



**MULTILATERAL TRADE ASSISTANCE PROJECT VIETNAM II
(MUTRAP II)**

Ministry of Industry and Trade in partnership with the European Commission
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**MULTILATERAL TRADE ASSISTANCE PROJECT VIETNAM II
(MUTRAP II)**

Activity Code: SERV-4

**GATS TRANSPARENCY OBLIGATIONS
and ESTABLISHMENT of the
GATS ENQUIRY AND CONTACT POINTS**

FINAL REPORT (24 August 2007)

on

**RECOMMENDATIONS on the ESTABLISHMENT
of the
GATS ENQUIRY AND CONTACT POINTS**

by

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FOREWORD

This report was implemented under the component “Assistance on GATS Transparency Obligations and Establishment of the GATS Enquiry and Contact Point” (Activity Code: SERV-4) of the “Multilateral Trade Assistance Project Viet Nam II” (Mutrap II) which is being conducted from 2005 to 2008 by the Ministry of Industry and Trade of Viet Nam and funded by the European Union.

The objectives of this project are to:

- a) Raise the awareness of government officials in the relevant ministries on the fundamental transparency requirements under the General Agreement on Trade in Services (GATS) in relation to trade-related services legislation and regulation
- b) Provide training for officials on these requirements
- c) Assist in the establishment of appropriate intra-governmental rules and procedures, and on the necessary institutional setting, human resources and equipment to guarantee the efficient and effective functioning of the GATS Enquiry and Contact Points within the Ministry of Trade.

The project was coordinated by the Local Experts from the Ministry of Industry and Trade and Ministry of Planning and Investment working with the EU Senior Expert. The work was divided into two phases and the EU Senior Expert was in Hanoi for two weeks in April/May and three weeks in July/August. In March the EU Senior Expert provided a concise report entitled “Review of GATS requirements on the establishment of a GATS Enquiry and Contact Point”. At the end of his first visit to Hanoi the EU Senior Expert provided a brief Follow-up Report on progress of the study by that point, by when the Local Experts had provided a draft of their report, on which the EU Senior Expert commented.

This joint Final Report is based on the reports by the experts and is the result of closely coordinated work between them, and includes a note on the results of the workshop held in Hanoi on 14 August 2007.

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I EXECUTIVE SUMMARY

Objectives

This report was implemented under the component “Assistance on GATS Transparency Obligations and Establishment of the GATS Enquiry and Contact Point” (Activity Code: SERV-4) of the “Multilateral Trade Assistance Project Viet Nam II” (Mutrap II) which is being conducted from 2005 to 2008 by the Ministry of Industry and Trade of Viet Nam and funded by the European Union.

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- a) Raise the awareness of government officials in the relevant ministries on the fundamental transparency requirements under the General Agreement on Trade in Services (GATS) in relation to trade-related services legislation and regulation.
- b) Provide training for officials on these requirements
- c) Assist in the establishment of appropriate intra-governmental rules and procedures, and on the necessary institutional setting, human resources and equipment to guarantee the efficient and effective functioning of the GATS Enquiry and Contact Point within the Ministry of Trade.

The project was coordinated by the Local Experts from the Ministry of Industry and Trade and Ministry of Planning and Investment, working with the EU Senior Expert.

PART II. RECOMMENDATIONS ON THE PURPOSE AND PROCEDURES OF THE GATS ENQUIRY POINT

Part II of this report describes the obligations of the Government of Viet Nam, under the transparency provisions of the General Agreement on Trade in Services of the World Trade Organisation, to establish a GATS Enquiry Point and makes recommendations on its purpose and on procedures for its proper functioning.

Transparency in the WTO

Transparency is a pillar of the multilateral trading system and one of the fundamental principles of the WTO, acting as a key principle for achieving multilateral trade liberalisation, identifying trade restrictions and distortions. This is particularly relevant for trade in services in view of the high degree of legislation and regulation affecting trade in practically all service sectors. Specific rules on transparency for trade in services are contained in GATS Articles III, III bis and IV.

Article III is a general treaty obligation that applies fully and automatically to all WTO Members and it stipulates three main transparency obligations:

- 1 prompt publication of all relevant measures (ie laws and regulations)
- 2 notification to the WTO of new laws and changes to existing laws
- 3 the establishment of an enquiry point to respond to other WTO Members

Article III bis states that GATS does not require any Member to reveal confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, whether public or private.

Establishment of a GATS Enquiry Point

This report recommends that one GATS Enquiry Point should be established by Viet Nam in the Ministry of Industry and Trade (MOIT) in order to fulfil these GATS obligations. In the meantime before it is established, MOIT is answering any such enquiries from WTO Members.

The main responsibility of the GATS Enquiry Point would be to “respond promptly to all requests by any other Member for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1”. Paragraph III:1 refers to measures “which pertain to or affect the operation” of the GATS. While fulfilling these obligations, the GATS Enquiry Point should ensure consistency of its responses with national trade policy objectives, and ensure that confidential information is safeguarded.

Although the GATS Enquiry Point of Viet Nam only has to be established by January 2009 at the latest, it should be set up as soon as practicable to ensure sound inter-ministry coordination and put Viet Nam in full compliance with its obligations under Article III:4. Viet Nam should then notify the WTO.

Another transparency obligation is stipulated in GATS Article IV:2 whereby “Developed country Members, and to the extent possible, other Members, shall establish contact points [] to facilitate the access of developing country Members’ service suppliers to information concerning specific aspects of their respective service markets []”. The Ministry of Industry and Trade should decide in due course whether the GATS Enquiry Point could be expanded to form a combined GATS Enquiry and Contact Point. Under existing FTAs, other regional trade agreements relating to services to which Viet Nam is a Member, there is no obligations to operate Enquiry and/or Contact Points, however, there may be such requirements in future regional or bilateral Free Trade Areas or Economic Partnership Agreement.

Functions of the GATS Enquiry Point

The GATS Enquiry Point is obliged only to answer enquiries from other WTO Members, and these could emanate from any foreign Ministries and Agencies, including embassies.

This definition of the coverage of enquiries is very wide and covers all types of relevant government action of general application (as opposed to administrative decisions on individual cases), although such enquiries do have to be for “specific information”. Consequently the response should be factual and there is no obligation to give a legal interpretation of any law as part of the response. No obligation exists to provide information on the rationale of the measure in question, though it may be advisable to provide such information in order to make the reply comprehensible and to avoid having to deal with additional questions.

Article III does not require governments to provide information on planned or draft legislation. Given that under ’s commitments in the Working Party Report, Ministries and Agencies have to give at least a 60 day period for public comment on new laws and regulations (drafts being posted on websites etc) and the VCCI is the nominated agency for consultation with private

business for all sectors, it should be considered whether the GATS Enquiry Point might in certain cases give such information, which presumably would be welcomed by other WTO Members.

The MOIT should decide to use the English language for its responses, which would correspond to the practice of many WTO Members. Where an enquiry would be received in French or Spanish, Viet Nam would be free to respond in English.

The GATS Enquiry Point could be a good channel to handle the enquiries to be made to other WTO Members that relate to their GATS measures. If this were to be decided upon, other Ministries and Agencies in Viet Nam would send to the GATS Enquiry Point any such enquiries intended for other Members. The GATS Enquiry Point would pass back to the relevant Ministries and Agencies the responses received to these enquiries.

Inter-Ministry Coordination

A wide range of Ministries, Agencies and regulatory bodies are involved directly and indirectly with the 150+ services sub-sectors. Some of the regulation of services occurs at the Provincial level, and some at the Municipal level.

The MOIT is recognised as the focal point for all trade negotiations, not just for the GATS, and the Inter-Ministry Working Group is functioning. It includes representatives from the relevant line Ministries and from independent regulatory agencies (including the SBV and GSO) and authorities. A sub-group can be considered for the service sector to include private sector representatives such as the VCCI and certain trade and professional associations.

A Directive of the Prime Minister should set out the coordination procedures and information flows between the MOIT and other Ministries and Agencies in relation to the GATS Enquiry Point.

A basic database should be held by the GATS Enquiry Point to include the details of the responsibilities of Ministries and Agencies concerning service sectors and the GATS-related measures in existence. However it would not include the full text of every measure, these being held by other Ministries and Agencies. The MOIT should set up a Services Trade Intranet on its website to include relevant GATS-related information useful for reference.

The organisation of the GATS Enquiry and Contact Points

The MOIT is currently undergoing reorganisation and a decision will be needed on which Division should handle the GATS Enquiry Point, depending on how the organisation of the whole range of WTO issues will be handled.

The way in which the function and duties of the Article IV Contact Point is integrated with the Article III Enquiry Point will need further careful study, given that pressures arising from bilateral trade negotiations may induce MOIT to take this step sooner rather than later. There should also be consideration of whether parallel enquiry and contact points may, or may not, be needed to handle enquiries on AFTA and other bilateral FTAs. It is recommended that only one enquiry point should handle all such enquiries.

Staffing, equipment and training

Initially the establishment of the GATS Enquiry Point is not expected to entail the need for increased staffing. Also it is not foreseen that any special information technology and computer equipment will need to be provided to the MOIT officials, as their existing provision should be adequate at this stage. During the SERV-4 project it was not possible to propose the final shape of the GATS Enquiry Point system and procedures and therefore the staff who will operate the system will need to be trained both before it is established, as well as afterwards.

Study Tour

The Study Tour to European countries should focus in particular on the institutional procedures for how the inter-ministry network of contacts should cooperate to handle the flow of information, giving close attention to the way in which officials of the Provincial Offices participate in this network structure. Mutrap III and potential donor countries could be approached to provide further capacity building aid for Viet Nam to acquire critical technical knowledge and the benefits of practical experience.

PART III. SUGGESTED FORMAL STEPS FOR SETTING UP THE GATS ENQUIRY and CONTACT POINTS

Part III of this report sets out the suggested steps for setting up the GATS Enquiry Point at first, including official approval by the Government, notification to the WTO, training the relevant officials in the Ministry of Industry and Trade and other Ministries and Agencies, and ensuring publicity about the services of the GATS Enquiry Point.

ANNEXES

The Annexes to this report include a summary of the Terms of Reference for SERV-4, the text of GATS Articles III, III bis and IV, a note on the GATS Enquiry Point of China, a brief report on the workshop by the Local Experts and the Final version of the Report by the Local Experts.

ACRONMYS

AFAS	ASEAN Framework Agreement on Trade in Services
AFTA	Asian Free Trade Area
ASEAN	Association of Southeast Asian Nations
EPA	Economic Partnership Agreement
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services, of the WTO
GECP	GATS Enquiry and Contact Points
MFN	Most-favoured Nation
MPI	Ministry of Planning and Investment
MOIT	Ministry of Industry and Trade
RTA	Regional Trade Agreement
SPS	Sanitary and Phytosanitary (relating to the WTO)
TBT	Technical Barriers to Trade (relating to the WTO)
TPRM	Trade Policy Review Mechanism (of the WTO)
VCCI	Viet Nam Chamber of Commerce and Industry
WTO	World Trade Organisation

II RECOMMENDATIONS ON THE PURPOSE AND PROCEDURES OF THE GATS ENQUIRY POINT

A The function of a GATS Enquiry Point

A.1 The World Trade Organisation Principle of Transparency

Transparency is a pillar of the multilateral trading system and one of the fundamental principles of the World Trade Organisation (WTO) acting as a key principle for achieving multilateral trade liberalisation. It acts to identify trade restrictions and distortions. This is particularly relevant for trade in services in view of the high degree of legislation and regulation affecting trade in practically all service sectors.

There must be full transparency between WTO Members regarding their national trade regimes. Without it, there would be no legal security among Member States.

Specific rules on transparency for trade in services are contained in GATS Articles III, III bis and IV (given in full in Annex 2).

The GATS Enquiry Point of Viet Nam should implement in full the provisions of the GATS on transparency.

A.2. GATS Article III Transparency

Article III is a general treaty obligation that applies fully and automatically to all WTO Members.

The GATS stipulates three main transparency obligations:

- 1 prompt publication
- 2 notification
- 3 the establishment of enquiry points.

The key parts of these provisions, taken from the full wording (see Annex 2), read as follows [emphasis added in each case]:

“Each Member shall **publish** promptly ... all relevant measures of general application which pertain to or affect the operation of this Agreement. International agreements pertaining to or affecting trade in services to which a Member is a signatory shall also be published.” (III:1)

GATS Article III:1 concerns only publication. It is left up to Members as to how this obligation should be carried out, whether in regular official publications, or some other means. Article III:2 indicates that where publication in the terms of III:1 “is not practicable, such information shall be made otherwise publicly available.”

“Each Member shall promptly and at least annually **inform** the Council for Trade in Services of the introduction of any new, or any changes to existing laws, regulations or administrative guidelines which significantly affect trade in services covered by its specific commitments under this Agreement.” (III:3)

Article III:3 concerns notifications to the WTO. All relevant measures of general application which affect the operation of GATS have to be notified, together with new or changed services regulations which significantly affect trade in services covered by GATS.

