

create social wealth, develop science and technology and, through their hard work, continuously transform the human environment. Along with social progress and the advance of production, science and technology, the capability of man to improve the environment increases with each passing day.

6. A point has been reached in history when we must shape our actions throughout the world with a more prudent care for their environmental consequences. Through ignorance or indifference we can do massive and irreversible harm to the earthly environment on which our life and well-being depend. Conversely, through fuller knowledge and wiser action, we can achieve for ourselves and our posterity a better life in an environment more in keeping with human needs and hopes. There are broad vistas for the enhancement of environmental quality and the creation of good life. What is needed is an enthusiastic but calm state of mind and intense but orderly work. For the purpose of attaining freedom in the world of nature, man must use knowledge to build, in collaboration with nature, a better environment. To defend and improve the human environment for present and future generations has become an imperative goal for mankind - a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of world-wide economic and social development.

7. To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environment of the future. Local and national governments will bear the greatest burden for large-scale environmental policy and action within their jurisdictions. International co-operation is also needed in order to raise resources to support the developing countries in carrying out their responsibilities in this field. A growing class of environmental problems, because they are regional or global in extent or because they affect the common international realm, will require extensive co-operation among nations and action by international organizations in the common interest. The Conference calls upon Governments and peoples to exert common efforts for the preservation and improvement of the human environment, for the benefit of all the people and for their posterity.

II

PRINCIPLES

States the common conviction that:

Principle 1

Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.

Principle 2

The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.

Principle 3

The capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored or improved.

Principle 4

Man has a special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat, which are now gravely imperilled by a combination of adverse factors. Nature conservation, including wildlife, must therefore receive importance in planning for economic development.

Principle 5

The non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that benefits from such employment are shared by all mankind.

Principle 6

The discharge of toxic substances or of other substances and the release of heat, in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damage is not inflicted upon ecosystems. The just struggle of the peoples of all countries against pollution should be supported.

Principle 7

States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

Principle 8

Economic and social development is essential for ensuring a favourable living and working environment for man and for creating conditions on earth that are necessary for the improvement of the quality of life.

Principle 9

Environmental deficiencies generated by the conditions of under-development and natural disasters pose grave problems and can best be remedied by accelerated development through the transfer of substantial quantities of financial and technological assistance as a supplement to the domestic effort of the developing countries and such timely assistance as may be required.

Principle 10

For the developing countries, stability of prices and adequate earnings for primary commodities and raw materials are essential to environmental management since economic factors as well as ecological processes must be taken into account.

Principle 11

The environmental policies of all States should enhance and not adversely affect the present or future development potential of developing countries, nor should they hamper the attainment of better living conditions for all, and appropriate steps should be taken by States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environmental measures.

Principle 12

Resources should be made available to preserve and improve the environment, taking into account the circumstances and particular requirements of developing countries and any costs which may emanate from their incorporating environmental safeguards into their development planning and the need for making available to them, upon their request, additional international technical and financial assistance for this purpose.

Principle 13

In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and co-ordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment for the benefit of their population.

Principle 14

Rational planning constitutes an essential tool for reconciling any conflict between the needs of development and the need to protect and improve the environment.

Principle 15

Planning must be applied to human settlements and urbanization with a view to avoiding adverse effects on the environment and obtaining maximum social, economic and environmental benefits for all. In this respect, projects which are designed for colonialist and racist domination must be abandoned.

Principle 16

Demographic policies which are without prejudice to basic human rights and which are deemed appropriate by Governments concerned should be applied in those regions where the rate of population growth or excessive population concentrations are likely to have adverse effects on the environment of the human environment and impede development.

Principle 17

Appropriate national institutions must be entrusted with the task of planning, managing or controlling the environmental resources of States with a view to enhancing environmental quality.

Principle 18

Science and technology, as part of their contribution to economic and social development, must be applied to the identification, avoidance and control of environmental risks and the solution of environmental problems and for the common good of mankind.

Principle 19

Education in environmental matters, for the younger generation as well as adults, giving due consideration to the underprivileged, is essential in order to broaden the basis for an enlightened opinion and responsible conduct by individuals, enterprises and communities in protecting and improving the environment in its full human dimension. It is also essential that mass media of communications avoid contributing to the deterioration of the environment, but, on the contrary, disseminate information of an educational nature on the need to protect and improve the environment in order to enable man to develop in every respect.

Principle 20

Scientific research and development in the context of environmental problems, both national and multi-national, must be promoted in all countries, especially the developing countries. In this connexion, the free flow of up-to-date scientific information and transfer of experience must be supported and assisted, to facilitate the solution of environmental problems; environmental technologies should be made available to developing countries on terms which would encourage their wide dissemination without constituting an economic burden on the developing countries.

Principle 21

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 22

States shall co-operate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such States to areas beyond their jurisdiction.

Principle 23

Without prejudice to such criteria as maybe agreed upon by the international community, or to standards which will have to be determined nationally, it will be essential in all cases to consider the systems of values prevailing in each country, and the extent of the applicability of standards which are valid for the most advanced countries but which may be inappropriate and of unwarranted social cost for the developing countries.

Principle 24

International matters concerning the protection and improvement of the environment should be handled in a co-operative spirit by all countries, big and small, on an equal footing. Co-operation through multilateral or bilateral arrangements or other appropriate means is essential to effectively control, prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres, in such a way that due account is taken of the sovereignty and interests of all States.

Principle 25

States shall ensure that international organizations play a co-ordinated, efficient and dynamic role for the protection and improvement of the environment.

Principle 26

Man and his environment must be spared the effects of nuclear weapons and all other means of mass destruction. States must strive to reach prompt agreement, in the relevant international organs, on the elimination and complete destruction of such weapons.

- - - - -

UNITED NATIONS ENVIRONMENT PROGRAMME

UNEP

Environmental Law
Guidelines and Principles

1. Stockholm Declaration (1972)
2. Shared Natural Resources (1978)
3. Weather Modification (1980)
4. Offshore Mining and Drilling (1982)
5. World Charter for Nature (1982)
6. Banned and Severely Restricted Chemicals (1984)
7. Marine Pollution from Land-based Sources (1985)

UNEP
P.O. Box 30552
Nairobi
Kenya



EXHIBIT 83

United Nations

A/CONF.151/26 (Vol. I)



General Assembly

Distr. GENERAL
12 August 1992

ORIGINAL: ENGLISH

REPORT OF THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT*

(Rio de Janeiro, 3-14 June 1992)

Annex I

RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT

The United Nations Conference on Environment and Development,

Having met at Rio de Janeiro from 3 to 14 June 1992,

Reaffirming the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972, a/ and seeking to build upon it,

With the goal of establishing a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of societies and people,

Working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system,

Recognizing the integral and interdependent nature of the Earth, our home,

Proclaims that:

Principle 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

Principle 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Principle 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Principle 5

All States and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

Principle 6

The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority. International actions in the field of environment and development should also address the interests and needs of all countries.

Principle 7

States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

Principle 8

To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

Principle 9

States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies.

Principle 10

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and

encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Principle 11

States shall enact effective environmental legislation. Environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries.

Principle 12

States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.

Principle 13

States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

Principle 14

States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

Principle 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Principle 16

National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

Principle 17

Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

Principle 18

States shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international community to help States so afflicted.

Principle 19

States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.

Principle 20

Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

Principle 21

The creativity, ideals and courage of the youth of the world should be mobilized to forge a global partnership in order to achieve sustainable development and ensure a better future for all.

Principle 22

Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.

Principle 23

The environment and natural resources of people under oppression, domination and occupation shall be protected.

Principle 24

Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary.

Principle 25

Peace, development and environmental protection are interdependent and indivisible.

Principle 26

States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.

Principle 27

States and people shall cooperate in good faith and in a spirit of partnership in the fulfilment of the principles embodied in this Declaration and in the further development of international law in the field of sustainable development.

* * * * *

a/ Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972 (United Nations publication, Sales No. E.73.II.A.14 and corrigendum), chap. I.

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EXHIBIT 84

2023 Special 301 Report



Office of the United States Trade Representative

THE 2023 SPECIAL 301 LIST

The Special 301 Subcommittee received stakeholder input on more than 100 trading partners but focused its review on those submissions that responded to the request set forth in the notice published in the *Federal Register* to identify whether a particular trading partner should be named as a Priority Foreign Country, placed on the Priority Watch List or Watch List, or not listed in the Report. Following extensive research and analysis, USTR has identified 29 trading partners as follows:

Priority Watch List	Watch List	
<ul style="list-style-type: none">• Argentina• Chile• China• India• Indonesia• Russia• Venezuela	<ul style="list-style-type: none">• Algeria• Barbados• Belarus• Bolivia• Brazil• Bulgaria• Canada• Colombia• Dominican Republic• Ecuador• Egypt	<ul style="list-style-type: none">• Guatemala• Mexico• Pakistan• Paraguay• Peru• Thailand• Trinidad and Tobago• Turkey• Turkmenistan• Uzbekistan• Vietnam

The Special 301 review of Ukraine has been suspended due to Russia's premeditated and unprovoked further invasion of Ukraine in February 2022.

OUT-OF-CYCLE REVIEWS

An Out-of-Cycle Review is a tool that USTR uses to encourage progress on IP issues of concern. Out-of-Cycle Reviews provide an opportunity to address and remedy such issues through heightened engagement and cooperation with trading partners and other stakeholders. Out-of-Cycle Reviews focus on identified IP challenges in specific trading partner markets. Successful resolution of specific IP issues of concern can lead to a positive change in a trading partner's Special 301 status outside of the typical period for the annual review. Conversely, failure to address identified IP concerns, or further deterioration as to an IP-related concern within the specified Out-of-Cycle Review period, can lead to an adverse change in status.

In 2023, USTR will conduct an Out-of-Cycle Review of Bulgaria. This Out-of-Cycle review will provide an opportunity for Bulgaria to demonstrate progress in the coming months with addressing deficiencies in its investigation and prosecution of online piracy cases by allowing criminal investigations, expert examinations, and prosecutions to proceed with just a subset of seized infringing works, either by evidence sampling or some other method.

USTR may conduct additional Out-of-Cycle Reviews of other trading partners as circumstances warrant or as requested by a trading partner.

REVIEW OF NOTORIOUS MARKETS FOR COUNTERFEITING AND PIRACY

In 2010, USTR began publishing annually the *Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List)* separately from the annual Special 301 Report. The *Notorious Markets List* identifies illustrative examples of online and physical markets that reportedly engage in, facilitate, turn a blind eye to, or benefit from substantial copyright piracy and trademark counterfeiting, according to information submitted to USTR in response to a notice published in the *Federal Register* requesting public comments. In 2022, USTR requested such comments on August 26, 2022, and published the *2022 Notorious Markets List* on January 31, 2023. USTR plans to conduct its next Review of Notorious Markets for Counterfeiting and Piracy in the fall of 2023.

THE SPECIAL 301 PROCESS

The Congressionally mandated annual Special 301 Report is the result of an extensive multi-stakeholder process. Pursuant to the statute mandating the Report, the United States Trade Representative is charged with designating as Priority Foreign Countries those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products. (See ANNEX 1.) To facilitate administration of the statute, USTR has created a Priority Watch List and a Watch List within this Report. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IP protection, enforcement, or market access for U.S. persons relying on IP. Provisions of the Special 301 statute, as amended, direct the United States Trade Representative to develop action plans for each country identified as a Priority Watch List country that has also been on the Priority Watch List for at least one year.

Public Engagement

USTR solicited broad public participation in the 2023 Special 301 review process to facilitate sound, well-balanced assessments of trading partners' IP protection and enforcement and related market access issues affecting IP-intensive industries and to help ensure that the Special 301 review would be based on comprehensive information regarding IP issues in trading partner markets.

USTR requested written submissions from the public through a notice published in the *Federal Register* on December 15, 2022 (*Federal Register* notice). In addition, due to the COVID-19 pandemic, USTR fostered public participation via written submissions rather than an in-person hearing. The interagency Special 301 Subcommittee of the Trade Policy Staff Committee (TPSC) sent written questions about issues relevant to the review to those that submitted written comments, including to representatives of foreign governments, industry, and non-governmental organizations. USTR posted the written questions and the written responses online at www.regulations.gov, docket number USTR-2022-0016. The *Federal Register* notice drew submissions from 71 non-government stakeholders and 17 foreign governments. The submissions filed in response to the *Federal Register* notice are available to the public online at www.regulations.gov, docket number USTR-2022-0016.

VIETNAM

Vietnam remains on the Watch List in 2023. Vietnam took steps to improve intellectual property (IP) protection and enforcement, including amending its Intellectual Property Law in June 2022 and acceding to the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and WIPO Copyright Treaty (WCT), collectively known as the WIPO Internet Treaties, in April 2022 and November 2021 respectively. Right holders also welcomed greater engagement with enforcement authorities and increases in Vietnam Customs' border enforcement in certain areas. However, IP enforcement continues to be a serious challenge. While Vietnamese authorities initiated a criminal investigation against the operators of Phimmoi.net, the investigation has stalled. There are almost no criminal investigations or prosecutions, even though Vietnam has criminal laws imposing substantial fines and years of incarceration for copyright and trademark infringement. Vietnam continues to rely heavily on administrative enforcement actions, which have consistently failed to deter widespread counterfeiting and piracy. In particular, online piracy, including the use of illicit streaming devices and associated piracy applications to access unauthorized audiovisual content, remains a significant concern. Moreover, although Vietnam issued a decree to address the online sale of counterfeit goods, the trafficking of pirated and counterfeit goods through e-commerce sites and elsewhere online remains a serious problem. Counterfeit goods remain widely available in physical markets as well. According to right holders, weak IP enforcement in Vietnam is due to poor coordination among ministries and agencies responsible for enforcement, delays in investigations and court proceedings, and the lack of familiarity with IP law among police, prosecutors, and judges. The United States is closely monitoring and engaging with Vietnam on the ongoing implementation of amendments to the 2015 Penal Code with respect to criminal enforcement of IP violations. In addition, right holders have raised concerns about trademark application backlogs. Furthermore, Vietnam's system for protecting against the unfair commercial use, as well as the unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products needs clarification. The United States is also monitoring the implementation of IP provisions pursuant to Vietnam's commitments under trade agreements with third parties. The European Union-Vietnam Free Trade Agreement (EVFTA) grandfathered prior users of certain cheese terms from the restrictions in the geographical indications (GIs) provisions of the EVFTA, and it is important that Vietnam ensure market access for prior users of those terms who were in the Vietnamese market before the grandfathering date of January 1, 2017. The United States urges Vietnam to engage on and address these issues and to provide interested stakeholders with meaningful opportunities for input as it proceeds with these reforms. The United States will continue to press on these and other IP issues with Vietnam through the United States-Vietnam Trade and Investment Framework Agreement and other bilateral engagement.

EXHIBIT 85



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[Intellectual
Property
Office](#)

Guidance

Intellectual property rights in Vietnam

Published 5 June 2014

This guidance was withdrawn on 20 July 2022

Intellectual property rights in Vietnam is now obsolete and has been withdrawn. Please see our [International IP service](#) (<https://www.gov.uk/government/collections/international-ip-service>) for further information.

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3. [IP Enforcement Manual Vitenam](#)
4. [Gender equality social inclusion \(GESI\) and IP enforcement.](#)
5. [Annex 1: Flowchart for criminal procedure for trademark and copyright.](#)
6. [Annex 2: Flowchart on customs recordal process for trade marks and/or copyright](#)
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This publication is available at <https://www.gov.uk/government/publications/intellectual-property-rights-in-vietnam/intellectual-property-rights-in-vietnam>

This Manual was drafted by Rouse & Co International under the United Kingdom Foreign & Commonwealth Office Prosperity Fund Financial Sector and Intellectual Property Programme. The authors are Yen Vu, Trung Tran, Da Lam Nguyen, Van Anh Pham, Bao Nguyen, Nicholas Redfearn and Anushka A.

British Business Group Vietnam Introduction

The British Business Group Vietnam (BBGV), started as a luncheon club in 1991 and was first licensed in 1998 as the first foreign business group to obtain formal recognition in Vietnam. The BBGV now boasts more than 450 members. BBGV's main objective is to promote members' business interests in Vietnam, through various business and social events. BBGV Business Centre aims to facilitate better trade ties between British and Vietnamese companies via trade services.

This Manual was developed under the Financial Sector and Intellectual Property (FSIP) programme, a component of the SE N Economic Reform Programme funded by the United Kingdom's cross government Prosperity Fund [\[footnote 1\]](#). The Manual was created and coordinated by Rouse & Co International, in conjunction with PwC, the FSIP Programme manager. The Manual is for informational purposes only and the views recommendations and contents of this Manual do not necessarily represent and are not necessarily endorsed by BBGV, PwC or Rouse. So, users of this Manual should take local legal advice on specific cases.

This Manual was drafted by Rouse & Co International under the United Kingdom Foreign & Commonwealth Office Prosperity Fund Financial Sector and Intellectual Property Programme. The authors are Yen Vu, Trung Tran, Da Lam Nguyen, Van Anh Pham, Bao Nguyen, Nicholas Redfearn and Anushka A.

1. Introduction

Intellectual property (IP) enforcement remains a business concern in Vietnam. The inadequacy of IP enforcement information and resulting lack of transparency is a barrier for foreign investors. This Manual on IP enforcement in Vietnam has been developed for businesses operating or planning to expand in Vietnam.

The Manual includes details of the laws and regulations as well as the IP enforcement procedures in Vietnam. It uses a definition of enforcement that parallels the World Trade Organisation's Trade Related aspects of Intellectual Property (TRIPS) agreement. This means it focuses on trade mark and copyright enforcement procedures - which in common parlance means trade mark counterfeiting and copyright piracy. The types of enforcement systems most commonly used to deal with these two issues are administrative systems (including customs), the criminal and the civil courts. Other forms of IP exist (e.g. patents, designs) but their enforcement is not as straightforward and therefore, is not subject to the scope of this Manual.

The Manual is up to date as of April 30th, 2020. The Manual is for informational purposes only so users of this Manual should take local legal advice on specific cases.

2. Overview of Vietnam's legal and IP system

IP rights are important assets for all businesses. It is crucial to ensure these rights are properly protected in a modern economy. It is also a key business goal to be able to make effective use of them commercially as well as to enforce those rights against infringement when necessary.

IP protection in Vietnam operates under a 'first-to-file' system (except for copyright and related rights that are protected automatically under international treaties). Trade marks, industrial designs and inventions must be registered at the National Office of Intellectual Property ("IP Vietnam"). The registration system in

Vietnam is relatively well-established and straightforward, although delay can be an issue. However, to enforce IP rights, the right holders must use a rather complex and practically challenging system. To effectively enforce IP, a combined strategy of self-protection measures (for small scale infringers), administrative actions (to halt the infringing acts and apply for customs border protection), civil remedies (to claim damages and put a stop to infringement) and criminal remedies (to stop large scale counterfeiting) are required.

It can be difficult for businesses, especially foreign investors, to understand an unfamiliar legal system and its IP protection and enforcement subset. The first step is to understand the basic characteristics of a country's legal system before looking at its IP protection and enforcement procedures.

Vietnam's legal system has all characteristics of a civil law jurisdiction, in which, its sources of law comprise of written legislations commonly known as laws and regulations. The legal system is organised in a hierarchy in which

the higher-ranking legal instruments set out general rules and lower-ranking legal instruments provide the details. The Constitution stands at the top of this legal hierarchy and forms the foundation of the entire legal system. Under the Constitution are laws, decrees, decisions, circulars and other subordinate legal documents dealing with different regulatory aspects.

Parliament makes all the laws. These are based on policies set by the Communist Party that can form a legislation. Government and Ministries make regulations and subsidiary guidelines. These laws and regulations are enacted by state bodies which are binding on citizens and enforceable by the state authorities. The courts are technically lower ranked than the legislature, so it cannot be said there is a complete rule of law in the English sense. The People's Supreme Court is the highest court, followed by the high courts, the province-level courts and district-level courts in that order.

Lawyers can be engaged to handle legal issues. The legal profession is governed by the Vietnam Law on Lawyers and administered by the Vietnam Bar Federation (VBF)^[footnote 2].

The World Justice Project Rule of Law index ranks Vietnam 85/113 countries^[footnote 3]. The Civil Justice system among others was identified as one area of legal weakness. There has been a great deal of effort from the government to improve and upgrade the legal system in recent years.

IP system

IP is a technical area of law. While many general lawyers do practice IP law, in many countries there is a separate IP profession. IP agents can represent foreign business to register IP rights before IP Vietnam and the Copyright Office (COV). IP Lawyers are qualified lawyers specialising in IP who generally advise on IP matters and represent clients before the courts for IP disputes.

The IP system can be broken into three components:

- Registration and protection system. The system is operated by IP Vietnam (which sits under the Ministry of Science and Technology) and the COV (which is under the Ministry of Culture, Sport and Tourism). Businesses can register their trade marks, designs and patents at IP Vietnam and their copyright and related rights at the Copyright Office.
- Commercialisation of IP. This typically means IP contracts such as licenses, assignments, and other commercial agreement involving IP.
- Enforcement through administrative, civil or criminal routes.

In addition to managing the registration systems, IP Vietnam also advises enforcement authorities, including the courts, through technical opinions required during the process of enforcement.

Vietnam's laws and regulations on IP protection are currently under review and expected to be amended in accordance with the EU-Vietnam Free Trade Agreement (EVFTA) to which Vietnam is a signatory. It has an IP chapter and requires Vietnam to provide greater IP protection to right holders.

A feature of Vietnam's enforcement system, which is similar to that of China, is the use of an administrative enforcement system, whereby legal complaints are filed to a government department that inspects, investigates and reaches a decision on IP disputes. In most other SE Asian countries this is rare or nonexistent. An administrative enforcement function is a common feature in many current and former centrally planned socialist economies.

IP Vietnam's Annual Report 2018^[footnote 1] highlighted that Vietnam has made progress in handling trade mark infringement over the years. In particular, there was an increase in the number of administrative IP cases in the last 5 years (2014 – 2018), from 1082 cases in 2014 to 1717 cases in 2018. The total monetary fines recorded against infringers in these two years were Vietnamese dong (VND) 15,223,701,000 in total and VND 23.697.375.000 respectively.

The IP enforcement system under TRIPS system

IP is a technical area of law. While many general lawyers do practice IP law, in many countries there is a separate IP profession. IP agents can represent foreign business to register IP rights before IP Vietnam and the Copyright Office ("COV"). IP Lawyers are qualified lawyers specialising in IP who generally advise on IP matters and represent clients before the courts for IP disputes.

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In addition to managing the registration systems, IP Vietnam also advises enforcement authorities, including the courts, through technical opinions required during the process of enforcement.

Vietnam's laws and regulations on IP protection are currently under review and expected to be amended in accordance with the EU-Vietnam Free Trade Agreement (EVFTA) to which Vietnam is a signatory. It has an IP chapter and requires Vietnam to provide greater IP protection to right holders.

A feature of Vietnam's enforcement system, which is similar to that of China, is the use of an administrative enforcement system, whereby legal complaints are filed to a government department that inspects, investigates and reaches a decision on IP disputes. In most other SE Asian countries this is rare or non-existent. An administrative enforcement function is a common feature in many current and former centrally planned socialist economies.

IP Vietnam's Annual Report 2018 [\[footnote 4\]](#) highlighted that Vietnam has made progress in handling trade mark infringement over the years. In particular, there was an increase in the number of administrative IP cases in the last 5 years (2014 - 2018), from 1082 cases in 2014 to 1717 cases in 2018. The total monetary fines recorded against infringers in these two years were VND 15,223,701,000 in total and VND 23.697.375.000 respectively.

IP challenges

Vietnam remained on the US Government's Priority Watch List in 2020 as per the USTR Special 301 Report 2020 [\[footnote 5\]](#). It reported that despite positive developments in IP enforcement, some concerns that remained were mainly around:

- lack of coordination among the enforcement agencies
- limited institutional capacity and stretched resources related to IP enforcement
- high level of counterfeiting and copyright piracy

The EU Commission Report on IP protection and enforcement in third countries in 2020 [\[footnote 6\]](#) added Vietnam into its list of countries to be closely monitored as a result of Vietnam entering the EVFTA. According to the report, the main concerns on IP enforcement include:

- widespread counterfeiting and copyright piracy
- insufficient deterrence effect of sanctions against IP infringements
- a shortage of well-trained IP officials including customs authorities
- complex IP enforcement systems with multiple agencies and overlapping jurisdictions.

A key challenge for Vietnam is the effectiveness of IP enforcement measures. Due to its reliance on administrative systems, the limited institutional capacity for IP matters at many state agencies has an impact on the effectiveness of the IP enforcement system.

Counterfeit and pirated goods are a major concern for most right holders in Vietnam. Organisation for Economic Cooperation and Development (OECD) data suggest that Vietnam is a source of fake jewellery, foodstuff, clothing, footwear, as well as optical, photographic and medical equipment [\[footnote 5\]](#). But domestic fake manufacturing is limited. Pirated (copyright protected) hard goods are declining as content goes online, but fake DVDs and book piracy are still widely available.

2.1 IP Laws and Regulations - World Trade Organisation (WTO) The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) Compliance

Vietnam adopted its first Law on IP in 2005, which was designed to comply with TRIPS in preparation for WTO accession. The law raised the IP framework to a basic international standard. The IP laws were amended in 2009 and 2019 to further comply with international commitments and provide higher level of IP protection.

New IP standards was set through more recent international treaties. This includes the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which entered into force on 14 January 2019 for Vietnam, with transition periods for various components including IP. The EVFTA was ratified by the European

Parliament and is pending ratification from Vietnam before it officially comes into force. The accession to CPTPP and EVFTA are both an opportunity to modernise IP laws as well as a challenge to deliver results for businesses.

IP reforms

Vietnam has been steadily making progress in IP reform over the last decade. Most recently, the Vietnam IP Law was amended and supplemented on 14 June 2019. Around the same time, the Prime Minister issued Decision No. 1068/QĐ-TTg dated, 22 August 2019 on the National IP Strategy (NIPS) till 2030. One of the primary missions under NIPS is to enhance the IP enforcement system and regulations. Also, given the increasing number of online infringements, Vietnam will also focus on developing comprehensive regulations and practice to tackle IP infringement in the digital environment. With additional higher IP standards required under the CPTPP and EVFTA the IP laws are expected to be further amended and improvised.

Through this Manual FSIP aims to provide businesses with an overview of the IP enforcement regime in Vietnam, including details on its IP enforcement regulations and practices that businesses need to rely on while investing in Vietnam.

Several further IP enforcement initiatives under way through the FSIP Programme include:

- Helping the Vietnam government create a national IP enforcement coordination function
- SE N's IP Action plan 2016-2025 - an initiative to help ASEAN countries including Vietnam to collect and publish IP enforcement case data.

3. IP Enforcement Manual Vitenam

3.1 3.1 The IP Enforcement System under TRIPS

Vietnam is a civil law country; therefore, written laws set out all the rules and procedures for IP enforcement. As a WTO TRIPs member Vietnam commits to providing enforcement measures [\[footnote 8\]](#). These comprise of:

- civil remedies, comprising judicial procedures, evidence rules, injunctions, damages, other remedies, information to rights holder and rights of indemnifications to defendants, as well as provisional measures (preliminary injunctions and search and seizure orders);
- customs interceptions of infringements.
- criminal remedies, at least for wilful trade mark counterfeiting or copyright piracy on a commercial scale.
- administrative remedies for handling administrative offences.

This Manual sets out how these apply to counterfeiting (trade mark infringements) and piracy (copyright and related rights infringements).

Commentary:

The TRIPS Agreement covers many forms of IP; however, the most commonly used IP enforcement procedures are for trade marks and copyrights. The common illegal acts that trade mark and copyright enforcement procedures cover are called counterfeiting and piracy respectively. Trade mark and copyright enforcement procedures generally include criminal, civil, customs and administrative remedies.

3.2 3.2 Trade Mark And Copyright Protection

Vietnam's Law on Intellectual Property [\[footnote 9\]](#) ("IP Law") stipulates trade mark rights, copyright and related rights, among others, and protection of such rights. The law sets out general trade mark and copyright/ related rights infringing acts. IP Law also specifies infringing acts that constitute IP administrative offences.

3.2.1. Rights establishment

Under Article 6.3a of IP Law, trade marks must be registered at the Intellectual Property Office of Vietnam ("IP Vietnam") to be protected; rights to well-known trade marks are established based on trade mark use.

Under the Madrid Agreement and Madrid Protocol, Vietnam accepts applications under the international registration system.

The IP Law protects literary, artistic and scientific works under copyrights, with the work types specified in Article 14.1 of IP Law. Copyright and related rights are established automatically upon creation and fixation of the works [\[footnote 10\]](#); , without registration required (Articles 6.1, 6.2 and 49.2 of the IP Law). However, holders of registration certificates shall not bear the burden of proving their ownership of the copyrights and related rights in a dispute, unless there is otherwise evidence (Article 49.3 of the IP Law). Copyrights under the IP

3.3 Law include economic rights and moral rights.

causing loss or damage to copyright (Article 6.2 of IP Law 2005).

Commentary:

In general, the trade mark rules are in compliance with the TRIPS standards. However, there can be delays in the registration of trade mark applications sometimes (due to backlog at IP Vietnam). The recognition of well-known trade marks is subject to debate. Under the CPTPP's higher IP protection requirements, Vietnam will be required to protect sound marks and perhaps scent marks as well.

The law on copyright and related rights is TRIPS compliant as well. It has been reported that Vietnam has been preparing to join several international treaties on copyright and related rights, including the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty. A common question is whether to register copyright. Many copyright owners cannot register due to the complicated procedural requirements involved, but registering a copyright does make enforcement actions easier.

3.2.2. IP infringement acts

3.2.2.1. Trade mark rights infringement acts

According to Article 129.1 of the IP Law, trade mark infringement occurs when an infringer, without consent of the trade mark holder:

- uses^[11] a sign, identical to a registered trade mark, for identical goods/ services; or
- uses a sign, identical to a registered trade mark, for similar or related goods/ services, if the use may cause confusion as to the origin of the goods/ services; or
- uses a sign, similar to a registered trade mark, for identical, similar or related goods/ services, if the use may cause confusion as to the origin of the goods/ services; or
- uses a sign, identical or similar to a well-known trade mark , including signs in the form of translation or transliteration of the well-known trade mark , for goods or services of any kind, including unidentical, dissimilar or unrelated goods/ services, if the use may cause confusion as to the origin of the goods/ services or mislead about relationships between the infringer and the well-known trade mark 's holder.

Commentary:

In practice, enforcement authorities are generally reluctant to immediately conclude that trade mark infringement has occurred, especially for complex cases where similarity of marks is not obvious due to limited IP expertise. Right holders can seek an opinion from a third-party expert organization and submit it as a source of reference to the enforcement authorities. Vietnam Intellectual Property Research Institute (VIPRI), an agency under management of the Ministry of Science and Technology (MoST), is the only agency authorized for conducting trade mark infringement assessment.

Although, non-binding on the enforcement authorities, favourable opinions from VIPRI increase the chance of success in persuading the enforcement authorities to accept cases and act against the alleged infringer. VIPRI mainly handles assessments for trade mark infringement cases rather than identical counterfeits, as such cases are generally straightforward and do not require technical IP expertise.

For well-known trade mark infringement, it is practically challenging to prove the well-known status of a mark. Although there are specific criteria, which are in line with international standards, but right holders still find it difficult to collect this evidence and prove the well-known status of their trade marks in Vietnam due to lack of detailed guidelines on how to assess or interpret such criteria. Therefore, the recognition of well-known trade marks is on a case-by-case basis, depending on the subjective viewpoint of the officer in charge. Once a mark is recognized as well-known, such a decision serves as an influential but non-binding precedent for other cases.

Note:

If the goods bear trade marks or have packaging with trade marks indistinguishably similar to others' protected trade marks without consent of trade mark/right holders, such goods will be considered as trade mark counterfeits in accordance to Article 213 of IP Law. In practice, since the scope of trade mark counterfeits and trade mark infringements appears to overlap and the law has not clearly distinguished between these two infringements, there are still different viewpoints from enforcement authorities on whether an act would constitute trademark infringement or counterfeiting, and they often require more evidence/information to conclude the cases.

[^11] "Use" of a trade mark is defined in Article 124.5 of the IP Law 2015 as follows: ▪ Affixing the mark on goods, goods packages, business facilities, means of service provision or transaction documents in business activities; or ▪ Circulating, offering, advertising for sale or stocking for sale goods bearing the mark; or ▪ Importing goods or services bearing the mark.

3.2.2.2. Copyright infringement acts

Article 28 of the IP Law set out the following acts that infringe copyright:

- Appropriating the copyright in works.
- Impersonating the author.
- Publishing, distributing a work without the author's consent.
- Publishing, distributing a work subject to joint authorship without a co-author's consent.
- Editing, modifying or distorting a work in any way that prejudices the honour and reputation of the author.
- Reproducing a work without consent of the author or copyright holder [\[footnote 12\]](#).
- Making a derivative work without consent of the author or copyright holder of the work used for making such derivative work [\[footnote 13\]](#).
- Using a work without consent of the copyright holder and without paying royalties, remuneration or other material benefits in accordance with IP Law [\[footnote 14\]](#).
- Renting a work without paying royalties, remuneration or other material benefits to the author or copyright holder.
- Duplicating, producing copies of, distributing, displaying a work or communicating a work to the public via a communications network or digital means without consent of the copyright holder
- Publishing a work without consent of the copyright holder
- Deliberately destroying or deactivating technical protection measures applied by the copyright holder to protect copyright
- Deliberately deleting or modifying electronic copyright management information in a work
- Manufacturing, assembling, transforming, distributing, importing, exporting, selling or renting equipment knowing, or having grounds to know, that such equipment may deactivate technical protection measures applied by the copyright holder to protect copyright
- Making and selling a work with a forged signature of the author
- Exporting, importing or distributing copies of a work without consent of the copyright holder

3.2.2.3. Related rights infringement acts

Article 35 of the IP Law sets out the following acts that infringe related rights:

- Appropriating rights of performers, producers of audio/ visual recordings, or broadcasting organizations

- Impersonating performers, producers of audio/ visual recordings, or broadcasting organizations.
- Publishing, producing and distributing a fixed performance, audio and visual recording or broadcast without consent of the performer, producer of the audio/ visual recording or broadcasting organization.
- Modifying, editing or distorting a performance in any way which prejudices the honor and reputation of the performer
- Copying or extracting from a fixed performance, audio/ visual recording or broadcast without consent of the performer, producer of the audio/ visual recording or broadcasting organization. ▪ Deliberately deleting or modifying electronic related right management information without consent of the related right holder.
- Deliberately destroying or deactivating the technical protection measures applied by the related right holder
- Publishing, distributing or importing for public distribution of performances, copies of fixed performances or audio/ visual recordings knowing, or having grounds to know, that the electronic related right management information has been deleted or modified without consent of the related right holder.
- Manufacturing, assembling, transforming, distributing, importing, exporting, selling or renting equipment knowing, or having grounds to know, that such equipment helps illegally decode satellite signals carrying coded programs.
- Deliberately receiving or relaying satellite signals carrying coded programs without consent of the legal distributor

Commentary:

Enforcement authorities are experienced at handling straightforward cases such as book and software piracy, but not so much for complex cases requiring a qualitative infringement decision. In an effort to support them, the Expertise Center for Copyright, Related Rights (ECCR) was established on 3rd June 2016 under the management of the COV that is under the Ministry of Culture, Sports and Tourism (MoCST). ECCR is authorized to issue non-binding, expert opinion on the possibility of copyright and related rights infringement. However, ECCR's practice so far has not been systemized and its experience of dealing with complicated copyright infringement cases is still limited. Evidence of copyright registration i.e. certificate of copyright registration is required to file a petition for assessment from ECCR. Right holders are advised to have preliminary consultations with ECCR's officials before filing petitions.

3.2.2.4. Collective Management Organization (CMO) offences

The following acts by CMO, among others, constitute offences and cause the CMO to suffer administrative sanctions [\[footnote 15\]](#) :

- Carry out activities outside of the scope of the written licensing agreement with the copyright and related right holders.
- Carry out activities without written licensing agreements with copyright and related right holders.
- Carry out activities beyond the spheres permitted by the State.
- Impersonate a CMO to operate.

3.4 3.3. Criminal IP Enforcement

The 2015 Criminal Code [\[footnote 16\]](#) specifies factors for IP infringing acts to constitute criminal offences, and criminal penalties.

Commentary:

The number of criminal IP cases has increased recently. As a matter of practice, criminal enforcement authorities usually prioritise cases where counterfeits pose serious harm to consumers and public health (e.g. fake pharmaceutical products, gasoline, and consumer goods). This can be seen from a rise in the number of criminal convictions in recent years .¹⁷

3.3.1. Criminal Infringement against trade mark rights

Trade mark Infringement (Article 226 of the Criminal Code (amended under Article 1.53 of the 2017 Law on Amendments to the Criminal Code [\[footnote 18\]](#)):

- Criminal charges on a person will be triggered in case he or she deliberately conducts an act of trade mark infringement involving trade mark counterfeits: -
- with a commercial scale; or
- to earn an illegal profit from VND 100 million; or
- causing a loss from VND 200 million to the trade mark holder; or
- with the infringing goods worth from VND 200 million.
- Criminal charges on a legal entity will be triggered in case it deliberately conducts an act of trade mark infringement involving trade mark counterfeits: -
- with a commercial scale; or
- to earn an illegal profit from VND 200 million; or
- with a loss from VND 300 million caused to the trade mark holder; or
- with infringing goods worth from VND 300 million.
- In case the infringing legal entity has suffered administrative sanctions before or unspent convictions for trade mark infringement, an infringing act to earn a profit from VND 100 million, or with a loss from VND 100 million caused to the trade mark holder, or with infringing goods worth from VND 100 million may also trigger criminal charges.

Counterfeit Manufacturing and Trading (Article 192 of the 2015 Criminal Code (amended under Article 1.42a of the 2017 Law on Amendments to the Criminal Code))

- Criminal charges on a person or a legal entity will be triggered in case such person/ entity manufactures and/ or sells counterfeits with:-
- the counterfeits worth [\[footnote 19\]](#); from VND 30 million, or the counterfeits worth below VND 30 million but the infringer has suffered administrative sanctions before or unspent convictions for certain economic crimes²⁰ ; or
- injury or health damage caused to others with a 31% - 60% whole person impairment; or
- an illegal profit worth from VND 50 million earned; or
- a property loss worth from VND 100 million caused.
- In case the counterfeits are food, food additives and medicines, the criminal charges on a person or a legal entity will be triggered if that person/entity manufactures and/or sells such counterfeits [\[footnote 21\]](#).

According to Article 213 of the IP Law, trade mark counterfeits are goods bearing trade marks or having packaging with trade marks indistinguishably similar to others' protected trade marks without consent of trade mark holders. However, in practice, to enforce according to Article 192 of the 2015 Criminal Code above, authorities usually require genuine goods for comparison with their counterfeit counterparts in terms of technical features, functions, quality, etc. (please refer to sub-Section 3.3.2.5 - Defences to trade mark infringement below for more details).

Commentary:

Criminal enforcement has the toughest sanctions with strict penalties against infringers, compared to other enforcement actions. In practice, criminal proceedings are normally used against the producers of counterfeits rather than mere similar trade mark infringements, which can be appropriately pursued by civil actions.

Criminal trade mark infringement ought to be clear, but the law does not clearly define the concept of "commercial scale". This creates a challenge for the administrative authorities whether a case should be escalated for criminal proceedings to determine whether to impose the higher end of the penalty scale.

The requirement for providing genuine goods corresponding to the suspected counterfeit goods is not clearly regulated and can be troublesome for right holders in practice, especially where the exact same item is not available. There are different approaches taken by different officials as to whether genuine counterparts are required.

3.3.2. Criminal procedure for trade mark infringement

- Trade mark Infringement: According to Article 155 of the 2015 Criminal Procedure Code, criminal proceedings are initiated against the act of trade mark infringement only upon the victim's petition.

If the victim withdraws the petition, the proceedings must be suspended, and the victim does not have the right to refile a new petition, unless such withdrawal results from coercion or duress. The petition may be filed with the economic police (EP) or people's procuracies.

- Counterfeit Manufacturing and Trading: Criminal proceedings against counterfeit manufacturing and trading may be initiated upon ascertainment of the crimes based on criminal information from any sources ²².

Commentary:

Trade mark infringement (Article 226) is a complaint-based crime. This hinders the ability of police and prosecutors to conduct ex-officio criminal enforcement actions. A common workaround for the police is to conduct an administrative ex-officio raid action against the infringers. If the threshold for criminal charges is met, the police will seek the trade mark owner's formal complaint to initiate criminal proceedings. Administrative enforcement authorities can also transfer the case to the criminal enforcement authorities if they believe that the case constitutes a criminal offense.

Counterfeiting cases can be initiated without a formal complaint from the trade mark holder. Nevertheless, enforcement authorities need support from the right holder to provide counterfeit identification, including information on genuine counterparts of the counterfeit products and other information necessary for the investigation and prosecution process [\[footnote 22\]](#).

3.3.2.1. Economic Police

Under Circular 56/2017/TT-BCA [\[footnote 23\]](#) amended by Circular 26/2018/TT-BCA [\[footnote 24\]](#), the Police for Corruption, Smuggling and Economic Crimes (Economic Police (EP) under Vietnam People's Public Security has the authority to investigate IP related infringements for criminal prosecutions.

EP is formed at three levels. Each level of EP would conduct investigations into corresponding scales of infringements:

Level of EP	Scale of Infringement [footnote 25]
Central level - EP Department, under the Ministry of Public Security	Extremely serious or complicated crimes occurring in more than one province and/or centrally run city; transnational crimes.
Provincial level - EP Division, under the provincial Public Security Department	Infringing acts occurring in more than one district within the province/centrally run city at issue.
District level - EP Team, under the district-level Public Security Section	Infringing acts occurring within a district.

The EP has the main authorities to:

- directly inspect and verify the initial information regarding the criminal acts;
- conduct searches at houses, workplaces, locations or vehicles that are alleged to have documents, items, property and any other materials in relation to the criminal acts;
- seize the infringing goods, materials and other documents in relation to the criminal acts;
- file charges against the suspects; summon and interrogate the suspects;
- cooperate with relevant authorities to arrest and detain the suspects;
- request testimony of person related to the criminal acts;
- request expert assessment and property valuation;
- close the investigation if there is no sufficient evidence proving the criminal acts.

Commentary:

It was reported that in 2018, the EP conducted a total of 467 investigations into counterfeiting activities in which 65 cases were escalated for criminal proceedings. In practice, the EP usually prioritises serious criminal offenses, such as large quantities of counterfeit stock, cases involving a network of infringers, infringing acts or products that pose a danger to the consuming public (for example, pharmaceutical cases) and repeat infringers. The EP may also co-operate with other enforcement bodies in investigating complicated infringement cases.

Activities of the enforcement authorities are covered by the state budget. However, there are regulations [\[footnote 26\]](#) allowing various forms of support (including financial contributions) from right holders to the EP to tackle infringing acts. The idea behind this contribution is that it will help enforcement authorities deal with infringements more effectively as the state budget is limited. However, this contribution is made voluntarily and should not be seen as an obligation nor as an official fee for requesting the enforcement authorities to handle an infringement.

3.3.2.2. Criminal prosecution of trade mark crimes

According to Article 34 of the 2015 Criminal Procedure Code, authorities that conduct criminal proceedings include investigation agencies (EP in IP criminal cases), People's Procuracies and Courts.

Jurisdiction according to court level [\[footnote 27\]](#):

- Cases involving IP crimes classified as "less serious crime", "serious crime" or "very serious crime" are heard by district-level courts.
- Cases involving IP crimes classified as "extremely serious crime", or IP crimes committed outside of Vietnam, or IP crimes with defendants, victims, litigants (i.e. civil plaintiffs, civil defendants, and persons with relevant interests and obligations) located outside of Vietnam are heard by provincial-level courts²⁸.
- Cases involving complicated facts, with natures difficult to assess and agree on, or involving multiple of authority levels and industries; cases where defendants are judges, procurators, investigators, primary governmental leaders at district and provincial levels, religious dignitary or persons with high prestige in minority communities are heard by provincial-level courts [\[footnote 28\]](#).

Jurisdiction according to territory [\[footnote 29\]](#):

- The Court at the place where the crime is committed has the jurisdiction to hear the case. In case the crime is committed in multiple or unidentifiable places, the Court at the place where the investigation is completed has the jurisdiction to hear the case.
- In case the defendant committed the crime abroad, the provincial-level court at the last residential place of the defendant has the jurisdiction to hear the case. In case the last residential place of the defendant is unidentifiable, Chief Justice of the Supreme People's Court, as the case may be, will assign the Hanoi, Ho Chi Minh City or Da Nang People's Courts to hear the case.

3.3.2.3. Criminal prosecution procedure

The criminal procedure for trade mark infringement is shown by way of a flowchart in Annex 1 of this Chapter.

3.3.2.4. Criminal penalties for trade mark infringement

Trade mark Infringement

(Article 226 of the 2015 Criminal Code (amended under Article 1.53 of the 2017 Law on Amendments to the Criminal Code)):

Penalties	Individual Infringer	Corporate Infringer
Maximum fine	VND 1 billion, 3 years' imprisonment	VND 5 billion (approx. GBP 172,117,039) Up to 2 years' suspension of operations
Factors raising fine/penalty	Greater illegal profits reaped, greater loss caused, greater values of infringing goods, infringements committed on an organisational basis, infringements committed more than once	
Possible supplemental penalties	▪ Fine up to VND 200 million, ▪ Bans from holding positions, practicing certain jobs or doing certain works in a period from 1 to 5 years	▪ Fine up to VND 500 million, ▪ Bans from business activities, operations in certain fields or fundraising in a period from 1 to 3 years
Minimum fine/penalty	▪ 100 million, ▪ 1 year's imprisonment	▪ VND 1 billion
Factors raising penalty	Higher counterfeits' values, higher percentages of whole person impairment caused by injury/health damage, numbers of injured people, illegal profits reaped, or property losses caused; or Infringement conducted on an organisational basis, or with a professional nature, with an abuse of position or power, with an abuse of names of agencies or organisations, with deaths caused, with cross-border trading or with dangerous recidivism.	

Penalties	Individual Infringer	Corporate Infringer
Maximum fine/penalty	▪ 1 billion, ▪ 15 years' imprisonment	▪ VND 9 billion, ▪ Permanent cessation of business operations
Possible supplemental penalties	▪ Fine up to VND 50 million, ▪ Bans from holding positions, practicing certain jobs or doing certain works in from 1 to 5 years . ▪ Confiscation of a part or the whole of properties.	▪ Fine up to VND 200 million, ▪ Bans from business activities, operations in certain fields or fundraising in a period from 1 to 3 years

Counterfeit Manufacturing and Trading

(Article 192 of the 2015 Criminal Code (amended under Article 1.42a of the 2017 Law on Amendments to the Criminal Code):

Commentary:

The Criminal Code provides for substantial maximum fines and prison sentences against criminal offenders. The penalty of counterfeiting is higher than that of trade mark infringement and therefore, the enforcement authorities often lean towards pressing charges for counterfeiting against infringers for better deterring effect. In practice, when they cannot establish a case of counterfeiting (commonly because of a lack of genuine samples or the product is not deemed as counterfeit), it can then be changed to a trade mark infringement crime.

3.3.2.5. Defences to trade mark infringement

According to Article 125 of the IP Law, the trade mark holders shall not have the right to prevent others from circulating, importing, exploiting utilities of the goods that were lawfully put on the market, including overseas markets.

Therefore, if the goods were put on the overseas markets by the trade mark owners or their licensees, the acts of circulating, importing, exploiting utilities of such goods do not trigger trade mark infringement. In addition, the prosecutor must prove that the accused has carried out the infringing acts deliberately.

Counterfeit Manufacturing and Trading (Article 192 of the 2015 Criminal Code (amended under Article 1.42a of the 2017 Law on Amendments to the Criminal Code)):

- The prosecutor must present evidence regarding the quality of the suspected counterfeit goods in order to prove that the goods are either substandard, falsified or without use value. Such evidence requires genuine products for comparison and analysis.
- This evidence requirement is based on the broad definition of counterfeit under Article 3.8 of Decree 185/2013/ND-CP [\[footnote 30\]](#), which covers the trade mark counterfeit goods, the falsely labelled goods [\[footnote 31\]](#) and the counterfeits in quality/use value. The counterfeits in quality include:
 - substandard forged goods [\[footnote 32\]](#);
 - falsified forged goods ^[^33];
 - goods that have no use value or utility (or the use value does not match the goods' nature, their names or announced/registered use value).

3.3.3. Criminal Infringement against Copyright and Related Right

Copyright and Related Right Infringement (Article 225 of the 2015 Criminal Code (amended under Article 1.52a of the 2017 Law on Amendments to the Criminal Code):

- Criminal charges on a person will be triggered in case he or she, without the copyright/ related right holder's consent, deliberately conducts an act of (i) reproducing copyrighted works or audio/ visual recordings, or (ii) distributing to the public copies of copyrighted works or audio/ visual recordings:
 - with a commercial scale; or
 - to earn an illegal profit from VND 50 million or
 - causing a loss from VND 100 million to the copyright/ related right holder; or
 - with the infringing goods worth from VND 100 million

- Criminal charges on a corporate entity will be triggered in case it deliberately conducts an act of copyright infringement:
 - with a commercial scale; or
 - to earn an illegal profit from VND 200 million; or
 - causing a loss from VND 300 million to the copyright/ related right holder; or
 - with the infringing goods worth from VND 300 million
- In case the infringing corporate entity has suffered administrative sanctions before or unspent convictions for copyright/ related right infringement, an infringing act to earn a profit from VND 100 million or with a loss from VND 100 million caused to the copyright/ related right holder, or with infringing goods worth from VND 100 million may trigger criminal charges.

Counterfeit Manufacturing and Trading (Article 192 of the 2015 Criminal Code (amended under Article 1.42a of the 2017 Law on Amendments to the Criminal Code))

According to Article 213 of the IP Law, copyright and related right counterfeits are copies manufactured without the copyright/ related right holders' consent. The factors that trigger criminal charges of manufacturing and trading in copyright and related right counterfeits according to this Article are similar to those in the case of trade mark counterfeit manufacturing and trading.

Commentary:

Vietnam's Penal Code criminalises the act of unauthorized reproduction and distribution of copyrighted works and audio/visual recordings, regardless of whether such act takes place physically or digitally. Therefore, these regulations can arguably be used for online piracy, although in practice it is very rare that enforcement authorities prosecute copyright and related rights infringement acts criminally. Other infringing acts which are not considered as a criminal offense include acts that infringe right holder's moral rights and the unauthorized acts of using, renting, publishing, and communicating the protected works. Such infringing acts will be handled through administrative proceedings or civil litigation.

3.3.4. Criminal procedure for copyright and related right crimes

Criminal proceedings against both:

- copyright and related right infringement; and
- copyright and related right counterfeit manufacturing and trading

may be initiated upon ascertainment of the crimes based on criminal information from any sources.

3.3.4.1. Economic Police

For copyright and related rights cases, EP has the same authorities as for trade mark cases. Please refer to sub-Section 3.1.4 above for the details.

3.3.4.2. Criminal prosecution of copyright and related right crimes

Criminal prosecution for copyright and related right crimes is the same as trade mark cases - please refer to Annex 1 below.

