

Hanoi, 27 December 2002

Re: Status report on implementation of the BTA.

To: The Prime Minister of the Government

As directed by the Prime Minister of the Government in Official Letter No. 6853-VPCP-KTTH dated 11 December 2002, the Ministry of Trade respectfully provides the following status report on implementation of the Bilateral Trade Agreement between Vietnam and USA:

1. General Executive Work:

12 March 2002: Clause 11.8.b of the Government's *Action Plan for Implementation of the BTA* issued with Decision No. 35-2002-QD-TTg dated 12 March 2002 provided that the *National Committee for International Economic Integration* and the Vietnamese Sub-Section of the *General Committee for Development of the Economic and Trade Relationship between Vietnam and USA* would have the task of assisting the Prime Minister of the Government to organize and direct implementation of the BTA.

23 April 2002: On 23 April 2002 the Prime Minister of the Government issued Decision No. 53-2002-QD-TTg establishing a Vietnamese Sub-Section of the *Vietnam - USA Governmental Committee* chaired by a Deputy Minister of Trade, with an equivalent level staff member of the Government Office to act as secretary.

6 to 9 May 2002: The first session of the *General Committee for Development of the Economic and Trade Relationship between Vietnam and USA* was held in Hanoi from 6 to 9 May 2002 to discuss implementation of the BTA.

24 June 2002: The Minister of Trade in his role as chairman of the Vietnamese Sub-Section of the *Vietnam - USA Governmental Committee* issued Official Letter No. 2407-TM-AM asking ministries, branches and provincial and municipal people's committees to report to the Prime Minister on their implementation of the Government's Action Plan. The Ministry of Trade and many other ministries, branches and people's committees have in fact submitted their reports.

24 October 2002: The Vietnamese Sub-Section had a preliminary meeting to assess nearly one year's implementation of the BTA by the two sides in accordance with the Government's Action Plan.

2. Work on implementation done by the Ministry of Trade:

As from the date the BTA was signed and took effect on 10 December 2001, and within the scope of its activities and management authority, the Ministry of Trade has expedited the following work:

1. Disseminating the BTA provisions:

MOT experts have co-ordinated with the ministries and branches concerned and participated in disseminating the BTA contents amongst many agencies and units at both central and local levels, and has also helped business enterprises as well as civilians to understand the challenges and opportunities which the BTA brings.

2. *Checking laws:*

The Ministry of Trade has closely co-ordinated with the Ministry of Justice in the process of checking the BTA undertakings as against the general system of legal instruments on economics and trade, and against particular legal instruments put out by the commercial branch.

The Ministry has edited and summarised the Import Tariff List of USA, the Anti-Dumping Law, and the Law on Competition and Anti-Monopoly, and has co-ordinated with the Vietnam Chamber of Commerce to issue an international law database CD Rom. The Ministry has previously reported on the Standing Committee of the National Assembly passing the Ordinance on Most Favoured Nation Treatment and National Treatment [in international trade], and the Ordinance on Self-protection [in import of foreign goods into Vietnam]. The Ministry is continuing with amendments to the *Commercial Law*.

3. *Implementing undertakings in the BTA:*

Within the scope of its activities and management authority, the Ministry has developed and continues to develop implementation of Vietnam's undertakings in the BTA, comprising regulations and procedures on import and export; regulations on circulation of goods on the local market; quantitative restrictions and permit restrictions applicable to import and export goods; and grant of import permits to enterprises with US owned capital.

4. *Checking the measures for opening markets:*

The Ministry is continuing co-ordination with the relevant ministries and branches in taking measures to open markets and to make recommendations on the orientation for dealing with issues such as absolute taxes, anti-dumping taxes and anti-subsidy taxes, lists of import and export goods subject to conditions, specialised branch lists, the issue of price differences, the system of fixing values by customs, and State trade.

5. *Activities promoting trade with US markets:*

The Ministry has edited and printed documents on the work of trade promotion and has co-ordinated with other ministries and branches in organizing delegations to investigate US markets.

3. General work on enforcement by other ministries and branches:

1. *Training and lecturing; formulating Action Plans for Implementation of BTA:*

As part of the general work of international economic integration and trade promotion, all ministries, branches and people's committees have disseminated information about the BTA and US markets, and have explained and researched them. This has been done by experts from the Ministries of Trade, MPI, Finance and so forth co-ordinating to hold training sessions, conferences, seminars, trade fairs and exhibitions and trade promotion shows in which the people who negotiated and signed the BTA took part.

Depending on their particular local conditions, ministries, branches and people's committees have already and are currently formulating their own Action Plans for Implementation of the BTA based on the Government's *Action Plan for Implementation of the BTA*.

2. *Formulating, checking and commencing to enforce legal instruments:*

Depending on the sectors for which they are responsible and their jurisdiction to issue legal instruments, ministries, branches and people's committees have already and are checking, amending, and commencing to enforce legal instruments which are consistent with the requirements for implementation of the BTA.