“Each Member shall **respond** promptly to all requests by any other Member for specific information on any of its measures of general application ... Each Member shall also establish one or more **enquiry points** to provide specific information to other Members, upon request, on all such matters.” (III:4)

It should also be noted that importantly, according to GATS Article III:4, “enquiry points need not be depositories of laws and regulations.”

The GATS Enquiry Point of Viet Nam should be organised so as to be capable of fully implementing the provisions of GATS Article III:4.

It should be necessary for only one such GATS Enquiry Point to be established by Viet Nam.

The GATS Enquiry Point should also be capable of carrying out ‘counter notifications’ as provided for in GATS Article III:5 which states that “Any Member may notify to the Council for Trade in Services any measure taken by any other Member, which it considers affects the operation of this Agreement.” This could be an important form of support for services exporters of Viet Nam who encounter adverse regulatory barriers in their foreign markets.

A.3. GATS Article III bis Disclosure of Confidential Information

This Article states that the Agreement does not require any Member to reveal confidential information. This means any confidential information the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

The GATS does not provide any further indications on what this means, and the Government of Viet Nam is free to determine the scope, interpretation and content of any exception it applies.

A.4. Responsibilities of the Enquiry Point (Article III:4)

The responsibilities of a WTO Member under GATS Article III:4 comprise:

- “respond promptly to all requests by any other Member for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1”. Paragraph III:1 refers to measures “which pertain to or affect the operation” of the GATS.
- “establish one or more enquiry points to provide specific information to other Members, upon request, on all such matters” (referring to those matters in Article III:1), “as well as those subject to the notification requirement” (referring to matters in Article III:3).

While fulfilling these obligations, the GATS Enquiry Point should ensure consistency of its responses with national trade policy objectives, and ensure that confidential information is safeguarded (as set out in Article III bis).

The tasks of the SPS and TBT Enquiry Points aim at the same objective of ensuring transparency as does the GATS Enquiry Point. Where there are commonalities apparent in the functioning of the three Enquiry Points, the MOIT should take into account the best practices of the SPS and TBT Enquiry Points when establishing the GATS Enquiry Point. This is particularly necessary where standards for the supply of services are enforced.

The MOIT should study how to ensure that the best institutional procedures to handle the network flow of information are created, taking into account the experience both of Viet Nam and of selected other countries.(there is a report on Switzerland's experiences).

The procedures should provide for the acknowledgement of the receipt of an enquiry, without waiting for a repeat request. Any delay in the response should be reasonably brief.

A.5. Deadline for establishing the GATS Enquiry Point

For the original WTO Members, under GATS Articles III:4 their Enquiry Point had to be established within two years from the date of entry into force of the Marrakesh Agreement Establishing the WTO (ie two years from 1 January 1995).

Under III:4, for developing country Members, flexibility with respect to this time limit could be granted on an individual basis.

For countries acceding to the WTO after it was formed, a common interpretation of Article III:4 is that they have to establish their GATS Enquiry Points within two years of their accession. Although the GATS Enquiry Point of Viet Nam only has to be established by January 2009 at the latest, it should be set up as soon as practicable to ensure sound inter-ministry coordination and put Viet Nam in full compliance with its obligations under Article III:4.

The MOIT should make thorough preparations for the training of their own staff who will operate the GATS Enquiry Point and of the officials in other Ministries and Agencies who will form the network of contacts for the GATS Enquiry Point. They should be furnished with adequate material to ensure the necessary smooth inter-Ministry and Agency coordination, including a 'Guidance Note', or similar document, describing the way in which the Prime Minister's Directive would be implemented..

A.6. Establishment of a GATS Contact Point

Another transparency obligation is stipulated in GATS Article IV:2 whereby "Developed country Members, and to the extent possible, other Members, shall establish contact points [] to facilitate the access of developing country Members' service suppliers to information concerning specific aspects of their respective service markets []".

This should be read in the context of the fifth paragraph of the GATS Preamble that records Members' desire:

“to facilitate the increasing participation of developing countries in trade in services and the expansion of their services exports including, *inter alia*, through the strengthening of their domestic services capacity and its efficiency and competitiveness.”

The Ministry of Industry and Trade should decide in due course whether the GATS Enquiry Point should be expanded to form a combined GATS Enquiry and Contact Point. Under existing FTAs, other regional trade agreements relating to services to which Viet Nam is a Member, there is no obligations to operate Enquiry and/or Contact Points, however, there may be such requirements in future regional or bilateral Free Trade Areas or Economic Partnership Agreement (EPAs). The possible requirements in future FTAs or EPAs may also in the form of establishment and operation of Contact Points. Experiences from several WTO Members shows that there should be only one Enquiry and Contact Point to avoid duplication and achieve better coordination.

The MOIT should consider how it could assist Viet Nameese service exporters to raise enquiries with the Contact Points of other WTO Members where possible. Under the terms of Article IV:2 this would be

“to facilitate the access of developing country Members’ service suppliers to information, related to their respective markets, concerning:

- (a) commercial and technical aspects of the supply of services;
- (b) registration, recognition and obtaining of professional qualifications;
- and
- (c) the availability of services technology.”

A.7. Notification of the establishment of the GATS Enquiry Point

The WTO Council for Trade in Services decided in May 1996¹ that:

“Members shall notify to the Council for Trade in Services the establishment of enquiry points pursuant to paragraph 4 of Article III, and the establishment of contact points pursuant to paragraph 2 of Article IV of the GATS.”

Viet Nam should submit its notification to the WTO of the establishment of the GATS Enquiry and Contact Points in the Ministry of Industry and Trade as soon as they have been set up.

¹ “Decision on the Notification of the Establishment of Enquiry and Contact Points”, of 28 May 1996, given in WTO document WTO S/L/23, 27 June 1996

B. Responding to enquiries from WTO Members

B.1. Who can make enquiries to the GATS Enquiry Point?

GATS Article III provides for inter-governmental obligations among WTO Members. Therefore its mechanism is not directly accessible to private service suppliers. However, private firms of Members can submit their enquiries to their own Government (or to the European Commission, as the case may be), and ask that their enquiries be put forward to the Government of Viet Nam through the Article III channel.

Vietnamese service exporters will similarly be able to ask the Government of Viet Nam to require information to be provided on the services regime of other WTO Members in response to enquiries sent by the MOIT to other GATS Enquiry Points.

The GATS Enquiry Point is obliged only to answer enquiries from other WTO Members, and these could emanate from any foreign Ministries and Agencies, including embassies.

It is understood that the GATS Enquiry Points of some WTO Members also provide, where possible, answers to enquiries from bona fide private sector services suppliers since such information would otherwise be obtained from their other Ministries and Agencies if approached directly. The MOIT should consider whether in due course their GATS Enquiry Point would also follow this practice.

B.2. Which “measures” are covered?

The legal definition of a ‘measure’ in GATS Article XXVIII (a) is any “measure by a Member, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form.” This is a very wide definition and covers all types of relevant government action of general application, as opposed to administrative decisions on individual cases.

Under GATS Article III:1, the GATS Enquiry Point obligation covers “all relevant measures of general application which pertain to or affect the operation of this Agreement”. Thus the obligation covers only those measures that “pertain to or affect the operation” of the GATS.

This notion relates to GATS Article I:1. It states that the Agreement applies to “measures by Members affecting trade in services”. It is widely recognised that the term “affecting” means any possible trade effect of the measure whether it be negative or positive. This wide interpretation has been confirmed by the decision of the WTO Appellate Body in the so-called “banana case”. It found that “in principle, no measures are excluded *a priori* from the scope of the GATS as defined by its provisions. The scope of the GATS encompasses any measure of a Member to the extent it affects the supply of a service or whether such measure directly governs the supply of a service or whether it regulates other matters but nevertheless affects trade in services.”²

Paragraph III:4 obliges a Member to respond to enquiries from other Members related to the obligations in paragraph III:1, whether they have undertaken specific commitments in the sector at issue or not. Measures covered by specific commitments are in effect a sub-set of the III:1

² European Communities – Regime for the Importation, Sale and Distribution of Bananas, Appellate Body Report, WT/Ds 27/AB/R of 25 September 1997.

measures, and so there is an obligation to provide more specific or detailed information related to specific commitments³.

Whereas it is clear that measures and rules that apply in individual cases do not have to be notified, on the other hand the definition of measure is very broad under Article XXVIII (a), (b) and (c), and no measures are ‘carved out’ of this general obligation to respond to enquiries about measures of general application that pertain to or affect the operation of the GATS. Indeed, governments cannot invoke Article I:3(c) to avoid the notification of, or giving a response to an enquiry about, “ ‘a service applied in the exercise of governmental authority’ [which] means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers”, to which the GATS does not apply. For example, such enquiries could relate to a case where governments make charges for some services, even if calculated on a cost basis.

Measures qualifying as exceptions by falling under Article XIV *General Exceptions* and Article XIV *bis Security Exceptions*, and measures taken for prudential reasons (the so-called ‘prudential carve-out’), as defined in paragraph 2 (a) of the *Annex on Financial Services*, relate to the scope of the GATS, and Members are obliged to respond to enquiries upon these measures. If a Member chooses not to publish certain measures, and in a dispute invokes the provisions of the XIV Articles or the prudential carve-out, the burden of proof of the necessity for invoking the exception provisions is borne by that Member.

Members are also obliged to respond to enquiries on exemptions from the general obligation of most-favoured treatment, taken under the *Annex on Article II Exemptions*, because they fall within the scope of the GATS, as do non-discriminatory measures that do not have to be scheduled under Article XVI *Market Access* or Article XVII *National Treatment* if they are measures of general application which pertain to or affect the operation of the GATS. Where such measures are scheduled under Article XVIII *Additional Commitments*, the III:3 obligation applies directly, and thus also the III:4 obligations. Experiences from Switzerland shows that the country also provides answers to such questions...

The Article III obligations apply to the following Articles: VII *Mutual Recognition*, X *Emergency Safeguard Measures*, XI *Payments and Transfers*, XII *Restrictions to Safeguard the Balance of Payments* and XV *Subsidies*.

The Article III obligations also apply to Articles VIII *Monopolies and Exclusive Service Suppliers* and IX *Business Practices*. State trading activities could come under these two articles: thus government and non-governmental enterprises which have been granted exclusive or special rights or privileges are covered by the obligation to respond to enquiries.

The Article III obligations further apply to Article XIII *Government Procurement* because under XIII:1 only Articles II *Most-Favoured-Nation Treatment*, XVI *Market Access* and XVII *National Treatment* do not apply. The relationship between the plurilateral rules and the future XIII rules has not yet been made clear.

However, information does not have to be provided in response to enquiries on matters that fall outside the scope of the GATS. These include measures affecting governmental services (as

³ This interpretation is assumed given the use of the term ‘administrative guidelines’, which is in addition to the term ‘administrative action’ in the definition of ‘measure’ in Article XXVIII *Definitions* paragraph (a), even if presumably covered in the phrase ‘or any other form’ that ends the definition of ‘measure’.

defined in Article I *Scope and Definition* paragraph 3 (b) and (c)), air traffic rights (as defined in the *Annex on Air Transport Services*) and measures relating to employment, citizenship and residency (as defined in the paragraph 2 of the *Annex on the Movement of Natural Persons Supplying Services under the Agreement*).

In practice it may be considered that this legalistic interpretation may not always be the right stance to take. Diplomatic practice may call for replies going beyond the legal limitations set out in the GATS. This would apply in particular to enquiries put through diplomatic channels, to which no legal limitations attach, and to which governments will wish to reply appropriately.

Direct enquiries are being received by Ministries and Agencies from official and private sector entities, which would continue to be handled in parallel to those received by the GATS Enquiry Point. Such enquiries include those from foreign embassies and foreign ministries and visits by foreign officials. It should be considered whether a procedure for answering GATS-related enquiries that are first received by other Ministries and Agencies should be provided for, to ensure comprehensive coverage by the GATS Enquiry Point and consistency in accordance with government trade policies.

However, this would call for a system to communicate the responses to the enquiries with the MOIT (and perhaps MPI too if relevant). It might only be possible to operate such a system using a network or an upgraded computer networking system - further underlined by the need to coordinate information from the 64 Provincial Offices which are handling such enquiries too. In current reality, synthesized information from provinces is provided to relevant central Ministries and agencies quarterly or annually through reports. Such reporting system should be enhanced and coordinated if the enquiry point is to notify all measures at provincial levels also.

At a minimum copies of such enquiries and responses by other Ministries and Agencies should be sent to the GATS Enquiry Point in MOIT.

The GATS Enquiry Point should respond to enquiries relating to notifications made by Viet Nam to the WTO under the GATS, as provided for under Article III:4.

The MOIT should direct the GATS Enquiry Point to prepare to implement the transparency provisions on the 'Disciplines on Domestic Regulation in the Accountancy Sector'.⁴ According to this Council decision, the disciplines are to be integrated into the GATS no later than the conclusion of ongoing Doha Development Agenda trade negotiations.