3.3.4.3. Criminal Penalties for copyright infringement

Copyright and Related Right Infringement

(Article 225 of the 2015 Criminal Code (amended under Article 1.52a of the 2017 Law on Amendments to the Criminal Code)):

Penalties	Individual Infringer	Corporate Infringer
Minimum fine/penalty	▪ VND 50 million ▪ Up to 3 years' community sentence	VND 300 million
Factors raising penalty	Greater illegal profits reaped, greater loss caused, higher values of infringing goods, raising infringements committed on an organisational basis, infringements committed more	-

Penalties	Individual Infringer	Corporate Infringer
Maximum fine/penalty	▪ VND 1 billion ▪ Up to 3 years' community sentence	▪ VND 3 billion ▪ Up to 2 years' suspension of operations
Possible supplemental penalties	Fine of up to VND 200 million ▪ Bans from holding positions, practicing certain jobs or doing certain works in 1 – 5 years	
years	Fine up to VND 300 million ▪ Bans from business activities, operations in certain fields or fundraising in 1 – 3 years	

Counterfeit Manufacturing and Trading

(Article 192 of the 2015 Criminal Code (amended under Article 1.42a of the 2017 Law on Amendments to the Criminal Code)):

The penalties are the same as those in cases of trade mark counterfeit manufacturing and trading.

Commentary: In addition to EP, there is also the Police Department for High-Tech Crime Prevention under the Ministry of Public Security, which aims to tackle complex online copyright infringement. In practice, the number of criminal copyright infringement cases that were followed through and successfully brought before court for prosecution are extremely rare as it is difficult for the enforcement authorities to calculate the illegal profit, damages, or relevant value of the infringing goods due to the lack of official guidance on the issue.

3.3.4.4. Defences/ exceptions: acts not considered as copyright and related right infringement

Exceptions and limitations to copyright

Article 25 of the IP Law set out cases where published works may be used without any consent or payment of royalties or remuneration:

- Make a copy of works for personal scientific researching and teaching (this exception is not applied for architectural works, art works or computer programs);
- Reasonable quoting for commentary or illustrative purposes without misrepresenting the authors' ideas;
- Quoting without misrepresenting the authors' ideas for writing articles, using in periodicals, radio/television broadcasts, or documentaries;
- Quoting for lecturing without misrepresenting the authors' ideas and commercial purposes;
- Copying by libraries for archival and researching purposes (this exception is not applied for architectural works, art works or computer programs);
- Performing stage works or other performance arts in cultural and propaganda activities without charging in any form;
- Recording live performances for reporting news or teaching;
- Photographing/ broadcasting art, architectural, photographic, applied-art works displayed in public areas for presentation of images of the works;
- Transcribing works into Braille or other languages for the blind;
- Import copies of others' works for personal use.

The application of the above exceptions must not affect the normal exploitation of the works, prejudice the rights of the authors and copyright holders, and must be subject to citation of the authors' names and sources/ origins of the works.

Article 26 of the IP Law set out cases where published works may be used without consent, but royalties and remunerations must be paid to the copyright holders, i.e. where broadcasting organisations use published works for broadcasting with or without sponsorship, advertising or charges. This exception is not applied for cinematographic works.

The application of the above limitations must not affect the normal exploitation of the works, prejudice the rights of the authors and copyright holders, and must be subject to citation of the authors' names and sources/ origins of the works.

Exceptions and limitations to related rights

Article 32 of the IP Law sets out cases where related rights may be used without any consent or payment of royalties or remuneration:

- Making a copy for personal scientific researching and teaching;
- Making a copy for teaching purposes (this exception is not applied in cases of performances, audio-visual recordings, broadcasts have been published for teaching);
- Reasonably quoting for providing information;

3.5 3.4. Civil IP Enforcement

Vietnam's civil court system includes:

- The Supreme People's Court;³⁴
- Superior People's Courts;³⁵
- Provincial-level People's Courts;³⁶
- District-level People's Courts. [\[footnote 37\]](#);

3.4.1. Jurisdiction

Jurisdiction according to court level:

- IP (trade mark , copyright and related right) disputes that do not involve commercial purposes are under the jurisdiction of district-level civil courts [\[footnote 38\]](#), except for those involving parties or properties in foreign countries or requiring overseas judicial entrustment - which are under the jurisdiction of Provincial-level Civil Courts [\[footnote 39\]](#).
- IP disputes that involve a commercial purpose are under the jurisdiction of Provincial-level Economic Courts [\[footnote 40\]](#).

Civil Procedure Code No. 92/2015/QH13 issued by the National ssembly on 25 November 2015 ("2015 Civil Procedure Code"))'

Jurisdiction according to territory:

IP disputes are handled by the court where the defendant resides or is domiciled. However, the parties have the right to agree in writing that the disputes are handled by the court where the plaintiff resides or is domiciled⁴¹.

The plaintiff has the right to petition [\[footnote 42\]](#).

- the court of the area where the defendant last resided or was domiciled, in case the current area where the defendant resides or is domiciled cannot be identified;
- the court of the area where the defendant has offices or branches, in case the dispute arises from the operation of the branch;
- the court of the area where the plaintiff resides or is domiciled, in case the defendant does not have a domicile in Vietnam;
- the court of the area where the dispute arises, in case the dispute is about compensation for non-contractual damage;
- the court of the area where the contract is performed, in case the dispute arises from a contractual relation.

- the court of the area where one of the defendants resides or is domiciled, in case the defendants reside or are domiciled in different areas.

3.6 3.4.2. Trade mark, copyright and related rights civil case rules

Civil IP cases are governed by the following groups of rules:

- Specific provisions for handling IP infringement and disputes with civil measures are set out under in the IP Law (including civil measures the Court may apply, litigants' rights and obligations to prove, principles for determination of damage, grounds for determination of levels of damages, preliminary injunctions);
- Civil procedures for handling IP infringement and disputes in the Civil Procedure Code.

3.4.3. Trade mark infringement

3.4.3.1. Registered trade mark infringement

According to Article 198.1b, d of the IP Law, right holders (including trade mark holders) are entitled to:

- request the infringer to terminate the infringements, make a public apology or rectification, and pay damages;
- initiate a lawsuit to protect their legitimate rights and interests.

According to Article 202 of the IP Law, the court may apply the following remedies against IP (including trade mark) infringers:

- Termination of infringing acts.
- Public apology and rectification.
- Implementation of civil obligations.
- Payment of damages.
- Destruction, distribution or use for non-commercial purposes of goods, raw materials, materials and means used mainly for the manufacturing or trading of infringing goods, on the condition that the exploitation of rights by right holders will not be affected.

Commentary:

The number of IP infringement cases decided by courts is still relatively limited compared to other disputes. The system is there and seems to work⁴³ but few cases are heard by judges. There is not yet a large pool of judges who can hear IP cases. Delays can occur too, but overall civil litigation is a good way to claim damages from infringers and to send a strong deterrent message. Expert opinions are often used in civil cases.

3.4.3.2. Well-known trade mark infringement

Well-known trade mark holders' entitlements in protection of their marks and remedies applied by the court against infringers are the same as those in cases of registered trade marks - please refer to Section 3.4.3.1 above.

Commentary:

The courts and enforcement authorities often consult IP Vietnam and rely heavily on IP Vietnam's opinion in considering a trade mark's well-known status. If a mark is recognized as well-known by the court, it should be recorded in a List of Well-known Trade Marks by IP Vietnam for reference in future⁴⁴. However, the List of Well-known Trade Marks has not been made available yet.

3.4.3.3. Copyright and related right infringement

Please refer to Section 3.4.3.1 above for copyright and related right holders' entitlements in protection of their rights and remedies applied by the court against infringers.

Commentary: Civil litigation is more common in copyright. In the period 2006-2016, 83.5% of IP lawsuits before the civil courts were about copyright^[footnote 45] and most of them were filed by Vietnamese IP owners, involving disputes over authorship and economic rights^[footnote 46]. Similar to trade mark disputes, the Court will rely on expert opinions on the infringement.

3.4.4. Civil IP remedies in trade mark and copyright cases

3.4.4.1. Preliminary injunctions

According to Article 206 of the 2005 IP Law, when or after initiating a lawsuit, the right holder is entitled to request that the Court apply the preliminary injunctions to goods suspected as infringing IP and raw materials, materials and means for manufacturing and trading such goods if (i) there is a threat of irreparable damage suffered by the right holders; or (ii) there is a threat of dispersal or destruction of suspected infringing goods and related evidence if they are not protected in time. The preliminary injunctions include retention, seizure, sealing, prohibiting any alteration of the original state, prohibiting any movement, prohibiting transfer of ownership of the infringing goods, raw materials, materials and means.

According to Article 208 of the IP Law, the plaintiffs bear the burden of proving the rights to the preliminary injunctions request by providing documents evidencing that they are the right holders^[footnote 47].

Detailed procedures for preliminary injunctions request are stipulated under Chapter VIII of the 2015 Civil Procedure Code. The request must include information about the plaintiff, a summary of the dispute/infringement, reasons for application of the preliminary injunctions, types of injunctions applied and specific requirements. When receiving the request for preliminary injunctions enclosed with the petition and evidence, the Chief Justice shall immediately assign a Judge to handle the request. Within 48 hours since receiving the request, the Judge must issue a decision to apply preliminary injunctions; if the request is rejected, the Judge must issue a notification setting out the refusal grounds.

3.4.4.2. Other remedies

Other remedies on IP infringement are regulated under provisions on administrative enforcement (please refer to Section 3.7. below).

3.4.4.3. Damages

Damage under the IP Law includes material damage and spiritual damage. Material damage include property losses, decreases in income and profit, loss of business opportunities, reasonable expenses for prevention and remedying of such damages^[footnote 48]. Spiritual damage includes damages to the honor, dignity, prestige, reputation of the authors and performers^[footnote 49]. The level of damages is calculated based on the actual loss that the right holder suffers due to the infringement.^[footnote 50]

Once the plaintiff manages to prove the infringement has caused the plaintiff material damage, the plaintiff may request the Court to decide the damages based on:^[footnote 51]

- Total material damages in money plus the profit gained by the defendant by the infringement, if the decrease in profit of the plaintiff has not been included in the total material damages; or
- The licensing price on the assumption that the defendant was licensed by the plaintiff to use the IP under a license contract within a scope corresponding to the infringement; or
- Other ways of calculation right holder proposed in accordance with laws.

Where the damages cannot be calculated based on the above methods, the Court may decide the amount of damages based on the extent of the losses, but the amount will not surpass VND 500 million.

Once the plaintiff manages to prove that the infringement has caused the plaintiff spiritual damages, the plaintiff is entitled to request the Court to decide the damages depending on the extent of loss, with the range from VND 5 million to VND 50 million.

The plaintiff is also entitled to request the Court to compel the infringer to pay reasonable costs for lawyers.

Commentary:

Vietnam's IP Laws require calculation of damages based on the acts of trade mark and copyright infringement. In practice, it is difficult for right holders to prove actual losses arising from the act of IP infringement of the adverse party. In some cases, the IP owner can still recover expenses such as attorney's fees and related fees eg fees for seeking expert opinions, etc. from infringers in court decisions.

3.4.4.4. Right of Information

Article 203.5 of the IP Law stipulates that where a party in an IP infringement lawsuit can prove that appropriate evidence proving such party's claim is under the control of the other party and is therefore inaccessible, the former party shall have the right to request the court to compel the latter party to provide such evidence.

Article 70.7 of the 2015 Civil Procedure Law provides for the right of parties in the litigation to petition the Court to request other involved parties to present materials and evidences they are keeping, petition the Court to issue the decision to request the agencies, organizations and individuals that are keeping and managing materials/evidences to supply such materials and evidences.

3.4.4.5. Indemnification of Defendant

According to Article 208 of the IP Law, the plaintiffs must pay compensation for loss caused to the personal suffering the preliminary measures in case such person is found not to infringe the IP. The plaintiff must deposit a bond in forms of money (a sum of money equal to 20 per cent of the value of the goods subject to the application of provisional urgent measures, or at least VND 20 million where it is impossible to value such goods) or a deed of guarantee issued by a bank/ credit institution.

According to Article 198.4 of the IP Law (as amended in 2019), the defendant, if receive acquittal from the Court, is entitled to request the Court to order the plaintiff to reimburse for their reasonable expenses such as the cost of hiring a lawyer or other expenses in accordance with laws.

3.4.4.6. Provisional measures

Apart from preliminary injunctions described in sub-Section 3.4.5.1 above, other provisional measures under Article 114 of the 2015 Civil Procedure Code may also be applied if they are relevant, including freezing accounts at banks or other credit institutions, state treasury; freezing properties at places of their deposit; prohibiting involved parties from performing, or forcing them to perform certain acts; etc.

- A broadcasting organization making provisional copies of a work for broadcasting when such organization has the right to broadcast.

The application of the above exceptions must not affect the normal exploitation of the performances, audio-visual recordings, broadcasts, and prejudice the rights of the performers, producers of the audio-visual recordings, broadcasting organizations.

Article 33 of the IP Law sets out cases where published audio-visual recordings may be used without consent, but royalties or remuneration must be paid to authors, copyright holders, performers, producers of audio-visual recordings, broadcasting organisations:

- Directly or indirectly using the audio-visual recordings published for commercial purposes to broadcast with or without sponsorship, advertising or charges in any forms;
- Using published audio-visual recordings in business and commercial activities.

3.7 3.5. Online IP Infringement for Trade Mark and Copyright

3.5.1. Trade mark violations

- Article 4 of Decree 52/2013/ND-CP on E-commerce⁵² ("Decree 52") prohibits acts of taking advantage of e-commerce to trading in counterfeits and goods/ services infringing IP (including trade marks, copyright and related rights).
- Under Article 83.4a of the Decree 185 on administrative sanctions against violations in commercial activities, failure to apply measures against legal violations on the platforms upon self-discovery or upon the receipt of consumer's reports may cause the platforms to suffer a monetary fine of VND 30 million to 40 million.
- However, both Decree 52 and Decree 185 provide no guidance on the measures that the platforms should take (including whether and how the platforms must establish notice and take mechanism).
- According to Article 11.15 of Decree No. 99/2013/ND-CP on administrative sanctions of violations in the field of Industrial property (Decree 99), a fine of between VND 10 million and 20 million shall be imposed for acts of using signs infringing upon rights to trade marks, geographical indications, trade names on signboards, business transaction papers, means of business or service, goods packages.

- Article 14.15b of Decree 99 provides that a fine of between VND 5 million and 15 million shall be imposed for any of the following acts: Using on transaction papers, means of business, including also means of service, signboards and goods packages, trade indications which mislead as to business entities or activities or trade origin of goods or services or origin, method of production, utilities, quality, quantity or other features of goods or services or conditions for provision of goods or services.

- Article 21 of Circular 11/2015/TT-BKHCN dated 26/6/2015 on detailing and guiding a number of articles of the Government's Decree No. 99/2013/ND-CP of August 29, 2013, on administrative sanctions of violations in the field of Industrial property provides that means of business shall be understood as any means bearing or containing a protected industrial property subject matter or trade indication and used to serve business activities (for example, websites, introduction documents, name cards, means of transport and utensils and decorations in business establishments).

3.5.2. Copyright and related right violations

Enforcement against online copyright infringements may follow the criminal, civil or administrative procedures set out above. For administrative violations, Decree 131 specifies "Compelled removal of infringing electronic copies of works, performances, audio/ visual recordings and broadcasts on the Internet and digital environment" as one of the remedies.

Article 5.3 of Joint Circular No. 07/2012/TTLT-BTTTT-BVHTTDL53 requires Intermediary service providers ("ISPs")⁵⁴ a duty to remove and delete digital content that violates copyright and related rights, and cut, stop or suspend an individual's internet/telecommunication line under orders of Inspectorates of Ministry of Information and Communications (MoIC) and MoCST.

- Enterprise providing internet service,
- Telecommunication enterprise;
- Enterprise providing service of leasing digital information storage space including service of leasing website storage space;
- Enterprise providing service of online social network;
- Enterprise providing service of digital information search.

According to Article 5.5 of the same Joint Circular, ISPs are directly responsible for paying damages due to copyright and related right infringement in the following circumstances:

- ISP acts as the source for the start of the uploading, transmission or provision of digital content via telecommunications and Internet networks without right holders' consent;
- ISP edits, modifies, copies digital content without right holders' consent;
- ISP intentionally ruins or disables technical measures for protection of copyright and related rights;
- ISP operates as a source of secondary distribution of digital content obtained through copyright and related right infringement.

Commentary:

Vietnam does not have a complete or straightforward framework for protection and enforcement of copyright and related rights in the digital environment. Although the laws provide for ISP liability in relation to copyright infringing content available on their system, the concept of "secondary liability" is not clearly established under Vietnam's legal system. Unlike in many other countries, ISPs are not obliged to take down infringing content upon receipt of a right holder's notice.

As for e-commerce, there are rules aimed to tackle online infringement of IP rights, but the liability of e-commerce platform/ISPs has not been established in detail. In practice, right holders normally rely on the cooperation and take-down mechanisms available on such platforms instead of any official administrative enforcement or litigation.

Vietnam's law requires ISPs to block or suspend access to a violating content upon request from competent authorities. In 2018 the Authority for Broadcasting and Electronic Information (ABEI) under the Ministry of Information and Communication worked with local network providers to block access to websites which included pirated content. The process requires a complaint from the right holder to ABEI who can issue warnings to infringing ISPs with a deadline for take-down of the pirated contents. They can also request local network providers to block access to the infringing ISP or content. This exercise has been applied to both local ISPs and foreign ISPs with servers located overseas. Local ISPs have been cooperative with the site-blocking requests. It was reported by

ABEI that 49 websites were blocked in 2018 and 2019 for violation of copyright and related rights in films, TV programs and sports broadcasts. [5]:

Further, under a recent Decree 15/2020/ND-CP56 issued in February 2020 on administrative sanctions on telecommunications, ISPs are liable for IP violations including posting/delivering journalistic, literature, artistic works and other publications online without the right holders' consent. Such violations are subject to administrative fines ranging from VND 10 million to 70 million depending on the subject of the violations. Additional sanctions include confiscation of means for violation, like forcible taking-down of infringing content, or temporary confiscation of the platform operation license. However, it is unclear how the above sanctions would be practically enforced against foreign companies providing cross-border services accessible to Vietnamese users.

In addition, Cybersecurity Law 2018 also specifies "acts of infringement of copyright and other IP rights in cyberspace" by both domestic and foreign service providers among its cybersecurity violations. The law's upcoming implementation decree is expected to set out sanctions, remedies and enforcement measures imposed on such violations, including those for cross-border service providers

3.8 3.6. Customs IP Border Enforcement

Customs measures for protection of IP include:

- Suspension of customs procedures for suspected infringing goods;
- Inspection and supervision for detecting goods with signs of IP infringement.

Customs can act or at the request of right holders to temporarily deter suspected infringing goods coming into the border. If Customs detects IP counterfeits in the suspension, inspection and supervision processes, Customs have the right and obligation to impose administrative sanctions, remedies, preventive measures and measures to ensure enforcement of administrative penalties described in Section 3.7 below.

Commentary:

The number of seizures by Vietnam Customs is relatively modest compared to the prevalence of counterfeit goods available in the market. However, they do make them regularly for brands recorded with Customs. They have also been holding annual training sessions by IP owners on how to recognize counterfeit goods so that the officials can become more confident in acting against suspected counterfeit goods.

Vietnamese law generally allows [\[footnote 57\]](#) for parallel imports where the right holder, or someone with his/her consent, has already put the goods bearing the trade mark in question in the market (including foreign markets). However, Customs do still detain parallel imported goods if the relevant importers are not listed as authorised distributors provided by IP owners to Customs.

3.9 3.6.1. Recordal process for trade marks and/or copyright and related rights

According to Article 6, Circular 13/2015/TT-BTC58 ("Circular 13"):

- Right holders file customs recordals with General Department of Vietnam Customs ("GDVC") with the following documents:
- Request for supervision and inspection of exported and imported goods in the provided form;
- Copies of documents evidencing IP protection titles, e.g. registration certificates, licensing recordal certificates;
- Detailed description of IP counterfeits, with photos and features that help distinguish counterfeits and their genuine counterparts;
- A list of authorized importers/ exporters of the genuine goods;
- A list of possible exporters/ importers of infringing goods.
- The customs recordal will be valid for 2 years with a possibility of renewal for another 2 years (Article 74.2d, Customs Law59). Renewal request must be filed at least 20 days prior to the expiry day of customs recordal.

Commentary: Requests for Customs Recordal or Renewal of Customs Recordals or Requests for Suspension of Customs procedures can be filed via the e-Customs system. However, the e-filing portal has since March 2020 been suspended while it is being updated. Until then, requests and accompanying documents can be

filed directly with the Anti-Smuggling Bureau of the General Department of Customs. The recordal covers around 39 ports, including 15 sea ports, 19 land borders and five airports.

Under Circular No.13/2015/TT-BTC, the HS code of the goods for which IP protection is sought, is categorized as an "optional" requirement for Customs Recordal. However, in the new form for application for Customs Recordal introduced in the new Circular 13/2020/TT-BTC60, the HS code is no longer "optional" accordingly, Customs may require the application to include the HS code of the goods.

3.6.2. Suspension of Customs Procedure

- When detecting signs of IP infringement in a consignment, Customs will stop the customs procedures and send a notice on suspected infringing goods to the right holders (Article 14.1, Circular 13).
- Within 3 working days from the date of receipt of the notice on suspected infringing goods, the right holders must submit a request on suspension of customs and a bond in the form of money or a deed of guarantee issued by a bank/ credit institution⁶¹ (Article 76.1b, Customs Law).
- Within 2 hours from receipt of the suspension request, other required documents in the dossier and the bond from the right holders, Customs will issue a decision on suspension of goods (Article 10.1, Circular 13).
- In case there is no information on requests for IP protection, but Customs detects goods with signs of IP infringements in the process of customs dossier examination/ goods check-up, Customs will examine, take samples of or photograph the suspected infringing goods, and cooperate with other IP authorities to suspend the goods if signs of infringement are determined (Article 14.3, Circular 13).
- *The Customs Recordal process is shown by way of a flowchart in Annex 2 of this Chapter.
- When the requester for suspension of customs procedures has fulfilled the obligations specified in Article 217 of this Law, the customs authority shall issue the decision of suspension. The customs authority shall provide the intellectual property rights holder with information on name and address of shipper; exporter, consignee or importer; description of goods; quantity of goods; origin of goods (as the case may be), within 30 days from the date of issuance of the decision to apply administrative measures to handle trade mark counterfeiting and smuggled goods specified in Article 216(4) of this Law.(Article 148.12, Law No. 42/2019/QH14 dated June 14, 2019 amending some articles of Law on Insurance business and Law on Intellectual Property).

Commentary: In practice, a consignment may contain various products, including both suspected infringing goods and non-suspect goods. However, a suspension decision applies to the whole consignment and so non-suspect goods may also be detained. This puts burden on the owner of the goods in storing them during suspension; and an increased risk on IP owners in case suspected goods are concluded as genuine.

3.10 3.6.3. Examination of Suspended Goods

The examination is carried out during the suspension period. The time limit for the suspension is 10 working days from the date the suspension decision is issued. In case there are needs for assessment or consultation of technical opinions from IP authorities, the suspension may be extended until receipt of the assessment results or technical opinions (Article 10.2, Circular 13).

While temporarily suspending or applying the preventive measures as prescribed, Sub-department of Customs which decides to temporarily suspend the goods in question may solicit assessment in specialized organizations of customs or other verifying organizations as prescribed in Clause 1, Article 40 of the Government's Decree 105/2006 / ND-CP dated September 22 , 2006 providing instructions on the implementation of a number of articles of the Law on Intellectual property and protection of intellectual property rights and State management of intellectual property or consult the expertise of State management agencies on intellectual property to identify signs of infringement of intellectual property.(Article 10.3b of Circular 13).

3.6.4. Legal action/settlement

According to Article 10.4a, Circular 13, upon expiration of the suspension period, Customs must:

- Issue a decision to accept the case according to administrative procedures once confirming the suspended goods infringe IP.
- Issue a decision on detention of goods in case there are sufficient grounds to determine the suspended goods as infringing IP.
- Impose administrative sanctions and remedies if there are sufficient grounds to determine the suspended goods as infringing IP.

Upon expiration of the suspension period, if the right holders does not initiate a lawsuit, or Customs does not decide to accept the case according to administrative violation handling procedures, Customs will resume the

customs procedures for the consignment (Article 76.4 of Customs Law).

3.11 3.7. Administrative IP Enforcement

3.7.1. Trade mark, copyright and related rights administrative offences According to Article 211 of the IP Law (as amended in 2009), the following acts constitute IP administrative offences:

- Infringe IPRs causing damage to the authors, owners, consumers or society.
- Produce, import, export, transport, or trade in IP counterfeits as defined in Article 21362 of the IP Law or assign other people to commit these acts.
- Produce, import, transport, trade in or store stamps, labels or other articles bearing a counterfeit trade mark or assign other people to commit these acts.

Specific infringing acts subject to administrative sanctions are stipulated in:

- Decree 99/2013/ND-CP on Sanctioning of Administrative Violations in Industrial Property issued by the Government on 29 August 2013 ("Decree 99");
- Decree 131/2013/ND-CP on Sanctioning of Administrative Violations in Copyright and Related Rights issued by the Government on 16 October 2013 ("Decree 131").

3.7.2. Jurisdiction

Authorities with the jurisdiction to conduct administrative enforcement are described as follows:

- Economic Police (EP)
- Market Management Bureau (MMB)
- Inspectorate of Ministry of Culture, Sport and Tourism (MoCST) and Departments of Culture, Sport & Tourism (DoCST) at the provincial level
- Inspectorate of Ministry of Science and Technology (MoST) and Department of Science and Technology (DoST) at the provincial level
- Inspectorate of Ministry of Information and Communications (MoIC) and Department of Information and Communications (DoIC) at the provincial level
- People's Committees
- Customs

Commentary:

Each enforcement authority has the authority over different types of infringement -

EP:

In addition to taking actions against criminal offenses, the EP may also handle administrative enforcement against trade mark counterfeits. The EP will only undertake serious infringement cases involving large quantities of stock or a network of infringers, or infringing acts or products that pose a danger to consumers. Given the limitation of specialist IP knowledge amongst officers, the EP often hesitates to take on cases involving infringing goods that are not clearly counterfeits. For copyright piracy, the EP will usually cooperate with the MoCST and DoCST Inspectorate to carry out actions.

MMB:

MMB deals with relatively simple cases involving counterfeits at market level, for example, shops of small to medium size and retailers. Right holder often opt for MMB for quick action against small infringers. MMB and EP regularly collaborate in enforcement actions.

Inspectorate of MoST and DoST:

The MoST and DoST Inspectorate tend to handle complex cases, i.e. where the infringing mark is alleged to be confusingly similar to the trade mark, or where the use of the alleged infringing mark is on the infringer's business materials (websites, documents, product, etc). Cases of counterfeiting will be more effectively handled by the EP and MMB.

Inspectorate of MoCST and DoCST:

The Inspectorate of MoCST and DoCST are responsible for the administrative enforcement of copyright and related rights in Vietnam. They cooperate with the EP and MMB for raid and investigation actions against infringers.

Inspectorate of MoIC and DoIC:

The Inspectorate of MoIC and DoIC are responsible for cooperating with the Inspectorate of DOST and other relevant agencies in the process of handling domain names that infringe IP rights.

People's Committees:

The People's Committee at city and provincial levels rarely directly deal with IP infringement. They will step in where the likely sanction exceeds the authority of the enforcement authority that is usually responsible for dealing with the matter.

Customs:

The key function of the Customs is to control national borders, including prevention of counterfeit goods imports.

There has been some proactive cooperation between the enforcement authorities. However, there are limited formal procedures for cooperation and roles can be unclear which creates delays.

3.12 3.8. Administrative Procedure

3.8.1 Trade mark infringement

The administrative procedure for handling trade mark infringements is stipulated in Chapter IV of Decree 99.

The procedure for a straightforward case of trade mark infringement is set out below:

- The trade mark holders (or their authorized representatives) shall file written requests for handling of the infringing acts to the competent authorities. The request must be enclosed with documents proving the trade mark holders' rights to request handling of violations, evidence of the infringing act, goods or services in the form of descriptions or photos, the location where the infringement occurs and other necessary information.^[footnote 63].
- If the request dossier is considered sufficient, within 30 days since the date of receipt, the competent authority must notify the trade mark holder of the projected handling timeframe, procedure and applied measures; and may request the trade mark holders' cooperation in the handling process^[^64].
- The competent authority can carry out the following activities to verify the infringements ^[^65]:
 - Request the alleged infringer and parties with related rights and interests to provide the information, document, evidence, explanations, arguments or counterarguments
 - Request the trade mark holder to provide document, evidence, clarification on the case, genuine samples for comparison (in case of trade mark counterfeits), confirmation on the counterfeit nature of the infringing goods, etc.
 - Solicit expert assessment to clarify the nature of the infringement.
 - Conduct their own investigation into the infringement to collect evidence, verify the facts and the nature of infringement.
 - In case of trade mark infringement with complicated circumstances or involving several organisations and individuals, the competent authority shall coordinate with other authorities for handling the infringement.^[^66]
- In case the request is accepted and being handled by the competent authorities, but the involving parties reach an agreement and suggest measures^[^67], the competent authorities shall acknowledge such measures and terminate the handling process;
- After the handling process, if the trade mark infringement is established, competent authority shall issue Sanctioning Decision against the infringers.

Commentary:

The administrative process for handling trade mark infringements is normally for minor cases in which the volume of infringing goods is low and there is no requirement to claim damages. The processes for administrative authorities are generally faster compared to court actions. But administrative authorities are reluctant to handle complex IP cases such as unfair competition e.g. trade dress infringement and instead tend to advise the right holder to initiate a lawsuit.

[^64] :Article 25.2 of Decree 99 [^65]: Article 25 of Decree 99 [^66]: Article 29 of Decree 99 [^67]: According to Article 27.2 of the Decree 99, the agreed measures shall be in accordance with law on IP and not affect the legitimate rights and interests of third parties, consumers and the public.

3.8.2 Copyright and related right infringement

There are no separate regulations on the administrative procedure of handling copyright and related right infringement. The handling of this matter could follow general principles on handling complaints on IP infringements set out in Decree 10568. The complaint must be enclosed with evidence on the IPR holders' status (i.e. copyright registration certificates; originals or copies of the compositions, fixations of the performances, audio/ visual recordings, broadcasts, satellite signals carrying encoded programs together with other documents evidencing the creation, publication, dissemination the works, etc.)⁶⁹, evidence on the infringement (in the forms of descriptions and specimens of the protected works; specimens, related exhibits, photos or recordings of the examined products; written explanations and comparisons between the examined products and protected works; minutes, testimonies and other documents evidencing acts of infringement) [\[footnote 71\]](#). The authority receiving the complaint must handle it (if having jurisdiction) or transfer it/guide the IP holders to transfer it to the competent authority within 30 days upon receipt. In case required documents/ materials are missing, the handling authority must request the complainant to supplement within 30 days [\[footnote 71\]](#).

Commentary:

Enforcement of copyright and related rights through administrative processes is not always straightforward. Administrative proceedings tend to be used for handling simpler infringements such as book and software piracy. Though enforcement authorities have successfully tackled camcording and online streaming, they face a challenge that the fast-moving nature of online infringement is not always suited to bureaucratic procedures and high evidential requirements. For complicated cases of online piracy, right holders can work with the High-Tech Crime Police to identify the infringer and collect evidence sufficient to build a case.

3.8.3 Sanctions

Administrative sanctions as set out in Article 214 of the IP Law may be warning or monetary fines, alongside termination of the infringing acts. Possible supplemental sanctions include confiscation of the counterfeits, and raw materials, materials and means used mainly for production or trading of such counterfeits, and suspension for a definite time of business activities in the area of infringement.

Sanction forms, amounts and procedures for each type of infringing acts are stipulated in Decree 99 and Decree 131.

3.8.4 Other Remedies

Beside the above sanctions, the following remedies may be applied according to Article 214.3 of the IP Law (as amended in 2009):

- Destruction or distribution or putting into use for non-commercial purposes of the counterfeits and the raw materials, materials and means used mainly for the production or trading of such counterfeits, provided that the destruction, distribution or putting into use does not affect the normal exploitation of rights by the right holders;
- Ejection of infringing goods in transit or compelled re-export of the counterfeits, and imported means, raw materials and materials used mainly for production or trading of the counterfeits out of Vietnam, after removal of the infringing elements.

More specific remedies are stipulated in Decree 99 and Decree 131. For example, the following remedies may be in copyright and related right cases:

- Compelled removal of infringing electronic copies of works, performances, audio/ visual recordings and broadcasts on the Internet and digital environment;
- Refund of royalties, remuneration, or material benefits obtained from the violation to copyright or related right holders.

3.8.5 Preventive measures and measures to ensure enforcement of administrative penalties

According to Article 215 of the IP Law, in cases where (i) the IP infringing act is posing a threat of serious damage to consumers or the society, or (ii) there is a threat of dispersal or destruction of evidentiary materials, or a sign that the infringer is evading the liability, the following preventive measures and measures to secure enforcement of administrative penalties may be applied:

- Temporary detention of persons;
- Temporary custody of infringing goods, evidentiary materials and infringing facilities;
- Body search;
- Searches of means of transport and objects; searches of places where infringing goods, evidentiary material and infringing facilities are hidden;
- Other administrative preventive measures in accordance with the law on dealing with administrative breaches.

Commentary:

In practice, the effectiveness of administrative enforcement depends on the IP expertise and capability of each authority in each province.

The maximum administrative fine for an individual is VND 250 million and for an organization is VND 500 million. This amount has been said to be insufficient deterrent and some infringers may consider the administrative fines as a cost of business (rather than the fine for violation itself). Instead of dealing with counterfeit wholesalers (which become more sophisticated), most actions were against small traders (accounting for the majority of the market).

3.13 3.9 Other Enforcement Issues

3.9.1 Alternate Dispute Resolution

Article 198.1d of IP Law, right holders could choose to settle the trade mark, copyright and related right infringement disputes through arbitration. The procedure of arbitration is regulated under Arbitration Law^{[footnote 72](#)}. Parties may choose arbitration in advance through contracts or decide on pursuing arbitration after a dispute arises. An arbitration award is legally binding on the parties of the dispute and could be enforced through Civil Judgement Enforcement Agency if the parties do not voluntarily comply.

3.14 3.9.2 Warning letters and settlements

As a self-protection measure under Article 198.1b, a right holder can send a warning letter to trade mark, copyright and related right alleged infringers, asking them to stop the acts of infringement. Persistent follow-ups subsequent to the dispatch of the letter is proved to be efficient to resolve the dispute. A mutual Settlement Agreements or the infringer's signed Undertakings can be used to settle the disputes.

Commentary:

Warning letters are a commonly used self-protection measure. A common strategy is to put the infringer on notice, negotiate and settle the case. In practice, sending warning letters to infringers are considered an initial attempt to educate the infringers of the prior rights of the right holders and normally sent out before any official enforcement actions are taken. This depends on the willingness of the infringer to negotiate with right holders. Warning letters should be accompanied by follow-up to ensure that infringers have understood the contents of the letter and are fully aware of the prior rights of the right holders. Proof of sending a warning letter can serve as evidence of right holders' attempt at amicable settlement should any official dispute resolution proceedings begin.

4. Gender equality social inclusion (GESI) and IP enforcement.

The Prosperity Fund aims to promote gender diversity and social inclusion through all of its programmes. Under the FSIP Programme research into the intersection of GESI and IP enforcement has been undertaken. However, IP is a very complex and broad area and IP enforcement is a tiny component of it.

There is a general lack of information and data on how women and other marginalised groups intersect with IP and specifically IP enforcement. This is partly due to a lack of gender and SI-disaggregated data collected by regulatory and monitoring bodies. At a theoretical level, IP itself (which comprises laws/regulations and intangible assets in the form of intellectual property, which are typically used by businesses) ought to be gender neutral. However, the way IP is created, handled and commercialised leads to interaction with humans, which is where gender risks lie. Added to that, IP and the IP system operate in a wider business and legal world where a multitude of other factors contribute to gender disparities, which therefore, impact IP.

The theoretical neutrality of IP might itself be an opportunity for women to innovate and create, own and commercialise more IP^[footnote 73]. However against this are strong general societal norms such as latent gender bias^[^74], gender stereotypes^[^75], weak labour force participation^[^76], weak ownership of productive assets, more limited management leadership positions^[^77]:

There is some very limited data to measure women's contributions in IP, such as trade marks and copyright. In some IP areas women tend to do better - creative, craft, branding and marketing for example. These are sectors where SMEs are prevalent, and women own higher proportions of small businesses^[^78]. Against this is poor female participation in science, technology, engineering and mathematics (STEM) sectors leading to fewer scientific advances by women and therefore, less patenting. Female scientists and engineers are less than half as likely to obtain a patent for their research as their male colleagues, both in academic and industrial settings^[^79]: The clear conclusion is that the IP gender disparity is towards technology-based IP such as patents whereas copyright and brands appear to have more female participation.

IP is handled in legal, government and related systems. In theory, a legal system is gender neutral, but in practice it is often not^[footnote 80]. The general legal system does have an overriding influence over IP handling. Women and other marginalised groups may face particular barriers in accessing IP remedies and the resources to hire IP advisors or work with government authorities.

IP commercialization is the business end, where women work with IP. SMEs and smaller businesses tend to favour women. Female IP creators/entrepreneurs are therefore important role models (WIPO recognised Dr. Hiep Nguyen from Vietnam for her work in the field of medical engineering^[footnote 81]). Interventions could focus on prioritising IP training and skills for female entrepreneurs, role models for others. The concept that more working women drive national economic improvements is well established^[^82].

<https://www.forbes.com/sites/lorenzomontanari/2018/04/26/how-ip-rights-empower-women/#13a782e96e73>.
^[^74]: Bridging the gender gap in IP, D Burk, 2018,
https://www.wipo.int/wipo_magazine/en/2018/02/article_0001.html. ^[^75]: Data on Gender Equality, OECD, 2018,
<http://www.oecd.org/gender/data/entrenched-social-norms-prevent-the-equal-distribution-of-caring-responsibilities-between-men-and-women.htm>. ^[^76]: Gender Inequality Index by UNDP 2018. ^[^77]: Baird, M., and Ford (2017).
^[^78]: World Bank (2016). ^[^79]: Bridging the Gender Gap in Intellectual Property, Dan Burk, 2018,
https://www.wipo.int/wipo_magazine/en/2018/02/article_0001.html.

Social Inclusion is the second area the FSIP Programme supports. IP tends to drive business, employment, and stronger middle-class growth. However, the benefits for the lower socio-economic population are less clear. There are barriers to entry into protecting IP - first understanding it and second, the cost of creating and protecting or securing IP and starting a business to commercialise IP. In effect IP benefits only accrue above a certain social economic level. Government policy can alleviate this by lowering costs and providing grants. But there is still a fundamental education requirement and costs to securing and using IP.

In developing countries poorer citizens don't have the capital or infrastructure to break into IP; instead the benefits they are able to obtain are through their labour and natural resources. This is exaggerated in countries with physically remote areas like Vietnam. The exception is areas of rich local knowledge^[footnote 83]. This includes biological resources, traditional knowledge and cultural expressions. These are often not commercialised or given much value^[footnote 84]. Many marginalised groups may face particular barriers in accessing IP remedies and the resources to hire IP advisors or work with government authorities.

It is hoped by publishing the above that improvements can be made in these areas in the future⁸² UN Women, [Facts and Figures: Economic Empowerment, 2018. \(http://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures\)](http://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures)

5. Annex 1: Flowchart for criminal procedure for trademark and copyright.

6. Annex 2: Flowchart on customs recordal process for trade marks and/or copyright

7. Annex 3: Contact details for intellectual property offices of ASEAN countries

Country	Contact details	Website
Vietnam	Intellectual Property Office of Vietnam (IP Vietnam) (http://www.ipvietnam.gov.vn/) Address: 384-386, Nguyen Trai Street, Thanh Xuan District, Ha Noi, Tel: (+84)24 3858 3069	(http://www.ipvietnam.gov.vn/)

- <https://www.gov.uk/government/collections/cross-government-prosperity-fund-programmes>
- <https://www.liendoanluatsu.org.vn/>
- World Justice Project, World Justice Project Rule of Law Index 2020, 2020, https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf
- <http://ipvietnam.gov.vn/documents/20182/687634/Baocaothuonngien+2018+.pdf/aa49c9cf-0436-4a27-bd15-c811fa43c94c>
- https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf
- https://trade.ec.europa.eu/doclib/docs/2020/january/tradoc_158561.pdf
- Part III of TRIPS - Articles 41-61
- Law No. 50/2005/QH11 on Intellectual Property issued by the National assembly on 29 November 2005 ("IP Law 2005"), with a number of provisions amended by Law No. 36/2009/QH12 on amendments and supplementations to a number of provisions of IP Law, issued by the National Assembly on 19 June 2009 ("mended IP Law 2009") and Law No. 42/2019/QH14 on amendments and supplementations to a number of provisions of Insurance Business Law and IP Law, issued by the National ssembly on 14 June 2019 ("mended IP Law 2019").
- Copyrights are established at the moment a work is created and fixed in a certain material form, irrespective of its content, quality, form, mode and language and irrespective of whether or not such work has been published or registered (Article 6.1 of IP Law 2005). Related rights shall arise at the moment a performance, audio and visual fixation, broadcast or satellite signal carrying coded programmes is fixed or displayed without
- Except for cases according to Article 25.1a and 25.1dd of the Amended IP Law 2009, i.e. reproduction for scientific research or teaching purposes without commercial purposes and reproduction by libraries for archival and research purposes.
- Except for transcribing a work into braille or into characters of other languages for the blind (Article 25.1i of the Amended IP Law 2009).
- The exceptions and limitations are set out in Article 25.1 of the Amended IP Law 2009.
- Article 5, Decree 131/2013/ND-CP on Sanctioning of Administrative Violations in Copyright and Related Rights issued by the Government on 16 October 2013 ("Decree 131")
- Criminal Code No. 100/2015/QH13 issued by the National ssembly on 27 November 2015 ("2015 Criminal Code").
- Law No. 12/2017/QH14 on Amendments to the 2015 Criminal Code issued by the National Assembly on 20 June 2017.
-
- Article 193 and 194 of the 2015 Criminal Code.
- According to article 143 of the 2015 Criminal Procedure Code, the sources may include individuals' denunciations, reports from agencies, organizations and individuals, reports on the mass media, requisitions from state agencies, direct detection of signs of crimes by the authorities that conduct the proceedings, or the criminals' confessions.
- Article 6, 12, 19 Circular No. 56/2017/TT-BCA issued on 16 November 2017 by the Minister of Public Security Ministry, stipulating the authority for criminal investigation of the Vietnam People's Public Security and

- investigation teams of the investigating police offices under the district-level Public Security Sections ("Circular 56")
20. Circular No. 26/2018/TT-BCA on amendments and supplementations to several provisions of Circular 56 issued by the Minister of Public Security Ministry on 10 August 2018.
 21. Article 19, 20, 21 Law No. 99/2015/QH13 on Organization of Criminal Investigation Bodies issued on 26 November 2015 by the National Assembly.
 22. Circular No. 11/2015/TT-BKHCN, issued on 26 June 2015 by the Minister of Science and Technology (Circular 11), provides "IPR holders may propose technical assistance, including information, documents, means of transport, technical equipment and manpower for competent agencies to investigate, verify and collect evidence and dispose of material evidence and means used in infringements. The financial contribution shall be regarded as reasonable expenses for the protection of industrial property rights and accounted as production costs."
 23. Article 268 of the 2015 Criminal Procedure Code.
 24. According to Article 268.2b of the 2015 Criminal Code, criminal cases with defendants, victims, litigants (i.e. civil plaintiffs, civil defendants, and persons with interests and obligations related to the criminal case) are heard by provincial-level courts. However, for the acts of manufacturing and trading counterfeits (Article 192 of the 2015 Criminal Code), it is not clear by law whether IP holders are considered as "litigants" in criminal cases. Therefore, in practice, there have been counterfeiting cases with foreign IP holders designated to district-level courts for handling. Article 269 of the 2015 Criminal Procedure Code
 25. Article 269 of the 2015 Criminal Procedure Code
 26. Decree 185/2013/ND-CP on Providing the Penalties on Administrative Violations in Commercial Activities, Production of, Trading in Counterfeit or Banned Goods and Protection of Consumer Rights issue by the Government on 15 November 2013 ("Decree 185")
 27. Goods with counterfeit packaging of other businesses, or with labels or packaging that falsely claimed name or address of an entrepreneur, trade name, product name, circulation registration code, bar codes, the indication of the goods' origin, places of manufacturing, packaging and assembly (Article 3.8dd and 3.8e of the Decree 185).
 28. Goods with at least one quality standard or basic technical characteristic creating the goods' use value of 70% or lower comparing with the quality or technical standard applied for the genuine products (Article 3.8b of the Decree 185).
 29. Hearing first-instance cases in accordance with the laws.
 30. District-level Civil Courts handle civil, business, commercial and labour matters that fall into district-level courts' jurisdiction (Article 351a and 361,
 31. Provincial-level Civil Courts handle civil matters that fall into provincial-level courts' jurisdiction (Article 353 of the 2015 Civil Procedure Code)
 32. Provincial-level Economic Courts handle business and commercial matters that fall into provincial-level courts' jurisdiction (Article 371a and 381 of the 2015 Civil Procedure Code).
 33. Article 40.1 of the 2015 Civil Procedure Code.
 34. MoST, Draft report on 10 years of implementation of IP Law, published on MoST's website at www.most.gov.vn/vn/tin-tuc/11919/du-thao-bao-cau-tong-ket-10-nam-thi-hanh-luat-so-huu-tri-tue.aspx on 15 May 2017
 35. For example <http://ipkomododragon.blogspot.com/2019/03/vietnam-civil-copyright-decision.html>
 36. According to Article 203 of the 2005 IP Law, the evidentiary documents may be copies of trade mark, copyright or related right registration certificates, or an extract of the registration information from the National Register of Copyright and Related Rights/ National Register of Industrial Property, evidence on rights to well-known trade marks, copies of IP licensing agreements, etc.
 37. Article 204.1a of the 2005 IP Law
 38. Article 204.1b of the 2005 IP Law
 39. Article 204.2 of the 2005 IP Law
 40. Article 205.1 of the 2005 IP Law, amended under Article 2.11 of the 2019 Amended IP Law
 41. Article 125.2, Vietnam IP Law 2005
 42. Article 24 of Decree 99
 43. Article 27, Decree 105
 44. Law No. 54/2010/QH12 on Commercial Arbitration issued by the National Assembly on 17 June 2010 "Arbitration Law")
 45. How IP Rights Empower Women, Lorenzo Montanari, 2018,

46. Gender Stereotypes in Laws and Court Decisions in SEA, UN Women, 2016, <http://www2.unwomen.org/-/media/field%20office%20eseasia/docs/publications/2016/04/gender%20stereotypes%202.pdf?la=en&vs=3217>.
47. https://www.wipo.int/academy/en/news/2018/news_0008.html
48. [WIPO-UNEP Study on the Role of IPR in the sharing of benefits arising from the use of Biological Resources and Associated Traditional Knowledge, WIPO & UNEP, 2004](https://www.wipo.int/edocs/pubdocs/en/tk/769/wipo_pub_769.pdf)
(https://www.wipo.int/edocs/pubdocs/en/tk/769/wipo_pub_769.pdf)
49. [Protecting Indigenous Knowledge Using IPR Law: The Masakhane Pelargonium Case Z Nokwanda Msomi & S Matthews, 2015]
https://www.researchgate.net/profile/Sally_Matthews/publication/305754768_Protecting_Indigenous_Knowledge_Using_Intellectual_PROPERTY_RIGHTS-LAW-THE-MASAKHANE-PELARGONIUM-CASE.pdf?origin=publication_detail

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EXHIBIT 86

Forum

IPR protection and enforcement in Vietnam is not as strong as it should be

Thursday 05/03/2018 - 10:04

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This year, the American Chamber of Commerce celebrates 24 years serving as the “Voice of American Business” in Vietnam and our members remain committed to helping improve business conditions in order to strengthen the private sector and promote economic and social development here.

Adam Sitkoff

Executive Director, AmCham Hanoi

This year, the American Chamber of Commerce celebrates 24 years serving as the “Voice of American Business” in Vietnam and our members remain committed to helping improve business conditions in order to strengthen the private sector and promote economic and social development here. AmCham is proud of our contributions to the development of Vietnam’s economy. Trade between our two countries passed USD 55 billion last year and see US companies and investors active in almost every sector of Vietnam’s economy. American companies have invested billions of dollars here, integrating Vietnam into the global supply chain, creating quality jobs, and helping the country become more productive, efficient, safe and cleaner. We are confident that the upward growth trend of trade and investment relations between the US and Vietnam will continue, and can strengthen.



Amcham hosts a discussion in Hanoi with members of the US congress to talk about international trade__ Photo: AmCham Hanoi

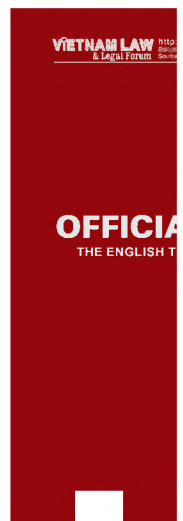
There are great opportunities available to American companies in Vietnam. However, we often see investments that do not materialize due to challenges dealing with corruption and an over-complicated, restricted, and unclear licensing and regulatory environment. AmCham believes it is vital that laws and rules be designed to be enforced fairly and equally. Better results in this area will improve the trust consumers have in the market place. It is also an important issue when considering ways to attract high-quality investment and strengthen the private sector here.

AmCham members remain optimistic about business prospects in Vietnam, and we hope that President Trump is serious about looking into the United States rejoining the Trans Pacific Partnership. However, we are concerned with recent changes in policy and regulations, which are not consistent with international best practices. These changes expose many foreign



**Nine bills, one re
adopted at sixth**

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investors to considerable risks and obstacles in executing their investments. Given the importance the government places on attracting foreign investment, AmCham members look to work in partnership with the government and agencies to help resolve challenges and prevent problems.

AmCham continues our effort to strengthen intellectual property rights protection and enforcement across the whole spectrum of industries in Vietnam. We know that the protection of intellectual property encourages entrepreneurialism, supports private sector development, and promotes growth of high-tech ecosystems and high-paying jobs for educated workers. In addition, IP protection is critical to fostering innovation.

Without protection of ideas, businesses and individuals would not reap the full benefits of their inventions and would focus less on research and development. Similarly, artists would not be fully compensated for their creations and cultural vitality would suffer as a result.

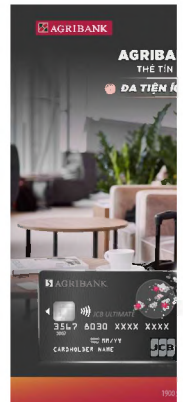
Unfortunately, IPR protection and enforcement in Vietnam is not as strong as it should be and the Government's enforcement mechanisms need improvement to effectively stop, punish and deter IPR infringement here. AmCham recently released a new position paper on intellectual property issues that offers recommendations and specific solutions to solving many of the challenges we see. The paper covered many areas of IP regulation and enforcement including everything from trademark application issues to the substantive examination of utility solution patents.

One major issue is the protection of copyrighted movies and sound recordings. It is no surprise to readers of this magazine that pirated copies of movies and sound recordings are still widely available in Vietnam, and there seems not be a focus or adequate resources allocated to combat piracy. Additionally, online piracy has become an even bigger problem. We believe that stronger mechanisms to combat piracy need to be put in effect and actually enforced to deter infringement. For example, the criminal provisions on copyright piracy have rarely if ever been enforced. Civil remedies can also be an effective deterrent; however, there are many barriers to effective civil actions in Vietnam, such as lack of preliminary injunctions, lack of statutory damages awards, and difficult judgment enforcement procedures.

