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TRADE AND HUMAN RIGHTS: THE FUTURE OF U.S.–VIETNAMESE RELATIONSHIPS

HEARING

BEFORE THE

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

OF THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

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TRADE AND HUMAN RIGHTS: THE FUTURE OF U.S.–VIETNAMESE RELATIONSHIPS

Thursday, February 12, 2004

U.S. SENATE,
SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:31 p.m. in Room SD–419, Dirksen Senate Office Building, Hon. Sam Brownback, chairman of the subcommittee, presiding.

Present: Senator Brownback.

OPENING STATEMENT OF SAM BROWNBACK, U.S. SENATOR FROM KANSAS

Senator BROWNBACK. The hearing will come to order. I'm delighted to have you all here today. I apologize for starting the hearing 25 minutes late. We just had a vote on the floor. I had to preside, too, so I wasn't able to be here on time. I appreciate very much your patience for waiting for me.

This Senate hearing is the first since 1999 to focus broadly on the U.S.-Vietnam relationship, specifically on the progress on human rights and particularly religious freedom. Much has happened since that time, a lot it of for the better, including the robust trading relationship between the two countries. Beyond that we see countless examples of how the two countries are dealing with the long-term impact of the Vietnam war through respect, forgiveness, and healing.

Hundreds of American veterans travel back to the country they remember as a war zone and make personal amends with the Vietnamese people. Nearly 1 million Vietnamese have resettled in the United States since the end of the war, and their collective and often inspiring individual stories of achievement in a short period of time stand as an enduring testament to the opportunities that a free country like the United States can offer.

I would offer as example Viet Dinh, one of our witnesses who was a former assistant attorney general at the Department of State—or, excuse me, Department of Justice—who will testify here today.

But many other issues continue to linger. Thousands of refugees are in limbo in the Phillippines as they struggle for national identity and resettlement status. On this issue I would urge the Department of State to designate this group for P2 refugee resettlement status as soon as possible, and I believe we have some family members here who have refugee members that are still in that

limbo—if I could have them stand up in the back—whose family members are still in limbo in the Phillippines, stateless. We have approximately, I believe 1,800 Vietnamese there and we really do need to get this issue resolved. Thank you very much for joining us today.

There's every reason to expect that the roughly 1,800 Vietnamese remaining in the Philippines can qualify for resettlement under the refugee standard, and as the last group of refugees remaining from the war, we should move quickly to resolve this lingering issue.

Over the past several months my office has received numerous reports of church closings, arrests and beatings, imprisonments of dissidents, forced renunciations, and crackdowns against various outlawed religious groups. Even the Department of State in its recent annual report on religious persecutions said this: "The situation remained poor or worsened for many ethnic minority Protestants in the central highlands and northwest highlands" and that "the government continued to maintain broad legal and policy restrictions on religious freedom."

I personally traveled to Vietnam last month to see first-hand the progress that they had made. I had a staff member of mine, Hannah Royal, who is here today, stay on for another week. I wanted to personally investigate reports of religious persecution and to convey my concerns to the Vietnamese Government officials. With that purpose in mind, prior to my departure I made a specific request to visit with Father Ly, who is a well-known political religious prisoner. He's internationally recognized as a prisoner of conscience.

My purpose was simple. I wanted to inquire about Father Ly's health, to talk about why he was in jail, and to deliver a simple care package from his relatives. Before I left I had very low expectations that I would be granted that wish, but to my surprise, when I stated to the Vice Minister for Public Security my desire to meet with Father Ly, they obliged, and I was able to go and meet with him. Father Ly, I assume is well-known to many of you. He served time in the 1970s and 1980s and was again imprisoned about 3 years ago for submitting written testimony to the U.S. Commission on International Religious Freedom about the limitations and restrictions that churches were facing in Vietnam.

The visit with Father Ly was inspirational to me. It clearly was staged. His responses appeared to be scripted. In fact, I couldn't help asking him at one point why he was in jail in the first place. He seemed like a model prisoner and out of place being in jail.

For every Father Ly who is known to human rights advocates around the world calling for justice, it struck me that there are hundreds, if not thousands of others sitting in jail for actions that we would take for granted in this country: assembling in a house church to worship, getting together to discuss politics, advocating for reforms like private property rights, or even using the World Wide Web.

If we want to develop a meaningful relationship with Vietnam that will be sustained over the years, one that respects and does justice to the tragic history between Vietnam and the United States and to the memory of all who served and all who perished, it has to be based on something more than trade.

In my opinion, Vietnam is capable of doing that. I'm hopeful about Vietnam and will continue to support efforts to deepen the relationship with the United States, but only if they make genuine progress in upholding internationally recognized human rights. Vietnam holds the keys in its own hands to the relationship with the United States. It should seize this moment to make a gesture beyond those of a few staged visits with jailed dissidents, however remarkable those may be.

As I said to Vietnamese Government officials, human rights should not have to be an impediment to the growing relationship with the United States, and now is the time to convince the international community, and particularly the United States, of Vietnam's willingness and commitment to change. If Vietnam is serious about entering the World Trade Organization by 2005, and that is something that I think would be good for Vietnam, they need to be as serious about improving human rights and religious freedom for all their people.

One major step in the right direction would be to release Father Ly. There's no reason for him to be in jail. This should be followed with a commitment to review existing laws that may purport to provide freedoms to the people but have no substance. Vietnam can pass all the laws it wants, but if it can continue to arbitrarily jail Buddhists, Buddhist monks, or Catholic priests for failing to register their temples or parishes, then the laws do not have meaning.

I hope that each of our witnesses can address these issues. Over the next year the U.S. Government and others will be examining Vietnam closely, especially in the context of the WTO, and issues of trade and human rights will continue to be linked during these discussions, and they will be very important during these discussions.

I'm delighted to have the number of witnesses that we have here today to testify before this hearing. On our first panel is the Honorable John Hanford. He's the Ambassador-at-large in the Office of International Religious Freedom, Department of State, no stranger to the Senate, having worked in the Senate offices of Senator Lugar for, I think, nearly 10 years; having a relative, Elizabeth Hanford Dole, in the Senate is nice as well. Good to have you here.

And then Mr. Matthew Daley is Deputy Assistant Secretary of State, Bureau of East Asia and Pacific Affairs, Department of State, is here as well. I'm delighted to have you gentlemen here. Let me open it up to you. Your written testimony will be in the record, and I look forward to what you have to say.

Mr. Hanford.

STATEMENT OF HON. JOHN HANFORD, AMBASSADOR-AT-LARGE, OFFICE OF INTERNATIONAL RELIGIOUS FREEDOM, DEPARTMENT OF STATE

Mr. HANFORD. Thank you, Mr. Chairman, and let me begin by thanking you for holding this hearing. It's an honor for me to be here, and I'm proud to represent the Department of State and President Bush in this regard.

Today I will address some of the current conditions for religious believers in Vietnam, some of our efforts in this area, and some

perspective on how this issue relates to overall trends in Vietnam and our bilateral relationship.

Vietnam has been one of my very highest priorities as Ambassador. I've traveled there twice myself, and my staff has also traveled there twice with another visit planned in the coming weeks. I've also met on numerous occasions here in Washington with senior Vietnamese officials. We've also worked closely with numerous congressional offices focused on human rights, religious freedom, and Vietnam.

The attention paid by Congress has done much to gain the attention of the Vietnamese Government and to make clear that this is a significant concern to many of the American people as well.

Let me acknowledge especially, Mr. Chairman, the high priority and diligent efforts that you have devoted to this issue, particularly the focus you gave this on your recent trip to Vietnam, and it's an honor to share in this concern with you.

I also want to give a nod to my old boss, Senator Lugar, who has, along with you, championed this issue of religious freedom for many years. I remember sitting with him one day in his office as he placed a call to Vietnam and single-handedly secured the release of a religious prisoner.

On my most recent trip to Vietnam in October, I took the most hands-on approach I possibly could. I engaged in lengthy, vigorous, and candid exchanges with many senior Vietnamese leaders. Along with Ambassador Burkhart, I traveled to two provinces in the central highlands which have been sites of some of the most egregious reports of religious persecution that we have received.

We've received numerous credible reports of hundreds of churches and home worship gatherings being forced to close or disband in the central highlands since 2001. Despite the assurances I received from provincial authorities that religious freedom violations were not occurring in their areas, it was readily apparent that some significant problems exist.

Take, for example, the dramatic disparity between the number of Protestants and the number of registered churches in Dac Lak and Gia Lai Provinces. In Dac Lak, the provincial governor told us that the province had 120,000 Protestants and there are two registered churches.

Senator BROWNBACK. They're big churches, huh?

Mr. HANFORD. Hundreds have been closed. We knew that many other churches had requested registration, and we asked about their prospects. The authorities gave us the rather circular response that these churches could not be registered until they had approved pastors and approved buildings, but the pastors and buildings could not be approved until they were registered with churches. And then there are further problems because the pastors have to go to seminaries that generally don't exist.

Gia Lai Province was similar in conditions, problems, and in the position of the authorities. Some 70,000 to 100,000 Protestants have only seven registered churches despite consistent requests for more to be registered.

Vexing registration procedures are not the only problem facing these Protestants. I heard numerous first-hand and credible accounts of believers being pressured to renounce their faith, at times

being physically beaten, detained, or imprisoned, and being forbidden from gathering for worship. We've also continued to receive similar accounts from the northwest highlands. Department officials also were told by provincial officials in Ha Giang Province that there are no Protestants in that province and were then blocked from traveling to areas of the province, which have reported serious issues with local official persecution. We've even received credible reports of the deaths in custody of one Hmong Protestant leader in Lai Chau Province in July 2002, and another Hmong Protestant leader in Ha Giang Province in July of 2003.

We have learned of some indications of possible positive developments. For example, on both of my trips to Vietnam, I presented lists of religious prisoners to government officials. In response to this, just a few weeks ago I met with a senior official, and we were given reports that a number of these prisoners had been released. We're attempting to verify their status. They also claimed that they could not locate a number of the prisoners on our list, and of course we want to follow up on those as well.

We've also received unconfirmed information indicating that the government may be taking steps to register a few additional churches. We will investigate these reports and continue to monitor the situation closely.

I was pleased to learn of your recent visit in prison with the Catholic priest, Father Ly. On my first trip to Vietnam in August 2002, I had been given assurances that his 15-year prison sentence would soon be reduced. I was disappointed and had expressed this very clearly to the government when the sentence was only reduced to 10 years. He should not be in jail.

I and other senior U.S. officials have continued to raise his case on many occasions, as well as the sentences that have been handed down to his nephew and niece. During my recent visit, I was given assurances that his family members would be released, and of course we were encouraged that on November 28th when the appeals court reduced the sentences of the nephew and niece. And the niece is no longer in jeopardy, and the nephews are, as you know, in the process of being released about this time.

The plight of the outlawed United Buddhist Church of Vietnam, the UBCV, is another concern that we raise frequently. Several times on my last trip, when I would ask about the harassment, restrictions, and detention of several UBCV leaders in September and October, Vietnamese officials told me that the monks had been detained for possessing state secrets. When I would ask with some incredulity what manner of state secrets a monk could possibly possess, I received reply that we don't know because they're state secrets.

Vietnamese officials frequently pointed out to me the significant growth of religious practice and adherence in Vietnam in recent years across a spectrum of faiths. My staff and I did indeed observe flourishing religious activity in many places and in many faiths, but the presence of religious practice does not necessarily mean the presence of religious freedom. Many Vietnamese are free to practice their faith with few restrictions and no repercussions, but too many other Vietnamese people are not.

Our message to the Government of Vietnam has been clear and consistent. We appreciate and affirm the steps they have taken towards expanding freedom, both economic and religious. However, serious problems remain, and we urge Vietnam to end its ongoing violations of religious freedom. Vietnam has been cautioned repeatedly that it faces possible designation as a country of particular concern under the International Religious Freedom Act. We are continuing to monitor this situation closely as we undertake the Country of Particular Concern (CPC) review process.

Many of Vietnam's leaders are quite mindful of their history and their current challenges. Some described to me the relative unfamiliarity with which they regard religious belief, and attempted to place the question of religious freedom in the context of an evolving Communist state. In discussing such matters with certain Vietnamese leaders, they often contend that some religions are new to Vietnam and receive hostile treatment because they are unfamiliar. I usually reply that I do not find this argument persuasive, in part because these same faiths have been present in Vietnam longer than they and the Communist party.

I understand that this hearing is addressing the matter of trade and human rights in Vietnam. Any visitor to Vietnam cannot help but be impressed, as was I, by the growing prosperity and thriving commercial sector in many urban areas. How does this relate to the question of human rights, particularly religious freedom? I believe that a philosopher well known to you, Mr. Chairman, Michael Novak, might offer some insights. Novak has argued that a well-ordered society must stand on three pillars of freedom, free in its polity, free in its economy, and free in the realm of conscience and inquiry.

Vietnam continues to expand in the realm of economic freedom, and this is no small achievement, but expanding economic freedoms must be accompanied by expanding freedoms in other areas, religious freedom being a principal concern. I note that today is the birthday of Abraham Lincoln, and I would like to close with a quote from him. Lincoln insisted that the principles embodied in our Declaration of Independence ultimately promised "liberty not alone to the people of this country, but hope to the world for all future time."

And so it is with religious freedom. It is not the exclusive birthright of Americans, but a universal hope of all people including the people of Vietnam.

Thank you.

[The prepared statement of Mr. Hanford follows:]

PREPARED STATEMENT OF JOHN HANFORD, AMBASSADOR-AT-LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM, DEPARTMENT OF STATE

Trade and Human Rights: The Future of U.S.-Vietnamese Relations

Mr. Chairman and Members of the Committee: let me begin by thanking you for holding this hearing. It is an honor for me to be here, and I am proud to represent the Department of State and President Bush in this regard. As my colleague Deputy Assistant Secretary Daley will share, relations between the United States and Vietnam in recent years have strengthened and improved in several important areas. And yet some significant issues remain. One of these is religious freedom, and today I will address some of the current conditions for religious believers in Vietnam,

some of our efforts in this area, and some perspective on how this issue relates to overall trends in Vietnam and our bilateral relationship.

As Assistant Secretary of State for East Asia and Pacific Affairs James Kelly noted last October, differences between our countries on human rights and religious freedom "have the potential to impede the forward momentum in our ties more than any other issue." Our relationship with Vietnam will never develop to its full potential unless and until the Government of Vietnam protects and promotes fundamental human rights, including religious freedom, for its citizens. Conversely, if the Government of Vietnam were to take further steps to honor its international commitments and improve its respect for religious freedom, it would greatly benefit both the people of Vietnam and relations between our countries.

Vietnam has been one of my very highest priorities as Ambassador. I have traveled there twice myself, and my staff has also traveled there twice, with another visit planned in the coming weeks. We have worked with our Embassy staff in Vietnam to keep religious freedom at the forefront of our diplomatic interactions with the Government of Vietnam. I have also met on numerous occasions here in Washington with senior Vietnamese officials. Each of these times, we have made quite clear to the Vietnamese Government that religious freedom is a top priority to us, that it is a signal issue in our bilateral relationship, and that the central Government must take responsibility for seeing that the abuses of religious believers and violations of religious freedom end.

Concern for religious freedom in Vietnam is of course not confined to my office. I have discussed the religious freedom problems in Vietnam with President Bush. Secretary Powell, Deputy Secretary Armitage, and other senior administration officials have spoken frankly with Vietnamese leaders about the need to end religious freedom violations. The administration is committed to ensuring that religious freedom is raised every time American and Vietnamese leaders interact. It is especially important that the U.S. Government speak with one strong voice on this issue.

We have also worked closely with numerous Congressional offices focused on human rights, religious freedom, and Vietnam. The attention paid by Congress has done much to gain the attention of the Vietnamese Government, and to make clear that this is a significant concern to many of the American people as well. Let me acknowledge especially, Mr. Chairman, the high priority and diligent efforts you have devoted to this issue, particularly the focus you gave to it on your trip to Vietnam last month. I know that this is also an issue that Chairman Lugar has worked on. I recall one case several years ago in which I watched him place a strategic phone call to Vietnam that resulted in a religious detainee being released.

Since religious freedom is recognized as a universal human right and a concern of the international community, we also have sought multilateral support by working with like-minded countries to press the Vietnamese on specific cases and issues of concern. The Department works with diplomatic representatives from other Western governments, to share insights and cooperate on promoting religious freedom in Vietnam. I applaud such initiatives in Congress as well, such as the visit made last year by U.S. Congressman Joseph Pitts and Lord David Alton of the British Parliament.

My staff and I also meet regularly with religious and human rights organizations focused on Vietnam. We continue to be impressed with the dedication, diligence, and care that many of them display, and often find them to be valuable sources of information and insight on Vietnam. I should also mention our appreciation for much of the good work done by the United States Commission on International Religious Freedom (USCIRF) regarding Vietnam. Much of USCIRF's research and insights have been very valuable for informing our work on religious freedom.

On my most recent trip to Vietnam in October, I took the most "hands-on" approach I could. I engaged in lengthy, vigorous, and candid exchanges with many senior Vietnamese leaders, including the Deputy Prime Minister and officials in the Foreign Ministry, Public Security Ministry, National Assembly, Religious Affairs Bureau, and other Communist Party organizations. While we frequently disagreed, I appreciated the willingness of these Vietnamese officials to discuss religious freedom and listen to our concerns. Along with Ambassador Burghardt, I traveled to two provinces in the central highlands, which have been the sites of some of the most egregious reports of religious persecution we have received.

We had received numerous credible reports of hundreds of churches and home worship gatherings being forced to close or disband in the central highlands since 2001. I began by meeting with the provincial governors and other officials in each province. Despite their assurances to me that religious freedom violations were not occurring in their areas, it was readily apparent that some significant problem exist. Take, for example, the dramatic disparity between the number of Protestants and the number of registered churches in Dak Lak and Gia Lai Provinces. In Dak Lak,

the provincial authorities told us that the province had 120,000 Protestants and two registered churches. When Ambassador Burghardt and I pointed out the problem that this dearth of churches posed for the vast majority of Protestant worshipers, the authorities rather insouciantly replied that the others could just worship with their immediate families in their own homes.

We knew that many other churches had requested registration, and asked about their prospects. The authorities gave us the rather circular response that these "churches" could not be registered until they had approved "pastors" and approved buildings, but the "pastors" and buildings could not be approved until they were registered with "churches." Gia Lai Province was similar, in conditions, problems, and the position of the authorities. Some 71,000 to 100,000 Protestants had only seven registered churches, despite consistent requests for more to be registered.

Vexing registration procedures are not the only problem facing these Protestants. It may illustrate the challenges facing many religious believers in Vietnam, but hardly tells the extent of their plight. I heard numerous firsthand and credible accounts of believers being pressured to renounce their faith, at times being physically beaten, detained or imprisoned, and being forbidden from gathering for worship. Nor are these reports confined only to the central highlands. We have also continued to receive similar accounts from the Northwest Highlands, of churches being closed and ethnic minority Protestants being beaten, imprisoned, or pressured to renounce their faith. Department officials also were told by provincial officials in Ha Giang Province that there are no Protestants in that Province and were then blocked from traveling to areas of the Province which have reported serious issues with local official persecution. We have even received credible reports of the deaths in custody of one Hmong Protestant leader in Lai Chau Province in July 2002, and another Hmong Protestant leader in Ha Giang Province in July 2003.

We have learned of some indications of possible positive developments. For example, on both of my trips to Vietnam, I presented lists of religious prisoners to government officials. We have received reports that a number of prisoners have been released and are attempting to verify their status. We are trying to confirm whether religious prisoners were released during the recent Tet prisoner amnesty. We have also received unconfirmed information indicating that the Government may be taking steps to register additional churches. We will investigate these reports and continue to monitor the situation closely. If true, these would be welcome steps.

I was pleased to learn of your recent visit in prison with the Catholic priest Father Nguyen Van Ly, Mr. Chairman. On my first trip to Vietnam in August, 2002, I had been given assurances that his 15-year prison sentence would soon be reduced. I was disappointed when last year his sentence was only reduced to 10 years. He should not be in jail. I and other senior U.S. officials have continued to raise his case on many occasions, as well as the sentences that had been handed down to his nephews and niece. During my recent visit, I was given assurances that his family members would be released. We were encouraged on November 28 when the Appeals Court reduced the sentences of the nephews and niece. We will continue to press for Father Ly's release from his unjust imprisonment, solely for the peaceful expression of his religious and political views.