Paragraph 3 provides that: "Members shall make publicly available, including through the enquiry and contact points established under Articles III and IV of the GATS, the names and addresses of competent authorities (ie governmental or non-governmental entities responsible for the licensing of professionals or firms, or accounting regulations)."

Paragraph 4 provides that: "Members shall make publicly available, or shall ensure that their competent authorities make publicly available, including through the enquiry and contact points: (a) where applicable, information describing the activities and professional titles which are regulated or which must comply with specific technical standards; (b) requirements and procedures to obtain, renew or retain any licences or

⁴ WTO document S/L/64, 17 December 1998.

professional qualifications and the competent authorities' monitoring arrangements for ensuring compliance; (c) information on technical standards; and (d) upon request, confirmation that a particular professional or firm is licensed to practise within their jurisdiction.”

In due course Viet Nam will partake in the WTO Trade Policy Review Mechanism, and it should be considered how information to be submitted during that process should be kept consistent with the information held by the GATS Enquiry and Contact Points in MOIT.

It should also be considered how enquiries related to ASEAN/AFTA and other FTAs/EPAs should be handled, as it would probably not be efficient to have a number of Enquiry Points operating in parallel, specific to these other trade agreement dimensions.

Under paragraph 1 (b) of the WTO decision on ‘Transparency Mechanism for Regional Trade Agreements’⁵, Members agreed as follows:

“Members parties to a newly signed RTA shall convey to the WTO, in so far as and when it is publicly available, information on the RTA, including its official name, scope and date of signature, any foreseen timetable for its entry into force or provisional application, relevant contact points and /or website addresses, and any other relevant unrestricted information.”

B.3. Requests have to be for “specific information”

Article III:4 provides that any enquiry addressed to the GATS Enquiry Point must ask for “specific information” to be provided by Members in relation to the measure in question. There is no jurisprudence or WTO guideline defining this notion. However, the following indications can be drawn from GATS rules, in particular those regarding the various notifications to be provided under the GATS. The “Guidelines for Notifications under the GATS”⁶ contain a template which defines the scope of notifications in the following way:

“Complete description of the measure indicating the modes of supply covered, the effect on trade in services (eg restrictions/liberalisation measures) and the impact of the measures on commitments in the Member’s schedule and Article II (MFN) exemption list, if relevant.”

This definition can also be applied to define the required specificity of responses to enquiries, given that such enquiries must be reasonably concise and clear. It must be possible to respond in a practicable fashion. In particular it cannot be expected that the full text of any service law or regulation has to be provided. In most cases only certain sections of such legislation will “pertain to or affect the operation of the GATS”.

In the context of the GATS Enquiry Point, no obligation exists to provide information on the rationale of the measure in question. In practice, it may be advisable to provide such information in order to make the reply comprehensible and to avoid having to deal with additional questions.

⁵ WTO document: WT/L/671, 18 December 2006

⁶ WTO document WTO S/L/5, 4 April 1995, p. 4, section 5.

Article III does not require governments to provide information on planned or draft legislation. It should be considered whether for responses by the GATS Enquiry Point of Viet Nam that in certain cases such information might be given.

During the accession negotiations, the Government of Viet Nam indicated that with respect to proposed laws, ordinances, decrees and other regulations and measures issued by the National Assembly and the Government pertaining to or affecting trade in goods, services, and intellectual property, Viet Nam would provide a reasonable period, ie, no less than 60 days, for WTO Members, individuals, associations and enterprises to provide comments to the appropriate authorities before such measures are adopted. The Government would take into account any comments received during the period for commenting. The only exceptions to this opportunity for comment would be for those regulations and other measures involving national emergency or security, or for which publication would impede law enforcement.

Under the general law of Viet Nam, Ministries and Agencies have to give at least a 60 day period for public comment on new laws and regulations (drafts being posted on websites etc) and the VCCI is the nominated agency for consultation with the private sector for all sectors. Thus the GATS Enquiry Point could well respond to enquiries on draft laws, even though it is not an obligation to do so. Presumably this would be welcomed by other WTO Members.

B.4. Interpretation of Laws

An enquiry from another WTO Member has to be for ‘specific information’ and consequently the response should be factual. The GATS Enquiry Point of the MOIT would not have any obligation to give a legal interpretation of any law as part of the response.

If the MOIT plans to offer a legal interpretation service to governmental or private sector enquiries, this would need careful study to ensure that the basis was sound in each case, even though presumably a legal disclaimer notice would routinely be necessary. It would be essential to involve the Ministry of Justice in setting up the procedure for handling such enquiries and responses.

The exact legal status of the GATS Enquiry Point within the MOIT would depend on that given to it by the relevant governmental decision.

Where an enquiry from a WTO Member relates to a law that falls within the competence of the MOIT, as allocated by the government, the GATS Enquiry Point itself could be responsible for giving a legal interpretation of the measure concerned.

Where an enquiry relates to a measure within the competence of another ministry or agency, the MOIT would seek the response of the appropriate official and then pass it on to the enquiring government. In this case the GATS Enquiry Point would be acting as a messenger and coordinator of responses. Its role would also include ensuring that the response was compatible with settled trade policy.

To a certain extent, the MOIT might check the quality of each response relating to measures outside its own area of competence, though this could not be absolute, particularly where MOIT officials may not be familiar with the detailed legal position in a complex sector.

The same logic would apply to a response to an enquiry from the VCCI or any other private sector entity.

B.5. Language regime

The WTO has three official languages: English, French and Spanish. It is clear that enquiries can be made and replies can be given in any one of them. The MOIT should decide to use the English language for its responses, which would correspond to the practice of many WTO Members. Where an enquiry would be received in French or Spanish, Viet Nam would be free to respond in English.

English should also be used for translations of legal texts or extracts that might have to be provided, as part of the response to enquiries. In case of voluminous documents, Viet Nam should apply the ‘rule of reason’ regarding the extent of translations into English of Viet Nameese laws and regulations and in appropriate cases summaries of such documents should be given.

B.6. Format for GATS Enquiry Point responses to enquiries

The GATS framework is silent on the format in which to respond to enquiries, such as letters, fax, email or any other form of communication. The government of Viet Nam is free to follow its usual practices, including, if necessary, whether to exclude electronic mail from official correspondence.

B.7. Charging for information provided by the GATS Enquiry Point of Viet Nam

It would not be appropriate for charges to be made by the GATS Enquiry Point for responses to enquiries from other governments.

C. Sending out enquiries to WTO Members

The GATS Enquiry Point could be a good channel to handle the enquiries to be made to other WTO Members that relate to their GATS measures. If this were to be decided upon, Ministries and Agencies in Viet Nam would send to the GATS Enquiry Point any such enquiries intended for other Members. The GATS Enquiry Point would pass back to the relevant Ministries and Agencies the responses received to these enquiries.

If any such enquiries were sent direct from Vietnamese Ministries and Agencies to other WTO Members, then it should be considered whether copies of these enquiries and responses would be sent to the GATS Enquiry Point to keep MOIT in the picture.

It should be noted that the Vietnamese WTO Mission in Geneva may act as a channel for receiving certain enquiries from other WTO Members, and for sending in GATS notifications to the WTO Central Registry for Notifications.

D. Inter-Ministry Coordination

A wide range of Ministries, Agencies and regulatory bodies are involved directly and indirectly with the 150+ services sub-sectors. Some of the regulation of services occurs at the Provincial level, and some at the Municipal level. Thus all these bodies need to be aware of the extent to which services can be traded internationally and the types of regulatory issues that can arise.

Coordination between Ministries and Agencies is necessary to:

Create a whole government position: GATS negotiations are highly information intensive and the negotiating position should be based on a complete assessment of key national priorities. The negotiators should be kept fully informed of market factors, and be able to answer questions from trading partners on Provincial as well as Federal measures.

Create an information base on measures affecting trade in services: accurate information should be supplied to trading partners on the domestic regulatory situation affecting trade in services in the four modes of supply. An MOIT (focal point) central inventory and database should be created of the various regulatory measures. This should be kept up to date.

Identify and analyse the effects of specific measures on the achievement of economic and social policy objectives: the purpose of regulations should be reviewed including the efficiency of achieving the objectives and the procedures for sound implementation.

Create awareness of the impact of GATS disciplines on regulatory conduct in sectors where specific commitments are scheduled: when developing new policies, account should be taken of existing commitments, the incorporation of international standards, meeting notification requirements and the GATS disciplines on regulatory conduct.

Avoid duplication of domestic consultations: to retain the cooperation of SMEs surveyed, Ministries should coordinate with the MOIT to include any GATS-related issues to avoid additional surveying of firms.

Contribute to an ongoing assessment of the impact of trade liberalisation: the statistics needed include the population of service sector firms and other firms that also supply services, and the flow of trade in services by the four modes of supply: including the activities of foreign affiliates, inward investment and expenditure of foreign visiting consumers as tourists, students and patients.

(The report on experiences from Switzerland can be annexed to this report)

The structure of coordination

The MOIT is recognised as the focal group for all trade negotiations, not just for the GATS, and the Inter-Ministry Working Group is functioning. It includes representatives from the relevant line Ministries and from independent regulatory agencies (including the SBV and GSO) and authorities (such as airport and port authorities, telecommunications regulator and so on). This is where national economic priorities and trade negotiating positions can be aligned.

The Working Group should be kept apprised of the results of stakeholder consultations and plan to avoid duplicative surveys.

A sub-group should be considered for the service sector to include private sector representatives including the VCCI and certain trade and professional associations. This sub-group might

initiate the formation of a Coalition of Service Industries to become the central interlocutor with the government on horizontal issues affecting service sectors.

As services exports develop, there could be sub-group committees for particular sectors, such as tourism, transport, telecommunications, financial services, construction, distribution, recreation/sports/ entertainment and for horizontal issues, such as mode 4 and labour force development (ENTs, GATS Visa), and ICT-enabled services.

A clear nomination of the department in each of the Ministries and Agencies is necessary to act as the contact points in the communications network with the MOIT GATS Enquiry Point. Presumably this would be a continuation of the close cooperation established for the WTO accession negotiations.

For a clear and consistent coordination amongst Ministries and agencies, there should be a Directive issued by the Government or Prime Minister, which will set out the coordination procedures and information flows between the MOIT and other Ministries and Agencies in relation to the GATS Enquiry and Contact Points. They must be clear about their relationship with the MOIT and how they should cooperate to ensure the proper functioning of the GATS Enquiry and Contact Points.

Importantly, once the GATS Enquiry Point has been established the MOIT should circulate a 'Guidance Note' to all Ministries and Agencies setting out its function and the coordination procedures to be followed in accordance with the Prime Minister's Directive.

Other support for the Working Group coordination could be achieved by the establishment of good regular lines of communication between the nominated contact individuals in the Ministries, in-person briefings and discussions to obtain consensus on a negotiating approach, and news briefings for: 'Information', 'Your Action' or 'Your Authorisation', and a regularly updated Intranet website.

It is suggested that the contents of a Services Trade Intranet could include:

- Inventory of measures by: sector, mode of supply, market access, national treatment
- Existing GATS schedule of specific commitments
- Proposed additions to the GATS schedule (ie GATS offer)
- Existing GATS schedules of key trading partner countries
- Requests received from trading partners
- Proposed requests to trading partners
- Implementation timetable and responsibilities, including for training and orientation, and for monitoring
- Status of notifications to the Council for Trade in Services
- Negotiations checklist
- Calendar of dates, including: key benchmarks for negotiations, WTO meeting schedules, industry and civil society consultations, bilateral meetings with trading partners (including for RTAs and bilaterals)
- Summary of recent meetings and state of play in negotiations

Collection and cataloguing of GATS-related information in Viet Nam

The basic database that would be held by the GATS Enquiry Point should include the details of the responsibilities of Ministries and Agencies concerning service sectors and the GATS-related measures in existence. However it would not include the full text of every measure, which texts are held by the respective Ministries and Agencies. In particular this is relevant to the Investment Law covering foreign access to Vietnamese services markets, for which the Ministry of Planning and Investment is responsible.

The GATS Enquiry Point should maintain a registry of enquiries received from other WTO Members and the responses given.

This registry should also include enquiries that are sent out to other WTO Members by the GATS Enquiry Point on GATS matters and the responses received - referred to in Section C above. Should resources be sufficient, this registry should also include copies of enquiries sent to other WTO Members directly by other Ministries and Agencies and the responses received.

E. The organisation of the GATS Enquiry and Contact Points

As the MOIT has been the focal point in WTO services negotiations, it should continue to take the role as a GATS enquiry Point.

The MOIT is currently undergoing reorganisation and when this is complete it should be decided in which Division the GATS Enquiry Point should be placed once it is established, as this will depend on how the organisation of the whole range of WTO issues will be handled.

The GATS Contact Point

The way in which the function and duties of the Article IV Contact Point is integrated with the Article III Enquiry Point will need further careful study, given that pressures arising from bilateral trade negotiations may induce MOIT to take this step sooner rather than later.

Other Enquiry and Contact Points

Once the GATS Enquiry Point has been established there should be consideration of whether parallel enquiry and contact points may, or may not, be needed to handle enquiries on AFTA and other bilateral FTAs. To avoid any overlap, it is suggested that only one Enquiry Point should handle all enquiries from WTO Members and FTA parties.