Our members also want to see the Government simplify copyright registration procedures, and implement stricter enforcement of infringers. In addition, we believe that the capacity of IPR enforcement agencies is lacking and weak - both in terms of technical infrastructure and staff. Some enforcement agencies do not even have any IP specialized officials. Meanwhile, the court system in Vietnam is not capable of resolving quickly, nor effectively, complex IP cases, as judicial experiences and professional knowledge of judges in the IP field are limited. When dealing with IP infringement disputes, most enforcement agencies cannot be proactive, but must depend on expert opinions from specialized agencies. This has prolonged processing time and lowered the quality of IP infringement case settlement. AmCham recommends that the Government strengthen the capacity of IP enforcement agencies with a special focus on improving self-determination of administrative enforcement agencies. We also believe the Government should consider the establishment of IP specialized courts at the local level, to improve the justice available to IP rights-holders.

In addition to enforcement, the Government can and should play a key role in building public awareness about the benefits of IPR and designing and implementing programs that foster respect for IPR. In addition, the Government should raise public awareness about the risks of unlicensed software. In particular, the use of unlicensed software exposes entities to increased malware infections and cybersecurity vulnerabilities.

As major investors here, American companies have a sustained interest in Vietnam's continued success. Our members believe that the business climate can best be helped by actions that increase productivity and reduce the costs and risks of doing business in Vietnam, and smooth the path for the foreign and domestic private sector. We want Vietnam to succeed and AmCham remains committed to helping create a more attractive, transparent, and stable business environment here.-



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EXHIBIT 87

Vietnam-Linked Hackers Steal Intellectual Property from Competitors: Experts

 insurancejournal.com/news/international/2019/12/24/552847.htm

December 24, 2019

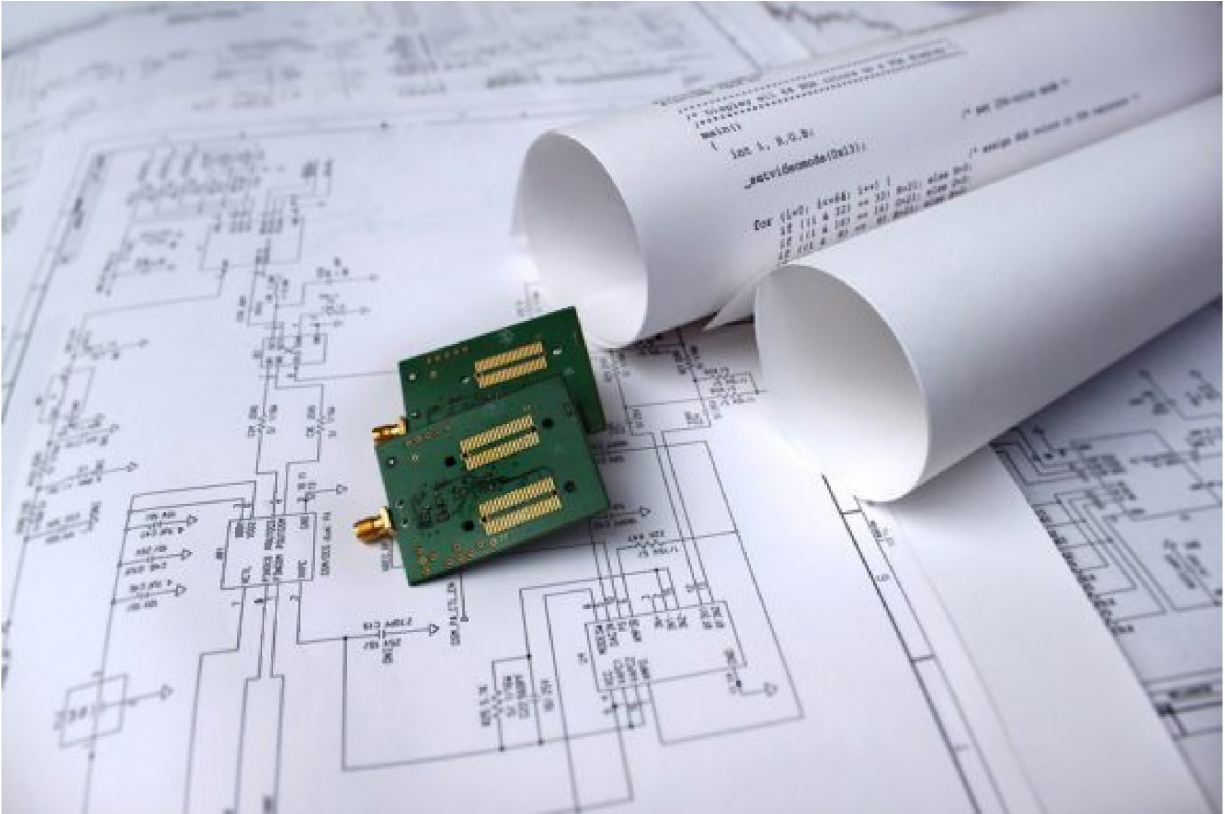


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By Alyza Sebenius | December 24, 2019



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A Vietnam-based hacking group is learning from China's playbook, using increasingly sophisticated cyber attacks to spy on competitors and help Vietnam catch up to global competitors, according to cyber-security experts.

In the last two years, the group, which is believed to be tied to the Vietnamese government and known as APT32, has ramped up its cyber-espionage, particularly in southeast Asia, according to the cyber-security firm CrowdStrike Inc. The hacking group's exploits have included intellectual property theft, the firm said, the same activity for which Chinese hackers are infamous.

The automotive industry has been a key target for APT32, according to multiple experts. For example, APT32 created fake domains for Toyota Motor Corp. and Hyundai Motor Co. in an attempt to infiltrate the automakers' networks, according to a researcher familiar with the matter who requested anonymity discussing companies. In March, Toyota discovered that it was targeted in Vietnam and Thailand and through a subsidiary — Toyota Tokyo Sales Holdings Inc — in Japan, according to spokesman Brian Lyons. A Toyota official, who requested anonymity discussing the hacking group, confirmed that APT32 was responsible.

Vietnam has also targeted American businesses relevant to Vietnam's economy, including the consumer products industry, for years, according to experts. "What's changed more recently, and this is consistent with broader trends in the cyber-threat actor landscape, is that

they are getting better and better at it,” said Andrew Grotto, a fellow at Stanford University who served as the senior director for cyber-security policy on the National Security Council from late 2015 to mid-2017. “They’re becoming more adept at developing their own tools, while at the same time tapping the global malware market for commercial tools.”

The uptick in Vietnam’s economic espionage activity, which began in 2012 and has spiked since 2018 according to CrowdStrike, comes as the Trump administration seeks to curb what many believe has been rampant intellectual property theft by China — former National Security Agency Director Keith Alexander, who served under Presidents Barack Obama and George W. Bush, has called it the “greatest transfer of wealth in history.”

Competitive Edge

The Vietnamese hackers have emulated some of China’s cyber methods, albeit on a significantly smaller scale, the experts said.

Vietnamese government hackers have likely “seen how successful the Chinese have been at building cyber-espionage capabilities and cyber-surveillance capabilities” according to Eric Rosenbach, co-director of the Belfer Center for Science and International Affairs at the Harvard Kennedy School and a former assistant secretary of defense for global security under Obama. As a result, they may be building out or purchasing their own capabilities “either for economic interests or outright theft of intellectual property,” he said.

The Vietnamese foreign ministry and Vietnamese embassy in Washington didn’t respond to requests for comment. A government spokeswoman previously said allegations that state-aligned hackers targeted foreign carmakers were “unfounded.” A representative for the U.S. State Department declined to comment on allegations about economic espionage by Vietnam.

A Hyundai representative didn’t comment on whether it had been targeted by the Vietnamese hacking group, but said that the company “promptly detects and responds to the events of its IT securities.”

Vietnam is part of a growing group of countries — outside of major cyber players such as Russia and China — that are developing and buying cyber capabilities, according former government officials.

“One of the trends that we tracked when I was in the White House was both the broadening of the number of countries that had active cyber programs,” said Michael Daniel, who served as the cyber-security coordinator on the National Security Council under Obama and is now president and chief executive officer of the non-profit group Cyber Threat Alliance. “The ones that have been investing in cyber like Vietnam are continuing to grow in capability.”

Cyber-security experts offered different, and sometimes conflicting, reasons to explain the hacking group's activities, from stealing intellectual property to improve Vietnamese products to gaining a competitive edge in negotiations to ensuring foreign corporations are complying with national regulations.

Ocean Lotus

The cyber-security firm FireEye Inc. has been tracking APT32 — which is also known as Ocean Lotus and Ocean Buffalo — since 2012, according to Nick Carr, a director at the firm. In 2017, his team investigated a series of hacks in the U.S., Germany and multiple countries in Asia and found that the group had spent at least three years targeting foreign governments, journalists, dissidents and “foreign corporations with a vested interest in Vietnam’s manufacturing, consumer products and hospitality sectors.”

“APT32 leverages a unique suite of fully-featured malware, in conjunction with commercially-available tools, to conduct targeted operations that are aligned with Vietnamese state interests,” FireEye reported.

Ongoing tactics by APT32 appear to include registering domains that resemble car companies — a move which can precede phishing attacks, in which credentials are stolen by hackers in order to access internal networks, said John Hultquist, FireEye’s director of intelligence analysis.

“Most recently, we’ve seen suspected APT32 domain registration activity designed to resemble automotive firms,” Hultquist said. “This ongoing registration activity affirms APT32’s continuing interest in foreign automakers doing business in Vietnam.”

FireEye has also seen APT32 collect information on a corporation doing business in Vietnam and then selectively leak it in order to sway public opinion about the firm, according to Carr, who declined to identify the company or provide additional details.

APT32 recently used Facebook to target individuals who are active in Vietnamese politics, according to the Slovakia-based cyber-security firm Eset. In this attack, APT32 hackers sent Facebook messages, or Facebook pages, containing what appeared to be a photo album. When victims scrolled through the album, one of the many photos was in fact a malicious document that installed malware on the computer, said Marc-Etienne M.Léveillé, a researcher at the firm.

Targeting dissidents has been part of a broad surveillance campaign that has included hacking into websites popular with politically active citizens and then using those sites to track them and collect information, said Steven Adair, founder of the cyber-security firm Volexity, Inc. APT32 conducted “a very sophisticated and extremely widespread mass digital surveillance and attack campaign” targeting Asian countries, the media, groups associated with human rights and civil society as well as the Association of Southeast Asian Nations, Volexity reported.

Mini-China Story

While Vietnamese hacking of corporations appears to be on the rise, FireEye has seen a major decline in China's IP theft against corporations — even as the U.S. trade talks with China have emphasized negotiating an end to it. “From China's perspective, we've definitely seen a massive drop off of that,” said Hultquist of FireEye.

But Vietnam is at a significantly earlier stage in development and, like China did years ago, has turned to cyber-espionage as a means of becoming more competitive, said Adam Meyers, CrowdStrike's vice president of intelligence. “This is kind of like a mini-China story,” he said.

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Written By **Alyza Sebenius**

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EXHIBIT 88

Vietnam-tied hackers said to target auto industry

europe.autonews.com/automakers/vietnam-tied-hackers-said-target-auto-industry

March 20, 2019



HANOI -- Vietnamese "state-aligned" hackers are targeting foreign automotive companies in attacks that appear to support the country's vehicle manufacturing goals, according to cybersecurity provider FireEye.

FireEye said the attacks accelerated in early February. The hacking targeted companies in Southeast Asia and "the broader areas surrounding Vietnam," said Nick Carr, a FireEye senior manager.

"Beginning in February, we see this large uptick based on our product and services visibility showing us a lot of activity targeting the automotive industry," Carr said. "It is likely to support the Vietnamese government's publicly stated domestic manufacturing goals for automobiles."

Vietnam's Ministry of Foreign Affairs did not immediately respond to an emailed request for comment. After FireEye published a report detailing the

Vietnamese-linked group's activities in 2017, Ministry of Foreign Affairs spokeswoman Le Thi Thu Hang said the government does not allow any form of cyber-attacks against individuals or organizations.

The recent attacks do not appear to be aimed at acquiring intellectual property; rather, they seem to be looking for corporate operational information, Carr said. "There are other ways to gain a competitive advantage," he said.

FireEye designates the group as APT32 and dates its activities to 2014. The group has targeted security, technology infrastructure and consultancy companies and been a threat to political activists, FireEye said in its 2017 report.



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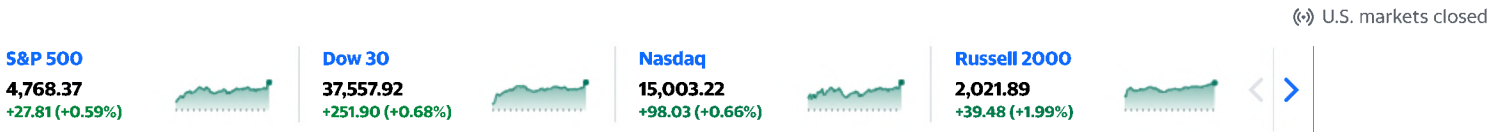
Rising new vehicle prices in the US and Europe are leaving cash-strapped consumers with limited options for cheap cars - and the affordability gap is getting worse as premium-priced electric vehicles enter the market.

While attackers from China, Iran, Russia, and North Korea remain the most active cyber espionage threats tracked by FireEye, groups like APT32 represent a growing number of new countries involved in such activities, Carr said. [read more](#)

The attackers from Vietnam use phishing techniques -- sending emails to induce recipients to reveal compromising information -- and websites infected with malware, he said.

"They are very successful," Carr said. "They are very creative."

EXHIBIT 89

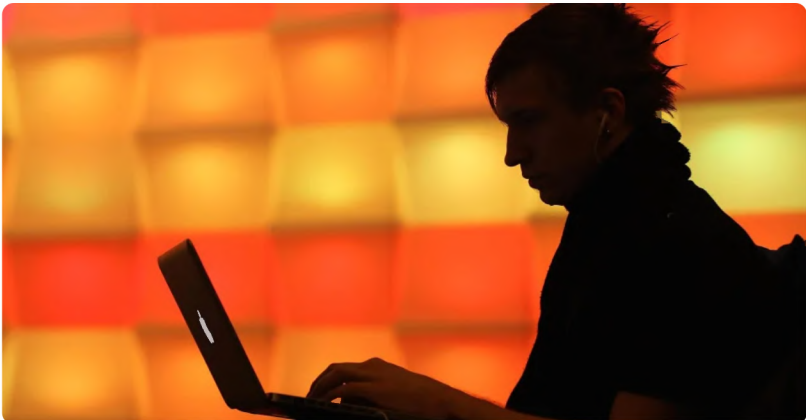


CNBC

Hackers aligned with Vietnam government are attacking foreign companies, says report

Saheli Roy Choudhury

May 15, 2017



Sean Gallup | Getty Images News | Getty Images. Hackers aligned to Vietnam's government are attacking foreign companies, highlighting the growing number of countries conducting cyber-espionage.

Hackers have been carrying out cyberattacks on multinational companies operating in **Vietnam** for several years now, seeking types of information that suggest a possible connection to the Vietnamese government, according to a Monday report.

APT refers to advanced persistent threat — one that involves a continuous hacking process using sophisticated techniques that exploit vulnerabilities within a network.

Nick Carr, a senior manager at FireEye's Mandiant team that responds to threats and incidents, told CNBC what set APT32 apart from other groups was the kind of information the hackers were looking for within a company's breached network.

"Several cases here, it appears APT32 was conducting intrusions to investigate the victims' operations and assess their adherence to regulations," Carr said. "That's where it starts to be really unusual and is a significant departure from the wide-scale intellectual property theft and espionage that you see from a Chinese group, or political espionage or information operations from a Russian group."

To be clear, the attacks carried out by APT32 are unrelated to the [WannaCry ransomware that has hit 200,000 victims in at least 150 countries](#) since Friday.

The FireEye report highlights that victims included foreign companies that had a vested interest in Vietnam's manufacturing, consumer products and hospitality sectors. It also said there were indications that APT32 was targeting peripheral network security and technology infrastructure corporations and consulting firms that had possible connections with foreign investors.

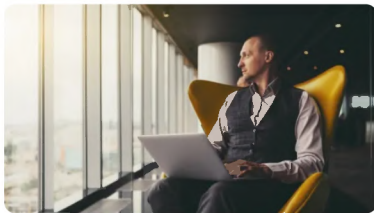
Among the victims were a German manufacturing company

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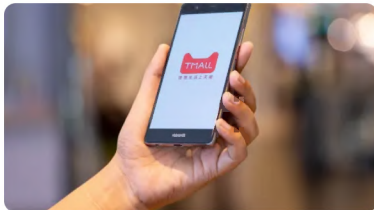
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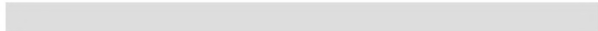


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Vietnamese Hackers Target U.K., U.S., and India with DarkGate Malware

THN thehackernews.com/2023/10/vietnamese-hackers-target-uk-us-and.html

October 20, 2023

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Attacks leveraging the DarkGate commodity malware targeting entities in the U.K., the U.S., and India have been linked to Vietnamese actors associated with the use of the infamous Ducktail stealer.

"The overlap of tools and campaigns is very likely due to the effects of a cybercrime marketplace," WithSecure said in a report published today. "Threat actors are able to acquire and use multiple different tools for the same purpose, and all they have to do is come up with targets, campaigns, and lures."

The development comes amid an uptick in malware campaigns using DarkGate in recent months, primarily driven by its author's decision to rent it out on a malware-as-a-service (MaaS) basis to other threat actors after using it privately since 2018.

It's not just DarkGate and Ducktail, for the Vietnamese threat actor cluster responsible for these campaigns is leveraging same or very similar lures, themes, targeting, and delivery methods to also deliver LOBSHOT and RedLine Stealer.

Attack chains distributing DarkGate are characterized by the use of Autolt scripts retrieved via a Visual Basic Script sent through phishing emails or messages on Skype or Microsoft Teams. The execution of the Autolt script leads to the deployment of DarkGate.

In this case, however, the initial infection vector was a LinkedIn message that redirected the victim to a file hosted on Google Drive, a technique commonly used by Ducktail actors.

"Very similar campaign themes and lures have been used to deliver Ducktail and DarkGate," WithSecure said, although the function of the final-stage differs to a great extent.

While Ducktail functions as a stealer, DarkGate is a remote access trojan (RAT) with information-stealing capabilities that also establishes covert persistence on the compromised hosts for backdoor access.

"DarkGate has been around for a long time and is being used by many groups for different purposes, and not just this group or cluster in Vietnam," security researcher Stephen Robinson, senior threat intelligence analyst at WithSecure, said.

"The flipside of this is that actors can use multiple tools for the same campaign, which could obscure the true extent of their activity from purely malware-based analysis."

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EXHIBIT 91



ANNEX 1C

AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

PART I	GENERAL PROVISIONS AND BASIC PRINCIPLES
PART II	STANDARDS CONCERNING THE AVAILABILITY, SCOPE AND USE OF INTELLECTUAL PROPERTY RIGHTS
1.	Copyright and Related Rights
2.	Trademarks
3.	Geographical Indications
4.	Industrial Designs
5.	Patents
6.	Layout-Designs (Topographies) of Integrated Circuits
7.	Protection of Undisclosed Information
8.	Control of Anti-Competitive Practices in Contractual Licences
PART III	ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS
1.	General Obligations
2.	Civil and Administrative Procedures and Remedies
3.	Provisional Measures
4.	Special Requirements Related to Border Measures
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PART IV	ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS AND RELATED <i>INTER-PARTES</i> PROCEDURES
PART V	DISPUTE PREVENTION AND SETTLEMENT
PART VI	TRANSITIONAL ARRANGEMENTS
PART VII	INSTITUTIONAL ARRANGEMENTS; FINAL PROVISIONS



AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

Members,

Desiring to reduce distortions and impediments to international trade, and taking into account the need to promote effective and adequate protection of intellectual property rights, and to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade;

Recognizing, to this end, the need for new rules and disciplines concerning:

- (a) the applicability of the basic principles of GATT 1994 and of relevant international intellectual property agreements or conventions;
- (b) the provision of adequate standards and principles concerning the availability, scope and use of trade-related intellectual property rights;
- (c) the provision of effective and appropriate means for the enforcement of trade-related intellectual property rights, taking into account differences in national legal systems;
- (d) the provision of effective and expeditious procedures for the multilateral prevention and settlement of disputes between governments; and
- (e) transitional arrangements aiming at the fullest participation in the results of the negotiations;

Recognizing the need for a multilateral framework of principles, rules and disciplines dealing with international trade in counterfeit goods;

Recognizing that intellectual property rights are private rights;

Recognizing the underlying public policy objectives of national systems for the protection of intellectual property, including developmental and technological objectives;

Recognizing also the special needs of the least-developed country Members in respect of maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base;

Emphasizing the importance of reducing tensions by reaching strengthened commitments to resolve disputes on trade-related intellectual property issues through multilateral procedures;

Desiring to establish a mutually supportive relationship between the WTO and the World Intellectual Property Organization (referred to in this Agreement as "WIPO") as well as other relevant international organizations;

Hereby agree as follows:



PART I

GENERAL PROVISIONS AND BASIC PRINCIPLES

*Article 1**Nature and Scope of Obligations*

1. Members shall give effect to the provisions of this Agreement. Members may, but shall not be obliged to, implement in their law more extensive protection than is required by this Agreement, provided that such protection does not contravene the provisions of this Agreement. Members shall be free to determine the appropriate method of implementing the provisions of this Agreement within their own legal system and practice.

2. For the purposes of this Agreement, the term "intellectual property" refers to all categories of intellectual property that are the subject of Sections 1 through 7 of Part II.

3. Members shall accord the treatment provided for in this Agreement to the nationals of other Members.¹ In respect of the relevant intellectual property right, the nationals of other Members shall be understood as those natural or legal persons that would meet the criteria for eligibility for protection provided for in the Paris Convention (1967), the Berne Convention (1971), the Rome Convention and the Treaty on Intellectual Property in Respect of Integrated Circuits, were all Members of the WTO members of those conventions.² Any Member availing itself of the possibilities provided in paragraph 3 of Article 5 or paragraph 2 of Article 6 of the Rome Convention shall make a notification as foreseen in those provisions to the Council for Trade-Related Aspects of Intellectual Property Rights (the "Council for TRIPS").

*Article 2**Intellectual Property Conventions*

1. In respect of Parts II, III and IV of this Agreement, Members shall comply with Articles 1 through 12, and Article 19, of the Paris Convention (1967).

2. Nothing in Parts I to IV of this Agreement shall derogate from existing obligations that Members may have to each other under the Paris Convention, the Berne Convention, the Rome Convention and the Treaty on Intellectual Property in Respect of Integrated Circuits.

¹When "nationals" are referred to in this Agreement, they shall be deemed, in the case of a separate customs territory Member of the WTO, to mean persons, natural or legal, who are domiciled or who have a real and effective industrial or commercial establishment in that customs territory.

²In this Agreement, "Paris Convention" refers to the Paris Convention for the Protection of Industrial Property; "Paris Convention (1967)" refers to the Stockholm Act of this Convention of 14 July 1967. "Berne Convention" refers to the Berne Convention for the Protection of Literary and Artistic Works; "Berne Convention (1971)" refers to the Paris Act of this Convention of 24 July 1971. "Rome Convention" refers to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, adopted at Rome on 26 October 1961. "Treaty on Intellectual Property in Respect of Integrated Circuits" (IPIC Treaty) refers to the Treaty on Intellectual Property in Respect of Integrated Circuits, adopted at Washington on 26 May 1989. "WTO Agreement" refers to the Agreement Establishing the WTO.



Article 3

National Treatment

1. Each Member shall accord to the nationals of other Members treatment no less favourable than that it accords to its own nationals with regard to the protection³ of intellectual property, subject to the exceptions already provided in, respectively, the Paris Convention (1967), the Berne Convention (1971), the Rome Convention or the Treaty on Intellectual Property in Respect of Integrated Circuits. In respect of performers, producers of phonograms and broadcasting organizations, this obligation only applies in respect of the rights provided under this Agreement. Any Member availing itself of the possibilities provided in Article 6 of the Berne Convention (1971) or paragraph 1(b) of Article 16 of the Rome Convention shall make a notification as foreseen in those provisions to the Council for TRIPS.

2. Members may avail themselves of the exceptions permitted under paragraph 1 in relation to judicial and administrative procedures, including the designation of an address for service or the appointment of an agent within the jurisdiction of a Member, only where such exceptions are necessary to secure compliance with laws and regulations which are not inconsistent with the provisions of this Agreement and where such practices are not applied in a manner which would constitute a disguised restriction on trade.

Article 4

Most-Favoured-Nation Treatment

With regard to the protection of intellectual property, any advantage, favour, privilege or immunity granted by a Member to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of all other Members. Exempted from this obligation are any advantage, favour, privilege or immunity accorded by a Member:

- (a) deriving from international agreements on judicial assistance or law enforcement of a general nature and not particularly confined to the protection of intellectual property;
- (b) granted in accordance with the provisions of the Berne Convention (1971) or the Rome Convention authorizing that the treatment accorded be a function not of national treatment but of the treatment accorded in another country;
- (c) in respect of the rights of performers, producers of phonograms and broadcasting organizations not provided under this Agreement;
- (d) deriving from international agreements related to the protection of intellectual property which entered into force prior to the entry into force of the WTO Agreement, provided that such agreements are notified to the Council for TRIPS and do not constitute an arbitrary or unjustifiable discrimination against nationals of other Members.

³For the purposes of Articles 3 and 4, "protection" shall include matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as those matters affecting the use of intellectual property rights specifically addressed in this Agreement.



Article 5

Multilateral Agreements on Acquisition or Maintenance of Protection

The obligations under Articles 3 and 4 do not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

Article 6

Exhaustion

For the purposes of dispute settlement under this Agreement, subject to the provisions of Articles 3 and 4 nothing in this Agreement shall be used to address the issue of the exhaustion of intellectual property rights.

Article 7

Objectives

The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.

Article 8

Principles

1. Members may, in formulating or amending their laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this Agreement.
2. Appropriate measures, provided that they are consistent with the provisions of this Agreement, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.



PART II

STANDARDS CONCERNING THE AVAILABILITY, SCOPE AND USE OF INTELLECTUAL PROPERTY RIGHTS

SECTION 1: COPYRIGHT AND RELATED RIGHTS

Article 9

Relation to the Berne Convention

1. Members shall comply with Articles 1 through 21 of the Berne Convention (1971) and the Appendix thereto. However, Members shall not have rights or obligations under this Agreement in respect of the rights conferred under Article 6bis of that Convention or of the rights derived therefrom.
2. Copyright protection shall extend to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such.

Article 10

Computer Programs and Compilations cf Data

1. Computer programs, whether in source or object code, shall be protected as literary works under the Berne Convention (1971).
2. Compilations of data or other material, whether in machine readable or other form, which by reason of the selection or arrangement of their contents constitute intellectual creations shall be protected as such. Such protection, which shall not extend to the data or material itself, shall be without prejudice to any copyright subsisting in the data or material itself.

Article 11

Rental Rights

In respect of at least computer programs and cinematographic works, a Member shall provide authors and their successors in title the right to authorize or to prohibit the commercial rental to the public of originals or copies of their copyright works. A Member shall be excepted from this obligation in respect of cinematographic works unless such rental has led to widespread copying of such works which is materially impairing the exclusive right of reproduction conferred in that Member on authors and their successors in title. In respect of computer programs, this obligation does not apply to rentals where the program itself is not the essential object of the rental.

Article 12

Term cf Protection

Whenever the term of protection of a work, other than a photographic work or a work of applied art, is calculated on a basis other than the life of a natural person, such term shall be no less than 50 years



from the end of the calendar year of authorized publication, or, failing such authorized publication within 50 years from the making of the work, 50 years from the end of the calendar year of making.

Article 13

Limitations and Exceptions

Members shall confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.

Article 14

Protection of Performers, Producers of Phonograms (Sound Recordings) and Broadcasting Organizations

1. In respect of a fixation of their performance on a phonogram, performers shall have the possibility of preventing the following acts when undertaken without their authorization: the fixation of their unfixed performance and the reproduction of such fixation. Performers shall also have the possibility of preventing the following acts when undertaken without their authorization: the broadcasting by wireless means and the communication to the public of their live performance.
2. Producers of phonograms shall enjoy the right to authorize or prohibit the direct or indirect reproduction of their phonograms.
3. Broadcasting organizations shall have the right to prohibit the following acts when undertaken without their authorization: the fixation, the reproduction of fixations, and the rebroadcasting by wireless means of broadcasts, as well as the communication to the public of television broadcasts of the same. Where Members do not grant such rights to broadcasting organizations, they shall provide owners of copyright in the subject matter of broadcasts with the possibility of preventing the above acts, subject to the provisions of the Berne Convention (1971).
4. The provisions of Article 11 in respect of computer programs shall apply *mutatis mutandis* to producers of phonograms and any other right holders in phonograms as determined in a Member's law. If on 15 April 1994 a Member has in force a system of equitable remuneration of right holders in respect of the rental of phonograms, it may maintain such system provided that the commercial rental of phonograms is not giving rise to the material impairment of the exclusive rights of reproduction of right holders.
5. The term of the protection available under this Agreement to performers and producers of phonograms shall last at least until the end of a period of 50 years computed from the end of the calendar year in which the fixation was made or the performance took place. The term of protection granted pursuant to paragraph 3 shall last for at least 20 years from the end of the calendar year in which the broadcast took place.
6. Any Member may, in relation to the rights conferred under paragraphs 1, 2 and 3, provide for conditions, limitations, exceptions and reservations to the extent permitted by the Rome Convention. However, the provisions of Article 18 of the Berne Convention (1971) shall also apply, *mutatis mutandis*, to the rights of performers and producers of phonograms in phonograms.



SECTION 2: TRADEMARKS

Article 15

Protectable Subject Matter

1. Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colours as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, Members may make registrability depend on distinctiveness acquired through use. Members may require, as a condition of registration, that signs be visually perceptible.
2. Paragraph 1 shall not be understood to prevent a Member from denying registration of a trademark on other grounds, provided that they do not derogate from the provisions of the Paris Convention (1967).
3. Members may make registrability depend on use. However, actual use of a trademark shall not be a condition for filing an application for registration. An application shall not be refused solely on the ground that intended use has not taken place before the expiry of a period of three years from the date of application.
4. The nature of the goods or services to which a trademark is to be applied shall in no case form an obstacle to registration of the trademark.
5. Members shall publish each trademark either before it is registered or promptly after it is registered and shall afford a reasonable opportunity for petitions to cancel the registration. In addition, Members may afford an opportunity for the registration of a trademark to be opposed.

Article 16

Rights Conferred

1. The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Members making rights available on the basis of use.
2. Article 6bis of the Paris Convention (1967) shall apply, *mutatis mutandis*, to services. In determining whether a trademark is well-known, Members shall take account of the knowledge of the trademark in the relevant sector of the public, including knowledge in the Member concerned which has been obtained as a result of the promotion of the trademark.
3. Article 6bis of the Paris Convention (1967) shall apply, *mutatis mutandis*, to goods or services which are not similar to those in respect of which a trademark is registered, provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or



services and the owner of the registered trademark and provided that the interests of the owner of the registered trademark are likely to be damaged by such use.

Article 17

Exceptions

Members may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interests of the owner of the trademark and of third parties.

Article 18

Term of Protection

Initial registration, and each renewal of registration, of a trademark shall be for a term of no less than seven years. The registration of a trademark shall be renewable indefinitely.

Article 19

Requirement of Use

1. If use is required to maintain a registration, the registration may be cancelled only after an uninterrupted period of at least three years of non-use, unless valid reasons based on the existence of obstacles to such use are shown by the trademark owner. Circumstances arising independently of the will of the owner of the trademark which constitute an obstacle to the use of the trademark, such as import restrictions on or other government requirements for goods or services protected by the trademark, shall be recognized as valid reasons for non-use.
2. When subject to the control of its owner, use of a trademark by another person shall be recognized as use of the trademark for the purpose of maintaining the registration.

Article 20

Other Requirements

The use of a trademark in the course of trade shall not be unjustifiably encumbered by special requirements, such as use with another trademark, use in a special form or use in a manner detrimental to its capability to distinguish the goods or services of one undertaking from those of other undertakings. This will not preclude a requirement prescribing the use of the trademark identifying the undertaking producing the goods or services along with, but without linking it to, the trademark distinguishing the specific goods or services in question of that undertaking.



Article 21

Licensing and Assignment

Members may determine conditions on the licensing and assignment of trademarks, it being understood that the compulsory licensing of trademarks shall not be permitted and that the owner of a registered trademark shall have the right to assign the trademark with or without the transfer of the business to which the trademark belongs.

SECTION 3: GEOGRAPHICAL INDICATIONS

Article 22

Protection of Geographical Indications

1. Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
2. In respect of geographical indications, Members shall provide the legal means for interested parties to prevent:
 - (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good;
 - (b) any use which constitutes an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention (1967).
3. A Member shall, *ex officio* if its legislation so permits or at the request of an interested party, refuse or invalidate the registration of a trademark which contains or consists of a geographical indication with respect to goods not originating in the territory indicated, if use of the indication in the trademark for such goods in that Member is of such a nature as to mislead the public as to the true place of origin.
4. The protection under paragraphs 1, 2 and 3 shall be applicable against a geographical indication which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory.



Article 23

Additional Protection for Geographical Indications for Wines and Spirits

1. Each Member shall provide the legal means for interested parties to prevent use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like.⁴
2. The registration of a trademark for wines which contains or consists of a geographical indication identifying wines or for spirits which contains or consists of a geographical indication identifying spirits shall be refused or invalidated, *ex officio* if a Member's legislation so permits or at the request of an interested party, with respect to such wines or spirits not having this origin.
3. In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of paragraph 4 of Article 22. Each Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.
4. In order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system.

Article 24

International Negotiations; Exceptions

1. Members agree to enter into negotiations aimed at increasing the protection of individual geographical indications under Article 23. The provisions of paragraphs 4 through 8 below shall not be used by a Member to refuse to conduct negotiations or to conclude bilateral or multilateral agreements. In the context of such negotiations, Members shall be willing to consider the continued applicability of these provisions to individual geographical indications whose use was the subject of such negotiations.
2. The Council for TRIPS shall keep under review the application of the provisions of this Section; the first such review shall take place within two years of the entry into force of the WTO Agreement. Any matter affecting the compliance with the obligations under these provisions may be drawn to the attention of the Council, which, at the request of a Member, shall consult with any Member or Members in respect of such matter in respect of which it has not been possible to find a satisfactory solution through bilateral or plurilateral consultations between the Members concerned. The Council shall take such action as may be agreed to facilitate the operation and further the objectives of this Section.
3. In implementing this Section, a Member shall not diminish the protection of geographical indications that existed in that Member immediately prior to the date of entry into force of the WTO Agreement.

⁴Notwithstanding the first sentence of Article 42, Members may, with respect to these obligations, instead provide for enforcement by administrative action.



4. Nothing in this Section shall require a Member to prevent continued and similar use of a particular geographical indication of another Member identifying wines or spirits in connection with goods or services by any of its nationals or domiciliaries who have used that geographical indication in a continuous manner with regard to the same or related goods or services in the territory of that Member either (a) for at least 10 years preceding 15 April 1994 or (b) in good faith preceding that date.

5. Where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either:

(a) before the date of application of these provisions in that Member as defined in Part VI;
or

(b) before the geographical indication is protected in its country of origin;

measures adopted to implement this Section shall not prejudice eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with, or similar to, a geographical indication.

6. Nothing in this Section shall require a Member to apply its provisions in respect of a geographical indication of any other Member with respect to goods or services for which the relevant indication is identical with the term customary in common language as the common name for such goods or services in the territory of that Member. Nothing in this Section shall require a Member to apply its provisions in respect of a geographical indication of any other Member with respect to products of the vine for which the relevant indication is identical with the customary name of a grape variety existing in the territory of that Member as of the date of entry into force of the WTO Agreement.

7. A Member may provide that any request made under this Section in connection with the use or registration of a trademark must be presented within five years after the adverse use of the protected indication has become generally known in that Member or after the date of registration of the trademark in that Member provided that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became generally known in that Member, provided that the geographical indication is not used or registered in bad faith.

8. The provisions of this Section shall in no way prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.

9. There shall be no obligation under this Agreement to protect geographical indications which are not or cease to be protected in their country of origin, or which have fallen into disuse in that country.

SECTION 4: INDUSTRIAL DESIGNS

Article 25

Requirements for Protection

1. Members shall provide for the protection of independently created industrial designs that are new or original. Members may provide that designs are not new or original if they do not significantly differ from known designs or combinations of known design features. Members may provide that such protection shall not extend to designs dictated essentially by technical or functional considerations.



2. Each Member shall ensure that requirements for securing protection for textile designs, in particular in regard to any cost, examination or publication, do not unreasonably impair the opportunity to seek and obtain such protection. Members shall be free to meet this obligation through industrial design law or through copyright law.

Article 26

Protection

1. The owner of a protected industrial design shall have the right to prevent third parties not having the owner's consent from making, selling or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes.

2. Members may provide limited exceptions to the protection of industrial designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected industrial designs and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking account of the legitimate interests of third parties.

3. The duration of protection available shall amount to at least 10 years.

SECTION 5: PATENTS

Article 27

Patentable Subject Matter

1. Subject to the provisions of paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application.⁵ Subject to paragraph 4 of Article 65, paragraph 8 of Article 70 and paragraph 3 of this Article, patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology and whether products are imported or locally produced.

2. Members may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their law.

3. Members may also exclude from patentability:

- (a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals;
- (b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof. The

⁵For the purposes of this Article, the terms "inventive step" and "capable of industrial application" may be deemed by a Member to be synonymous with the terms "non-obvious" and "useful" respectively.



provisions of this subparagraph shall be reviewed four years after the date of entry into force of the WTO Agreement.

Article 28

Rights Conferred

1. A patent shall confer on its owner the following exclusive rights:
 - (a) where the subject matter of a patent is a product, to prevent third parties not having the owner's consent from the acts of: making, using, offering for sale, selling, or importing⁶ for these purposes that product;
 - (b) where the subject matter of a patent is a process, to prevent third parties not having the owner's consent from the act of using the process, and from the acts of: using, offering for sale, selling, or importing for these purposes at least the product obtained directly by that process.
2. Patent owners shall also have the right to assign, or transfer by succession, the patent and to conclude licensing contracts.

Article 29

Conditions on Patent Applicants

1. Members shall require that an applicant for a patent shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art and may require the applicant to indicate the best mode for carrying out the invention known to the inventor at the filing date or, where priority is claimed, at the priority date of the application.
2. Members may require an applicant for a patent to provide information concerning the applicant's corresponding foreign applications and grants.

Article 30

Exceptions to Rights Conferred

Members may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

⁶This right, like all other rights conferred under this Agreement in respect of the use, sale, importation or other distribution of goods, is subject to the provisions of Article 6.

*Article 31**Other Use Without Authorization of the Right Holder*

Where the law of a Member allows for other use⁷ of the subject matter of a patent without the authorization of the right holder, including use by the government or third parties authorized by the government, the following provisions shall be respected:

- (a) authorization of such use shall be considered on its individual merits;
- (b) such use may only be permitted if, prior to such use, the proposed user has made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions and that such efforts have not been successful within a reasonable period of time. This requirement may be waived by a Member in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use. In situations of national emergency or other circumstances of extreme urgency, the right holder shall, nevertheless, be notified as soon as reasonably practicable. In the case of public non-commercial use, where the government or contractor, without making a patent search, knows or has demonstrable grounds to know that a valid patent is or will be used by or for the government, the right holder shall be informed promptly;
- (c) the scope and duration of such use shall be limited to the purpose for which it was authorized, and in the case of semi-conductor technology shall only be for public non-commercial use or to remedy a practice determined after judicial or administrative process to be anti-competitive;
- (d) such use shall be non-exclusive;
- (e) such use shall be non-assignable, except with that part of the enterprise or goodwill which enjoys such use;
- (f) any such use shall be authorized predominantly for the supply of the domestic market of the Member authorizing such use;
- (g) authorization for such use shall be liable, subject to adequate protection of the legitimate interests of the persons so authorized, to be terminated if and when the circumstances which led to it cease to exist and are unlikely to recur. The competent authority shall have the authority to review, upon motivated request, the continued existence of these circumstances;
- (h) the right holder shall be paid adequate remuneration in the circumstances of each case, taking into account the economic value of the authorization;
- (i) the legal validity of any decision relating to the authorization of such use shall be subject to judicial review or other independent review by a distinct higher authority in that Member;
- (j) any decision relating to the remuneration provided in respect of such use shall be subject to judicial review or other independent review by a distinct higher authority in that Member;

⁷"Other use" refers to use other than that allowed under Article 30.



- (k) Members are not obliged to apply the conditions set forth in subparagraphs (b) and (f) where such use is permitted to remedy a practice determined after judicial or administrative process to be anti-competitive. The need to correct anti-competitive practices may be taken into account in determining the amount of remuneration in such cases. Competent authorities shall have the authority to refuse termination of authorization if and when the conditions which led to such authorization are likely to recur;
- (l) where such use is authorized to permit the exploitation of a patent ("the second patent") which cannot be exploited without infringing another patent ("the first patent"), the following additional conditions shall apply:
 - (i) the invention claimed in the second patent shall involve an important technical advance of considerable economic significance in relation to the invention claimed in the first patent;
 - (ii) the owner of the first patent shall be entitled to a cross-licence on reasonable terms to use the invention claimed in the second patent; and
 - (iii) the use authorized in respect of the first patent shall be non-assignable except with the assignment of the second patent.

Article 32

Revocation/Forfeiture

An opportunity for judicial review of any decision to revoke or forfeit a patent shall be available.

Article 33

Term of Protection

The term of protection available shall not end before the expiration of a period of twenty years counted from the filing date.⁸

Article 34

Process Patents: Burden of Proof

1. For the purposes of civil proceedings in respect of the infringement of the rights of the owner referred to in paragraph 1(b) of Article 28, if the subject matter of a patent is a process for obtaining a product, the judicial authorities shall have the authority to order the defendant to prove that the process to obtain an identical product is different from the patented process. Therefore, Members shall provide, in at least one of the following circumstances, that any identical product when produced without the consent of the patent owner shall, in the absence of proof to the contrary, be deemed to have been obtained by the patented process:

⁸It is understood that those Members which do not have a system of original grant may provide that the term of protection shall be computed from the filing date in the system of original grant.



- (a) if the product obtained by the patented process is new;
 - (b) if there is a substantial likelihood that the identical product was made by the process and the owner of the patent has been unable through reasonable efforts to determine the process actually used.
2. Any Member shall be free to provide that the burden of proof indicated in paragraph 1 shall be on the alleged infringer only if the condition referred to in subparagraph (a) is fulfilled or only if the condition referred to in subparagraph (b) is fulfilled.
3. In the adduction of proof to the contrary, the legitimate interests of defendants in protecting their manufacturing and business secrets shall be taken into account.

SECTION 6: LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS

Article 35

Relation to the IPIC Treaty

Members agree to provide protection to the layout-designs (topographies) of integrated circuits (referred to in this Agreement as "layout-designs") in accordance with Articles 2 through 7 (other than paragraph 3 of Article 6), Article 12 and paragraph 3 of Article 16 of the Treaty on Intellectual Property in Respect of Integrated Circuits and, in addition, to comply with the following provisions.

Article 36

Scope of the Protection

Subject to the provisions of paragraph 1 of Article 37, Members shall consider unlawful the following acts if performed without the authorization of the right holder:⁹ importing, selling, or otherwise distributing for commercial purposes a protected layout-design, an integrated circuit in which a protected layout-design is incorporated, or an article incorporating such an integrated circuit only in so far as it continues to contain an unlawfully reproduced layout-design.

Article 37

Acts Not Requiring the Authorization of the Right Holder

1. Notwithstanding Article 36, no Member shall consider unlawful the performance of any of the acts referred to in that Article in respect of an integrated circuit incorporating an unlawfully reproduced layout-design or any article incorporating such an integrated circuit where the person performing or ordering such acts did not know and had no reasonable ground to know, when acquiring the integrated circuit or article incorporating such an integrated circuit, that it incorporated an unlawfully reproduced layout-design. Members shall provide that, after the time that such person has received sufficient notice that the layout-design was unlawfully reproduced, that person may perform any of the acts with respect to the stock on hand or ordered before such time, but shall be liable to pay to the right holder a sum

⁹The term "right holder" in this Section shall be understood as having the same meaning as the term "holder of the right" in the IPIC Treaty.



equivalent to a reasonable royalty such as would be payable under a freely negotiated licence in respect of such a layout-design.

2. The conditions set out in subparagraphs (a) through (k) of Article 31 shall apply *mutatis mutandis* in the event of any non-voluntary licensing of a layout-design or of its use by or for the government without the authorization of the right holder.

Article 38

Term of Protection

1. In Members requiring registration as a condition of protection, the term of protection of layout-designs shall not end before the expiration of a period of 10 years counted from the date of filing an application for registration or from the first commercial exploitation wherever in the world it occurs.

2. In Members not requiring registration as a condition for protection, layout-designs shall be protected for a term of no less than 10 years from the date of the first commercial exploitation wherever in the world it occurs.

3. Notwithstanding paragraphs 1 and 2, a Member may provide that protection shall lapse 15 years after the creation of the layout-design.

SECTION 7: PROTECTION OF UNDISCLOSED INFORMATION

Article 39

1. In the course of ensuring effective protection against unfair competition as provided in Article 10*bis* of the Paris Convention (1967), Members shall protect undisclosed information in accordance with paragraph 2 and data submitted to governments or governmental agencies in accordance with paragraph 3.

2. Natural and legal persons shall have the possibility of preventing information lawfully within their control from being disclosed to, acquired by, or used by others without their consent in a manner contrary to honest commercial practices¹⁰ so long as such information:

- (a) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
- (b) has commercial value because it is secret; and
- (c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

3. Members, when requiring, as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, shall protect such data against

¹⁰For the purpose of this provision, "a manner contrary to honest commercial practices" shall mean at least practices such as breach of contract, breach of confidence and inducement to breach, and includes the acquisition of undisclosed information by third parties who knew, or were grossly negligent in failing to know, that such practices were involved in the acquisition.



unfair commercial use. In addition, Members shall protect such data against disclosure, except where necessary to protect the public, or unless steps are taken to ensure that the data are protected against unfair commercial use.

SECTION 8: CONTROL OF ANTI-COMPETITIVE PRACTICES IN CONTRACTUAL LICENCES

Article 40

1. Members agree that some licensing practices or conditions pertaining to intellectual property rights which restrain competition may have adverse effects on trade and may impede the transfer and dissemination of technology.
2. Nothing in this Agreement shall prevent Members from specifying in their legislation licensing practices or conditions that may in particular cases constitute an abuse of intellectual property rights having an adverse effect on competition in the relevant market. As provided above, a Member may adopt, consistently with the other provisions of this Agreement, appropriate measures to prevent or control such practices, which may include for example exclusive grantback conditions, conditions preventing challenges to validity and coercive package licensing, in the light of the relevant laws and regulations of that Member.
3. Each Member shall enter, upon request, into consultations with any other Member which has cause to believe that an intellectual property right owner that is a national or domiciliary of the Member to which the request for consultations has been addressed is undertaking practices in violation of the requesting Member's laws and regulations on the subject matter of this Section, and which wishes to secure compliance with such legislation, without prejudice to any action under the law and to the full freedom of an ultimate decision of either Member. The Member addressed shall accord full and sympathetic consideration to, and shall afford adequate opportunity for, consultations with the requesting Member, and shall cooperate through supply of publicly available non-confidential information of relevance to the matter in question and of other information available to the Member, subject to domestic law and to the conclusion of mutually satisfactory agreements concerning the safeguarding of its confidentiality by the requesting Member.
4. A Member whose nationals or domiciliaries are subject to proceedings in another Member concerning alleged violation of that other Member's laws and regulations on the subject matter of this Section shall, upon request, be granted an opportunity for consultations by the other Member under the same conditions as those foreseen in paragraph 3.



PART III

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

SECTION 1: GENERAL OBLIGATIONS

Article 41

1. Members shall ensure that enforcement procedures as specified in this Part are available under their law so as to permit effective action against any act of infringement of intellectual property rights covered by this Agreement, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.
2. Procedures concerning the enforcement of intellectual property rights shall be fair and equitable. They shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.
3. Decisions on the merits of a case shall preferably be in writing and reasoned. They shall be made available at least to the parties to the proceeding without undue delay. Decisions on the merits of a case shall be based only on evidence in respect of which parties were offered the opportunity to be heard.
4. Parties to a proceeding shall have an opportunity for review by a judicial authority of final administrative decisions and, subject to jurisdictional provisions in a Member's law concerning the importance of a case, of at least the legal aspects of initial judicial decisions on the merits of a case. However, there shall be no obligation to provide an opportunity for review of acquittals in criminal cases.
5. It is understood that this Part does not create any obligation to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of Members to enforce their law in general. Nothing in this Part creates any obligation with respect to the distribution of resources as between enforcement of intellectual property rights and the enforcement of law in general.



SECTION 2: CIVIL AND ADMINISTRATIVE PROCEDURES AND REMEDIES

Article 42

Fair and Equitable Procedures

Members shall make available to right holders¹¹ civil judicial procedures concerning the enforcement of any intellectual property right covered by this Agreement. Defendants shall have the right to written notice which is timely and contains sufficient detail, including the basis of the claims. Parties shall be allowed to be represented by independent legal counsel, and procedures shall not impose overly burdensome requirements concerning mandatory personal appearances. All parties to such procedures shall be duly entitled to substantiate their claims and to present all relevant evidence. The procedure shall provide a means to identify and protect confidential information, unless this would be contrary to existing constitutional requirements.

Article 43

Evidence

1. The judicial authorities shall have the authority, where a party has presented reasonably available evidence sufficient to support its claims and has specified evidence relevant to substantiation of its claims which lies in the control of the opposing party, to order that this evidence be produced by the opposing party, subject in appropriate cases to conditions which ensure the protection of confidential information.

2. In cases in which a party to a proceeding voluntarily and without good reason refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes a procedure relating to an enforcement action, a Member may accord judicial authorities the authority to make preliminary and final determinations, affirmative or negative, on the basis of the information presented to them, including the complaint or the allegation presented by the party adversely affected by the denial of access to information, subject to providing the parties an opportunity to be heard on the allegations or evidence.

Article 44

Injunctions

1. The judicial authorities shall have the authority to order a party to desist from an infringement, *inter alia* to prevent the entry into the channels of commerce in their jurisdiction of imported goods that involve the infringement of an intellectual property right, immediately after customs clearance of such goods. Members are not obliged to accord such authority in respect of protected subject matter acquired or ordered by a person prior to knowing or having reasonable grounds to know that dealing in such subject matter would entail the infringement of an intellectual property right.

2. Notwithstanding the other provisions of this Part and provided that the provisions of Part II specifically addressing use by governments, or by third parties authorized by a government, without the authorization of the right holder are complied with, Members may limit the remedies available against

¹¹For the purpose of this Part, the term "right holder" includes federations and associations having legal standing to assert such rights.



such use to payment of remuneration in accordance with subparagraph (h) of Article 31. In other cases, the remedies under this Part shall apply or, where these remedies are inconsistent with a Member's law, declaratory judgments and adequate compensation shall be available.

Article 45

Damages

1. The judicial authorities shall have the authority to order the infringer to pay the right holder damages adequate to compensate for the injury the right holder has suffered because of an infringement of that person's intellectual property right by an infringer who knowingly, or with reasonable grounds to know, engaged in infringing activity.