3. *Promoting trade, investment and tourism:*

After the BTA took effect, the promotion of trade, investment and tourism has been important work in order to make the most of the opportunities which BTA provides to open up markets.

4. *Regarding the schedule to open up markets in accordance with BTA commitments, and raising competitiveness:*

Ministries, branches and people's committees have carried out research to determine what are strong lines of goods and to take measures to raise export competitiveness and effectiveness. That has been the foundation of some good steps forward in implementing the schedule to open up markets in accordance with BTA commitments.

4. Progress in the trade and investment relationship between Vietnam and US:

1. *Trade relationship:*

Since the BTA was signed and particularly since it took effect on 10 December 2001, the trade relationship between the two countries has taken some promising growth steps in the spirit of the BTA, beneficial to both countries. However, the trade turnover figures between the two countries remain low, and some matters have arisen showing inequality in the trade relationship between the two countries, notably the catfish dispute.

The total bilateral trade turnover in the first 10 months of 2002 reached 2,201.4 million USD, an increase of 82.2% over the figure of 1,208.4 million for the same period in 2001. (Source: The Department of Planning and Statistics of the Ministry of Trade). These statistics show that Vietnam's exports to US increased rapidly, reaching 1,834.1 million USD in the first 10 months of 2002 which was an increase of 104.4% over the figure of 897.2 million for the same period in 2001. Commodities with large turnovers and high growth rates are garments and textiles (which achieved 674.8 million USD, an increase of 1764.1%); seafoods (which achieved 549.2 million USD, an increase of 32%); and all types of footwear (which achieved 156.5 million USD, an increase of 74.7%). (Source: The Department of Planning and Statistics of the Ministry of Trade).

US exports to Vietnam also show growth steps, reaching 367.4 million USD in the first 10 months of 2002 which was an increase of 18.1% over the figure of 311.2 million for the same period in 2001. (Source: The Department of Planning and Statistics of the Ministry of Trade).

2. *Investment relationship:*

According to figures from the Ministry of Planning and Investment, in the period 1 October 1998 to 10 October 2002, US was 13th in a list of 62 countries investing in Vietnam, with 183 projects for which licences have been granted with a total investment capital of 1,677.5 million USD which attracted 5,331 direct employees. The number of projects remaining effective are 147

with a total investment capital of 1,023 million USD. In the first 9 months of 2002 after the BTA came into effect, there were 23 new US projects with a total investment capital of approximately 82 million USD.

5. Observations and assessments throughout the process of BTA implementation:

After a year of BTA implementation, a number of observations and assessments can be made:

- The BTA has pushed forward quite remarkably the economic-trade relationship between the two countries. With this sort of progress, US should become a leading and important export market for Vietnam.
- The observations of senior staff about international economic integration in general and about the BTA in particular can only be initial at this stage. Senior staff need training on searching for, accessing and using information which is currently available on mass media and especially on the internet in order to conduct analyses and overall reporting, and in order to service their own specialised and professional work.
- In order to strengthen marketing on US markets, enterprises need to use their own initiative to increase their competitiveness, but they also need to be given more assistance with information about markets and products, about registration of trademarks, about IT infrastructure and so forth.
- Some ministries, branches and local administrative bodies have observed that the *Action Plan for Implementation of the BTA*, developmental plans and trade promotion plans are too general, and therefore ministries, branches and localities may need to make their own very detailed and specific plans for taking steps forward.

6. Difficulties during the process of BTA implementation:

Although the US undertook to liberalise trade, it has in fact erected barriers and needs to take anti-dumping and other measures. Vietnam expressed its goodwill by obtaining most favoured nation status for goods imported from US two years before the BTA took effect, while the US refused to allow Vietnam to use the catfish trade name and then took Vietnamese companies to court over the issue. The US refuses to recognize Vietnam as a country with a market economy; it makes it very difficult for Vietnamese enterprises to obtain a visa to enter US, and the procedures to establish a representative office in US are very irksome (Vinatex was permitted to establish a resident representative office for only three months).

The US has complained that Vietnam is late in implementing TRIPS, whereas in fact under the BTA both sides are in breach. Vietnam confiscated and destroyed illegally imported disks without inviting the foreign press to a conference, so there was little publicity about this.

7. The immediate direction of the way ahead:

1. To continue to fulfil the undertakings in accordance with the Schedule for Year 1 (Appendix 1).
2. To prepare the Year 2 Schedule for implementing undertakings (Appendix 2).
 - Application of the system of registration of goods' trademarks.
 - Application of the system of registration of patents.

- Protection of copyright and related rights including all types of computer programs and data collection means.
 - Protection of trade secrets and elimination of cases of unhealthy competition.
3. To collate a list of the problems enterprises experience when they enter US markets so that our views can be put to US trade representatives and to the US Ministry of Trade.

The Ministry respectfully provides this report for consideration by the Prime Minister of the Government.

For the Minister of Trade
Deputy Minister
LUONG VAN TU

[Appendices not translated]