Staffing and equipment

Initially the establishment of the GATS Enquiry Point is not expected to entail the need for increased staffing in the MOIT. Also it is not foreseen that any special information technology and computer equipment will need to be provided to the officials operating the GATS Enquiry Point, as their existing provision should be adequate at this stage.

Training

During the SERV-4 project it was not possible to propose the final shape of the GATS Enquiry Point system and procedures and therefore the MOIT staff who will operate the system will need to be trained both before it is established as well as afterwards. Some training will also need to

be offered to the staff in other Ministries and Agencies who will constitute the network of contacts.

Study Tour

The Study Tour should offer the opportunity for best practices of European countries to be studied in depth. Given the principle of coordination, the Study Tour should focus in particular on the institutional procedures for how the inter-ministry network of contacts should cooperate to handle the flow of information. The way in which officials of the Provincial Offices participate in this network structure will need to be given close attention.

Further Donor Aid

Those who benefit from the Study Tour should draw up an evaluation of what has been achieved during SERV-4 and what remains to be organised, so that Mutrap III and potential donor countries could be approached to provide further capacity building aid for Viet Nam to acquire critical technical knowledge and the benefits of practical experience.

F. Providing information to officials participating in WTO meetings, negotiations and other international events relevant to services trade

The database held by the GATS Enquiry Point could form a useful focal point for information sought on GATS matters by Vietnamese officials, whether they are participating in WTO meetings, GATS negotiations or other international events involving services trade issues.

This could become of increasing value as the complex inter-linkages arising from the various dimensions of FTAs and bilateral services trade negotiations become apparent, especially bearing in mind the obligations under GATS Article V *Economic Integration*.

G. Conducting awareness raising activities among stakeholders on the benefits of GATS membership

When the inter-Ministry and Agency procedures concerning the GATS obligations have been well established, the GATS Enquiry Point staff could be in a position to conduct certain awareness raising activities among the wide variety of stakeholders in order to demonstrate the benefits of GATS membership.

H. Possible identification of issues and measures by WTO Members which might impact negatively on Viet Nam

The GATS Enquiry Point may be able to assist other Ministries and Agencies in identifying certain issues and measures taken by other WTO Members which might impact negatively on Viet Nam. This would be the case where the MOIT Notification Unit copies to the GATS Enquiry Point any relevant notifications made by other WTO Members which are sent to Viet Nam by the WTO Central Notifications Registry in Geneva.

I. Disseminating GATS-related information and analysis

The question of how the GATS Enquiry Point could assist other Ministries and Agencies in the dissemination of GATS-related information and analysis should be addressed at a later stage.

III SUGGESTED FORMAL STEPS FOR SETTING UP THE GATS ENQUIRY and CONTACT POINTS

It is recommended that the following formal steps should be taken by the government to create the GATS Enquiry and Contact Points.

- 1 Approve the establishment of the GATS Enquiry and/or Contact Point(s) to fulfil their obligations under GATS Articles III and IV (including their funding, control, staffing, equipment and operation).
- 2 Position the GATS Enquiry and/or Contact Point(s) in the Ministry of Industry and Trade where they would form part of the ministry's focal point overall network for notifications and contacts for WTO matters (apart from the separate SPS and TBT Enquiry Point systems). Publish a Directive of the Prime Minister on the MOIT powers to operate this network and the inter-Ministry and Agency coordination procedures.
- 3 Take the formal steps necessary to control and administer the GATS Enquiry and/or Contact Point(s).
- 4 Notify the WTO Secretariat of the establishment of the GATS Enquiry and/or Contact Point(s).
- 5 Provide sufficient office space and equipment to assure proper functioning of the GATS Enquiry and/or Contact Point(s).
- 6 Train the relevant officials in the Ministry of Industry and Trade, and other Ministries and Agencies, as appropriate, and provide them with a complete set of instructions and information in a 'Guidance Note' or similar document.
- 7 Ensure appropriate publicity on the establishment of the GATS Enquiry and/or Contact(s) Points and their services.

IV. ANNEXES

Annex 1: Text of GATS Articles III, III bis and IV

Article III Transparency

1. Each Member shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Agreement. International agreements pertaining to or affecting trade in services to which a Member is a signatory shall also be published.
2. Where publication as referred to in paragraph 1 is not practicable, such information shall be made otherwise publicly available.
3. Each Member shall promptly and at least annually inform the Council for Trade in Services of the introduction of any new, or any changes to existing, laws, regulations or administrative guidelines which significantly affect trade in services covered by its specific commitments under this Agreement.
4. Each Member shall respond promptly to all requests by any other Member for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1. Each Member shall also establish one or more enquiry points to provide specific information to other Members, upon request, on all such matters as well as those subject to the notification requirement in paragraph 3. Such enquiry points shall be established within two years from the date of entry into force of the Agreement Establishing the WTO (referred to in this Agreement as the "WTO Agreement"). Appropriate flexibility with respect to the time-limit within which such enquiry points are to be established may be agreed upon for individual developing country Members. Enquiry points need not be depositories of laws and regulations.
5. Any Member may notify to the Council for Trade in Services any measure, taken by any other Member, which it considers affects the operation of this Agreement.

Article III bis Disclosure of Confidential Information

Nothing in this Agreement shall require any Member to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

Article IV Increasing Participation of Developing Countries

1. The increasing participation of developing country Members in world trade shall be facilitated through negotiated specific commitments, by different Members pursuant to Parts III and IV of this Agreement, relating to:
 - (a) the strengthening of their domestic services capacity and its efficiency and competitiveness, *inter alia* through access to technology on a commercial basis;

- (b) the improvement of their access to distribution channels and information networks;
and
 - (c) the liberalization of market access in sectors and modes of supply of export interest to them.
2. Developed country Members, and to the extent possible other Members, shall establish contact points within two years from the date of entry into force of the WTO Agreement to facilitate the access of developing country Members' service suppliers to information, related to their respective markets, concerning:
- (a) commercial and technical aspects of the supply of services;
 - (b) registration, recognition and obtaining of professional qualifications; and
 - (c) the availability of services technology.
3. Special priority shall be given to the least-developed country Members in the implementation of paragraphs 1 and 2. Particular account shall be taken of the serious difficulty of the least-developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needs.

Annex 2: Note on the GATS Enquiry Point of China

In the Ministry of Commerce there is a WTO Department specifically responsible for WTO matters. Within the WTO Department there is a Division handling enquiries and technical assistance programmes (including the EC-China WTO project). The GATS Enquiry Point, formed in accordance with GATS Article III:4, is located in this Division.

The responses to any enquiries on GATS matters under Article III:4 are provided directly by the staff in this Division if they already have the necessary information. In those cases where further information is required, the questions are forwarded to the relevant officials and regulators in other ministries and agencies and when their responses are obtained, the information is then provided to the foreign governments or other persons raising the enquiries.

On GATS matters they do not handle many enquiries each month. It is thought that this is because business people know that the most efficient and effective way to obtain the best answers to their questions is to approach the regulators directly, since it is quite easy to reach such officials and these authorities also have internet websites readily accessible to the public.

As shown in the WTO document "Contact and Enquiry Points notified to the Council for Trade in Services" (S/ENQ/78/Rev.9, 1 December 2006) on page 5, China has notified their GATS Enquiry Point giving its postal address, telephone and fax numbers and an email address.

As a developing country, China is not required under GATS Article IV:2 to set up a Contact Point. If such enquiries were to be received and answered, they would also be handled by the Division handling enquiries and technical assistance.

Another Division in the WTO Department of the Ministry of Commerce handles all notifications under various agreements, including the GATS notifications. It also handles policy reviews, including the WTO Trade Policy Reviews of China.

Each of these two Divisions in the WTO Department has 6 or 7 staff and each staff member has a computer with an internet connection and sufficient office space to operate efficiently.

Annex 3: Report by the Local Experts



**MULTILATERAL TRADE ASSISTANCE PROJECT VIETNAM II
(MUTRAP II)**

Ministry of Industry and Trade in partnership with the European Commission
ASIE/2003/005711



ACTIVITY CODE: SERV-4

**REPORT ON
ASSISTANCE TO ESTABLISH GATS ENQUIRY POINT**

Ha Noi, 09 August 2007

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Commission nor the Ministry of Trade, Ministry of Planning and Investment

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I. Service sectors in Viet Nam and competent authorities

Services sector plays an important role in Viet Nam's economy, however, most services sectors are still at the early stages of development. In 2005, services accounted for 38.07 per cent of Viet Nam's GDP and 30.4 per cent of total employment. Many service sectors have been undergoing high growth rates, especially professional, financial and distribution services.

The National Industrial Classification System of Vietnam (NICSV) was established in 1993 and Viet Nam's economic classification System of Viet Nam was promulgated by the Prime Minister's Decision No. 10/2007/QD-TTg, in which the service sector includes all the sectors and sub sectors classified as service sectors levels 1, 2, 3, 4 and 5. Under the System, there are 14 service sectors at level 1, which are water supply, waste and sewage management and treatment; construction; wholesales and retail, repair of motor vehicles; transportation and storage; stay and food; information and communications; finance, banking and insurance; real estate business; professional, scientific and technological activities; administrative and supporting services; education and training; health and social related services; art, recreation; other services. Those sectors include sub sectors at levels 2, 3, 4 and 5.

The Economic classification system has a strong impact on structuring state management. Each sector of the first level is under the state management of a ministry or ministerial-equivalent agency. Sub-sectors of the second level belonging to the first sector are also managed by the ministries/ministerial equivalent agencies that manage the first level sector. For instance, postal and telecommunications services are only a sub-sector under transportation, warehouse and information-telecommunications, so this sub sector was under the authority of the Ministry of Transport until recent years.

Generally, there are four layers of state administration for services sectors/sub sectors/activities: the highest level is the Prime Minister, under Prime Ministers there are Ministries/Agencies, provincial chairmen of Provincial People Committees, and the last level is Provincial agencies (Departments).

The Ministries/Agencies which are in charge of services sectors/sub sectors/activities are:

1. Ministry of education and training (MOET)
2. State Bank of Viet Nam (SBV)
3. Ministry of transportation (MOTR)
4. Ministry of Planning and Investment (MPI)
5. Ministry of Finance (MOF)
6. Ministry of Trade and Industry (MOIT)
7. Ministry of information and communication(MIC)
8. Ministry of Construction (MOC)
9. Ministry of Health (MOH)
10. Ministry of Justice (MOJ)
11. Ministry of natural resources and environment (MONRE)
12. Ministry of Agriculture and rural Development (MARD)
13. Ministry of culture, sports and tourism (MCST)
- 14.

Under Central Ministries/Agencies, at provinces, there are relevant Departments which are in charge of services sectors/sub sectors/activities at local levels.

All the central agencies report to the Prime Minister. The provincial Chairman of PPCs reports to the Prime Minister. All provincial agencies report to provincial Chairman of PPCs, but not to the respective line Minister. However, between the central agencies and respective provincial agencies there are functional relationships and provincial agencies technically report to the respective line Minister.

Figure 1: Organizational structure of state management agencies responsible for the service sectors

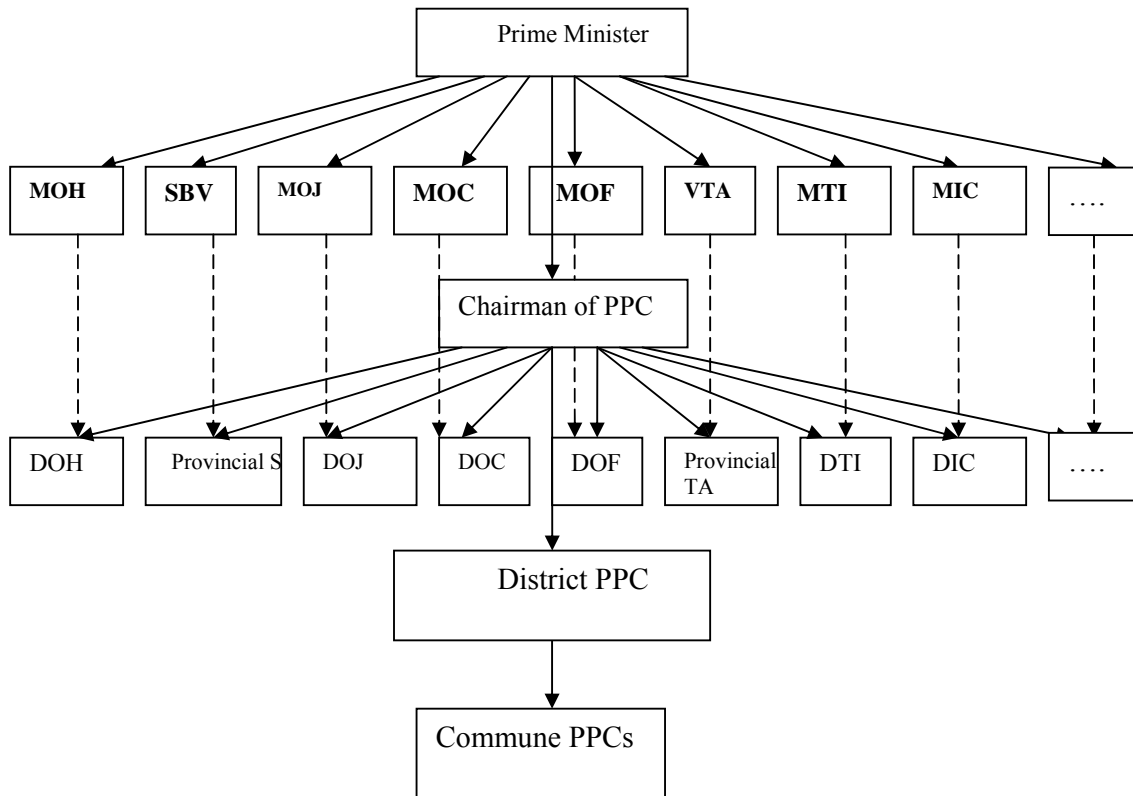


Figure 1 represents the structure of state management for services sectors/sub sectors/activities. However, for participation into international/regional fora in the services area, there are focal Ministries/Agencies for negotiations/participation in such fora. For example, during the WTO accession process, the Ministry of Trade has been the focal point in negotiations and participation to the WTO. Questions and requests were sent to the Ministry (from WTO Secretariat and WTO Members), the Ministry then classified those questions and requests, sending to relevant Ministries/agencies for responses and preparation. After receiving answers, responses from relevant Ministries/agencies, MOT consolidated those answers, responses and sent to the WTO Secretariat for Multilateral sessions as well as consolidated issues, content for bilateral negotiations.