2. The judicial authorities shall also have the authority to order the infringer to pay the right holder expenses, which may include appropriate attorney's fees. In appropriate cases, Members may authorize the judicial authorities to order recovery of profits and/or payment of pre-established damages even where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity.

Article 46

Other Remedies

In order to create an effective deterrent to infringement, the judicial authorities shall have the authority to order that goods that they have found to be infringing be, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to avoid any harm caused to the right holder, or, unless this would be contrary to existing constitutional requirements, destroyed. The judicial authorities shall also have the authority to order that materials and implements the predominant use of which has been in the creation of the infringing goods be, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to minimize the risks of further infringements. In considering such requests, the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties shall be taken into account. In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit release of the goods into the channels of commerce.

Article 47

Right of Information

Members may provide that the judicial authorities shall have the authority, unless this would be out of proportion to the seriousness of the infringement, to order the infringer to inform the right holder of the identity of third persons involved in the production and distribution of the infringing goods or services and of their channels of distribution.



Article 48

Indemnification of the Defendant

1. The judicial authorities shall have the authority to order a party at whose request measures were taken and who has abused enforcement procedures to provide to a party wrongfully enjoined or restrained adequate compensation for the injury suffered because of such abuse. The judicial authorities shall also have the authority to order the applicant to pay the defendant expenses, which may include appropriate attorney's fees.

2. In respect of the administration of any law pertaining to the protection or enforcement of intellectual property rights, Members shall only exempt both public authorities and officials from liability to appropriate remedial measures where actions are taken or intended in good faith in the course of the administration of that law.

Article 49

Administrative Procedures

To the extent that any civil remedy can be ordered as a result of administrative procedures on the merits of a case, such procedures shall conform to principles equivalent in substance to those set forth in this Section.

SECTION 3: PROVISIONAL MEASURES

Article 50

1. The judicial authorities shall have the authority to order prompt and effective provisional measures:

- (a) to prevent an infringement of any intellectual property right from occurring, and in particular to prevent the entry into the channels of commerce in their jurisdiction of goods, including imported goods immediately after customs clearance;
- (b) to preserve relevant evidence in regard to the alleged infringement.

2. The judicial authorities shall have the authority to adopt provisional measures *inaudita altera parte* where appropriate, in particular where any delay is likely to cause irreparable harm to the right holder, or where there is a demonstrable risk of evidence being destroyed.

3. The judicial authorities shall have the authority to require the applicant to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant is the right holder and that the applicant's right is being infringed or that such infringement is imminent, and to order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse.

4. Where provisional measures have been adopted *inaudita altera parte*, the parties affected shall be given notice, without delay after the execution of the measures at the latest. A review, including a right to be heard, shall take place upon request of the defendant with a view to deciding, within a



reasonable period after the notification of the measures, whether these measures shall be modified, revoked or confirmed.

5. The applicant may be required to supply other information necessary for the identification of the goods concerned by the authority that will execute the provisional measures.

6. Without prejudice to paragraph 4, provisional measures taken on the basis of paragraphs 1 and 2 shall, upon request by the defendant, be revoked or otherwise cease to have effect, if proceedings leading to a decision on the merits of the case are not initiated within a reasonable period, to be determined by the judicial authority ordering the measures where a Member's law so permits or, in the absence of such a determination, not to exceed 20 working days or 31 calendar days, whichever is the longer.

7. Where the provisional measures are revoked or where they lapse due to any act or omission by the applicant, or where it is subsequently found that there has been no infringement or threat of infringement of an intellectual property right, the judicial authorities shall have the authority to order the applicant, upon request of the defendant, to provide the defendant appropriate compensation for any injury caused by these measures.

8. To the extent that any provisional measure can be ordered as a result of administrative procedures, such procedures shall conform to principles equivalent in substance to those set forth in this Section.

SECTION 4: SPECIAL REQUIREMENTS RELATED TO BORDER MEASURES¹²

Article 51

Suspension of Release by Customs Authorities

Members shall, in conformity with the provisions set out below, adopt procedures¹³ to enable a right holder, who has valid grounds for suspecting that the importation of counterfeit trademark or pirated copyright goods¹⁴ may take place, to lodge an application in writing with competent authorities, administrative or judicial, for the suspension by the customs authorities of the release into free circulation of such goods. Members may enable such an application to be made in respect of goods which involve other infringements of intellectual property rights, provided that the requirements of this Section are

¹²Where a Member has dismantled substantially all controls over movement of goods across its border with another Member with which it forms part of a customs union, it shall not be required to apply the provisions of this Section at that border.

¹³It is understood that there shall be no obligation to apply such procedures to imports of goods put on the market in another country by or with the consent of the right holder, or to goods in transit.

¹⁴For the purposes of this Agreement:

- (a) "counterfeit trademark goods" shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation;
- (b) "pirated copyright goods" shall mean any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation.



met. Members may also provide for corresponding procedures concerning the suspension by the customs authorities of the release of infringing goods destined for exportation from their territories.

Article 52

Application

Any right holder initiating the procedures under Article 51 shall be required to provide adequate evidence to satisfy the competent authorities that, under the laws of the country of importation, there is *prima facie* an infringement of the right holder's intellectual property right and to supply a sufficiently detailed description of the goods to make them readily recognizable by the customs authorities. The competent authorities shall inform the applicant within a reasonable period whether they have accepted the application and, where determined by the competent authorities, the period for which the customs authorities will take action.

Article 53

Security or Equivalent Assurance

1. The competent authorities shall have the authority to require an applicant to provide a security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Such security or equivalent assurance shall not unreasonably deter recourse to these procedures.
2. Where pursuant to an application under this Section the release of goods involving industrial designs, patents, layout-designs or undisclosed information into free circulation has been suspended by customs authorities on the basis of a decision other than by a judicial or other independent authority, and the period provided for in Article 55 has expired without the granting of provisional relief by the duly empowered authority, and provided that all other conditions for importation have been complied with, the owner, importer, or consignee of such goods shall be entitled to their release on the posting of a security in an amount sufficient to protect the right holder for any infringement. Payment of such security shall not prejudice any other remedy available to the right holder, it being understood that the security shall be released if the right holder fails to pursue the right of action within a reasonable period of time.

Article 54

Notice of Suspension

The importer and the applicant shall be promptly notified of the suspension of the release of goods according to Article 51.



Article 55

Duration cf Suspension

If, within a period not exceeding 10 working days after the applicant has been served notice of the suspension, the customs authorities have not been informed that proceedings leading to a decision on the merits of the case have been initiated by a party other than the defendant, or that the duly empowered authority has taken provisional measures prolonging the suspension of the release of the goods, the goods shall be released, provided that all other conditions for importation or exportation have been complied with; in appropriate cases, this time-limit may be extended by another 10 working days. If proceedings leading to a decision on the merits of the case have been initiated, a review, including a right to be heard, shall take place upon request of the defendant with a view to deciding, within a reasonable period, whether these measures shall be modified, revoked or confirmed. Notwithstanding the above, where the suspension of the release of goods is carried out or continued in accordance with a provisional judicial measure, the provisions of paragraph 6 of Article 50 shall apply.

Article 56

Indemnification cf the Importer and cf the Owner cf the Goods

Relevant authorities shall have the authority to order the applicant to pay the importer, the consignee and the owner of the goods appropriate compensation for any injury caused to them through the wrongful detention of goods or through the detention of goods released pursuant to Article 55.

Article 57

Right cf Inspection and Information

Without prejudice to the protection of confidential information, Members shall provide the competent authorities the authority to give the right holder sufficient opportunity to have any goods detained by the customs authorities inspected in order to substantiate the right holder's claims. The competent authorities shall also have authority to give the importer an equivalent opportunity to have any such goods inspected. Where a positive determination has been made on the merits of a case, Members may provide the competent authorities the authority to inform the right holder of the names and addresses of the consignor, the importer and the consignee and of the quantity of the goods in question.

Article 58

Ex Coficio Action

Where Members require competent authorities to act upon their own initiative and to suspend the release of goods in respect of which they have acquired *prima facie* evidence that an intellectual property right is being infringed:

- (a) the competent authorities may at any time seek from the right holder any information that may assist them to exercise these powers;



- (b) the importer and the right holder shall be promptly notified of the suspension. Where the importer has lodged an appeal against the suspension with the competent authorities, the suspension shall be subject to the conditions, *mutatis mutandis*, set out at Article 55;
- (c) Members shall only exempt both public authorities and officials from liability to appropriate remedial measures where actions are taken or intended in good faith.

Article 59

Remedies

Without prejudice to other rights of action open to the right holder and subject to the right of the defendant to seek review by a judicial authority, competent authorities shall have the authority to order the destruction or disposal of infringing goods in accordance with the principles set out in Article 46. In regard to counterfeit trademark goods, the authorities shall not allow the re-exportation of the infringing goods in an unaltered state or subject them to a different customs procedure, other than in exceptional circumstances.

Article 60

De Minimis Imports

Members may exclude from the application of the above provisions small quantities of goods of a non-commercial nature contained in travellers' personal luggage or sent in small consignments.

SECTION 5: CRIMINAL PROCEDURES

Article 61

Members shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity. In appropriate cases, remedies available shall also include the seizure, forfeiture and destruction of the infringing goods and of any materials and implements the predominant use of which has been in the commission of the offence. Members may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, in particular where they are committed wilfully and on a commercial scale.



PART IV

ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY
RIGHTS AND RELATED *INTER-PARTES* PROCEDURES*Article 62*

1. Members may require, as a condition of the acquisition or maintenance of the intellectual property rights provided for under Sections 2 through 6 of Part II, compliance with reasonable procedures and formalities. Such procedures and formalities shall be consistent with the provisions of this Agreement.
2. Where the acquisition of an intellectual property right is subject to the right being granted or registered, Members shall ensure that the procedures for grant or registration, subject to compliance with the substantive conditions for acquisition of the right, permit the granting or registration of the right within a reasonable period of time so as to avoid unwarranted curtailment of the period of protection.
3. Article 4 of the Paris Convention (1967) shall apply *mutatis mutandis* to service marks.
4. Procedures concerning the acquisition or maintenance of intellectual property rights and, where a Member's law provides for such procedures, administrative revocation and *inter partes* procedures such as opposition, revocation and cancellation, shall be governed by the general principles set out in paragraphs 2 and 3 of Article 41.
5. Final administrative decisions in any of the procedures referred to under paragraph 4 shall be subject to review by a judicial or quasi-judicial authority. However, there shall be no obligation to provide an opportunity for such review of decisions in cases of unsuccessful opposition or administrative revocation, provided that the grounds for such procedures can be the subject of invalidation procedures.

PART V

DISPUTE PREVENTION AND SETTLEMENT

*Article 63**Transparency*

1. Laws and regulations, and final judicial decisions and administrative rulings of general application, made effective by a Member pertaining to the subject matter of this Agreement (the availability, scope, acquisition, enforcement and prevention of the abuse of intellectual property rights) shall be published, or where such publication is not practicable made publicly available, in a national language, in such a manner as to enable governments and right holders to become acquainted with them. Agreements concerning the subject matter of this Agreement which are in force between the government or a governmental agency of a Member and the government or a governmental agency of another Member shall also be published.
2. Members shall notify the laws and regulations referred to in paragraph 1 to the Council for TRIPS in order to assist that Council in its review of the operation of this Agreement. The Council shall attempt to minimize the burden on Members in carrying out this obligation and may decide to waive the obligation to notify such laws and regulations directly to the Council if consultations with WIPO on the establishment of a common register containing these laws and regulations are successful.



The Council shall also consider in this connection any action required regarding notifications pursuant to the obligations under this Agreement stemming from the provisions of Article 6^{ter} of the Paris Convention (1967).

3. Each Member shall be prepared to supply, in response to a written request from another Member, information of the sort referred to in paragraph 1. A Member, having reason to believe that a specific judicial decision or administrative ruling or bilateral agreement in the area of intellectual property rights affects its rights under this Agreement, may also request in writing to be given access to or be informed in sufficient detail of such specific judicial decisions or administrative rulings or bilateral agreements.

4. Nothing in paragraphs 1, 2 and 3 shall require Members to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article 64

Dispute Settlement

1. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement except as otherwise specifically provided herein.

2. Subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 shall not apply to the settlement of disputes under this Agreement for a period of five years from the date of entry into force of the WTO Agreement.

3. During the time period referred to in paragraph 2, the Council for TRIPS shall examine the scope and modalities for complaints of the type provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 made pursuant to this Agreement, and submit its recommendations to the Ministerial Conference for approval. Any decision of the Ministerial Conference to approve such recommendations or to extend the period in paragraph 2 shall be made only by consensus, and approved recommendations shall be effective for all Members without further formal acceptance process.

PART VI

TRANSITIONAL ARRANGEMENTS

Article 65

Transitional Arrangements

1. Subject to the provisions of paragraphs 2, 3 and 4, no Member shall be obliged to apply the provisions of this Agreement before the expiry of a general period of one year following the date of entry into force of the WTO Agreement.

2. A developing country Member is entitled to delay for a further period of four years the date of application, as defined in paragraph 1, of the provisions of this Agreement other than Articles 3, 4 and 5.



3. Any other Member which is in the process of transformation from a centrally-planned into a market, free-enterprise economy and which is undertaking structural reform of its intellectual property system and facing special problems in the preparation and implementation of intellectual property laws and regulations, may also benefit from a period of delay as foreseen in paragraph 2.

4. To the extent that a developing country Member is obliged by this Agreement to extend product patent protection to areas of technology not so protectable in its territory on the general date of application of this Agreement for that Member, as defined in paragraph 2, it may delay the application of the provisions on product patents of Section 5 of Part II to such areas of technology for an additional period of five years.

5. A Member availing itself of a transitional period under paragraphs 1, 2, 3 or 4 shall ensure that any changes in its laws, regulations and practice made during that period do not result in a lesser degree of consistency with the provisions of this Agreement.

Article 66

Least-Developed Country Members

1. In view of the special needs and requirements of least-developed country Members, their economic, financial and administrative constraints, and their need for flexibility to create a viable technological base, such Members shall not be required to apply the provisions of this Agreement, other than Articles 3, 4 and 5, for a period of 10 years from the date of application as defined under paragraph 1 of Article 65. The Council for TRIPS shall, upon duly motivated request by a least-developed country Member, accord extensions of this period.

2. Developed country Members shall provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base.

Article 67

Technical Cooperation

In order to facilitate the implementation of this Agreement, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of developing and least-developed country Members. Such cooperation shall include assistance in the preparation of laws and regulations on the protection and enforcement of intellectual property rights as well as on the prevention of their abuse, and shall include support regarding the establishment or reinforcement of domestic offices and agencies relevant to these matters, including the training of personnel.



PART VII

INSTITUTIONAL ARRANGEMENTS; FINAL PROVISIONS

*Article 68**Council for Trade-Related Aspects of
Intellectual Property Rights*

The Council for TRIPS shall monitor the operation of this Agreement and, in particular, Members' compliance with their obligations hereunder, and shall afford Members the opportunity of consulting on matters relating to the trade-related aspects of intellectual property rights. It shall carry out such other responsibilities as assigned to it by the Members, and it shall, in particular, provide any assistance requested by them in the context of dispute settlement procedures. In carrying out its functions, the Council for TRIPS may consult with and seek information from any source it deems appropriate. In consultation with WIPO, the Council shall seek to establish, within one year of its first meeting, appropriate arrangements for cooperation with bodies of that Organization.

*Article 69**International Cooperation*

Members agree to cooperate with each other with a view to eliminating international trade in goods infringing intellectual property rights. For this purpose, they shall establish and notify contact points in their administrations and be ready to exchange information on trade in infringing goods. They shall, in particular, promote the exchange of information and cooperation between customs authorities with regard to trade in counterfeit trademark goods and pirated copyright goods.

*Article 70**Protection of Existing Subject Matter*

1. This Agreement does not give rise to obligations in respect of acts which occurred before the date of application of the Agreement for the Member in question.
2. Except as otherwise provided for in this Agreement, this Agreement gives rise to obligations in respect of all subject matter existing at the date of application of this Agreement for the Member in question, and which is protected in that Member on the said date, or which meets or comes subsequently to meet the criteria for protection under the terms of this Agreement. In respect of this paragraph and paragraphs 3 and 4, copyright obligations with respect to existing works shall be solely determined under Article 18 of the Berne Convention (1971), and obligations with respect to the rights of producers of phonograms and performers in existing phonograms shall be determined solely under Article 18 of the Berne Convention (1971) as made applicable under paragraph 6 of Article 14 of this Agreement.
3. There shall be no obligation to restore protection to subject matter which on the date of application of this Agreement for the Member in question has fallen into the public domain.
4. In respect of any acts in respect of specific objects embodying protected subject matter which become infringing under the terms of legislation in conformity with this Agreement, and which were



commenced, or in respect of which a significant investment was made, before the date of acceptance of the WTO Agreement by that Member, any Member may provide for a limitation of the remedies available to the right holder as to the continued performance of such acts after the date of application of this Agreement for that Member. In such cases the Member shall, however, at least provide for the payment of equitable remuneration.

5. A Member is not obliged to apply the provisions of Article 11 and of paragraph 4 of Article 14 with respect to originals or copies purchased prior to the date of application of this Agreement for that Member.

6. Members shall not be required to apply Article 31, or the requirement in paragraph 1 of Article 27 that patent rights shall be enjoyable without discrimination as to the field of technology, to use without the authorization of the right holder where authorization for such use was granted by the government before the date this Agreement became known.

7. In the case of intellectual property rights for which protection is conditional upon registration, applications for protection which are pending on the date of application of this Agreement for the Member in question shall be permitted to be amended to claim any enhanced protection provided under the provisions of this Agreement. Such amendments shall not include new matter.

8. Where a Member does not make available as of the date of entry into force of the WTO Agreement patent protection for pharmaceutical and agricultural chemical products commensurate with its obligations under Article 27, that Member shall:

- (a) notwithstanding the provisions of Part VI, provide as from the date of entry into force of the WTO Agreement a means by which applications for patents for such inventions can be filed;
- (b) apply to these applications, as of the date of application of this Agreement, the criteria for patentability as laid down in this Agreement as if those criteria were being applied on the date of filing in that Member or, where priority is available and claimed, the priority date of the application; and
- (c) provide patent protection in accordance with this Agreement as from the grant of the patent and for the remainder of the patent term, counted from the filing date in accordance with Article 33 of this Agreement, for those of these applications that meet the criteria for protection referred to in subparagraph (b).

9. Where a product is the subject of a patent application in a Member in accordance with paragraph 8(a), exclusive marketing rights shall be granted, notwithstanding the provisions of Part VI, for a period of five years after obtaining marketing approval in that Member or until a product patent is granted or rejected in that Member, whichever period is shorter, provided that, subsequent to the entry into force of the WTO Agreement, a patent application has been filed and a patent granted for that product in another Member and marketing approval obtained in such other Member.

Article 71

Review and Amendment

1. The Council for TRIPS shall review the implementation of this Agreement after the expiration of the transitional period referred to in paragraph 2 of Article 65. The Council shall, having regard to the experience gained in its implementation, review it two years after that date, and at identical intervals



thereafter. The Council may also undertake reviews in the light of any relevant new developments which might warrant modification or amendment of this Agreement.

2. Amendments merely serving the purpose of adjusting to higher levels of protection of intellectual property rights achieved, and in force, in other multilateral agreements and accepted under those agreements by all Members of the WTO may be referred to the Ministerial Conference for action in accordance with paragraph 6 of Article X of the WTO Agreement on the basis of a consensus proposal from the Council for TRIPS.

Article 72

Reservations

Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.

Article 73

Security Exceptions

Nothing in this Agreement shall be construed:

- (a) to require a Member to furnish any information the disclosure of which it considers contrary to its essential security interests; or
- (b) to prevent a Member from taking any action which it considers necessary for the protection of its essential security interests;
 - (i) relating to fissionable materials or the materials from which they are derived;
 - (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
 - (iii) taken in time of war or other emergency in international relations; or
- (c) to prevent a Member from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

EXHIBIT 92

Paris Convention for the Protection of Industrial Property

of March 20, 1883,

as revised

at Brussels on December 14, 1900, at Washington
on June 2, 1911, at The Hague on November 6, 1925,
at London on June 2, 1934, at Lisbon on October 31, 1958,
and at Stockholm on July 14, 1967,
and as amended on September 28, 1979

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Article 1

[Establishment of the Union; Scope of Industrial Property]¹⁾

(1) The countries to which this Convention applies constitute a Union for the protection of industrial property.

(2) The protection of industrial property has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition.

(3) Industrial property shall be understood in the broadest sense and shall apply not only to industry and commerce proper, but likewise to agricultural and extractive industries and to all manufactured or natural products, for example, wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour.

(4) Patents shall include the various kinds of industrial patents recognized by the laws of the countries of the Union, such as patents of importation, patents of improvement, patents and certificates of addition, etc.

Article 2

[National Treatment for Nationals of Countries of the Union]

(1) Nationals of any country of the Union shall, as regards the protection of industrial property, enjoy in all the other countries of the Union the advantages that their respective laws now grant, or may hereafter grant, to nationals; all without prejudice to the rights specially provided for by this Convention.

Consequently, they shall have the same protection as the latter, and the same legal remedy against any infringement of their rights, provided that the conditions and formalities imposed upon nationals are complied with.

(2) However, no requirement as to domicile or establishment in the country where protection is claimed may be imposed upon nationals of countries of the Union for the enjoyment of any industrial property rights.

(3) The provisions of the laws of each of the countries of the Union relating to judicial and administrative procedure and to jurisdiction, and to the designation of an address for service or the appointment of an agent, which may be required by the laws on industrial property are expressly reserved.

¹ Articles have been given titles to facilitate their identification. There are no titles in the signed (French) text.

Article 3

[Same Treatment for Certain Categories of Persons as for Nationals of Countries of the Union]

Nationals of countries outside the Union who are domiciled or who have real and effective industrial or commercial establishments in the territory of one of the countries of the Union shall be treated in the same manner as nationals of the countries of the Union.

Article 4

[A to I. *Patents, Utility Models, Industrial Designs, Marks, Inventors' Certificates*: Right of Priority. – G. *Patents*: Division of the Application]

A.—

(1) Any person who has duly filed an application for a patent, or for the registration of a utility model, or of an industrial design, or of a trademark, in one of the countries of the Union, or his successor in title, shall enjoy, for the purpose of filing in the other countries, a right of priority during the periods hereinafter fixed.

(2) Any filing that is equivalent to a regular national filing under the domestic legislation of any country of the Union or under bilateral or multilateral treaties concluded between countries of the Union shall be recognized as giving rise to the right of priority.

(3) By a regular national filing is meant any filing that is adequate to establish the date on which the application was filed in the country concerned, whatever may be the subsequent fate of the application.

B. — Consequently, any subsequent filing in any of the other countries of the Union before the expiration of the periods referred to above shall not be invalidated by reason of any acts accomplished in the interval, in particular, another filing, the publication or exploitation of the invention, the putting on sale of copies of the design, or the use of the mark, and such acts cannot give rise to any third-party right or any right of personal possession. Rights acquired by third parties before the date of the first application that serves as the basis for the right of priority are reserved in accordance with the domestic legislation of each country of the Union

C.—

(1) The periods of priority referred to above shall be twelve months for patents and utility models, and six months for industrial designs and trademarks.

(2) These periods shall start from the date of filing of the first application; the day of filing shall not be included in the period.

(3) If the last day of the period is an official holiday, or a day when the Office is not open for the filing of applications in the country where protection is claimed, the period shall be extended until the first following working day.

(4) A subsequent application concerning the same subject as a previous first application within the meaning of paragraph (2), above, filed in the same country of the Union shall be considered as the first application, of which the filing date shall be the starting point of the period of priority, if, at the time of filing the subsequent application, the said previous application has been withdrawn, abandoned, or refused, without having been laid open to public inspection and without leaving any rights outstanding, and if it has not yet served as a basis for claiming a right of priority. The previous application may not thereafter serve as a basis for claiming a right of priority.

D.—

(1) Any person desiring to take advantage of the priority of a previous filing shall be required to make a declaration indicating the date of such filing and the country in which it was made. Each country shall determine the latest date on which such declaration must be made.

(2) These particulars shall be mentioned in the publications issued by the competent authority, and in particular in the patents and the specifications relating thereto.

(3) The countries of the Union may require any person making a declaration of priority to produce a copy of the application (description, drawings, etc.) previously filed. The copy, certified as correct by the authority which received such application, shall not require any authentication, and may

in any case be filed, without fee, at any time within three months of the filing of the subsequent application. They may require it to be accompanied by a certificate from the same authority showing the date of filing, and by a translation.

(4) No other formalities may be required for the declaration of priority at the time of filing the application. Each country of the Union shall determine the consequences of failure to comply with the formalities prescribed by this Article, but such consequences shall in no case go beyond the loss of the right of priority.

(5) Subsequently, further proof may be required.

Any person who avails himself of the priority of a previous application shall be required to specify the number of that application; this number shall be published as provided for by paragraph (2), above.

E.—

(1) Where an industrial design is filed in a country by virtue of a right of priority based on the filing of a utility model, the period of priority shall be the same as that fixed for industrial designs

(2) Furthermore, it is permissible to file a utility model in a country by virtue of a right of priority based on the filing of a patent application, and vice versa.

F. — No country of the Union may refuse a priority or a patent application on the ground that the applicant claims multiple priorities, even if they originate in different countries, or on the ground that an application claiming one or more priorities contains one or more elements that were not included in the application or applications whose priority is claimed, provided that, in both cases, there is unity of invention within the meaning of the law of the country.

With respect to the elements not included in the application or applications whose priority is claimed, the filing of the subsequent application shall give rise to a right of priority under ordinary conditions.

G.—

(1) If the examination reveals that an application for a patent contains more than one invention, the applicant may divide the application into a certain number of divisional applications and preserve as the date of each the date of the initial application and the benefit of the right of priority, if any.

(2) The applicant may also, on his own initiative, divide a patent application and preserve as the date of each divisional application the date of the initial application and the benefit of the right of priority, if any. Each country of the Union shall have the right to determine the conditions under which such division shall be authorized.

H. — Priority may not be refused on the ground that certain elements of the invention for which priority is claimed do not appear among the claims formulated in the application in the country of origin, provided that the application documents as a whole specifically disclose such elements.

I.—

(1) Applications for inventors' certificates filed in a country in which applicants have the right to apply at their own option either for a patent or for an inventor's certificate shall give rise to the right of priority provided for by this Article, under the same conditions and with the same effects as applications for patents.

(2) In a country in which applicants have the right to apply at their own option either for a patent or for an inventor's certificate, an applicant for an inventor's certificate shall, in accordance with the provisions of this Article relating to patent applications, enjoy a right of priority based on an application for a patent, a utility model, or an inventor's certificate.

Article 4^{bis}

[*Patents: Independence of Patents Obtained for the Same Invention in Different Countries*]

(1) Patents applied for in the various countries of the Union by nationals of countries of the Union shall be independent of patents obtained for the same invention in other countries, whether members of the Union or not.

(2) The foregoing provision is to be understood in an unrestricted sense, in particular, in the sense that patents applied for during the period of priority are independent, both as regards the grounds for nullity and forfeiture, and as regards their normal duration.

(3) The provision shall apply to all patents existing at the time when it comes into effect.

(4) Similarly, it shall apply, in the case of the accession of new countries, to patents in existence on either side at the time of accession.

(5) Patents obtained with the benefit of priority shall, in the various countries of the Union, have a duration equal to that which they would have, had they been applied for or granted without the benefit of priority.

Article 4^{ter}

[*Patents: Mention of the Inventor in the Patent*]

The inventor shall have the right to be mentioned as such in the patent.

Article 4^{quater}

[*Patents: Patentability in Case of Restrictions of Sale by Law*]

The grant of a patent shall not be refused and a patent shall not be invalidated on the ground that the sale of the patented product or of a product obtained by means of a patented process is subject to restrictions or limitations resulting from the domestic law.

Article 5

[A. *Patents: Importation of Articles; Failure to Work or Insufficient Working; Compulsory Licenses.* — B. *Industrial Designs: Failure to Work; Importation of Articles.* — C. *Marks: Failure to Use; Different Forms; Use by Co-proprietors.* — D. *Patents, Utility Models, Marks, Industrial Designs: Marking*]

A.—

(1) Importation by the patentee into the country where the patent has been granted of articles manufactured in any of the countries of the Union shall not entail forfeiture of the patent.

(2) Each country of the Union shall have the right to take legislative measures providing for the grant of compulsory licenses to prevent the abuses which might result from the exercise of the exclusive rights conferred by the patent, for example, failure to work.

(3) Forfeiture of the patent shall not be provided for except in cases where the grant of compulsory licenses would not have been sufficient to prevent the said abuses. No proceedings for the forfeiture or revocation of a patent may be instituted before the expiration of two years from the grant of the first compulsory license.

(4) A compulsory license may not be applied for on the ground of failure to work or insufficient working before the expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last; it shall be refused if the patentee justifies his inaction by legitimate reasons. Such a compulsory license shall be non-exclusive and shall not be transferable, even in the form of the grant of a sub-license, except with that part of the enterprise or goodwill which exploits such license.

(5) The foregoing provisions shall be applicable, *mutatis mutandis*, to utility models.

B. — The protection of industrial designs shall not, under any circumstance, be subject to any forfeiture, either by reason of failure to work or by reason of the importation of articles corresponding to those which are protected.

C.—

(1) If, in any country, use of the registered mark is compulsory, the registration may be cancelled only after a reasonable period, and then only if the person concerned does not justify his inaction.

(2) Use of a trademark by the proprietor in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered in one of the countries of the

Union shall not entail invalidation of the registration and shall not diminish the protection granted to the mark.

(3) Concurrent use of the same mark on identical or similar goods by industrial or commercial establishments considered as co-proprietors of the mark according to the provisions of the domestic law of the country where protection is claimed shall not prevent registration or diminish in any way the protection granted to the said mark in any country of the Union, provided that such use does not result in misleading the public and is not contrary to the public interest.

D. — No indication or mention of the patent, of the utility model, of the registration of the trademark, or of the deposit of the industrial design, shall be required upon the goods as a condition of recognition of the right to protection.

Article 5^{bis}

*[All Industrial Property Rights: Period of Grace for
the Payment of Fees for the Maintenance of Rights;
Patents: Restoration]*

(1) A period of grace of not less than six months shall be allowed for the payment of the fees prescribed for the maintenance of industrial property rights, subject, if the domestic legislation so provides, to the payment of a surcharge.

(2) The countries of the Union shall have the right to provide for the restoration of patents which have lapsed by reason of non-payment of fees.

Article 5^{ter}

[Patents: Patented Devices Forming Part of Vessels, Aircraft, or Land Vehicles]

In any country of the Union the following shall not be considered as infringements of the rights of a patentee:

1. the use on board vessels of other countries of the Union of devices forming the subject of his patent in the body of the vessel, in the machinery, tackle, gear and other accessories, when such vessels temporarily or accidentally enter the waters of the said country, provided that such devices are used there exclusively for the needs of the vessel;
2. the use of devices forming the subject of the patent in the construction or operation of aircraft or land vehicles of other countries of the Union, or of accessories of such aircraft or land vehicles, when those aircraft or land vehicles temporarily or accidentally enter the said country.

Article 5^{quater}

*[Patents: Importation of Products Manufactured by
a Process Patented in the Importing Country]*

When a product is imported into a country of the Union where there exists a patent protecting a process of manufacture of the said product, the patentee shall have all the rights, with regard to the imported product, that are accorded to him by the legislation of the country of importation, on the basis of the process patent, with respect to products manufactured in that country.

Article 5^{quinquies}

[Industrial Designs]

Industrial designs shall be protected in all the countries of the Union.

Article 6

[Marks: Conditions of Registration; Independence of Protection of Same Mark in Different Countries]

(1) The conditions for the filing and registration of trademarks shall be determined in each country of the Union by its domestic legislation.

(2) However, an application for the registration of a mark filed by a national of a country of the Union in any country of the Union may not be refused, nor may a registration be invalidated, on the ground that filing, registration, or renewal, has not been effected in the country of origin.

(3) A mark duly registered in a country of the Union shall be regarded as independent of marks registered in the other countries of the Union, including the country of origin.

Article 6^{bis}

[Marks: Well-Known Marks]

(1) The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a mark considered by the competent authority of the country of registration or use to be well known in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods. These provisions shall also apply when the essential part of the mark constitutes a reproduction of any such well-known mark or an imitation liable to create confusion therewith.

(2) A period of at least five years from the date of registration shall be allowed for requesting the cancellation of such a mark. The countries of the Union may provide for a period within which the prohibition of use must be requested.

(3) No time limit shall be fixed for requesting the cancellation or the prohibition of the use of marks registered or used in bad faith.

Article 6^{ter}

[Marks: Prohibitions concerning State Emblems, Official Hallmarks, and Emblems of Intergovernmental Organizations]

(1)

(a) The countries of the Union agree to refuse or to invalidate the registration, and to prohibit by appropriate measures the use, without authorization by the competent authorities, either as trademarks or as elements of trademarks, of armorial bearings, flags, and other State emblems, of the countries of the Union, official signs and hallmarks indicating control and warranty adopted by them, and any imitation from a heraldic point of view.

(b) The provisions of subparagraph (a), above, shall apply equally to armorial bearings, flags, other emblems, abbreviations, and names, of international intergovernmental organizations of which one or more countries of the Union are members, with the exception of armorial bearings, flags, other emblems, abbreviations, and names, that are already the subject of international agreements in force, intended to ensure their protection.

(c) No country of the Union shall be required to apply the provisions of subparagraph (b), above, to the prejudice of the owners of rights acquired in good faith before the entry into force, in that country, of this Convention. The countries of the Union shall not be required to apply the said provisions when the use or registration referred to in subparagraph (a), above, is not of such a nature as to suggest to the public that a connection exists between the organization concerned and the armorial bearings, flags, emblems, abbreviations, and names, or if such use or registration is probably not of such a nature as to mislead the public as to the existence of a connection between the user and the organization.

(2) Prohibition of the use of official signs and hallmarks indicating control and warranty shall apply solely in cases where the marks in which they are incorporated are intended to be used on goods of the same or a similar kind.

(3)

(a) For the application of these provisions, the countries of the Union agree to communicate reciprocally, through the intermediary of the International Bureau, the list of State emblems, and official signs and hallmarks indicating control and warranty, which they desire, or may hereafter desire, to place wholly or within certain limits under the protection of this Article, and all subsequent modifications of such list. Each country of the Union shall in due course make available to the public the lists so communicated. Nevertheless such communication is not obligatory in respect of flags of States.

(*t*) The provisions of subparagraph (*t*) of paragraph (1) of this Article shall apply only to such armorial bearings, flags, other emblems, abbreviations, and names, of international intergovernmental organizations as the latter have communicated to the countries of the Union through the intermediary of the International Bureau.

(4) Any country of the Union may, within a period of twelve months from the receipt of the notification, transmit its objections, if any, through the intermediary of the International Bureau, to the country or international intergovernmental organization concerned.

(5) In the case of State flags, the measures prescribed by paragraph (1), above, shall apply solely to marks registered after November 6, 1925.

(6) In the case of State emblems other than flags, and of official signs and hallmarks of the countries of the Union, and in the case of armorial bearings, flags, other emblems, abbreviations, and names, of international intergovernmental organizations, these provisions shall apply only to marks registered more than two months after receipt of the communication provided for in paragraph (3), above.

(7) In cases of bad faith, the countries shall have the right to cancel even those marks incorporating State emblems, signs, and hallmarks, which were registered before November 6, 1925.

(8) Nationals of any country who are authorized to make use of the State emblems, signs, and hallmarks, of their country may use them even if they are similar to those of another country.

(9) The countries of the Union undertake to prohibit the unauthorized use in trade of the State armorial bearings of the other countries of the Union, when the use is of such a nature as to be misleading as to the origin of the goods.

(10) The above provisions shall not prevent the countries from exercising the right given in paragraph (3) of Article 6^{quinquies}, Section B, to refuse or to invalidate the registration of marks incorporating, without authorization, armorial bearings, flags, other State emblems, or official signs and hallmarks adopted by a country of the Union, as well as the distinctive signs of international intergovernmental organizations referred to in paragraph (1), above.

Article 6^{quater}

[Marks: Assignment of Marks]

(1) When, in accordance with the law of a country of the Union, the assignment of a mark is valid only if it takes place at the same time as the transfer of the business or goodwill to which the mark belongs, it shall suffice for the recognition of such validity that the portion of the business or goodwill located in that country be transferred to the assignee, together with the exclusive right to manufacture in the said country, or to sell therein, the goods bearing the mark assigned.

(2) The foregoing provision does not impose upon the countries of the Union any obligation to regard as valid the assignment of any mark the use of which by the assignee would, in fact, be of such a nature as to mislead the public, particularly as regards the origin, nature, or essential qualities, of the goods to which the mark is applied.

Article 6^{quinquies}

[Marks: Protection of Marks Registered in One Country of the Union in the Other Countries of the Union]

A.—

(1) Every trademark duly registered in the country of origin shall be accepted for filing and protected as is in the other countries of the Union, subject to the reservations indicated in this Article. Such countries may, before proceeding to final registration, require the production of a certificate of registration in the country of origin, issued by the competent authority. No authentication shall be required for this certificate.

(2) Shall be considered the country of origin the country of the Union where the applicant has a real and effective industrial or commercial establishment, or, if he has no such establishment within the Union, the country of the Union where he has his domicile, or, if he has no domicile within the Union but is a national of a country of the Union, the country of which he is a national.

B. — Trademarks covered by this Article may be neither denied registration nor invalidated except in the following cases:

1. when they are of such a nature as to infringe rights acquired by third parties in the country where protection is claimed;
2. when they are devoid of any distinctive character, or consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, place of origin, of the goods, or the time of production, or have become customary in the current language or in the bona fide and established practices of the trade of the country where protection is claimed;
3. when they are contrary to morality or public order and, in particular, of such a nature as to deceive the public. It is understood that a mark may not be considered contrary to public order for the sole reason that it does not conform to a provision of the legislation on marks, except if such provision itself relates to public order.

This provision is subject, however, to the application of Article 10^{bis}.

C.—

(1) In determining whether a mark is eligible for protection, all the factual circumstances must be taken into consideration, particularly the length of time the mark has been in use.

(2) No trademark shall be refused in the other countries of the Union for the sole reason that it differs from the mark protected in the country of origin only in respect of elements that do not alter its distinctive character and do not affect its identity in the form in which it has been registered in the said country of origin.

D. — No person may benefit from the provisions of this Article if the mark for which he claims protection is not registered in the country of origin.

E. — However, in no case shall the renewal of the registration of the mark in the country of origin involve an obligation to renew the registration in the other countries of the Union in which the mark has been registered.

F. — The benefit of priority shall remain unaffected for applications for the registration of marks filed within the period fixed by Article 4, even if registration in the country of origin is effected after the expiration of such period.

Article 6^{sexies}

[Marks: Service Marks]

The countries of the Union undertake to protect service marks. They shall not be required to provide for the registration of such marks.

Article 6^{septies}

[Marks: Registration in the Name of the Agent or Representative of the Proprietor Without the Latter's Authorization]

(1) If the agent or representative of the person who is the proprietor of a mark in one of the countries of the Union applies, without such proprietor's authorization, for the registration of the mark in his own name, in one or more countries of the Union, the proprietor shall be entitled to oppose the registration applied for or demand its cancellation or, if the law of the country so allows, the assignment in his favor of the said registration, unless such agent or representative justifies his action.

(2) The proprietor of the mark shall, subject to the provisions of paragraph (1), above, be entitled to oppose the use of his mark by his agent or representative if he has not authorized such use.

(3) Domestic legislation may provide an equitable time limit within which the proprietor of a mark must exercise the rights provided for in this Article.

Article 7

[Marks: Nature of the Goods to which the Mark is Applied]

The nature of the goods to which a trademark is to be applied shall in no case form an obstacle to the registration of the mark.

Article 7^{bis}

[Marks: Collective Marks]

(1) The countries of the Union undertake to accept for filing and to protect collective marks belonging to associations the existence of which is not contrary to the law of the country of origin, even if such associations do not possess an industrial or commercial establishment.

(2) Each country shall be the judge of the particular conditions under which a collective mark shall be protected and may refuse protection if the mark is contrary to the public interest.

(3) Nevertheless, the protection of these marks shall not be refused to any association the existence of which is not contrary to the law of the country of origin, on the ground that such association is not established in the country where protection is sought or is not constituted according to the law of the latter country.

Article 8

[Trade Names]

A trade name shall be protected in all the countries of the Union without the obligation of filing or registration, whether or not it forms part of a trademark.

Article 9

*[Marks, Trade Names: Seizure, on Importation, etc.,
of Goods Unlawfully Bearing a Mark or Trade Name]*

(1) All goods unlawfully bearing a trademark or trade name shall be seized on importation into those countries of the Union where such mark or trade name is entitled to legal protection.

(2) Seizure shall likewise be effected in the country where the unlawful affixation occurred or in the country into which the goods were imported.

(3) Seizure shall take place at the request of the public prosecutor, or any other competent authority, or any interested party, whether a natural person or a legal entity, in conformity with the domestic legislation of each country.

(4) The authorities shall not be bound to effect seizure of goods in transit.

(5) If the legislation of a country does not permit seizure on importation, seizure shall be replaced by prohibition of importation or by seizure inside the country.

(6) If the legislation of a country permits neither seizure on importation nor prohibition of importation nor seizure inside the country, then, until such time as the legislation is modified accordingly, these measures shall be replaced by the actions and remedies available in such cases to nationals under the law of such country.

Article 10

*[False Indications: Seizure, on Importation, etc.,
of Goods Bearing False Indications as to their Source
or the Identity of the Producer]*

(1) The provisions of the preceding Article shall apply in cases of direct or indirect use of a false indication of the source of the goods or the identity of the producer, manufacturer, or merchant.

(2) Any producer, manufacturer, or merchant, whether a natural person or a legal entity, engaged in the production or manufacture of or trade in such goods and established either in the locality falsely indicated as the source, or in the region where such locality is situated, or in the country falsely indicated, or in the country where the false indication of source is used, shall in any case be deemed an interested party.

Article 10^{bis}
[*Unfair Competition*]

(1) The countries of the Union are bound to assure to nationals of such countries effective protection against unfair competition.

(2) Any act of competition contrary to honest practices in industrial or commercial matters constitutes an act of unfair competition.

(3) The following in particular shall be prohibited:

1. all acts of such a nature as to create confusion by any means whatever with the establishment, the goods, or the industrial or commercial activities, of a competitor;
2. false allegations in the course of trade of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities, of a competitor;
3. indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.

Article 10^{ter}
[*Marks, Trade Names, False Indications, Unfair Competition: Remedies, Right to Sue*]

(1) The countries of the Union undertake to assure to nationals of the other countries of the Union appropriate legal remedies effectively to repress all the acts referred to in Articles 9, 10, and 10^{bis}.

(2) They undertake, further, to provide measures to permit federations and associations representing interested industrialists, producers, or merchants, provided that the existence of such federations and associations is not contrary to the laws of their countries, to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10^{bis}, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

Article 11
[*Inventions, Utility Models, Industrial Designs, Marks: Temporary Protection at Certain International Exhibitions*]

(1) The countries of the Union shall, in conformity with their domestic legislation, grant temporary protection to patentable inventions, utility models, industrial designs, and trademarks, in respect of goods exhibited at official or officially recognized international exhibitions held in the territory of any of them.

(2) Such temporary protection shall not extend the periods provided by Article 4. If, later, the right of priority is invoked, the authorities of any country may provide that the period shall start from the date of introduction of the goods into the exhibition.

(3) Each country may require, as proof of the identity of the article exhibited and of the date of its introduction, such documentary evidence as it considers necessary.

Article 12
[*Special National Industrial Property Services*]

(1) Each country of the Union undertakes to establish a special industrial property service and a central office for the communication to the public of patents, utility models, industrial designs, and trademarks.

(2) This service shall publish an official periodical journal. It shall publish regularly:

- (a) the names of the proprietors of patents granted, with a brief designation of the inventions patented;
- (b) the reproductions of registered trademarks.

Article 13
[Assembly of the Union]

(1)

(a) The Union shall have an Assembly consisting of those countries of the Union which are bound by Articles 13 to 17.

(b) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2)

(a) The Assembly shall:

- (i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Convention;
- (ii) give directions concerning the preparation for conferences of revision to the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as "the Organization"), due account being taken of any comments made by those countries of the Union which are not bound by Articles 13 to 17;
- (iii) review and approve the reports and activities of the Director General of the Organization concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;
- (iv) elect the members of the Executive Committee of the Assembly;
- (v) review and approve the reports and activities of its Executive Committee, and give instructions to such Committee;
- (vi) determine the program and adopt the biennial budget of the Union, and approve its final accounts;
- (vii) adopt the financial regulations of the Union;
- (viii) establish such committees of experts and working groups as it deems appropriate to achieve the objectives of the Union;
- (ix) determine which countries not members of the Union and which intergovernmental and international nongovernmental organizations shall be admitted to its meetings as observers;
- (x) adopt amendments to Articles 13 to 17;
- (xi) take any other appropriate action designed to further the objectives of the Union;
- (xii) perform such other functions as are appropriate under this Convention;
- (xiii) subject to its acceptance, exercise such rights as are given to it in the Convention establishing the Organization.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3)

(a) Subject to the provisions of subparagraph (b), a delegate may represent one country only.

(b) Countries of the Union grouped under the terms of a special agreement in a common office possessing for each of them the character of a special national service of industrial property as referred to in Article 12 may be jointly represented during discussions by one of their number.

(4)

(a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions

concerning its own procedure, all such decisions shall take effect only if the conditions, set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(a) Subject to the provisions of Article 17(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(5)

(a) Subject to the provisions of subparagraph (b), a delegate may vote in the name of one country only.

(b) The countries of the Union referred to in paragraph (3)(b) shall, as a general rule, endeavor to send their own delegations to the sessions of the Assembly. If, however, for exceptional reasons, any such country cannot send its own delegation, it may give to the delegation of another such country the power to vote in its name, provided that each delegation may vote by proxy for one country only. Such power to vote shall be granted in a document signed by the Head of State or the competent Minister.

(6) Countries of the Union not members of the Assembly shall be admitted to the meetings of the latter as observers.

(7)

(a) The Assembly shall meet once in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of the Executive Committee or at the request of one-fourth of the countries members of the Assembly.

(8) The Assembly shall adopt its own rules of procedure.

Article 14

[Executive Committee]

(1) The Assembly shall have an Executive Committee.

(2)

(a) The Executive Committee shall consist of countries elected by the Assembly from among countries members of the Assembly. Furthermore, the country on whose territory the Organization has its headquarters shall, subject to the provisions of Article 16(7)(b), have an ex officio seat on the Committee.

(b) The Government of each country member of the Executive Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(3) The number of countries members of the Executive Committee shall correspond to one-fourth of the number of countries members of the Assembly. In establishing the number of seats to be filled, remainders after division by four shall be disregarded.

(4) In electing the members of the Executive Committee, the Assembly shall have due regard to an equitable geographical distribution and to the need for countries party to the Special Agreements established in relation with the Union to be among the countries constituting the Executive Committee.

(5)

(a) Each member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly.

(b) Members of the Executive Committee may be re-elected, but only up to a maximum of two-thirds of such members.

(c) The Assembly shall establish the details of the rules governing the election and possible re-election of the members of the Executive Committee.

(6)

(a) The Executive Committee shall:

(i) prepare the draft agenda of the Assembly;

(ii) submit proposals to the Assembly in respect of the draft program and biennial budget of the Union prepared by the Director General;

(iii) *[deleted]*

(iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;

(v) take all necessary measures to ensure the execution of the program of the Union by the Director General, in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of the Assembly;

(vi) perform such other functions as are allocated to it under this Convention.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Executive Committee shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(7)

(a) The Executive Committee shall meet once a year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Executive Committee shall meet in extraordinary session upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

(8)

(a) Each country member of the Executive Committee shall have one vote.

(b) One-half of the members of the Executive Committee shall constitute a quorum.

(c) Decisions shall be made by a simple majority of the votes cast.

(a) Abstentions shall not be considered as votes.

(e) A delegate may represent, and vote in the name of, one country only.

(9) Countries of the Union not members of the Executive Committee shall be admitted to its meetings as observers.

(10) The Executive Committee shall adopt its own rules of procedure.

Article 15

[International Bureau]

(1)

(a) Administrative tasks concerning the Union shall be performed by the International Bureau, which is a continuation of the Bureau of the Union united with the Bureau of the Union established by the International Convention for the Protection of Literary and Artistic Works.

(b) In particular, the International Bureau shall provide the secretariat of the various organs of the Union.

(c) The Director General of the Organization shall be the chief executive of the Union and shall represent the Union.

(2) The International Bureau shall assemble and publish information concerning the protection of industrial property. Each country of the Union shall promptly communicate to the International Bureau all new laws and official texts concerning the protection of industrial property. Furthermore, it shall furnish the International Bureau with all the publications of its industrial property service of direct concern to the protection of industrial property which the International Bureau may find useful in its work.

- (3) The International Bureau shall publish a monthly periodical.
- (4) The International Bureau shall, on request, furnish any country of the Union with information on matters concerning the protection of industrial property.
- (5) The International Bureau shall conduct Studies, and shall provide services, designed to facilitate the protection of industrial property.
- (6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Executive Committee, and any other committee of experts or working group. The Director General, or a staff member designated by him, shall be ex officio secretary of these bodies.
- (7)
- (a) The International Bureau shall, in accordance with the directions of the Assembly and in cooperation with the Executive Committee, make the preparations for the conferences of revision of the provisions of the Convention other than Articles 13 to 17.
- (b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision.
- (c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at these conferences.
- (8) The International Bureau shall carry out any other tasks assigned to it.

Article 16

[Finances]

- (1)
- (a) The Union shall have a budget.
- (b) The budget of the Union shall include the income and expenses proper to the Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.
- (c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.
- (2) The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.
- (3) The budget of the Union shall be financed from the following sources:
- (i) contributions of the countries of the Union;
 - (ii) fees and charges due for services rendered by the International Bureau in relation to the Union;
 - (iii) sale of, or royalties on, the publications of the International Bureau concerning the Union;
 - (iv) gifts, bequests, and subventions;
 - (v) rents, interests, and other miscellaneous income.
- (4)
- (a) For the purpose of establishing its contribution towards the budget, each country of the Union shall belong to a class, and shall pay its annual contributions on the basis of a number of units fixed as follows:
- | | |
|-----------------|----|
| Class I | 25 |
| Class II | 20 |
| Class III | 15 |
| Class IV | 10 |
| Class V | 5 |
| Class VI | 3 |
| Class VII | 1 |
- (b) Unless it has already done so, each country shall indicate, concurrently with depositing its instrument of ratification or accession, the class to which it wishes to belong. Any country may change

class. If it chooses a lower class, the country must announce such change to the Assembly at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the said session.

(c) The annual contribution of each country shall be an amount in the same proportion to the total sum to be contributed to the budget of the Union by all countries as the number of its units is to the total of the units of all contributing countries.

(a) Contributions shall become due on the first of January of each year.

(e) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any of the organs of the Union of which it is a member if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Union may allow such a country to continue to exercise its right to vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(j) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Union shall be established, and shall be reported to the Assembly and the Executive Committee, by the Director General.

