijing's likely reaction. China's ruling Communist Party is an ideological bedfellow, as well as a role model for a country that seeks to marketize its economy without threatening the Communist Party's dominance. China also is Vietnam's largest trading partner. Imports from China have soared over the past decade, as the two countries' infrastructures have become increasingly intertwined. Power plants in southeastern China, for instance, provide electricity for parts of northern Vietnam. Many of Prime Minister Nguyen Van Dung's economic policies have relied on Chinese economic support, including investments in Vietnamese natural resources.

On the other hand, many Vietnamese are wary of China's increased influence in Southeast Asia. Beijing's outreach to Cambodia and Laos in recent years has rekindled internal battles between pro-Hanoi and pro-Beijing camps in both countries, and has spurred counter-moves by Hanoi. Vietnam and China still have overlapping claims to the Spratly Island chain in the South China Sea, differences that led to military clashes in the late 1980s. In 2002, ASEAN and China signed a Declaration on the Conduct of Parties in the South China Sea, a non-binding agreement to resolve disputes diplomatically, exercise restraint, and respect the freedom of navigation and overflight. Significantly, Vietnam did not succeed in its efforts to have the agreement specifically include the Paracel Islands, claimed by both Vietnam and China. Instead, the declaration is vague on its geographic scope. Like other countries in the dispute, Vietnam has continued to expand its presence in the island chain. In moves widely interpreted as related to increased tensions in the South China Sea, Vietnam in 2009 signed contracts to purchase billions of dollars of new military equipment from Russia, including six Kilo-class submarines. According to Vietnam's 2009

Defense White Paper, Vietnam's defense budget increased by nearly 70% between 2005 and 2008.⁶⁴

China also represents an economic rival, as both countries compete for foreign direct investment and for markets in many of the same low-cost manufacturing products, such as clothing. Vietnamese leaders periodically express concern about Vietnam's rising trade deficit with China, which was around \$16 billion in 2010. In 2009, Chinese imports represented nearly a quarter of Vietnam's total imports by value, up from 9% in 2000. Many Vietnamese worry that China is increasing its economic influence over and within Vietnam, as shown by the criticisms that followed the spring 2009 announcement of a bauxite mining joint venture between a Vietnamese and Chinese entity (see "Controversial Bauxite Plan for Central Highlands," above).

The Environment

In climate modeling exercises, Vietnam is often listed as one of the world's most vulnerable countries to the possible effects of climate change, due among other factors to its climate, long coastline, and topography (particularly the extent of low-lying coastal areas with high population concentrations). Rising sea levels, increased frequency and intensity of storms, as well as drought and salt-water intrusion could have a severe impact on the country, particularly its poorer communities. Additionally, the flow of the Mekong River, which reaches its terminus in Vietnam, is being affected by the extensive damming of the river's upper reaches. In China, four dams have been built along the Lancang (as the Mekong is called in China) and four more are planned. Nine additional dams along the Mekong are planned in Laos and two in Cambodia.

For a number of reasons, Vietnam is considered ripe for developing projects to adapt to anticipated climatic changes. Many organs of the Vietnamese government appear to have recognized and gathered data on the problems that could arise from climate change, and Vietnam has reached out to the international community for advice and assistance. According to information provided by the U.S. Agency for International Development, from the early 1990s through 2009 the United States spent a cumulative total of around \$7 million-\$10 million for environmental programs, including those directly related to climate change issues.

Despite the steps Vietnam has taken, it is not clear to what extent the country has reconciled expected environmental changes with its overriding domestic priority: achieving its goal of becoming a middle-income economy by 2020. Additionally, while many *governmental* institutions have begun to incorporate climate change's effects into their planning, it is unclear to what extent this has been done by the *Vietnamese Communist Party*, the institution that sets Vietnam's broad policy priorities.

Selected Legislation in the 112th Congress

H.R. 156 (Royce) and S. 1051 (Cornyn). The Vietnam Human Rights Sanctions Act. Would require the President to (a) compile and submit to Congress a list of Vietnamese deemed to be complicit in human rights abuses, (b) prohibit these individuals from entering the United States, and (c) impose financial sanctions on these individuals. Authorize the President to waive

⁶⁴ Vietnam, Ministry of Defense, *White Paper*, 2009, p. 38.

sanctions to comply with international agreements or if in the U.S. national interest. S. 1051 expresses the sense of Congress that the Secretary of State should designate Vietnam as a country of particular concern (CPC) with respect to religious freedom. H.R. 156 introduced January 5, 2011; referred to the House Committees on Foreign Affairs, Judiciary, Ways and Means, and Financial Services. S. 1051 introduced May 24, 2011; referred to the Senate Committee on Foreign Relations.

H.Res. 16 (Royce). “Strongly encourages” the State Department to list the Socialist Republic of Vietnam as a “Country of Particular Concern” with respect to religious freedom. Introduced January 5, 2011; referred to House Foreign Affairs Committee.

H.Res. 29 (Loretta Sanchez). Calls on Vietnam to repeal a statute that restricts use of the Internet to respect individuals’ freedom of speech, freedom of press, and freedom of political association. Introduced January 7, 2011; referred to House Foreign Affairs Committee.

H.R. 1410 (Christopher Smith). The Vietnam Human Rights Act of 2011. Prohibits increases in many forms of U.S. non-humanitarian assistance to Vietnam unless (a) such increases are matched by additional funding for human rights programming, (b) Vietnam’s human rights conditions are certified as improving, or (c) the President issues a waiver. Unlike versions of the bill submitted in the 111th Congress (H.R. 1969 and S. 1159), H.R. 1410 contains no authorizations to implement the bill’s provisions, nor does it prohibit Vietnam’s entry into the U.S. Generalized System of Preferences (GSP) program. (The GSP program expired at the end of 2010, though there are efforts in the 112th Congress to re-authorize its funding.) Introduced April 7, 2011; referred to House Foreign Affairs Committee.

S. 537 (Webb). The Mekong River Protection Act of 2011. Would require the Secretary of the Treasury to oppose any World Bank or Asian Development Bank assistance for the construction of hydroelectric dams or electricity transmission systems in the Mekong River Basin unless the Secretary submits to Congress a report providing assurances regarding environmental protection, public health, economic effect, and resettlement concerns to Congress. Introduced March 9, 2011; referred to Senate Committee on Foreign Relations.

S.Res. 227 (Webb). Calls for protection of the Mekong River basin and for increased United States support for delaying the construction of mainstream dams along the Mekong River. Introduced July 7, 2011; referred to the Committee on Foreign Relations.

Figure 1. Map of Vietnam



Source: CRS.

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