When Viet Nam implements its transparency commitments in the WTO, including establishment and operation of GATS Enquiry and Contact Point (GECP), the domestic focal agency should be the location for notification and enquiry units. Given the requirements (technical, human resources, coordination) for a GECP, which will be in charge of a similar process for handling notifications and/or enquiries as was operated for the accession negotiations as well as its current infrastructure, facilities, the then MOT is likely capable of hosting such a GECP. As the focal point during WTO accession, MOT have adequate information for the initial operation of the GECP. However, during further operations of GECP, there is a need for a coordination mechanism among relevant agencies. The coordination mechanism will be a decisive factor for the successful operation of the GECP. With respect to human resources, even though MOT staff may have experience in handling enquiries and associated information for the GATS accession negotiations, they are inexperienced in operating a GECP and are likely to need further training and instruction as well as experiences from other WTO Members.

Besides the above-mentioned government ministries/agencies, there are also other beneficiaries and stakeholders in the services sectors like:

- General statistical Office (the agency under MPI) ;
- Directorate for Standards and Quality (STAMEQ);
- Viet trade;
- Business associations like Viet Nam Chamber of Commerce (VCCI), Viet Nam software association, Viet Nam Association of Financial Investors, etc;
- Professional association like Ha Noi Bar Association, Viet Nam civil engineering association, etc.
- Research Institutes like Viet Nam Institute of Trade, Central Institute for Economic Management, Ho Chi Minh City's Institute of Economic research, etc.
- Universities like Foreign Trade University, Ha Noi Law University, Ha Noi National University, National Economics University, Ho Chi Minh City's National University, etc.
- Enterprises and entrepreneurs.

II. Legislation/Decision making process

The process of formulation of legal documents is regulated by Decree 144/2005/ND-CP as well as the Law (and the amended Law) on issuing legal documents and related Decrees. The Law on issuing legal documents was issued on November, 12th, 1996, the Amended Law No-02/2002/QH11 on issuing legal documents was issued on December 16th, 2002, and the Law

No- 31/2004/QH11 on issuing legal documents by Local People's Councils and People's Committees was issued on December 3rd, 2004. Typically, there are five steps in legislation (Laws, Ordinances, Decrees, etc) making. These four steps are:

- to establish a drafting team, comprising members from relevant ministries/agencies and departments/units;
- to get official comments in writing from the relevant ministries/agencies;
- to get public comments.
- to finalise the draft and get it approved/promulgated;
- to publish the legal document

II.1 Establishing a Drafting Team

The 2002 Law states that in order to issue legal documents, the ministry or agency, which sent the proposal, has to establish a Law/Ordinance Drafting team. For Laws/ordinances/resolutions of a cross-sectoral nature or for draft Laws/ordinances/resolutions submitted by the Standing Committee of the NA, by other Committees of NA or by the members of the NA, the Drafting team will be established by the Standing Committee of the NA. The establishment of a drafting team, comprising members of relevant departments or units to draft the strategy is also required according to the Prime Minister's Decision on the preparation of a sector development strategy. The Team then draft the legal document/sector development strategy. The establishment of working groups or drafting team mobilizes the collective intellectual contribution with cross sectoral knowledge to ensure inclusiveness, cross sectoral coordination and transparency of policy making. Legal documents can be an effective regulating instrument for state management in the service sector, provided they are socially inclusive, transparent and reflect the national and cross-sectoral interests.

II.2 Official Comments in Writing from Relevant Ministries and Agencies

After the draft legal document/sector development strategy has been prepared, the drafting team/responsible agency will send the draft to relevant Ministries and Agencies to have their official comments and inputs for the draft document. As written comments can be kept and recorded, the staff who make comments may take a higher accountability in making comments. However, one disadvantage of this process is that it is quite time-intensive, and may lead to delays for the chairing agency in processing their work.

II.3 Comments from public and stake holders

After having comments and opinions from relevant Ministries/agencies, the drafting team/agency will consider and take the comments/opinions if it feels appropriate, after revising the draft, the drafting team/agency will solicit the public comments and opinions on the revised draft document. The general procedures for soliciting public comment on draft legal instruments were laid down in Articles 40, 62, 65, 66 and 70 of the Law on the Enactment of Legal Normative Documents (as amended). In practice, the drafting entities circulated the draft legal instruments to organizations and individuals potentially affected by them or published the drafts in newspapers to elicit comments from the general public. Articles 62.2 and 65.4 of the amended Law on the Enactment of Legal Normative Documents required the Office of the Government to publish draft Government Resolutions and Decrees, and Decisions and Instructions of the Prime Minister, on the Internet or in mass media for comments by agencies, organizations and

individuals. There was no specialized website for the publication of draft legal documents; draft legal documents were published on the website of the responsible Ministry and drafting agency, i.e., on the Ministry of Planning and Investment's website for documents related to investment (www.mpi.gov.vn), on the Ministry of Trade's website for documents concerning trade rules and regulations (www.mot.gov.vn), and on the Ministry of Finance's website for documents on tax and finance (www.mof.gov.vn). A number of draft documents were also published on the website of the Ministry of Justice (www.moj.gov.vn). Drafting entities could also organize workshops and seminars to discuss the drafts with those interested. Directive No. 28/2001/CT-TTg required ministries and agencies to seek comments from the business community through the Viet Nam Chamber of Commerce and Industry in the drafting of any policies or rules affecting business operations. Draft legal documents affecting the business community were published on the Internet site of the Chamber of Commerce and Industry (<http://www.vibonline.com.vn>). The obligation to seek the opinions of those directly affected by the legal documents, and the possibility to take account of these opinions in the drafting process, was laid down in Articles 3, 26.4 and 61.4 of the amended Law on the Enactment of Legal Normative Documents. Article 3.3 of the Law required the drafting agency to synthesize, analyze and evaluate the comments received and, as necessary, to propose adjustments to the original draft. The comments received by the drafting agency were attached to the draft legal instrument when forwarded to the appropriate decision-making body. The Law did not specify how many times a draft legal instrument would be available for public comment. The drafts were normally available for comment only once, although specific cases could arise that would allow multiple opportunities for public comment. The Law did not stipulate any timeframe for the solicitation and provision of comments. Such issues were left to the discretion of the drafting entity, taking into account the complexity and importance of the proposed legal instrument.

Beside public comments and opinion, the drafting agency also can get comprehensive and objective inputs for sector development strategies or policy making, from expert inputs. The experts usually are top experts from government agencies, professors or independent consultants.

II.4 Finalisation of the draft and get it approved/promulgated

After receiving the comments and opinions from all relevant agencies and stakeholders and revised the draft document, the drafting agency will promulgate the legal document if it is the authority of the agency (for Decision, inter-ministerial circulars) or submit the draft document to the Government. If the Government is the promulgating agency (for Decrees, Decision, etc), the Government may consider the promulgation of the document or require the drafting agency to consider issues where consensus has not been reached. If the National Assembly or its Committees are the promulgating agency, the Government then submits the draft document to the National Assembly. Article 47 of the Law on the Enactment of Legal Normative Documents authorized the Standing Committee of the National Assembly to invite relevant agencies or individuals to address the Committee on a draft ordinance. Although the Law did not provide similar authority to the National Assembly or to his Government, Article 32.2 allowed the lead examination committee of the National Assembly to conduct surveys and study "the reality of the issues belonging to the contents of the draft" and agencies, organizations and individuals contacted by the committee were required to provide information and materials to serve this examination.

II.5. Publication of the document

As for the publication of legal instruments, the Law on the Enactment of Legal Normative Documents requires that these documents be published in the Official Gazette or made known to the public through the mass media. As the effective dates of most legal documents were attributed to the time of publication in the Official Gazette as regulated by the Law, the Official Gazette was published almost daily. According to the amended Law, legal documents are required to be published in the Official Gazette and would only become effective 15 days thereafter, or at a later date if so specified. Pursuant to Article 8.1(b) of Decree No. 161/2005/ND-CP of 27 December 2005, legal normative documents issued by State bodies at the central level have to be sent to the Office of the Government no later than two working days from the date of promulgation or signing for publication in the Official Gazette. Legal normative documents issued by local authorities and provincial People's Councils were put up in notices on their premises.

III. Viet Nam's WTO transparency commitment

In its WTO accession, Viet Nam has committed that from the date of accession Viet Nam would fully implement Article X of the GATT 1994, Article III of the GATS and the other WTO transparency requirements, including those requiring notification, prior comment and publication. As such, all laws, regulations, decrees, judicial decisions and administrative rulings of general application pertaining to or affecting services will be published promptly in a manner that fulfils the WTO requirements, and no such laws, regulations, decrees, judicial decisions and administrative rulings of general application will become effective or be enforced prior to such publication, except for those regulations, judicial decisions and administrative rulings of general application, and other measures involving national emergency or security, or for which publication will impede law enforcement. Viet Nam commits that as of the date of accession, Viet Nam will establish or designate an official journal or website dedicated to the publication, prior to their entry into force, of all regulations, decisions, orders, and administrative rulings of general application, pertaining to or affecting customs issues, trade in goods, services, intellectual property and the control of foreign exchange. Such journals or websites will be updated on a regular basis, notified to the WTO, and readily available to WTO Members, individuals, associations and enterprises. The websites or journals where these measures will be published are listed in Table 2 below. The publication of such regulations and other measures will include, as appropriate, the following: (i) the names of the authorities (including contact points) responsible for implementing a particular measure; and (ii) the effective date of the measure. Viet Nam also confirms that with respect to proposed laws, ordinances, decrees and other regulations and measures issued by the National Assembly and the Government pertaining to or affecting trade in goods, services, and intellectual property, Viet Nam will provide a reasonable period, i.e., no less than 60 days, for Members, individuals, associations and enterprises to provide comments to the appropriate authorities before such measures are adopted. The Government will take into account any comments received during the period for commenting.

Table 1 : List of the WTO-Related Laws and Regulations Publication Journals and Websites⁷

The Official Gazette: all legal normative documents issued by the central State agencies.

⁷ Report of the Working Party on the Accession of Viet Nam, WT/ACC/VNM/48, 27 October 2006

No	Name of State agencies	Website address	Types of published laws and regulations
1	Office of the National Assembly	www.na.gov.vn	Legal normative documents passed by the National Assembly and its Standing Committee
2	The Government Office	www.chinhphu.vn	Legal normative documents issued by the Government agencies
3	Ministry of Planning and Investment	www.mpi.gov.vn	Legal normative documents relating to investment
4	Ministry of Finance	www.mof.gov.vn	Legal normative documents relating to financial and tax matters
5	Ministry of Trade	www.mot.gov.vn	Legal normative documents relating to trade and commerce
6	Ministry of Justice	www.moj.gov.vn	Legal normative documents relating to different topics
7	Ministry of Post and Telematics	www.mpt.gov.vn	Legal normative documents relating to post and telecom matters
8	State Bank of Viet Nam	www.sbv.gov.vn	Legal normative documents relating to banking services
9	Ministry of Science and Technology	www.most.gov.vn	Legal normative documents relating to IPRs and TBT
10	Ministry of Industry	www.moi.gov.vn	Legal normative documents relating to industrial policies and measures
11	Ministry of Agriculture and Rural Development	www.mard.gov.vn	Legal normative documents relating to agricultural policies and SPS

It seems that Viet Nam's commitments on transparency are quite comprehensive, especially the commitment on 60 days for public comments. These commitments go far beyond GATS transparency requirements (Article III.1). However, the implementation of these commitments will require substantial resources from the Government and how "precisely" Viet Nam will implement these commitments may largely depend on the capacity Viet Nam has in this area and also be supported by the GECP. Before joining the WTO, Viet Nam has implemented the requirement of Article III.1 by introducing such requirement into domestic law. According to the amended Law on the Enactment of Legal Normative Documents, legal documents are required to be published in the Official Gazette and would only become effective 15 days thereafter, or at a later date if so specified. Moreover, Viet Nam has been implementing the requirement of publication of draft laws, ordinances and decrees for public comments. These draft legal documents are mostly published in Vietnamese on websites of drafting agencies (many of which have been mentioned above). Public and interested parties can study draft documents and send their comments to the drafting agencies. In several cases, meetings, workshops have been organized to solicit opinions from stakeholders. However, the publication of draft legal documents may not related to GATS notification requirement (Article III.2) since the notification is a separated step. Viet Nam is preparing to implement the notification obligation and this project activity is also assisting the implementation of this obligation.