(6)

(a) The Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the decision to increase it is made.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7)

(a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization. As long as it remains under the obligation to grant advances, such country shall have an ex officio seat on the Executive Committee.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 17

[Amendment of Articles 13 to 17]

(1) Proposals for the amendment of Articles 13, 14, 15, 16, and the present Article, may be initiated by any country member of the Assembly, by the Executive Committee, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 13, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the

countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Union shall bind only those countries which have notified their acceptance of such amendment.

Article 18

[Revision of Articles 1 to 12 and 18 to 30]

(1) This Convention shall be submitted to revision with a view to the introduction of amendments designed to improve the system of the Union.

(2) For that purpose, conferences shall be held successively in one of the countries of the Union among the delegates of the said countries.

(3) Amendments to Articles 13 to 17 are governed by the provisions of Article 17.

Article 19

[Special Agreements]

It is understood that the countries of the Union reserve the right to make separately between themselves special agreements for the protection of industrial property, in so far as these agreements do not contravene the provisions of this Convention.

Article 20

[Ratification or Accession by Countries of the Union; Entry Into Force]

(1)

(a) Any country of the Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it. Instruments of ratification and accession shall be deposited with the Director General.

(b) Any country of the Union may declare in its instrument of ratification or accession that its ratification or accession shall not apply:

(i) to Articles 1 to 12, or

(ii) to Articles 13 to 17.

(c) Any country of the Union which, in accordance with subparagraph (b), has excluded from the effects of its ratification or accession one of the two groups of Articles referred to in that subparagraph may at any later time declare that it extends the effects of its ratification or accession to that group of Articles. Such declaration shall be deposited with the Director General.

(2)

(a) Articles 1 to 12 shall enter into force, with respect to the first ten countries of the Union which have deposited instruments of ratification or accession without making the declaration permitted under paragraph (1)(b)(i), three months after the deposit of the tenth such instrument of ratification or accession.

(b) Articles 13 to 17 shall enter into force, with respect to the first ten countries of the Union which have deposited instruments of ratification or accession without making the declaration permitted under paragraph (1)(b)(ii), three months after the deposit of the tenth such instrument of ratification or accession.

(c) Subject to the initial entry into force, pursuant to the provisions of subparagraphs (a) and (b), of each of the two groups of Articles referred to in paragraph (1)(b)(i) and (ii), and subject to the provisions of paragraph (1)(b), Articles 1 to 17 shall, with respect to any country of the Union, other than those referred to in subparagraphs (a) and (b), which deposits an instrument of ratification or accession or any country of the Union which deposits a declaration pursuant to paragraph (1)(c), enter into force three months after the date of notification by the Director General of such deposit, unless a subsequent date has been indicated in the instrument or declaration deposited. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(3) With respect to any country of the Union which deposits an instrument of ratification or accession, Articles 18 to 30 shall enter into force on the earlier of the dates on which any of the groups of Articles referred to in paragraph (1)(b) enters into force with respect to that country pursuant to paragraph (2)(a), (b), or (c).

Article 21

[Accession by Countries Outside the Union; Entry Into Force]

(1) Any country outside the Union may accede to this Act and thereby become a member of the Union. Instruments of accession shall be deposited with the Director General.

(2)

(a) With respect to any country outside the Union which deposits its instrument of accession one month or more before the date of entry into force of any provisions of the present Act, this Act shall enter into force, unless a subsequent date has been indicated in the instrument of accession, on the date upon which provisions first enter into force pursuant to Article 20(2)(a) or (b); provided that:

- (i) if Articles 1 to 12 do not enter into force on that date, such country shall, during the interim period before the entry into force of such provisions, and in substitution therefor, be bound by Articles 1 to 12 of the Lisbon Act,
- (ii) if Articles 13 to 17 do not enter into force on that date, such country shall, during the interim period before the entry into force of such provisions, and in substitution therefor, be bound by Articles 13 and 14(3), (4), and (5), of the Lisbon Act.

If a country indicates a subsequent date in its instrument of accession, this Act shall enter into force with respect to that country on the date thus indicated.

(b) With respect to any country outside the Union which deposits its instrument of accession on a date which is subsequent to, or precedes by less than one month, the entry into force of one group of Articles of the present Act, this Act shall, subject to the proviso of subparagraph (a), enter into force three months after the date on which its accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(3) With respect to any country outside the Union which deposits its instrument of accession after the date of entry into force of the present Act in its entirety, or less than one month before such date, this Act shall enter into force three months after the date on which its accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

Article 22

[Consequences of Ratification or Accession]

Subject to the possibilities of exceptions provided for in Articles 20(1)(b) and 28(2), ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

Article 23

[Accession to Earlier Acts]

After the entry into force of this Act in its entirety, a country may not accede to earlier Acts of this Convention.

Article 24

[Territories]

(1) Any country may declare in its instrument of ratification or accession, or may inform the Director General by written notification any time thereafter, that this Convention shall be applicable to all or part of those territories, designated in the declaration or notification, for the external relations of which it is responsible.

(2) Any country which has made such a declaration or given such a notification may, at any time, notify the Director General that this Convention shall cease to be applicable to all or part of such territories.

(3)

(a) Any declaration made under paragraph (1) shall take effect on the same date as the ratification or accession in the instrument of which it was included, and any notification given under such paragraph shall take effect three months after its notification by the Director General.

(b) Any notification given under paragraph (2) shall take effect twelve months after its receipt by the Director General.

Article 25

[Implementation of the Convention on the Domestic Level]

(1) Any country party to this Convention undertakes to adopt, in accordance with its constitution, the measures necessary to ensure the application of this Convention.

(2) It is understood that, at the time a country deposits its instrument of ratification or accession, it will be in a position under its domestic law to give effect to the provisions of this Convention.

Article 26

[Denunciation]

(1) This Convention shall remain in force without limitation as to time.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of all earlier Acts and shall affect only the country making it, the Convention remaining in full force and effect as regards the other countries of the Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Union.

Article 27

[Application of Earlier Acts]

(1) The present Act shall, as regards the relations between the countries to which it applies, and to the extent that it applies, replace the Convention of Paris of March 20, 1883 and the subsequent Acts of revision.

(2)

(a) As regards the countries to which the present Act does not apply, or does not apply in its entirety, but to which the Lisbon Act of October 31, 1958, applies, the latter shall remain in force in its entirety or to the extent that the present Act does not replace it by virtue of paragraph (1).

(b) Similarly, as regards the countries to which neither the present Act, nor portions thereof, nor the Lisbon Act applies, the London Act of June 2, 1934, shall remain in force in its entirety or to the extent that the present Act does not replace it by virtue of paragraph (1).

(c) Similarly, as regards the countries to which neither the present Act, nor portions thereof, nor the Lisbon Act, nor the London Act applies, the Hague Act of November 6, 1925, shall remain in force in its entirety or to the extent that the present Act does not replace it by virtue of paragraph (1).

(3) Countries outside the Union which become party to this Act shall apply it with respect to any country of the Union not party to this Act or which, although party to this Act, has made a declaration pursuant to Article 20(1)(b)(i). Such countries recognize that the said country of the Union may apply, in its relations with them, the provisions of the most recent Act to which it is party.

Article 28

[Disputes]

(1) Any dispute between two or more countries of the Union concerning the interpretation or application of this Convention, not settled by negotiation, may, by any one of the countries concerned, be brought before the International Court of Justice by application in conformity with the Statute of the Court, unless the countries concerned agree on some other method of settlement. The country bringing the dispute before

the Court shall inform the International Bureau; the International Bureau shall bring the matter to the attention of the other countries of the Union.

(2) Each country may, at the time it signs this Act or deposits its instrument of ratification or accession, declare that it does not consider itself bound by the provisions of paragraph (1). With regard to any dispute between such country and any other country of the Union, the provisions of paragraph (1) shall not apply.

(3) Any country having made a declaration in accordance with the provisions of paragraph (2) may, at any time, withdraw its declaration by notification addressed to the Director General.

Article 29

[Signature, Languages, Depositary Functions]

(1)

(a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in the English, German, Italian, Portuguese, Russian and Spanish languages, and such other languages as the Assembly may designate.

(c) In case of differences of opinion on the interpretation of the various texts, the French text shall prevail.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Union of signatures, deposits of instruments of ratification or accession and any declarations included in such instruments or made pursuant to Article 20(1)(c), entry into force of any provisions of this Act, notifications of denunciation, and notifications pursuant to Article 24.

Article 30

[Transitional Provisions]

(1) Until the first Director General assumes office, references in this Act to the International Bureau of the Organization or to the Director General shall be deemed to be references to the Bureau of the Union or its Director, respectively.

(2) Countries of the Union not bound by Articles 13 to 17 may, until five years after the entry into force of the Convention establishing the Organization, exercise, if they so desire, the rights provided under Articles 13 to 17 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to that effect to the Director General; such notification shall be effective from the date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

(3) As long as all the countries of the Union have not become Members of the Organization, the International Bureau of the Organization shall also function as the Bureau of the Union, and the Director General as the Director of the said Bureau.

(4) Once all the countries of the Union have become Members of the Organization, the rights, obligations, and property, of the Bureau of the Union shall devolve on the International Bureau of the Organization.

EXHIBIT 93



Convention on Cybercrime

Budapest, 23.XI.2001

Preamble

The member States of the Council of Europe and the other States signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Recognising the value of fostering co-operation with the other States parties to this Convention;

Convinced of the need to pursue, as a matter of priority, a common criminal policy aimed at the protection of society against cybercrime, *inter alia*, by adopting appropriate legislation and fostering international co-operation;

Conscious of the profound changes brought about by the digitalisation, convergence and continuing globalisation of computer networks;

Concerned by the risk that computer networks and electronic information may also be used for committing criminal offences and that evidence relating to such offences may be stored and transferred by these networks;

Recognising the need for co-operation between States and private industry in combating cybercrime and the need to protect legitimate interests in the use and development of information technologies;

Believing that an effective fight against cybercrime requires increased, rapid and well-functioning international co-operation in criminal matters;

Convinced that the present Convention is necessary to deter action directed against the confidentiality, integrity and availability of computer systems, networks and computer data as well as the misuse of such systems, networks and data by providing for the criminalisation of such conduct, as described in this Convention, and the adoption of powers sufficient for effectively combating such criminal offences, by facilitating their detection, investigation and prosecution at both the domestic and international levels and by providing arrangements for fast and reliable international co-operation;

Mindful of the need to ensure a proper balance between the interests of law enforcement and respect for fundamental human rights as enshrined in the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 United Nations International Covenant on Civil and Political Rights and other applicable international human rights treaties, which reaffirm the right of everyone to hold opinions without interference, as well as the right to freedom of expression, including the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, and the rights concerning the respect for privacy;

Mindful also of the right to the protection of personal data, as conferred, for example, by the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data;

Considering the 1989 United Nations Convention on the Rights of the Child and the 1999 International Labour Organization Worst Forms of Child Labour Convention;

Taking into account the existing Council of Europe conventions on co-operation in the penal field, as well as similar treaties which exist between Council of Europe member States and other States, and stressing that the present Convention is intended to supplement those conventions in order to make criminal investigations and proceedings concerning criminal offences related to computer systems and data more effective and to enable the collection of evidence in electronic form of a criminal offence;

Welcoming recent developments which further advance international understanding and co-operation in combating cybercrime, including action taken by the United Nations, the OECD, the European Union and the G8;

Recalling Committee of Ministers Recommendations No. R (85) 10 concerning the practical application of the European Convention on Mutual Assistance in Criminal Matters in respect of letters rogatory for the interception of telecommunications, No. R (88) 2 on piracy in the field of copyright and neighbouring rights, No. R (87) 15 regulating the use of personal data in the police sector, No. R (95) 4 on the protection of personal data in the area of telecommunication services, with particular reference to telephone services, as well as No. R (89) 9 on computer-related crime providing guidelines for national legislatures concerning the definition of certain computer crimes and No. R (95) 13 concerning problems of criminal procedural law connected with information technology;

Having regard to Resolution No. 1 adopted by the European Ministers of Justice at their 21st Conference (Prague, 10 and 11 June 1997), which recommended that the Committee of Ministers support the work on cybercrime carried out by the European Committee on Crime Problems (CDPC) in order to bring domestic criminal law provisions closer to each other and enable the use of effective means of investigation into such offences, as well as to Resolution No. 3 adopted at the 23rd Conference of the European Ministers of Justice (London, 8 and 9 June 2000), which encouraged the negotiating parties to pursue their efforts with a view to finding appropriate solutions to enable the largest possible number of States to become parties to the Convention and acknowledged the need for a swift and efficient system of international co-operation, which duly takes into account the specific requirements of the fight against cybercrime;

Having also regard to the Action Plan adopted by the Heads of State and Government of the Council of Europe on the occasion of their Second Summit (Strasbourg, 10 and 11 October 1997), to seek common responses to the development of the new information technologies based on the standards and values of the Council of Europe;

Have agreed as follows:

Chapter I – Use of terms

Article 1 – Definitions

For the purposes of this Convention:

- a "computer system" means any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data;
- b "computer data" means any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function;
- c "service provider" means:
 - i any public or private entity that provides to users of its service the ability to communicate by means of a computer system, and
 - ii any other entity that processes or stores computer data on behalf of such communication service or users of such service.
- d "traffic data" means any computer data relating to a communication by means of a computer system, generated by a computer system that formed a part in the chain of communication, indicating the communication's origin, destination, route, time, date, size, duration, or type of underlying service.

Chapter II – Measures to be taken at the national level

Section 1 – Substantive criminal law

Title 1 – Offences against the confidentiality, integrity and availability of computer data and systems

Article 2 – Illegal access

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the access to the whole or any part of a computer system without right. A Party may require that the offence be committed by infringing security measures, with the intent of obtaining computer data or other dishonest intent, or in relation to a computer system that is connected to another computer system.

Article 3 – Illegal interception

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the interception without right, made by technical means, of non-public transmissions of computer data to, from or within a computer system, including electromagnetic emissions from a computer system carrying such computer data. A Party may require that the offence be committed with dishonest intent, or in relation to a computer system that is connected to another computer system.

Article 4 – Data interference

- 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the damaging, deletion, deterioration, alteration or suppression of computer data without right.
- 2 A Party may reserve the right to require that the conduct described in paragraph 1 result in serious harm.

Article 5 – System interference

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the serious hindering without right of the functioning of a computer system by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing computer data.

Article 6 – Misuse of devices

- 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right:
 - a the production, sale, procurement for use, import, distribution or otherwise making available of:
 - i a device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences established in accordance with Articles 2 through 5;
 - ii a computer password, access code, or similar data by which the whole or any part of a computer system is capable of being accessed,with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5; and
 - b the possession of an item referred to in paragraphs a.i or ii above, with intent that it be used for the purpose of committing any of the offences established in Articles 2 through 5. A Party may require by law that a number of such items be possessed before criminal liability attaches.
- 2 This article shall not be interpreted as imposing criminal liability where the production, sale, procurement for use, import, distribution or otherwise making available or possession referred to in paragraph 1 of this article is not for the purpose of committing an offence established in accordance with Articles 2 through 5 of this Convention, such as for the authorised testing or protection of a computer system.
- 3 Each Party may reserve the right not to apply paragraph 1 of this article, provided that the reservation does not concern the sale, distribution or otherwise making available of the items referred to in paragraph 1 a.ii of this article.

Title 2 – Computer-related offences

Article 7 – Computer-related forgery

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion, or suppression of computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches.

Article 8 – Computer-related fraud

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by:

- a any input, alteration, deletion or suppression of computer data,
- b any interference with the functioning of a computer system,

with fraudulent or dishonest intent of procuring, without right, an economic benefit for oneself or for another person.

Title 3 – Content-related offences

Article 9 – Offences related to child pornography

- 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:
 - a producing child pornography for the purpose of its distribution through a computer system;
 - b offering or making available child pornography through a computer system;
 - c distributing or transmitting child pornography through a computer system;
 - d procuring child pornography through a computer system for oneself or for another person;
 - e possessing child pornography in a computer system or on a computer-data storage medium.
- 2 For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts:
 - a a minor engaged in sexually explicit conduct;
 - b a person appearing to be a minor engaged in sexually explicit conduct;
 - c realistic images representing a minor engaged in sexually explicit conduct.

- 3 For the purpose of paragraph 2 above, the term "minor" shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years.
- 4 Each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d and e, and 2, sub-paragraphs b and c.

Title 4 – Offences related to infringements of copyright and related rights

Article 10 – Offences related to infringements of copyright and related rights

- 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of copyright, as defined under the law of that Party, pursuant to the obligations it has undertaken under the Paris Act of 24 July 1971 revising the Bern Convention for the Protection of Literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.
- 2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the infringement of related rights, as defined under the law of that Party, pursuant to the obligations it has undertaken under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Performances and Phonograms Treaty, with the exception of any moral rights conferred by such conventions, where such acts are committed wilfully, on a commercial scale and by means of a computer system.
- 3 A Party may reserve the right not to impose criminal liability under paragraphs 1 and 2 of this article in limited circumstances, provided that other effective remedies are available and that such reservation does not derogate from the Party's international obligations set forth in the international instruments referred to in paragraphs 1 and 2 of this article.

Title 5 – Ancillary liability and sanctions

Article 11 – Attempt and aiding or abetting

- 1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 2 through 10 of the present Convention with intent that such offence be committed.
- 2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, an attempt to commit any of the offences established in accordance with Articles 3 through 5, 7, 8, and 9.1.a and c of this Convention.
- 3 Each Party may reserve the right not to apply, in whole or in part, paragraph 2 of this article.

Article 12 – Corporate liability

- 1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for a criminal offence established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within it, based on:

- a a power of representation of the legal person;
 - b an authority to take decisions on behalf of the legal person;
 - c an authority to exercise control within the legal person.
- 2 In addition to the cases already provided for in paragraph 1 of this article, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.
- 3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.
- 4 Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.

Article 13 – Sanctions and measures

- 1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 2 through 11 are punishable by effective, proportionate and dissuasive sanctions, which include deprivation of liberty.
- 2 Each Party shall ensure that legal persons held liable in accordance with Article 12 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.

Section 2 – Procedural law

Title 1 – Common provisions

Article 14 – Scope of procedural provisions

- 1 Each Party shall adopt such legislative and other measures as may be necessary to establish the powers and procedures provided for in this section for the purpose of specific criminal investigations or proceedings.
- 2 Except as specifically provided otherwise in Article 21, each Party shall apply the powers and procedures referred to in paragraph 1 of this article to:
- a the criminal offences established in accordance with Articles 2 through 11 of this Convention;
 - b other criminal offences committed by means of a computer system; and
 - c the collection of evidence in electronic form of a criminal offence.
- 3 a Each Party may reserve the right to apply the measures referred to in Article 20 only to offences or categories of offences specified in the reservation, provided that the range of such offences or categories of offences is not more restricted than the range of offences to which it applies the measures referred to in Article 21. Each Party shall consider restricting such a reservation to enable the broadest application of the measure referred to in Article 20.

- b Where a Party, due to limitations in its legislation in force at the time of the adoption of the present Convention, is not able to apply the measures referred to in Articles 20 and 21 to communications being transmitted within a computer system of a service provider, which system:
 - i is being operated for the benefit of a closed group of users, and
 - ii does not employ public communications networks and is not connected with another computer system, whether public or private,
- that Party may reserve the right not to apply these measures to such communications. Each Party shall consider restricting such a reservation to enable the broadest application of the measures referred to in Articles 20 and 21.

Article 15 – Conditions and safeguards

- 1 Each Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this Section are subject to conditions and safeguards provided for under its domestic law, which shall provide for the adequate protection of human rights and liberties, including rights arising pursuant to obligations it has undertaken under the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 United Nations International Covenant on Civil and Political Rights, and other applicable international human rights instruments, and which shall incorporate the principle of proportionality.
- 2 Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, *inter alia*, include judicial or other independent supervision, grounds justifying application, and limitation of the scope and the duration of such power or procedure.
- 3 To the extent that it is consistent with the public interest, in particular the sound administration of justice, each Party shall consider the impact of the powers and procedures in this section upon the rights, responsibilities and legitimate interests of third parties.

Title 2 – Expedited preservation of stored computer data

Article 16 – Expedited preservation of stored computer data

- 1 Each Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to order or similarly obtain the expeditious preservation of specified computer data, including traffic data, that has been stored by means of a computer system, in particular where there are grounds to believe that the computer data is particularly vulnerable to loss or modification.
- 2 Where a Party gives effect to paragraph 1 above by means of an order to a person to preserve specified stored computer data in the person's possession or control, the Party shall adopt such legislative and other measures as may be necessary to oblige that person to preserve and maintain the integrity of that computer data for a period of time as long as necessary, up to a maximum of ninety days, to enable the competent authorities to seek its disclosure. A Party may provide for such an order to be subsequently renewed.
- 3 Each Party shall adopt such legislative and other measures as may be necessary to oblige the custodian or other person who is to preserve the computer data to keep confidential the undertaking of such procedures for the period of time provided for by its domestic law.
- 4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

Article 17 – Expedited preservation and partial disclosure of traffic data

- 1 Each Party shall adopt, in respect of traffic data that is to be preserved under Article 16, such legislative and other measures as may be necessary to:
 - a ensure that such expeditious preservation of traffic data is available regardless of whether one or more service providers were involved in the transmission of that communication; and
 - b ensure the expeditious disclosure to the Party's competent authority, or a person designated by that authority, of a sufficient amount of traffic data to enable the Party to identify the service providers and the path through which the communication was transmitted.
- 2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

Title 3 – Production order

Article 18 – Production order

- 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:
 - a a person in its territory to submit specified computer data in that person's possession or control, which is stored in a computer system or a computer-data storage medium; and
 - b a service provider offering its services in the territory of the Party to submit subscriber information relating to such services in that service provider's possession or control.
- 2 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.
- 3 For the purpose of this article, the term "subscriber information" means any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which can be established:
 - a the type of communication service used, the technical provisions taken thereto and the period of service;
 - b the subscriber's identity, postal or geographic address, telephone and other access number, billing and payment information, available on the basis of the service agreement or arrangement;
 - c any other information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.

Title 4 – Search and seizure of stored computer data

Article 19 – Search and seizure of stored computer data

- 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:
 - a a computer system or part of it and computer data stored therein; and

- b a computer-data storage medium in which computer data may be stored
- in its territory.
- 2 Each Party shall adopt such legislative and other measures as may be necessary to ensure that where its authorities search or similarly access a specific computer system or part of it, pursuant to paragraph 1.a, and have grounds to believe that the data sought is stored in another computer system or part of it in its territory, and such data is lawfully accessible from or available to the initial system, the authorities shall be able to expeditiously extend the search or similar accessing to the other system.
- 3 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure computer data accessed according to paragraphs 1 or 2. These measures shall include the power to:
 - a seize or similarly secure a computer system or part of it or a computer-data storage medium;
 - b make and retain a copy of those computer data;
 - c maintain the integrity of the relevant stored computer data;
 - d render inaccessible or remove those computer data in the accessed computer system.
- 4 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who has knowledge about the functioning of the computer system or measures applied to protect the computer data therein to provide, as is reasonable, the necessary information, to enable the undertaking of the measures referred to in paragraphs 1 and 2.
- 5 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

Title 5 – Real-time collection of computer data

Article 20 – Real-time collection of traffic data

- 1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:
 - a collect or record through the application of technical means on the territory of that Party, and
 - b compel a service provider, within its existing technical capability:
 - i to collect or record through the application of technical means on the territory of that Party; or
 - ii to co-operate and assist the competent authorities in the collection or recording of, traffic data, in real-time, associated with specified communications in its territory transmitted by means of a computer system.

- 2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of traffic data associated with specified communications transmitted in its territory, through the application of technical means on that territory.
- 3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.
- 4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

Article 21 – Interception of content data

- 1 Each Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious offences to be determined by domestic law, to empower its competent authorities to:
 - a collect or record through the application of technical means on the territory of that Party, and
 - b compel a service provider, within its existing technical capability:
 - i to collect or record through the application of technical means on the territory of that Party, or
 - ii to co-operate and assist the competent authorities in the collection or recording of, content data, in real-time, of specified communications in its territory transmitted by means of a computer system.
- 2 Where a Party, due to the established principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1.a, it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of content data on specified communications in its territory through the application of technical means on that territory.
- 3 Each Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.
- 4 The powers and procedures referred to in this article shall be subject to Articles 14 and 15.

Section 3 – Jurisdiction

Article 22 – Jurisdiction

- 1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with Articles 2 through 11 of this Convention, when the offence is committed:
 - a in its territory; or
 - b on board a ship flying the flag of that Party; or
 - c on board an aircraft registered under the laws of that Party; or

- d by one of its nationals, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State.
- 2 Each Party may reserve the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1.b through 1.d of this article or any part thereof.
- 3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in Article 24, paragraph 1, of this Convention, in cases where an alleged offender is present in its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality, after a request for extradition.
- 4 This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.
- 5 When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

Chapter III – International co-operation

Section 1 – General principles

Title 1 – General principles relating to international co-operation

Article 23 – General principles relating to international co-operation

The Parties shall co-operate with each other, in accordance with the provisions of this chapter, and through the application of relevant international instruments on international co-operation in criminal matters, arrangements agreed on the basis of uniform or reciprocal legislation, and domestic laws, to the widest extent possible for the purposes of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence.

Title 2 – Principles relating to extradition

Article 24 – Extradition

- 1
 - a This article applies to extradition between Parties for the criminal offences established in accordance with Articles 2 through 11 of this Convention, provided that they are punishable under the laws of both Parties concerned by deprivation of liberty for a maximum period of at least one year, or by a more severe penalty.
 - b Where a different minimum penalty is to be applied under an arrangement agreed on the basis of uniform or reciprocal legislation or an extradition treaty, including the European Convention on Extradition (ETS No. 24), applicable between two or more parties, the minimum penalty provided for under such arrangement or treaty shall apply.
- 2 The criminal offences described in paragraph 1 of this article shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them.
- 3 If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any criminal offence referred to in paragraph 1 of this article.

- 4 Parties that do not make extradition conditional on the existence of a treaty shall recognise the criminal offences referred to in paragraph 1 of this article as extraditable offences between themselves.
- 5 Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition.
- 6 If extradition for a criminal offence referred to in paragraph 1 of this article is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case at the request of the requesting Party to its competent authorities for the purpose of prosecution and shall report the final outcome to the requesting Party in due course. Those authorities shall take their decision and conduct their investigations and proceedings in the same manner as for any other offence of a comparable nature under the law of that Party.
- 7
 - a Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the name and address of each authority responsible for making or receiving requests for extradition or provisional arrest in the absence of a treaty.
 - b The Secretary General of the Council of Europe shall set up and keep updated a register of authorities so designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.

Title 3 – General principles relating to mutual assistance

Article 25 – General principles relating to mutual assistance

- 1 The Parties shall afford one another mutual assistance to the widest extent possible for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence.
- 2 Each Party shall also adopt such legislative and other measures as may be necessary to carry out the obligations set forth in Articles 27 through 35.
- 3 Each Party may, in urgent circumstances, make requests for mutual assistance or communications related thereto by expedited means of communication, including fax or e-mail, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where required by the requested Party. The requested Party shall accept and respond to the request by any such expedited means of communication.
- 4 Except as otherwise specifically provided in articles in this chapter, mutual assistance shall be subject to the conditions provided for by the law of the requested Party or by applicable mutual assistance treaties, including the grounds on which the requested Party may refuse co-operation. The requested Party shall not exercise the right to refuse mutual assistance in relation to the offences referred to in Articles 2 through 11 solely on the ground that the request concerns an offence which it considers a fiscal offence.
- 5 Where, in accordance with the provisions of this chapter, the requested Party is permitted to make mutual assistance conditional upon the existence of dual criminality, that condition shall be deemed fulfilled, irrespective of whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under its laws.

Article 26 – Spontaneous information

- 1 A Party may, within the limits of its domestic law and without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.
- 2 Prior to providing such information, the providing Party may request that it be kept confidential or only used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.

*Title 4 – Procedures pertaining to mutual assistance requests
in the absence of applicable international agreements*

Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements

- 1 Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.
- 2
 - a Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.
 - b The central authorities shall communicate directly with each other;
 - c Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph;
 - d The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.
- 3 Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except where incompatible with the law of the requested Party.
- 4 The requested Party may, in addition to the grounds for refusal established in Article 25, paragraph 4, refuse assistance if:
 - a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or
 - b it considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.
- 5 The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities.

- 6 Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.
- 7 The requested Party shall promptly inform the requesting Party of the outcome of the execution of a request for assistance. Reasons shall be given for any refusal or postponement of the request. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly.
- 8 The requesting Party may request that the requested Party keep confidential the fact of any request made under this chapter as well as its subject, except to the extent necessary for its execution. If the requested Party cannot comply with the request for confidentiality, it shall promptly inform the requesting Party, which shall then determine whether the request should nevertheless be executed.
- 9
 - a In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by judicial authorities of the requesting Party to such authorities of the requested Party. In any such cases, a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.
 - b Any request or communication under this paragraph may be made through the International Criminal Police Organisation (Interpol).
 - c Where a request is made pursuant to sub-paragraph a. of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so.
 - d Requests or communications made under this paragraph that do not involve coercive action may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.
 - e Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary General of the Council of Europe that, for reasons of efficiency, requests made under this paragraph are to be addressed to its central authority.

Article 28 – Confidentiality and limitation on use

- 1 When there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and the requested Parties, the provisions of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.
- 2 The requested Party may make the supply of information or material in response to a request dependent on the condition that it is:
 - a kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition, or
 - b not used for investigations or proceedings other than those stated in the request.
- 3 If the requesting Party cannot comply with a condition referred to in paragraph 2, it shall promptly inform the other Party, which shall then determine whether the information should nevertheless be provided. When the requesting Party accepts the condition, it shall be bound by it.

- 4 Any Party that supplies information or material subject to a condition referred to in paragraph 2 may require the other Party to explain, in relation to that condition, the use made of such information or material.

Section 2 – Specific provisions

Title 1 – Mutual assistance regarding provisional measures

Article 29 – Expedited preservation of stored computer data

- 1 A Party may request another Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system, located within the territory of that other Party and in respect of which the requesting Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the data.
- 2 A request for preservation made under paragraph 1 shall specify:
 - a the authority seeking the preservation;
 - b the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts;
 - c the stored computer data to be preserved and its relationship to the offence;
 - d any available information identifying the custodian of the stored computer data or the location of the computer system;
 - e the necessity of the preservation; and
 - f that the Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data.
- 3 Upon receiving the request from another Party, the requested Party shall take all appropriate measures to preserve expeditiously the specified data in accordance with its domestic law. For the purposes of responding to a request, dual criminality shall not be required as a condition to providing such preservation.
- 4 A Party that requires dual criminality as a condition for responding to a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of stored data may, in respect of offences other than those established in accordance with Articles 2 through 11 of this Convention, reserve the right to refuse the request for preservation under this article in cases where it has reasons to believe that at the time of disclosure the condition of dual criminality cannot be fulfilled.
- 5 In addition, a request for preservation may only be refused if:
 - a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or
 - b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.
- 6 Where the requested Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or otherwise prejudice the requesting Party's investigation, it shall promptly so inform the requesting Party, which shall then determine whether the request should nevertheless be executed.

- 7 Any preservation effected in response to the request referred to in paragraph 1 shall be for a period not less than sixty days, in order to enable the requesting Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.

Article 30 – Expedited disclosure of preserved traffic data

- 1 Where, in the course of the execution of a request made pursuant to Article 29 to preserve traffic data concerning a specific communication, the requested Party discovers that a service provider in another State was involved in the transmission of the communication, the requested Party shall expeditiously disclose to the requesting Party a sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted.
- 2 Disclosure of traffic data under paragraph 1 may only be withheld if:
 - a the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence; or
 - b the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.

Title 2 – Mutual assistance regarding investigative powers

Article 31 – Mutual assistance regarding accessing of stored computer data

- 1 A Party may request another Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested Party, including data that has been preserved pursuant to Article 29.
- 2 The requested Party shall respond to the request through the application of international instruments, arrangements and laws referred to in Article 23, and in accordance with other relevant provisions of this chapter.
- 3 The request shall be responded to on an expedited basis where:
 - a there are grounds to believe that relevant data is particularly vulnerable to loss or modification; or
 - b the instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited co-operation.

Article 32 – Trans-border access to stored computer data with consent or where publicly available

A Party may, without the authorisation of another Party:

- a access publicly available (open source) stored computer data, regardless of where the data is located geographically; or
- b access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system.

Article 33 – Mutual assistance regarding the real-time collection of traffic data

- 1 The Parties shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified communications in their territory transmitted by means of a computer system. Subject to the provisions of paragraph 2, this assistance shall be governed by the conditions and procedures provided for under domestic law.
- 2 Each Party shall provide such assistance at least with respect to criminal offences for which real-time collection of traffic data would be available in a similar domestic case.

Article 34 – Mutual assistance regarding the interception of content data

The Parties shall provide mutual assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.

Title 3 – 24/7 Network

Article 35 – 24/7 Network

- 1 Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:
 - a the provision of technical advice;
 - b the preservation of data pursuant to Articles 29 and 30;
 - c the collection of evidence, the provision of legal information, and locating of suspects.
- 2
 - a A Party's point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.
 - b If the point of contact designated by a Party is not part of that Party's authority or authorities responsible for international mutual assistance or extradition, the point of contact shall ensure that it is able to co-ordinate with such authority or authorities on an expedited basis.
- 3 Each Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.

Chapter IV – Final provisions

Article 36 – Signature and entry into force

- 1 This Convention shall be open for signature by the member States of the Council of Europe and by non-member States which have participated in its elaboration.
- 2 This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

- 3 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States, including at least three member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of paragraphs 1 and 2.
- 4 In respect of any signatory State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of its consent to be bound by the Convention in accordance with the provisions of paragraphs 1 and 2.

Article 37 – Accession to the Convention

- 1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting with and obtaining the unanimous consent of the Contracting States to the Convention, may invite any State which is not a member of the Council and which has not participated in its elaboration to accede to this Convention. The decision shall be taken by the majority provided for in Article 20.d. of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.
- 2 In respect of any State acceding to the Convention under paragraph 1 above, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 38 – Territorial application

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
- 2 Any State may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the declaration by the Secretary General.
- 3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 39 – Effects of the Convention

- 1 The purpose of the present Convention is to supplement applicable multilateral or bilateral treaties or arrangements as between the Parties, including the provisions of:
 - the European Convention on Extradition, opened for signature in Paris, on 13 December 1957 (ETS No. 24);
 - the European Convention on Mutual Assistance in Criminal Matters, opened for signature in Strasbourg, on 20 April 1959 (ETS No. 30);
 - the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, opened for signature in Strasbourg, on 17 March 1978 (ETS No. 99).

- 2 If two or more Parties have already concluded an agreement or treaty on the matters dealt with in this Convention or have otherwise established their relations on such matters, or should they in future do so, they shall also be entitled to apply that agreement or treaty or to regulate those relations accordingly. However, where Parties establish their relations in respect of the matters dealt with in the present Convention other than as regulated therein, they shall do so in a manner that is not inconsistent with the Convention's objectives and principles.
- 3 Nothing in this Convention shall affect other rights, restrictions, obligations and responsibilities of a Party.

Article 40 – Declarations

By a written notification addressed to the Secretary General of the Council of Europe, any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the possibility of requiring additional elements as provided for under Articles 2, 3, 6 paragraph 1.b, 7, 9 paragraph 3, and 27, paragraph 9.e.

Article 41 – Federal clause

- 1 A federal State may reserve the right to assume obligations under Chapter II of this Convention consistent with its fundamental principles governing the relationship between its central government and constituent States or other similar territorial entities provided that it is still able to co-operate under Chapter III.
- 2 When making a reservation under paragraph 1, a federal State may not apply the terms of such reservation to exclude or substantially diminish its obligations to provide for measures set forth in Chapter II. Overall, it shall provide for a broad and effective law enforcement capability with respect to those measures.
- 3 With regard to the provisions of this Convention, the application of which comes under the jurisdiction of constituent States or other similar territorial entities, that are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform the competent authorities of such States of the said provisions with its favourable opinion, encouraging them to take appropriate action to give them effect.

Article 42 – Reservations

By a written notification addressed to the Secretary General of the Council of Europe, any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of the reservation(s) provided for in Article 4, paragraph 2, Article 6, paragraph 3, Article 9, paragraph 4, Article 10, paragraph 3, Article 11, paragraph 3, Article 14, paragraph 3, Article 22, paragraph 2, Article 29, paragraph 4, and Article 41, paragraph 1. No other reservation may be made.

Article 43 – Status and withdrawal of reservations

- 1 A Party that has made a reservation in accordance with Article 42 may wholly or partially withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect on the date of receipt of such notification by the Secretary General. If the notification states that the withdrawal of a reservation is to take effect on a date specified therein, and such date is later than the date on which the notification is received by the Secretary General, the withdrawal shall take effect on such a later date.
- 2 A Party that has made a reservation as referred to in Article 42 shall withdraw such reservation, in whole or in part, as soon as circumstances so permit.

- 3 The Secretary General of the Council of Europe may periodically enquire with Parties that have made one or more reservations as referred to in Article 42 as to the prospects for withdrawing such reservation(s).

Article 44 – Amendments

- 1 Amendments to this Convention may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member States of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention as well as to any State which has acceded to, or has been invited to accede to, this Convention in accordance with the provisions of Article 37.
- 2 Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems (CDPC), which shall submit to the Committee of Ministers its opinion on that proposed amendment.
- 3 The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the CDPC and, following consultation with the non-member States Parties to this Convention, may adopt the amendment.
- 4 The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.
- 5 Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

Article 45 – Settlement of disputes

- 1 The European Committee on Crime Problems (CDPC) shall be kept informed regarding the interpretation and application of this Convention.
- 2 In case of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the CDPC, to an arbitral tribunal whose decisions shall be binding upon the Parties, or to the International Court of Justice, as agreed upon by the Parties concerned.

Article 46 – Consultations of the Parties

- 1 The Parties shall, as appropriate, consult periodically with a view to facilitating:
 - a the effective use and implementation of this Convention, including the identification of any problems thereof, as well as the effects of any declaration or reservation made under this Convention;
 - b the exchange of information on significant legal, policy or technological developments pertaining to cybercrime and the collection of evidence in electronic form;
 - c consideration of possible supplementation or amendment of the Convention.
- 2 The European Committee on Crime Problems (CDPC) shall be kept periodically informed regarding the result of consultations referred to in paragraph 1.

- 3 The CDPC shall, as appropriate, facilitate the consultations referred to in paragraph 1 and take the measures necessary to assist the Parties in their efforts to supplement or amend the Convention. At the latest three years after the present Convention enters into force, the European Committee on Crime Problems (CDPC) shall, in co-operation with the Parties, conduct a review of all of the Convention's provisions and, if necessary, recommend any appropriate amendments.
- 4 Except where assumed by the Council of Europe, expenses incurred in carrying out the provisions of paragraph 1 shall be borne by the Parties in the manner to be determined by them.
- 5 The Parties shall be assisted by the Secretariat of the Council of Europe in carrying out their functions pursuant to this article.

Article 47 – Denunciation

- 1 Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
- 2 Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

Article 48 – Notification

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the non-member States which have participated in the elaboration of this Convention as well as any State which has acceded to, or has been invited to accede to, this Convention of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Convention in accordance with Articles 36 and 37;
- d any declaration made under Article 40 or reservation made in accordance with Article 42;
- e any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Budapest, this 23rd day of November 2001, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, and to any State invited to accede to it.

EXHIBIT 94

Vietnam: Raimondo pledged to push for change to country's market economy status

September 25, 2023 at 4:09 PM

Post

Commerce Secretary Gina Raimondo last week "pledged" to push for a change to Vietnam's status as a non-market economy, Hanoi said in describing a meeting with the country's prime minister.

Commerce's International Trade Administration [recognizes a dozen countries](#) as non-market economies, including Russia, China, Georgia, Moldova and Vietnam. Countries with the non-market designation are subject to higher anti-dumping duties. The Vietnamese government earlier this month officially requested a review of its non-market economy status just days before [President Biden visited the country](#).

During [a Sept. 19 meeting](#) with Vietnamese PM Pham Minh Chinh, his office said in a readout, Raimondo "pledged to urge the U.S. to soon recognize Viet Nam's market economy status, and coordinate to put in place the contents agreed in the joint statement issued during President Joe Biden's Viet Nam visit, especially in economy, trade and investment, thus making the bilateral cooperation more intensive, extensive, substantive and effective."

The Commerce Department did not confirm whether Raimondo made such a pledge, though it acknowledged Hanoi's bid.

"The Government of Vietnam submitted an official request for Commerce to examine its non-market economy status in early September as part of a changed circumstances review. Commerce is carefully considering the request," the department said in response to a question about Vietnam's readout.

The U.S. has suggested it is seeking to quickly review Hanoi's status as a non-market economy. In a [joint leaders' statement](#) on elevating the U.S.-Vietnam relationship to a comprehensive strategic partnership, issued during Biden's visit, the U.S. said it "applauds Vietnam's progress in significant market-based economic reforms, and affirms its enthusiasm and commitment for a broad, strengthened, supportive, and constructive engagement with Vietnam in its transition to a market economy, and subsequently to market economy country status, under U.S. law."

The statement added that the U.S. would "review Vietnam's request as expeditiously as possible, in accordance with U.S. law."

Vietnamese Minister of Industry and Trade Nguyễn Hồng Diên met with Raimondo last week and suggested she could help "speed up" the process of ensuring Vietnam is labeled a market economy, according to an informal translation of a [Sept. 19 statement](#) from his office. Recognizing Hanoi as a market economy as soon as possible would be in "spirit" of the joint leaders' statement, the ministry added.

Diên also expressed "deep concern over the increasing frequency of trade defense investigations on Vietnamese exports to the U.S. market, especially [for] cases targeting Vietnam's exported industrial products" such as steel pipe products and semi-trailers, according to the trade ministry. "The Minister suggested that the [Commerce Department] will carefully consider Vietnam's opinions in each specific case to ensure trade liberalization, fairness, objectivity, and transparency for trade activities of the two countries' businesses."

Neither of Commerce's readouts of the secretary's recent meetings with Vietnamese officials mentioned Hanoi's market economy request, though they both noted that Raimondo emphasized the importance of concluding negotiations on the Indo-Pacific Economic Framework for Prosperity's clean and fair economy pillars. Raimondo steers both, in addition to the [supply chain pillar](#), on which the parties "substantially concluded" negotiations in May.

The Biden administration has been pursuing closer ties with Vietnam, particularly in semiconductor supply chains and critical minerals. During Biden's trip to Hanoi, the two sides announced new efforts in both areas.

The countries this month launched a semiconductor partnership to help develop better supply chains. Partners like Vietnam can play a "critical role in building resilient semiconductor supply chains, particularly to expand capacity in reliable partners where it cannot be re-shored to the United States and further promote manufacturing and industry development at home under the U.S. CHIPS Act," the White House said in a [fact sheet](#).

The U.S. and Vietnam this month also signed a memorandum of cooperation on semiconductor supply chains crafted to help "formalize" the semiconductor partnership to "expand the capacity of the semiconductor ecosystem in Vietnam, in support of U.S. industry," the fact sheet adds.

The White House this month has made broader commitments to expand trade ties with Vietnam. The leaders' statement said the two countries committed to "create favorable conditions and facilitate the further opening of markets for each other's goods and services, support trade and economic policy" and address market access barriers via their bilateral Trade and Investment Framework Agreement.

U.S. Trade Representative Katherine Tai, who steers the TIFA for the U.S., last week met with Diên and emphasized the importance of the comprehensive strategic partnership. She also said she hoped to "deepen the dialogue mechanism" of the U.S.-Vietnam TIFA, according to an informal translation of a [Sept. 23 statement](#) from the ministry.

Tai also [met on Sept. 19](#) with Chinh. -- Jason Asenso (jasenso@iwppnews.com)

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Inside U.S. Trade - 09/29/2023 , Vol. 41, No. 39
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EXHIBIT 95

Explore All Countries Vietnam

East and Southeast Asia

Page last updated: December 06, 2023



INTRODUCTION

Background

Vietnam's early history comprises of periods of occupation by outside forces and eventual power consolidation under Vietnamese dynastic families. Ancient Vietnam was centered on the Red River Valley and was ruled by a succession of Han Chinese emperors until approximately the 10th century. The Ly Dynasty (11th-13th century) ruled the first independent Vietnamese state, which was known as Dai Viet, and established their capital at Thang Long (Hanoi). Under the Tran Dynasty (13th-15th century), Dai Viet forces led by one of Vietnam's national heroes, TRAN Hung Dao, fought off Mongol invaders in 1279. Following a brief Chinese occupation in the early 1400s, the leader of Vietnamese resistance, LE Thai To, made himself emperor and established the Le Dynasty, which lasted until the late 18th century, although not without decades of political turmoil, civil war, and division. During this period, Dai Viet expanded southward to the Central Highlands and Mekong Delta, reaching the approximate boundaries of modern-day Vietnam by the 1750s. Dai Viet suffered additional civil war and division in the latter half of the 18th century, but was reunited and renamed Vietnam under Emperor NGUYEN Phuc Anh (aka Gia Long) in 1802.

The Nguyen Dynasty would be the last Vietnamese dynasty before the conquest by France, which began in 1858 and was completed by 1884. Vietnam became part of French Indochina in 1887. It declared independence after World War II, but France continued to rule until its 1954 defeat by communist forces under Ho Chi MINH. Under the Geneva Accords of 1954, Vietnam was divided into the communist North and anti-communist South. Fighting erupted between the two governments shortly afterwards with the North supporting communist rebels in the South and eventually committing thousands of combat troops, while the US provided large amounts of economic and military assistance, including combat forces, to the South. The US military presence reached a peak strength of over 500,000 troops in 1968. US forces were withdrawn following a cease-fire agreement in 1973. Two years later, North Vietnamese forces overran the South reuniting the country under communist rule. The conflict, known as the Second Indochina War (1955-1975), devastated the country, spilled over into the neighboring countries of Cambodia and Laos, and is estimated to have resulted in the deaths of up to 3 million Vietnamese civilians and soldiers. Despite the return of peace, for over a decade the country experienced little economic growth because of its diplomatic isolation, its conservative leadership policies, and the persecution and mass exodus of individuals, many of them successful South Vietnamese merchants. However, since the enactment of Vietnam's "doi moi" (renovation) policy in 1986, Vietnamese authorities have committed to increased economic liberalization and enacted structural reforms needed to modernize the economy and to produce more competitive, export-driven industries. Since implementation, the economy has seen strong growth, particularly in agricultural and industrial production, construction, exports, and foreign investment. Increased tourism has also become a key component of economic growth. Nevertheless, the Communist Party maintains tight political and social control of the country, and Vietnam faces considerable challenges including rising income inequality, corruption, inadequate social welfare, and a poor human rights record.

Since withdrawing its military occupation forces from Cambodia in the late 1980s and the end of Soviet aid by 1991, Vietnam has practiced a non-aligned foreign policy that emphasizes friendly ties with all members of the international community. Relatedly, Vietnam adheres to a security doctrine called the "Four Nos" (no alliances, no siding with one country against another, no foreign bases, and no using force in international relations). Despite longstanding tensions with Beijing regarding its expansive claims that overlap with Hanoi's own claimed maritime boundaries in the South China Sea, Vietnam puts a priority on stable relations with China, given its proximity, size, and status as Vietnam's largest trading partner.

GEOGRAPHY

Location

Southeastern Asia, bordering the Gulf of Thailand, Gulf of Tonkin, and South China Sea, as well as China, Laos, and Cambodia

Geographic coordinates

16 10 N, 107 50 E

Map references

Southeast Asia

Area

total: 331,210 sq km

land: 310,070 sq km

water: 21,140 sq km

comparison ranking: total 67

Area - comparative

about three times the size of Tennessee; slightly larger than New Mexico

Area comparison map:



Land boundaries

total: 4,616 km

border countries (3): Cambodia 1,158 km; China 1,297 km; Laos 2,161 km

Coastline

3,444 km (excludes islands)

Maritime claims

territorial sea: 12 nm

contiguous zone: 24 nm

exclusive economic zone: 200 nm

continental shelf: 200 nm or to the edge of the continental margin

Climate

tropical in south; monsoonal in north with hot, rainy season (May to September) and warm, dry season (October to March)

Terrain

low, flat delta in south and north; central highlands; hilly, mountainous in far north and northwest

Elevation

highest point: Fan Si Pan 3,144 m

lowest point: South China Sea 0 m

mean elevation: 398 m

Natural resources

antimony, phosphates, coal, manganese, rare earth elements, bauxite, chromate, offshore oil and gas deposits, timber, hydropower, arable land

Land use

agricultural land: 34.8% (2018 est.)

arable land: 20.6% (2018 est.)

permanent crops: 12.1% (2018 est.)

permanent pasture: 2.1% (2018 est.)

forest: 45% (2018 est.)

other: 20.2% (2018 est.)

Irrigated land

46,000 sq km (2012)

Major rivers (by length in km)

Sông Tiên Giang (Mekong) river mouth (shared with China [s], Burma, Laos, Thailand, Cambodia) - 4,350 km; Pearl river source (shared with China [m]) - 2,200 km; Red river mouth (shared with China [s]) - 1,149 km **note** – [s] after country name indicates river source; [m] after country name indicates river mouth

Major watersheds (area sq km)

Pacific Ocean drainage: Mekong (805,604 sq km)

Population distribution

though it has one of the highest population densities in the world, the population is not evenly dispersed; clustering is heaviest along the South China Sea and Gulf of Tonkin, with the Mekong Delta (in the south) and the Red River Valley (in the north) having the largest concentrations of people

Natural hazards

occasional typhoons (May to January) with extensive flooding, especially in the Mekong River delta

Geography - note

note 1: extending 1,650 km north to south, the country is only 50 km across at its narrowest point

note 2: Son Doong in Phong Nha-Ke Bang National Park is the world's largest cave (greatest cross sectional area) and is the largest known cave passage in the world by volume; it currently measures a total of 38.5 million cu m (about 1.35 billion cu ft); it connects to Thung cave (but not yet officially); when recognized, it will add an additional 1.6 million cu m in volume; Son Doong is so massive that it contains its own jungle, underground river, and localized weather system; clouds form inside the cave and spew out from its exits and two dolines (openings (sinkhole skylights) created by collapsed ceilings that allow sunlight to stream in)

PEOPLE AND SOCIETY**Population**

104,799,174 (2023 est.)

comparison ranking: 16

Nationality

noun: Vietnamese (singular and plural)

adjective: Vietnamese

Ethnic groups

Kinh (Viet) 85.3%, Tay 1.9%, Thai 1.9%, Muong 1.5%, Khmer 1.4%, Mong 1.4%, Nung 1.1%, other 5.5% (2019 est.)

note: 54 ethnic groups are recognized by the Vietnamese Government

Languages

Vietnamese (official), English (increasingly favored as a second language), some French, Chinese, and Khmer, mountain area languages (Mon-Khmer and Malayo-Polynesian)

major-language sample(s):

Dữ kiện thể giới, là nguồn thông tin cơ bản không thể thiếu. (Vietnamese)

The World Factbook, the indispensable source for basic information.

Vietnamese audio sample:

Religions

Catholic 6.1%, Buddhist 5.8%, Protestant 1%, other 0.8%, none 86.3% (2019 est.)

note: most Vietnamese are culturally Buddhist

Demographic profile

When Vietnam was reunified in 1975, the country had a youthful age structure and a high fertility rate. The population growth rate slowed dramatically during the next 25 years, as fertility declined and infant mortality and life expectancy improved. The country's adoption of a one-or-two-child policy in 1988 led to increased rates of contraception and abortion. The total fertility rate dropped rapidly from nearly 5 in 1979 to 2.1 or replacement level in 1990, and at 1.8 is below replacement level today. Fertility is higher in the more rural central highlands and northern uplands, which are inhabited primarily by poorer ethnic minorities, and is lower among the majority Kinh, ethnic Chinese, and a few other ethnic groups, particularly in urban centers. With more than two-thirds of the population of working age (15-64), Vietnam has the potential to reap a demographic dividend for approximately three decades (between 2010 and 2040). However, its ability to do so will depend on improving the quality of education and training for its workforce and creating jobs. The Vietnamese Government is also considering changes to the country's population policy because if the country's fertility rate remains below replacement level, it could lead to a worker shortage in the future.

