

IMPLEMENTATION OF APEC'S GENERAL TRANSPARENCY STANDARDS

AREAS:

- i) **TRADE AND INVESTMENT LIBERALIZATION AND FACILITATION**
- ii) **MONETARY, FINANCIAL AND FISCAL POLICIES AND THE DISSEMINATION OF MACROECONOMIC POLICY DATA**

ECONOMY: VIET NAM

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KEY TRANSPARENCY PROVISIONS	STATUS OF IMPLEMENTATION (PROVIDE DETAILS)	FURTHER ACTIONS PLANNED TO COMPLETE IMPLEMENTATION (INDICATE TIMEFRAME)	CAPACITY BUILDING NEEDS TO COMPLETE IMPLEMENTATION
	Legal documents - The Law Promulgation of Legal Normative Documents and its amendments in 2002 (the Law on Promulgation of Legal Normative Documents) - The Law on Promulgation of Legal Normative Documents of	Further amendments of the Law on Promulgation of Legal Normative Documents.	

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	<p>People's Councils and Committees in 2004</p> <ul style="list-style-type: none"> - Decree 161/2005/ND-CP dated 27 December 2005 of the Government on guiding implementation of some articles of the the Law on Promulgation of Legal Normative Documents (Decree 161/2005/ND-CP) - Decree 91/2006/ND-CP dated 6 September 2006 of the Government on guiding implementation of some articles of the Law on Promulgation of Legal Normative Documents of People's Councils and Committees (Decree 91/2006/ND-CP) 		
<p>Transparency in Trade and Investment Liberalization and Facilitation</p> <p><u>General Principles</u></p> <p>1. (a) Each Economy will ensure that its laws, regulations, and progressively,</p>	<p>1. (a) Legal normative documents of the central government authorities are published in the national Official Gazette,</p>		

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<p>procedures and administrative rulings of general application respecting matters in Section C of Part One of the Osaka Action Agenda are promptly published or otherwise made available, for example via the Internet, in such a manner as to enable interested persons and other Economies to become acquainted with them.</p> <p>(b) Each Economy will have or designate an official journal or journals and publish any measures referred to in paragraph 1 in such journals. Each Economy will publish such journals on a regular basis and make copies of them readily available to the public.</p>	<p>designated government websites and reported in the mass-media, except for the documents which are considered as state secrets (the Resolution 71/2006/QH1 of the National Assembly of Viet Nam, dated 29/11/2006 ratifying the WTO Protocol on Accession of the Socialist Republic of Viet Nam (hereafter refers to Resolution 71)</p> <p>(b) As a general rule, legal documents issued by central government agencies are published in the national Official Gazette at least 15 days prior to the effective date of the documents with certain exceptions .</p> <p>(c) Legal documents issued by central government agencies are published in the national Official Gazette, the Government website and may be reported in the mass-media, except for the documents which are considered as state</p>		

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<p>(c) An Economy may comply with subparagraph (b) by publication on the Internet.</p> <p>(d) Each Economy will promote observance of the provisions of this paragraph by the regional and local governments and authorities within its customs territory.</p>	<p>secrets (Resolution 71)</p> <p>(d) Law on the Promulgation of Legal Normative Documents of the People's Councils and People's Committee stipulates that legal documents of the people's councils and people's committees of provinces and cities under the central government are published in the provincial official gazettes and legal documents of the people's councils and people's committees at district and commune levels are posted at the offices and other related places.</p>		
<p>2. When possible, each Economy will:</p> <p>(a) publish in advance any measure referred to in paragraph 1 that it proposes to adopt; and</p>	<p>2. Vietnamese laws stipulate that:</p> <p>(a) Except for national secret or other legitimate reasons, the lead drafting agencies for bills or draft government legal normative documents publish the drafts for public comments in appropriate manner, including in the internet.</p>		

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<p>(b) provide where applicable interested persons a reasonable opportunity to comment on such proposed measures.</p>	<p>The trade related draft legal documents of the National Assembly, the Standing Committee of National Assembly and the Government are published on internet for public comments for at least 60 days for comments (as prescribed by the Resolution 71) with some exceptions.</p> <p>(b) During the drafting of the legal documents, the concerned government authorities provide opportunities for comments and suggestions for the improvement of the draft documents by related agencies, organizations and individuals, as well as collect suggestions and comments from interested persons.</p> <p>The collected suggestions and comments are analysed and considered for further improvement of the drafts.</p>		

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<p>3. Upon request from an interested person or another Economy, an Economy will endeavor to promptly provide information and respond to questions pertaining to any actual or proposed measure referred to in paragraph 1.</p>	<p>3. Vietnamese law stipulates that draft legislation and adopted legislation are available for public access, including access through the internet, with some exceptions.</p> <ul style="list-style-type: none"> - Viet Nam has established the network of TBT notification and inquiry points according to Decision 114/2005/QD-TTg dated 26 May 2005 of the Prime Minister. - The SPS national office and inquiry points have been established according to Decision 99/2005/QD-TTg dated 09 May 2005 of the Prime Minister. 		
<p>4. Each Economy will ensure in its administrative proceedings applying any measure referred to in paragraph 1 that:</p> <p>(a) wherever possible, persons of another Economy that are directly affected by a proceeding are provided</p>	<p>4. Vietnamese law stipulates that:</p> <p>(a) administrative proceedings observe the relevant provisions of laws (according to the Ordinance on Settlement of Administrative Offenses dated 2 July 2002).</p> <p>When an offense is discovered, it is recorded in form of a minute prepared by the authorized person.</p>	<p>Proposed codification of legal rules on handling of administrative offences</p>	