The plight of the outlawed United Buddhist Church of Vietnam (UBCV) is another concern that we raise frequently, particularly the UBCV leadership and the pressures they face. Several times on my last trip, when I would ask about the harassment, restrictions, and detention of several UBCV leaders in September and October, Vietnamese officials told me that the monks had been detained for "possessing state secrets." When I would ask with some incredulity what manner of "state secrets" a monk could possibly possess, I received the reply that "we do not know, because they are state secrets." Such responses, and such conditions, are quite unfortunate, and reveal the significant restrictions faced by too many religious believers in Vietnam. We will continue to urge the Vietnamese Government to engage in discussions with the UBCV leadership on normalizing its status.

Vietnamese officials frequently pointed out to me the significant growth of religious practice and adherence in Vietnam in recent years, across a spectrum of faiths including Buddhism, Catholicism, Protestantism, the Cao Dai, and the Hoa Hao. My staff and I did indeed observe flourishing religious activity in many places and in many faiths, and of course we regard the relative freedom these believers enjoy as a welcome development. But the presence of religious practice does not necessarily mean the presence of religious freedom. Many Vietnamese are free to practice their faith with few restrictions and no repercussions. But too many other Vietnamese people are not.

Our message to the Government of Vietnam has been clear and consistent. We appreciate and affirm the steps they have taken towards expanding freedom, both economic and religious. From allowing the growth of many religious groups, to per-

mitting the opening of a Protestant seminary in Ho Chi Minh City last year, to the recognition of Cardinal Man as a new Cardinal in the Catholic Church, Vietnam has shown some signs of progress. Folk religion is also making a comeback. However, serious problems remain, and we have urged Vietnam to end its ongoing violations of religious freedom. If it does not, Vietnam has been cautioned repeatedly that it faces possible designation as a "Country of Particular Concern" (CPC) under the International Religious Freedom Act. We are continuing to monitor the situation closely as we undertake the CPC review process.

Compared with some points in recent decades, when hundreds of religious leaders were imprisoned, others were executed, and much religious activity throughout the country was brutally suppressed, conditions for religious believers in Vietnam have certainly improved. But significant problems remain, and there has been deterioration in some areas in recent years. We must cultivate and encourage the positive trends, while understanding that Vietnam stands at a proverbial crossroads, and it is incumbent on the leadership of Vietnam to decide to take their country on the path towards openness, prosperity, order, and liberty.

Many of Vietnam's leaders are quite mindful of their history and their current challenges. Some described to me the relative unfamiliarity with which they regarded religious belief and attempted to place the question of religious freedom in the context of an evolving communist state. These considerations are revealed by some of the Vietnamese Communist Party's activities last year. For example, the State Departments recent Report to Congress on the Government of Vietnam's Progress Toward Improved Human Rights For the Period December 2002–December 2003 observed that "the 7th Party Plenum passed new resolutions on religion and ethnic minorities that acknowledge the need for the GVN and CPV to respect human rights and improve conditions for appropriate enforcement of the law. However, we question aspects of the Plenum's resolutions on religion, which seem to indicate an intention to further control religious organization and suppress unauthorized religious activities." [I would like to submit a copy of this report for the record.]

In discussing such matters with certain Vietnamese leaders, they often contend that some religions are "new" to Vietnam and receive hostile treatment because they are unfamiliar. I usually reply that I do not find this argument persuasive, in part because these same faiths have been present in Vietnam longer than the Communist Party.

I understand that this hearing is addressing the matter of trade and human rights in Vietnam. Any visitor to Vietnam cannot help but be impressed, as I was, by the growing prosperity and thriving commercial sector in many urban areas. Deputy Assistant Secretary Daley will share some of the economic figures characterizing this burgeoning growth, and they are remarkable. Increased trade and economic expansion have certainly brought many benefits to Vietnam and have the potential to bring much more good.

How does this relate to the questions of human rights, particularly religious freedom? As we contemplate Vietnam's current situation, I believe that a philosopher well known to you, Michael Novak, who is regarded as a subtle and profound thinker on freedom and its many facets, might offer some insights. Describing what he calls the "ecology of liberty," Novak has argued that a well-ordered society must stand on three pillars of freedom: "free in its polity, free in its economy, and free in the realm of conscience and inquiry."

Vietnam continues to expand in the realm of economic freedom, and this is no small achievement. But expanding economic freedoms must be accompanied by expanding freedoms in other areas, religious freedom being a principal concern. We appreciate Vietnam's desire to become a member of the World Trade Organization (WTO). WTO membership requires adherence to rigorous provisions for economic standards and rule of law. We are encouraged at Vietnam's stated intention to undertake these commitments. In a similar vein, we will continue to encourage Vietnam to uphold its international commitments on human rights and religious freedom, such as the International Covenant on Civil and Political Rights, to which Vietnam is a party.

Our challenge, and our intention, is to take a sophisticated, balanced approach that encourages the growth of freedom in its many dimensions while opposing threats to freedom and abuses of human rights. We must work to strengthen and encourage voices of reform and openness, while condemning actions of intolerance and repression.

I note that today is the birthday of Abraham Lincoln, and I would like to close with a quote from him that conveys well the place of human rights in American foreign policy. Lincoln insisted that the principles embodied in our Declaration of Independence ultimately promised "liberty not alone to the people of this country, but hope to the world for all future time." And so it is with religious freedom. It is not

the exclusive birthright of Americans, but a universal hope of all people, including the people of Vietnam.

Senator BROWNBACK. Very good, Ambassador, that forwards our discussion.

Mr. Daley.

STATEMENT OF MATTHEW DALEY, DEPUTY ASSISTANT SECRETARY OF STATE FOR EAST ASIAN AND PACIFIC AFFAIRS, DEPARTMENT OF STATE

Mr. DALEY. Mr. Chairman, let me begin by thanking you for your personal interest and leadership in this question. You won't be surprised that my written testimony overlaps substantially with that of Ambassador Hanford. In my oral remarks I'll try to eliminate the duplication, but that gap shouldn't be taken as any lack of interest, but simply trying to compress the amount of time I'll consume here.

As you know, sir, our bilateral relations with Vietnam have expanded dramatically in recent years. They encompass a diverse and complex set of issues, which range from achieving the fullest possible accounting for those Americans who are still listed as prisoners of war/missing in action from the Indochina conflict to current global concerns, such as combating terrorism, HIV/AIDS, or trafficking in persons.

The Vietnamese Government is clearly interested in increasing its interaction with the United States, as is evidenced by the many visitors that we've had recently. I think it's fair to say the Vietnamese Government is also starting to become less monolithic. The legislature has begun to send draft laws back to the government for revision, the National Assembly is no longer simply a rubber stamp.

Transparency is improving. A recent example would be the decision by Vietnam's Chief Justice, after a visit to the United States, that courts should now publish their decisions. Moreover, laws have to be published now before they take effect, and eventually this will be done online.

While we welcome the positive developments that we've seen in terms of enhanced interaction with the Vietnamese on issues of mutual interest, we've repeatedly informed the government that improving respect for human rights and religious freedom is vital if our relationship is to further develop. And although the Government of Vietnam's human rights record remains poor and freedoms of religion, speech, press, assembly, and association are significantly restricted, in some respects Vietnam is today a less repressive society today than it was 5 or 10 years ago.

The administration acknowledges that a lot more has to be done. We think the Vietnamese have gotten the message that insufficient progress on human rights continues to strain our bilateral relationship, and we are committed to seeking tangible progress, and we think the long-term trend in Vietnam, their economic renovation policy that's been underway since 1986, has helped the expansion of personal freedoms.

Further integration into the international community through trade, high-level visits, and other devices has reinforced the posi-

tive trends, and we hope these will continue as Vietnam moves forward on its quest to be a prosperous and successful society.

We believe that continued interaction by the U.S. Government and other American institutions in the private sector will play a pivotal role in the further expansion of the positive trends. It's our judgment that efforts to re-isolate Vietnam or punish it with new sanctions will prove counterproductive to our long-term goals and interests in Vietnam.

One of the mechanisms to help achieve these other interests, and particularly in the area of human rights, involves trying to advance economic and legal reform through the promotion of greater transparency and the implementation of both law and policy. The Bilateral Trade Agreement with Vietnam has been a key catalyst for change, along with parallel reforms that have been undertaken by the World Bank and the IMF.

While Vietnam is lagging behind in some of its Bilateral Trade Agreement commitments, enforcement remains too weak. Vietnam has made progress in opening markets to many American products. For example, Vietnam's national airline has begun purchasing Boeing aircraft and has signaled its intention to buy more. And although Vietnam is considering revisions to legislation-related intellectual property rights, its market remains relatively closed to American intellectual property industry products.

Overall, implementation of the BTA helps to create a rules-based system in Vietnam and will serve as a springboard for Vietnam's eventual entry into the WTO. Since the BTA took effect in December of 2001, bilateral trade has grown rapidly. After more than doubling in 2002, Vietnam's exports to the U.S. rose another 121 percent in the first 10 months of 2003 to almost $4 billion. The U.S. has become Vietnam's largest export market, and our exports to Vietnam has also risen steadily, increasing 151 percent in 2003 with aircraft sales leading the way, amounting to most of the $1.2 billion.

For 2003, estimates of total two-way trade will probably be in the range of $6 billion. We expect trade to continue to increase, but the growth rate of the increase will slow, partly as a result of textile quotas that were put into place in 2003 by the bilateral textile agreement. In December of 2003, we also signed a bilateral civil aviation agreement that will establish direct aviation ties and will contribute to overall development of closer economic and cultural ties.

Senator, I think you're aware of the anti-dumping suits that we've had recently. We have imposed duties of between 36 to 64 percent on the Vietnamese exports of catfish to the United States, and last month the Commerce Department announced the initiation of anti-dumping investigations on imports of shrimp from a number of countries, including Vietnam. We'll have both preliminary findings of that investigation in June with final determinations to be made in late summer and early fall.

We're strongly supportive of Vietnam's decision to join the WTO and to adopt WTO provisions as a basis for its trade. They now have to demonstrate that they're prepared to undertake the commitments that are needed to be a WTO member. We think Vietnam's implementation of a market-based trading system based on

WTO principles of transparency and continued pursuit of structural reforms should accelerate the development of the private sector and enhance the rule of law and improve the atmosphere for progress in democracy and human rights.

There's one minor example I might note that access to some international broadcasting is largely restricted to those who have the means to afford shortwave radios or televisions, and as prosperity increases a far greater proportion of the Vietnamese population will be able to access this kind of international, unfiltered sources of information.

Finally, Mr. Chairman, if I may, with reference to your interest in the refugee population in the Philippines, this is a subject that has been under active and intensive review in the administration in the past few months. It's my sense that we're getting very close to decisions on this topic, and I would offer one of my colleagues from the Population, Refugee, and Migration Bureau, Kelly Ryan, to brief you on our current thinking and the new departures I think that will be forthcoming in the very near future. Perhaps certainly next week, if it would be convenient for you, she would be prepared to address that topic. Thank you, sir.

[The prepared statement of Mr. Daley follows:]

PREPARED STATEMENT OF MATTHEW P. DALEY, DEPUTY ASSISTANT SECRETARY OF STATE FOR EAST ASIA AND PACIFIC AFFAIRS

Bilateral relations between the United States and Vietnam have expanded dramatically in recent years, encompassing a diverse and complex set of issues. They range from our ongoing efforts to achieve the fullest possible accounting for those Americans still listed as POW/MIA from the Indochina conflict to global concerns such as cooperating on counter-terrorism to combating scourges such as HIV/AIDS and trafficking in persons. The Vietnamese Government is clearly interested in increasing its interaction with the United States, as evidenced by the number of senior Vietnamese visitors who have traveled to the United States in the past six months alone. During this time, the Ministers of Trade, Planning and Investment, Foreign Affairs, and Defense, as well as the Deputy Prime Minister, traveled to the United States and exchanged views on how to move our bilateral relations ahead. Last November, the first U.S. Navy ship visited a Vietnamese port since the end of the Indochina conflict, yet another example of how our bilateral relations have evolved since the normalization of relations just 9 years ago.

The Government of Vietnam is starting to become less monolithic. The legislature has begun to send laws back to the government for revision—the National Assembly is no longer just a rubber stamp. Transparency is improving, as evidenced by a decision by Vietnam's Chief Justice, following his trip to the United States, that the courts should begin to publish their decisions. Moreover, laws now must be published before they take effect, and eventually this will be done on-line.

While we welcome the positive developments that we have seen in terms of enhanced interaction with the Vietnamese on issues of mutual interest, we have repeatedly informed the government that improving respect for human rights and religious freedom is vital if our relationship is to further develop. Although the Government of Vietnam's human rights record remains poor and freedoms of religion, speech, the press, assembly, and association are significantly restricted, in some respects Vietnam is a less repressive society now than ten, or even five, years ago. Our Embassy reports that Vietnam has made progress in the areas of individual freedoms, people's control over their lives, and expanded freedom of religion.

The administration's concerns about human rights abuses in Vietnam, including violations of religious freedoms, are discussed in detail in our annual country reports on human rights practices (the latest one will be released in a few weeks) and the annual country report on international religious freedom. These reports are compiled based on active monitoring and reporting from our Embassy in Hanoi and Consulate General in Ho Chi Minh City, as well as input from a wide variety of NGOs, media reports and other sources.

The U.S. Mission engages the Government of Vietnam (GVN) on human rights issues at all levels. Mission officers travel throughout the country to investigate allegations of abuses, and virtually every Mission officer and senior USG visitor to Vietnam raises human rights in their meetings with GVN officials. From the Ambassador on down to the first tour junior officer, we explain international concerns and basic human rights standards to Vietnamese officials from the local level to the highest ranks of the GVN. In Washington, Department officials from all bureaus repeatedly stress human rights concerns to Vietnamese interlocutors. Our calls for the release of political prisoners, ICRC access to detainees, improved transparency and due process in the criminal justice system, NGO access to the central highlands, and our constant diplomatic pressure have produced noticeably greater GVN willingness to engage in frank discussions on human rights and religious freedom. We note that the GVN has improved its processing of Montagnard emigration cases by clearing up a significant backlog.

However, more needs to be done. The Vietnamese have gotten the message that insufficient progress in human rights continues to constrain bilateral relations. A summary report of Vietnam's progress on human rights since our last formal human rights dialogue was submitted to Congress in December 2003. This report outlines in more detail our human rights policy toward Vietnam and states that we have not scheduled another formal dialogue due to insufficient progress on our key human rights concerns.

In regard to religious freedom, of particular concern are allegations that local officials continue to force Protestants, especially in ethnic minority areas, to renounce their faith. We remain concerned by reports of the closures of unregistered house churches in the central highlands. We have advised them that Vietnam's record is under close scrutiny. We have urged specifically that the Prime Minister issue a clear-cut decree banning forced renunciations of faith and prescribing punishment for officials engaged in such behavior. We have also urged that the government speed up the process of registration of churches in minority areas, which it now appears to be doing.

We are committed to seeking tangible progress on human rights and religious freedom, and we believe the long-term trend in Vietnam since the "doi-moi" (renovation) economic policy initiatives of 1986 has been toward the expansion of personal freedoms. Further integration into the international community—through trade, interaction, high level visits and other channels—has reinforced these positive trends and will continue to do so as Vietnam continues on its quest to be a prosperous, successful society.

Continued interaction by the U.S. Government and other American institutions will continue to play a pivotal role in the further expansion of these positive trends. Efforts to re-isolate Vietnam or to "punish" it with new sanctions will likely prove counterproductive to our long-term goals and interests in Vietnam.

One of our long-term goals is to stimulate growth and development in Vietnam through economic and legal reform and through promotion of greater transparency in the implementation of law and policy. The Bilateral Trade Agreement (BTA) has become a key catalyst for change in Vietnam, along with parallel reform programs undertaken by the World Bank and the IMF. While Vietnam is lagging behind in some of its BTA commitments and enforcement remains weak, Vietnam has made progress in opening its markets to many U.S. products. For example, Vietnam's national airline has begun purchasing Boeing aircraft and has signaled its intention to buy more. Although Vietnam is considering revisions to legislation related to intellectual property rights, its market remains relatively closed to U.S. intellectual property industry products. Overall, implementation of the BTA helps to create a rules-based system in Vietnam and will serve as a springboard for Vietnam's eventual entry into the WTO.

Since our Bilateral Trade Agreement (BTA) with Vietnam took effect in December 2001, bilateral trade has grown rapidly. After more than doubling in 2002, Vietnam's exports to the U.S. rose another 121 percent in the first ten months of 2003 to almost $4 billion. The U.S. has become Vietnam's largest export market. U.S. exports to Vietnam have also risen steadily, increasing 151 percent in 2003, including aircraft sales, to $1.2 billion. For 2003, estimates are that total two-way trade was about $6 billion. While we expect trade to continue to increase, the growth rate is likely to slow, partly as a result of the textile quotas put into place in 2003 by the bilateral textile agreement. In December 2003, we signed a bilateral civil aviation agreement that will establish direct aviation ties and will contribute to the overall development of closer economic and cultural ties.

Another element of increased trade has been anti-dumping suits. In summer 2003, the International Trade Commission determined that Vietnamese exports had caused injury to the U.S. catfish industry, and the Department of Commerce set

duty levels between 36 and 64 percent. On January 21, 2004, Commerce announced the initiation of anti-dumping investigations on imports of shrimp from various countries, including Vietnam.

Our deepening economic, commercial and assistance relationship with Vietnam promotes civil society, encourages economic reform, draws the country further into the rules-based international trading system, and promotes interests of American workers, consumers, farmers, and business people.

We remain strongly supportive of Vietnam's decision to adopt WTO provisions as the basis for its trade regime. The Vietnamese Government must now demonstrate that it is prepared to undertake the commitments that are necessary to become a WTO member. Vietnam's implementation of a rules-based trading system based on WTO principles of transparency and its continued pursuit of structural economic reforms should accelerate the development of the private sector, enhance the rule of law, and improve the atmosphere for progress in democracy and human rights.

Our bilateral relationship is positioned to grow in positive directions. The issues that we address together show that both of our countries are now concentrating on our future rather than simply looking to the past. We have productive discussions with the Vietnamese on counter-terrorism and counter-narcotics as well as HIV/AIDS, a major foreign policy objective. We have increased cultural and educational exchanges. Only a few days ago, the Vietnamese Government extended an official invitation to the Peace Corps to come to Vietnam to discuss a country program. The overall relationship—economic, political, and cultural—is improving. The linkages between our two countries have strengthened due to humanitarian programs, academic and cultural exchanges, and increased dialogue on strategic issues.

Vietnam is aware of our views on its need to live up to its international commitments on human rights and religious freedom, as well as to continue to take all necessary steps to account for those who remain listed as POW/MIA, and finally to meet its obligations under the BTA. That said, we believe that our mutual interests will continue to lead our relationship in the right direction.

REPORT TO CONGRESS ON THE GOVERNMENT OF VIETNAM'S PROGRESS TOWARD IMPROVED HUMAN RIGHTS FOR THE PERIOD DECEMBER 2002–DECEMBER 2003

Introduction and Summary

On November 8, 2002, the Department of State's Bureau of Democracy, Human Rights and Labor held the 10th round of the U.S.-Vietnam Human Rights Dialogue in Washington. The Department of State has been dissatisfied with the lack of progress from these dialogues in general and specifically with the lack of progress over the past year. During the 2002 dialogue we made clear to the Government of Vietnam (GVN) that if we are to continue these dialogues, the discussions must lead to concrete results. The Department specifically described the requirements for this report, suggested specific actions that the GVN could take to illustrate a commitment to progress in key human rights areas, and stressed the need for substantive progress. Due to the lack of concrete results from the last dialogue, we have not scheduled the next round.

The areas of progress and/or lack thereof made by the GVN, as stipulated by Congress, are summarized below:

1. Commercial and criminal codes, including Decree 31/CP
2. Release of political and religious activists and cessation of surveillance/harassment
3. Ending official restrictions on religious activity
4. Freedom of the press
5. Prison conditions and transparency in the penal system
6. Rights of indigenous minority groups
7. Worker rights and cooperation with the ILO
8. Access to persons eligible for processing as refugees or immigrants

1. Commercial Codes, Criminal Codes and Administrative Detention Decree 31/CP

The GVN is working on bringing its commercial code into compliance with international standards as part of the implementation of the U.S.-Vietnam Bilateral Trade Agreement (BTA). Vietnam has developed new laws on foreign investment and enterprise development, a new law on the promulgation of laws that should provide more transparency, and key amendments to the commercial law to bring Viet-

nam's legal and regulatory structure closer in line with it's BTA commitments. Unfortunately, the 1999 criminal code remains unchanged, and we have seen no progress in this area. Individuals remain detained under Administrative Detention Decree 31/CP, including Thich Tue Sy, Thich Nguyen Ly, Thich Thanh Huyen, and Bui Minh Quoc whose cases we have raised specifically with the GVN over the course of the year. The GVN reported in the November 2002 dialogue that other countries have joined us in expressing concern over Decree 31/CP and that they intend to review its usefulness. We are not aware of any progress in this review to date.