IV. Intra-Governmental Coordination

The Government's Decree No- 144/2005/ND-CP provides for the Regulation on coordination between state management agencies in formulating and overseeing the enforcement of policies, strategies and plans. All central and provincial state management agencies, including agencies responsible for the service sector, are regulated by this Decree. The requirement for coordination (Article 2), coordination rules (Article 3), the ways of coordination (Article 4) in policy making and in overseeing policy implementation (Article 5), the responsibilities and rights of agencies

chairing activities and cooperating (Article 6, Article 7)), and the responsibilities and rights of the staff/managers in charge of coordination (Article 8) have been clarified in the Decree. The Regulation on coordination between state management agencies in formulating and overseeing the enforcement of policies, strategies and plans also defines very clearly that the agency which is primarily responsible for the formulation of development strategy/plans or policies, must select the coordinating agencies and send the list of coordinating agencies to the Office of the Government (OOG) in the event that the Government or the Prime Minister must provide approval, or otherwise to the Administration of the chairing ministries/agencies for monitoring. The deadline for cooperating agencies to send their comments to chairing agencies and the necessary time for making comments have also been defined in the Regulation. The coordinating agencies are to share with the chairing agency all information or data requested except classified information. But in this case, the coordinating agencies have to send an official response, explaining the reason for not sending information to the chairing agency.

The Regulation on coordination between state management agencies includes one chapter on performance monitoring of coordination. In this Chapter, the responsibilities of Ministers/Heads of agencies, Chairmen of PPCs, OOG, Administration of ministries/agencies and Administration of PPCs in monitoring coordination have been clearly defined. The OOG has been assigned to help the Prime Minister and Government to monitor and evaluate the coordination performance between state management agencies. Internal ministerial/agency coordination is to be monitored and evaluated by the ministerial/agency Administration.

To help the OOG to monitor the performance of coordination between state management agencies, Articles 27 and 28 of the Decree stipulate that "Ministers/Heads of agencies and Chairmen of PPCs have to submit reports twice per year or ad hoc-based reports on coordination in formulating and overseeing enforcement of policies, strategies and plans to the Prime Minister". "The coordination chairing and cooperating agencies have to send the reports on the accountability for the coordination to be ensured in formulating and overseeing the proposals to be approved by the Government or the Prime Minister to the OOG" and "the coordination chairing and cooperating units have to send the reports on the accountability for the coordination to be ensured in formulating and overseeing the proposals to be approved by the Minister/Head of Agency/Chairmen of PPCs to the Administration of Ministries and agencies and PPCs".

However, at present there is no regulation on coordination between state management agencies in implementing policies, strategies/plans and operational functions. The Decrees on the functions and mandates of the ministries/agencies responsible for service sector state management are the key reference for coordination. Based on the functions and mandates of ministries/agencies and the nature of the issues to be resolved, government staff in the ministry/agency responsible for state management of a given service sector should know who they have to coordinate with, in what areas, and for what actions. For example, the Ministry of Health is responsible for state management in the health care sector (See the Box below).

Decree No- 49/2003/ND-CP, 2003: Functions and mandates of the MOH in health care service state management

1. MOH is to coordinate with relevant ministries/agencies in submitting to the Government and Prime Minister Laws/ordinances and other legal documents and proposals relating to health care services;
2. MOH is to coordinate with relevant ministries/agencies in submitting to the Government and Prime Minister drafts of any health care development strategy and long-term and annual plans and proposals for important projects/programs of MOH;
3. MOH is to coordinate with relevant ministries/agencies to provide guidelines on health care policies to all ministries/agencies and provincial/city people committees;
4. MOH is to chair coordination with relevant ministries/agencies in classifying preventive health care institutions;
5. MOH is to chair the coordination with relevant ministries/agencies in providing preventive solutions, to secure and do curative treatment for disasters' victims;
6. MOH is to coordinate with MOF to submit to the Prime Minister the list of reserve medicines and ensure reserves of medicines, vaccines, biological products and equipment;
7. MOH is to chair the coordination with relevant ministries/agencies in appraising the proposals on central hospital/polyclinics establishment, mergers or dissolution and submit the appraisal results to the Prime Minister for approval;
8. MOH is to chair the coordination with relevant ministries/agencies and provinces/cities in appraising the proposals on provincial/ministerial hospital/polyclinics establishment or upgrading and in sending the appraisal results to those ministries/agencies or provinces/cities to make decisions;
9. MOH is to chair the coordination with relevant ministries/agencies in classifying public health care institutions;
10. MOH is to chair the coordination with Ministry of Culture and Information in issuing the guidance on advertisement of curative services, functions improvement, traditional treatment, food and medical equipment;
11. MOH is to chair the coordination with MOF in defining the rate for involuntary health care insurance;
12. MOH is to chair the coordination with MOC in introducing standard designs for health care infrastructure.

The internal coordination process as described above is mainly about coordination among government agencies and local governments in formulating and overseeing the enforcement of policies, strategies and plans and may not necessarily affect the operations of GECP. With respect to transparency requirements, as mentioned above, the drafting agencies have to implement provisions in the amended Law on the Enactment of Legal Normative Documents. With respect to notification and transparency as required by GATS, there is a need to establish a "working coordination mechanism" among ministry/agencies concerned, which can be done through the establishment of "GATS Notification and Contact" network with participation from relevant Ministries/agencies. The major functions of the network are to receive, review, consolidate, translate and notify WTO all relevant information, receive and answer questions and

provide relevant information relating to GATS as well as information on trade policies of other Members for Ministries/agencies, domestic organizations and enterprises. This GATS notification and contact network can be within an overall network on Notification and Contact for all other areas of WTO, excluding SPS and TBT.

V. List of the authorities, at all levels of government (including organizations with delegated authority) which are responsible for the adoption, implementation and reception of appeals for laws, regulations, administrative guidelines and other measures affecting trade in services

Services sector or sub-sector	Authorities responsible
I. HORIZONTAL COMMITMENTS	
Mode 3 Mode 4	Ministry of Planning and Investment, Ministry of Finance Ministry of Foreign Affairs, Ministry of Labour, Ministry of War Invalids and Social Issues Affairs
II. SPECIFIC COMMITMENTS	
I. Business Services	
A. Professional Services	
(a) Legal services (CPC 861)	Ministry of Justice
(b) Accounting and auditing and bookkeeping services (CPC 862)	Ministry of Finance
(c) Taxation services (CPC 863)	Ministry of Finance
(d) Architectural services (CPC 8671)	Ministry of Construction
(e) Engineering services (CPC 8672)	Ministry of Construction
(f) Integrated engineering services (CPC 8673)	
(g) Urban planning and urban landscape architectural services (CPC 8674)	Ministry of Construction
(i) Veterinary services (CPC 932)	Ministry of Agriculture and Rural Development
B. Computer and Related Services	
CPC 841-845, CPC 849	Ministry of Information and Communication
C. Research and Development Services	
(a) R&D services on natural sciences (CPC 851)	Ministry of Science and Technology
E. Rental/Leasing Services without Operator	
(b) Relating to aircraft (CPC 83104)	Civil Aviation Agency/Ministry of Transport
(d) Relating to other machinery and equipment (CPC 83109)	Ministry of Trade and Industry and Trade, Ministry of Construction, Ministry of Transport
F. Other Business Services	
(a) Advertising services (CPC 871, excluding advertising for cigarettes)	Ministry of Trade and Industry and Trade, Ministry of Culture and Information
(b) Market research services (CPC 864, excluding 86402)	Ministry of Trade and Industry and Trade
(c) Management consultant services (CPC 865)	N/A
(d) Services related to management consulting - CPC 866, except CPC 86602 - Arbitration and conciliation services for commercial disputes between businesses (CPC 86602**)	Ministry of Justice

(e) Technical testing and analysis services (CPC 8676, excluding conformity testing of transport vehicles and certification of transport vehicles)	Ministry of Science and Technology
(f) Services incidental to agriculture, hunting and forestry (CPC 881)	Ministry of Agriculture and Rural Development
(h) Services incidental to mining (CPC 883)	Ministry of Industry, Ministry of National Resources and Environment
(i) Services incidental to manufacturing (CPC 884 and 885)	Ministry of Trade and Industry and Trade
(m) Related scientific and technical consulting services (CPC 86751, 86752 and 86753 only)	Ministry of Science and Technology
(n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633)	Ministry of Trade and Industry and Trade
2. COMMUNICATION SERVICES	
B. Courier Services (CPC 7512**)	Ministry of Information and Communications
C. Telecommunication services	Ministry of Information and Communications
D. Audiovisual Services (a) Motion picture production (CPC 96112, excl. video tape) - Motion picture distribution (CPC 96113, excl. video tape) (b) Motion picture projection service (CPC 96121) (e) Sound recording	Ministry of Information and Communications
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES	
A. General construction work for building (CPC 512) B. General construction work for civil engineering (CPC 513) C. Installation and assembly work (CPC 514, 516) D. Building completion and finishing work (CPC 517) E. Other (CPC 511, 515, 518)	Ministry of Construction
4. DISTRIBUTION SERVICES	
A. Commission agents' services (CPC 621, 61111, 6113, 6121) B. Wholesale trade services (CPC 622, 61111, 6113, 6121) C. Retailing services (CPC 631 + 632, 61112, 6113, 6121) D. Franchising services (CPC 8929)	Ministry of Trade and Industry and Trade
5. EDUCATION SERVICES	

B. Secondary education services (CPC 922) C. Higher education services (CPC 923) D. Adult education (CPC 924) E. Other education services (CPC 929 including foreign language training)	Ministry of Education and Training
6. ENVIRONMENT SERVICES	
A. Sewage Services (CPC 9401) B. Refuse disposal services (CPC 9402) D. Other services - Cleaning services of exhaust gases (CPC 94040) and noise abatement services (CPC 94050) - Environmental impact assessment services (CPC 94090*)	Ministry of National Resource and Environment
7. FINANCIAL SERVICES	
A. Insurance and Insurance-Related Services	Ministry of Finance
B. Banking and Other Financial Services	State Bank of Viet Nam
C. Securities	State Security Commission/Ministry of Finance
8. HEALTH RELATED AND SOCIAL SERVICES	
A. Hospital services (CPC 9311) B. Medical and dental services (CPC 9312)	Ministry of Health
9. TOURISM AND TRAVEL RELATED SERVICES	
A. Hotel and restaurant including - Lodging services (CPC 64110) - Catering food (CPC 642) and drink services (CPC 643) B. Travel agencies and tour operator services (CPC 7471)	Ministry of Culture, Sports and Tourism
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES	
A. Entertainment services (including theatre, live bands and circus services) (CPC 9619) D. Other - Electronic games business (CPC 964**)	Ministry of Culture, Sports and Tourism
11. TRANSPORT SERVICES	

<p>A. Maritime Transport Services (a) Passenger transportation less cabotage (CPC 7211) (b) Freight transportation less cabotage (CPC 7212) Maritime Auxiliary Services - Container handling services (CPC 7411) - Customs Clearance Services - Container Station and Depot Services</p>	Maritime Agency/ Ministry of Transport
<p>B. Internal Waterways Transport (a) Passenger transport (CPC 7221) (b) Freight transport (CPC 7222)</p>	Internal Waterway Agency/ Ministry of Transport
<p>C. Air Transport Services (a) Sales and marketing air products services (b) Computer reservation services (c) Maintenance and repair of aircraft (CPC 8868**)</p>	Civil Aviation Agency/ Ministry of Transport
<p>E. Rail Transport Services (a) Passenger transportation (CPC 7111) (b) Freight transportation (CPC 7112)</p>	Railway Agency/ Ministry of Transport
<p>F. Road Transport Services (a) Passenger transportation (CPC 7121+7122) (b) Freight transportation (CPC 7123)</p>	Road Transport Agency/ Ministry of Transport
<p>H. Services Auxiliary to all Modes of Transport (a) Container handling services, except services provided at airports (part of CPC 7411) (b) Storage and warehouse services (CPC 742) (c) Freight transport agency services (CPC 748)</p>	Ministry of Transport/ Ministry of Finance (General Department of Custom)

Since Viet Nam's services commitments in the WTO are quite comprehensive, covering 11 services sectors and about 110 sub-sectors, the above list have included all ministries/agencies responsible for trade in services in Viet Nam. Other services sectors/sub-sectors which Viet Nam does not commit in the WTO also belong to the management of the above Ministries/agencies (although for some business services the main responsible agencies may not be clear yet at this moment). These Ministries and Agencies are the regulators of relevant services sectors.