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<p>reasonable notice, in accordance with domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of any issues in controversy;</p>	<p>Such minute is made in 02 copies and signed by both the preparer and offender or representative of the offending entity; in cases where there is any witness or the affected person/entity, they also sign on the minute.</p> <p>Such minute clearly indicate the date and place at which the minute is made; name and title of the preparer; name, address and occupation of the offender or the offending entity; date, time and place at which the offense takes place; description of the offending activity; measures taken to remedy the offense and to secure the proceedings (if any); current status of the temporarily arrested exhibits and means (if any); declarations of the offender or the offending entity; in cases where there is any witness or the affected person/representative of the affected entity, their name, address and declarations also be recorded.</p>		

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	<p>A ruling on the administrative proceedings is made within 10 days from the date of the such minute, except for complicated cases where an extension is required but the overall duration is not exceed 30 days.</p> <p>A ruling clearly state: offending activity, related circumstances that influence the offense; articles or provisions of the applied laws, the penalty, etc. Such ruling is sent to the penalized person/entity within 3 days from the date of the ruling.</p> <p>(b) To create opportunities for the affected person/entity to explain their circumstances and arguments, the Ordinance on Settlement of Administrative Offenses stipulates: A ruling on the administrative proceedings are made within 10 days from the date of the such minute, except for complicated cases where an extension is required but the overall duration</p>		

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<p>(b) such persons are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding and the public interest permit; and</p> <p>(c) its procedures are in accordance with domestic law.</p>	<p>does not exceed 30 days.</p> <p>(c) The Ordinance on Settlement of Administrative offenses stipulates: the administrative proceedings are carried out by the authorized person in accordance with the relevant provisions of laws (Section 3 Article 3)</p>		
<p>5. Where warranted, each Economy will ensure that appropriate domestic procedures are in place to enable prompt review and correction of final</p>	<p>5. The current laws of Viet Nam provide:</p> <p>(a) The Law on Complaints and Denunciations and its amendments regulate that individuals,</p>		

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<p>administrative actions, other than those taken for sensitive prudential reasons, regarding matters covered by these Standards, that:</p> <p>(a) provide for tribunals or panels that are impartial and independent of any office or authority entrusted with administrative enforcement and have no substantial interest in the outcome of the matter;</p> <p>(b) provide parties to any proceeding with a reasonable opportunity to present their respective positions;</p>	<p>organizations have rights to further lodge their complaints or initiate administrative lawsuits against administrative acts and decisions that are alleged illegal. Complainants have the right to initiate an administrative lawsuit before the administrative court.</p> <p>(b) To create opportunities for the complainant to express his or her opinion, the Law requires: In the process of first-time complaint settlement, the complaint settlers meet and talk directly with the complainants and the complained persons to clarify the contents of the complaints, the complainants' claims and the proposed solutions to settling to the complaints. Where the complainants invite lawyers, these lawyers may join in the complaint settlement process. (Article 37 the Law)</p> <p>(c) The Law on Complaints and</p>		

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<p>(c) provide parties to any proceeding with a decision based on the evidence and submissions of record or, where required by domestic law, the record compiled by the administrative authority; and</p> <p>(d) ensure, subject to appeal or further review under domestic law, that such decisions are implemented by, and govern the practice of, the offices or</p>	<p>Denunciations and its amendments require that the complaint settler issuing a complaint settlement decision specify the legal grounds for complaint settlement (Article 38 the 2005 Law amending and supplementing a number of articles of the Law on Complaints and Denunciations)</p> <p>(d) Article 8 of the Law on Complaints and Denunciations requires:</p> <p>Complaint settlement decisions are respected by agencies, organizations and individuals. Complaint settlement decisions with legal effect are strictly implemented by concerned agencies, organizations and/or individuals. Persons having the responsibility to execute the complaint settlement decisions but fail to do so shall be strictly dealt with.</p>		

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authorities regarding the administrative action at issue.			
<p>10. Following APEC Finance Ministers' decision to support the assessment of Economies' implementation of these transparency codes through the IMF-led Reports on the Observance of Standards and Codes (ROSCs), Economies are encouraged to participate fully in the ROSC program. As voluntary disclosure of ROSC modules promotes transparency, Economies should, where practicable, disclose the results of these assessments.</p>			
<p>Confidential Information</p> <p>11. The provisions of this Statement will not require any Economy to disclose</p>	<p>The prevailing laws of Viet Nam also regulate the obligation to preserve confidentiality of information of national secrets, of privacy and other legitimate</p>		

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confidential information where such disclosure would impede law enforcement, the Promulgation of laws, or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular persons or enterprises.	causes.		