2. Release of Political and Religious Activists and Ending Surveillance/Harassment

We have seen no progress in this area although during the year, the GVN twice provided information on political and religious detainees of concern in response to lists sent by the USG. Over the course of the year, new prison sentences have been imposed on Pham Hong Son and Tran Dung Tien for peacefully expressing their views, as well as three relatives of imprisoned Catholic priest Father Nguyen Van Ly-Nguyen Thi Noa, Nguyen Truc Cuong, and Nguyen Vu Viet-for having expressed concern about his condition and sharing information with outside observers. U.S. Embassy and Consulate General observers were barred from observing any of these trials. In addition Nguyen Vu Binh, Pham Que Duong, Dr. Nguyen Dan Que, and Pham Van Tuong (also known by his former religious name Thich Tri Luc) remain in investigative detention awaiting arraignment. We remain concerned over the continued surveillance and/or harassment of activists such as Nguyen Lap Ma, Thich Huyen Quang, Thich Quang Do and others. Thich Huyen Quang of the unofficial Unified Buddhist Church of Vietnam (UBCV) enjoyed increased freedom of movement following his March 2003 trip to Hanoi for surgery for skin cancer and held an unprecedented meeting with PM Khai in April. His deputy Thich Quang Do, who had been detained in his pagoda in Ho Chi Minh City since June 2001, was released in June 2003. However, in October 2003, following a UBCV assembly that was not authorized by the Government, Vietnamese authorities harassed a UBCV delegation that included Patriarch Thich Huyen Quang and deputy Thich Quang Do, and sentenced three senior UBCV monks (Thich Tue Sy, Thich Nguyen Ly, and Thich Thanh Huyen) to 24 months of administrative detention.

We remain concerned about the prison sentence given to Father Nguyen Van Ly in 2001, though it was reduced from a total of 15 years to 10 years in prison, followed by two years house arrest, in July 2003. In September 2003, Father Ly's two nephews and niece mentioned above were sentenced to five, four, and three years imprisonment respectively. On November 28, 2003, the GVN reduced their sentences; the niece who had been placed under house arrest is free, and the nephews should be released by February.

3. Ending Official Restrictions on Religious Activity

There has been no progress in this area. We remain concerned by the detention of numerous religious leaders, as well as church closings, attempts at forced renunciations of faith, and imprisonment of Protestants in the central highlands and Northwest Highlands. We note that the 7th Party Plenum passed new resolutions on religion and ethnic minorities that acknowledge the need for the GVN and CPV to respect human rights and improve conditions for appropriate enforcement of the law. However, we question aspects of the Plenum's resolutions on religion, which seem to indicate an intention to further control religious organization and suppress unauthorized religious activities.

The Government of Vietnam recognizes only six religions: Buddhist, Protestant, Catholic, Cao Dai, Hoa Hao, and Islam. An official registration process is required for these religions, as well as individual religious denominations and congregations. The GVN continues to restrict the activities of several religions or denominations, including independent Buddhists, Protestants, Cao Dai, Baha'i and Hoa Hao who lack recognition or have chosen not to affiliate with recognized groups. Other groups, such as Seventh-Day Adventists, Jehovah's Witnesses and Baptists operate in some provinces with fewer restrictions. GVN officials suggest these bodies may have opportunities to officially register in the future. The USG continues to express great concern at reports of harsh treatment of unregistered ethnic minority Protestants in the Northwest and central highlands. Reports from these provinces indicate that many Protestants face pressures to renounce their faith, closure of unregistered churches, and the arrest or harassment of pastors. We received credible reports of the deaths in custody of one Hmong Protestant leader in Lai Chau Province in July 2002, and another Hmong Protestant leader in Ha Giang Province in July 2003. We also received credible reports of an incident on December 29, 2002, in Lau Chau Province, in which a group of what appeared to have been security agents allegedly

broke up a church service of Hmong Protestants with some type of pepper spray or tear gas and confiscated their worship materials. The Department of State continues to press the GVN to investigate these reports, to take measures to end any campaign of this nature, and to bring the violators to justice.

The GVN concurred with the Vatican's appointment of new Catholic Bishops and did not object to the elevation of Cardinal Pham Minh Man in Ho Chi Minh City. Several observers have noted that the Catholic seminaries are allowed increased international contact. In February, a Protestant seminary was allowed to open in Ho Chi Minh City.

4. Freedom of the Press

Freedom of the press and expression in Vietnam remained limited this year. Several dissidents listed above were arrested or sentenced this year for peacefully expressing their views on the Internet or via e-mail. We remain concerned by the GVN regulations on Internet use promulgated by the Ministry of Culture and Information. We note that the local press has sought to expand reporting, but have been warned by senior officials against reporting too critically or extensively, including on corruption issues. There appears to have been no essential change in treatment of the foreign press or in the freedom of movement of the Vietnamese or foreign press. Foreign news, including VOA and CNN are available to Vietnamese by shortwave radio and satellite television, but these mediums are beyond the price range of most Vietnamese. Some foreign radio stations and web sites are blocked, including Radio Free Asia and the Philippines-based missionary station Far East Broadcasting Corporation, although some broadcasts are audible in Vietnam.

5. Prison Conditions, Transparency and the UN Working Group on Arbitrary Detention

It is difficult to determine whether there has been any substantive change in prison conditions in Vietnam. Embassy officers were allowed to visit a prison in 2002, but requests during 2003 have not been accommodated. One foreign diplomat was allowed to visit a prison, and described conditions as not unduly harsh given Vietnam's economic situation. Conditions appear to vary by prison. Some imprisoned activists are reportedly held in solitary confinement. We have encouraged the GVN to cooperate with the ICRC on prison visits with the goal of improving conditions and transparency in the detention system. We also continued to urge the GVN to implement the recommendations of the UN Commission on Human Rights' Working Group on Arbitrary Detention that remain largely neglected and to issue a new invitation to this UN mechanism as well as others such as the UN Commission on Human Rights' Special Rapporteur on Religious Intolerance.

6. Respecting the Rights of Indigenous Minorities in the Central and Northern Highlands

This is another area where we have seen no improvement, although the GVN appears to be making efforts to address some land and economic problems of ethnic minorities. Officials continue to restrict severely freedom of assembly and religion in the Central and Northwest Highlands where there are indications of harsh treatment and religious repression of ethnic minority Protestants. The GVN uses the separatist agenda of a relatively small number of ethnic minority leaders as a rationale for violating civil and political rights in ethnic minority regions. The GVN somewhat improved international access to the central highlands over the past year, however, all diplomatic visits to sensitive regions remain supervised and controlled. We will continue to monitor closely developments in regions of concern.

7. Respecting the Basic Rights of Workers and Cooperating with the ILO

We have seen some improvement in worker rights in recent years in Vietnam, which is due, in part, to steady increases in GVN cooperation with the ILO. The ILO officially opened an office in Hanoi on February 17, 2003 and has been expanding its operations. The U.S. Department of Labor is working on six projects with Vietnam to improve labor conditions, including an HIV/AIDS workplace-based education project. The ILO and U.N. Development Program are cooperating on a large multi-year technical assistance program to strengthen labor law implementation. In addition, the 2003 ILO Committee of Experts Report states that the Government of Vietnam has made strides in establishing a state labor inspectorate and to implement labor inspection training (2003 ILC, 91st Session, C. 81). We believe, however, that more needs to be done if Vietnam is to protect adequately its workers as the economy grows. We have urged the GVN to respect freedom of association, the right to organize and bargain collectively in trade unions, as well as to continue to work actively to eliminate the worst forms of child labor. We are closely monitoring the implementation of Vietnam's new labor law that went into effect on January 1,

2003, and its effect on worker rights. The old law, drafted with a central role for the Communist Party, was not adequate for a modernizing economy and was in many cases ignored. Effective implementation of the new labor law will be essential for the modernization of Vietnam's labor relations system.

8. Access to Persons Eligible for Processing as Refugees or Immigrants

Cooperation on refugee caseloads showed progress this year, although our access to applicants is still restricted by long-standing GVN–USG agreements that require GVN permission prior to interview. We routinely communicate directly with refugee applicants by mail, phone, fax, and telex. This year has also seen passport issuances for a few long-standing Montagnard cases. Less than 30 cases in various refugee-processing categories remain to be processed. Within this group a few have not been processed because they still do not have passports, although the number is decreasing slowly. The others have not completed processing because the applicants themselves have failed to actively pursue their cases. Most Vietnamese applicants for immigrant visas to the U.S. receive their Vietnamese passports and are processed with few problems. However, some Montagnard immigrant visa applicants face difficulty obtaining Vietnamese passports. In particular, one of the first Visas-93 Following-to-Join cases for families of Montagnards resettled out of Cambodia in 2002 is having difficulty getting passports issued.

Conclusion

We did not hold a human rights dialogue with Vietnam this year, because steps taken were inadequate and did not constitute progress from the last dialogue. In the November 2002 dialogue Ambassador-at-Large for International Religious Freedom John Hanford and Deputy Assistant Secretary for Democracy, Human Rights and Labor J. Scott Carpenter stressed the need to see results on religious freedom and human rights if the dialogue is to be continued. Both stressed the importance of greater access and transparency on many of these issues such as the need to open trials, provide more information and access to sensitive regions to the international community and allow human rights NGOs to work in Vietnam. The Department of State will remain vigilant in its monitoring of the human rights situation in Vietnam and will continue to seek tangible progress in improved human rights before any determination is made about future dialogues.

Senator BROWNBACK. Thank you very much, Secretary, and I look forward to hearing from you. Part of the frustration on this one has been, number one, these people have been hanging out there for a long period of time.

Mr. DALEY. We're talking decades.

Senator BROWNBACK. Decades. Number two, we've got a high refugee number, and we're nowhere near filling it, and we keep dropping the refugee number, and we're only bringing in about 20,000 a year, and I think we're approved with budget for up to 50, and if you roll in the budget from prior years, you're even up higher numbers, so we've got plenty of—the funding is there, the authority is there, the population is there, and this is not a—this is not a terrorist population that a lot of people are reviewing and saying, well, we've got to be extra careful now. Well, I think they've sat there long enough, that we've been careful enough, so hopefully we can do—can move on that. We would appreciate it if you could.

Mr. DALEY. We will, sir.

Senator BROWNBACK. Good. Secretary Daley, I want to ask you, in particular I've noted, as you have, the impressive progress in a number of fields for Vietnam, particularly given the difficult relationship we've had with them in recent decades. It is impressive, it's impressive what I saw. It's a glaring hole on the human rights area. They are not making the progress there. They're making some progress there.

Can we—are we—are you seeing any progress or commitments on their parts to truly address the human rights issues as we try to build this relationship closer?

Mr. DALEY. What we're missing, I believe, Mr. Chairman, is sustained, comprehensive and even process—progress—in the different areas of Vietnam. I think we can point to certain areas where there's been progress, but in other areas, even when we get the right declaratory policies from Hanoi, we don't always see those policies being implemented by local officials, and the disparities in implementation from one part of the country to another are fairly obvious.

And so it's difficult, I think, sometimes to make judgements about the country as whole. Over time, especially if we're talking years rather than weeks and months, I think there has been real progress, and we're pressing this agenda at every level at which we have diplomatic contact, whether it's the newest, youngest officer in the Foreign Service who's working the visa line or the most senior levels of our government. But it's very uneven. I think Ambassador Hanford would have some additional insights on that point.

Senator BROWNBACK. Ambassador?

Mr. HANFORD. Well, we're encouraged, as I mentioned earlier, that there have been improvements at least during the year and a half I've been there in terms of the recent release of some religious prisoners. But, as you know, there are many, including some prominent ones such as Father Ly, that remain behind bars. In his case, I'm told in isolation and perhaps in failing health, and I have that on pretty good authority. We're pretty worried about him.

At the same time, we hear, we continue to hear of forced renunciations of faith, of church closings or refusal to reopen those churches. And so we've been very clear we want to see people in prison simply for the practice of their faith released, but we also want to see the systemic problems addressed as well, and we are—we're continuing to talk with them very regularly about this.

Senator BROWNBACK. I just would say to you gentlemen, particularly Secretary Daley, where you're looking at the broader portfolio of this, what I said to the Vietnamese officials I firmly believe is the nature of it, we've got a growing relationship, they've got double the trade coming this way than we've got going that way. This is a pretty good—this is a pretty good deal for Vietnam. They're growing, their population is increasing, per-capita income, that's a good thing, I'm supportive of that, delighted to see it. I don't want the relationship to go backward.

But they hold the keys in their own hand as to how fast this will move forward, and they're starting to develop a dedicated bloc within the Congress opposed to this relationship growing on the basis of human rights and religious freedom in particular, and it's one of those that as a society develops and grows, it clearly needs to grow in its own rights for its own people.

And so this isn't something we seek to do as an opposition to the Vietnamese Government at all, but if you're going to continue this relationship and particularly focus on the economic issue, you will find the Congress, if Vietnam doesn't address these issues, you'll find the Congress finding ways to try to impact this on the issues of human rights, and particularly religious freedoms, and it doesn't need to be that way.

Vietnam will choose, and if it believes that this is not something that the Congress will sustain or it's kind of a fleeting thought, and

we just kind of ride it out, or dollars are the only things that will drive us, those are all false assumptions. And I know this is being kicked around in the administration and its view of this, but this will create a major impediment if it's not addressed, and I think it's pretty simple to address.

Hopefully your office and Ambassador Hanford's office is conveying to them systemic changes, like the ability to open up churches. I'm glad you're providing a prisoners list, but in a way, that's just—that is just a very narrow issue. That's 20, that's 40 people, when you've got millions that are being impacted or you have—I don't know what you said your numbers were—there was 170,000 and two churches. That's just—you're impacting hundreds of thousands of people here, and we need to get the systemic changes where they allow people to open up churches, where they allow people to go to seminaries.

What they're doing to the Buddhist community, where really restricting the travel of the leadership and the organizations, I just, I don't understand why that would take place. So I hope the administration continues to make this a front-and-center issue in their relationships and growing with Vietnam, particularly as it comes up in the economic dialogue, because I know that's one of particular concern there.

Any further thoughts on that, Secretary Daley or Ambassador on that particular point?

Mr. DALEY. Mr. Chairman, you could have written my longer testimony. I mean, there's nothing you've said with which I would take exception.

Senator BROWNBACK. Ambassador?

Mr. HANFORD. I agree with you, Mr. Chairman, that the measures which the Government of Vietnam can take in order to address some of the most obvious and egregious problems are simple to identify and seemingly simple to implement. When I started in this job, things weren't nearly this bad, or they were just beginning to be so, particularly in the central highlands and the northwest highlands. If they can go through and close down hundreds of churches in a short period of time, then they can reopen those hundreds of churches in a short period of time, and this is what we're asking them to do.

Senator BROWNBACK. And you provide specifics to them of, okay, we want to do better on religious freedom, what do you think we should be doing as suggestions. And we don't want to—we don't dictate in their system what they do, we try to get people to open up a society, you provide those to them?

Mr. HANFORD. We've been very clear in terms of the specifics that need to be addressed. We've done that repeatedly. We first did this when we had our last Human Rights Dialogue. I presented in writing the specifics that I felt were most important to be addressed, and those have been the benchmarks that we have worked on since that time.

Senator BROWNBACK. Ambassador, do you think that all the non-economic policy options have reasonably been exhausted to address what seems to be particular severe violations of religious freedom? Are there other tools that can be used, non-economic?

Mr. HANFORD. Well, I'm committed to doing everything I can to work with the government for progress. Our goal is not to impose a designation or sanctions. Our goal is to see greater religious freedom, and that's why I've given so much time personally to Vietnam, as has my staff, and we will continue to in the coming weeks.

I think the best thing we can give them is respectful but clear indications and even warnings of where our most serious concerns are, and then to have very substantive dialogue on those problems so that there's no chance for misunderstanding. That's the approach that I have been taking and will continue to take, and I think they deserve that, and we're giving them that.

Senator BROWNBACK. What if the track does not change that they're on? What if they continue to say, well, fine, I hear your suggestions, but no action response, or even you continue to get more and more closings, more and more restrictions?

Mr. HANFORD. Right. Well, as you know, we have the—we have the whole question of CPC status coming up. This typically happens within a few weeks or a month or two after the issuance of the international religious freedom report. No decision has been made on this yet and this—these issues that you raise here will be under serious consideration as we approach this round of decision-making.

Senator BROWNBACK. Good. Gentlemen, thank you very much. I appreciate you coming up, and I appreciate your work on a vital relationship.

Now I have our second panel. It will be Commissioner Michael Young. He's with the U.S. Commission on International Religious Freedom here in Washington, D.C., and I look forward to his presentation.

Mr. Young, welcome back, glad to see you again. You heard the first panel and the thought put forward there. I'd like to hear your thoughts and testimony on the state of religious freedom or lack thereof in Vietnam.

STATEMENT OF MICHAEL YOUNG, COMMISSIONER, U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Mr. YOUNG. Mr. Chairman, thank you very much as always for this opportunity to testify, and in particular for your interest in this subject and the assurance you give us of the interest of the Senate in this. We appreciate that as do the people of Vietnam.

I have longer testimony, but in the interest of time, I'll ask that that just be submitted for the record and just highlight a few——

Senator BROWNBACK. Without objection.

Mr. YOUNG (continuing).——points. It's entirely possible I could simply stop here, Mr. Senator, and tell you that I agree with everything that you've said in this hearing today, as I think our commission does. You would probably be slightly disappointed in that, so let me elaborate just a little bit if I may.

Senator BROWNBACK. Good.

Mr. YOUNG. As has been well articulated today, relationships with the U.S. and Vietnam are deepening enormously. We will probably approach $6 billion in trade. We will assume, if we are not already, become Vietnam's largest trading partner. The relationship has deepened on other levels as well. I'm told today that

the commander of the Pacific fleet is actually in Hanoi today as we hold these hearings, and so on a variety of different fronts we have been working and working closely with the Vietnamese Government, and our countries have a very different relationship than they did not very long ago.

There seems an imbalance in that relationship though of exactly the kind that you defined, and this expansion and deepening of relationships in so many different other areas can't come at the expense of human rights. We were told when Congress passed the bilateral trade agreement in 2001 that the human rights situation would change in Vietnam and that this is therefore reason one should support that measure. I don't think we were told that it would change indeed but for the worse, and as I think has been articulated today, Ambassador Hanford said, as I listened to his testimony, when I started this job, things were not nearly so bad.

In addition, the State Department's report to Congress of last year admitted to being "disappointed" by the lack of "concrete" results in the case of Vietnam, and that is a concern. In the last 2 years, there's incontrovertible evidence that there have been crackdowns on religious leaders, imprisonment of free speech advocates and political reformers, expansion of control of virtually every religious community in Vietnam, including the Buddhists, the Catholics, the Protestants, the Hoa Hao, the Cao-Dai, all the religious groups.

In that context, people have been imprisoned, placed under house arrest, churches by the hundreds have been closed, some destroyed, the number of church buildings, clergy, and seminaries are very tightly restricted and controlled. Religious adherents are discriminated against in a variety of different ways in terms of jobs, housing, promotions.

In addition, the Government of Vietnam has intensified its crackdown of religions, particularly with respect to the ethnic minorities in the northwestern provinces, something that you know well. And there appears to be a systematic, ongoing campaign of forced renunciations. Those who refuse to renounce their religion are being harassed, beaten, imprisoned, and suffer loss of jobs and educational opportunities.

All this—and as I say, we are not really alone in our assessment in this. The State Department reports themselves confirm this. It appears in that context that the real question is, what does one do about that? And while we are not suggesting the imposition of any particular sanctions of a major economic sort, we are stating rather clearly that under the statutory standard, it is hard to see how you do not designate Vietnam as a country of particular concern.

The reason that designation is important, of course, is not merely the effect of designation, but the fact that, once designated, the statute requires that the State Department pay particular attention at the very highest levels to do something about that. Ambassador Hanford has suggested, and I know this to be the case that he's invested an enormous amount of time in this issue, it may be that that's not enough. It may be that if in fact one is seeing the progress move backwards, that one needs to think more systematically at even higher levels of our government about what to do about that.

CPC designation is a flexible diplomatic tool. It doesn't require any particular action except the engagement and anticipates reaching an agreement with the government on concrete specific steps that can be taken, and that seems a minimum that the United States should be doing when it engages—gauges the Vietnamese Government. We do it in every other area. The U.S. Trade Representative Office does it, all the offices do it when dealing on the economic side. It seems unconscionable not to also be doing that on the human rights side. Perhaps unfairly, but I don't think entirely unfairly, pointed out a slight inconsistency in Mr. Daley's testimony.