VI. List of major legislations affecting trade in services

	Services sector or sub-sector	Name of Relevant Laws, Regulations and/or Administrative Measures and Date of Publication or Entering into force
I. HORIZONTAL COMMITMENTS		
1	All sectors included in the Schedule of Specific Commitments on Services of China	<ul style="list-style-type: none"> - The Investment Law in November 2005 and had entered into force on 1 July 2006 - The Law on Enterprises; - Government Decree No. 108/2006/ND-CP dated 22 September 2006 guiding the implementation of the 2005 Investment Law; - Decree No. 88/2006/ND-CP of August 29, 2006, on Business Registration; - Decree No. 101/2006/ND-CP of 21 September 2006, Providing For the Re-Registration, Transformation, and Registration for New Investment Certificates of Foreign-Invested Enterprises Under the Provisions of the Enterprise Law and the Investment Law; - Decree No. 72-2006-ND-CP Providing Detailed Regulations For Implementation of Commercial Law With Respect to Representative Offices and Branches of Foreign Business Entities in Vietnam; - Circular No. 11/2006/TT-BTM of 28 September 2006, Guiding the Implementation of the Government's Decree No. 72/2006/ND-CP of 25 July 2006, Which Details the Commercial Law Regarding Vietnam-Based Representative Offices and Branches of Foreign Traders
II. SPECIFIC COMMITMENTS		
2	1. BUSINESS SERVICES A. Professional Services a. Legal Services (CPC861 excluding Chinese law practices)	<ul style="list-style-type: none"> - Lawyer Ordinance in 2001; - The Decree 94/2001/ND_CP on 22/12/2001 of the Government guiding the implementation of the Lawyer Ordinance; - The Circular No. 02/2002/TT-BTP dated 22/1/2002 guiding some stipulations of the Decree No. 94/2001/ND-CP dated 12/12/2001 of the Government on the guidance of the implementation of the Lawyer Ordinance; - Decree No.87/ND-CP dated 22/7/2003 of the Government on Professional Practice by Foreign Lawyers' Organizations and Foreign Lawyers in Vietnam; - Circular No. 06/2003/TT-BTP dated 29/10/2003 of the Ministry of Justice guiding some stipulations of the Decree No.87/ND-CP dated 22/7/2003 of the Government on Professional Practice by Foreign Lawyers' Organizations and Foreign Lawyers in Vietnam; - The Law on lawyer (29 June 2006) which entered into force the 1 of January 2007. <i>(However, the law on lawyers neither repealed nor makes any reference to the former regulations: as a consequence there is a problem in identifying what part of former legislation has to be considered still in force).</i>
3	b. Accounting, auditing and bookkeeping services (CPC 862) c. Taxation services (CPC 8630)	<ul style="list-style-type: none"> - Documents promulgated by the National Assembly. + Accounting Law No 03/2003/QH11 dated 17th of June, 2003. This law provide regulation on accounting and practice of accounting professionals. + Tax Administration Law. This Law was just passed by the National Assembly and will be in force from 1 July, 2007. It bring taxation services into its scope of governing - Documents issued by the Government

	Services sector or sub-sector	Name of Relevant Laws, Regulations and/or Administrative Measures and Date of Publication or Entering into force
		<ul style="list-style-type: none"> + Government's Decree No. 129/2004/ND-CP dated 31 May, 2004, providing guidance for the implementation of Accounting Law. + Decree No. 128-2004-ND-CP of the Government dated 31 May 2004, providing regulations for the State accounting sector + Government's Decree No. 07/CP in 1994 which provide first set of regulation on independent auditing + Government's Decree No.105/2004/ND-CP dated 30 March 2004 which replace Decree No. 07/CP. + Government's Decree No.133/2005/ND-CP dated 31 October, 2005 providing some amendments and supplements to Decree No.105/2004/ND-CP. + <i>Decision 121-2005-QD-NHNN dated 2 February 2005</i> + Circular No.64 /2004/TT-BTC dated 29 June, 2004 by the Ministry of Finance, providing guidance for the implementation of Decree No.105/2004/ND-CP. + Circular No.60/2006/TT-BTC dated 28 June, 2006 by the Ministry of Finance, providing licensing criteria and conditions. + Decision No.59/2004/QD-BTC dated 9 July, 2004 by the Minister of Finance, providing regulation on examination and granting auditors' certificates and accountants' practising certificates. + Circular 122-2004-TT-BTC of the Ministry of Finance dated 22 December 2004 + Circular 13-2005-TTLT-BKC-BLDTBXH of the Ministry of Finance and Ministry of Labour, War Invalids and Social Affairs dated 7 February 2005 + Decree 185-2004-ND-CP of the Government dated 4 November 2004 on Dealing With Administrative Offences in Accounting Sector + <i>Decision 76-2004-QD-BTC of the Ministry of Finance dated 22 September 2004</i> provides regulations on the criteria and conditions for auditors and auditing firms to be approved to audit listed companies, securities brokers, and investment fund management companies; the cases when approved status of auditing firms may be suspended or revoked; and the rights and obligations of approved auditing firms + Number Decisions by the Ministers of Finance providing serial of accounting and auditing standards and code of ethics.
4	<ul style="list-style-type: none"> d. Architectural services (CPC 8671) e. Engineering services (CPC 8672) f. Integrated engineering services (CPC 8673) g. Urban planning services (CPC 8674) 	<ul style="list-style-type: none"> - Decree No 12/CP to amend the previous Decree of the Government - Decree No 88/1999/ND-CP on the issuance of tender regulations - Decree No 14/CP to amend the Decree 88/1999/ND-CP on the issuance of tender regulations. - Decree No. 16/2005/NP-CP of 7 February 2005 - Decision No. 15/2005/QD-BXD - Decree on architectural planning
5	i. Veterinary services (CPC 932)	<ul style="list-style-type: none"> - Ordinance on Veterinary Medicine, dated 29 April 2004, Order 06/2004/L-CTN of 12 May, 2004 - Decree 33/2005/ND-CP dated 15 March 2005, detailing the implementation of a number of articles of

	Services sector or sub-sector	Name of Relevant Laws, Regulations and/or Administrative Measures and Date of Publication or Entering into force
		the ordinance on veterinary medicine.
6	B. Computer and Related Services	There is no specific legislation available for this sector
7	C. Research and Development Services	No relevant legislation available.
8	E. Rental/Leasing Services without Operators	No relevant legislation available.
9	F. Other Business Services a. Advertising Services (CPC 871)	<ul style="list-style-type: none"> - Ordinance on Advertising dated 16 November 2001 - Decree 24-2003-ND-CP of the Government dated 13 March 2003 - Circular 43-2003-TT-BVHTT of the Ministry of Culture and Information dated 16 July 2003 (as amended by Circular 79-2006-TT-BVHTT of the Ministry of Culture and Information dated 8 December 2005). - Commercial law (2005) for commercial advertising - A number of “letters” of uncertain legal value - <i>Circular 67-2004-TT-BTC of the Ministry of Finance dated 7 July 2004</i> regulates fees for issuance of advertising permits
10	c. Management Consulting services (CPC 865)	No relevant legislation available.
11	e. Technical testing and analysis services (CPC 8676) and freight inspection covered by CPC 749, excluding statutory inspection services for freight inspection services	No relevant legislation available.
12	f. Services incidental to agriculture, forestry, hunting and fishing (CPC 881 and 882)	No relevant legislation available.
13	m. Related scientific technical consulting services (CPC 8675) - Onshore oil-field services	No relevant legislation available.
14	<u>Services incidental to mining (CPC 883)</u>	<ul style="list-style-type: none"> - Mineral law, dated 20 March 1996 as amended in 14 June 2005, (amendments have been in force since 1st October 2005) - Decree No 76/2000/ND-CP/Dec. 15th 2000 - Decree No 160/2005/ND-CP
15	- Maintenance and repair services (CPC 63, 6112 and 6122) - Maintenance and repair services of office machinery and equipment including computers (CPC 845 and 886)	No relevant legislation available.
16	- Rental and leasing services (CPC 831, 832 excluding CPC 83202)	No relevant legislation available.
17	2. COMMUNICATION SERVICES	- Ordinance 43/2002-PL-UBTVQH10 on Posts and Telecommunications;

	Services sector or sub-sector	Name of Relevant Laws, Regulations and/or Administrative Measures and Date of Publication or Entering into force
	B. Courier Services (CPC 75121, except for those currently specifically reserved to Chinese postal authorities by law)	<ul style="list-style-type: none"> - Decree n° 157/2004-ND-CP of the Government dated 18 August 2004 Making Detailed Provisions for Implementation of a Number of Articles of the Ordinance on Posts and Telecommunications With Respect to Post; - Decree No. 157/2004-ND-CP; - Decision of the Prime Minister No.217/2003/QD-TTg on the management of post and telecommunication service charges
18	C. Telecommunication Services	<ul style="list-style-type: none"> - Ordinance 43/2002-PL-UBTVQH10 on Posts and Telecommunications; - Ordinance 43/2002-PL-UBTVQH10 on Posts and Telecommunications; - Decree No. 160/2004-ND-CP (for Network installation and provision of telecommunications services) - Decree No. 55/2001-NDCP (for Internet access services (ISP), Internet connection services (IXP) and Internet application services in posts and telecoms (OSP Posts, OSP Telecoms); - Decision of the Prime Minister No.217/2003/QD-TTg on the management of post and telecommunication service charges.
19	D. Audiovisual Services - Video, including entertainment software and (CPC 83202), distribution services - Sound recording distribution services	<ul style="list-style-type: none"> - Law on Cinematography (Law No. 62-2006-QH11) - Decree No.48-CP (1995) on Cinematographic service; - Decree No.26-2000-ND-CP Cinematographic Organizations and Activities;
20	3. CONSTRUCTION AND RELATED ENGINEERING SERVICES (CPC 511, 512, 513, ⁴ 514, 515, 516, 517, 518 ⁵)	<ul style="list-style-type: none"> - Law 16/2003-QH11 on Construction (26 November 2003); - Decree No. 16-2005-ND-CP of the Government on Management of Investment Projects For Construction of Works; - Decision 87-2004-QD-TTg of the Government (19 May 2004) Promulgating the Regulation on Management of Operations of Foreign Contractors in the Construction Domain in Vietnam
21	4. DISTRIBUTION SERVICES A. Commission Agents' Services (excluding salt, tobacco) B. Wholesale Trade Services (excluding salt, tobacco) C. Retailing Services (excluding tobacco)	<ul style="list-style-type: none"> - Commercial Law 2005; - Decree 23/2007/ND-CP on foreign invested commercial enterprises specializing in purchase and sale of goods and activities directly related to the purchase and sale of goods in Vietnam (implementing article 22.3 of the Commercial Law 2005); - Decision No.10/2007/QD-BTM guiding the implementation of Decree 23/2007/ND-CP; - Circular No. 09/2007/TT-BTM guiding the implementation of Decree 23/2007/ND-CP; - Decree No. 59/2006/ND-CP of June 12, 2006, Detailing the Commercial Law Regarding Goods and Services Banned From Business, Subject to Business Restriction or to Conditional Business; - Decree 12/2006-ND-CP of the Government (23 January 2006) making detailed provisions on implementation of Commercial Law with respect to international purchases and sales of goods and agency for purchases and sales, processing and transit of goods involving foreign business entities; - Government Decree n° 35-2006-ND-CP dated March 31, 2006 Providing Details on Implementation of Commercial Law with Respect to Franchising Activities; - Trade Ministry Circular n° 9-2006-TT-BTM dated May 25, 2006 Providing Guidelines on Registration of Franchising Activities; - Decree 110-2005-ND-CP of the Government dated 24 August 2005 on Supervision of Multi-Level

⁴ Including dredging services relating to infrastructure construction.

⁵ Coverage of CPC 518 is limited only to the rental and leasing services of construction and/or demolition machines with operator which are owned and used by foreign construction enterprises in their supply of services.