IMPLEMENTATION OF APEC'S AREA-SPECIFIC TRANSPARENCY STANDARDS

AREA: GOVERNMENT PROCUREMENT

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<p>1. Consistent with paragraph 1 of the Leaders' Statement, each Economy will:</p> <p>(a) ensure that its laws, regulations, and progressively judicial decisions, administrative rulings, policies (including any discriminatory or preferential treatment such as prohibitions against or set asides for certain categories of suppliers), procedures and practices (including procurement methods) related to government procurement (collectively referred to as "procurement rules") are promptly published or</p>	<p>The Law on Bidding 61/2005/QH11 was adopted by the National Assembly of Viet Nam on 29 November 2005 and came into effect on 1 April 2006. It is the highest legal framework for government procurement in Viet Nam. To guide in detail the implementation of a number of provisions of the Law on Bidding, the Government issued Decree 111/CP on 29 September 2006. These legal documents have been promptly</p>	<p>A newspaper will be</p>	

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<p>otherwise made available, for example, via the Internet, in such a manner as to enable interested persons and other Economies to become acquainted with them;</p> <p>(b) designate an official journal or journals and publish the procurement rules in such journals on a regular basis and make copies of the journals readily available to the public (e.g., via the Internet); and</p> <p>(c) promote observance of the provisions of this paragraph by the regional and local governments and authorities within its customs territory.</p>	<p>published.</p> <p>The legal documents, among others, shall be published on the Bidding Information Bulletin issued by the Ministry of Planning and Investment (The Bulletin was first available on 14 December 2004). A website was also designated by the Ministry to make these legal documents available to the public at http://dauthau.mpi.gov.vn as from 5 December 2005.</p> <p>Government procurement bidding shall be available to the participation of all bidders. Limited participation bidding and designated bidding may be employed if relevant conditions as described in the said legal documents are met. The Law on Bidding and Decree 111/CP are to be complied by authorities at all level nationwide.</p>	<p>established to make the legal documents in relation to government procurement available to the public.</p>	
<p>2. Each economy will disseminate information on its</p>	<p>Information about government</p>		

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<p>procurement rules, for example, by:</p> <p>(a) publishing either a positive or negative list of the procuring entities subject to its rules; and</p> <p>(b) providing a description of its procurement rules on the APEC Government Procurement Experts Group Home Page and linking its government procurement Home Page, where available, with the APEC Government Procurement Experts Group Home Page.</p>	<p>procurement rules shall be disseminated including the procuring entities subject to the rules.</p>		
<p>3. Consistent with paragraph 2 of the Leaders' Statement, when possible each Economy will publish in advance any procurement rules that it proposes to adopt; and provide, where applicable, interested persons a reasonable opportunity to comment on such proposed procurement rules.</p>	<p>The Law on Bidding were published in advance and made available for the public comments</p>		

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<p>4. Consistent with paragraph 3 of the Leaders' Statement, each Economy will endeavor upon request from an interested person or another Economy to promptly provide information and respond to questions pertaining to any actual or proposed rules. Each Economy will also establish contact points for such inquiries.</p>			
<p>5. Consistent with paragraph 4 of the Leaders' Statement, in administrative proceedings applying to any procurement rule, each Economy will ensure that:</p> <p>(a) wherever possible, persons of another Economy that are directly affected by a proceeding are provided reasonable notice, in accordance with domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the</p>			

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<p>proceeding is initiated and a general description of any issues in controversy;</p> <p>(b) such persons are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding and the public interest permit; and</p> <p>(c) its procedures are in accordance with domestic law.</p>			
<p>6. Consistent with paragraph 5 of the Leaders' Statement, where warranted, each Economy will ensure that appropriate domestic procedures are in place to enable prompt review and correction of final administrative actions, other than those taken for sensitive prudential reasons, regarding matters covered by these Standards, that:</p>	<p>Parties involved in the bidding include: investment decision maker, investor, bid inviter, bidding experts, bidders and reviewer, whose rights and responsibilities are described clearly. Complaint and dispute settlement mechanism has been put in place. Accordingly bidders involve in a bidding have the right to request a review of the award selection and other matters in relation to the bidding if they are aware</p>		

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<p>(a) provide for tribunals or panels that are impartial and independent of any office or authority entrusted with administrative enforcement and have no substantial interest in the outcome of the matter;</p> <p>(b) provide parties to any proceeding with a reasonable opportunity to present their respective positions;</p> <p>(c) provide parties to any proceeding with a decision based on the evidence and submissions of record or, where required by domestic law, the record compiled by the administrative authority; and</p> <p>(d) ensure, subject to appeal or further review under domestic law, that such decisions are implemented by, and govern the practice of, the offices or authorities regarding the administrative action at issue.</p>	<p>that their interests are affected. Bidding disciplines include warning, monetary penalty, prohibition from participation in future biddings, blacklist in the bidding information bulletin and website.</p> <p>Bidders which are organizations and individuals violating Article 12 of the Law on Bidding (for corruption, fraud, etc.) shall be prohibited to participate in future biddings for a period of time as described in the law depending on the severity of the violation.</p>		
7. Each Economy will	Bidding information including	Implement advanced and	

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<p>endeavour to maximize transparency in access to procurement opportunities. This should be accomplished where possible by:</p> <p>(a) where open tendering is adopted, publishing procurement opportunities in a medium readily accessible to suppliers (e.g., on the Internet);</p> <p>(b) making the same information on procurement opportunities available in a timely manner to all potential suppliers;</p> <p>(c) publishing contact details of purchasers, and their product/ service purchase interests, for suppliers wishing to register their interest in being notified of bidding opportunities that may not be publicly advertised;</p> <p>(d) making available early advice of complex high-value procurement needs through staged procedures such as</p>	<p>bidding schedule, initial invitation, initial list of selection, bidding invitation, list of invited bidders, bidding award, offense handlings, bidding legal documents, etc. shall be published on the bidding bulletin and website and the mass media.</p> <p>Conditions which participants shall satisfy to qualify as bidders; requirements applied to individuals taking part in the working group of the bidding inviter and the bidding expert group, requirements to ensure fair competition (financial standing, organization of bidders), conditions for international bidders and preferential treatment in international bidding, etc. are specified in the Law.</p>	<p>modern bidding methods (e.g. online bidding) which have been regulated in the Law on Bidding</p>	