It seems to me that Vietnamese people deserve as much respect, consideration, and thought from the U.S. Government as do catfish and shrimp and that we ought to be thinking about things that can be done, and there are some things that can be done that are—that send a signal without harming the Vietnamese people in a way that makes clear to the government that this issue matters.

For example, we have proposed that non-humanitarian aid be capped at the prior year's level. That's not a dramatic change, but it does send a signal. We have suggested that it is amazing that a government with which we have deep economic ties continues with impunity to broadcast from Radio Free Asia. How can they possibly do that and why can we possible tolerate that? Those sorts of things are all within the realm of possibility, and all do send the signal that this issue matters, that we are watching, and that we are measuring their performance in this area, just as the Commerce Department and others measure their performance so carefully in so many other areas.

We also suggested that there are positive steps that can be taken. There could be expanded funds available for exchanges, exchanges between religious personnel of both countries, an expansion of the human rights dialogue to ensure that Vietnamese Government officials have an opportunity to come to the United States, meet with different people who can represent to them the positive benefits that come from a more open, vibrant dynamic society.

And we also think that you can target many of those exchanges to include human rights activists, religious leaders, and others, who in turn would have both their credibility within their country and their knowledge and capacity to work with the Vietnamese Government itself expanded if they had the opportunity to come to the United States and to engage in dialogue of that sort.

We also have some skepticism about the application of the Millennium Challenge Account. This is a laudable idea to encourage an expansion of democracy around the world. It does seem puzzling though in light of this what seems quite clear backwards movement on the part of the Vietnamese Government that they in fact from the very beginning seemed to be eligible, suggesting that there ought to be an examination, either of the way in which the eligibility criteria are being applied, or in the alternative, a re-examination of the criteria themselves. It's a little hard to imagine that the Vietnamese Government has earned this kind of a designation and this kind of an opportunity.

Our country and Vietnam have been intertwined in a variety of ways for many years, some of them truly tragic. But we're only

compounding the tragedy if we focus narrowly on the economic and security concerns and ignore the human rights and democracy dimensions. Indeed, I think if the CSCE process and the Helsinki accords and all that surrounded that teaches anything, it teaches the importance of keeping all of those on parallel tracks with emphasis on all three in equal measure.

Indeed, if one looks at the effect of the CSCE and the Helsinki accords, one almost has to say that the greater impact was not found in the economic integration or even the security basket as much as it was found in the democracy and human rights basket of the CSCE process.

From that perspective, we think it's possible to continue to build a strong relationship with Vietnam. Our commission is not recommending that that relationship be terminated in any way. Rather, we are urging that the government think at the highest levels about concrete steps that can be taken against the backdrop of concrete, specific benchmarks of behavior in terms of human rights.

As Ambassador Hanford suggested, if you can close a church, you can open a church, and this can be done by the government, and in our judgment must be done, and that's why we think designation as a CPC is an essential step. It meets the statutory designation, it will focus the attention not only of the Vietnamese Government but our own government on steps that need to be taken, and in our judgment, at this stage are not being taken. Thank you, Mr. Chairman.

[The prepared statement of Mr. Young follows:]

PREPARED STATEMENT OF MICHAEL YOUNG, CHAIR, THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

PROTECTING RELIGIOUS FREEDOM IN VIETNAM: BALANCING INTERESTS AND PRINCIPLES

Introduction

Mr. Chairman, distinguished members of the Senate, I want to commend you for holding this hearing on an important subject that deserves serious attention from Congress.

The Commission on International Religious Freedom has followed events in Vietnam closely for the past several years. In its travels to Vietnam, the Commissioners and staff have found that over the last two years, already poor human rights conditions in Vietnam have deteriorated. Key dissidents were imprisoned or placed under house arrest. Churches have been closed and some destroyed. In addition, the Government of Vietnam has intensified its crackdowns on religious and ethnic minorities in the northwestern provinces and the central highlands-including ongoing campaigns of forced renunciations of faith.

These actions underscore a deep imbalance in U.S.-Vietnamese relations. Since normalization of relations in 1995, U.S.-Vietnamese defense and trade relationships are moving forward at a dramatic pace. In these areas, we are building partnerships based on mutual interests.

But beyond these partnerships lie principles. President Bush has eloquently stated that American foreign policy should "stand firm for the non-negotiable demands of human dignity-the rule of law, freedom of worship, free speech—religious and ethnic tolerance—and equal justice."

Such principles are central to maintaining strong and long-lasting partnerships. They are central to American interests abroad. When it comes to Vietnam, the U.S. should adopt creative policies that support both our interests and our principles.

The Commission hopes that a strong and consistent message can be sent to the Vietnamese Government. Our relationships cannot be built solely on economic ties or security cooperation. Continued violations of religious freedom and related human rights will slow down the expansion of U.S.-Vietnamese relations.

Little Substantive Change Since the BTA

When the Bilateral Trade Act (BTA) was passed, there was hope that expanded economic ties would lead to improvements in Vietnam's human rights situation. Sadly, this has not happened. A recent estimate predicts that trade between the U.S and Vietnam will top $6 billion dollars by the end of this year. The U.S. is already Vietnam's largest trading partner.

While our economic relationship has taken several large steps forward, in the area of human rights our relations have become stagnant, and even deteriorated.

The Commission is not alone in its assessment. The European Union has also been very critical of Vietnam's human rights practices. The State Department, in a report to Congress last year, admitted to being "disappointed" by the lack of "concrete results" in the U.S.-Vietnam bilateral human rights dialogue. They cited failure of the Vietnamese Government to respond to U.S. concerns in several key areas, including religious freedom as reason why they canceled the Fall, 2003 dialogue.

Increased trade has not led to progress in the area of protecting human rights and basic liberties. More dollars have not lead to democratization. And quiet diplomacy alone has not produced tangible results.

Since the passage of the BTA, there is incontrovertible evidence that the Vietnamese Government has initiated crackdowns on religious leaders, free speech advocates, political reformers, and those peacefully championing the rights of ethnic minorities. Let me briefly give you some very recent examples that fit into the larger pattern of human rights abuses since the passage of the BTA in 2001:

- In the last month, the government in Hanoi has pursued a severe crackdown on the Unified Buddhist Church of Vietnam (UBCV). Currently, 26 of its newly elected leaders are under arrest, and founders Thich Huyen Quang and Thich Quang Do, both Nobel Peace Prize nominees, face trumped up charges of espionage. The arrests came despite Vietnamese Prime Minister Pham Van Khai's admission that past crackdowns on the UBCV were "mistakes."
- Trying to investigate the current situation, Commission staff had meetings with UBCV monks disrupted by security forces, phone conversations cut-off, and was physically barred from visiting UBCV leader Thich Quang Do and Thich Tu Sy.
- Fr. Thadeus Ngyuen Van Ly, a leading religious freedom and democracy advocate, was sentenced to 15 years in prison and 5 years house arrest for submitting testimony to the U.S. Commission on International Religious Freedom. Though Fr. Ly's sentence was recently reduced by five years, his nephews remain in prison for alerting human rights groups to their uncle's arrest.
- The Venerable Thich Tri Luc of the UBCV is facing charges of "immigration with intent to oppose the regime" which carries with it a sentence of between 3 years and life imprisonment. The Venerable "disappeared" from a UNHCR transit house in Phenom Penh in June of 2002. He was forcibly repatriated to Vietnam, and his whereabouts were unknown until July of 2003. He is in prison. His trial is pending.
- According to smuggled documents recently obtained by Freedom House in June and December of 2003, government officials with the Ministry of Public Security have entered places of worship, denounced believers, and forced them to sign "confessions" where they renounced their faith and promised to return to traditional animist rituals. We know that at least two religious leaders have died in the past two years because of beatings they received for refusing to renounce their faith.

These are only a sample. Given Vietnamese actions over the past year, the Commission believes the U.S. Government must use its leverage with the Government of Vietnam to produce real and meaningful improvements in human rights and religious freedom.

CPC As Flexible Diplomatic Tool

Mr. Chairman, the Commission has recommended to the Secretary of State that Vietnam be designated as a "country of particular concern" (CPC) for the past two years. We believe that Vietnam's abuses of religious freedom meet the criteria set down in the International Religious Freedom Act of 1998.

The CPC designation is a flexible diplomatic tool. It provides the President with a range of specific options to take to address serious abuses of religious freedom. It does not automatically entail sanctions, but requires that the Secretary of State enter direct consultations with a country to find ways to improve the religious freedom situation. To avoid economic sanctions, countries can enter into a binding agreement with the U.S. that spells out specific actions they will take in the future.

Mr. Chairman, the CPC designation has to be used in order for it to be more than a toothless gesture of moralpolitique. Despite Commission recommendations, the State Department has not yet designated Vietnam as a CPC.

When used properly the CPC designation:

- Sends the clear signal that U.S. interests include concern for human rights.
- Starts a dialogue where specific benchmarks on progress are agreed upon in order to avoid economic sanctions.
- Allows the President, or the Secretary of State, to employ or use the threat of multiple and ongoing sanctions to address egregious abuses of religious freedom.
- Allows the President to waive any specific actions if progress is being made toward addressing serious religious freedom abuses.

In the last year, international scrutiny has forced the Government of Vietnam to try to staunch growing criticisms of its human rights record. The Vietnamese Government released several prominent religious dissidents, reduced the sentences of others, and in a dramatic gesture, allowed you, Chairman Brownback, to meet with long-time democracy and religious freedom advocate Fr. Nguyen Van Ly.

Mr. Chairman, these actions should be seen for what they are, goodwill gestures that do not promise any substantive or systematic improvement. In fact, the religious dissidents released earlier this year were recently re-arrested (Thich Quang Do and Thich Huyen Quang).

The Vietnamese Government has badly underestimated the depth of disappointment that exists in the Congress and U.S. Government concerning its human rights record. The blatant disregard of the most basic human rights, and the recent and ongoing crackdowns on religious adherents, makes clear why Vietnam should be immediately designated a "country of particular concern" (CPC).

Other Policy Recommendations

In our current report the Commission included several policy recommendations for the Congress's consideration:

1. *Passage of Vietnam Human Rights Act:* The Commission has supported the Vietnam Human Rights Act, many of the Commission's past recommendations have been incorporated into that Act. The act would cap non-humanitarian aid at 2003 levels (not cut it off as some critics contend) and provide increased funding for public diplomacy and immigration programs. We believe that a cap of non-humanitarian aid will send the signal that the U.S-Vietnamese relationship cannot expand unless meaningful and systematic changes occur. The language of the Vietnam Human Rights Act was placed in the Foreign Relations Authorization Act (HR 1950). The Commission hopes that the original language will stay intact when the bill emerges from conference.
2. *Overcome Jamming of Radio Free Asia (RFA):* The Commission recommends that steps be taken to overcome jamming of Radio Free Asia broadcasts, ensure that RFA Internet site is accessible and free, and allow RFA personnel into Vietnam. While RFA broadcasts face active interference, Vietnam state television and radio programs are transmitted unhindered to the United States via Cuba and Canada. The same broadcast courtesy should be given to RFA broadcasts.
3. *Target Exchange Programs to Advance Human Rights:* The Commission also recommends that foreign assistance and exchange programs go to support individuals in Vietnam who advocate human rights, the rule of law, and legal reform. We should, for example, target cultural and education opportunities for the Montagnard and Hmong peoples of Vietnam. We should also seek to hold regular dialogues and exchanges (both in Hanoi and in Washington) between international experts on religion and law and appropriate representatives of Vietnam's Government, academia, and clergy. This is particularly critical at this time because the Vietnamese National Assembly is planning a new "Law on Religion" in the near future.
4. *Re-evaluate the Eligibility Criteria for Millennium Challenge Account (MCA):* The Millennium Challenge Account (MCA) is an ambitious and farsighted program that has the potential to revolutionize the way the United States promotes democracy and development abroad. But there is something wrong with the eligibility criteria when Vietnam can receive funds in the very first year. We hope the Congress will weigh in to make sure that money does not go to Vietnam without significant progress being made in the areas of human rights and religious freedom. Or, that changes can be made to the eligibility criteria

so that abuses and restrictions of human rights, including religious freedom, are weighed more heavily when determining eligibility.

Mr. Chairman, these important policy steps support both U.S. interests and values. They are also steps that will demonstrate our government's seriousness about the protection and promotion of international human rights standards.

Conclusion

History has entwined our two countries in sometimes-tragic ways. But we only compound that tragedy if we focus narrowly on economic or security relations at the expense of human rights. As we learned with the Helsinki Process during the Cold War, the three must move forward together for effective change to occur.

Advancing free speech, free press, and freedom of religion represents not only core American values but also international standards of human rights-standards that the Vietnamese have already acceded to in various international treaties and covenants. Working to protect and promote these basic freedoms furthers the interests of both the United States and the people of Vietnam.

Mr. Chairman, the Commission believes that by taking the steps outlined above, U.S.-Vietnam relations will improve for the long term and become the basis for a strong and healthy relationship built on mutual interests and the rule of law.

Thank you Mr. Chairman, and I welcome your questions.[1]

Senator BROWNBACK. Thank you very much, Commissioner. Why—why is this happening now? Why would they take this step backward at this point in time when things were moving forward, the economic engagement was moving forward, the military engagements in a positive potential fashion. Why—why step backwards at this point in time? Have you been able to derive any ideas or thoughts why that's occurring?

Mr. YOUNG. Mr. Chairman, that's a very good question, and I am not sure, but there's an old social science adage that things that get measured change. And I would—I wonder whether at least in some degree the extent to which we have paid attention to the other issues have expanded the integration and perhaps send a signal to the Vietnamese that some of these issues are more important to America than the human rights issues. I think nothing could be further from the truth, but I wonder whether they have that signal. It's not entirely clear that all the actions of our government would not have led them to have that perception.

Senator BROWNBACK. Is it that we passed—is there another possibility that we passed the bilateral trade agreement, the pressure was on prior to that time period to open up human rights issues, religious freedom concerns, and then after that passed, well, we've got you now, and so we don't need to be particularly interested or focused or we can even be tougher in these issues?

Mr. YOUNG. Well, Mr. Chairman, for one, you're very cynical, but it's entirely possible that that's what happened, but I think whether that's what happened or not, what is clear is that the bilateral trade agreement, to the extent it has occasioned this expansion of trade and integration on the economic front as well as the expansion on the security front, we should now, whatever happened in the past, view it as an opportunity to give us some additional levers to work with the Vietnamese Government to persuade them that the expression of interest in human rights that was evident before the passage of that act is just as important and just as evident now.

[1] A related report, *Report on Vietnam, May 2003,* is available on the U.S. Commission on International Religious Freedom web site: www.uscirf.gov

And indeed, if in fact the Vietnamese Government had engaged in that very cynical calculation that they don't need to pay attention to it because the act has been passed, it makes it more the more important that at the highest levels that agenda gets equal place with the economic agenda.

Senator BROWNBACK. Do we need to pass any additional laws or rules here from the Senate or the House to express this to the Vietnamese Government or to the U.S. administration?

Mr. YOUNG. Well, we have expressed support of the Vietnam Human Rights Act. It contains many of the recommendations that I just articulated and that we have—suggestions that we have made in the past, policy recommendations that we have passed on to the State Department, the National Security Council, and the President.

I think that legislation sends a very useful signal both to the administration as well as the Government of Vietnam that the concern about freedom of religion that was expressed prior to the passage of the bilateral trade agreement has not abated, and that if indeed that's the signal that has been lost somehow in transmission, that act would go some ways to suggesting that this issue is still of central importance to Americans.

Senator BROWNBACK. Good. Thank you, Commissioner. Anything further you'd like to add?

Mr. YOUNG. No, just thank you again for your time and appreciate your engagement in this issue. Thank you.

Senator BROWNBACK. Well, I appreciate yours, because you're representing millions, billions of people around the world just yearning to think freely. Thank you very much. Best to you, and best to your work.

Mr. YOUNG. Thank you.

Senator BROWNBACK. Now to the third panel of individuals from a broad range of areas: Honorable Bob Seiple, chairman of the board of Institute for Global Engagement; Mr. Rhamy Eban, Montagnard refugee; Ms. Virginia Foote, president of the U.S. Vietnam Trade Council; Mr. Viet D. Dinh, professor of law, deputy director of the Asian law and policy studies at Georgetown University Law Center; and Dr. Nguyen Dinh Thang, executive director of the Boat People SOS, based out of Virginia.

I want to thank this panel for joining us today as well. Dr. Thang, why don't you go ahead and start, and then we'll just move down the row. Your prepared statements will be placed in the record, so if you'd like to summarize, that would be wonderful, but the full written testimony of all the witnesses will be placed in the record.

STATEMENT OF NGUYEN DINH THANG, EXECUTIVE DIRECTOR, BOAT PEOPLE SOS

Mr. THANG. First of all, I would like to point out that right now U.S. programs in Vietnam are the only escape routes for most victims of persecution for religious reasons in Vietnam because after 1986 when the comprehensive benefit action ended; there's no way for boat people to leave Vietnam or for Vietnamese to escape by land to come to Thailand. There have been many instances, hundreds of instances of Montagnard who escaped to Cambodia but got

reported to Vietnam to serve prison sentence or to face persecution in Vietnam.

There was also a Buddhist monk who escaped Cambodia and then deported, got actually abducted and sent back to Vietnam. He is in prison right now.

Corruption, arbitrary detention, and denial of travel documents have blocked access to most U.S. refugee programs for tens of thousands of religious persecution at the current time in Vietnam. I will give you one example, actually two examples. The first example, I personally know of a case of two survivors. They both apply same time to the same local authorities. One paid the authorities, and he's now here in the U.S. The other one couldn't pay, and he is still in Vietnam.

The other case is even more outrageous. He is a living Buddhist. He returned to Vietnam from a refugee camp in 1996. He got listed to be interviewed by the U.S. refugee program in 1998, but he couldn't pay the 30,000 U.S. dollars demanded by corrupt officials. He's now still in Vietnam trying to get out. All his papers, personal papers have been confiscated by the authorities.

By statutory definition, free and open immigration means not only the issuance of exit permits, but also that no citizen should be made to be paid more than a nominal fee on immigration or on the visa or other documents required for immigration. This is the language of the amendment. Clearly, immigration in Vietnam is neither free nor open by that standard.

Is that exerting pressure on Vietnam to comply with the amendment? Our Department of State regrettably has chosen to ignore the victims in many instance. This attitude is evident in the Priority One Program. That's a special program for victims of ongoing or recent persecution. Considering the testimony of Ambassador Hanford, for instance, that there has been an increasing crackdown on independent churches in Vietnam, the detention of the entire leadership of these churches in the south, the mounting persecution against the Montagnard in the central highlands, the oppression of monks and other ethnic minorities who have protested in the north, and the imprisonment of numerous dissidents in recent years, it is troubling to learn that only one Priority One case has been processed by our government for the past 7 years.

We have so far referred 10 Priority One cases to the Department of State, including the case of the three relatives of Father Ly. Many of these cases, the Department of State claims, cannot be processed because they are either in prison or in detention. This accommodating attitude will only encourage the Vietnamese Government to conveniently place more people in detention.

The message from our government is wrong, but very clear. Using detention to block immigration does not violate the Jackson-Vanik amendment. As part of its annual review of the waiver, it's necessary for the U.S. Congress to come up with meaningful benchmarks to assess how free and open immigration in today's Vietnam is.

I recommend the following benchmark. Vietnam should fully cooperate with the U.S. decision to reopen the restitution debt line for the HO, which is the Humanitarian Operations Program for

survivors, and U.N. program for former U.S. Government employees.

In 2001, the State Department made an official decision to reopen that line for registration. So far, 3 years later, Vietnam has not cooperated. Vietnam should allow repatriated boat people to sign up for the Rowboat Program. I suspect that thousands of them have been denied the opportunity to sign up for the program.

Vietnam should allow the U.S. Government full access to all persons eligible for U.S. refugee interviews, including those in prison or detention. I do believe that the U.S. Government, on the other hand, should double its effort to protect against persecution in Vietnam.

I'd like to make a final recommendation. Immediately process all Priority One cases already referred to the Department of State Bureau of Population, Refugees, and Migration. Conduct interviews in prisons or places of detention if necessary. Send U.S. officers to the central highlands and other remote areas to interview the Montagnard and other victims of persecution who have been denied travel documents to go down south to Saigon for an interview. To arriving refugees' document, the corrupt practices of Vietnamese officials can affect the U.S. refugee program. And finally, I agree with you, Mr. Chairman, expeditiously process the 2,000 Vietnamese former boat people in the Phillippines. They are remnants of the comprehensive benefit action that ended in 1996 and who, for good reasons, chose not to trust the Vietnamese Government's promise of free and open immigration.