Vietnam has experienced both internal migration and net emigration, both for humanitarian and economic reasons, for the last several decades. Internal migration – rural-rural and rural-urban, temporary and permanent – continues to be a means of coping with Vietnam's extreme weather and flooding. Although Vietnam's population is still mainly rural, increasing numbers of young men and women have been drawn to the country's urban centers where they are more likely to find steady jobs and higher pay in the growing industrial and service sectors.

The aftermath of the Vietnam War in 1975 resulted in an outpouring of approximately 1.6 million Vietnamese refugees over the next two decades. Between 1975 and 1997, programs such as the Orderly Departure Program and the Comprehensive Plan of Action resettled hundreds of thousands of Vietnamese refugees abroad, including the United States (880,000), China (260,000, mainly ethnic Chinese Hoa), Canada (160,000), Australia (155,000), and European countries (150,000).

In the 1980s, some Vietnamese students and workers began to migrate to allied communist countries, including the Soviet Union, Czechoslovakia, Bulgaria, and East Germany. The vast majority returned home following the fall of communism in Eastern Europe in the early 1990s. Since that time, Vietnamese labor migrants instead started to pursue opportunities in Asia and the Middle East. They often perform low-skilled jobs under harsh conditions for low pay and are vulnerable to forced labor, including debt bondage to the private brokers who arrange the work contracts. Despite Vietnam's current labor surplus, the country has in recent years attracted some foreign workers, mainly from China and other Asian countries.

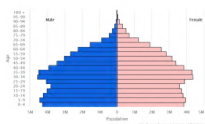
Age structure

0-14 years: 23.44% (male 12,975,791/female 11,593,157)

15-64 years: 68.69% (male 36,280,449/female 35,705,586)

65 years and over: 7.87% (2023 est.) (male 3,346,804/female 4,897,387)

2023 population pyramid:



Dependency ratios

total dependency ratio: 45.6

youth dependency ratio: 32.8

elderly dependency ratio: 12.7

potential support ratio: 7.8 (2021 est.)

Median age

total: 32.7 years (2023 est.)

male: 31.6 years

female: 33.8 years

comparison ranking: total 111

Population growth rate

0.93% (2023 est.)

comparison ranking: 102

Birth rate

15.3 births/1,000 population (2023 est.)

comparison ranking: 110

Death rate

5.8 deaths/1,000 population (2023 est.)

comparison ranking: 170

Net migration rate

-0.2 migrant(s)/1,000 population (2023 est.)

comparison ranking: 108

Population distribution

though it has one of the highest population densities in the world, the population is not evenly dispersed; clustering is heaviest along the South China Sea and Gulf of Tonkin, with the Mekong Delta (in the south) and the Red River Valley (in the north) having the largest concentrations of people

Urbanization

urban population: 39.5% of total population (2023)

rate of urbanization: 2.7% annual rate of change (2020-25 est.)

Major urban areas - population

9.321 million Ho Chi Minh City, 5.253 million HANOI (capital), 1.865 million Can Tho, 1.423 million Hai Phong, 1.221 million Da Nang, 1.111 million Bien Hoa (2023)

Sex ratio

at birth: 1.1 male(s)/female

0-14 years: 1.12 male(s)/female

15-64 years: 1.02 male(s)/female

65 years and over: 0.68 male(s)/female

total population: 1.01 male(s)/female (2023 est.)

Maternal mortality ratio

124 deaths/100,000 live births (2020 est.)

comparison ranking: 62

Infant mortality rate

total: 14.4 deaths/1,000 live births (2023 est.)

male: 14.8 deaths/1,000 live births

female: 14.1 deaths/1,000 live births

comparison ranking: total 99

Life expectancy at birth

total population: 75.8 years (2023 est.)

male: 73.2 years

female: 78.6 years

comparison ranking: total population 116

Total fertility rate

2.04 children born/woman (2023 est.)

comparison ranking: 102

Gross reproduction rate

0.97 (2023 est.)

Contraceptive prevalence rate

72.8% (2020)

Drinking water source

improved: urban: 99.2% of population

rural: 95.5% of population

total: 96.9% of population

unimproved: urban: 0.8% of population

rural: 4.5% of population

total: 3.1% of population (2020 est.)

Current health expenditure

4.7% of GDP (2020)

Physicians density

0.83 physicians/1,000 population (2016)

Hospital bed density

3.2 beds/1,000 population (2013)

Sanitation facility access

improved: urban: 98.7% of population

rural: 90% of population

total: 93.3% of population

unimproved: urban: 1.3% of population

rural: 10% of population

total: 6.7% of population (2020 est.)

Major infectious diseases

degree of risk: very high (2023)

food or waterborne diseases: bacterial diarrhea, hepatitis A, and typhoid fever

vectorborne diseases: dengue fever, malaria, and Japanese encephalitis

note: On 20 September 2023, the CDC issued a travel notice for an outbreak of diphtheria in several provinces in Vietnam (see attached map); vaccination against diphtheria is essential to protect against disease; if you are traveling to an affected area, you should be up to date with your diphtheria vaccines; Diphtheria is a serious infection caused by strains of bacteria called *Corynebacterium diphtheriae* that make a toxin; Diphtheria bacteria spread from person to person, usually through respiratory droplets, like from coughing or sneezing

Diphtheria outbreak in Vietnam:



Obesity - adult prevalence rate

2.1% (2016)

comparison ranking: 192

Alcohol consumption per capita

total: 3.41 liters of pure alcohol (2019 est.)

beer: 3.18 liters of pure alcohol (2019 est.)

wine: 0.02 liters of pure alcohol (2019 est.)

spirits: 0.21 liters of pure alcohol (2019 est.)

other alcohols: 0 liters of pure alcohol (2019 est.)

comparison ranking: total 105

Tobacco use

total: 24.8% (2020 est.)

male: 47.4% (2020 est.)

female: 2.2% (2020 est.)

comparison ranking: total 51

Children under the age of 5 years underweight

11.6% (2020)

comparison ranking: 51

Currently married women (ages 15-49)

72.6% (2023 est.)

Child marriage

women married by age 15: 1.1%

women married by age 18: 14.6%

men married by age 18: 1.9% (2021 est.)

Education expenditures

4.1% of GDP (2020 est.)

comparison ranking: 113

Literacy

definition: age 15 and over can read and write

total population: 95.8%

male: 97%

female: 94.6% (2019)

ENVIRONMENT

Environment - current issues

logging and slash-and-burn agricultural practices contribute to deforestation and soil degradation; water pollution and overfishing threaten marine life populations; groundwater contamination limits potable water supply; air pollution; growing urban industrialization and population migration are rapidly degrading environment in Hanoi and Ho Chi Minh City

Environment - international agreements

party to: Biodiversity, Climate Change, Climate Change-Kyoto Protocol, Climate Change-Paris Agreement, Comprehensive Nuclear Test Ban, Desertification, Endangered Species, Environmental Modification, Hazardous Wastes, Law of the Sea, Ozone Layer Protection, Ship Pollution, Tropical Timber 2006, Wetlands

signed, but not ratified: none of the selected agreements

Climate

tropical in south; monsoonal in north with hot, rainy season (May to September) and warm, dry season (October to March)

Land use

agricultural land: 34.8% (2018 est.)

arable land: 20.6% (2018 est.)

permanent crops: 12.1% (2018 est.)

permanent pasture: 2.1% (2018 est.)

forest: 45% (2018 est.)

other: 20.2% (2018 est.)

Urbanization

urban population: 39.5% of total population (2023)

rate of urbanization: 2.7% annual rate of change (2020-25 est.)

Revenue from forest resources

1.49% of GDP (2018 est.)

comparison ranking: 43

Revenue from coal

0.35% of GDP (2018 est.)

comparison ranking: 16

Air pollutants

particulate matter emissions: 20.89 micrograms per cubic meter (2019 est.)

carbon dioxide emissions: 192.67 megatons (2016 est.)

methane emissions: 110.4 megatons (2020 est.)

Waste and recycling

municipal solid waste generated annually: 9,570,300 tons (2011 est.)

municipal solid waste recycled annually: 2,201,169 tons (2014 est.)

percent of municipal solid waste recycled: 23% (2014 est.)

Major rivers (by length in km)

Sông Tiền Giang (Mekong) river mouth (shared with China [s], Burma, Laos, Thailand, Cambodia) - 4,350 km; Pearl river source (shared with China [m]) - 2,200 km; Red river mouth (shared with China [s]) - 1,149 km **note** – [s] after country name indicates river source; [m] after country name indicates river mouth

Major watersheds (area sq km)

Pacific Ocean drainage: Mekong (805,604 sq km)

Total water withdrawal

municipal: 1.21 billion cubic meters (2020 est.)

industrial: 3.07 billion cubic meters (2020 est.)

agricultural: 77.75 billion cubic meters (2020 est.)

Total renewable water resources

884.12 billion cubic meters (2020 est.)

GOVERNMENT

Country name

conventional long form: Socialist Republic of Vietnam

conventional short form: Vietnam

local long form: Cong Hoa Xa Hoi Chu Nghia Viet Nam

local short form: Viet Nam

former: Democratic Republic of Vietnam (North Vietnam), Republic of Vietnam (South Vietnam)

abbreviation: SRV

etymology: "Viet nam" translates as "Viet south," where "Viet" is an ethnic self identification dating to a second century B.C. kingdom and "nam" refers to its location in relation to other Viet kingdoms

Government type

communist state

Capital

name: Hanoi (Ha Noi)

geographic coordinates: 21 02 N, 105 51 E

time difference: UTC+7 (12 hours ahead of Washington, DC, during Standard Time)

etymology: the city has had many names in its history going back to A.D. 1010 when it first became the capital of imperial Vietnam; in 1831, it received its current name of Ha Noi, meaning "between the rivers," which refers to its geographic location

Administrative divisions

58 provinces (tinh, singular and plural) and 5 municipalities (thanh pho, singular and plural)

provinces: An Giang, Bac Giang, Bac Kan, Bac Lieu, Bac Ninh, Ba Ria-Vung Tau, Ben Tre, Binh Dinh, Binh Duong, Binh Phuoc, Binh Thuan, Ca Mau, Cao Bang, Dak Lak, Dak Nong, Dien Bien, Dong Nai, Dong Thap, Gia Lai, Ha Giang, Ha Nam, Ha Tinh, Hai Duong, Hau Giang, Hoa Binh, Hung Yen, Khanh Hoa, Kien Giang, Kon Tum, Lai Chau, Lam Dong, Lang Son, Lao Cai, Long An, Nam Dinh, Nghe An, Ninh Binh, Ninh Thuan, Phu Tho, Phu Yen, Quang Binh, Quang Nam, Quang Ngai, Quang Ninh, Quang Tri, Soc Trang, Son La, Tay Ninh, Thai Binh, Thai Nguyen, Thanh Hoa, Thua Thien-Hue, Tien Giang, Tra Vinh, Tuyen Quang, Vinh Long, Vinh Phuc, Yen Bai

municipalities: Can Tho, Da Nang, Ha Noi (Hanoi), Hai Phong, Ho Chi Minh City (Saigon)

Independence

2 September 1945 (from France)

National holiday

Independence Day (National Day), 2 September (1945)

Constitution

history: several previous; latest adopted 28 November 2013, effective 1 January 2014

amendments: proposed by the president, by the National Assembly's Standing Committee, or by at least two thirds of the National Assembly membership; a decision to draft an amendment requires approval by at least a two-thirds majority vote of the Assembly membership, followed by the formation of a constitutional drafting committee to write a draft and collect citizens' opinions; passage requires at least two-thirds majority of the Assembly membership; the Assembly can opt to conduct a referendum

Legal system

civil law system; note - the civil code of 2005 reflects a European-style civil law

International law organization participation

has not submitted an ICJ jurisdiction declaration; non-party state to the ICCt

Citizenship

citizenship by birth: no

citizenship by descent only: at least one parent must be a citizen of Vietnam

dual citizenship recognized: no

residency requirement for naturalization: 5 years

Suffrage

18 years of age; universal

Executive branch

chief of state: President Vo Van THUONG (since 2 March 2023)

head of government: Prime Minister Pham Minh CHINH (since 26 July 2021)

cabinet: Cabinet proposed by the prime minister, confirmed by the National Assembly, and appointed by the president

elections/appointments: president indirectly elected by the National Assembly from among its members for a single 5-year term; prime minister recommended by the president and confirmed by the National Assembly; deputy prime ministers confirmed by the National Assembly and appointed by the president

Election results:

2021: Nguyen Xuan PHUC (CPV) elected president; Pham Minh CHINH (CPV) confirmed as prime minister

2018: NGUYEN Phu TRONG (CPV) elected president

2016: NGUYEN Xuan PHUC (CPV) confirmed as prime minister

note: Nguyen Phu TRONG is the General Secretary of the Vietnam Communist Party

Legislative branch

description: unicameral National Assembly or Quoc Hoi (500 seats - number following 2021 election - 499; members directly elected in multi-seat constituencies by absolute majority vote; members serve 5-year terms)

elections: last held on 23 May 2021 (next to be held in spring 2026)

election results: percent of vote in 2016 election by party -CPV 95.8%, non-party members 4.2%; seats by party - CPV 474, non-party CPV-approved 20, self-nominated 2; note - 494 candidates elected, 2 CPV candidates-elect were disqualified; composition - men 364, women 122, percent of women 26.6%

Judicial branch

highest court(s): Supreme People's Court (consists of the chief justice and 13 judges)

judge selection and term of office: chief justice elected by the National Assembly upon the recommendation of the president for a 5-year, renewable term; deputy chief justice appointed by the president from among the judges for a 5-year term; judges appointed by the president and confirmed by the National Assembly for 5-year terms

subordinate courts: High Courts (administrative, civil, criminal, economic, labor, family, juvenile); provincial courts; district courts; Military Court; note - the National Assembly Standing Committee can establish special tribunals upon the recommendation of the chief justice

Political parties and leaders

Communist Party of Vietnam or CPV [General Secretary Nguyen Phu TRONG]

note: other parties proscribed

International organization participation

ADB, APEC, ARF, ASEAN, CICA, CP, EAS, FAO, G-77, IAEA, IBRD, ICAO, ICC (NGOs), ICRM, IDA, IFAD, IFC, IFRCS, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, MIGA, NAM, OIF, OPCW, PCA, UN, UNCTAD, UNESCO, UNIDO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Diplomatic representation in the US

chief of mission: Ambassador Nguyen Quoc DUNG (since 19 April 2022)

chancery: 1233 20th Street NW, Suite 400, Washington, DC 20036

telephone: [1] (202) 861-0737

FAX: [1] (202) 861-0917

email address and website:
vanphong@vietnamembassy.us

<http://vietnamembassy-usa.org/>

consulate(s) general: Houston, San Francisco

consulate(s): New York

Diplomatic representation from the US

chief of mission: Ambassador Marc KNAPPER (since 11 February 2022)

embassy: 7 Lang Ha Street, Hanoi

mailing address: 4550 Hanoi Place, Washington, DC 20521-4550

telephone: [84] (24) 3850-5000

FAX: [84] (24) 3850-5010

email address and website:

ACShanoi@state.gov

<https://vn.usembassy.gov/>**consulate(s) general:** Ho Chi Minh City**Flag description**

red field with a large yellow five-pointed star in the center; red symbolizes revolution and blood, the five-pointed star represents the five elements of the populace - peasants, workers, intellectuals, traders, and soldiers - that unite to build socialism

National symbol(s)

yellow, five-pointed star on red field; lotus blossom; national colors: red, yellow

National anthem**name:** "Tien quan ca" (The Song of the Marching Troops)**lyrics/music:** Nguyen Van CAO

note: adopted as the national anthem of the Democratic Republic of Vietnam in 1945; it became the national anthem of the unified Socialist Republic of Vietnam in 1976; although it consists of two verses, only the first is used as the official anthem

National heritage**total World Heritage Sites:** 8 (5 cultural, 2 natural, 1 mixed)

selected World Heritage Site locales: Complex of Huế Monuments (c); Ha Long Bay (n); Hoi An Ancient Town (c); My Son Sanctuary (c); Phong Nha-Ke Bang National Park (n); Imperial Citadel of Thang Long - Hanoi (c); Citadel of the Ho Dynasty (c); Trang An Landscape Complex (m)

ECONOMY**Economic overview**

lower middle-income socialist East Asian economy; rapid economic growth since Đổi Mới reforms; strong investment and productivity growth; tourism and manufacturing hub; TPP signatory; declining poverty aside from ethnic minorities; systemic corruption

Real GDP (purchasing power parity)

\$1.036 trillion (2021 est.)

\$1.01 trillion (2020 est.)

\$981.903 billion (2019 est.)

note: data are in 2017 dollars

comparison ranking: 26

Real GDP growth rate

2.56% (2021 est.)

2.87% (2020 est.)

7.36% (2019 est.)

comparison ranking: 153

Real GDP per capita

\$10,600 (2021 est.)

\$10,500 (2020 est.)

\$10,300 (2019 est.)

note: data are in 2017 dollars

comparison ranking: 142

GDP (official exchange rate)

\$259.957 billion (2019 est.)

Inflation rate (consumer prices)

1.83% (2021 est.)

3.22% (2020 est.)

2.8% (2019 est.)

comparison ranking: 165

Credit ratings

Fitch rating: BB (2018)

Moody's rating: Ba3 (2018)

Standard & Poors rating: BB (2019)

note: The year refers to the year in which the current credit rating was first obtained.

GDP - composition, by sector of origin

agriculture: 15.3% (2017 est.)

industry: 33.3% (2017 est.)

services: 51.3% (2017 est.)

comparison rankings: services 173; industry 53; agriculture 65

GDP - composition, by end use

household consumption: 66.9% (2017 est.)

government consumption: 6.5% (2017 est.)

investment in fixed capital: 24.2% (2017 est.)

investment in inventories: 2.8% (2017 est.)

exports of goods and services: 100% (2017 est.)

imports of goods and services: -101% (2017 est.)

Agricultural products

rice, vegetables, sugar cane, cassava, maize, pork, fruit, bananas, coffee, coconuts

Industries

food processing, garments, shoes, machine-building; mining, coal, steel; cement, chemical fertilizer, glass, tires, oil, mobile phones

Industrial production growth rate

3.58% (2021 est.)

comparison ranking: 109

Labor force

56.203 million (2021 est.)

comparison ranking: 12

Unemployment rate

2.17% (2021 est.)

2.39% (2020 est.)

2.04% (2019 est.)

comparison ranking: 210

Youth unemployment rate (ages 15-24)

total: 7.2% (2021 est.)

male: 7.1%

female: 7.5%

comparison ranking: total 177

Population below poverty line

6.7% (2018 est.)

Gini Index coefficient - distribution of family income

35.7 (2018 est.)

comparison ranking: 93

Average household expenditures

on food: 38.8% of household expenditures (2018 est.)

on alcohol and tobacco: 2.3% of household expenditures (2018 est.)

Household income or consumption by percentage share

lowest 10%: 2.7%

highest 10%: 26.8% (2014)

Budget

revenues: \$64.895 billion (2019 est.)

expenditures: \$75.834 billion (2019 est.)

Budget surplus (+) or deficit (-)

-6.7% (of GDP) (2017 est.)

comparison ranking: 191

Public debt

58.5% of GDP (2017 est.)

59.9% of GDP (2016 est.)

note: official data; data cover general government debt and include debt instruments issued (or owned) by government entities other than the treasury; the data include treasury debt held by foreign entities; the data include debt issued by subnational entities, as well as intragovernmental debt; intragovernmental debt consists of treasury borrowings from surpluses in the social funds, such as for retirement, medical care, and unemployment; debt instruments for the social funds are not sold at public auctions

comparison ranking: 84

Taxes and other revenues

24.8% (of GDP) (2017 est.)

comparison ranking: 49

Fiscal year

calendar year

Current account balance

-\$3.812 billion (2021 est.)

\$15.06 billion (2020 est.)

\$13.101 billion (2019 est.)

comparison ranking: 178

Exports

\$339.984 billion (2021 est.) note: data are in current year dollars

\$290.229 billion (2020 est.) note: data are in current year dollars

\$280.826 billion (2019 est.)

comparison ranking: 23

Exports - partners

US 28%, China 17%, South Korea 6%, Japan 6%, Hong Kong 4% (2021)

Exports - commodities

broadcasting equipment, telephones, integrated circuits, office machinery, footwear, furniture (2021)

Imports

\$338.021 billion (2021 est.) note: data are in current year dollars

\$269.808 billion (2020 est.) note: data are in current year dollars

\$261.683 billion (2019 est.)

comparison ranking: 21

Imports - partners

China 39%, South Korea 17%, Japan 5%, Taiwan 4%, Thailand 4% (2021)

Imports - commodities

integrated circuits, telephones, clothing and apparel, broadcasting accessories, refined petroleum, iron sheeting (2021)

Reserves of foreign exchange and gold

\$109.371 billion (31 December 2021 est.)

\$94.834 billion (31 December 2020 est.)

\$78.335 billion (31 December 2019 est.)

comparison ranking: 27

Debt - external

\$96.58 billion (31 December 2017 est.)

\$84.34 billion (31 December 2016 est.)

comparison ranking: 58

Exchange rates

dong (VND) per US dollar -

Exchange rates:

23,159.783 (2021 est.)

23,208.368 (2020 est.)

23,050.242 (2019 est.)

22,602.05 (2018 est.)

22,370.087 (2017 est.)

ENERGY

Electricity access

electrification - total population: 100% (2021)

Electricity

installed generating capacity: 65.283 million kW (2020 est.)

consumption: 199,846,440,000 kWh (2019 est.)

exports: 2.067 billion kWh (2019 est.)

imports: 3.316 billion kWh (2019 est.)

transmission/distribution losses: 15.479 billion kWh (2019 est.)

comparison rankings: installed generating capacity 20; transmission/distribution losses 26; imports 49; exports 51; consumption 22

Electricity generation sources

fossil fuels: 70.7% of total installed capacity (2020 est.)

nuclear: 0% of total installed capacity (2020 est.)

solar: 2.4% of total installed capacity (2020 est.)

wind: 0.4% of total installed capacity (2020 est.)

hydroelectricity: 25.2% of total installed capacity (2020 est.)

tide and wave: 0% of total installed capacity (2020 est.)

geothermal: 0% of total installed capacity (2020 est.)

biomass and waste: 1.4% of total installed capacity (2020 est.)

Coal

production: 47.789 million metric tons (2020 est.)

consumption: 80.568 million metric tons (2020 est.)

exports: 902,000 metric tons (2020 est.)

imports: 55 million metric tons (2020 est.)

proven reserves: 3.36 billion metric tons (2019 est.)

Petroleum

total petroleum production: 197,700 bbl/day (2021 est.)

refined petroleum consumption: 495,500 bbl/day (2019 est.)

crude oil and lease condensate exports: 66,900 bbl/day (2018 est.)

crude oil and lease condensate imports: 103,500 bbl/day (2018 est.)

crude oil estimated reserves: 4.4 billion barrels (2021 est.)

Refined petroleum products - production

153,800 bbl/day (2015 est.)

comparison ranking: 58

Refined petroleum products - exports

25,620 bbl/day (2015 est.)

comparison ranking: 67

Refined petroleum products - imports

282,800 bbl/day (2015 est.)

comparison ranking: 25

Natural gas

production: 8,438,095,000 cubic meters (2019 est.)

consumption: 8,438,095,000 cubic meters (2019 est.)

exports: 0 cubic meters (2021 est.)

imports: 0 cubic meters (2021 est.)

proven reserves: 699.425 billion cubic meters (2021 est.)

Carbon dioxide emissions

249.929 million metric tonnes of CO₂ (2019 est.)

from coal and metallurgical coke: 165.775 million metric tonnes of CO₂ (2019 est.)

from petroleum and other liquids: 67.775 million metric tonnes of CO₂ (2019 est.)

from consumed natural gas: 16.379 million metric tonnes of CO₂ (2019 est.)

comparison ranking: total emissions 27

Energy consumption per capita

36.392 million Btu/person (2019 est.)

comparison ranking: 113

COMMUNICATIONS

Telephones - fixed lines

total subscriptions: 3.1 million (2021 est.)

subscriptions per 100 inhabitants: 3 (2021 est.)

comparison ranking: total subscriptions 39

Telephones - mobile cellular

total subscriptions: 140 million (2021 est.)

subscriptions per 100 inhabitants: 140 (2021 est.)

comparison ranking: total subscriptions 12

Telecommunication systems

general assessment: even with Covid-19 pandemic-related mobility restrictions in place, Vietnam's economy has continued to outperform the rest of the region in 2020 and 2021; the telecom sector essentially spent most of this period in a holding pattern, focusing on maintaining service throughout the crisis while preparing for some major changes to come in the mobile market in 2022; both fixed-line telephony and mobile have experienced small drops in subscriber numbers since the start of the pandemic, but the similarities between the two markets end there; fixed-line teledensity continued its downwards trajectory towards virtual oblivion, with just 3% penetration (around 3 million subscribers) at the start of 2021; the mobile market has lost about the same number of subscribers since the end of 2019, but has been sitting on much higher penetration levels around 130% for many years; growth is expected to kick in again in 2022 following the anticipated launch of commercial 5G mobile services along with a range of government-led schemes to move consumers completely off 2G and 3G; one example is the planned redistribution of GSM/3G bandwidth to LTE; in addition to propelling Vietnam into having one of the most advanced mobile markets in the world, this should also spur on the mobile broadband segment; with a penetration level of just over 70%, mobile broadband has considerable room to grow; increasing economic prosperity coupled with the latest smartphone technology and networks should see mobile broadband underwriting the country's telecommunications sector for at least the next few years; this report includes the regulator's market data to July 2021, telcos' financial and operating data updates to June 2021, Telecom Maturity Index charts and analyses, assessment of the global impact of Covid-19 on the telecoms sector, and other recent market developments (2021)

domestic: fixed-line is 3 per 100 and mobile-cellular is 140 per 100 (2021)

international: country code - 84; landing points for the SeaMeWe-3, APG, SJC2, AAE-1, AAG and the TGN-IA submarine cable system providing connectivity to Europe, Africa, the Middle East, Asia, Southeast Asia, Australia, and the US; satellite earth stations - 2 Intersputnik (Indian Ocean region) (2020)

Broadcast media

government controls all broadcast media exercising oversight through the Ministry of Information and Communication (MIC); government-controlled national TV provider, Vietnam Television (VTV), operates a network of several channels with regional broadcasting centers; programming is relayed nationwide via a network of provincial and municipal TV stations; law limits access to satellite TV but many households are able to access foreign programming via home satellite equipment; government-controlled Voice of Vietnam, the national radio broadcaster, broadcasts on several channels and is repeated on AM, FM, and shortwave stations throughout Vietnam (2018)

Internet country code

.vn

Internet users

total: 71.78 million (2021 est.)

percent of population: 74% (2021 est.)

comparison ranking: total 12

Broadband - fixed subscriptions

total: 16,699,249 (2020 est.)

subscriptions per 100 inhabitants: 17 (2020 est.)

comparison ranking: total 14

TRANSPORTATION**National air transport system**

number of registered air carriers: 5 (2020)

inventory of registered aircraft operated by air carriers: 224

annual passenger traffic on registered air carriers: 47,049,671 (2018)

annual freight traffic on registered air carriers: 481.37 million (2018) mt-km

Civil aircraft registration country code prefix

VN

Airports

45 (2021)

comparison ranking: total 96

Airports - with paved runways

38

note: paved runways have a concrete or asphalt surface but not all have facilities for refueling, maintenance, or air traffic control; the length of a runway required for aircraft to safely operate depends on a number of factors including the type of aircraft, the takeoff weight (including passengers, cargo, and fuel), engine types, flap settings, landing speed, elevation of the airport, and average maximum daily air temperature; paved runways can reach a length of 5,000 m (16,000 ft.), but the "typical" length of a commercial airline runway is between 2,500-4,000 m (8,000-13,000 ft.)

Airports - with unpaved runways

7

note: unpaved runways have a surface composition such as grass or packed earth and are most suited to the operation of light aircraft; unpaved runways are usually short, often less than 1,000 m (3,280 ft.) in length; airports with unpaved runways often lack facilities for refueling, maintenance, or air traffic control

Heliports

1 (2021)

Pipelines

72 km condensate, 398 km condensate/gas, 955 km gas, 128 km oil, 33 km oil/gas/water, 206 km refined products, 13 km water (2013)

Railways

total: 2,600 km (2014)

standard gauge: 178 km (2014) 1.435-m gauge; 253 km mixed gauge

narrow gauge: 2,169 km (2014) 1.000-m gauge

comparison ranking: total 64

Roadways

total: 195,468 km (2013)

paved: 148,338 km (2013)

unpaved: 47,130 km (2013)

comparison ranking: total 28

Waterways

47,130 km (2011) (30,831 km weight under 50 tons)

comparison ranking: 3

Merchant marine

total: 1,975 (2022)

by type: bulk carrier 116, container ship 42, general cargo 1,194, oil tanker 137, other 486

comparison ranking: total 12

Ports and terminals

major seaport(s): Cam Pha Port, Da Nang, Haiphong, Phu My, Quy Nhon

container port(s) (TEUs): Saigon (7,956,133), Cai Mep (5,385,289), Haiphong (5,695,839) (2021)

river port(s): Ho Chi Minh (Mekong)

MILITARY AND SECURITY**Military and security forces**

People's Army of Vietnam (PAVN; aka Vietnam People's Army, VPA): Ground Forces, Navy (includes naval infantry), Air Force and Air Defense, Border Defense Force, Vietnam Coast Guard

Vietnam People's Public Security Ministry; Vietnam Civil Defense Force (2023)

note 1: the People's Public Security Ministry is responsible for internal security and controls the national police, a special national security investigative agency, and other internal security units, including specialized riot police regiments

note 2: the Vietnam Coast Guard was established in 1998 as the Vietnam Marine Police and renamed in 2013; Vietnam officially established a maritime self-defense force (civilian militia) in 2010 after the National Assembly passed the Law on Militia and Self-Defense Forces in 2009; the Vietnam Fisheries Resources Surveillance (VFRS), established in 2013, is responsible for patrolling, monitoring for fishing violations, and carrying out fishery inspections; it is armed, allowed to use force if necessary, and works in tandem with the Vietnam Coast Guard

Military expenditures

2.3% of GDP (2022 est.)

2.4% of GDP (2021 est.)

2.4% of GDP (2020 est.)

2.3% of GDP (2019 est.)

2.3% of GDP (2018 est.)

comparison ranking: 48

Military and security service personnel strengths

information is limited and varied; estimated 450,000 active-duty troops; estimated 40,000 Border Defense Force and Coast Guard (2023)

Military equipment inventories and acquisitions

the PAVN is armed largely with weapons and equipment from Russia and the former Soviet Union; in recent years, Russia has remained the most important supplier of newer PAVN military equipment, but Vietnam has diversified arms purchases to include more than a dozen other countries including Belarus, Israel, the Netherlands, South Korea, and the US; Vietnam has a limited domestic defense industry (2023)

Military service age and obligation

18-27 years of age for compulsory and voluntary military service for men and women (in practice only men are drafted); service obligation is between 24 (Army, Air Defense) and 36 (Navy and Air Force) months (2023)

Military deployments

190 Abyei/South Sudan/Sudan (UNISFA) (2023)

Military - note

the PAVN is the military arm of the ruling Communist Party of Vietnam (CPV) and responsible to the Central Military Commission (CMC), the highest party organ on military policy; the CMC is led by the CPV General Secretary

the PAVN is one of the region's largest militaries and has participated in numerous conflicts since its founding in the mid-1940s, including the First (1946-54) and Second (1950s-1975) Indochina Wars, the Cambodian-Vietnamese War (1978-1989), and the Sino-Vietnamese War (1979); the PAVN's current missions include protecting the country's independence, sovereignty, territorial integrity, and national interests; in recent years, it has increased focus on protecting the country's maritime economy and sovereignty; it also assists with natural disasters and is heavily involved in economic projects, including electrical infrastructure, oil and gas services, hydroelectric projects, aviation and seaport services, telecommunications, and the shipbuilding industry, while military-owned factories and enterprises produce weapons and equipment; the Ground Forces are spread throughout the country in approximately eight regional commands, four operational corps, and dozens of divisions and brigades, including some that are maintained at cadre strength and filled in wartime by an estimated five million reserves; the Navy in recent years has received increased government focus for procurement efforts because of the rise in territorial disputes in the South China Sea and has a growing combat force of about 20 frigates, corvettes, and fast-attack surface vessels, plus eight attack submarines; the Air Force has a mix of approximately 75 Soviet-era and Russian-made combat aircraft (2023)

SPACE

Space agency/agencies

Vietnam National Space Center (VNSC; established 2011; formerly known as the Vietnam National Satellite Center); Space Technology Institute (STI; established 2006); both the VNSC and the STI operate under the Vietnamese Academy of Science and Technology (VAST); Ministry of Science and Technology (2023)

Space program overview

has a growing space program focused on acquiring, operating, and exploiting satellites, as well as expanding domestic capabilities in satellites and associated sub-system production, space sciences, and technology applications; builds and operates communications and remote sensing satellites; conducting research and development on space science and applied space technologies, such as advanced optics and space data exploitation; has worked closely with Japan's Aerospace Exploration Agency (JAXA) and Japanese companies and universities on its space program since inception; cooperation has included funding, loans, training, technical expertise, and data sharing; has also established relationships with the space agencies or commercial space sectors of some European countries (such as France), India, and the US (2023)

note: further details about the key activities, programs, and milestones of the country's space program, as well as government spending estimates on the space sector, appear in Appendix S

TRANSNATIONAL ISSUES

Disputes - international

Vietnam-Cambodia: Cambodia accuses Vietnam of a wide variety of illicit cross-border activities; issues include casinos built in Cambodia near the border, narcotics trafficking, trafficking of women and children, petrol smuggling, illegal logging, and illegal migration; progress on a joint development area with Cambodia is hampered by an unresolved dispute over sovereignty of offshore islands; in December 2021, leaders from the two countries agreed to fully complete the remaining border demarcation and the upgrading of border checkpoints

Vietnam-Cambodia-Laos: Cambodia and Laos protest Vietnamese squatters and armed encroachments along border; Cambodia accuses Vietnam of a wide variety of illicit cross-border activities

Vietnam-China: an estimated 300,000 Vietnamese refugees reside in China; the decade-long demarcation of the China-Vietnam land boundary was completed in 2009; small territorial exchanges were made during the demarcation; China occupies the Paracel Islands also claimed by Vietnam and Taiwan; cross border trafficking in women and children and illegal wildlife trade are problems along this border; In December 2021, China tightened its border controls over COVID concerns, restricting an important trade route for Vietnam

Vietnam-Laos: Laos opened a strategically important international border crossing with Vietnam in 2021, which will shorten the distance for goods and people transiting between Thailand and Vietnam

Refugees and internally displaced persons

stateless persons: 35,475 (2022); note - Vietnam's stateless ethnic Chinese Cambodian population dates to the 1970s when thousands of Cambodians fled to Vietnam to escape the Khmer Rouge and were no longer recognized as Cambodian citizens; Vietnamese women who gave up their citizenship to marry foreign men have found themselves stateless after divorcing and returning home to Vietnam; the government addressed this problem in 2009, and Vietnamese women are beginning to reclaim their citizenship

Trafficking in persons

tier rating: Tier 2 Watch List — Vietnam does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so; the government made key achievements during the reporting period, therefore Vietnam was upgraded to Tier 2 Watch List; Vietnam initiated more investigations, prosecuted and convicted more traffickers, increased international law enforcement cooperation, and initiated criminal proceedings against allegedly complicit officials; officials also identified and assisted more victims and implemented protection for overseas workers; despite these achievements, the government did not proactively identify trafficking victims forced to work in cyber scams or provide services, including foreign national victims in Vietnam; authorities inspected thousands of the most at-risk establishments for sex trafficking but only identified two victims (2023)

trafficking profile: human traffickers exploit domestic and foreign victims in Vietnam, as well as Vietnamese abroad; 55% of workers work in the informal economy where labor laws are not effectively enforced, increasing vulnerability to trafficking; Vietnamese men and women who migrate abroad, using illicit brokerage networks operated by Vietnamese nationals based abroad or state-owned or state-regulated recruitment enterprises, are vulnerable to debt bondage or other forms of exploitation; victims are subjected to forced labor in construction, agriculture, mining, maritime industries, logging, and manufacturing primarily in Japan, Laos, Malaysia, South Korea, and in some parts of the Middle East, the UK, and other countries in Europe; reports have increased of Vietnamese labor trafficking victims in Taiwan, continental Europe, the Middle East, Africa, and in Pacific maritime industries; Vietnamese traffickers, including members of Vietnam's diplomatic service, reportedly have exploited Vietnamese nationals in forced labor in Saudi Arabia; many Vietnamese are subjected to forced labor under the auspices of Japan's Technical Intern Training Program and in agricultural education programs in Israel; other Vietnamese are exploited at Chinese-owned factories associated with China's Belt and Road Initiative in the Balkan region; widespread social stigma increases LGBTQI+ individuals' vulnerability to trafficking; traffickers lure Vietnamese women and children with fraudulent job opportunities and send them to brothels on the borders of Cambodia, China, and Laos or elsewhere in Asia, West Africa, and Europe; Vietnamese women and girls are also exploited in sex trafficking in Vietnam, as well as Burma; sometimes family members or small-scale networks exploit Vietnamese men, women, and children—including street children and children with disabilities—in forced labor; child sex tourists from Asia, the UK, other countries in Europe, Australia, Canada, and the US exploit children in Vietnam (2023)

Illicit drugs

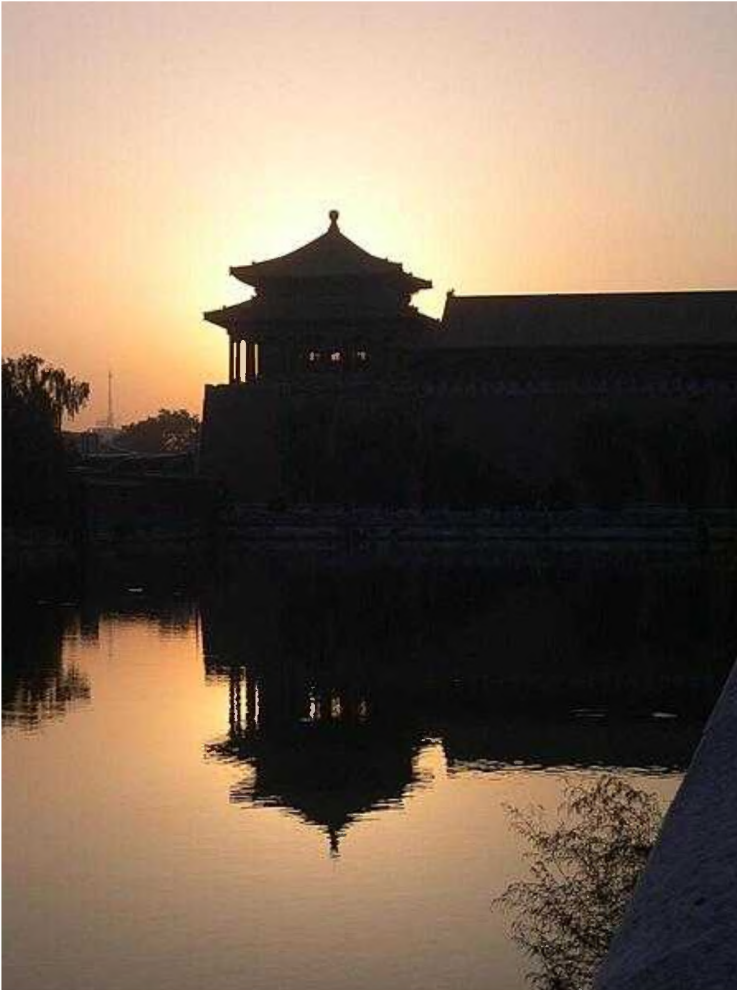
a transshipment and destination country for all types of illegal drugs; most transshipments destined for other Asian countries and not the United States; heroin transits from Thailand, Laos, and Burma for domestic use and shipping to countries in Southeast Asia, Oceania, China and Taiwan; methamphetamine and amphetamine type stimulants from Burma locally consumed and shipped; South American cocaine locally consumed and distributed to Southeast Asia and Oceania

EXHIBIT 96

Explore All Countries China

East and Southeast Asia

Page last updated: December 12, 2023



INTRODUCTION

Background

China's historical civilization dates to at least the 13th century B.C., first under the Shang (to 1046 B.C.) and then the Zhou (1046-221 B.C.) dynasties. The imperial era of China began in 221 B.C. under the Qin Dynasty and lasted until the fall of the Qing Dynasty in 1912. During this period, China alternated between periods of unity and disunity under a succession of imperial dynasties. In the 19th century, the Qing Dynasty suffered heavily from overextension by territorial conquest, insolvency, civil war, imperialism, military defeats, and foreign expropriation of ports and infrastructure. It collapsed following the Revolution of 1911, and China became a republic under SUN Yat-sen of the Kuomintang (KMT or Nationalist) Party. However, the republic was beset by division, warlordism, and continued foreign intervention. In the late 1920s, a civil war erupted between the ruling KMT-controlled government led by CHIANG Kai-shek, and the Chinese Communist Party (CCP). Japan occupied much of northeastern China in the early 1930s, and then launched a full-scale invasion of the country in 1937. The resulting eight years of warfare devastated the country and cost up to 20 million Chinese lives by the time of Japan's defeat in 1945. The Nationalist-Communist civil war continued with renewed intensity following the end of World War II and culminated with a CCP victory in 1949, under the leadership of MAO Zedong.

MAO and the CCP established an autocratic socialist system that, while ensuring the PRC's sovereignty, imposed strict controls over everyday life and launched agricultural, economic, political, and social policies - such as the Great Leap Forward (1958-1962) and the Cultural Revolution (1966-1976) - that cost the lives of millions of people. MAO died in 1976. Beginning in 1978, subsequent leaders DENG Xiaoping, JIANG Zemin, and HU Jintao focused on market-oriented economic development and opening up the country to foreign trade, while maintaining the rule of the CCP. Since the change, China has been among the world's fastest growing economies, with real gross domestic product averaging over 9% growth annually through 2021, lifting an estimated 800 million people out of poverty, and dramatically improving overall living standards. By 2011, the PRC's economy was the second largest in the world. The growth, however, has created considerable social displacement, adversely affected the country's environment, and reduced the country's natural resources. Current leader XI Jinping has continued these policies, but also has maintained tight political controls.

Over the past decade, China has also increased its global outreach, including military deployments, participation in international organizations, and initiating a global connectivity initiative in 2013 called the "Belt and Road Initiative" (BRI). While many nations have signed on to BRI agreements to attract PRC investment, others have balked at the opaque lending behavior; weak environment, social, and governance (ESG) standards; and other practices that undermine local governance and foster corruption associated with some BRI-linked projects. Xi Jinping assumed the positions of General Secretary of the Chinese Communist Party and Chairman of the Central Military Commission in 2012 and President in 2013. In March 2018, the PRC's National People's Congress passed an amendment abolishing presidential term limits, opening the door for Xi to seek a third five-year term in 2023, which he ultimately secured.

GEOGRAPHY

Location

Eastern Asia, bordering the East China Sea, Korea Bay, Yellow Sea, and South China Sea, between North Korea and Vietnam

Geographic coordinates

35 00 N, 105 00 E

Map references

Asia

Area

total: 9,596,960 sq km

land: 9,326,410 sq km

water: 270,550 sq km

comparison ranking: total 5

Area - comparative

slightly smaller than the US

Area comparison map:



Land boundaries

total: 22,457 km

border countries (14): Afghanistan 91 km; Bhutan 477 km; Burma 2,129 km; India 2,659 km; Kazakhstan 1,765 km; North Korea 1,352 km; Kyrgyzstan 1,063 km; Laos 475 km; Mongolia 4,630 km; Nepal 1,389 km; Pakistan 438 km; Russia (northeast) 4,133 km and Russia (northwest) 46 km; Tajikistan 477 km; Vietnam 1,297 km

Coastline

14,500 km

Maritime claims

territorial sea: 12 nm

contiguous zone: 24 nm

exclusive economic zone: 200 nm

continental shelf: 200 nm or to the edge of the continental margin

Climate

extremely diverse; tropical in south to subarctic in north

Terrain

mostly mountains, high plateaus, deserts in west; plains, deltas, and hills in east

Elevation

highest point: Mount Everest (highest peak in Asia and highest point on earth above sea level) 8,849 m

lowest point: Turpan Pendi (Turfan Depression) -154 m

mean elevation: 1,840 m

Natural resources

coal, iron ore, helium, petroleum, natural gas, arsenic, bismuth, cobalt, cadmium, ferrosilicon, gallium, germanium, hafnium, indium, lithium, mercury, tantalum, tellurium, tin, titanium, tungsten, antimony, manganese, magnesium, molybdenum, selenium, strontium, vanadium, magnetite, aluminum, lead, zinc, rare earth elements, uranium, hydropower potential (world's largest), arable land

Land use

agricultural land: 54.7% (2018 est.)

arable land: 11.3% (2018 est.)

permanent crops: 1.6% (2018 est.)

permanent pasture: 41.8% (2018 est.)

forest: 22.3% (2018 est.)

other: 23% (2018 est.)

Irrigated land

690,070 sq km (2012)

Major lakes (area sq km)

fresh water lake(s): Dongting Hu - 3,100 sq km; Poyang Hu - 3,350 sq km; Hongze Hu - 2,700 sq km; Tai Hu - 2,210 sq km; Hulun Nur - 1,590

salt water lake(s): Quinghai Hu - 4,460 sq km; Nam Co - 2,500 sq km; Siling Co - 1,860 sq km; Tangra Yumco - 1,400 sq km; Bosten Hu 1,380 sq km

Major rivers (by length in km)

Yangtze - 6,300 km; Huang He - 5,464 km; Amur river source (shared with Mongolia and Russia [m]) - 4,444 km; Lancang Jiang (Mekong) river source (shared with Burma, Laos, Thailand, Cambodia, and Vietnam [m]) - 4,350 km; Yarlung Zangbo Jiang (Brahmaputra) river source (shared with India and Bangladesh [m]) - 3,969 km; Yin-tu Ho (Indus) river source (shared with India and Pakistan [m]) - 3,610 km; Nu Jiang (Salween) river source (shared with Thailand and Burma [m]) - 3,060 km; Irrawaddy river source (shared with Burma [m]) - 2,809 km; Zhu Jiang (Pearl) (shared with Vietnam [s]) - 2,200 km; Yuan Jiang (Red river) source (shared with Vietnam [m]) - 1,149 km

note – [s] after country name indicates river source; [m] after country name indicates river mouth

Major watersheds (area sq km)

Pacific Ocean drainage: Amur (1,929,955 sq km), Huang He (944,970 sq km), Mekong (805,604 sq km), Yangtze (1,722,193 sq km)

Indian Ocean drainage: Brahmaputra (651,335 sq km), Ganges (1,016,124 sq km), Indus (1,081,718 sq km), Irrawaddy (413,710 sq km), Salween (271,914 sq km)

Arctic Ocean drainage: Ob (2,972,493 sq km)

Internal (*endorheic basin*) drainage: Tarim Basin (1,152,448 sq km), Amu Darya (534,739 sq km), Syr Darya (782,617 sq km), Lake Balkash (510,015 sq km)

Major aquifers

North China Aquifer System (Huang Huai Hai Plain), Song-Liao Plain, Tarim Basin

Population distribution

overwhelming majority of the population is found in the eastern half of the country; the west, with its vast mountainous and desert areas, remains sparsely populated; though ranked first in the world in total population, overall density is less than that of many other countries in Asia and Europe; high population density is found along the Yangtze and Yellow River valleys, the Xi Jiang River delta, the Sichuan Basin (around Chengdu), in and around Beijing, and the industrial area around Shenyang

Natural hazards

frequent typhoons (about five per year along southern and eastern coasts); damaging floods; tsunamis; earthquakes; droughts; land subsidence

volcanism: China contains some historically active volcanoes including Changbaishan (also known as Baitoushan, Baegdu, or Paektu-san), Hainan Dao, and Kunlun although most have been relatively inactive in recent centuries

Geography - note

note 1: world's fourth largest country (after Russia, Canada, and US) and largest country situated entirely in Asia; Mount Everest on the border with Nepal is the world's tallest peak above sea level

note 2: the largest cave chamber in the world is the Miao Room, in the Gebihe cave system at China's Ziyun Getu He Chuandong National Park, which encloses some 10.78 million cu m (380.7 million cu ft) of volume; the world's largest sinkhole is the Xiaoxhai Tiankeng sinkhole in Chongqing Municipality, which is 660 m deep, with a volume of 130 million cu m

note 3: China appears to have been the center of domestication for two of the world's leading cereal crops: millet in the north along the Yellow River and rice in the south along the lower or middle Yangtze River

PEOPLE AND SOCIETY

Population

1,413,142,846 (2023 est.)

comparison ranking: 1

Nationality

noun: Chinese (singular and plural)

adjective: Chinese

Ethnic groups

Han Chinese 91.1%, ethnic minorities 8.9% (includes Zhang, Hui, Manchu, Uighur, Miao, Yi, Tujia, Tibetan, Mongol, Dong, Buyei, Yao, Bai, Korean, Hani, Li, Kazakh, Dai, and other nationalities) (2021 est.)

note: the PRC officially recognizes 56 ethnic groups

Languages

Standard Chinese or Mandarin (official; Putonghua, based on the Beijing dialect), Yue (Cantonese), Wu (Shanghainese), Minbei (Fuzhou), Minnan (Hokkien-Taiwanese), Xiang, Gan, Hakka dialects, minority languages (see Ethnic groups entry); note - Zhuang is official in Guangxi Zhuang, Yue is official in Guangdong, Mongolian is official in Nei Mongol, Uyghur is official in Xinjiang Uygur, Kyrgyz is official in Xinjiang Uyghur, and Tibetan is official in Xizang (Tibet)

major-language sample(s):

世界概況 — 不可缺少的基本消息來源 (Standard Chinese)

The World Factbook, the indispensable source for basic information.