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<p>public requests for information, requests for proposals and invitations for pre-qualification, and allowing adequate time for interested suppliers to prepare and submit a response;</p> <p>(e) making publicly available requirements and procedures for pre-qualification of suppliers; and</p> <p>(f) any time limits established for various stages of the procurement process.</p>			
<p>8. Each Economy will make available for suppliers all the information required to prepare a responsive offer. This should include where possible:</p> <p>(a) providing in procurement notices the following information: the nature of the product or service to be procured; specifications; quantity, where known; time frame for delivery; closing times and dates; where to</p>	<p>Bidding notice shall be published at least 10 days prior to the availability of the bidding invitation documents. Bidding invitation documents shall not put forward conditions to limit the participation of bidders or create favourable conditions for one or more bidders, which generate unfair competition. In addition, invitation bidding documents shall not limit in any certain trademarks and country of</p>		

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<p>obtain tender documentation, where to submit bids, and contact details from which further information can be obtained;</p> <p>(b) providing any changes to participating suppliers; and</p> <p>(c) providing tender documentation and other information to suppliers promptly on request.</p>	<p>origin of goods or require joint venture contractors or Vietnamese sub-contractors for international bidding in Viet Nam</p>		
<p>9. Each Economy will maintain transparent criteria for evaluating bids and evaluate bids and award contracts strictly according to these criteria. This should be done where possible by:</p> <p>(a) specifying in procurement notices or tender documentation all evaluation criteria, including any preferential arrangements; and</p> <p>(b) maintaining, for a predetermined period proper</p>	<p>Criteria for evaluating bids are described in the bid invitation documents. Evaluation shall be made on the basis of the requirements, criteria in the invitation documents, submitted bids, additional explanatory documents as submitted from time to time and the procedures expressed in the Law on Bidding</p>		

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records of decisions sufficient to justify decisions taken in the procurement process.			
<p>10. Each Economy will award contracts in a transparent manner. This should be accomplished where possible by:</p> <p>(a) publishing the outcome of the tender including the name of the successful supplier and the value of the bid; and</p> <p>(b) as a minimum promptly notifying unsuccessful suppliers of the outcome of their bids and where and when contract award information is published, and debriefing unsuccessful suppliers on request.</p>	<p>According to the approved bidding award, the selected bidder and the investor shall enter into a contract. The value stated in the contract and payment clauses shall be the basis for payment settlement between the investor and the selected contractor.</p>		
<p>11. Consistent with paragraph 11 of the Leaders’ Statement, an Economy does not need to disclose confidential information where such disclosure would impede law</p>			

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<p>enforcement, the Promulgation of laws, or that would be contrary to the public or national interest, or compromise security of the economy concerned or that would prejudice the legitimate commercial interests of particular persons or enterprises. Each economy will keep commercially sensitive information secure and prevent its use for personal gain by procurement officials or to prejudice fair, open and effective competition.</p>			

IMPLEMENTATION OF APEC'S AREA-SPECIFIC TRANSPARENCY STANDARDS

AREA: COMPETITION LAW AND POLICY AND REGULATORY REFORM

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<p>Competition Law and Policy</p> <p>1. In furtherance of paragraph 1 of the General Principles of the Leaders' Statement, each Economy will ensure that its competition laws, regulations, and progressively, procedures, administrative rulings of general application and judicial decisions of general application are promptly published or otherwise made available in such a manner as to enable interested persons and other Economies to become</p>	<p>- All documents including Competition Law, decrees and circulars guiding the implementation of the Competition Law have been published in the Official Gazette of the Socialist Republic of Vietnam;</p> <p>- Together with those legal documents, all guiding documents to implement Competition Law and other relevant proceedings have been published on the website of the</p>		

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acquainted with them.	<p>Ministry of Trade (www.mot.gov.vn) and the Competition Administration Agency (www.vcad.gov.vn)</p> <ul style="list-style-type: none"> - Legal documents on competition procedures, including administrative decision of competition administration agency will be issued and transmitted to concerned parties in accordance with the Decree No 116/2005 ND-CP dated 15 September 2005, which specifies the implementation of some Competition Law's articles - Evidences collected during investigation of competition cases will be publicly announced and used, except for the excuses of State's secret, customs and norms, occupational secrets, business secret, private life's secret at the request of concerned parties (see Article 84 of the Decree No 116/2005/ND-CP) 		

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	Concerned parties and countries can easily access above legal documents.		
<p>2. In furtherance of paragraphs 4 and 5 of the General Principles of the Leaders’ Statement, each Economy will ensure that before it imposes a sanction or remedy against any person for violating its national competition law, it affords the person the right to be heard and to present evidence, except that it may provide for the person to be heard and present evidence within a reasonable time after it imposes an interim sanction or remedy; and that an independent court or tribunal imposes or, at the persons request, reviews any such sanction or remedy. Proceedings subject to this paragraph are to be in accordance with domestic law.</p>	<p>Article 66 and 71 of the Competition Policy clearly specifies that parties under investigation, complainants and concerned and interested parties have the rights to provide documents and objects, which are provided by other parties to competition administration agency or those provided by competition administration agency. These parties have the rights to invite witnesses, to ask competition agencies to seek for examination, to be present at the written request of competition administration agency, or competition council.</p> <p>With regard to competition restraining cases, all decisions (whether applying or not applying penalty methods) need to be implemented through open hearing. This hearing will</p>		