	Services sector or sub-sector	Name of Relevant Laws, Regulations and/or Administrative Measures and Date of Publication or Entering into force
		Selling of Goods
22	5. EDUCATIONAL SERVICES	<ul style="list-style-type: none"> - Law on Education, entered into force the 1 January 2006 - Decree 06-2000-ND-CP of the Government dated 6 March 2000 on foreign co-operation and investment in the fields of medical examination and treatment, education and training, and scientific research - Circular 14-2005-TTLT-BGD&DTBKH& DT of the Ministry of Education and Training and Ministry of Planning and Investment dated 14 April 2005 - Decree 18-2001-ND-CP of the Government dated 4 May 2001 issuing Regulations on establishment and operation of foreign cultural and educational establishments in Vietnam - Circular 15 of the Ministry of Education and Training dated 31 March 2003 - Decree 165-2004-ND-CP of the Government dated 14 September 2004
23	6. ENVIRONMENTAL SERVICES	There is no specific legislation available for this sector
24	7. FINANCIAL SERVICES A. Insurance services	<ul style="list-style-type: none"> - Law on Insurance Business, 9 December 2000 - implementing Decree 42/2001/ND-CP of the Government, 1 August 2001 - Decree 45/2007/ND-CP of the government on Insurance Business; - Circular 98-2004-TT-BTC of the Ministry of Finance dated 19 October 2004 - Strategy for Development of the Vietnamese Insurance Market from 2003-2010, issued with Decision 175-2003-QD-TTg of the Prime Minister dated 29 August 2003 - Decree 118-2003-ND-CP Governing Penalties for Administrative Offences in the Insurance Business Sector, dated 13 October 2003 - Circular 31-2004-TT-BTC Providing Guidelines for Implementation of Decree 118-2003-ND-CP, dated 12 April 2004 - Circular Providing guidance on the implementation of Decree No. 42/2001/ND-CP of the Government dated 1 August 2001 making detailed provisions on the implementation of a number of articles of the Law on Insurance Business VI, dated 28 August 2001 - Decree 31-2004-TT-BC on Financial Regime for Insurers and Insurance Brokers, dated 1 August 2004 - the MoF has been drafting new regulations and criteria for licensing of foreign invested insurance businesses with the aim of de-politicizing the market entry process into Vietnam. The MoF released draft amendments to Decree 42 in mid-2006 for industry comment.
25	B. Banking Services	<ul style="list-style-type: none"> - Law on Credit Institutions dated 12 December 1997 as amended by the Law on Amendment of and Addition to the Law on Credit Institutions dated 15 June 2004 (effective as of 1 October 2004); - Foreign banking services in Vietnam are governed by Decree 22/2006/ND-CP of the Government dated 28 February 2006 on Organization and Operation of Foreign Bank Branches, Joint Venture Banks, Banks with OneHundred (100) Per Cent Foreign Owned Capital and Representative Offices of Foreign Credit Institutions in Vietnam - Circular 22/2006/TT-NHNN on organization and operation of foreign bank branches, joint venture banks, banks with 100% percent foreign owned capital and representative offices of foreign credit institutions in Viet Nam; - Decision 42-2003-QD-NHNN of the State Bank of Vietnam dated 13 January 2003 outlines plans for

	Services sector or sub-sector	Name of Relevant Laws, Regulations and/or Administrative Measures and Date of Publication or Entering into force
		<p>reform in Vietnam's banking sector;</p> <ul style="list-style-type: none"> - Decision 457-2005-QD-NHNN of the State Bank of Vietnam dated 19 April 2005
26	- Securities	<ul style="list-style-type: none"> - A Law on Securities, effective as of 1 January 2007 - Decree 144-2003-ND-CP of the Government dated 28 November 2003 on Securities and Securities Market (Decree 144 is the first update of the original legislation establishing the securities market (Decree 48-1998-ND-CP of the Government dated 11 July 1998). - Decision 161-2004-QD-TTg of the Government dated 7 September 2004. - Decision 238-2005-QD-TTg of the Government dated 29 September 2005 - Circular 90-2005-TT-BTC of the Ministry of Finance dated 17 October 2005 - Decision 83-2004-QD-BTC of the Ministry of Finance dated 11 November 2004
27	8. HEALTH RELATED AND SOCIAL SERVICES	<ul style="list-style-type: none"> - Decree No.06-2000-ND CP, Decree of the Government on foreign co-operation and investment in the fields of medical examination and treatment, education and training and scientific research, dated 6 march 2000 - Interministerial circular providing guidelines on decree 06-2000-ND-CP
28	9. TOURISM AND TRAVEL RELATED SERVICES A. Hotels B. Travel Agency and Tour Operator (CPC 7471)	<ul style="list-style-type: none"> - Law on Tourism (2005); - Government Decree No. 59/2006/ND-CP of 12 June 2006 Detailing the Commercial Law Regarding Goods and Services Banned From Business, Subject to Business Restriction or to Conditional Business
29	10. RECREATIONAL, CULTURAL AND SPORTING SERVICES	<ul style="list-style-type: none"> - Circular number 69/2006/TT-BVHTT of 28 August 2006 issued by Ministry of Culture and Information guiding the implementation regulations on dancing clubs, karaoke, electronic games business - Decree No 11/2006/ND-CP of 18 January 2006 providing regulations on public culture business services (including electronic games); - - Circular No 60/2006/TTLT-BVHTT-BBCVT-BCA of 1st June 2006 guiding the management of game online -
30	11. TRANSPORT SERVICES	<ul style="list-style-type: none"> - Decision of the Minister of Transport Ministry No 1866/1999/QD-BGTVT dated July 29, 1999 on the regulation of passenger transport in the internal waterways. - Decision of the Minister of Transport Ministry No 1626/1999/QD-BGTVT dated July 6, 1999 on the issuance a number of regulations in the tender of assembly and installation for the investment project under the management of the transport sector. - Decree No 57/2001/ND-CP dated August 24, 2001 on the business conditions for sea transport. - Decree No 91/2001/ND-CP dated December 11, 2001 on business conditions of certain professions, sub-sectors in the internal waterways transport. - Decree No 10/2001/ND-CP date March, 19. 2001 on the business conditions on maritime transport services.

	Services sector or sub-sector	Name of Relevant Laws, Regulations and/or Administrative Measures and Date of Publication or Entering into force
		<ul style="list-style-type: none"> - Decision of the Minister of Transport Ministry No 01/2006/QD-BGTVT dated January 4, 2006 on the regulation for the passenger and luguage transport on national railways. - Decision of the Minister of Transport Ministry No 05/2006/QD-BGTVT dated January 13, 2006 on the regulation for cargo transport on national railways. - Decision of the Minister of Transport Ministry No 06/2006/QD-BGTVT dated January 16, 2006 on the regulation for the management and technical exploitation of the means operating above the flight area. - Decision of the Minister of Transport Ministry No 27/2005/QD-BGTVT dated May 17, 2005 on the regulation for the management of the internal waterways. - Decision of the Minister of Transport Ministry No 47/2005/QD-BGTVT dated September 23, 2005 on the regulation of Vietnamese sailor's conditions working on foreign sea-going vessels and foreign sailor's conditions working on Vietnamese sea-going vessels. - Decision of the Minister of Transport Ministry No 57/2005/QD-BGTVT dated October 23, 2005 on the organisation of Maritime Port Authorities - Decision of the Minister of Transport Ministry No 66/2005/QD-BGTVT dated November 30, 2005 on the professional norms, professional certificates of sailors and minimum safety staff framework for Vietnamese sea-going vessels. - Circular No 201/2000/TT-GTVT dated May 22, 2000 for the guidance of the Implementation of the Protocol between the Vietnam 's Ministry of Transport and the Ministry of Transport, Post and Construction of PR of Laos with the aim to carry out the Agreement of Road Transport of two countries. - Decision of the Minister of Transport Ministry No 3064/2003/QD-BGTVT dated October 15, 2003 on the issuance the regulation of licensing for the exploitation of the airports. - Decree No. 59-2006-ND-CP dated June 12, 2006 "On Making Detailed Provisions for Implementation of the Commercial Law with Respect to Goods and Services in which Business is Prohibited, Restricted and Subject to Conditions" - Law No. 40/2005/QH11 "On Maritime Code" of June 2005; - Law "On Railways" of June 2005; - Law No. 61-2005-QH11 "On Tendering" of December 2005; - Commercial Law No. 36/2005/QH11 of June 2005. - Circular No 09/2006/TT-BGTVT dated September 20, 2006 for the guidance of the Implementation of the Amendmends of Road Signals on the lines included in the Agreement for the Creation of Passenger and Cargo Traffic Facilitation at the Border Crossings of the Countries in the Enlarged Mekong Sub-Region. - Decree No.110-2006-ND-CP dated September 28, 2006 on the Business Conditions for Automobile Transport.. - Decree No.71-2006-ND-CP dated July 7, 2006 on the Management of Sea Ports and Maritime Ways. - Law on Vietnam Civil Aviation 66-2006-QH dated June 29, 2006. - Decision of the Minister of Transport Ministry No 68/2005/QD-BGTVT dated December 9, 2005 on the Declaration of the National Internal Waterways. -Law on Railways No 35/2005/ QH11 dated June 14, 2005;

The Investment Law (2005) can be considered as the key legal document for all services sectors, including many services sub-sectors in which Viet Nam has not made commitments during its accession to the WTO since the Law applied to all investment. Besides the above-mentioned legal documents, other laws are also important for some services not included in the Viet Nam's WTO services schedule are Law on Petroleum, Law on Publishing, etc. One important characteristic of Viet Nam's legal system is that several services sub-sectors is now only governed by Investment Law, which provides a quite general legal framework, i.e there is no "specialised" legal documents providing detail regulations in those sub-sectors.

In addition, Law on Standards and Technical Regulations affects trade in all services. This Law provides for the preparation, adoption and application of standards; the preparation, approval and application of technical regulations; the assessment of the conformity with standards and technical regulations. Under Article 2 of Decree 127/2007/ND-CP providing for the implementation of this Law, the subjects of activities in the field of standardization and technical regulating including, among others, services relating to: trade; post and telecommunication; information technology; construction; education and vocational training; financial and banking; health care; tourism; culture; sport; transport; science and technology; standard, measurement and quality; security and safety; agriculture and rural development; fisheries; national resources and environment; and other services arisen in the process of socio-economic development that need to be adopted and applied standards and technical regulations.

VII. Transparency requirements under AFTA

The level of service liberalisation in the ASEAN Free Trade Area (AFTA) is quite low and rules, especially transparency requirements do not go further than what stipulated in the GATS. In ASEAN Framework Agreement on Services (AFAS), ASEAN countries agreed that the terms and definitions and provisions of the GATS regarding transparency requirements shall be referred to and applied. However, it seems that the implementation of these requirements in the framework of AFAS is even less stringent than in the WTO.

VIII. Current work relating to implementation of transparency requirements

Within the framework of MUTRAP, there are several activities supporting Viet Nam to establish SPS and TBT enquiry points. There is also an activity (HOR-8) to help establish a WTO portal for Viet Nam. The purpose of the portal is to provide information on Viet Nam's WTO commitments, market access conditions of WTO members for businesses as well as provide a forum for discussion on WTO and market access related issues. The portal can be a useful reference when establishing the GATS enquiry point. However, given the WTO notification requirement, a full operational GECP can still be established even when the portal have not in operation.

Experience of Viet Nam's TBT Network

Viet Nam's TBT Network is composed of:

- The Viet Nam WTO/TBT Notification Authority and Enquiry Point set up at the Directorate for Standards and Quality (STAMEQ) of the Ministry of Science and Technology (MOST);
- Inter-Ministerial TBT Committee (TBT Committee), composed of : (i) Ministerial representative of MOST (Head of the TBT Committee); (ii) The Leadership of STAMEQ (Deputy Head); (iii) Secretary (Director of TBT Viet Nam); (iv) other Directorial members of MOIT, MCST, MIC, MOC, MOLISA, MONRE, MOTR, MARD, MOH, MOJ, MOF, MOST, GO; and
- Provincial TBT Office set up at 64 provincial Department of Science and Technology.

The Viet Nam WTO/TBT Notification Authority and Enquiry Point (TBT Viet Nam) is the national contact desk which carries out transparency obligations under the WTO Agreement on Technical Barriers to Trade. TBT Viet Nam was established by Decision No.365/2003/QĐ-BKHCN of 25 March 2003 of the Ministry of Science and Technology and reconfirmed in the Prime Minister's Decision No. 140/2004/QĐ-TTg of 5 August 2004.

As the National Notification Authority on technical barriers to trade, TBT Viet Nam:

- notifies any technical regulations, conformity assessment procedures proposed and adopted in Viet Nam which may create the unnecessary technical barriers to trade between Viet Nam and other WTO Members;
- receives the notifications from other WTO Members and forward them to the related domestic bodies and enterprises for comments.

As the National Enquiry Point on technical barriers to trade, TBT Viet Nam:

- receives and answers enquiries from other WTO Members on TBT issues; and upon request, provide relevant available documents;
- sends enquiries from domestic parties on TBT issues to other WTO Members.

TBT Viet Nam also:

- promotes the activity to raise the awareness of all levels, especially stakeholders in the country on TBT issues;
- works as a portal to provides information on TBT and related issues of other WTO Members in order to promote Viet Nam exports in the world market;
- works as a central contact point of TBT Network that includes TBT points in line ministries and 64 provinces through the country. This network supports TBT Viet Nam to fulfil fully the obligations of transparency under the TBT Agreement.
- serves as a secretary of Inter-Ministerial Committee.