Mandarin audio sample:

Religions

folk religion 21.9%, Buddhist 18.2%, Christian 5.1%, Muslim 1.8%, Hindu < 0.1%, Jewish < 0.1%, other 0.7% (includes Daoist (Taoist)), unaffiliated 52.1% (2021 est.)

note: officially atheist

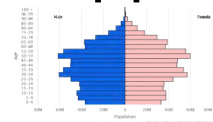
Age structure

0-14 years: 16.48% (male 124,166,174/female 108,729,429)

15-64 years: 69.4% (male 504,637,819/female 476,146,909)

65 years and over: 14.11% (2023 est.) (male 92,426,805/female 107,035,710)

2023 population pyramid:



Dependency ratios

total dependency ratio: 44.5

youth dependency ratio: 25.5

elderly dependency ratio: 19

potential support ratio: 5.3 (2021 est.)

note: data do not include Hong Kong, Macau, and Taiwan

Median age

total: 39.8 years (2023 est.)

male: 38.6 years

female: 41.1 years

comparison ranking: total 62

Population growth rate

0.18% (2023 est.)

comparison ranking: 181

Birth rate

9.7 births/1,000 population (2023 est.)

comparison ranking: 192

Death rate

7.8 deaths/1,000 population (2023 est.)

comparison ranking: 94

Net migration rate

-0.1 migrant(s)/1,000 population (2023 est.)

comparison ranking: 103

Population distribution

overwhelming majority of the population is found in the eastern half of the country; the west, with its vast mountainous and desert areas, remains sparsely populated; though ranked first in the world in total population, overall density is less than that of many other countries in Asia and Europe; high population density is found along the Yangtze and Yellow River valleys, the Xi Jiang River delta, the Sichuan Basin (around Chengdu), in and around Beijing, and the industrial area around Shenyang

Urbanization

urban population: 64.6% of total population (2023)

rate of urbanization: 1.78% annual rate of change (2020-25 est.)

note: data do not include Hong Kong and Macau

Major urban areas - population

29.211 million Shanghai, 21.766 million BEIJING (capital), 17.341 million Chongqing, 14.284 million Guangzhou, 14.239 million Tianjin, 13.073 million Shenzhen (2023)

Sex ratio

at birth: 1.09 male(s)/female

0-14 years: 1.14 male(s)/female

15-64 years: 1.06 male(s)/female

65 years and over: 0.86 male(s)/female

total population: 1.04 male(s)/female (2023 est.)

Maternal mortality ratio

23 deaths/100,000 live births (2020 est.)

comparison ranking: 117

Infant mortality rate

total: 6.5 deaths/1,000 live births (2023 est.)

male: 6.9 deaths/1,000 live births

female: 6 deaths/1,000 live births

comparison ranking: total 163

Life expectancy at birth

total population: 78.2 years (2023 est.)

male: 75.5 years

female: 81.2 years

comparison ranking: total population 77

Total fertility rate

1.45 children born/woman (2023 est.)

comparison ranking: 206

Gross reproduction rate

0.69 (2023 est.)

Contraceptive prevalence rate

84.5% (2017)

Drinking water source

improved: urban: 97.3% of population

rural: 91.5% of population

total: 95.1% of population

unimproved: urban: 2.7% of population

rural: 8.5% of population

total: 4.9% of population (2020 est.)

Current health expenditure

5.6% of GDP (2020)

Physicians density

2.23 physicians/1,000 population (2019)

Hospital bed density

4.3 beds/1,000 population (2017)

Sanitation facility access

improved: urban: 97.6% of population

rural: 90.6% of population

total: 94.9% of population

unimproved: urban: 2.4% of population

rural: 9.4% of population

total: 5.1% of population (2020 est.)

Major infectious diseases

degree of risk: high (2023)

food or waterborne diseases: bacterial diarrhea, hepatitis A, and typhoid fever

vectorborne diseases: Crimean-Congo hemorrhagic fever, dengue fever, Japanese encephalitis, severe fever thrombocytopenia syndrome (SFTS)

soil contact diseases: hantaviral hemorrhagic fever with renal syndrome (HFRS)

Obesity - adult prevalence rate

6.2% (2016)

comparison ranking: 169

Alcohol consumption per capita

total: 4.48 liters of pure alcohol (2019 est.)

beer: 1.66 liters of pure alcohol (2019 est.)

wine: 0.18 liters of pure alcohol (2019 est.)

spirits: 2.63 liters of pure alcohol (2019 est.)

other alcohols: 0 liters of pure alcohol (2019 est.)

comparison ranking: total 89

Tobacco use

total: 25.6% (2020 est.)

male: 49.4% (2020 est.)

female: 1.7% (2020 est.)

comparison ranking: total 44

Children under the age of 5 years underweight

2.4% (2013)

comparison ranking: 100

Currently married women (ages 15-49)

75.9% (2023 est.)

Child marriage

women married by age 15: 0.1%

women married by age 18: 2.8%

men married by age 18: 0.7% (2020 est.)

Education expenditures

3.6% of GDP (2020 est.)

comparison ranking: 133

Literacy

definition: age 15 and over can read and write

total population: 96.8%

male: 98.5%

female: 95.2% (2018)

School life expectancy (primary to tertiary education)

total: 14 years

male: 14 years

female: 14 years (2015)

People - note

in October 2015, the Chinese Government announced that it would change its rules to allow all couples to have two children, loosening a 1979 mandate that restricted many couples to one child; the new policy was implemented on 1 January 2016 to address China's rapidly aging population and future economic needs

ENVIRONMENT

Environment - current issues

air pollution (greenhouse gases, sulfur dioxide particulates) from reliance on coal produces acid rain; China is the world's largest single emitter of carbon dioxide from the burning of fossil fuels; water shortages, particularly in the north; water pollution from untreated wastes; coastal destruction due to land reclamation, industrial development, and aquaculture; deforestation and habitat destruction; poor land management leads to soil erosion, landslides, floods, droughts, dust storms, and desertification; trade in endangered species

Environment - international agreements

party to: Antarctic-Environmental Protection, Antarctic-Marine Living Resources, Antarctic Treaty, Biodiversity, Climate Change, Climate Change-Kyoto Protocol, Climate Change-Paris Agreement, Desertification, Endangered Species, Environmental Modification, Hazardous Wastes, Law of the Sea, Marine Dumping-London Convention, Marine Dumping-London Protocol, Ozone Layer Protection, Ship Pollution, Tropical Timber 2006, Wetlands, Whaling

signed, but not ratified: Comprehensive Nuclear Test Ban

Climate

extremely diverse; tropical in south to subarctic in north

Land use

agricultural land: 54.7% (2018 est.)

arable land: 11.3% (2018 est.)

permanent crops: 1.6% (2018 est.)

permanent pasture: 41.8% (2018 est.)

forest: 22.3% (2018 est.)

other: 23% (2018 est.)

Urbanization

urban population: 64.6% of total population (2023)

rate of urbanization: 1.78% annual rate of change (2020-25 est.)

note: data do not include Hong Kong and Macau

Revenue from forest resources

0.08% of GDP (2018 est.)

comparison ranking: 117

Revenue from coal

0.57% of GDP (2018 est.)

comparison ranking: 9

Air pollutants

particulate matter emissions: 38.15 micrograms per cubic meter (2019 est.)

carbon dioxide emissions: 9,893.04 megatons (2016 est.)

methane emissions: 1,490.24 megatons (2020 est.)

Waste and recycling

municipal solid waste generated annually: 210 million tons (2015 est.)

Major lakes (area sq km)

fresh water lake(s): Dongting Hu - 3,100 sq km; Poyang Hu - 3,350 sq km; Hongze Hu - 2,700 sq km; Tai Hu - 2,210 sq km; Hulun Nur - 1,590

salt water lake(s): Quinghai Hu - 4,460 sq km; Nam Co - 2,500 sq km; Siling Co - 1,860 sq km; Tangra Yumco - 1,400 sq km; Bosten Hu 1,380 sq km

Major rivers (by length in km)

Yangtze - 6,300 km; Huang He - 5,464 km; Amur river source (shared with Mongolia and Russia [m]) - 4,444 km; Lancang Jiang (Mekong) river source (shared with Burma, Laos, Thailand, Cambodia, and Vietnam [m]) - 4,350 km; Yarlung Zangbo Jiang (Brahmaputra) river source (shared with India and Bangladesh [m]) - 3,969 km; Yin-tu Ho (Indus) river source (shared with India and Pakistan [m]) - 3,610 km; Nu Jiang (Salween) river source (shared with Thailand and Burma [m]) - 3,060 km; Irrawaddy river source (shared with Burma [m]) - 2,809 km; Zhu Jiang (Pearl) (shared with Vietnam [s]) - 2,200 km; Yuan Jiang (Red river) source (shared with Vietnam [m]) - 1,149 km

note – [s] after country name indicates river source; [m] after country name indicates river mouth

Major watersheds (area sq km)

Pacific Ocean drainage: Amur (1,929,955 sq km), Huang He (944,970 sq km), Mekong (805,604 sq km), Yangtze (1,722,193 sq km)

Indian Ocean drainage: Brahmaputra (651,335 sq km), Ganges (1,016,124 sq km), Indus (1,081,718 sq km), Irrawaddy (413,710 sq km), Salween (271,914 sq km)

Arctic Ocean drainage: Ob (2,972,493 sq km)

Internal (*endorheic basin*) drainage: Tarim Basin (1,152,448 sq km), Amu Darya (534,739 sq km), Syr Darya (782,617 sq km), Lake Balkash (510,015 sq km)

Major aquifers

North China Aquifer System (Huang Huai Hai Plain), Song-Liao Plain, Tarim Basin

Total water withdrawal

municipal: 117.01 billion cubic meters (2020 est.)

industrial: 103.04 billion cubic meters (2020 est.)

agricultural: 361.24 billion cubic meters (2020 est.)

Total renewable water resources

2.84 trillion cubic meters (2020 est.)

GOVERNMENT

Country name

conventional long form: People's Republic of China

conventional short form: China

local long form: Zhonghua Renmin Gongheguo

local short form: Zhongguo

abbreviation: PRC

etymology: English name derives from the Qin (Chin) rulers of the 3rd century B.C., who comprised the first imperial dynasty of ancient China; the Chinese name Zhongguo translates as "Central Nation" or "Middle Kingdom"

Government type

communist party-led state

Capital

name: Beijing

geographic coordinates: 39 55 N, 116 23 E

time difference: UTC+8 (13 hours ahead of Washington, DC, during Standard Time)

time zone note: China is the largest country (in terms of area) with just one time zone; before 1949 it was divided into five

etymology: the Chinese meaning is "Northern Capital"

Administrative divisions

23 provinces (sheng, singular and plural), 5 autonomous regions (zizhiqu, singular and plural), 4 municipalities (shi, singular and plural), and two special administrative regions (tebie xingzhengqu, singular and plural)

provinces: Anhui, Fujian, Gansu, Guangdong, Guizhou, Hainan, Hebei, Heilongjiang, Henan, Hubei, Hunan, Jiangsu, Jiangxi, Jilin, Liaoning, Qinghai, Shaanxi, Shandong, Shanxi, Sichuan, Yunnan, Zhejiang; (see note on Taiwan)

autonomous regions: Guangxi, Nei Mongol (Inner Mongolia), Ningxia, Xinjiang Uyghur, Xizang (Tibet)

municipalities: Beijing, Chongqing, Shanghai, Tianjin

special administrative regions: Hong Kong, Macau

note: China considers Taiwan its 23rd province; see separate entries for the special administrative regions of Hong Kong and Macau

Independence

1 October 1949 (People's Republic of China established); notable earlier dates: 221 B.C. (unification under the Qin Dynasty); 1 January 1912 (Qing Dynasty replaced by the Republic of China)

National holiday

National Day (anniversary of the founding of the People's Republic of China), 1 October (1949)

Constitution

history: several previous; latest promulgated 4 December 1982

amendments: proposed by the Standing Committee of the National People's Congress or supported by more than one fifth of the National People's Congress membership; passage requires more than two-thirds majority vote of the Congress membership; amended several times, last in 2018

Legal system

civil law influenced by Soviet and continental European civil law systems; legislature retains power to interpret statutes; note - on 28 May 2020, the National People's Congress adopted the PRC Civil Code, which codifies personal relations and property relations

International law organization participation

has not submitted an ICJ jurisdiction declaration; non-party state to the ICCt

Citizenship

citizenship by birth: no

citizenship by descent only: least one parent must be a citizen of China

dual citizenship recognized: no

residency requirement for naturalization: while naturalization is theoretically possible, in practical terms it is extremely difficult; residency is required but not specified

Suffrage

18 years of age; universal

Executive branch

chief of state: President XI Jinping (since 14 March 2013); Vice President HAN Zheng (since 10 March 2023)

head of government: Premier LI Qiang (since 11 March 2023)

cabinet: State Council appointed by National People's Congress

elections/appointments: president and vice president indirectly elected by National People's Congress; election last held on 10 March 2023 (next to be held in March 2028); premier nominated by president, confirmed by National People's Congress

election results:

2023: XI Jinping reelected president; National People's Congress vote - 2,952 (unanimously); HAN Zheng elected vice president with 2,952 votes

2018: XI Jinping reelected president; National People's Congress vote - 2,970 (unanimously); WANG Qishan elected vice president with 2,969 votes

note: ultimate authority rests with the Communist Party Central Committee's 25-member Political Bureau (Politburo) and its seven-member Standing Committee; XI Jinping holds the three most powerful positions as party general secretary, state president, and chairman of the Central Military Commission

Legislative branch

description: unicameral National People's Congress (NPC) or Quanguo Renmin Daibiao Dahui (maximum of 3,000 seats; members indirectly elected by municipal, regional, and provincial people's congresses, and the People's Liberation Army; members serve 5-year terms); note - in practice, only members of the Chinese Communist Party (CCP), its 8 allied independent parties, and CCP-approved independent candidates are elected

elections: the 14th NPC convened on 5 March 2023; the 15th NPC will convene in March 2028

election results: percent of vote - NA; seats by party - NA; the 14th NPC consists of 2,977 delegates; 2,187 men; 790 women (26.5%)

Judicial branch

highest court(s): Supreme People's Court (consists of over 340 judges, including the chief justice and 13 grand justices organized into a civil committee and tribunals for civil, economic, administrative, complaint and appeal, and communication and transportation cases)

judge selection and term of office: chief justice appointed by the People's National Congress (NPC); limited to 2 consecutive 5-year-terms; other justices and judges nominated by the chief justice and appointed by the Standing Committee of the NPC; term of other justices and judges determined by the NPC

subordinate courts: Higher People's Courts; Intermediate People's Courts; District and County People's Courts; Autonomous Region People's Courts; International Commercial Courts; Special People's Courts for military, maritime, transportation, and forestry issues

Political parties and leaders

Chinese Communist Party or CCP [XI Jinping]

note: China has 8 nominally independent small parties controlled by the CCP

International organization participation

ADB, AfDB (nonregional member), APEC, Arctic Council (observer), ARF, ASEAN (dialogue partner), BIS, BRICS, CDB, CICA, EAS, FAO, FATF, G-20, G-24 (observer), G-5, G-77, IADB, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IFAD, IFC, IFRCS, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM (observer), IPU, ISO, ITSO, ITU, LAIA (observer), MIGA, MINURSO, MONUSCO, NAM (observer), NSG, OAS (observer), OPCW, Pacific Alliance (observer), PCA, PIF (partner), SAARC (observer), SCO, SICA (observer), UN, UNAMID, UNCTAD, UNESCO, UNFICYP, UNHCR, UNHRC, UNIDO, UNIFIL, UNISFA, UNMIL, UNMISS, UNOCI, UNOOSA, UN Security Council (permanent), UNTSO, UNWTO, UPU, WCO, WHO, WIPO, WMO, WTO, ZC

Diplomatic representation in the US

chief of mission: Ambassador XIE Feng (since 30 June 2023)

chancery: 3505 International Place NW, Washington, DC 20008

telephone: [1] (202) 495-2266

FAX: [1] (202) 495-2138

email address and website:

chinaemppress_us@mfa.gov.cn

<http://www.china-embassy.org/eng/>

consulate(s) general: Chicago, Los Angeles, New York, San Francisco; note - the US ordered closure of the Houston consulate in late July 2020

Diplomatic representation from the US

chief of mission: Ambassador Nicholas BURNS (since 2 April 2022)

embassy: 55 An Jia Lou Road, Chaoyang District, Beijing 100600

mailing address: 7300 Beijing Place, Washington DC 20521-7300

telephone: [86] (10) 8531-3000

FAX: [86] (10) 8531-4200

email address and website:

BeijingACS@state.gov

<https://china.usembassy-china.org.cn/>

consulate(s) general: Guangzhou, Shanghai, Shenyang, Wuhan; note - the Chinese Government ordered closure of the US consulate in Chengdu in late July 2020

Flag description

red with a large yellow five-pointed star and four smaller yellow five-pointed stars (arranged in a vertical arc toward the middle of the flag) in the upper hoist-side corner; the color red represents revolution, while the stars symbolize the four social classes - the working class, the peasantry, the urban petty bourgeoisie, and the national bourgeoisie (capitalists) - united under the Communist Party of China

National symbol(s)

dragon, giant panda; national colors: red, yellow

National anthem

name: "Yiyongjun Jinxingqu" (The March of the Volunteers)

lyrics/music: TIAN Han/NIE Er

note: adopted 1949; the anthem, though banned during the Cultural Revolution, is more commonly known as "Zhongguo

Guoge" (Chinese National Song); it was originally the theme song to the 1935 Chinese movie, "Sons and Daughters in a Time of Storm"

National heritage

total World Heritage Sites: 57 (14 natural, 39 cultural, 4 mixed)

selected World Heritage Site locales: Imperial Palaces of the Ming and Qing Dynasties (c); Mausoleum of the First Qin Emperor (c); The Great Wall (c); Summer Palace (c); Jiuzhaigou Valley (n); Potala Palace (c); Ancient Pingyao (c); Historic Macau (c); Dengfeng (c); Grand Canal (c); Mount Huangshan (m)

Government - note

in 2018, the Beijing established an investigatory National Supervisory Commission to oversee all state employees

ECONOMY

Economic overview

one of the world's top two economies; sustained growth due to export relations, its manufacturing sector, and low-wage workers; only major economy to avoid COVID-19 economic decline; recovery efforts slowing due to longstanding poverty imbalances and other institutional issues; state-sponsored economic controls

Real GDP (purchasing power parity)

\$24.861 trillion (2021 est.)

\$22.996 trillion (2020 est.)

\$22.493 trillion (2019 est.)

note: data are in 2017 dollars

comparison ranking: 1

Real GDP growth rate

8.11% (2021 est.)

2.24% (2020 est.)

5.95% (2019 est.)

comparison ranking: 39

Real GDP per capita

\$17,600 (2021 est.)

\$16,300 (2020 est.)

\$16,000 (2019 est.)

note: data are in 2017 dollars

comparison ranking: 100

GDP (official exchange rate)

\$14,327,359,000,000 (2019 est.)

note: because China's exchange rate is determined by fiat rather than by market forces, the official exchange rate measure of GDP is not an accurate measure of China's output; GDP at the official exchange rate substantially understates the actual level of China's output vis-a-vis the rest of the world; in China's situation, GDP at purchasing power parity provides the best measure for comparing output across countries

Inflation rate (consumer prices)

0.98% (2021 est.)

2.42% (2020 est.)

2.9% (2019 est.)

comparison ranking: 201

Credit ratings

Fitch rating: A+ (2007)

Moody's rating: A1 (2017)

Standard & Poors rating: A+ (2017)

note: The year refers to the year in which the current credit rating was first obtained.

GDP - composition, by sector of origin

agriculture: 7.9% (2017 est.)

industry: 40.5% (2017 est.)

services: 51.6% (2017 est.)

comparison rankings: services 171; industry 28; agriculture 101

GDP - composition, by end use

household consumption: 39.1% (2017 est.)

government consumption: 14.5% (2017 est.)

investment in fixed capital: 42.7% (2017 est.)

investment in inventories: 1.7% (2017 est.)

exports of goods and services: 20.4% (2017 est.)

imports of goods and services: -18.4% (2017 est.)

Agricultural products

maize, rice, vegetables, wheat, sugar cane, potatoes, cucumbers, tomatoes, watermelons, sweet potatoes

Industries

world leader in gross value of industrial output; mining and ore processing, iron, steel, aluminum, and other metals, coal; machine building; armaments; textiles and apparel; petroleum; cement; chemicals; fertilizer; consumer products (including footwear, toys, and electronics); food processing; transportation equipment, including automobiles, railcars and locomotives, ships, aircraft; telecommunications equipment, commercial space launch vehicles, satellites

Industrial production growth rate

8.22% (2021 est.)

comparison ranking: 50

Labor force

791.383 million (2021 est.)

note: by the end of 2012, China's working age population (15-64 years) was 1.004 billion

comparison ranking: 1

Unemployment rate

4.82% (2021 est.)

5% (2020 est.)

4.52% (2019 est.)

note: data are for registered urban unemployment, which excludes private enterprises and migrants

comparison ranking: 156

Youth unemployment rate (ages 15-24)

total: 11.4% (2021 est.)

male: 12.1%

female: 10.4%

comparison ranking: total 142

Population below poverty line

0.6% (2019 est.)

Gini Index coefficient - distribution of family income

38.2 (2019 est.)

comparison ranking: 69

Average household expenditures

on food: 21.6% of household expenditures (2018 est.)

on alcohol and tobacco: 2.5% of household expenditures (2018 est.)

Household income or consumption by percentage share

lowest 10%: 2.1%

highest 10%: 31.4% (2012)

note: data are for urban households only

Budget

revenues: \$3.983 trillion (2019 est.)

expenditures: \$4.893 trillion (2019 est.)

Budget surplus (+) or deficit (-)

-3.8% (of GDP) (2017 est.)

comparison ranking: 152

Public debt

47% of GDP (2017 est.)

44.2% of GDP (2016 est.)

note: official data; data cover both central and local government debt, including debt officially recognized by China's National Audit Office report in 2011; data exclude policy bank bonds, Ministry of Railway debt, and China Asset Management Company debt

comparison ranking: 116

Taxes and other revenues

8.09% (of GDP) (2020 est.)

comparison ranking: 209

Fiscal year

calendar year

Current account balance

\$317.301 billion (2021 est.)

\$248.836 billion (2020 est.)

\$102.91 billion (2019 est.)

comparison ranking: 1

Exports

\$3.554 trillion (2021 est.)

\$2.739 trillion (2020 est.)

\$2.631 trillion (2019 est.)

note: Data are in current year dollars and do not include illicit exports or re-exports.

comparison ranking: 1

Exports - partners

United States 17%, Hong Kong 10%, Japan 6% (2019)

Exports - commodities

broadcasting equipment, computers, integrated circuits, office machinery and parts, telephones (2021)

Imports

\$3.091 trillion (2021 est.) note: data are in current year dollars

\$2.38 trillion (2020 est.) note: data are in current year dollars

\$2.499 trillion (2019 est.) note: data are in current year dollars

comparison ranking: 2

Imports - partners

South Korea 9%, Japan 8%, Australia 7%, Germany 7%, US 7%, Taiwan 6% (2019)

Imports - commodities

crude petroleum, integrated circuits, iron, natural gas, cars, gold (2019)

Reserves of foreign exchange and gold

\$3.428 trillion (31 December 2021 est.)

\$3.357 trillion (31 December 2020 est.)

\$3.223 trillion (31 December 2019 est.)

comparison ranking: 1

Debt - external

\$2,027,950,000,000 (2019 est.)

\$1,935,206,000,000 (2018 est.)

comparison ranking: 13

Exchange rates

Renminbi yuan (RMB) per US dollar -

Exchange rates:

6.449 (2021 est.)

6.901 (2020 est.)

6.908 (2019 est.)

6.616 (2018 est.)

6.759 (2017 est.)

ENERGY

Electricity access

electrification - total population: 100% (2021)

Electricity

installed generating capacity: 2,217,925,000 kW (2020 est.)

consumption: 6,875,088,640,000 kWh (2019 est.)

exports: 21.655 billion kWh (2019 est.)

imports: 4.858 billion kWh (2019 est.)

transmission/distribution losses: 333.01 billion kWh (2019 est.)

comparison rankings: installed generating capacity 1; transmission/distribution losses 1; imports 41; exports 12; consumption 1

Electricity generation sources

fossil fuels: 66% of total installed capacity (2020 est.)

nuclear: 4.8% of total installed capacity (2020 est.)

solar: 3.5% of total installed capacity (2020 est.)

wind: 6.2% of total installed capacity (2020 est.)

hydroelectricity: 17.8% of total installed capacity (2020 est.)

tide and wave: 0% of total installed capacity (2020 est.)

geothermal: 0% of total installed capacity (2020 est.)

biomass and waste: 1.6% of total installed capacity (2020 est.)

Nuclear energy

Number of operational nuclear reactors: 55 (2023)

Number of nuclear reactors under construction: 21

Net capacity of operational nuclear reactors: 53.18GW (2021)

Percent of total electricity production: 5.02% (2021)

Percent of total energy produced: 3% (2021)

Number of nuclear reactors permanently shut down: 0

Coal

production: 4,314,681,000 metric tons (2020 est.)

consumption: 4,506,387,000 metric tons (2020 est.)

exports: 6.652 million metric tons (2020 est.)

imports: 307.047 million metric tons (2020 est.)

proven reserves: 141.595 billion metric tons (2019 est.)

Petroleum

total petroleum production: 4,712,200 bbl/day (2021 est.)

refined petroleum consumption: 14,007,500 bbl/day (2019 est.)

crude oil and lease condensate exports: 52,500 bbl/day (2018 est.)

crude oil and lease condensate imports: 9,238,100 bbl/day (2018 est.)

crude oil estimated reserves: 26,022,600,000 barrels (2021 est.)

Refined petroleum products - production

11.51 million bbl/day (2015 est.)

comparison ranking: 2

Refined petroleum products - exports

848,400 bbl/day (2015 est.)

comparison ranking: 9

Refined petroleum products - imports

1.16 million bbl/day (2015 est.)

comparison ranking: 4

Natural gas

production: 179,317,495,000 cubic meters (2019 est.)

consumption: 306,576,649,000 cubic meters (2019 est.)

exports: 3,548,831,000 cubic meters (2019 est.)

imports: 131,608,161,000 cubic meters (2019 est.)

proven reserves: 6,654,250,000,000 cubic meters (2021 est.)

Carbon dioxide emissions

10,773,248,000 metric tonnes of CO₂ (2019 est.)

from coal and metallurgical coke: 8,652,419,000 metric tonnes of CO₂ (2019 est.)

from petroleum and other liquids: 1,520,552,000 metric tonnes of CO₂ (2019 est.)

from consumed natural gas: 600.276 million metric tonnes of CO₂ (2019 est.)

comparison ranking: total emissions 1

Energy consumption per capita

105.687 million Btu/person (2019 est.)

comparison ranking: 54

COMMUNICATIONS

Telephones - fixed lines

total subscriptions: 180,700,500 (2021 est.)

subscriptions per 100 inhabitants: 13 (2021 est.)

comparison ranking: total subscriptions 1

Telephones - mobile cellular

total subscriptions: 1.73 billion (2021 est.)

subscriptions per 100 inhabitants: 122 (2021 est.)

comparison ranking: total subscriptions 1

Telecommunication systems

general assessment: China has the largest Internet market in the world with almost all subscribers accessing Internet through mobile devices; market is driven through government-allied investment; fast-developing data center market; government aims to provide universal and affordable broadband coverage through market competition and private investment in state-controlled enterprises; 3G and LTE subscribers will migrate to 5G aiming for 2 million 5G base stations by the end of 2022; government strengthens IoT policies to boost economic growth; China is pushing development of smart cities beyond Beijing; Beijing residents carry virtual card integrating identity, social security, health, and education documents; government controls gateways to global Internet through censorship, surveillance, and shut-downs; major exporter of broadcasting equipment world-wide (2022)

domestic: nearly 13 per 100 fixed line and 122 per 100 mobile-cellular (2021)

international: country code - 86; landing points for the RJCN, EAC-C2C, TPE, APCN-2, APG, NCP, TEA, SeaMeWe-3, SJC2, Taiwan Strait Express-1, AAE-1, APCN-2, AAG, FEA, FLAG and TSE submarine cables providing connectivity to Asia, the Middle East, Europe, and the US; satellite earth stations - 7 (5 Intelsat - 4 Pacific Ocean and 1 Indian Ocean; 1 Intersputnik - Indian Ocean region; and 1 Inmarsat - Pacific and Indian Ocean regions) (2019)

Broadcast media

all broadcast media are owned by, or affiliated with, the Chinese Communist Party (CCP) or a government agency; no privately owned TV or radio stations; state-run Chinese Central TV, provincial, and municipal stations offer more than 2,000 channels; the Central Propaganda Department as well as local (provincial, municipal) sends directives to all domestic media outlets to guide its reporting with the government maintaining authority to approve all programming; foreign-made TV programs must be approved/censored prior to broadcast; increasingly, PRC nationals turn to online platforms (Bilibili, Tencent Video, iQiyi, etc) to access PRC and international films and television shows. Video platforms have to abide by regulations issued by the Cyberspace Administration of China (CAC), which align with censorship policies from CCP propaganda authorities. (2022)

Internet country code

.cn

Internet users

total: 1.022 billion (2021 est.)

percent of population: 73% (2021 est.)

comparison ranking: total 1

Broadband - fixed subscriptions

total: 483,549,500 (2020 est.)

subscriptions per 100 inhabitants: 34 (2020 est.)

comparison ranking: total 1

TRANSPORTATION**National air transport system**

number of registered air carriers: 56 (2020)

inventory of registered aircraft operated by air carriers: 2,890

annual passenger traffic on registered air carriers: 436,183,969 (2018)

annual freight traffic on registered air carriers: 611,439,830 (2018) mt-km

Civil aircraft registration country code prefix

B

Airports

507 (2021)

comparison ranking: total 13

Airports - with paved runways

510

civil airports: 131

military airports: 127

joint use (civil-military) airports: 69

other airports: 183

note: paved runways have a concrete or asphalt surface but not all have facilities for refueling, maintenance, or air traffic control; the length of a runway required for aircraft to safely operate depends on a number of factors including the type of aircraft, the takeoff weight (including passengers, cargo, and fuel), engine types, flap settings, landing speed, elevation of the airport, and average maximum daily air temperature; paved runways can reach a length of 5,000 m (16,000 ft.), but the "typical" length of a commercial airline runway is between 2,500-4,000 m (8,000-13,000 ft.)

Airports - with unpaved runways

23

note: unpaved runways have a surface composition such as grass or packed earth and are most suited to the operation of light aircraft; unpaved runways are usually short, often less than 1,000 m (3,280 ft.) in length; airports with unpaved runways often lack facilities for refueling, maintenance, or air traffic control

Heliports

39 (2021)

Pipelines

76,000 km gas, 30,400 km crude oil, 27,700 km refined petroleum products, 797,000 km water (2018)

Railways

total: 150,000 km (2021) 1.435-m gauge (100,000 km electrified); 104,000 traditional, 40,000 high-speed

standard gauge: (2018)

comparison ranking: total 2

Roadways

total: 5.2 million km (2020)

paved: 4.578 million km (2020) (includes 168000 km of expressways)

unpaved: 622,000 km (2017)

comparison ranking: total 3

Waterways

27,700 km (2020) (navigable waterways)

comparison ranking: 6

Merchant marine

total: 7,362 (2022)

by type: bulk carrier 1,684, container ship 355, general cargo 1,164, oil tanker 1,133, other 3,026

comparison ranking: total 3

Ports and terminals

major seaport(s): Dalian, Ningbo, Qingdao, Qinhuangdao, Shanghai, Shenzhen, Tianjin, Xiamen

container port(s) (TEUs): Dalian (3,672,000), Guangzhou (24,180,000), Ningbo (31,070,000), Qingdao (23,710,000), Shanghai (47,030,300), Shenzhen (28,767,600), Tianjin (20,269,400), Xiamen (12,045,700) (2021)

LNG terminal(s) (import): Fujian, Guangdong, Jiangsu, Shandong, Shanghai, Tangshan, Zhejiang

river port(s): Guangzhou (Pearl)

Transportation - note

note 1: seven of the world's ten largest container ports are in China

note 2: China operates one PC 3 or 4 class medium ice breaker and three PC 5 or 6 class light icebreakers

note - PC indicates a Polar Class vessel: PC 3 - year-round operation in second-year ice which may include multi-year ice inclusions (ice thickness up to 2.5 m); PC 4 - year-round operation in thick first-year ice which may include old ice inclusions (ice thickness up to 120 cm); PC 5 - year-round operation in medium first-year ice which may include old ice inclusions (ice thickness up to 70-120 cm); PC 6 - summer/autumn operation in medium first-year ice which may include old ice inclusions (ice thickness up to 30-70 cm)

MILITARY AND SECURITY

Military and security forces

People's Liberation Army (PLA): Ground Forces, Navy (PLAN, includes naval aviation), Navy Marine Corps (PLANMC), Air Force (PLAAF, includes airborne forces), Rocket Force (strategic missile force), and Strategic Support Force (information, electronic, and cyber warfare, as well as space forces); People's Armed Police (PAP, includes Coast Guard, Border Defense Force, Internal Security Forces); PLA Reserve Force (2023)

note 1: the Strategic Support Force includes the Space Systems Department, which is responsible for nearly all PLA space operations, including space launch and support, space surveillance, space information support, space telemetry, tracking, and control, and space warfare

note 2: the PAP is a paramilitary police component of China's armed forces that is under the dual authority of the Central Committee of the Communist Party and the Central Military Commission and charged with internal security, law enforcement, counterterrorism, and maritime rights protection

note 3: in 2018, the Coast Guard was moved from the State Oceanic Administration to the PAP; in 2013, China merged four of its five major maritime law enforcement agencies – the China Marine Surveillance (CMS), Maritime Police, Fishery Law Enforcement (FLE), and Anti-Smuggling Police – into a unified coast guard

Military expenditures

1.5% of GDP (2022 est.)
 1.5% of GDP (2021 est.)
 1.7% of GDP (2020 est.)
 1.7% of GDP (2019 est.)
 1.7% of GDP (2018 est.)

comparison ranking: 88

Military and security service personnel strengths

approximately 2 million active-duty troops (approximately 1 million Ground; 250,000 Navy/Marines; 350-400,000 Air Force; 120,000 Rocket Forces; 150-175,000 Strategic Support Forces); estimated 600-650,000 People's Armed Police (2023)

Military equipment inventories and acquisitions

the PLA has a mix of some older and an increasing amount of modern, largely domestically produced systems heavily influenced by technology derived from other countries; Russia has been the top supplier of foreign military equipment in recent years; China has one of the world's largest defense-industrial sectors and is capable of producing advanced weapons systems across all military domains (2023)

note: the PLA is in the midst of a decades-long modernization effort; in 2017, President XI set three developmental goals for the force - becoming a mechanized force with increased information and strategic capabilities by 2020, a fully modernized force by 2035, and a world-class military by mid-century

Military service age and obligation

18-22 years of age for men for selective compulsory military service, with a 2-year service obligation; women 18-19 years of age who are high school graduates and meet requirements for specific military jobs are subject to conscription (2023)

note: the PLA's conscription system functions as a levy; the PLA establishes the number of enlistees needed, which produces quotas for the provinces; each province provides a set number of soldiers or sailors; if the number of volunteers fails to meet quotas, the local governments may compel individuals to enter military service

Military deployments

400 Mali (MINUSMA); 225 Democratic Republic of the Congo (MONUSCO); 420 Lebanon (UNIFIL); 1,050 South Sudan (UNMISS); 150 Sudan/South Sudan (UNISFA); up to 2,000 Djibouti (2023)

Military - note

established in 1927, the PLA is the military arm of the ruling Chinese Communist Party (CCP), which oversees the PLA through its Central Military Commission; the Central Military Commission is China's top military decision making body

the PLA is the World's largest military; its primary responsibility is external security but it also has some domestic security duties; China's stated defense policy includes safeguarding sovereignty, security, and development interests while emphasizing a greater global role for the PLA; the PLA conducts air, counterspace, cyber, electronic warfare, joint, land, maritime, missile, nuclear, and space operations; it is a professional force that trains regularly, including multinational and multiservice exercises, deploys overseas, and participates in international peacekeeping missions

the majority of the Ground Forces are organized into 13 group armies with approximately 80 subordinate combined arms brigades--some of which are amphibious units--that serve as the primary ground maneuver forces; each group army also controls artillery, air defense, aviation/air assault, special operations, engineer, and logistics brigades; there are also several independent mechanized and motorized infantry divisions

the Navy is numerically the largest in the World with an overall battle force of some 380 ships and submarines, including 2 aircraft carriers (with a third in trials), 8 cruisers, more than 80 destroyers and frigates, and approximately 60 submarines; it also has a large naval aviation force, as well as a growing Marine Corps comprised of 6 amphibious brigades supplemented by aviation and special operations forces

the combined aviation forces of the Air Force and Navy are the largest in the region and third largest in the World with nearly 3,000 total aircraft, of which more than 2,200 are combat aircraft, including fighter, bomber, ground attack, and multipurpose fighter aircraft; the Air Force also has an airborne/rapid reaction corps with a mix of airborne, air assault, special operations, and aviation brigades; the PLA's ground-based air defense forces operate surface-to-air missiles, air defense artillery, jammers, and a variety of sensors; the PLA Rocket Force manages the PRC's land-based conventional and nuclear missile units

the PRC's internal security forces consist primarily of the Ministry of Public Security (MPS), the Ministry of State Security (MSS), the People's Armed Police (PAP), and the militia; the PLA support the internal security forces as necessary:

--the MPS controls the civilian national police, which serves as the first-line force for public order; its primary mission is domestic law enforcement and maintaining order, including anti-rioting and anti-terrorism

--the MSS is the PRC's main civilian intelligence and counterintelligence service

--the PAP is a paramilitary component (or adjunct) of the PLA; its primary missions include internal security, maintaining public order, maritime security, and assisting the PLA in times of war; it is under the command of the Central Military Commission; the China Coast Guard (CCG) administratively falls under the PAP; the CCG has a variety of missions, such as maritime sovereignty enforcement, surveillance, resource protection, anti-smuggling, and general law enforcement; it is the largest maritime law enforcement fleet in the world with approximately 150 large patrol craft

--the militia is an armed reserve of civilians which serves as an auxiliary and reserve force for the PLA upon mobilization, although it is distinct from the PLA's reserve forces; militia units are organized around towns, villages, urban sub-districts, and enterprises, and vary widely in composition and mission; they have dual civilian-military command structures; a key component of the militia are the local maritime forces, commonly referred to as the People's Armed Forces Maritime Militia (PAFMM); the PAFMM consists of mariners (and their vessels) who receive training, equipment, and other forms of support from the Navy and CCG (although the PAFMM remains separate from both) to perform tasks such as maritime patrolling, surveillance and reconnaissance, emergency/disaster response, transportation, search and rescue, and auxiliary tasks in support of naval operations in wartime; the PAFMM's tasks are often conducted in conjunction or coordination with the Navy and the CCG; it has been used to assert Beijing's maritime claims in the Sea of Japan and South China Sea (2023)

SPACE

Space agency/agencies

China National Space Administration (CNSA; established in 1993); Administration for Science, Technology, and Industry for National Defense (SASTIND; subordinate to the Ministry of Industry and Information Technology); People's Liberation Army Strategic Support Force (PLASSF; established 2016; includes the Space Systems Department and the China Manned Space Engineering Office or CMSEO) (2023)

Space launch site(s)

Jiuquan Launch Center (Inner Mongolia), Xichang Launch Center (Sichuan), Wenchang Launch Center (Hainan), Taiyuan Launch Center (Shanxi), Eastern (Haiyang City) coastal spaceport (Shandong; designed to facilitate maritime launches) (2023)

Space program overview

has a large, comprehensive, and ambitious space program and is considered one of the World's leading space powers; capable of manufacturing and operating the full spectrum of space launch vehicles (SLVs) and spacecraft, including human crewed, satellite launchers, lunar/inter-planetary/asteroid probes, satellites (communications, remote sensing, navigational, scientific, etc.), space stations, and re-usable space transportation systems, such as orbital space planes/shuttles; trains astronauts (taikonauts); researches and develops a range of other space-related capabilities, including advanced telecommunications, optics, spacecraft components, satellite payloads, etc.; participates in international space programs, such as the Square Kilometer Array Project radio telescope project and co-leads (with Australian and Japan) the Global Earth Observation System of Systems; has signed space cooperation agreements with more than 30 countries, including Brazil, Canada, France, and Russia, as well as the European Space Agency (note – the US NASA is barred by a 2011 law from cooperating with the Chinese bilaterally in space unless approved by the US Congress; the US also objected to China's participation in the International Space Station program); has a space industry dominated by two state-owned aerospace enterprises but since announcing in 2014 that it would allow private investment into the traditionally state-dominated space industry has developed a substantial commercial space sector, including space launch services (2023)

note: further details about the key activities, programs, and milestones of the country's space program, as well as government spending estimates on the space sector, appear in Appendix S

TRANSNATIONAL ISSUES

Disputes - international

China-India: continue their security and foreign policy dialogue started in 2005 related to a number of boundary disputes across the 2,000 mile shared border; India does not recognize Pakistan's 1964 ceding to China of the Aksai Chin, a territory designated as part of the princely state of Kashmir by the British Survey of India in 1865; China claims most of the Indian state Arunachal Pradesh to the base of the Himalayas, but the US recognizes the state of Arunachal Pradesh as Indian territory

China-Bhutan: continue negotiations to establish a common boundary alignment to resolve territorial disputes arising from substantial cartographic discrepancies, the most contentious of which lie in Bhutan's west along China's Chumbi salient

China-North Korea: certain islands in the Yalu and Tumen Rivers are in dispute with North Korea; both countries seek to stem illegal migration to China by North Koreans fleeing privation and oppression

China-Russia: have demarcated the once disputed islands at the Amur and Ussuri confluence and in the Argun River in accordance with their 2004 Agreement

China-Tajikistan: have begun demarcating the revised boundary agreed to in the delimitation of 2002

Southeast Asia: the decade-long demarcation of the China-Vietnam land boundary was completed in 2009; citing environmental, cultural, and social concerns, China has reconsidered construction of 13 dams on the Salween River, but energy-starved Burma, with backing from Thailand, continues to consider building five hydro-electric dams downstream despite regional and international protests

Maritime: Chinese maps show an international boundary symbol (the so-called "nine-dash line") off the coasts of the littoral states of the *South China Sea*, where China has interrupted Vietnamese hydrocarbon exploration; China asserts sovereignty over *Scarborough Reef* along with the Philippines and Taiwan, and over the *Spratly Islands* together with Malaysia, the Philippines, Taiwan, Vietnam, and Brunei; the 2002 Declaration on the Conduct of Parties in the South China Sea eased tensions in the Spratlys, and in 2017 China and ASEAN began confidential negotiations for an updated Code of Conduct for the South China Sea designed not to settle territorial disputes but establish rules and norms in the region; this still is not the legally binding code of conduct sought by some parties; both China and Vietnam continue to expand construction of facilities in the Spratlys, and in early 2018 China began deploying advanced military systems to disputed Spratly outposts; China occupies some of the *Paracel Islands* also claimed by Vietnam and Taiwan; the Japanese-administered *Senkaku Islands* are also claimed by China and Taiwan

Refugees and internally displaced persons

refugees (country of origin): 303,107 (Vietnam), undetermined (North Korea) (mid-year 2021)

IDPs: undetermined (2021)

Trafficking in persons

tier rating: Tier 3 — China does not fully meet the minimum standards for elimination of trafficking and is not making significant efforts to do so, therefore China remained on Tier 3; the government initiated its first prosecution of a domestic trafficking case, approved a new national action plan for 2021-2030, and conducted some anti-trafficking training; however, there was a government policy or pattern of widespread forced labor, including continued mass arbitrary detention of Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and members of other Turkic and Muslim minorities in the Xinjiang Uyghur Autonomous Region; the government also implemented similar policies against other religious minorities and Tibetans in other provinces; Chinese nationals reportedly suffered forced labor in several countries in Asia, the Middle East, Africa, and Europe hosting Belt and Road Initiative (BRI) projects; for the fifth consecutive year, the government did not report complete law enforcement data, nor did it identify any trafficking victims or refer them to protection services (2022)

trafficking profile: human traffickers exploit domestic and foreign victims in China, as well as Chinese people abroad; Chinese men, women, and children are victims of forced labor and sex trafficking in more than 80 countries; traffickers also use China as a transit point to subject foreign individuals to trafficking in other countries throughout Asia and in international maritime industries; state-sponsored forced labor persists under the government's mass detention and political indoctrination campaign against Muslim and Turkic minorities in the Xinjiang Uyghur Autonomous Region; authorities in some localities subject families of men arbitrarily detained in Xinjiang to forced labor; highly organized criminal syndicates and local gangs subject Chinese women and girls to sex trafficking within China; women and girls from South Asia, Southeast Asia, and several countries in Africa experience forced labor in domestic service, forced concubinage leading to forced childbearing, and sex trafficking via forced and fraudulent marriage to Chinese men; African and Asian men reportedly experience conditions indicative of forced labor aboard Chinese-flagged fishing vessels; many North Korean refugees and asylum-seekers living in China illegally are particularly vulnerable to trafficking, while some of the women are forced into commercial sex, forced marriage, or forced labor; North Korea exploits some of its citizens in forced labor in China as part of its proliferation finance system (2022)

Illicit drugs

a major source of precursor chemicals for narcotics such as fentanyl and methamphetamine, new psychoactive substances (NPS), and synthetic drugs; is a destination and transit country for methamphetamine and heroin produced in South east and Southwest Asia; China remains a major source of precursor chemicals sold in North America via the internet and shipped to overseas customers; domestic use of synthetic drugs is prevalent; chemical alterations of drugs circumvent laws and hamper efforts to stem the flow of these

(2021)

EXHIBIT 97

Gross domestic product 2022

<i>Ranking</i>	<i>Economy</i>	<i>(millions of US dollars)</i>
1	United States	25,462,700
2	China	17,963,171
3	Japan	4,231,141
4	Germany	4,072,192
5	India	3,385,090
6	United Kingdom	3,070,668
7	France	2,782,905
8	Russian Federation	2,240,422 ^a
9	Canada	2,139,840
10	Italy	2,010,432
11	Brazil	1,920,096
12	Australia	1,675,419
13	Korea, Rep.	1,665,246
14	Mexico	1,414,187
15	Spain	1,397,509
16	Indonesia	1,319,100
17	Saudi Arabia	1,108,149
18	Netherlands	991,115
19	Türkiye	905,988
20	Switzerland	807,706
21	Poland	688,177
22	Argentina	632,770
23	Sweden	585,939
24	Norway	579,267
25	Belgium	578,604
26	Cuba	545,218
27	Ireland	529,245
28	Israel	522,033
29	United Arab Emirates	507,535
30	Thailand	495,341
31	Nigeria	477,386
32	Egypt, Arab Rep.	476,748
33	Austria	471,400
34	Singapore	466,789
35	Bangladesh	460,201
36	Vietnam	408,802
37	Malaysia	406,306
38	South Africa	405,870
39	Philippines	404,284
40	Denmark	395,404
41	Iran, Islamic Rep.	388,544
42	Pakistan	376,533
43	Hong Kong SAR, China	359,839
44	Colombia	343,939
45	Romania	301,262
46	Chile	301,025
47	Czech Republic	290,924
48	Finland	280,826
49	Iraq	264,182
50	Portugal	251,945
51	New Zealand	247,234
52	Peru	242,632
53	Qatar	237,296
54	Kazakhstan	220,623
55	Greece	219,066
56	Algeria	191,913
57	Kuwait	184,558
58	Hungary	178,789
59	Ukraine	160,503 ^a
60	Morocco	134,182 ^b
61	Ethiopia	126,783
62	Slovak Republic	115,469
63	Ecuador	115,049
64	Oman	114,667
65	Dominican Republic	113,642

Gross domestic product 2022

<i>Ranking</i>	<i>Economy</i>	<i>(millions of US dollars)</i>
66	Puerto Rico	113,435
67	Kenya	113,420
68	Angola	106,714
69	Guatemala	95,003
70	Bulgaria	89,040
71	Luxembourg	82,275
72	Uzbekistan	80,392
73	Azerbaijan	78,721
74	Panama	76,523
75	Tanzania	75,709 ^c
76	Sri Lanka	74,404
77	Ghana	72,839
78	Belarus	72,793
79	Uruguay	71,177
80	Croatia	70,965
81	Lithuania	70,334
82	Côte d'Ivoire	70,019
83	Costa Rica	68,381
84	Serbia	63,502
85	Slovenia	62,118
86	Myanmar	59,364
87	Congo, Dem. Rep.	58,066
88	Sudan	51,662
89	Jordan	47,451
90	Tunisia	46,665
91	Libya	45,752
92	Turkmenistan	45,611
93	Uganda	45,559
94	Bahrain	44,391
95	Cameroon	44,342
96	Bolivia	43,069
97	Paraguay	41,722
98	Latvia	41,154
99	Nepal	40,828
100	Estonia	38,101
101	El Salvador	32,489
102	Honduras	31,718
103	Papua New Guinea	30,633
104	Cambodia	29,957
105	Zambia	29,784
106	Cyprus	28,439 ^d
107	Trinidad and Tobago	27,899
108	Iceland	27,842
109	Senegal	27,684
110	Georgia	24,605 ^e
111	Bosnia and Herzegovina	24,528
112	Lebanon	23,132
113	Macao SAR, China	21,979
114	Guinea	21,228
115	Gabon	21,072
116	Zimbabwe	20,678
117	Botswana	20,352
118	Haiti	20,254
119	Armenia	19,503
120	West Bank and Gaza	19,112
121	Burkina Faso	18,885
122	Albania	18,882
123	Mali	18,827
124	Mozambique	17,851
125	Malta	17,765
126	Benin	17,402
127	Jamaica	17,098
128	Mongolia	16,811
129	Brunei Darussalam	16,682
130	Lao PDR	15,724

Gross domestic product 2022

<i>Ranking</i>	<i>Economy</i>	<i>(millions of US dollars)</i>
131	Nicaragua	15,672
132	Guyana	15,358
133	Madagascar	14,955
134	Congo, Rep.	14,616
135	Afghanistan	14,583
136	Moldova	14,421 ^f
137	Niger	13,970
138	North Macedonia	13,563
139	Rwanda	13,313
140	Malawi	13,165
141	Mauritius	12,898
142	Bahamas, The	12,897
143	Chad	12,704
144	Namibia	12,607
145	Equatorial Guinea	11,814
146	Channel Islands	11,736
147	Syrian Arab Republic	11,159
148	Kyrgyz Republic	10,931
149	Tajikistan	10,492
150	Mauritania	10,375
151	New Caledonia	10,071
152	Kosovo	9,429
153	Monaco	8,596
154	Togo	8,126
155	Somalia	8,126
156	Bermuda	7,551
157	Liechtenstein	7,186
158	Isle of Man	6,684
159	Maldives	6,190
160	Guam	6,123
161	Montenegro	6,096
162	French Polynesia	6,080
163	Cayman Islands	6,028
164	Barbados	5,638
165	Fiji	4,943
166	Eswatini	4,854
167	Virgin Islands (U.S.)	4,204
168	Liberia	4,001
169	Sierra Leone	3,970
170	Faroe Islands	3,650
171	Suriname	3,621
172	Djibouti	3,515
173	Andorra	3,352
174	Greenland	3,236
175	Timor-Leste	3,163
176	Aruba	3,126
177	Burundi	3,073
178	Belize	2,824
179	Curaçao	2,700
180	Lesotho	2,553
181	Bhutan	2,540
182	Central African Republic	2,383
183	Cabo Verde	2,315
184	Gambia, The	2,273
185	St. Lucia	2,065
186	San Marino	1,855
187	Antigua and Barbuda	1,758
188	Guinea-Bissau	1,634
189	Solomon Islands	1,596
190	Seychelles	1,588
191	Sint Maarten (Dutch part)	1,572
192	Grenada	1,256
193	Comoros	1,243
194	Turks and Caicos Islands	1,139
195	Vanuatu	984

Gross domestic product 2022

<i>Ranking</i>	<i>Economy</i>	<i>(millions of US dollars)</i>
196	St. Kitts and Nevis	962
197	St. Vincent and the Grenadines	949
198	Northern Mariana Islands	858
199	Samoa	832
200	American Samoa	709
201	Dominica	612
202	São Tomé and Príncipe	547
203	Tonga	469
204	Micronesia, Fed. Sts.	427
205	Marshall Islands	280
206	Kiribati	223
207	Palau	218
208	Nauru	151
209	Tuvalu	60
	British Virgin Islands	-
	Eritrea	-
	Gibraltar	-
	Korea, Dem. People's Rep.	-
	South Sudan	-
	St. Martin (French part)	-
	Venezuela, RB	-
	Yemen, Rep.	-
World		101,002,997
	East Asia & Pacific	30,655,246
	Europe & Central Asia	25,192,038
	Latin America & Caribbean	6,748,778
	Middle East & North Africa	4,414,423
	North America	27,610,091
	South Asia	4,361,631
	Sub-Saharan Africa	2,047,347
	Low income	521,634
	Lower middle income	8,109,650
	Upper middle income	30,495,972
	High income	61,535,769

- Not available.