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	<p>have the participation and discussion of parties, which involved in competition procedures. Competition Council only discusses, votes for decision after hearing all parties based on evidences shown at the hearing (see Article 98-104 of the Competition Law and 101-130 of the Decree 116/2005/ND-CP dated 15 September 2005)</p>		
<p>Regulatory Reform</p> <p>1. In furtherance of paragraph 1 of the General Principles of the Leaders' Statement, each Economy will ensure that its laws, regulations, procedural rules and administrative rulings of general application relating to regulatory reform are promptly published or otherwise made available in such a manner as to enable interested persons and other economies to become acquainted with them.</p>			
<p>2. In furtherance of paragraphs</p>			

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<p>2 and 3 of the Leaders' Statement, Economies recognize the importance of ensuring transparency in the regulatory reform process APEC Leaders' Transparency Standards and of soliciting and responding to inquiries from interested persons and other Economies. Accordingly, each Economy will, where possible (a) publish in advance regulatory reform measures that it proposes to adopt, and (b) provide where applicable interested persons a reasonable opportunity to comment on such proposed measures. In addition, upon request from an interested person or another Economy, each Economy will endeavor to promptly provide information and respond to questions pertaining to any actual or proposed regulatory reform measure.</p>			

IMPLEMENTATION OF APEC'S AREA-SPECIFIC TRANSPARENCY STANDARDS

AREA: BUSINESS MOBILITY

Contact Point: Name/Title: TRIEU Van The/Director general **Organization:** Immigration Department

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Key transparency provisions	Status of implementation (provide details)	Further actions planned to complete implementation (indicate timeframe)	Capacity building needs to complete implementation
<p>Publication and Access</p> <p>1. In accordance with paragraph 1 of the leaders' statement, each economy will promptly publish or otherwise make available to all interested parties, through readily accessible, widely available media, for example via the Internet, information on its immigration law, regulations, policies, and progressively, administrative rulings of general application, procedures and practices as they relate to business person, collectively referred to as "immigration measures". Economies will ensure that immigration regulations and requirements based on policy are</p>	<ul style="list-style-type: none"> - immigration laws and regulations are published on the website : vnimm.gov.vn - immigration laws and regulations are displayed in public areas at the head offices of central and local immigration departments. - immigration laws and regulations are proposed and based on clear, consistent, simple, current and transparent policies. - Immigration applications are published and processed on the website: vnimm.gov.vn 		<p>- Provide assistance in connecting the websites of immigration department and consulates of member economies so that business community can have better references and understanding of APEC member economies' immigration procedures.</p>

<p>clear, concise, current, simple, transparent and readily available, and meet applicable standards for Pre-Arrival and Entry and will: (a) Provide user-friendly application forms, instructions and reference materials.</p>			
<p>Consultation</p> <p>2. In accordance with paragraph 2 of the Leaders' Statement, each Economy will, when possible, publish in advance using the media and other mechanisms as appropriate proposed immigration measures that might affect business mobility and where applicable provide interested persons a reasonable opportunity to comment on such a proposed measures. Such measures should include:</p> <p>(a) A set of rules and regulations that provide sanctions for the production, sale and use of fraudulent documents;</p> <p>(b) Effective rules and regulations that are precise in specifying what constitutes document fraud and what the sanctions are for</p>	<p>The draft on immigration laws and regulations are widely discussed among departments and organizations before enforcement.</p> <p>- Article 267 of Socialist Republic of Vietnam's Penal Code.</p> <p>- Article 22 of Decree 150/2005/N§ -CP on 12/12/2005 stipulating sanctions on administrative violations in the field of social security and order.</p> <p>- a,b,c item 6 of article 22, Decree 150/2005/N§ -CP on 12/12/2005 stipulating</p>		

<p>producing, selling or using fraudulent documents; support inspectors, investigators and prosecutors in apprehending and taking action against fraudulent document producers, vendors and users; and promote business facilitation as well as protect the country's inhabitants;</p> <p>(c) In respect to professional service, a comprehensive Code(s) of conduct that sets out in very practical terms the behavior expected of all immigration officials, including employee's responsibilities, service policies and standards, clear guidance and practical examples, and that is developed in consultation with internal and external stakeholders as appropriate; and</p> <p>(d) Mechanisms for reporting of filing complaints on code of conduct breaches without fear of reprisal or prejudice.</p>	<p>sanctions on administrative violations in the field of social security and order.</p> <p>Codes of Conduct that stipulates democratization in immigration procedures.</p> <p>Reporting directly or implementing in accordance with the civil procedures</p>		
<p>Information Services</p> <p>3. In accordance with paragraph 3 of the Leaders' Statement, upon request from an interested person or another Economy, each</p>			