Thank you, Mr. Chairman.

Senator BROWNBACK. Mr. Thang, thank you very much, and thank you for the very specific recommendations. I think those are excellent. Again, as I noted, we have a refugee limit that's much higher than what we've been fulfilling the last couple of years, and we really should be processing a number more people coming in from Vietnam who have experienced a great deal of persecution. I'm sad to hear that only one Priority One case has been processed in the United States.

It's unfortunate we're in the situation we are today, that there's still this taking place inside Vietnam, but there are things that we can do unilaterally, steps we can take here, and I appreciate very much your testimony.

Ambassador Seiple, thank you. Welcome back to the committee. We're going to run this clock at about 6 minutes to give you a time frame, so if we can try to keep it within that set would be nice. Welcome.

STATEMENT OF HON. BOB SEIPLE, CHAIRMAN OF THE BOARD, INSTITUTE FOR GLOBAL ENGAGEMENT

Mr. SEIPLE. Mr. Chairman, it's nice to be seated across from you after a few years hiatus. I've been traveling back to Vietnam on a yearly basis since 1988. It's a country I've grown to love. I have deep respect for the ingenuity of the people. But I have been deeply concerned with what appears to be a deteriorating approach to human rights by the Vietnamese Government.

I'll limit my comments to the harassment of Christians, but the various expressions of Buddhism have also come under government

oppression. The northwest provinces and the central highlands have produced the worst offenses, beatings, imprisonments, disappearances, and murders have all been recorded in great detail. Pastors are not allowed to obtain passports, they're unable to travel freely, in every way imaginable they are treated as second-class citizens. Local people harass worshipers on Sundays, the church is unable to print and circulate literature on its activities. The training of pastors and specifically the number of pastors who will be training in any one year is carefully regulated by the government. Both Catholics and Protestants have been detained, beaten, and imprisoned.

In short, the record of the Vietnamese Government is terrible in terms of religious freedom, and this record has been carefully documented with a great deal of clarity. The actions or the inactions of this government violate every international covenant since the Universal Declaration of Human Rights. The government unfortunately seems to be in total denial. A strict discipline within that government assures that all of the talking points on this issue are repeated verbatim.

What to do? I think there are really only two options. The first option is that the United States Government could designate Vietnam as a country of particular concern. The testimony this day will, I'm sure, provide ample evidence of violations of religious freedom in Vietnam that can be described fairly as egregious, one of the key thresholds for sanctions designation under the International Religious Freedom Act of 1998.

Such a designation with whatever sanctions to follow, together with the inclusion on the list of the worst offenders in global history, would certainly show resolve on our part. We would feel better knowing that we had done our duty, regardless of any potential blowback on those who in the difficult places of the world we are called to serve. We could justify any sanctions given the words and the intent of IRFA. In short, we could raise the specter of punishment in the hopes that this would change bad behavior. That would indeed make us feel better, but it could have a disastrous effect on our long-term hopes for the people of Vietnam.

Like most countries that have lived through a period of colonization, the Vietnamese know how to resist. History is very clear on this, especially to those of us who fought in the Vietnam War. That war was frustrating, and over these last 15 years I've had occasion to negotiate specific issues that I felt were clearly in the interest of the Vietnamese, and at times these negotiations have been equally frustrating.

The Vietnamese have a long-term view of history, an exceptionally strong corporate will, and a unique national identity. We can certainly apply the pressure available under IRFA, but Vietnam will most certainly dig in its heels. Additionally, we could play straight into the hands of the hardliners and the Vietnamese Government. In short, pressure and power will not advance our overall foreign policy goals, and I'm including our human rights in those goals, with the Vietnamese Government. We too need to take a longer view.

I would recommend the following. I think we need a road map in Vietnam for human rights in general, and more specifically, reli-

gious freedom. A space has to be created for this issue to be discussed, a space that does not have the sword of sanctions hanging overhead. A third party should be enlisted to facilitate these discussions. Moderate voices need to be identified within the Vietnamese Government, as well as the religious communities, individuals that have the trust of their constituencies, individuals who can speak credibly for those constituencies.

A common win-win point of vested self-interest needs to be discovered, against which the issue of religious freedom can be evaluated and our entire bilateral relationship can be judged. The pragmatics of this issue need to be mutually discovered and applied, especially the positive role that religious freedom plays with national security.

Finally, religious freedom advocates and the business community cannot be working at cross purposes. If Vietnam is to be a sound business investment, the best of human rights, including predictable rule of law, internal security, international perceptions, and a universal sense of human dignity all need to be articulated concepts and practical realities for business leaders and human rights activists alike.

Much has taken place over the last 30 years to bring closure to a difficult historic event. It wasn't easy, and it wasn't fast. Let's not give back any ground. No one is saying that the future is going to be easy. The hard work ahead of us, however, has to be done together. We all should be looking for a sustainable solution, and that will never happen if we attempt to impose one alone from the outside. Thank you.

[The prepared statement of Mr. Seiple follows:]

PREPARED STATEMENT OF ROBERT A. SEIPLE, FOUNDER AND CHAIRMAN OF THE BOARD, INSTITUTE FOR GLOBAL ENGAGEMENT

I have been traveling back to Vietnam on a yearly basis since 1988. It is a country that I have grown to love. I have deep respect for the ingenuity of its people but I have been deeply concerned with what appears to be a deteriorating approach to human rights by the Vietnamese Government.

I will limit my comments to the harassment of Christians, but the various expressions of Buddhism have also come under government oppression. The northwest provinces and the central highlands have produced the worst offenses. Beatings, imprisonments, disappearances, and murders have all been recorded in great detail. Pastors are not allowed to obtain passports. They are unable to travel freely. In every way imaginable, they are treated as second-class citizens.

Local police harass worshipers on Sundays. The church is unable to print and then circulate literature on its activities. The training of pastors, and specifically the number of pastors who will be trained in any one year, is carefully regulated by the government. Both Catholics and Protestants have been detained, beaten, and imprisoned.

In short, the record of the Vietnamese Government is terrible in terms of religious freedom, and this record has been carefully documented, with a great deal of clarity. The actions (or the inactions) of this government violate every international covenant since the Universal Declaration of Human Rights. The government, unfortunately, seems to be in total denial. A strict discipline within that government assures that all of the "talking points" on this issue are repeated verbatim.

What to do? There are really only two options. The first option is that the United States Government could designate Vietnam as a country of particular concern. The testimony this day will, I am sure, provide ample evidence of violations of religious freedom in Vietnam that can fairly be described as "egregious," one of the key thresholds for sanctions designation under the International Religious Freedom Act (IRFA) of 1998. Such a designation, with whatever sanctions to follow, together with the inclusion on the "list" of the worst offenders in global history, would certainly

show resolve on our part. We would feel better, knowing that we had done our duty, regardless of any potential blowback on those who, in the difficult places of our world, we are called to serve. We could justify any sanctions, given the words and the intent of IRFA. In short, we could raise the specter of punishment in the hopes that this would change bad behavior. That would make us feel better but it could have a disastrous effect on our long-term hopes for the people of Vietnam.

Like most countries that have lived through a period of colonization, the Vietnamese know how to resist. History is very clear on this, especially to those of us who fought in the Vietnam War. That war was frustrating. Over these last 15 years I have had occasion to negotiate specific issues that I felt were clearly in the interest of the Vietnamese and, at times, those negotiations have been equally frustrating. The Vietnamese have a long-term view of history, an exceptionally strong corporate will, and a unique national identity. We can certainly apply the pressure available under the IRFA, but Vietnam will most certainly dig in its heels. Additionally, we will play straight into the hands of the hardliners in the Vietnamese Government. In short, pressure and power will not advance our overall foreign policy goals (and I am including human rights in those goals) with the Vietnamese Government. We, too, need to take a longer view.

I recommend the following: We need a road map in Vietnam for human rights in general and, more specifically, religious freedom. A space has to be created for this issue to be discussed, a space that does not have the sword of sanctions hanging overhead. A third party should be enlisted to facilitate these discussions. Moderate voices need to be identified within the Vietnamese Government as well as the religious communities, individuals that have the trust of their constituencies, individuals who can speak credibly for those constituencies.

A common "win-win" point of vested self-interest needs to be discovered against which the issue of religious freedom can be evaluated and our entire bilateral relationship can be judged. The pragmatics of this issue need to be mutually discovered and applied, especially the positive role that religious freedom plays with national security.

Finally, religious freedom advocates and the business community cannot be working at cross-purposes. If Vietnam is to be a sound business investment, the best of human rights-including predictable rule of law, internal security, international perceptions and a universal sense of human dignity-all need to be articulated concepts and practical realities for business leaders and human rights activist alike.

Much has taken place over the last 30 years to bring closure to a difficult historic event. It wasn't easy, and it wasn't fast. Let's not give back any ground. No one is saying that the future is going to be easy. The hard work ahead of us, however, has to be done together. We all should be looking for a sustainable solution, and that will never happen if we attempt to impose one, alone, from the outside.

Senator BROWNBACK. Thank you, Ambassador. We have a vote on now, as I have seen. Is that correct? So if we could, we'll hold in recess. I hope I can get over and back in probably about 15 minutes, and then we'll proceed with the rest of the panel. I'm sorry to do this to you but the bell calls, so I will be back shortly, and we should try to reconvene in about 15 minutes. Thank you.

(Recess.)

Senator BROWNBACK. I'll call the hearing back to order. Sorry for the lengthy delay. We were just proceeding to Ms. Foote, I believe. Ms. Foote represents—she's president of the U.S. Vietnam Trade Council. I very much appreciate you being here.

STATEMENT OF VIRGINIA FOOTE, PRESIDENT, U.S.–VIETNAM TRADE COUNCIL

Ms. FOOTE. Senator, thank you very much for having me today. I, as you say, I am president of the U.S.-Vietnam Trade Council. We're a trade association that has been working on U.S. relations with Vietnam for 15 years and have offices here and in Vietnam.

I'd like to discuss the importance of what I think is the role of the United States in continuing to engage Vietnam on all issues that face our broadening and deepening bilateral relationship. With

the war further and further behind us, we now have a new and successful beginning for our two nations.

The U.S.-Vietnam bilateral trade agreement, NTR status that happened in December '01, and we continue to work on accession to the WTO. Trade has nearly tripled since the BTA came into force, and the U.S. is now Vietnam's largest trading partner.

As was mentioned earlier, we've signed an aviation agreement, a textile agreement, a counter-narcotics agreement. There were many high-level visits last year, and the military to military relationship is now moving forward with good speed. Remarkably, every year in normalization we have seen economic, political, and diplomatic progress.

The structure of Vietnam's economy as a whole is rapidly changing also. Latest figures show that the foreign invested sector and the private sector now represent 60 percent of the Vietnamese economy. The World Bank reports that the poverty rate has fallen by half in the past 10 years. It's one of the sharpest declines of any country. The economy continues to grow at an impressive rate year after year. Last year's accomplishment of 7 percent growth is expected to be repeated in 2004.

And to assist with the implementation of this very important bilateral trade agreement, U.S. Government programs provide tremendously effective technical assistance. The United States should remain involved in this process.

I would also argue that the relationship between the U.S. and Vietnam has led to very positive developments on political issues, issues of concern to the U.S., but I would also argue that the human rights situation in Vietnam has improved dramatically since the years I've been going back and forth to Vietnam, but I think progress can be measured annually and not just in a 15-year period.

The Jackson-Vanik waiver has been issued every year and has enjoyed bipartisan support in Congress. The ROVR cases, the Orderly Departure Programs have run smoothly and successful—successfully—many of them with very troubled beginnings. The MI work—the MIA work is among the best in the world as is an example of the benefits of engagement.

If you then look at some other issues, on labor, the U.S. and Vietnam have signed a memorandum of understanding in November of 2000. The MOU has resulted in an annual dialogue on labor rights and technical assistance working with the ILO in Vietnam to strengthen labor protection, skills training, employment services, social insurance, safety net, employment of the disabled, and child labor.

Vietnam has ratified 15 ILO conventions and is reviewing several more to pass. Their labor core—their labor law is up to international standards with new amendments passed just last year.

Another important area is the right of women in Vietnam. Women share an equal status to men under the law and continue to gain strides in equality and practice. They are free to practice and participate in any religion, work any job, attend schools at all levels, drive, vote, participate in government, and hold top leadership positions in universities, businesses, national, and provincial government. In the national assembly, for example, women hold 27

percent of the total seats and rank second in the Asia Pacific region and ninth worldwide for women in the national assembly.

Our relationship is strengthened in other areas as well. Americans are traveling to Vietnam in tremendous numbers. In 2003, over 30,000 Americans went to Vietnam. Two-thirds of that number were Vietnamese-American. This year over Tet 100,000 visas were issued, mostly for Vietnamese-Americans, and a historic visit was made by a former President, Nguyen Cao Ky, which was covered widely in the U.S. and Vietnamese press.

Since our countries set on the path to normalization, the U.S. and Vietnam have enjoyed successes but also setbacks. Both sides have a list of complaints on the trade issue. It's a not so unusual trade relationship. And as Vietnam entered the coffee export market in the 1990s, almost overnight it became the second largest coffee exporter after Brazil, and coffee prices plummeted. Serious land right and worker dislocation emerged in the highland, where ethnic, religious, and political differences are long outstanding issues. Very serious disturbances happened in 2001.

I think there's no question that 2001 was a low point in the relationship, and religious freedom, property rights, and freedom in the highlands. But since then there has been progress. The disturbances, fairly or unfairly, have been accused of being aided by, funded by, or instigated by movements from outside, and yet progress has been made recently for evangelical worship in the highlands. It's slow progress, but it's progress.

Catholics make up slightly over 8 percent of the population, making Vietnam the second largest Catholic population in Asia. Relations with the Vatican are established, discussions are ongoing for a papal visit, and a second Vietnamese cardinal was ordained in October 2003. More priests were ordained last year than the year before. We had a meeting with the cardinal on my last trip to Vietnam. His strong desire is that the Vietnamese Government allow the Catholic Church to be more involved in educational programs, run schools, and establish charities to work on the social evils, as he said, on drug addicts, homeless, and sex workers.

I assume my whole testimony will be submitted into the record, but I just want to close by saying that I think it's absolutely the case that not everyone in the U.S. and not everyone in Vietnam supports normalization. I think given our history that's understandable, and given our history it's all the more remarkable that veterans and Vietnamese-Americans have led the way for normalization.

On behalf of our members, we urge a continuing engagement with Vietnam for the benefit of citizens of both countries and as an amazing example to the rest of the world. Thank you, Senator.

[The prepared testimony of Ms. Foote follows:]

PREPARED STATEMENT OF VIRGINIA B. FOOTE, PRESIDENT, U.S.-VIETNAM TRADE COUNCIL

Senator Brownback and Committee Members, I am pleased to be here today representing the U.S.-Vietnam Trade Council to testify before your Committee to review "Trade and Human Rights: The Future of U.S.-Vietnamese Relations."

The U.S.-Vietnam Trade Council, founded in 1989, is a trade association with strong membership from the American business community and offices in Washington D.C., and Vietnam. We have worked through the Council and our Education

Forum, to help improve relations between the United States and Vietnam with educational exchange programs, annual conferences, Congressional delegations, and programs designed to provide technical assistance on international trade norms and standards. We are working to help develop a new trade law curriculum for the law schools in Vietnam. During the NTR process, we chaired a coalition of over 270 associations and companies who support trade relations with Vietnam, and we now play a key role in assisting WTO accession. I hope my full testimony can be submitted for the hearing record.

Today, I would like to discuss the importance of continuing to engage Vietnam on all issues that face our broadening and deepening bilateral relationship. With the war further and further behind us, we now have a new and successful beginning for our two nations.

The U.S. and Vietnam are engaged on a whole range of issues new to the post-war relationship, economic relations being among the most important. The U.S. and Vietnam have mostly normalized trade relations with a comprehensive Bilateral Trade Agreement (BTA) and NTR status that began in December 2001 and continued work on Vietnam's accession to the WTO.

Ten years after the lifting of the post-war embargo by the U.S., and with the BTA just having had its second anniversary, U.S. participation in Vietnam's economy is of growing significance. As of September 2003, total year-to-date bilateral trade stood at nearly $5 billion. Comparisons made on pre-BTA statistics (Year 2001 and YTD 2003) indicate that U.S. exports to Vietnam and Vietnamese exports to the U.S. for 2003 will have close to tripled.[1] U.S. investment in the Vietnamese economy stands at approximately $1.44 billion in committed capital and is growing.

The Reagan, Bush, Clinton and Bush administrations have all followed a policy of both economic and political normalization with Vietnam through a step-by-step process. As our timeline shows, this process has proceeded successfully, albeit slowly, through four administrations. Overall it has led to the lifting of the trade embargo in 1994, the establishment of diplomatic relations in 1995, and the exchange of ambassadors in 1997. Economic normalization includes the initial waiver of the Jackson-Vanik amendment in 1998, and granting NTR status in 2001. An aviation agreement, a textile agreement, a counter-narcotics agreement, and many high level visits, were some of the steps forward taken in 2003. Our military to military relations made history last year with the visit of the Vietnamese Minister of Defense to the Pentagon, a U.S. naval ship visit to Vietnam, Vietnam pledged both cash and in kind donations to our post-war efforts in Iraq, and our CINCPAC Commander Admiral Thomas Fargo is in Vietnam now. On the economic side, WTO accession and PNTR lie ahead.

Throughout the process of normalization, Vietnam has greatly enhanced its efforts on issues of high priority to the U.S. including MIA efforts, emigration goals, and economic integration. Vietnam and the U.S. have also developed important bilateral dialogue on regional issues, human rights, and labor standards.

Remarkably, every year we have seen economic, political, and diplomatic progress.

The entry into force of the BTA was a key step to further progress in normalizing relations as it is the most comprehensive trade agreement Vietnam has ever signed, and the most comprehensive NTR trade agreement the U.S. has ever negotiated. In exchange for sweeping commitments from Vietnam including providing greater market access for trade in goods and services, protecting intellectual property rights, improvements in the investment regime, and far greater transparency, the U.S. granted Vietnam normal trade tariffs—moving Vietnam from column two to column one in the U.S. tariff code. Equally important, the Vietnamese Government has committed to important reforms in the areas of trading rights, transparency, customs, investment, services, and intellectual property rights. Approval of the trade agreement ensured that exports from U.S. companies receive treatment in Vietnam no less favorable than products of foreign competitors. While the negotiations between the U.S. and Vietnam were long and difficult, it was the discussions between and among the Vietnamese that were probably the most important. The result is that the BTA is an important blueprint or roadmap for Vietnam to follow while tackling some of the more difficult issues of economic reform which lie ahead. It is a roadmap of economic reform commitments that will help guide them into WTO.

Last week, the Trade Council released a 70 plus page two-year progress report on the BTA and issues faced by U.S. companies in Vietnam. You can see from this report, The U.S.-Vietnam Bilateral Trade Agreement: A Survey of U.S. Companies

[1] 2001: U.S. Exports to Vietnam = USD$460,892,072; Vietnam Exports to U.S. = USD$1,052,626,287. 2002: U.S. Exports to Vietnam = USD$580,154,302; Vietnam Exports to U.S. = USD$2,394,745,628. 2003 YTD: U.S. Exports to Vietnam = USD$1,162,584,666; Vietnam total exports to U.S. = USD$3,621,737,436.

on Implementation Issues, that while challenges remain in implementation, Vietnam has undertaken serious efforts to meet their commitments and has met with tremendous success. Vietnam has issued an impressive amount of new legislation, and much effort has been made to ensure that these are BTA and WTO compliant. To help track these efforts, the Trade Council's Education Forum has been publishing a monthly Catalog of Legal Updates, which compiles summaries of new laws, decrees, and regulation that address commercial law reform and with possible impact on BTA implementation. As of the end of 2003, Vietnam has established a new customs valuation regime based on transaction pricing, issued legislation for border enforcement of intellectual property rights, expanded the scope of foreign legal practice in Vietnam, and instituted new mechanisms to introduce more transparency into its system. Efforts are currently being undertaken to strengthen the capacity and authority of its judicial system in order to further encourage the rule of law. Overall, U.S. companies remain optimistic about Vietnam's future and potential, and look forward to continuing their business relationships—the tripling of trade and the growth in investment in such a short period of time bodes well.

The structure of Vietnam's economy as a whole is also undergoing rapid change. The Enterprise Law, which came into effect in January 2000, marked a turning point in Vietnam's efforts to revitalize the domestic private sector. Ho Chi Minh City alone has 37,000 private small and medium sized enterprises (SMEs) registered under the new Enterprise Law, and 45,000 enterprises have been registered country wide. The number of enterprises founded in the six months after the law went into effect equaled the total number of enterprises founded in the previous nine years.