Note: Table list 217 economies, but rankings include only those with confirmed GDP estimates for at least one year during the last three years period. Figures in italics are for 2021 or 2020.

a. Based on data from official statistics of Ukraine and Russian Federation as well as the United Nations; by relying on these data, the World Bank does not intend to make any judgment on the legal or other status of the territories concerned or to prejudice the final determination of the parties' claims. b. Includes Western Sahara. c. Covers mainland Tanzania only. d. Data are for the area controlled by the government of Cyprus. e. Excludes Abkhazia and South Ossetia. f. Excludes Transnistria.

GDP data source: <http://data.worldbank.org/data-catalog/world-development-indicators>

GDP projections: <http://data.worldbank.org/data-catalog/global-economic-prospects>

EXHIBIT 98

**MINISTRY OF INDUSTRY
AND TRADE**

No.: 694/QD-BCT

SOCIALIST REPUBLIC OF VIET NAM
Independence - Freedom – Happiness

Ha Noi, January 31, 2013

DECISION

APPROVAL OF STEEL MANUFACTURING AND DISTRIBUTION SYSTEM DEVELOPMENT PLANNING
BY 2020 WITH A VISION TO 2025

MINISTER OF INDUSTRY AND TRADE

Pursuant to Decree No. [95/2012/ND-CP](#) dated November 12, 2012 of the Government defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade;

Pursuant to Decree No. 92/2006/ND-CP dated September 7, 2006 of the Government on the formulation, approval and management of master plan of social - economic development and Decree 04/2008/ND-01 dated 11 January 2008 of the Government amending and supplementing a number of articles of Decree No. 92/2006/ND-CP dated September 7, 2006;

Based on the evaluation results of the report on strategic environmental assessment of steel manufacturing and distribution system development planning by 2020 with a vision to 2025 of the Industrial Safety and Environment Agency in document No. 996/ATMT-TDMT dated November 14, 2012;

Based on document No. 3539/VPCP-KTN dated May 21, 2012 of the Government Office informing opinion of the Deputy Prime Minister Hoang Trung Hai to authorize the Minister of Trade and Industry for approving the steel manufacturing and distribution system development planning by 2020 with a vision to 2025.

At the proposal of the Director of Heavy Industry Department,

DECIDES:

Article 1. Approving the steel manufacturing and distribution system development planning by 2020 with a vision to 2025 with the following essential contents:

1. Development viewpoint

- a. Developing the steel manufacturing and distribution system in line with the master plan of social - economic development, sector of trade and industry and the roadmap of international economic integration of Vietnam.
- b. Building and developing the steel manufacturing and distribution system towards modernization ensuring stable and sustainable growth; gradually reducing imbalance between long steel products and flat steel products, between manufacturing and distribution circulation.
- c. Building the steel manufacturing system with advanced technology, thriftily and efficiently using natural resources and energy of the country, protecting the ecological environment at the steel business and manufacturing areas. Gradually removing small manufacturing facilities with technologies which are outdated, material and energy consuming and cause environmental pollution.

d. Encouraging all economic sectors, domestic and foreign enterprises to invest in investment in manufacturing of pig iron, steel billets, finished steel, manufacturing of equipment for steel lamination and refinement up to international standards. Having incentives for manufacturing investment projects of pig iron, alloy steel and steel of high quality from iron ore on a large scale. Limiting the investment and manufacturing of domestic products that have met consumption demand.

e. Developing distribution system reasonably and in accordance with the laws of the market economy, ensuring the autonomy and freedom of business and fair competition among entities with the macro regulation of the State.

2. Development objectives

a. Objectives

Developing Vietnamese steel industry to meet demand of steel products for national economy and ensure stability for domestic consumption market and export. Developing the steel industry which is sustainable and environmentally-friendly.

b. Target.

* For manufacturing system

- Manufacturing pig iron and sponge iron: Meeting sufficient cast iron for mechanic manufacturing and most of the raw materials for steel billet manufacturing in the country.

Manufacturing shall reach 6 million tones approximately by 2015; 17 million tonnes approximately and 28 million tonnes of pig iron and sponge iron approximately by 2020.

- Manufacturing of steel billet (from pig iron, sponge iron and scrape steel): 12 million tonnes approximately by 2015, 25 million tonnes approximately and 40 million tonnes approximately by 2020

- Manufacturing of finished steel: 13 million tonnes approximately by 2015; 23 million tonnes approximately by 2020, and 39 million tonnes approximately by 2025. Proportionately developing between long steel products and flat steel products.

- Gradually increasing the rate of export of steel products of various types. The rate of export is 15% approximately by 2015; 20% approximately by 2020 and 25% approximately by 2025 compared with the output.

- Gradually decreasing the rate of import of steel products of various types. The rate of import is 35% approximately by 2015; 25% approximately by 2020 and 15% approximately by 2025 compared with domestic consumption demand.

* For distribution system

- Gradually developing the steel distribution system modernly, scientifically, transparently and efficiently.

- By 2015, initially forming a modern steel distribution system (building 01 Exchange of steel products in Hanoi or Ho Chi Minh City). Forming steel distribution centers in regions. Transactions made through the Exchange and steel distribution centers shall reach around 7-10% of steel output consumed in the market.

- By 2020, completing Exchange and steel distribution centers in regions. Transactions made through the Exchange and steel distribution centers shall reach around 10-15% of steel output consumed in the market.

- By 2025, transactions made through the Exchange and steel distribution centers shall reach around 15-20%, meeting customers' demand on types and quality of products with competitive price.

3. Development orientation

a. Orientation of manufacturing system development

- Manufacturing of pig iron, sponge iron, steel billet and finished steel.

Investing in plants manufacturing pig iron, sponge iron from iron ore in the country or imported for supply of raw materials for steel refining plants while manufacturing products from cast steel. Completing targets of output of pig iron, sponge iron, steel billet and finished steel.

Developing domestic steel manufacturing towards product diversification such as building steel, cold rolled steel, hot rolled steel sheet, galvanized steel. Especially encouraging investment in manufacturing high quality steel, alloy steel for mechanical engineering, shipbuilding industry to replace imports.

- Types of product

Prioritizing investment in manufacturing pig iron, steel billet from iron ore, some types of hot rolled steel sheet products, alloy steel, stainless steel etc. ..

- Technology and equipment

Investing in advanced, energy-consuming, high productivity and environmentally-friendly technology.

- Focusing on investment in steel manufacturing projects in the Central coastal region, followed by the Southeast region and the Red River Delta. Also, investing in some steel rolling and refining plants in several provinces in the northern mountainous areas (localities with sufficient iron ore).

b. Orientation of distribution system development

- Building and developing the steel distribution system in the form of vertical and horizontal alignment, consistent with the characteristics of goods, consumption trends and market segments, linking the supply and consumption of products. Strengthening the linkage between manufacturers, distributors, service and regular customer; applying information technology, e-commerce transactions, namely:

- + Building and developing systems of distribution center and logistic services of steel industry in industrial zones, export processing zones and areas with large scale of urbanization to meet the demand for steel in the market;

- + Developing a modern business method such as Vietnam Commodity Exchange, auction, franchising and e-commerce center. Encouraging the development of a number of big and potential distributors which carry on general or specialized business and are competitive effectively;

+ Diversifying distribution methods. Forming and developing commodity markets in the future; improving the regulatory environment and information technology infrastructure, providing public services to support e-commerce activities; encouraging the use of the website to provide goods and services.

4. Development planning

a. Forecasting domestic demand for steel product consumption (including steel bar, roll, shape, hot rolled, cold rolled coil, steel pipe) by 2020, with a vision to 2025

Target	2013	2015	2020	2025
Steel consumption/person (<i>kg</i>)	156	176	252	373
Total domestic demand for steel consumption (<i>million tonnes</i>)	14	16	24	37

b. Production planning and distribution by region

- Total capacity of the projects expected to manufacture pig iron and steel by 2020, in consideration of the year 2015 as follows:

No.	Type of product	Capacity (1000 tonnes/year)			
		2012	2015	2020	2025
1	Pig iron and sponge iron	1.900	9.500	23.500	33.250
2	Square billets	7.740	15.300	24.000	25.630
3	Flat billets	-	6.000	18.000	25.500
4	Finished steel	12.500	15.000	35.500	42.530
	Particularly: Long steel (bar, coil, shape)	11.900	10.500	16.500	18.680
	- Hot rolled coil steel	600	4.500	19.000	23.850

Raising capacity of pig iron and steel plants (at least 70% of design capacity). Focusing on investment in development of a number of projects with large scale and capacity in the areas of iron ore raw materials and convenient transportation etc. .. to manufacture a number of key products such as pig iron and sponge iron, steel billets, hot rolled steel sheet, cold rolled steel coil and building steel. For areas with iron ore but difficult to transport and consume products expected to invest in manufacturing of cast iron, steel billet and fabrication steel. is expected to produce investment cast iron, steel billets, fabricated steel.

Based on the distribution of iron ore raw materials, geographic location, infrastructure, transportation, product consumption demand, etc. .. By 2020 there will be a number of major projects invested by foreign enterprises in combined plant manufacturing hot rolled steel sheet from iron ore in the central region (Ha Tinh, Quang Ngai) and at the same time, a number of domestic enterprises shall invest in manufacturing of steel billets, building steel in the northern mountainous regions (Lao Cai, Thai Nguyen).

Researching the investment in a number of projects manufacturing pig iron and steel from iron ore by blast furnace technology or non-coking technology with medium scale in Ha Giang, Cao

Bang, Bac Kan, Yen Bai in order to exploit and use iron ore resource in the above areas to manufacture cast iron products, mechanical steel fabricating the out of gauge, super-heavy equipment, steel serving national defense industry etc. .. Forms of investment by 100% of domestic capital investment or joint ventured with foreign investors.

(List of projects planned for investment in the period 2020, in consideration of the year 2025 of Vietnamese Steel Industry in Annex attached hereby)

- Distribution planning by regions

Distribution of steel manufacturing capacity 2020 by six regions

Region	Manufacturing capacity by region (%)		
	Pig iron, sponge iron	Billet	Rolled steel
Northern midland and mountainous region	22,42	11,62	8,61
Red river delta	1,63	17,51	19,38
Central coast	75,65	54,68	44,03
Central Highlands	0,29	-	-
Southeast	-	14,30	25,38
Mekong River Delta	-	1,90	2,60
The whole country	100,00	100,00	100,00

c. Distribution system planning by regions

Consolidating distribution system of steelmaking enterprises towards cross linkage with the distribution company, engaged in the regional distribution centers and steel Exchange. Restructuring trading system, expanding the sales network of companies in many different forms of linkage and ownership. Developing trading companies which coordinate and operate the steel circulation systems.

Planning and developing the new distribution system based on e-commerce coordinating with Exchange and regional distribution centers to create premises for market development in the future. The distribution system by regions is as follows:

* Red river region

- Investing and consolidating storage system, strengthening the development of information system, improving the capacity to provide steel processing services to meet the higher demand for regular consumption households. Reorganizing the steel distribution channels built in big cities such as Hanoi, Hai Phong, etc. ..

- Period 2011 – 2015, building from 4 to 6 steel distribution centers associated with big steel manufacturing facilities in Hai Phong and Hai Duong.

- Period 2016 – 2020 completing Exchange and centers built. Additionally investing from 2 to 3 distribution centers in other provinces in the region.

* Northern midland and mountainous region

- By 2015, building distribution centers associated with steel manufacturing facilities in the region, especially in Lao Cai, Thai Nguyen, Cao Bang, Phu Tho and Hoa Binh. The remaining provinces shall have agents, warehouse with small and medium size.

- Period 2016- 2020, it is expected to build steel distribution centers in other provinces in the region, expanding investment in existing centers.

* Central coastal region

- By 2015 building 6 distribution centers located on main streets in urban centers of Thanh Hoa, Nghe An, Ha Tinh, Da Nang, Quang Ngai and Khanh Hoa provinces in service of demand for building steel in the area.

- Period 2016- 2020 building steel distribution centers associated with large steel manufacturing facilities to take advantage of warehouse and open storage of manufacturers to supply steel to other provinces or for export.

* Central Highlands

- By 2015, investing in small and medium size logistic service facilities essentially serving the demand for building steel. It is estimated to build a medium size distribution center in Gia Lai or Dak Lak province.

- Period 2016- 2020 it is estimated to expand and upgrade the built center additionally invest from 1 to 2 regional distribution centers.

* Southeast region

- Period 2011- 2015 strengthening the existing distribution system, improving the capability of providing steel processing services. Reorganization building steel distribution channels in major cities. Building from 4 to 6 steel distribution centers in Ho Chi Minh City, Dong Nai, Binh Duong and Ba Ria - Vung Tau.

- Period 2016 - 2020 further consolidating and completing Exchange and steel distribution centers for regions to facilitate consumption through modern commercial forms.

* Mekong River Delta

- By 2015, building from 1 to 2 distribution centers in Kien Giang and Can Tho for supply to western provinces. By 2020, expanding these 2 centers and additionally building from 3 to 4 centers to meet rapidly increasing demand in the region.

- Period 2011 – 2015, building 1 steel Exchange in Ha Noi or Ho Chi Minh City.

5. System of solutions and planning implementation policies

a. Investment solutions

- Investment capital: Stabilizing policies to encourage to attract investment capital from all economic sectors for manufacturing development and distribution of steel. Using budget funding to invest in infrastructure outside the fence of large scale projects area and the distribution centers. Having incentive policies for combined steel plant projects. Prioritizing the investment in projects of manufacturing pig iron, steel billets, hot rolled steel sheet, alloy steel, steel of high

quality, large shaped steel and stainless steel that have not met the demand or been manufactured currently.

- Investment management: Manufacturing steel not subject to conditioned investment sector. There should be consistency in the investment management of the steel industry in accordance with law.

- Surface area: Steelmaking projects should be located in industrial zone, economic zones which have been planned by localities. The regional distribution center should be arranged in commercial infrastructure planning and developed in urban areas and ensure adequate area and full compliance with the criteria of regional distribution centers.

b. Solutions to raw material and energy assurance

- Iron ore, coke, scrap steel are the main raw material for the manufacturing of crude steel. Only implementing investment in projects manufacturing pig iron, steel billets from iron ore in the area after having determined reliable reserves of iron ore resources, ensuring long-term, adequate and stable resources (at least 15 years) and economic efficiency of the project.

- Ensuring the stable supply of steel in the country, engaged in import of scrap as prescribed by law. Fully complying with regulations on import of scrap steel and environmental protection.

- Mining fat coal resource in the country; importing fat coal and coke to meet full domestic demand.

- Steel manufacturing projects by electric furnace: Due to consumption much power. Therefore, in order to ensure adequate power supply for the project, before granting investment licenses, the investors should have agreement of the power sector where the steel refining plants are located.

c. Solution to export, import and market development

* For domestic market

- Protecting domestic market by the technical barriers and legal quality standards, preventing products of poor quality or not in accordance with the origin of goods specified in the international commitments in which Vietnam has joined.

- Improving policies on investment, manufacturing, business and market management of steel products, ensuring equality between economic sectors. Stabilizing import and export tax policy.

- Speeding up investment in capital construction to expand the domestic steel market, increasing consumption of steel products.

- Creating a close linkage, community responsibility between manufacturers with businessmen; researching and completing distribution network of steel products.

- Gradually establishing a modern steel distribution system, creating public and transparent market, reducing intermediate costs, contributing to stabilize the domestic steel market. Actively supervise the implementation of the Ordinance on price; preventing against smuggled goods, counterfeit goods, goods of poor quality to protect the interests of consumers and steel business and manufacturing enterprises.

* For foreign markets

- Improving competitiveness on price and quality of steel products. Applying new approaches to access to foreign markets. Encouraging enterprises to open representative offices abroad to promote and introduce their brands and provide information on manufacturing demand and consumption of steel of Vietnam, particularly for countries in the region.

- Developing a number of products with comparative advantage for exports such as color and zinc metal steel sheet, steel pipe, shaped steel of various types, cast iron, etc. ..

d. Solution to linkage between the steel manufacturing system and distribution system.

- Encouraging large business and manufacturing enterprises to invest in building steel distribution centers in the regions, creating conditions for these enterprises to lease space, warehouses and logistic services in order to facilitate the supply of products. The steel manufacturing enterprises should strengthen the distribution system through signing contracts with steel distributors or open agents, branches at regional distribution centers or directly participate in the steel Exchange.

- The localities shall make planning and reserve appropriate land fund to build regional distribution centers and shall give support for building infrastructure outside the fence of regional distribution centers.

- Developing vertical linkage from manufacturing – circulation -consumption of steel products. Having mechanism of binding responsibility in stages, from manufacturing to product consumption. Developing enterprises which carry on specialized business, multidisciplinary commerce and wholesale with the system of warehouses and distribution centers by modern methods for supply to the retail systems.

- Developing system of distribution center and services in large urban areas to ensure high synchronicity (warehouse, transportation, processing services as required...). Reorganizing the existing facilities in accordance with each locality, to create favorable conditions for the distribution circulation.

- Building distribution centers and logistic services of steel industry in accordance with the construction planning and urban development, planning for transport development, land, socio-economic development in the provinces, cities, economic zones in the country. Managing and efficiently using the existing facilities of the industry, combining with the improvement and upgrading and new construction, maximizing result from investment, business and ecological protection

e. Solutions to training and development of human resource.

- Speeding up the training of human resource for the steel industry, especially a team of qualified and skilled technicians. Strengthening the technical infrastructure, improving training programs to improve the quality of training.

- Associating the training with manufacturing, enhancing cooperation relation between schools with the steel and pig iron manufacturing facilities and reseach institutes.

g. Technology solution

Applying advanced and modern technology with low material and power consumption rate to ensure the requirements of emission and eco-friendliness, installing automatic monitoring system for emission..

- Capacity scale of metallurgical equipment must meet the following requirements:

+ Blast furnace technology: For areas without concentrated sources of iron ore, blast furnace requires a minimum capacity of 500 m³ (excluding specialized blast furnace manufacturing cast iron for mechanical engineering industry); for area with concentrated sources of iron ore, blast furnace requires a minimum capacity of 700 m³; for projects using imported iron ore, located in coastal areas, blast furnace requires a minimum capacity of 1000 m³;

+ Electric arc furnace technology: minimum capacity of 70 tonnes / batch;

+ Oxygen furnace technology: minimum capacity of 50 tonnes / batch;

+ Steel rolling line: minimum capacity of 500.000 tonnes /year.

- Increasing investment in pig iron, sponge iron manufacturing projects by non-coking metallurgical technology. Step by step upgrading and replacing small plants with and outdated technology.

By 2020, essentially removing all pig iron, steel billet manufacturing plants, steel rolling lines with small capacity (except blast furnace manufacturing cast iron in service of mechanical engineering industry, specialized furnace casting mechanical parts, lines of stainless steel rolling and steel of high quality). From 2013 onwards no investment license granted for new projects with outdated technology, environmental pollution, energy consuming. The investment projects must comply with national technical Regulation on technology and equipment of pig iron and steel manufacturing as prescribed by the Ministry of Industry and Trade.

h. Solution to environmental protection

- Restricting and minimizing environmental pollution. The new investment projects must be equipped with advanced technology for pollution control and waste treatment up to environmental standards;

- Strictly controlling emissions, wastewater, dust etc. .. at the pig iron and steel manufacturing facilities. Inspecting the import of used metallurgical equipment;

- Developing and promulgating environmental standards for the steel industry, improving the capacity and efficiency of waste management activities, reseaching and applying recycling technology of solid waste, heavy dust, emissions, etc.. emitted during the manufacturing of pig iron and steel;

- Strengthening management and institutionalizing the law on environmental protection. Promptly handling of environmental violations. Encouraging enterprises to adopt cleaner manufacturing technologies for energy saving and environmental protection.

i. Management solution

- Strengthen inspection, monitoring and management of investment projects as prescribed by law. The Ministries, sectors and localities shall perform functions and duties under the authority.

Coordinating and closely managing the granting of investment certificate for the pig iron and steel manufacturing projects as prescribed;

- Step by step developing the modern and transparent method of steel distribution to ensure the stability of steel market;

- Completing the system of import and export tax policy of steel products. Researching and promulgating national technical Regulation on pig iron and steel manufacturing technology and equipment;

- Promptly preventing and handling enterprises which have not complied with regulations on production and business of steel products. Strengthening inspection and control over the market, preventing speculation and hoarding, fake, etc. ..

Article 2. Implementation organization

1. Ministry of Industry and Trade:

- Taking responsibility for publication of planning, monitoring and inspecting the investment, business and manufacturing of steel industry in accordance with approved planning. Making periodic report on the implementation and proposing the adjustment of the Planning in accordance with the situation of social -economic development of the country;

- Examining and giving opinion on the investment projects of steel industry as prescribed.

- Assuming the prime responsibility and coordinating with the Ministries, sectors and localities to deal with the difficulties and problems of projects; proposing mechanisms and policies for sustainable and stable development of Vietnamese steel industry;

- Assuming the prime responsibility and coordinating with the Ministries, sectors concerned to develop and promulgate the national technical Regulation on pig iron, steel manufacturing technology and equipment.

- Strengthening the management of the market against fake, commercial fraud. Directing the developed of modern, transparent and efficient steel distribution system, helping stabilize the steel market. Strengthening trade promotion, supporting the search operations and development of exporting market of pig iron and steel products.

2. The Ministry of Planning and Investment, Finance, Science and Technology, Natural Resources and Environment, National Defense according to their functions shall coordinate with the Ministry of Industry and Trade to concretize mechanisms and policies on development of manufacturing and distribution of steel mentioned in this Decision to implement the Planning.

3. People's Committee of centrally-affiliated cities and provinces shall:

- Direct the implementation and management of investment and development of steel manufacturing facilities in the area in accordance with the provisions of the Investment Law and this Planning;

- Coordinate with the Ministries and sectors concerned to organize and inspect the implementation of the Planning; promptly handle and remove difficulties of investors and steel manufacturing facilities in the area;

- Direct the market management force in the area to coordinate with the authorities to strengthen the inspection and control prices of steel products; prevent speculation, fake and ensure price stability steel in the area.

4. Vietnam Steel Association:

- Act as a link between the enterprises in the industry; proactively propose and participate with relevant ministries and agencies in the development of mechanisms and policies; develop information supply system on steel manufacturing and business to support the management and administration of manufacturing and business.

- Coordinate with other Ministries and sectors concerned in management of manufacturing and business helping to stabilize steel products.

Article 3. This Decision supersedes the Decision No. [145/2007/QĐ-TTg](#) dated September 4, 2007 of the Prime Minister and shall take effect from the date of issuance.

Article 4. The Ministries, ministerial-level agencies, government-attached agencies and People's Committees of centrally-affiliated provinces and cities and agencies concerned are liable to execute this Decision. /.

MINISTER

Vu Huy Hoang

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EXHIBIT 99



MINISTRY OF PLANNING AND INVESTMENT (/EN)

OF THE SOCIALIST REPUBLIC OF VIETNAM

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FDI attraction situation in Vietnam and Vietnam's overseas investment in the first nine months of 2023

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Subject=FDI%20attraction%20situation%20in%20Vietnam%20and%20Vietnam%E2%80%99s%20overseas%20investment%20in%20the%20first%20nine%20months%20of%202023

As of September 20, 2023, the total newly registered capital, adjusted and contributed capital to buy shares and buy contributed capital of foreign investors reached approximately 20.21 billion USD, up 7.7% year-on-year. The capital generated by FDI projects was estimated at 15.91 billion USD, an increase of 2.2% over the same period in 2022.

Accumulated to September 20, 2023, the whole country has 38,379 valid projects with a total registered capital of 455.06 billion USD. The accumulated realised capital of foreign investment projects reached nearly 289.9 billion USD, equalling 63.7% of the total valid registered investment capital.

Details are as follows: **I. FDI INFLOWS OF VIETNAM** **1. FDI attraction in the first nine months of 2023** **1.1. FDI performance: *Realised capital:***

As of September 20, 2023, disbursement of FDI projects were estimated at over 15.9 billion USD, up 2.2% year-on-year and up 0.9 percentage point as compared with the figure to the first eight months of this year.

Import and export performance:

Export: Export (including crude oil) was estimated at 191.31 billion USD, down 8.9% year-on-year, accounting for 73.5% of export turnover. Export (excluding crude oil) was nearly 189.9 billion USD, year-on-year decrease of 8.9%, accounting for 72.9% of the country's export turnover.

Import: Imports of the foreign-invested sector attained approximately 154.12 billion USD, down 14.2% over the previous period and accounting for 64.4% of the country's import turnover.

Despite the decrease in export turnover in the first nine months of 2023, the FDI sector saw a trade surplus of nearly 37.2 billion USD including crude oil and 35.8 billion USD excluding crude oil, while the domestic sector had a trade surplus of nearly 16.1 billion USD.

1.2. Investment registration

As of September 20, 2023, the total newly registered capital, adjusted capital and capital contributions and share purchases of foreign investors stood at about 20.21 billion USD, up 7.7% year-on-year and down 0.5 percentage points as compared with the figure in the first eight months of this year. The newly registered capital and capital contributions and share purchases increased while adjusted capital continued falling.

Of which:

Newly registered capital: There were 2,254 new foreign-invested projects, valued at over 10.23 billion USD, were granted licenses, up 66.3% in number and 43.6% in value year-on-year.

Adjusted capital: There were 934 turns of project registering to adjust their investment (up 21.5% on-year) with a total additional capital of over 5.14 billion USD (down 37.3% year-on-year).

Capital contribution and share purchases: There were 2,539 capital contribution and share purchases by foreign investors (down 5.9% year-on-year) with a value of over 4.82 billion USD (up 47% year-on-year).

(Detailed data in Appendix I attached)

By sector:

Foreign investors poured funds into 18 out of 21 sectors in the national economic classification system, of which the processing and manufacturing industry took the lead with over 14 billion USD, making up 69.3% of the total and increasing 15.5% year-on-year. Real estate came next with a total investment of about 1.94 billion USD, accounting for 9.6% of the total and falling 45% compared to the same period last year. Followed were banking and finance, and wholesale and retail, with 1.54 billion USD (up 63.8 times more compared with the figure last year) and nearly 734 million USD (up 18.7% annually), respectively.

It is also worth noting that processing and manufacturing was the sector with the largest number of newly-registered projects (32.6%) and capital-adjusted projects (56.3%). Wholesale and retail led in the number of capital contribution and share purchases (accounting for 41.4%).

By counterpart:

There were 102 countries and territories investing in Vietnam in the first nine months of 2023. Singapore remained Vietnam's leading source of foreign investment with over 3.98 billion USD, making up 19.7% of the total FDI registered in the country (down 15.2% year-on-year). China came second with more than 2.92 billion USD, making up 14.5% of the total, and up 94.9% year-on-year. Japan came third with a total registered investment capital of nearly 2.9 billion USD, accounting for 14.3% of the total and rising 51% on-year. Next were Republic of Korea, Hong Kong (China), Taiwan (China) and so on.

Regarding the number of projects, China led in terms of number of newly-registered projects (accounting for 21.2%); the RoK topped the list when it comes to turns of capital adjustment (26.7%) and capital contributions and share purchases (28.5%)

By location:

The foreign investors had invested in 54 provinces and cities nationwide in the first eight months of 2023. Hanoi led the way with a total registered capital of 2.53 billion USD, making up 12.5% of the total and up 2.46 times against last year. Hai Phong ranked second with nearly 2.21 billion USD, making up 10.9% of the total and rising 82.4% compared with the figure in the same period last year. Next were Ho Chi Minh City, Bac Giang, Binh Duong and so on.

Ho Chi Minh City remains leading city in number of new projects (38.2%), turns of adjusted-projects (23%) and capital contributions and share purchases (66.3%).

(Detailed data in Appendix II attached)

2. Evaluation of the FDI performance in the first nine months of 2023

- The realised capital of FDI projects increased 2.2% year-on-year 0.5 percentage points compared with the figures of the first eight month this year. The Government and the Prime Minister has drastically implemented solutions to support and remove obstacles for businesses to disburse their investment capital.

- The total registered capital continued to slightly go compared with the figure of the first eight months (down 0.5 percentage points), but it increased by 7.7% year-on-year.

- The downturn of adjusted capital has been improved month-by-month. The turn of projects had their capital adjusted up also maintained an increase over the same period, confirming the confidence of foreign investors in the investment environment of Vietnam their decisions to expand business.

- Newly-invested projects are still focused on cities and provinces that have more advantages such as infrastructure, stable human resources, efforts to reform administrative procedures, and active investment promotion, like Hanoi, Hai Phong, Ho Chi Minh City, Bac Giang, Binh Duong, Bac Ninh and Dong Nai.

- Asian and traditional investors accounted the most proportion (Singaporean, Japanese, Chinese, Taiwanese (China), Hong Kong (China) and South Korean ones). These six partners accounted for 78.8% of total national investment capital in the first nine months).

- Although export of the FDI sector decreased for over eight (up 2.5 percentage point), it posted a trade surplus and offset the trade deficit of the domestic business sector. With a trade surplus of nearly 37.2 billion USD (including crude oil) and 35.8 billion USD (excluding crude oil), the FDI sector offset the trade deficit of nearly 16.1 billion USD of the domestic business sector, helping the country have a trade surplus of about 21.1 billion USD.

3. Accumulated foreign investment as of September 20, 2023

Accumulated as of September 20, 2023, the whole country has 38,379 valid FDI projects with a total registered capital of 455.06 billion USD. The accumulated realised capital of FDI projects is estimated 289.9 billion USD, equalling 63.7% of the total valid registered investment capital.

- By sector: Foreign investors have invested in 19 out of 21 sectors in the national economic classification system, in which the processing and manufacturing accounted for the highest proportion with nearly 273.9 billion USD, accounting for 60.2% of the total investment capital. It was followed by real estate sector with 67.4 billion USD (representing 14.8%); electricity production and distribution with more than 38.4 billion USD (or 8.4%).

- By counterpart: There are 144 countries having valid investment projects in Vietnam since Liechtenstein had a new investment project in September 2023. In which, the RoK ranked first with a total registered capital of nearly 83 billion USD (accounting for 18.2% of the total). Singapore ranked second with about 73 billion USD (representing for 16%). Next were Japan, Taiwan (China), and Hong Kong (China).

- By location: FDI has been present in all 63 provinces and cities nationwide, of which Ho Chi Minh City remains the leading province in attracting foreign investment with approximately 57.14 billion USD (accounting for 12.6% of the total investment capital), followed by Binh Duong with more than 40.3 billion USD (or 8.9% of the total investment capital), Hanoi with nearly 39.5 billion USD (representing 8.7% of the total investment capital).

(Detailed data in Appendix III attached)

II. FDI OUTFLOWS OF VIETNAM

In the first nine months of 2023, Vietnam's total newly-registered and additional investment were about 416.8 million USD (up 4.6% year on year). Of which, 84 projects were granted new investment registration certificates, with a total registered capital of 244.8 million USD (equalling 70.5% year on year); and 18 projects registered to adjust their investment with additional capital of over 171.96 million USD (up 3.38 times more year on year).

Vietnamese investors have invested in 14 sectors abroad. Of which, wholesale and retail took the lead with 26 newly-registered projects and 6 times of adjusting investment capital, with total registered capital of nearly 150.64 million USD, accounting for 36.1% of the total. Next came information and communication with over 114.35 million USD, accounting for 27.4%. Followed by electricity production and distribution, agriculture, forestry and fishery industry, manufacturing and processing industry and so forth.

There were 24 countries and territories receiving investment from Vietnam in the first nine months of 2023. Leading is Canada with one newly-registered and one capital-adjusted projects with the total registered capital of over 150.2 million USD, accounting for 36% of the total. Followed by Singapore, Laos and Cuba.

Accumulated as of September 20, 2022, Vietnam had 1,667 valid abroad investment projects with total registered investment capital of over 22.1 billion USD. In which, there are 141 projects of state-owned enterprises with a total investment of nearly 11.67 billion USD, accounting for 52.8% of the country's total investment capital.

Vietnam's investment abroad focuses mainly in: mining (31.5%); agriculture, forestry and fishery (15.5%). The areas receiving the most investment from Vietnam were Laos (24.7%); Cambodia (13.3%); and Venezuela (8.3%)./.

(Detailed data in Appendix IV and V attached) Translated by Bao Linh Ministry of Planning and Investment

EXHIBIT 100

China ramps up investment in Vietnamese market

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Chinese investors took the lead in terms of the number of newly-registered projects in Vietnam during the 11-month period with 632 with a total investment capital exceeding US\$3 million.

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Chinese investors are keen to inject money into projects in the field of high technology.

In fact, China has become the nation's largest trading partner for many years. Last year saw total Vietnamese import-export turnover with China reaching US\$175.6 billion.

During the 11-month period, China remained as the country's second largest export market with turnover reaching US\$55.98 billion, up 6.2%, becoming a bright spot for exports to most major markets enduring a decrease.



To date, Chinese financiers have injected over US\$27 billion in 4,161 projects across Vietnam, ranking sixth out of 144 countries and territories investing in the country.

Most notably, there are more high-tech projects on a larger scale. At the end of October, the northern province of Quang Ninh granted an investment registration certificate for the Jinko Solar Hai Ha Vietnam photovoltaic cell technology complex project capitalised at US\$1.5 billion.

The main investor for the project is Jinko Solar Holding, the world's largest and most advanced solar panel manufacturing corporation from China.

Furthermore, the northern province of Hai Duong recently attracted two more projects from Chinese enterprises namely Deli Group and BoWay Group, with total investment capital reaching nearly US\$400 billion.


Meanwhile, the central province of Nghe An also proved to be a locality popular among many Chinese investors due to the launch of several new projects.

For example, the Innovation Precision Vietnam Company plans to build an aluminum alloy factory with a total capital of US\$165 million in VSIP Nghe An industrial park, while Solar power titan Runergy announced a US\$293 million investment into a silicon and semiconductor manufacturing facility in the locality.

There remains plenty of room for further Chinese investment into the Vietnamese market, especially through key projects in the field of high technology, according to industry insiders.

The Hanoi Supporting Industry Business Association (HANSIBA) and the N&G Group recently signed a memorandum of understanding with a Shanghai business delegation on establishing the Techno Park production complex between both nations.

Nguyen Hoang, chairman of HANSIBA and executive chairman of N&G Group, stated that with growing infrastructure, an abundance of labour, and a capability to adapt to advanced technology, Vietnamese businesses are qualified to participate in the global production chain, including the micro-semiconductor chip industry.

Earlier on December 6, HANSIBA and N&G Group inked an agreement with CM  the association of Vietnamese, Indian, and Chinese mobile phone companies, to strengthen Vietnam's electronics sector.

Nguyen Van Toan, vice chairman of the Association of Foreign Invested Enterprises (VAFIE), said Chinese FDI projects in the country have been more selective, adding that the Vietnamese side should learn how China attracts foreign investment.

He revealed that instead of encouraging foreign investors to build research and development (R&D) hubs, the northern neighbour has urged domestic enterprises to build its own R&D centres and create new technologies.

Source: VOV

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EXHIBIT 101

China's Trina Solar plans \$420 mln expansion in Vietnam

 reuters.com/business/energy/chinas-trina-solar-plans-420-mln-expansion-vietnam-2023-11-06

Reuters



Companies



Trina Solar Co Ltd

HANOI, Nov 6 (Reuters) - Chinese solar panel maker Trina Solar ([688599.SS](#)) is planning to invest an additional \$420 million in Vietnam's northern province of Thai Nguyen, raising its total investment in the country to nearly \$900 million, the provincial government said on Sunday.

Reuters in September exclusively reported that Trina, one of the world's biggest solar panel makers by sales, would invest \$400 million in a new plant in Vietnam.

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In a statement released after a meeting between Trina's chairperson Gao Jifan and Deputy Prime Minister Tran Luu Quang, Gao said he expected to get support from the authorities to research and invest in rooftop solar power projects locally.

Trina, which was founded in 1997, is one of the biggest solar panel makers in Vietnam and operates two plants in Thai Nguyen, about 82 km from capital city Hanoi.

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The statement did not say whether the investment would include a third Trina Vietnam facility, or whether it could be used for other projects such as expanding existing plants.

Trina's Vietnam investment follows an investigation by the U.S. Department of Commerce that concluded in August Trina was among five Chinese solar firms who used plants in Thailand and other Southeast Asian countries to dodge punitive tariffs on Chinese-made panels.

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China and Hong Kong combined were the biggest foreign investor in Vietnam in the first 10 months of this year, according to Vietnamese government data.

Reporting by Phuong Nguyen; Editing by Jan Harvey

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Key takeaways from the COP28 pact



EXHIBIT 102

 [Vietnamnet global](#)

Chinese enterprises massively expand investment in Vietnam

22/06/2023 18:26 (GMT+07:00)

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In early June, two Chinese companies specializing in energy storage and battery manufacturing revealed their plans to invest a staggering US\$1 billion in expanding production facilities in Vietnam.



DBG Technology's base in Thai Nguyen Province.

This move reflects the growing trend of Chinese businesses significantly increasing their production presence in Vietnam in recent years.

A wave of substantial investments

In March, Reuters reported that Vietnam had become a favored destination for a significant influx of investments from China following the country's decision to lift its zero-Covid policy in December 2022. According to data from the Ministry of Planning and Investment, Chinese companies had allocated the first 50 days of 2023 to invest in 45 new projects in Vietnam. These projects predominantly target well-established major brands that have already established their presence in Vietnam.

In fact, the presence of prominent corporations such as Samsung Electronics, Canon, and Apple in Vietnam has attracted equipment assemblers like Foxconn and Luxshare Precision, contributing to the swift growth of industrial clusters in various sectors such as smartphones and printers in Vietnam.

This time, Chinese companies are also being drawn to invest in constructing factories in Vietnam, aiming to provide materials and services to major corporations with an established presence in the country. As of May, Yicai Global, a Chinese publication, noted that numerous Chinese enterprises operating across various sectors, including textiles, optics, and telecommunications, have opened manufacturing facilities in Vietnam.

Gongjin Electronics, a provider of broadband terminal equipment based in Shenzhen, has invested nearly 400 million Chinese yuan (\$57.5 million) to complete the construction of two phases for its factory in Vietnam. Yicai reported that once the third phase becomes operational, Gongjin Electronics' factory in Vietnam will have an annual production value of 10 billion Chinese yuan (\$1.4 billion).

Likewise, DBG Technology, an electronics manufacturing service provider headquartered in Guangdong Province in Southern Huizhou, is gearing up to elevate its Vietnam branch to an overseas headquarters, capable of producing 40 million smartphones and other electronic devices annually within three years, accompanied by an annual export value of \$4.5 billion.

Mr. Tang Jianxing, Chairman of DBG, has announced that the company has plans to hire and train around 15,000 workers in Vietnam. Additionally, it intends to establish a "multi-sector industrial supply chain" in Thai Nguyen Province, where several Chinese companies are already operating.

Furthermore, companies at different stages of the supply chain are enticing each other to invest in Vietnam for production collaboration. As an illustration, DBG has partnered with Huaqin Technology, a smart hardware manufacturer, and Lingyi iTech, a supplier for Apple, to establish an industrial park in Thai Nguyen Province.

According to the latest information from Reuters, Xiamen Hithium Energy Storage Technology and Growatt New Energy will invest approximately \$1 billion in Vietnam. Xiamen Hithium has been working with Vietnamese officials and industry regulators and intends to invest \$900 million to construct a factory on over 30 hectares of industrial land.

Meanwhile, Growatt New Energy has already leased an existing manufacturing plant in Vietnam and is planning to allocate around \$300 million to purchase approximately 15 hectares of industrial land for the establishment of a new factory.

Why Vietnam?

According to experts, Chinese businesses are increasingly expanding into Vietnam for several reasons. Firstly, Vietnam shares a border with China, facilitating convenient transportation of goods, raw materials, and production lines. Moreover, the Northern region of Vietnam, in particular, offers geographic proximity to China and competitive industrial land rental prices compared to the Southern region.

Vietnam's diverse geographical structure, encompassing mountains, plateaus, and coastal areas, is well-suited for the establishment of integrated economic zones. The country boasts an ample workforce, including a skilled labor force, and offers highly competitive labor costs. Additionally, the government has introduced a range of tax incentives to attract foreign investors.

Furthermore, Vietnam's high level of economic integration is noteworthy. To date, Vietnam has established economic and trade relations with around 224 partners from various countries and regions worldwide. This creates favorable opportunities for Chinese businesses in Vietnam to expand their market presence.

According to the South China Morning Post, Strategic Sports, a prominent global helmet manufacturer, plans to establish a smart factory in Vietnam in 2024, with a total investment of \$30 million. The company views this strategic move as crucial for its survival, considering geopolitical factors. Norman Cheng, the owner of Strategic Sports, stated, "Our American customers have strongly encouraged us to relocate production to Vietnam. With their commitment to placing orders from Vietnam, we have decided to establish our presence in this country."

Choosing reliable investors

The recent surge in manufacturing relocation from China to Vietnam is a positive sign for the economy. However, experts emphasize the need for Vietnam to be discerning in its approach. It is crucial to ensure that foreign direct investment (FDI) companies generate job opportunities for local workers and contribute to training and technology transfer.

Still, it is essential to decisively decline projects involving outdated technology that can result in environmental pollution. Vietnam should also exercise caution to prevent becoming a mere "processing hub" for foreign companies utilizing its brand name for exports to Western countries.

To accomplish this, Vietnam needs to enhance its standards and criteria regarding the environment, resources, technology, standards, and product specifications. Moreover, there should be regulations in place to prevent Vietnamese organizations and individuals from serving as intermediaries in transactions related to land and real estate, as well as stricter oversight of lending activities between Vietnamese entities and foreign partners in real estate projects. At the same time, Vietnam should prioritize attracting investments into sectors that require capital infusion.

Vietnam is recognized as a promising destination for attracting investment relocations from China. However, to fully capitalize on this opportunity, Vietnam should develop specific and appropriate solutions that align with the global situation.

Source: SGGP

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- **Two rail links between Hai Duong and China proposed**
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COMMENTS

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HOT NEWS


EXHIBIT 103

Foxconn to invest \$250 million to make EV, telecom parts in Vietnam

 [reuters.com/technology/foxconn-invest-246-mln-2-projects-northern-vietnam-2023-06-30](https://www.reuters.com/technology/foxconn-invest-246-mln-2-projects-northern-vietnam-2023-06-30)

Reuters



A Foxconn shareholder poses for photos after the annual shareholder meeting in New Taipei City, Taiwan May 31, 2023. REUTERS/Ann Wang/File Photo [Acquire Licensing Rights](#) 

HANOI, June 30 (Reuters) - Foxconn ([2354.TW](#)) is set to invest about \$250 million in two new projects in Vietnam, including for the production of components for electric vehicles (EVs), the world's largest contract electronics assembler and local authorities said on Friday.

The move confirms Foxconn's global plans to become a player in the EV industry, after having focussed for years on assembling electronic products for Apple ([AAPL.O](#)) and other major brands.

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The Taiwanese giant, through its unit Foxconn Singapore, is set to invest approximately \$250 million in an industrial park in northern Vietnam, "focusing on the production of electric vehicle components, controllers and other products to meet future development needs," it

said in a statement to Reuters.

The new projects would take its total investment in the southeast Asian manufacturing hub to about \$3 billion in nearly two decades since it built its first plant there, confirming its wider plans to expand outside of China amid continuous tensions between Beijing and Washington.

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Local authorities confirmed they had authorised Foxconn's new investment. The largest chunk of the new funding, about \$200 million, will go into a factory to produce EV chargers and components, which is scheduled to start production from January 2025 with a workforce of 1,200 people, authorities said.

The remaining \$46 million is for a plant to produce electronics and telecommunication components, with production set to begin in October 2024.

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Both facilities will in the province's Song Khoai Industrial Park, 138 km (86 miles) east of Hanoi.

"With roots that go back more than 15 years, Foxconn's base in Vietnam is one of the key locations in our global footprint," the company said in the statement to Reuters.

Foxconn also plans to set up a new factory in Vietnam's central province of Nghe An with an initial investment of \$100 million, the provincial local authority said last month.

(This story has been corrected to say its been nearly two decades since Foxconn built its first plant in Vietnam, not one, in paragraph 4)

Reporting by Phuong Nguyen, Khanh Vu and Francesco Guarascio; editing by Martin Petty and Jason Neely

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EXHIBIT 104

Is Foxconn the canary in the coal mine?

english.cw.com.tw/article/article.action



Source : [Ming-Tang Huang](#)

Working closely with local party organizations has laid the foundation for Foxconn's growth. But when China's largest private employer is also being suppressed, how should this signal be interpreted? What's next for other Taiwanese companies?

In July 2010, I visited the city of Zhengzhou. Terry Gou (郭台銘) had just swept into town and announced with great fanfare Foxconn's plan to invest there. It was clear everywhere I went that all the branches of the local Communist Party had been mobilized for Foxconn. Roads were being built to serve the plant. Local educational institutions were tasked with getting the best workers for the new Foxconn plant. **It was almost like a Maoist campaign by the Communist Party, a war if you will, to serve Foxconn.**

By August 2010, only two months after the agreement was signed, Foxconn Zhengzhou opened up and started to make the iPhone 6. The plant grew to eventually employ almost 300 thousand workers, and is still Foxconn's largest plant in the world. Foxconn replicated this model throughout China to become the largest private employer in China.

This marriage with local Communist Party organizations throughout China underpinned Foxconn's growth. Foxconn got access to millions of workers, and benefited from the protection and support of the Communist Party.

It also served the interests of Communist Party. Foxconn generated millions of jobs in China and, along with the supply chain that grew around Foxconn, drove growth in China. This growth is critical to the Communist Party's legitimacy, which is the claim that it has been able to bring economic prosperity to the Chinese people.

It wasn't just Foxconn of course. Millions of Chinese entrepreneurs, as well as tens of thousands of Taiwanese businesses, built their own ties with local governments throughout China. But Foxconn was very much the spearhead of the massive relocation of Taiwanese businesses to China. It was not only the largest private employer in China, but it also built deep ties with the Communist Party. I was reminded of these ties on a recent visit to Tsinghua University when I walked past the building of the "Tsinghua-Foxconn Nanotechnology Research Center" on the Tsinghua University campus.

But the effectiveness of this partnership between private businesses and Chinese local governments has been slowly unraveling long before my recent visit to Tsinghua. There are three forces behind this.

First, after President Xi Jinping took over in 2012, there has been a crackdown on local communist party officials. Specifically, the growing influence of private business, particularly in view of the close ties between private businesses and local party officials, was viewed as an existential threat to the Party. This view fed into the larger lesson the Chinese leadership took from the collapse of the Soviet Union, which was that without strengthening Party control, the Party would eventually collapse.

The consequence is that local communist party officials today are no longer the entrepreneurial agents they once were, eagerly seeking private investment, and doing whatever it takes to support private businesses. Instead they spend their time on political study sessions on Xi Jinping's thoughts, and keep their heads down to avoid attracting the attention of the Central Discipline Committee.

Second, there has been a crackdown on private firms, especially on large and powerful ones such as Alibaba and Tencent. This crackdown should be viewed as part of the ongoing campaign to restore Party control. Companies and individuals that threaten or potentially threaten Party control have been brought to heel. These include wealthy individuals, movie stars and celebrities, public opinion leaders, after-school tutoring companies, internet companies, media companies, and data-intensive companies.

Third, there is a growing hostility of western countries to China. It is not only higher tariffs in the US, but also the threat of tariffs and other measures should a firm based in China increase their sales to western markets. For example, despite the fact that BYD cars

are likely much better and cheaper than that of the competition, it is not likely that it would ever be able to sell in the US market.

The paralysis of local governments, combined with the increasing hostility of the Western world towards China, has prompted many Taiwanese firms to rethink their reliance on China. But at the same time, Taiwanese businesses were mostly immune to the crackdown that affected many Chinese owned private businesses. Not only that, but to the extent that they are able to, local governments in China continued to support most Taiwanese businesses. For example, when Foxconn's workers quit en masse to escape the harsh COVID lockdowns in 2022, Chinese local governments took it upon themselves to recruit new workers for the company.

Why have most Taiwanese firms in China escaped the crackdowns? One reason is that they do not pose the same domestic political threat to the Chinese Communist Party as wealthy Chinese private entrepreneurs. Jack Ma was not only the wealthiest person in China, but also a celebrity. He posed a political threat in a way that Terry Gou, as a Taiwanese, never can.

This is why the recent crackdown on Foxconn, under the guise of investigation for regulatory violations, is so shocking. Why, after supporting Foxconn for so long, is the Communist Party cracking down on Foxconn? Is this an example of what will come next for all the other Taiwanese companies in China?

Many in Taiwan have speculated that the crackdown was to send a message to Gou to withdraw from the Presidential campaign. It is no secret that the Communist Party would much rather have the KMT in power than the DPP, and Gou's campaign makes it more unlikely that the KMT will win.

Perhaps then, in the future, the Communist Party will use Taiwanese businesses as an instrument to affect Taiwan's politics. If this is the case, Taiwanese businesses should remain politically neutral, remain focused on delivering profits for their shareholders, and avoid taking political stances. This position of neutrality would also help them push back when a political authority demands their political support.

But what if political neutrality does not work? What if a Taiwanese business feels that its survival in the Chinese market necessitates that it supports the Party's position. This was perhaps the position that Gou found himself in when Chinese authorities announced a crackdown on Foxconn. **Here Taiwan should make clear that its businesses can not be an advocate for foreign governments. It is not acceptable for politicians to get campaign contributions from Chinese interests; it should also be unacceptable for businesses to take political positions due to political pressure in China.**

But it is also possible that the crackdown was idiosyncratic to Foxconn and does not signal a future crackdown on Taiwanese firms in China. It seems unlikely that Beijing really believed that public pressure would prompt Gou to suspend his campaign (it hadn't). **It seems more likely that the Chinese leaders were upset by Gou's comments that implied that he was more important to China than the other way around, and that they wanted to teach him a lesson on who the "boss" was.**

If this is the case, then the lesson for Taiwanese businesses is simple. Take your profits, make your contingency plans in case things blow up in China, and do not unnecessarily antagonize Chinese authorities.

About the Author



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EXHIBIT 105

Vietnam attracts Chinese firms in energy production: Savills

theinvestor.vn/vietnam-attracts-chinese-firms-inenergy-production-savills-d7491.html

Vu Pham, Lan Do

By Vu Pham, Lan Do

Wed, November 22, 2023 | 10:30 am GMT+7

Vietnam, especially the North, is attracting Chinese businesses, especially companies in the field of energy production thanks to its proximity to China and competitive industrial land prices compared to the South, according to associate director, head of industrial services at Savills Vietnam John Campbell.

Campbell stated that with the North's advantages, the region holds a unique attraction for Chinese investors. Moreover, the high level of economic integration in Vietnam is significant. Vietnam has built economic and trade links with over 224 partners from various countries and regions throughout the world. This generates favorable conditions for Chinese enterprises in Vietnam to grow their market presence.



Shandong HaoHua Tire Co., Ltd has invested \$500 million in the Haohua Vietnam tire factory project in Binh Phuoc province. Photo courtesy of Shandong Haohua.