<p>Economy will endeavor when possible to promptly provide information and respond to questions pertaining to any actual or proposed immigration measures and will provide:</p> <p>(a) Points of inquiry for business person or businesses with questions;</p> <p>(b) Simple, quick and user-friendly application processes with clear information and instructions on requirements relating to any exemptions, fees and charges;</p> <p>(c) Information that is easily accessible to internal/external stakeholders (Customer Help Desks/Call Centres or Industry Consultative Committees, Internet, displays and signs); and</p> <p>(d) Where appropriate, will provide mechanism so that stakeholders’ service charters are developed which clearly state the level of service they can expect, and are displayed in public areas such as airports, immigration offices and overseas missions.</p>	<p>Telephone numbers, e-mail address for inquiry concerning immigration laws and regulations and the directory “ public opinon” are widely published via mass media and on the website: http://vnimm.gov.vn</p> <p>- Simple and quick application processes are based on immigration procedures and regulations.</p> <p>- Regulations on immigration fees are displayed in public areas at the head offices of central and local immigration departments, and published on the website: vnimm.gov.vn</p> <p>- Telephone numbers for inquiries includes: -084-4-8264026 (inquiries concerning immigration regulations for foreigners) -084-4-8260922 (inquiries concerning immigration regulations for Vietnamese citizens).</p> <p>Those numbers are also published on the website: vnimm.gov.vn</p> <p>There are no companies specialized in immigration formalities services.</p>		<p>-If possible, provide Vietnam with member economies’ regulations on the level of service for references.</p>
<p>Decision Making 4. In accordance with paragraph 4</p>			

<p>of Leaders' Statement, each Economy will ensure that immigration measures are administered in a transparent manner, including, wherever possible, reasonable notice in accordance with domestic procedure when a proceeding is initiated, and an opportunity to present facts and arguments in support of their positions, when time, the nature of the proceeding, and the public interest permit, and that the procedure is in accordance with domestic law. Economy shall:</p> <p>(a) Strive for transparency in decision-making that is based on an economy's prevailing employment and immigration policies and procedures and, where applicable, provide decisions that are in writing and denials that provide reasons based on requirements and information on any right of appeal or waivers;</p> <p>(b) Strive for reasonable processing times for decision – making in an effort to avoid unnecessary delay or uncertainty on the part of business travelers;</p> <p>(c) Ensure that decisions are consistent with published guidelines and requirements</p>	<p>Decision-making is based on immigration laws and other regulations. All denials are put down in writing.</p> <p>Reasonable processing times for immigration application to avoid unnecessary delay (point 1b,2c of item I; 1b,2b of item II; 1a,2b of item IV; 2 of item VI and 2 of item VII in Joint Circular 04/2002/TTLT/BCA-BNG on 29 January 2002; item 2 of article 9 and item 2 of article 10 in Decree 05/2000/N§-CP)</p> <p>All decisions are consistent with immigration</p>		<p>- Provide Vietnam with member economies' immigration laws and regulations for references.</p> <p>- Member economies need to publicly indicate the time frame for immigration procedures.</p>
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<p>through regular quality control reviews;</p> <p>(d) Ensure that employees are trained in decision-making procedures and have access to current written guidelines and instructions relating to interpretation of regulations and laws;</p> <p>(e) Ensure that authority to make decisions includes appropriate checks and balances, and is strictly controlled to prevent abuse of power;</p> <p>(f) Provide periodic review mechanism of systems and procedures to ensure uniformity and consistency in decision making; reviews undertaken in consultation with employees to eliminate “ red tape “</p> <p>(g) Develop and implement mechanisms which monitor and evaluate the organization’s performance against established service standards;</p> <p>(h) To the extent possible, have a system in place for monitoring consistency between different offices. Provinces or regions concerning decisions, procedures and information provided;</p> <p>(i) When appropriate, clearly define and make publicly</p>	<p>laws and other regulations.</p> <p>Officers are trained in immigration procedures and have access to current immigration laws and regulations.</p> <p>Democratization in immigration procedures</p> <p>Every year, Immigration Department reviews legal documents to get rid of invalid documents and to propose new legal documents more suitable in the new period of socio-economic development.</p> <p>Democratization in immigration procedures</p> <p>Democratization in immigration procedures</p> <p>Officials exercise their power based on immigration laws and regulations.</p>	<p>Vietnam is reviewing the Decree on foreigners’ immigration and residence to amend some contents relating to visas issuance and residence (to complete in the third quarter of 2007).</p>	
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<p>available the basis or criteria upon which discretionary power is exercised by officials; and (j) To the extent possible, convey reasons for decisions to applicants and document grounds for decisions clearly and retain these for monitoring and review.</p>	<p>Implement immigration laws and regulations and other legal regulations.</p>		
<p>Review 5. In accordance with paragraph 5 of the Leaders' Statement and its own immigration laws, where warranted, each Economy will provide procedures that are simple, consistent, and easily accessible for review and appeal of immigration decisions and, where warranted, prompt correction of final administrative actions, regarding immigration measures which provide parties to the proceeding with a reasonable opportunity to present their respective positions, a decision based on the evidence and submissions in the administrative record, tribunals or panels that are impartial and independent of any office or authority entrusted with administrative enforcement and have no substantial interest in the outcome of the matter, and implementation of the final</p>			

<p>decision. To ensure transparent administrative regulations and decision-making, Immigration Administration shall have:</p> <p>(a) To the extent possible, objective performance standards for managers to ensure compliance and accountability for the Standards on Professional Conduct;</p> <p>(b) To the extent possible, guidelines and policies that clearly state management responsibilities in employee development and in the promotion and monitoring of ethical practices and integrity; and</p> <p>(c) Selection criteria for managerial positions that include demonstrated ability to accept responsibility and accountability for implementation of the Standards on Professional Conduct.</p>	<p>Managers are persons of both virtue and talent to do their task in accordance with immigration laws and regulations.</p> <p>Implement State Decree on civil servants and staff.</p> <p>In accordance with State Decree on civil servants and staff.</p>		
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IMPLEMENTATION OF APEC'S AREA-SPECIFIC TRANSPARENCY STANDARDS