Foreign Direct Investment continues to grow as well. New reforms in licensing procedures were partially responsible for an upsurge in foreign investment last year. Latest figures show that the foreign invested sector and the private sector now represents 60% of Vietnam's economy.

These changes are not only strengthening market access for American companies in Vietnam, they are also greatly benefiting the people of Vietnam. Per capita has nearly doubled since the late 1990's, from less than $250 in the late 1990's to $440 in 2003. Vietnam was removed from the U.N. Conference on Trade and Development (UNCTAD) list of least developed countries last year. Their purchase power parity calculation puts per capita at over $2,000. Over the last decade, UNCTAD estimates that Vietnam has reduced the percentage of families living below the official poverty level to less than 30%, from an initial rate of 70%. The number of people below the much lower "food poverty line," has also declined from 25% to 15%, indicating that the very poorest segments of the population have experienced improvements in their living standards. The World Bank also reports that the poverty rate has fallen by half in the past ten years, one of the sharpest declines of any country.

The BTA contributes to lifting Vietnam out of endemic poverty by increasing trade, investment, and development in Vietnam, as well as promoting market reforms, including greatly expanded trading rights. Furthermore, by expanding trade and extending the rule of law in Vietnam, the BTA encourages access to information and greater transparency for domestic enterprises as well. Vietnam has great potential for development as a significant trading partner worldwide. Over half the 80 million population is under the age of 25, and the literacy rate is over 90%. The work ethic, entrepreneurial talent, and emphasis on education is strong. The economic continues to grow at an impressive rate year after year, last year's accomplishment of 7% growth is expected to be repeated in 2004.

To assist with implementing this very important Agreement, U.S. Government programs provide tremendously affective technical assistance to help implementation of the Bilateral Trade Agreement. Through a grant from the U.S. Agency for International Development (USAID) and the added support and participation of our member companies, the Trade Council's Education Forum has been involved in this program helping to provide technical assistance on commercial and legal reform to Vietnamese ministries, government agencies, and businesses with portfolios covering issues raised by the BTA and the WTO. AID has additional extremely valuable programs on commercial law reform and business development that contribute greatly to overall understanding.

The United States should continue to be involved in this process. It is in our interest to see an economically healthy and internationally engaged Vietnam. American involvement in the process of economic reform is most welcome in Vietnam and will be extremely important to overall development in the long run. American companies set high standards for trade, investment, labor and business practices. American technology is greatly admired in Vietnam. American companies are actively involved in training and technical assistance programs in Vietnam, through the Trade Coun-

cil and individually. American products are popular. U.S. Government programs are effective. Our business community, particularly with the extensive involvement of the Vietnamese-American businesses, continues to play a key role in the normalization of economic relations and BTA implementation, and look forward to WTO accession.

Vietnam has made solid progress on the political reforms as well. Following the initial "road map" for diplomatic and economic normalization laid out under the Bush administration in April 1991, the bilateral relationship on many fronts has made a great deal of progress and been strongly supported on a bipartisan basis by Congress. With Congressional veterans such as Senators John McCain and John Kerry leading the way, a broad based group of Senators and Congressmen have supported the step by step process of normalization. In 1998 the first waiver of the Jackson-Vanik Amendment was issued, which Congress upheld by a vote of 260 in favor and 163 opposed. The initial Jackson-Vanik waiver in 1998 allowed trade support programs, such as loans from the Overseas Private Investment Corp (OPIC), the Export-Import Bank (EXIM) and other credits for American business to establish operations in Vietnam. In December 1999, EXIM and the State Bank of Vietnam completed the framework agreements, which allowed EXIM to begin operations in Vietnam. Congress renewed the waiver in 1999 by a vote of 297 in favor and 130 opposed. In 2000 the margin increased positively again to 332 in favor and only 91 opposed. The 2001 vote was 324–91 in favor of renewing the waiver: the 2002 vote was 338–91.

U.S. policy pegged the Jackson-Vanik waiver to progress on the Resettlement Opportunity for Vietnamese Returnees (ROVR) program specifically and immigration in general. Although it was extremely difficult to reach agreement initially, the implementation of the ROVR program has been fairly smooth. The State Department reports that the Government of Vietnam has cleared all but a handful of the nearly 20,000 ROVR cases. The Orderly Departure Program overall has also been successful. Approximately half a million Vietnamese have come to the United States under ODP, and only a small number of ODP cases remain to be processed. Since the initial waiver of the Jackson-Vanik amendment, the Vietnamese have allowed all remaining ODP cases—including the Montagnard cases which are of particular concern to the U.S.—to be processed under the new and more responsive system developed initially just for ROVR cases.

In addition, the U.S. and Vietnam are jointly pursuing answers on the 1429 missing in Vietnam, of the 1875 missing in Southeast Asia. Since the end of the war, 708 Americans have been accounted for, including 492 in Vietnam. Additionally, the Department of Defense has confirmed the fate of all but 35 of 196 individuals in the "last known alive" discrepancy cases. The U.S. has maintained a permanent staff to visit crash sites and interview witnesses throughout the country since 1993, with teams of experts going to Vietnam monthly. The U.S. and Vietnam have provided reciprocal access to information on MIAs from the war and have conducted 75 Joint Field Activities on missing cases since 1988. President Bush most recently certified Vietnam issuing a determination that Vietnam "is fully cooperating in good faith with the United States." While borne out of controversy, suspicion, and anguish, it has become a model program, greatly supported by veterans and families, and an excellent example of the benefits of engagement.

In November 2000, President Clinton became the first U.S. President to visit Vietnam since the end of the war. During the President's trip ten new business partnerships were announced, and our two countries concluded numerous bilateral agreements. One of these was an Agreement on Scientific and Technological Cooperation to facilitate cooperation between American and Vietnamese scientists in areas such as health, technological innovation and entrepreneurship, disaster mitigation, and marine and water resource management. Increased cooperation in the prevention and treatment of infectious diseases, including typhoid fever and HIV/AIDS, will strengthen Vietnam's ability to meet critical health challenges. Environmental projects operate through the U.S. Asia Environmental Partnership, and cooperation grows on Agent Orange research. The Vietnam Education Foundation was established. The Fulbright program was strengthened.

To look at labor issues, the U.S. and Vietnam also signed a Memorandum of Understanding on Labor in November 2000. The MOU has resulted in an annual dialogue on labor rights and includes a $3 million technical assistance program working with the ILO to strengthening labor protection, skills training, employment services, social insurance and safety nets, employment of the disabled, industrial relations and child labor. The child labor provisions focus on street children and child trafficking. Workplace education and prevention programs on HIV/AIDS are also including in the MOU. These projects are ongoing, and in 2003 Vietnam passed several new amendments to the Labor Code. The use of collective bargaining also grew

in 2003, with an estimated 60% use in foreign owned enterprises and 40% and growing in private companies.

The Labor Code incorporating standards of internationally recognized worker rights and ILO conventions. The Labor Code stipulates a number of workers' basic rights including: freedom to chose employer (Article 30), standard work week (Article 68), overtime limits and pay (Article 61), leave, holidays, and rest (Article 71, 73, 74 & 78), minimum wage, bonuses (Article 64), maternity leave (Article 114 & 144), severance entitlements (Article 17 & 42), workplace safety (Article 97 & 100), etc. In recent years, the Government of Vietnam has sent labor experts to the U.S., the UK, Singapore, New Zealand, South Korea, and Hong Kong in its efforts to update the Code.

In April 2002, Vietnam's National Assembly passed the Law on Amendment of and Addition to a Number of Articles of the Labor Code. The Assembly made changes and revisions to 56 articles of the Labor Code, updating and amending existing law and clarifying points, which had been unclear in the previous regulations. In a major shift, foreign enterprises were allowed to directly recruit and hire staff without going through employment agencies and middlemen. The new code also clarifies regulations on wage and salary scales, which had been the subject of some dispute under existing Circular 11. Some 56 amendments were made including articles 17, 27, 41, 69, 85, 140 and 166.

Since 1992, Vietnam has ratified 15 ILO conventions, including three of the ILO's eight core human rights conventions: No. 100, equal pay for men and women for work of equal value (ratified by Vietnam in 1997); No. 111, prohibiting discrimination in employment (1997); and No. 182, prohibiting the worst forms of child labor (2000). Currently, the Vietnamese are working on a plan to gradually ratify the remaining core ILO conventions and hope to ratify both forced labor conventions and the minimum age convention soon. With offices in Hanoi, the ILO has 24 ongoing projects, 6 of which the ILO defines as promoting fundamental principles and rights.

Another important issue is the rights of women. Woman share an equal status to men under the law in Vietnam and continue strides to gain equality in practice. They are free to practice and participate in any religion, work any job, attend school at all levels, drive, vote, participate in government, and hold top leadership positions in universities, businesses, and in national and provincial governments. In the National Assembly, for example, women hold 27% of the total seats ranking Vietnam second in the Asia Pacific region and 9th worldwide for woman in the National Assembly. Several American women's rights groups and foundations have had exchanges and programs in Vietnam.

Our relationship has strengthened in other areas as well. American travel to Vietnam has growing dramatically. Veterans, tourists, business people, and family members are traveling, working and involved in charitable activities in Vietnam. Veterans groups organize visits for their members and their families. Remittances from overseas Vietnamese are estimated at $2–3 billion annually. In 1997 Vietnam issued 98,000 visas for Americans to travel to Vietnam, over 66,000 for Vietnamese Americans. In 2000 the total was 152,928 visas, approximately 137,000 of which were for Vietnamese Americans. In 2001 this number grew to 230,470. In 2003 over 300,000 Americans traveled to Vietnam, ⅔ of that number were Vietnamese-Americans. Over Tet this year in January 2004, over 100,000 visas were issues—mostly for Vietnamese-Americans. A most historic visit was made this year by former President Nguyen Cao Ky. This first visit back to Vietnam by a leader of the South Vietnam Government since the end of the war was widely covered by both U.S. and Vietnamese press.

Since our two countries set out on the path to normalized relations, the U.S. and Vietnam have enjoyed many successes, while also suffering a few setbacks. The BTA has been overall extremely successful though not without problems. Seafood exports to the U.S. have risen dramatically from Vietnam but catfish and shrimp imports have been hit with anti-dumping suits from U.S. producers. Textile production in Vietnam was cut nearly in half with the quota levels imposed by the U.S. U.S. automotive companies are concerned about recent tariff level increases in Vietnam. The IPR laws are greatly improving while enforcement lags behind. Licensing of U.S. investment in services is moving slowly. Some Vietnamese products have lost seemingly legitimate copyright protection in the U.S. Both sides have a list of complaints that the BTA Joint Committee works through—a not so unusual trade relationship.

And as Vietnam entered the coffee export market in the late 1990's, almost overnight it became the second largest coffee exporter after Brazil, and coffee prices plummeted. Serious land right disputes and workers dislocation emerged in the Highland where ethnic, religious and political differences are also long standing. Very serious disturbance happened in early 2001. There is no question that the remote areas of the central highlands and northwest areas need additional economic

development assistance and greater religious freedom, and since the disturbances in 2001, the national and provincial governments have made efforts—successful efforts—to reduce the economic hardship in the Highlands, crack down on local government corruption and repression, and have made some progress for greater religious freedom. And more needs to be done.

The situation in the Highlands is extremely complex, and difficulties there cannot be reduced to one issue or one event. Vietnam is a country of 80 million with 54 ethnic minorities, of which the Kinh ethnic group makes up 87% of the population. There is overall harmony between the ethnic and religious groups, but prejudices and suspicions do exist. While no ethnic group has separate territory, the nearly 10 million minority groups are largely located in the central highlands and northwest provinces, and tensions have risen in the Highlands as the coffee boom drew Kinh farmers into the area. Some minority groups over the years have had aspirations for independence or autonomy. Military and political movements for separate states, such as FULRO as an organization and Dega as an independent republic, date back to the war period. These movements exist today—possible more outside Vietnam than inside—but the disturbances in 2001 are believed by some, fairly or unfairly, to have been aided by, funded by, or instigated by these movements.

Added to these developments is the growth of evangelical religion in Vietnam and the particular new style of house churches. And yet even here, some progress has been made recently for evangelical worship.

Vietnam now formally recognizes six religions—Buddhist, Catholic, Cao Dai, Hoa Hao, Islam and Protestant faiths. According to the U.S. estimates, approximately 50 percent of the population follow Buddhist traditions, with some 33,000 clergy and 14,600 places of worship.

Catholics make up slightly over 8% of the population making Vietnam has the second largest Catholic population in Asia. Only the Philippines have more Catholic worshipers, and freedom of worship is evident everywhere on Sundays. Relations with the Vatican are well established, discussions are ongoing for a papal visit, and a second Vietnamese Cardinal was ordained in October 2003. There are now two Cardinals, 1 Archbishop, 36 bishops, 2410 priests and 11,147 parish priests, and 4,390 students in seminary both in Vietnam and overseas. There are an estimated 6000 Catholic churches in Vietnam and over 1000 charities. Complaints include the government's limitation on the number of priests ordained, though these numbers continue to grow on an annual basis and with a reported three times the number ordained in 2003 over 2002. The U.S. religious freedom assessment of Vietnam reports an easing of restrictions on religious materials.

In our mid-January 2004 discussion with the new Cardinal, Jean-Baptiste Pham Minh Man, we asked him about freedom of religion in Vietnam. His request for further freedom for the church was in the area of charitable work and education. Limited now to orphanages, some charities, and schools for the very young, the Cardinal expressed his strong desire that the church be able to open schools at a all levels and establish charities to work with those victims of "social evils" such as drug addicts, the homeless, and sex workers, particularly in HCMC.

The Protestant church is seeing the fastest growth rate. Possibly due to close relationships with organizations outside Vietnam and radio programs coming in from the region, the number of followers of Protestantism, particularly Evangelical Christians is growing. Protestants are estimated to be 1.2 percent of the population, with half of that number being evangelical worshipers and two thirds of the number from minority groups. Estimates vary, but there are estimated to be 800,000—1 million Protestants in Vietnam, up from some 200,000 in the pre-war period with 250,000—300,000 living in the Highlands and 200,000 living in the Northwest. In the Highlands most are in the evangelical faith community. While the northern Evangelical Churches have had an organization since the 1960's, a very important development and sign of progress was the establishment of the Southern Evangelical Church of Vietnam (SECV) in April 2001, with several hundred churches now registered. Further progress came in 2003 when the SECV opened a government-sanctioned theological school in HCMC in February 2003.

It may be useful to note to the Committee that there are dozens of religious based American organizations working in Vietnam including: The Quakers, Mennonites, Catholic Relief Service, Church World Service, World Vision, Maryknoll, Lutheran World Mission, Adventist Development and Relief Agency, Christian and Missionary Alliance, Latter Day Saint Charities, Samaritans Purse, Assemblies of God, and so on whose testimony might also be helpful. There many dozen NGO groups working in Vietnam with excellent projects.

In closing, my argument to you today, is that the bi-partisan policy of four administrations of a step-by-step process of engagement and normalizing relations with Vietnam has produced positive results for Americans and Vietnamese. It has served

the economic and diplomatic interests of the U.S., human rights concerns, and has resolved some of the toughest war legacy issues. There are believed to be 40–60 Vietnamese in prison for what the U.S. considers political or religious beliefs or actions. While this is 40–60 too many, this is a number that further U.S. engagement can help address.

Vietnam and the U.S. share a tragic history, which both countries remain mindful of, and yet both sides work hard to build a new future. Normalization of relations, a growing economy, relations and engagement with the outside world, and a growing sense that their future and national security is secure, these are what has made Vietnam a country making progress. We must look at Vietnam as a whole—good and bad. We must fairly assess progress annually. Of course not everyone in the U.S. and not everyone in Vietnam supports our normalization goals or the improving of ties. Given our history, that is more than just understandable. Given our history, it is all the more remarkable that it has been veterans and Vietnamese-Americans that have often led the way for normalization.

U.S. involvement in a market based economy and on the whole range of programs that make up a fully normalized relationship will continue to contribute to Vietnam's increased openness, increased transparency in government, a rise in living standards, greater international economic integration, and political development. But more important to the U.S., this policy of normalization has also ensured that American business and diplomatic goals are met and that American ideals are advanced. The post war-embargo was lifted ten years ago this month. How far we have come in those ten years are proof the policy works, year after year.

On behalf of the members of the U.S.-Vietnam Trade Council, we urge the continued engagement with Vietnam for the benefit of citizens of both countries and as an example to the world.

Senator BROWNBACK. Thank you, Ms. Foote. Mr. Dinh, thank you for joining us.

STATEMENT OF VIET D. DINH, DEPUTY DIRECTOR, ASIAN LAW AND POLICY STUDIES, GEORGETOWN UNIVERSITY LAW CENTER

Mr. DINH. Thank you very much, Senator, for the honor of being here. I want to start by first thanking you for your personal statement and your personal concern on granting Priority II status to the 1,800 Vietnamese refugees still currently fateless in the Philippines. I want to report that thanks to your efforts and the efforts of your staff, Ms. Hannah Royal and Sean Woo, my colleague, Hoi Chin, and others working on this issue had very productive meetings with Kelly Ryan, Deputy Assistant Secretary of State, and also with Laura Parsky at the National Security Council.

Whatever the decision may be, we appreciate the effort for a constructive exchange and also for us to present our case, why this is not only a wise policy decision but also a humanitarian one. We look forward to a similar opportunity to discuss the issue and to have a constructive dialogue with the Bureau of Citizenship and Immigration Services when that comes.

I also want to thank you for your continuing interests on the issues of common interest, that is, United States–Vietnam relations and also religious freedom around the world.

Mr. Chairman, the 20th century may have brought the United States military defeat in Indochina, but it also marked the conclusive triumph around the world of democratic capitalism over totalitarian communism. Engaging with post-war Vietnam diplomatically and economically serves the same purpose as military intervention during the conflict in a different era.

That purpose, now as then, is to promote United States strategic interests, respect for the rights of man, and the betterment of life for people everywhere. This is thankfully no longer a war of bullets

and bombs, but rather a contest of ideas and institutions. The United States negotiated and ratified an effective bilateral trade and investment treaty. We need to continue to encourage and assist Vietnam to implement the agreement fully and according to a strict timetable. Completion of this process would provide the stable, transparent, and accountable economic infrastructure that is necessary for Vietnam's accession to the WTO and its continued progression toward a market-oriented economy, a progression that I personally support for the sake of the Vietnamese people and for all of the economic benefits that Ms. Foote has highlighted.

But free markets are only one-half of the democratic capitalism ideal. Free peoples are the other half, and on this latter score, the picture is bleak. The U.S. Department of State in its 2002 and 2003 human rights report, summarizes well the current situation, and I quote:

> The Government of Vietnam continued to repress basic political freedoms, including freedoms of speech, press, assembly, and association, arbitrarily detaining its citizens, including detention for peaceful expression of political and religious views, restrict activities of registered and nonregistered religious groups, and reportedly committed numerous egregious abuses in the central highlands.

You know personally the story of Father Ly, and much has been said of his plight. I want, however, to remind all of us the statement that he submitted to the U.S. Commission on International Religious Freedom in 2001 that was the basis of the charge and his imprisonment currently. This is a quotation from his written statement, and I quote:

> There is no freedom of speech in my country. Churches, of course, have none. This kind of statement I am presenting to you cannot be circulated in Vietnam because no photocopying store or printing shop would dare to reproduce it. Nobody dares to keep it, fearing for his own life and the safety of his family. Those who dare must be prepared for martyrdom.

Unfortunately, his words were prophetic.

Fortunately, efforts from the United States and elsewhere, to persuade Vietnam to change its ways, have been met with measured resistance but also with some isolated successes. Mr. Chairman, you noted that during your recent visit to Vietnam you had a visit with Father Ly. Although it may seem a very small thing to us, official permission for that meeting in and of itself is a significant development, one that I believe would not have been possible absent your persistent efforts to highlight religious persecution in Vietnam and elsewhere. Likewise, the release of Father Ly's niece and soon-to-be release of his nephews would not have happened without the efforts of Ambassador Hanford and the administration.

The current picture in the U.S.-Vietnam interaction thus is best illustrated by a tension, a tension between Vietnam's desires to reap the benefits of the global economy and its reticence to provide

even minimal protection of civil liberties, most notably its denial of basic religious freedoms.

As a proponent of free trade and free markets, I understand the arguments of those who would advocate for the decoupling of these two issues. However, I believe that our nation's interest is best served by a concurrent effort to help Vietnam enhance its trade relations and also persuade, and where necessary, to pressure Vietnam to improve its record on the protection of basic human rights.