AREA: INTELLECTUAL PROPERTY

ECONOMY: VIETNAM

Contact Point: Name/Title **Mr. Mai Van Son, Deputy Director**

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KEY TRANSPARENCY PROVISIONS	STATUS OF IMPLEMENTATION (PROVIDE DETAILS)	FURTHER ACTIONS PLANNED TO COMPLETE IMPLEMENTATION (INDICATE TIMEFRAME)	CAPACITY BUILDING NEEDS TO COMPLETE IMPLEMENTATION
1. In accordance with paragraph 1 of the Leaders' Statement, each Economy will promptly publish in its domestic language or otherwise make available its laws, regulations, and progressively, all procedures concerning the protection, including enforcement, of intellectual property rights in such a manner as to enable interested parties to become acquainted with them.	Its new laws and procedures are made available on the website and other means such as Official Gazettes of the Government, IP Gazettes of the National Office of Intellectual Property of Vietnam (NOIP) and other kinds of IP handbooks		
2. Furthermore, each Economy	- Clear instructions and	Examination guidelines to be	

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<p>will clarify procedures and practices regarding application, issuance, and registration of intellectual property rights by publishing the following information:</p> <p>(a) Clear and simple instructions, and an explanation of the steps involved regarding the application and registration process,</p> <p>(b) Examination guidelines and assessment criteria used to review an application for approval, if applicable,</p> <p>(c) Contact points for inquires on standards, technical regulations, and other requirements,</p> <p>(d) Provisions that are directed to SMEs.</p>	<p>guidelines for the acquisition of IPRs are available on the website of NOIP, in a number of publications; seminars and training courses;</p> <p>- A number of publications and seminars for SMEs have been conducted. Besides, a National Program for Supporting enterprises in developing their IP assets have been approved and being implemented</p>	<p>finalized and made available to the public</p>	
<p>3. Each Economy will also provide a system for the registration of industrial property, which shall include:</p>	<p>- All refusals to register a trademark or grant a patent are made in writing where specifying the reasons for these</p>		

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<p>(a) Providing to the applicant a communication in writing, which may be electronic, of the reasons for any refusal to register a trademark or grant a patent;</p> <p>(b) Providing to the applicant an opportunity to respond to communications from the relevant government authorities, to contest an initial refusal, and to have a higher authority review any refusal to register a trademark or grant a patent;</p> <p>(c) An opportunity for interested parties to petition to oppose or to challenge a trademark or patent application or to seek cancellation after a trademark has been registered or a patent has been granted; and</p> <p>(d) A requirement that decisions in opposition or cancellation proceedings be reasoned and in writing.</p>	<p>refusals;</p> <ul style="list-style-type: none"> - Applicants have opportunity to challenge such a refusal. At initial step, they may lodge an appeal to NOIP. In case, they don't agree with the decisions of NOIP, they may appeal to the Minister of Science and Technology or file a lawsuit before the Administrative Court; - From the time of publication of applications to the time of granting protection titles, any third person may file opinions against the granting or refusals with regard to the application; - The right to request invalidation may be exercised at any time during the protection term, except for trademarks, where such a request is to be filed during 5 years period from the date of granting the Certificate of registration of the trademarks; - All decisions will be made in 		

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	writing.		
<p>4. Each Economy will provide that final judicial decisions or administrative rulings, those where appeals are no longer possible, of general applicability pertaining to the protection, including enforcement, of intellectual property rights shall be communicated to the parties to the proceedings. Each Economy will also provide for publication of such decisions or rulings, or where such publication is not practicable, made publicly available, in a domestic language in such a manner as to enable governments and rights holders to become acquainted with them.</p>	<p>All final judicial decisions and administrative rulings will be sent to parties concerned.</p>	<p>Making available to the public a number of typical judicial decisions and administrative rulings</p>	
<p>5. In accordance with paragraph 2 of the Leaders' Statement, each Economy will, when possible, publish in</p>	<p>All draft laws and regulations have been sent to parties and stakeholders concerned and published on the internet for</p>		

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<p>advance any proposed changes to laws, regulations, and progressively, all procedures concerning the protection, including enforcement, of intellectual property rights, and provide where applicable interested persons a reasonable opportunity for public comment. Each Economy will also make available to all interested parties timely updates of changes to intellectual property law statutory regimes, including as appropriate via the APEC Secretariat.</p>	<p>comments. Any changes to intellectual property regimes have been communicated to parties concerned, including APEC member economies.</p>		
<p>6. In addition to paragraphs 3, 4, and 5 of the Leaders' Statement, each Economy will conduct as appropriate periodic reviews of administrative regulations, rules, and procedures to ensure they are simplified, consistent, and transparent. Outstanding issues raised by the reviews will be</p>	<p>The reviews have been conducted in accordance with the requirements of the practical situation.</p>		

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resolved where possible in a timely manner.			
7. Where possible, each Economy will publish information on its efforts to provide effective enforcement of intellectual property rights in its civil, administrative and criminal system, including any statistical information that the Economy may collect for such purposes.	At present, information on enforcement efforts and statistics will be provided at requests.	Actions will be taken towards improving the IPRs enforcement statistics system including the enhancement of the accuracy and reliability of the statistical data	
8. Each Economy will conduct regular briefings in appropriate fora to provide updates on the status of intellectual property protection and enforcement as well as future policy direction, if appropriate	Vietnam has regularly briefed its latest developments in the IP protection and enforcement system in APEC, ASEAN meetings and sent to WTO secretariat.		