We should seek all opportunities and exhaust all avenues to coax and cajole Vietnam to improve its human rights record and to end its campaign of religious persecution. At this time, the best opportunity is presented by Vietnam's desire to accede to the World Trade Organization by 2005. We should not squander that opportunity, but rather use it to reaffirm our basic principles and to end religious persecution in Vietnam. Thank you.

[The prepared statement of Mr. Dinh follows:]

PREPARED STATEMENT OF VIET D. DINH, PROFESSOR OF LAW, DEPUTY DIRECTOR, ASIAN LAW AND POLICY STUDIES, GEORGETOWN UNIVERSITY LAW CENTER

Mr. Chairman and Members of the Subcommittee:

Thank you very much for this opportunity to comment on Vietnam's ongoing effort to rejoin the global community. The progress of that effort is defined by two dynamics that are often in tension: Vietnam's desire to reap the benefits of the global economy, most notably through accession to the World Trade Organization, and its reticence in adopting minimal protections of civil liberties for its citizens, most notably its denial of basic religious freedoms.

As a proponent of free trade, I understand the arguments of those who would advocate for the decoupling of these two issues. However, I believe that our nation's interest is best served by concurrent efforts to help Vietnam enhance its trade relations and also to persuade and, where necessary, to pressure Vietnam to improve its record on the protection of basic human rights. We should seek all opportunities and exhaust all avenues to coax, cajole and coerce Vietnam to improve its human rights record and to end its campaign of religious persecution. At this time, the best opportunity is presented by Vietnam's desire to join the global economy.

Although, by many measures, the human rights situation in Vietnam has deteriorated in recent years, there is also some cause for optimism: Continued economic and diplomatic pressure may lead Vietnam to recognize that it cannot join the global economy and live in political isolation at the same time.

Since the introduction of doi moi,[1] Vietnam has been struggling with the tension between its desire to reap the benefits of an open, market-oriented economy and to maintain a closed, repressive political system. Even as its self-imposed goal of entering the WTO by January 2005 looms closer, the Communist Party refuses to relinquish its grasp on numerous state-owned industries, and continuing discriminatory policies and tariffs have stifled the excitement of many foreign investors. In May 2003, these policies and practices led Seung Ho, chairman of the WTO-Vietnam working party, to proclaim that it would take a "quantum jump" for Vietnam to obtain WTO membership by 2005.[2]

Any delay in joining the WTO would have serious economic consequences for Vietnam. On January 1, 2005, the United States and the European Union are scheduled to drop textile quotas for WTO members. Textiles are Vietnam's top export, with 2003 earnings estimated at $3.6 billion.[3] Largely because of the U.S.-Vietnam Bilateral Trade Agreement,[4] textiles make up more than half of the $4.2 billion of ex-

[1] The Sixth Communist Party Congress instituted doi moi (renovation) in December 1986 as a program to reform and revitalize Vietnam's then-stagnant economy. *See* Viet D. Dinh, *Financial Reform and Economic Development in Vietnam,* 28 LAW & POL'Y INT'L BUS. 857, 866 (1997).

[2] *Vietnam Starts Its "Quantum Jump" But Still Some Way to Go,* WTO NEWS (Dec. 12, 2003), available at http://www.wto.org/english/news—e/news03—e/acc—vietnam—12dec—e.htm (last viewed Feb. 8, 2004).

[3] Frederik Balfour, *Time Is Running Out,* BUS. WEEK 24 (Dec. 1, 2003).

[4] *Bilateral Trade Agreement to Normalize Trade Relations with Vietnam, Oct. 16-Nov. 29, 2001, U.S.-Vietnam,* 115 Stat. 268, available at http://www.ustr.gov/regions/asia-pacific/text.pdf (last viewed Feb. 8, 2004).

ports Vietnam sends to the United States.[5] If Vietnam does not accede to the WTO by January 1, 2005, when the WTO drops textile quotas, most of this trade would shift to WTO members such as China and the Philippines.

Vietnam has taken significant steps to remedy many of the deficiencies that pose barriers to its accession to the WTO.[6] And market pressures will continue to nudge Hanoi to loosen its grasp on the country's economy. For example, China's entry into the WTO helped persuade Hanoi ultimately to sign and ratify the U.S.-Vietnam Bilateral Trade Agreement. Although implementation has been sporadic, the Agreement remains the best roadmap toward improvement of the trade and investment regime in Vietnam. The United States Government, both in this and the preceding administration, should be applauded for its steadfast insistence on the key terms of the Agreement. We should continue efforts to encourage and assist Vietnam to implement the Agreement fully and thereafter to accede to the WTO.

However, given Vietnam's insistence that trade be decoupled from politics,[7] it is unrealistic to expect that improvements in the country's human rights situation would follow inexorably from enhanced economic relations and open access to the world trade regime. Open markets have challenged the Communist Party's ideological commitment to a command and control economy, but the road towards market oriented capitalism has not led the Party to relinquish control over the Vietnamese people.

This control often manifests itself through sheer oppression. The Vietnamese are denied even the most basic freedoms: freedoms of speech, the press, religion, expression and assembly. And the courts mete arbitrary sanctions under opaque laws and ignored constitutional protections.[8]

The human rights situation in Vietnam is well-documented. The Department of State[9] and organizations like Amnesty International[10] and Human Rights Watch[11] have carefully chronicled the behavior of the Vietnamese Government toward its citizens. Of particular concern is the government's record of repressing religious activity and persecution of religious leaders and clergy, brave men and women of faith like Father Thadeus Nguyen Van Ly.

Father Ly was ordained in 1974. In 1982, he drew the ire of the Communist Party after attempting to lead a religious pilgrimage.[12] Placed under arrest, and confined to his birth village, Father Ly defied the authorities to return to his church. The police made nine successive attempts to arrest Father Ly, thwarted each time by his parishioners. On the tenth attempt, Hanoi sent roughly 200 police officers to overcome the opposition, and Father Ly was arrested in May 1983. For his defiance, Father Ly was sentenced to 10 years' imprisonment. He served 9 of those years before the authorities released him in 1992.

In 2000, Father Ly again spoke out about the government's religious intolerance. In March of 2001, at the invitation of the U.S. Commission on International Religious Freedom, Father Ly submitted written testimony to highlight religious persecution in Vietnam. His testimony to the Commission was prophetic of his own fate:

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[5] Import totals for January through November 2003. *See* U.S. INT'L TRADE COMM., *U.S. Imports for Consumption at Customs Value from Vietnam (2003)*, available at http://dataweb.usitc.gov/scripts/cy—m3—run.asp?Fl=m&Phase=HTS2&cc=5520&cn=Vietnam (last viewed Feb. 8, 2004).

[6] *Vietnam Starts Its "Quantum Jump" But Still Some Way to Go,* WTO NEWS (Dec. 12, 2003), available at http://www.wto.org/english/news—e/news03—e/acc—vietnam—12dec—e.htm (last viewed Feb. 8, 2004).

[7] Upon signing the Bilateral Trade Agreement, the Vietnamese Government emphasized "'non-intervention in each other's internal affairs,' a phrase that responds in particular to American criticism of human rights standards in Vietnam." Seth Mydans, *Relations at Last Normal, Vietnam Signs U.S. Trade Pact,* N.Y. TIMES at A8 (Nov. 29, 2001).

[8] These ignored constitutional provisions include Article 69, which specifically provides: "The citizen shall enjoy freedom of opinion and speech, freedom of the press, the right to be informed, and the right to assemble, form associations and hold demonstrations in accordance with the provisions of the law." VIETNAM CONST. (Constitution of 1992) art. XXXXXXIX, available at http://www.vietnamembassy-usa.org/learn/gov-constitution5.php3 (last viewed Feb. 8, 2004).

[9] *See* U.S. State Dept., *Supporting Human Rights and Democracy: The U.S. Record 2002–2003* (2003) [hereinafter *Supporting Human Rights and Democracy*], available at http://www.state.gov/g/drl/rls/shrd/2002/ (last viewed Feb. 8, 2004); U.S. State Dept., *The International Religious Freedom Report of 2003* (2003), available at http://www.state.gov/g/drl/rls/irf/2003/24327.htm (last viewed Feb. 8, 2004).

[10] *See, e.g.,* Amnesty International, Library, Vietnam, available at http://web.amnesty.org/library/eng-vnm/news (last viewed Feb. 8, 2004).

[11] *See, e.g.,* Human Rights Watch, Asia, Vietnam, available at http://www.hrw.org/doc?t=asia&c=vietna (last viewed Feb. 8, 2004).

[12] Henry Kamm, *Anti-Vatican Plan Reported In Hanoi,* N.Y. TIMES at 15 (Mar. 4, 1984).

> There is no freedom of speech in my country. Churches, of course, have none. This kind of statement I am presenting to you cannot be circulated in Vietnam because no photocopying store or printing shop would dare to reproduce it. Nobody dares to keep it fearing for his own life and the safety of his family. Those who dare must be prepared for martyrdom.

In response to this and other statements, the official Vietnamese news media denounced Father Ly as a traitor.

On October 20, 2001, Father Ly was sentenced to 15 years' imprisonment, 2 years for violating his probation, and 13 years for "undermining the great unity."[13] In September of 2003, the government also jailed three of Father Ly's relatives, accusing them of providing information about religious conditions in Vietnam to "reactionary" organizations in the United States.[14] Their crime was simply to call attention to Father Ly's plight and to advocate for his release.

I think the U.S. State Department in its annual Human Rights Report summarizes well the current situation in Vietnam, "The Government of Vietnam (GVN) continued to repress basic political freedoms including freedoms of speech, the press, assembly, and association; arbitrarily detain its citizens, including detention for peaceful expression of political and religious views; restrict activities of registered and non-registered religious groups; and reportedly committed numerous egregious abuses in the central highlands."[15]

The State Department report also suggests a silver lining aHmong the dark clouds, that United States efforts to pressure Vietnam to improve its record on religious persecution has led to some, albeit limited, success:

> The USG consulted with GVN authorities at all levels throughout the year on human rights issues, including hosting a U.S.-Vietnam Dialogue on Human Rights. As a result of our effort, the GVN allowed numerous people to depart Vietnam, including over two dozen Montagnard families, a Chinese national who had entered Vietnam illegally, and a prominent actor who had been harassed and detained. Other intervention resulted in improved GVN treatment of some other persons of concern, such as a controversial Hoa Hao monk.[16]

Although the U.S. efforts have been met with measured resistance, their limited success demarcates a path for improvement in the human rights situation in Vietnam: The United States should seek all opportunities and exhaust all avenues to persuade and, where necessary, to pressure Vietnam to improve its human rights record and to end its campaign of religious persecution. Right now, the best opportunity is presented by Vietnam's demonstrated need and express desire to accede to the World Trade Organization and join the global economy.

The promise of a two-pronged approach, a concurrent focus on both enhanced trade and improved human rights, is underscored by the Vietnamese Government itself. Father Ly was denounced and jailed as a traitor not simply for highlighting Vietnam's human rights abuses, but also because he urged the United States to link religious freedom to the ratification of the Bilateral Trade Agreement.[17] And, Mr. Chairman, I understand that your recent trip to Vietnam included a visit with Father Ly. Although it may seem a small thing to us, official permission for that meeting, in and of itself, is a significant development-one that I believe would not have been possible absent your persistent efforts to highlight religious persecution in Vietnam.

To be sure, the WTO accession process does not explicitly accommodate non-trade interests,[18] and I am not suggesting that the United States invoke its non-application right under Article XIII of the WTO agreement.[19] However, I believe that we should send a clear and consistent message to Vietnam that United States support for its expeditious accession to the WTO depends on concrete improvements in its human rights record and an end to religious persecution.

I want to close by recounting the stakes in the future of U.S.-Vietnam relations. The Twentieth Century may have brought the United States military defeat in Viet-

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[13] *Vietnam Imprisons An Outspoken Priest,* N.Y. TIMES at 1A19 (Oct. 21 2001).

[14] Amy Kazmin, *Relatives of Priest Jailed in Vietnam,* FINANCIAL TIMES 13 (Sept. 11, 2003).

[15] *Supporting Human Rights and Democracy,* supra note 9.

[16] *Supporting Human Rights and Democracy,* supra note 9.

[17] *Vietnam Imprisons An Outspoken Priest,* N.Y. TIMES at 1A19 (Oct. 21 2001).

[18] *See* Viet D. Dinh, *Joining the Club: The Dynamics of Accession to the World Trade Organization,* 12-14 (draft manuscript on file with the author).

[19] WTO Agreement art. XIII, para. 1, provides that the WTO Agreement and related commitments Ashall not apply as between any Member and any other Member if either of the Members, at the time the other becomes a Member, does not consent to such application.

nam, but it also marked the conclusive triumph around the world of democratic capitalism over totalitarian communism.[20] Engaging with post-war Vietnam diplomatically and economically serves the same purpose as military intervention during the conflict. That purpose, now as then, is to promote U.S. strategic interests, respect for the rights of man, and the betterment of life for people everywhere.

This is no longer a war of bullets and bombs, but a battle of ideas and institutions. The United States has negotiated and ratified an effective bilateral trade and investment treaty. We need to continue to encourage and assist Vietnam to implement the Agreement fully and according to its strict timetable. Completion of this process would provide stable, transparent, and accountable economic infrastructure necessary for Vietnam's accession to the WTO and its continued progression toward a market-oriented economy.

But free markets are only half of the democratic capitalism ideal; free peoples are the other half. The typical Vietnamese response to foreign pressure, that insistence on human rights intrudes on its domestic sovereignty, rings hollow. The Vietnamese leadership out of necessity has abandoned its Marxist-Leninist ideal of command and control collectivism. It now simply clings to political control. The same vigilance and pressure that dragged Vietnam onto the path toward a market economy need to be applied to weaken its grip on totalitarian authority.

To keep in sight that we are continuing a larger effort for democracy and capitalism is to protect against erosion of core American ideals through the process of engagement. It is to work so that the Vietnamese people see the promise of freedom and democratic political expression in an economy and society protected by the rule of law.

Equally important for America, continuing to push for the same ideals for which we fought the war puts the Vietnam conflict into the proper broader historical perspective. It helps to heal the lingering wounds of that sad era and leads Americans to appreicate that our soldiers did not die in vain, that our veterans are deserving of honor and gratitude, and that our triumphant ideals and institutions are worth fighting for.

Senator BROWNBACK. Thank you very much, Professor. I appreciate that statement.

Mr. Eban is a Montagnard refugee. If he—will you be able to speak in English or we will have a translation?

TRANSLATOR. I'm the translator.

Senator BROWNBACK. Okay. If he has a written statement, you're welcome to present that rather than him having to read it and then you translate it, if you would like to do it that way.

TRANSLATOR. Mr. Chairman, he wrote something in his own language, and we translated into English, so I'm going to read this letter that he wrote on behalf of him.

Senator BROWNBACK. Good, good, thank you very much.

STATEMENT OF RMAHY EBAN, MONTAGNARD REFUGEE

Mr. EBAN (speaking through a translator). My name is Rhamy Eban. This is not my real name because I have family members in Vietnam, and I'm afraid the Vietnamese Communists would do something to my family.

I would like to say thank you so much to Mr. Brownback for inviting me to come here to share with you what happened in my homeland. I don't speak English so I would like my translator to read the statement that I wrote.

My name is Rhamy Eban, and I am a Montagnard refugee. I fled into Cambodia in 2001 for safety because of the crackdown against my people. I came to the United States on June 4, 2002. If the United States did not accept me, I would have been pushed back to Vietnam, where I would be killed or sent to jail. I would like to thank Senator Brownback for the opportunity to share my feelings

[20] *See* Viet D. Dinh, *How We Won in Vietnam*, 104 POL'Y REV. 51 (Dec. 2000 & Jan. 2001).

about the plight of the Montagnards that related to the religious persecution in Vietnam.

Mr. Chairman, I am representing more than a thousand Montagnard witnesses to what happened on March 10, 2001 at Plai Lao church in the central highlands of Vietnam.

On March 9, 2001, over a thousand Montagnards from different villages and districts gathered for an all-night prayer service at Plai Lao church. It was the only village in the area that had a church building. It was a wooden structure with a thatched roof that villagers had started building in July 2000.

Montagnard Christians in this area gathered there every Sunday and once a month; many villagers from other hamlets in Dusai district would gather at Plai Lao for a large church service. We started our prayer meeting at the church at 7:00 p.m. and continued through the night. We were not afraid because we were just meeting to worship God, even though we knew what going to happen to us. We knew they would destroy the church when we finished building it.

On March 10, 2001, at 4:00 a.m., suddenly over 600 soldiers entered the village with jeeps and several army trucks as the Montagnarders were praying in the church. These forces were wearing white helmets and uniforms with protective padding. They carried plastic shields, batons, electric shock devices, tear gas canisters, and guns (AK–47s). They used a loudspeaker and announced, "We order you to stop praying and worshipping God. We know that the central highlands is your land, but we defeated the French and the Americans during the war. We are the owner of this land. If you want to take it back, you must call the French and the Americans to fight with us."

We knew what was going to happen, so we sent the women and girls out of the church; we thought the police wouldn't hit or arrest the women. Many men continued to pray in the church. At 6:00 a.m., the Vietnamese were reinforced by thousands of soldiers under the command of—commander of—here is the picture——

Senator BROWNBACK. Hold that picture up again here so I can see it. Now what—and what is this a picture of again?

Mr. EBAN (speaking through a translator). This picture shows that the police arrested all the men and left the women alone.

Senator BROWNBACK. Yes, thank you.

Mr. EBAN (speaking through a translator). The police fired tear gas. Montagnard women with babies on their backs ran. Police used electric batons to shock many Montagnards and beat the Montagnard Christians until blood came out of their mouths and heads. They kicked their stomachs like animals and threw them into trucks like wood blocks. I was one of them. They hit my head, and I was close to dying. Many women were screaming, other with children in their arms were crying as well.

As a result, 70 Montagnards were wounded, six people were injured badly, and police shot Rmahy Bly, and he died right there. Other Montagnard Christians were arrested and handcuffed. At noon, the police ordered the Vietnamese civilians in the area to ransack and destroy the church with axes. They used a cable tied to a vehicle to topple it, and the soldiers used their guns, batons force the Montagnard Christians to help take down the church. The

police forced and gathered all the Montagnard Christians, including those who were tied and handcuffed to stay very close to the collapsed church. The police poured 5 liters of gasoline and 10 liters on machine oil and burned the church.

Each of us was crying for the dead, for the wounded, and for the church. Then the police used loudspeaker and said, "you do not worship God, but you worship Americans. If you worship God, we burn God's church. Call your God to help you. If you worship Americans, call the Americans," and they all laughed, and made fun of us, regardless of the hundreds of Montagnards who were wounded and handcuffed and crying.

After they burned the church, the police took some and put them in jail, and they also beat them in jail. Some of them, including pastor, were able to hide and escape; some of them are now here in the United States. I have a list of the prisoners that we have accounted for so far.

Senator BROWNBACK. We will put that in the record if that is acceptable to you to put in the record and it won't hurt them further.

Mr. EBAN (speaking through a translator). Yes. I will discuss it with my executive director, and we will give this list to you.

Senator BROWNBACK. Okay.

Mr. EBAN (speaking through a translator). And the last thing, since March 10, 2001, the Montagnard Christians were very afraid. Some fled and hid in the jungle. Many Montagnards have police assigned to their homes to watch them. The Montagnards are forced to feed these policemen. Because we cannot talk freely, we do not know exactly how many Montagnards have been killed and jailed. Many Montagnards have relatives who are missing.

Mr. Chairman, we came here today to tell you the truth about the Montagnards' situation and how the Vietnamese Government treats the Montagnard people. We are treated like enemies in our own land. We pay a high price for a life of freedom. We pray that the Hanoi Government will hear our true voice, why we have no right to live as human beings, why we cannot worship God for our Christian faith freely, why we cannot receive humanitarian aid, why we cannot have the same opportunities in education and development as Vietnamese can, why we cannot get our family out of Vietnam.

We sincerely hope that you will hear our true voice. The United States is the best hope for our families and our people in the central highlands. Thank you for the privilege of presenting my testimony. May God bless you and bless America.

[The information referred to by Mr. Eban follows:]

LIST OF THE MONTAGNARD PRISONERS IN BA SAO CAMP, HA NAM PROVINCE, HANOI

[SUBMITTED BY THE MONTAGNARD HUMAN RIGHTS ORGANIZATION]

After the protests and crack down on February of 2001, the local Government of Gialai and Kaklak Provinces continued to hunt down and bring to trial all Montagnard people who were involved with the demonstration or suspected of being involved.

These trials were strongly supported by millions of the North Vietnamese people who are illegally living and occupying the Montagnards' land in the central highlands of Vietnam. The Montagnards have no legal counselor to defend their rights as human beings.

Punishment out of all proportion to the crime should be illegal, but this is an opportune time for the Vietnam Government to get revenge. The Hanoi regime has "Long Memory" about the war and a long-term plan to destroy the Montagnard people for the following reasons:

1. The Montagnard people are the legal and rightful owners of the central highlands of Vietnam. The French Federal Government in Indochina recognized and granted the automony of the Montagnard nation on May 27, 1946.
2. The Montagnard people are Christians.
3. The Montagnards fought alongside the French and American troops against the North Vietnamese Communists during the Vietnam War (1945–1975).

The trials were held not only to punish the crime but because of hatred for the Montagnards and to continue the discrimination against the Montagnards through public retribution.

This list was derived from an investigation by Human Rights Watch, from official Vietnamese sources as reported in the State media, and from the Montagnard relatives in the central highlands of Vietnam.

All these prisoners were transferred to Ba Sao Camp, Ha Nam Province, Hanoi.

On September 26, 2001, 9 Montagnards were sentenced to from 10 to 12 years in prison. Their names are listed below:

No.	Names	Region of Vietnam	Prison Sentence (Years)
1	Y-Bom (Jona)	Plei Kueng Grai, Pleiku, Gia Lai	12
2	Ksor Kroih	Plei Sol, Pleiku, Gia Lai	11
3	Siu Tinh	Plei Tot Byoc, Pleiku, Gia Lai	11
4	Siu Yui	Plei Lom Klah, Pleiku, Gia Lai	11
5	Siu Boch	Plei Lao, Pleiku, Gia Lai	11
6	Siu Un	Plei Glung, Ayunpa, Gia Lai	11
7	Ksor Poih	Pleiku, Gai Lai	11
8	Y-Nuen Buon Ya	Buon Ae Sup, Kak Lak	11
9	Y-Rin Kpa	Buon Ae Sup, Dak Lak	11

On October 18, 2001 and on October 24, 2001, 8 Montagnards were sentenced to from 7 to 8 years in prison and to 2 years probation, another 8 Montagnards were sentenced to from 3 to 6 years in prison with probation. Their names are listed below:

No.	Names	Region of Vietnam	Prison Sentence (Years)
10	Y-Nok Mlo	Buon Ama Thuot, Dak Lak	8
11	Nay Druk	Buon Ae Sup, Dak Lak	7
12	Y-Phen Ksor	Buon Sup, Dak Lak	7
13	Y-Bhiet Nie	Buon Ama Thuot, Dak Lak	6
14	Y-Tum Mlo	Buon Ama Thuot, Dak Lak	8
15	Ksor Sun	Buon Jung, Dak Lak	5
16	Y-Bhiot Ayun	Buon Jung, Dak Lak	5
17	Y-Nuen Nie	Buon Jung, Dak Lak	3
18	Y-Wang Nie	Buon Brieng, Dak Lak	4
19	Y-Khu, Nie	Buon Tri, Dak Lak	5
20	Ksor Blung	Plei Breng 3, Pleiku, Gia Lai	5
21	Ksor Alup	Plei Breng 2, Pleiku, Gia Lai	4

No.	Names	Region of Vietnam	Prison Sentence (Years)
22	Kao Kpa	Buon Sup B, Dak Lak	8
23	Y-Tim Eban	Buon Dha Prong, Dak Lak	8
24	Y-Coi B. Krong	Buon Ko Mleo, Dak Lak	8
25	Y-Thomas Eya	Buon Bu Kak, Dak Lak	8
26	Y-Nglu	Plei Glung, Ayunpa, Gia Lai	7
27	Siu Seo	Plei Joning, Ayunpa, Gia Lai	7
28	Siu Un	Buon Blec, Ea Hleo, Dak Lak	8
29	Siu Tel	Plei Ke, Ayunpa, Gia Lai	5
30	Rmah Djoan	Plei Athai, Ayunpa, Gia Lai	5
31	Y-Bliet Ayun	Buon Jung, Krong Pac, Dak Lak	3

On January 28, 2002, 4 Montagnards were sentenced to from 4 to 7 years in prison with probation; on August 10, 2002, 1 Montagnard was sentenced to 9 years; 7 additional people were sentenced, but the length of their sentences is unknown. Their names are listed below.

No.	Names	Region of Vietnam	Prison Sentence (Years)
32	Siu Beng	Plei Bitel, Pleiku, Gia Lai.	
33	Siu Be	Plei Luh, Ea Hru, Gia Lai	4
34	H'noch	Plei Kly, Pleiku, Gia Lai	6
35	Kpa H'ling	Plei Kly, Pleiku, Gia Lai	6
36	Y-Sop Siu	Buon Sup, Dak Lak	6
37	Nong Kpa	Buon Sup, Dak Lak	4
38	Mrui Rahlan	Buon Sup, Dak Lak	6
39	Y-Muk Nie	Buon Sup, Dak Lak	5
40	Y-Klah Buonya	Buon Poc, Dak Lak	*
41	Y-Mien Eban	Buon Dha Ponng, Dak Lak	*
42	Y-Tin	Buon Dha Ponng, Dak Lak	*
43	Y-Klong Eban	Buon Dha Ponng, Dak Lak	*
44	Y-Sen Buon Krong	Buon Ko Mieo, Dak Lak	*
45	Rmah Hyuh	Plei Bitel, Gia Lai	*
46	Rmah Pol	Plei Bitel, Gia Lai	*
47	Ksor Dar	Gia Lai Province	3
48	Rahalan	Gia Lai Province	2
49	Rahlan Loa	Buon Toat, Krong Pac, Dak Lak	9

* = Length of sentence unknown.

On December 25, 2002, 10 Montagnards were sentenced to from 2 to 10 years in prison plus 4 years probation; their names are listed below:

No.	Names	Region of Vietnam	Prison Sentence (Years)
50	Rahlan Phyul	Plei Sung Kat, Duc Co, Gia Lai ..	2
51	Y-Pum Buonya	Buon Kmien, Krong Buk, Dak Lak	8
52	Y-Thuon Nie	Buon Kwang, Krong Buk, Dak Lak.	10
53	Nay Pham	Plei Kte, Ayunpa, Gia Lai	5
54	Y-Prom	Plei Bia Bre, Dak Doa, Gia Lai ...	8
55	Y-Tien Nie	Buon Ea Nao, Buonmathuot, Dak Lak.	8
56	Y-Nai Mlo	Buon De, Krong Hnang, Dak Lak	8
57	Y-Boh Nie	Buon Brao, Buonmathuot, Dak Lak.	8
58	Y-Ju Nie	Buon Brieng, Ea Kar, Dak Lak	8
59	Y-Lem Buon Krong	Buon Kwang, Krong Buk, Dak Lak.	8

The following is a list of the Montagnard people who are currently secretly imprisoned. The Vietnamese Government does not allow their families access to its prisoners. The Government has not published the names, locations, or the charges against the people in detention.

No.	Names	Region of Vietnam	Prison Sentence (Years)
60	Siu Thuk	Plei Lao, Cu Se, Gia Lai	6
61	Kpa Thap	Plei Lao, Cu Se, Gia Lai	6
62	Siu Grih	Plei Lao, Cu Se, Gia Lai	6
63	Hyan	Plei To Drah, Cu Se, Gai Lai	2
64	Dol	Plei To Drah, Cu Se, Gia Lai	2
65	Rmah Teng	Plei Bo, Cu Se, Gia Lai	8
66	Ksor Hnel	Plei Bo, Cu Se, Gia Lai	6
67	Rmah Anur	Plei Bo, Cu Se, Gia Lai	8
68	Goih	Plei To Drah, Cu Se, Gia Lai	6
69	Byun	Plei Lon, B12, Gia Lai	8
70	Y-Het Nie	Buon Sek, Ea Hleo, Dak Lak	*
71	Dinh Mlem	Plei To Drah, Cu Se, Gia Lai	6
72	Brong Kpa	Buon Jung, Krong Pac, Dak Lak	9
73	Y-Nuel Nie	Buon Jung, Krong Pac, Dak Lak	11
74	Bli	Plei Pheo, Cu Se, Gia Lai	6
75	Siu Ye	Plei Mo, Cu Se, Gia Lai	6
76	Bah	Plei Hrai Dong, Cu Se, Gia Lai ...	6
77	Em	Plei La Lang, Pleiku, Gai Lai	7

* = Length of sentence unknown.

On May 26, 2003, in Dak Lak Province, 15 Montagnards were sentenced to from 5 to 10 years in prison and from 3 to 5 years probation; their names are listed below:

No.	Names	Region of Vietnam	Prison Sentence (Years)
78	Y-Tim Buonya	(not known)	10
79	Y-Het Nie Kdam	Buon Siek, Dak Lak	10
80	Y-Kroi B. Krong	Buon ama Thuot, Dak Lak	7
81	Y-Kim Enuol	Buon ama Thuot, Dak Lak	7
82	Y-Hai Knul	Buon Sah, Dak Lak	7
83	Y-Lia Nie	Buon ama Thuot, Dak Lak	7
84	Y-Blik Ksor	Buon ama Thuot, Dak Lak	7
85	Nay Klong	Buon Siek, Dak Lak	5
86	Y-Oak Nie	Buon ama Thuot, Dak Lak	5
87	Y-Hoen Hlong	Buon ama Thuot, Dak Lak	5
88	Y-Kuo Nie Ksor	Buon Ea Hleo, Dak Lak	5
89	Y-Dham Knul	Buon ama Thuot, Dak Lak	5
90	Y-Kro Nie	Buon ama Thuot, Dak Lak	5
91	Y-Cuan Rcam	Buon Ea Hiao, Dak Lak	5
92	Y-Bhi Buonya	Buon Ko Mliao, Dak Lak	5
93	Y-Kuo Buonya	Buon Ko Mliao, Dak Lak	13
94	Y-He Eban	Buon Kdum, Cu Ebur, Dak Lak	12
95	Y-Jon Enuol	Buon Kdun, Cu Ebur, Dak Lak	11
96	Y-Bil Enuol	Buon Kdun, Cu Ebur, Dak Lak	10
97	Y-Wit Mlo	Buon Ale A, Dak lak	8
98	Y-Tran Mlo	Buon Ale A, Dak Lak	8
99	Y-Krong Hdok	Buon Kla, Ea Ana, Dak Lak	5
100	Y-Kao Buon Drong	Buon Kmrong Prong, Ea Tu, Dak Lak.	5

There were more secret trials and prison sentences for the Montagnards that we do not know about because no U.S. officials, journalists, or representatives of NGOs have been allowed to visit the central highlands since February 2, 2001.

The Hanoi Government has been regularly criticized for a decade by the International Human Rights Groups for its brutal repression of political and religious dissidents—especially the Montagnard people in the central highlands of Vietnam. However, the Hanoi Government has been ignored and has free hands to act.

Many Montagnards have disappeared from their families, and they have not been found in the refugee camps in Cambodia. They could possibly have been brought to trial at unknown, secret locations. The individuals listed above are known because the were tried in local provinces.

RONG NAY, *Executive Director,*
Montagnard Human Rights Organization

Senator BROWNBACK. Thank you very much. That was very touching. Were the security forces that came in, were they local security forces or were they from the national government, the security forces that did this?

Mr. EBAN (speaking through a translator). It was the police from the national government.

Senator BROWNBACK. And the reason I ask that is, we're getting from some people that, okay, there's some religious freedom in certain areas and there isn't in others, and I wondered if this is based upon local enforcement or that—if it's just directed at certain

groups or what the situation is, and this would seem to impact it, whether it's a national police force or if it's a local police group.

Mr. EBAN (speaking through a translator). I think the security force came from the head of the government to our village, and they did not allow us to worship God, and whenever we gather more than three people, they would just force us or confiscate all the materials that we are studying.

Senator BROWNBACK. Thank you. Ms. Foote, as a comment to you, the economic relationship's growing, there's a lot of interest. I met with An Chinh when I was in Hanoi, a great deal of interest in expanding that relationship, looking at a good economic opportunity. It looked to me like there's been a great deal of on-the-ground economic success for Vietnam, yet I continue, as I said to the first panel, and say to you and I say to you and I say to the An Chinh as well, the progress really does need—we need to see progress in these areas as well, so that—and I know that the An Chinh supports that, that they want to see human rights taking place, they want to see religious freedoms.

I would hope your group could convey that to the businesses that you work with in Vietnam, the Vietnamese Government, that this is a serious matter, it isn't about destabilizing Vietnam, if that's what some seem to believe it is. It isn't about taking the relationship backwards. I don't think anybody wants to do that.

But the story you've heard here is the type of which I've heard repeatedly in my office of a number of different situations in a number of different cases in a number of different faiths, and it's just—it's growing too much, there are too many, it's too well corroborated. It has to stop or this is going to—this will poison what has been a growing relationship, and I think really your group's in one of the best positions to convey the seriousness of that for us to move the relationship on forward.

Ms. FOOTE. Senator, I understand your concern in this area, and the U.S. Vietnam Trade Council has been in fact very involved in many of these issues. We have a commercial law program there, that I personally have been involved with some of the political prisoner issues and negotiated some of those releases over the years. So you can rest assured that these are issues that we are involved with.

I think what I was trying to address though is the use of sanctions or the use of turning the relationship back, and what is useful in moving forward commercial reform, political reform, freedom of the press, all of these issues, I think is not sanctions. I think what we've seen in the last 15 years is that engagement has really improved on both sides, on the economic side and on the human rights side, that those relationships in engagement have made a difference in Vietnam.

Senator BROWNBACK. I would agree with that. I just—I am really puzzled as to why now, why the crackdown now over the past couple of years? Because it would seem as if the trend line has been positive for a number of years and then the last couple you get—you get these situations, you get the Ambassador saying you've got 170,000 Protestants and two churches, you've got a bunch of churches closing, the professor notes this. It seems to run counter

to where the trend line is going or should be going for us to further this relationship.

I don't know if you, or maybe Professor Dinh might be better to comment, and I'd be happy to come back to you, is why now? Why are we seeing this sort of thing taking place now?

Mr. DINH. If I may venture a comment as a commentator and observer of the situation, I think that—and this was noted by both Mr. Daley and Ambassador Hanford—the Vietnamese Government is heterogeneous in nature. It has internal issues and viewpoints, and there are ebbs and tides—ebbs and flows within the various different coalitions. Whenever you have a significant movement or improvement in one area, for example, in free trade, there needs to be some reassurances that there is not a permanent and irreversible departure from the path of the ideology that the Communist Party is committed to.

You see a little bit of the dialogue, if you will, that works out very tragically for the victims that are involved. I think that it also augurs a very important lesson for us as we continue moving forward in concrete steps in the road toward full economic integration. Most significantly, the next step would be the World Trade Organization accession and the discussion relating to it. I think that we should use these areas where the government is paying a lot of attention to, and use these dialogues in order to bring up issues that are important to us.

It is no secret that after 9/11 foreign governments who speak to the United States Government speak in terrorism terms, because those are the terms that we understand best after 9/11. Likewise, when we speak to the Vietnamese Government, the terms they understand best at this phase is WTO accession and full economic integration. I think that those conversations are a great opportunity for us to bring issues of concern to us to the attention of the leadership.

Ms. FOOTE. Can I also comment on that?

Senator BROWNBACK. Please, please.

Ms. FOOTE. I think it's a sign of progress that we are really talking about one part of Vietnam, and we are talking about one religion in Vietnam. I think if you look at all of the other issues that have been discussed in the relationship for the last 10 years, whether it's freedom of the press or the role of the national assembly, the rights of workers, these issues are making tremendous progress, and everybody recognizes that.

I think the Catholic Church has made progress in the last several years. The new cardinal, the role of the church in society has grown, it hasn't shrunk. The churches are full. I would agree that starting with 2001 and that terrible incident and the sort of crescendo of economic, religious, and ethnic difficulties coming to a terrible head in 2001, but I don't think that takes away from all of the other areas where Vietnam has made progress in human rights and political issues.

I would agree this issue needs more work, but I think the worst of the period was 2001, not currently.

Senator BROWNBACK. Mr. Thang?

Mr. THANG. To truly understand the society of the Vietnamese Communist leadership, you need to look back all the way to 20

years ago when Mr. Minh Banh Ling initiated the policy, that's the renovation and openness policy. That policy came about because the leadership in Vietnam realized that they couldn't survive facing the dismal economy in Vietnam. So as a strategic move, they opened up the economy and some freedom of the press, some freedom of religion, some freedom of association as well.

And then in 1997, there was a changing of the guard. The old guard came back to power, and we started seeing a slight backwards, starting in 1997, and it accelerated in 2001, and things, if you could compare between now and 20 years ago or 15 years ago, things are much worse now than at that time. So we are talking about a long-term trend that has been a degradation and deterioration in terms of human rights and other freedoms like freedom of the press. There's less freedom of the press now than 15 years ago.

And I'd like to add that the Vietnamese Government does believe that there is a scheme of the free world led by the U.S., and they give a name to that scheme, and that is called peaceful evolution, the monopoly on power of the leadership in Vietnam. Therefore, on the one hand, they need as a survival need, they need to open up at the economy. At the same time, on the other hand, they want to place more controls on the population because they don't want any challenge. They perceive as a threat to its power. They perceive the churches as a threat, this monopoly on the power on the people.

Senator BROWNBACK. You've given me a different thinking process on this. Normally when you open up economically, the other freedoms tend to follow along. That's been most of our historic experience, and yet the Vietnamese Government may be looking at, if we're going to maintain power we need to open up economically, but the other fields are ones that we're going to control much tighter or need to if we're not going to be evolved out of the governance. I had not thought it through in that sort of contextual terms.

Ladies and gentlemen, thank you very much for being here. We will put your full statements into the record. Mr. Eban, I particularly appreciate your sacrifice of coming here and putting yourself and your family in jeopardy by being willing to appear here in person. That's very noble and very courageous of you to be willing to do that.

The record will stay open for the requisite number of days. I apologize for several starts and stops here today, but I do appreciate very much your coming.

The hearing is adjourned.

(Whereupon, the hearing was adjourned.)

APPENDIX

ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED TO DEPUTY ASSISTANT SECRETARY OF STATE MATTHEW DALEY BY SENATOR FEINGOLD

Question. I understand that the governments of Laos and Vietnam recently agreed that their militaries will train together and work more closely to secure their border. Have you seen any evidence that Vietnamese military troops are operating in Laos against Lao groups? If so, is there any indication who they might be targeting?

Answer. There is no evidence that there are organized Vietnamese military units operating in Laos. Under an overarching defense agreement between the Lao and Vietnamese Ministries of Defense, there are, however, several Vietnamese military advisors to the Lao military working openly in such areas as POW/MIA recovery and road construction. The Lao-Vietnam defense agreement includes specific memoranda of understanding covering exchange visits; training of personnel; cooperation in political-military affairs; and cooperation in the maintenance of weapons systems. We do not exclude the possibility that Vietnamese advisors have accompanied Lao People's Democratic Republic units when operating against armed resistance groups.

Question. Human Rights Watch claims that Vietnam's already poor human rights record has deteriorated dramatically over the past year. How has freedom of the press fared during this time? Does the Vietnamese government continue to crack down on "cyber-dissidents," as they did with Pham Hong Son, who was convicted in June 2003 for posting pro-democracy statements on the Internet? What has the State Department done to pressure the Government of Vietnam to respect freedom of the press?

Answer. As noted in the annual Human Rights Report, freedom of the press is highly restricted. We are especially concerned about the cases of several Vietnamese activists who, via the Internet, criticized the Communist Party, the 1999 border agreement with China, or called for new political parties, and are in jail awaiting trial or were sentenced to jail terms last year. The latest sentence was given to Nguyen Vu Binh on December 31, 2003, and we strongly condemned his sentence as we did the sentences of Pham Hong Son, Nguyen Khac Toan and Le Chi Quang before him. These arrests and sentences violate international standards for the protection of human rights, including the International Covenant for Civil and Political Rights to which Vietnam is a Party. During bilateral meetings with all levels of the Vietnamese Government, we consistently raise our concerns over these cases and the restrictions placed on freedom of expression and the media. We continue to urge the Government to improve the due process and rule of law in its criminal justice system and protect the rights of its citizens to express themselves.

In order to promote more free media in Vietnam, the U.S. Mission includes journalists in its International Visitor projects, and we are currently planning a visit for Vietnamese journalists to study the U.S. 2004 Presidential elections. Through the Fulbright program we have also sent several Vietnamese journalists and journalism students to the U.S. for master's degrees—and the chance to study a democratic media model.

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