IMPLEMENTATION OF APEC'S AREA-SPECIFIC TRANSPARENCY STANDARDS

AREA: CUSTOMS PROCEDURES

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KEY TRANSPARENCY PROVISIONS	STATUS OF IMPLEMENTATION (PROVIDE DETAILS)	FURTHER ACTIONS PLANNED TO COMPLETE IMPLEMENTATION (INDICATE TIMEFRAME)	CAPACITY BUILDING NEEDS TO COMPLETE IMPLEMENTATION
<p>1. In furtherance of paragraph 1 of the Leaders' Statement, each Economy, will promptly publish and make available on the Internet, information on its customs laws, regulations, procedures and administrative rulings of general application in such a manner as to enable interested persons to become acquainted with them.</p>	<ul style="list-style-type: none"> - Viet Nam has made publicly available all regulations and procedures concerning import and export activities; - Viet Nam organized seminars and workshops to the benefit of businesses, in particular, to disseminate new customs policies and procedures to them as well as to get their comments and recommendations; - Viet Nam published books to introduce customs policies and procedures; - Viet Nam completed the 2003 Customs Statistical Yearbook of Goods Import and Export and is preparing the 2004 	<ul style="list-style-type: none"> - Viet Nam will further the provision of information through the customs portal in both English and Vietnamese language; - Viet Nam will continue to provide training sessions and seminars to improve the public's knowledge and information. 	<p>- Viet Nam is seeking the support from WCO, APEC and other economies' customs agencies in form of technical assistance.</p>

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	<p>Customs Statistical Yearbook of Goods Import and Export; - Viet Nam has upgraded the Customs website to an integrated portal, with English-language feature added to enhance its capacity to provide up-to-date customs information.</p>		
<p>2. In furtherance of paragraph 2 of the Leaders' Statement, each Economy will, to the extent possible, publish in advance any regulations of general application governing customs procedures proposed for adoption, and provide a reasonable opportunity for comments from interested persons.</p>	<p>- Prior to the promulgation of any new regulation or procedure, the General Department of Customs always seeks recommendations and opinions from its advisory bodies and from local customs departments; - Opinions and recommendations from the Viet Nam Chamber of Commerce and Industry, trade associations and large corporation are sought for the preparation of any new policy on customs management or import and export management. Comments from businesses are carefully considered for inclusion.</p>	<p>- The customs will intensify partnership and dialogues with businesses in order to make customs legal documents and policies more practical.</p>	

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<p>3. In furtherance of paragraph 4 of the Leaders' Statement, and taking into account Economies' individual circumstances, upon request from an interested person in its territory, each Economy wherever possible will provide for the issuance, of advance rulings based on specific facts and circumstances provided by such requester prior to the importation of a good into its territory, for areas such as:</p> <p>(a) tariff classification;</p> <p>(b) the application of the provisions set forth in the WTO Agreement on Customs Valuation;</p> <p>(c) the application of duty drawback;</p> <p>(d) country of origin marking requirements;</p> <p>(e) the application of rules of</p>	<p>- Currently the GDC has not adopted advance rulings</p>	<p>- The GDC will step-by-step study the possibility of applying advance rulings</p>	<p>- Technical assistance is needed in form of seminars and workshops to introduce advance rulings</p>

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<p>origin under free trade agreements and other preferential tariff regimes; and</p> <p>(f) admissibility requirements.</p>			
<p>4. Subject to domestic confidentiality requirements, each Economy, will make such advance rulings publicly available for purposes of ensuring application of the rulings to other goods where the facts and circumstances are the same as those under which the rulings are issued.</p>			
<p>5. In furtherance of paragraph 5 of the Leaders' Statement, where warranted each Economy will maintain procedural transparency and fairness in customs procedures by:</p> <p>(a) providing for the prompt review and correction of customs administrative actions;</p> <p>(b) ensuring that importers are</p>	<p>- The Law on Complaints and Denunciations clearly stipulates rights of the complainants, i.e. they can submit the case to the administrative court if not satisfied with the first or second review by the customs, if the time limit for the first or second review is not observed by the customs; they can have a lawyer to help protect their rights in a case; they can authorize other persons than</p>	<p>- Disseminate new provisions of the Law on Customs, the Law on Complaints and Denunciations as well as other related laws and legal documents with the focus on the rights of individuals and organizations that undertake import and export activities</p>	

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<p>provided with the right to a level of administrative review independent of the employee or office issuing the determination subject to review; and</p> <p>(c) maintaining the availability of judicial review of customs administrative determinations.</p>	<p>their parents, siblings to represent them for a case;</p> <p>- The revised Customs Law provides for better transparency and reflects provisions of the Kyoto Convention, TRIPS with regard to appeals, such as rights and obligations of the customs declarers, etc.</p>		
<p>6. Each Economy will, maintain one or several contact points to which interested parties can address questions concerning customs matters, and shall make available on the Internet information concerning the procedures for making such inquires.</p>	<p>- The customs disclosed telephone numbers to which any person can call to obtain answers for his/her questions about customs procedures as well as to complain about the treatment by customs officials for prompt action;</p> <p>- Trouble-shooter groups at customs divisions are set up to guide and to clear difficulties for businesses which are dealing with customs procedues</p>		