



March 27, 2009

Robin Layton  
Director, Office of Technology and E-Commerce  
International Trade Administration  
U.S. Department of Commerce  
1401 Constitution Ave NW  
Washington, DC 20230

Dear Ms. Layton:

Vietnam is an important market for our members, and we are therefore grateful for the International Trade Administration's leadership in engaging with the government of Vietnam in regards to their draft telecommunications law. It is our understanding that the next meeting is scheduled for April 20 in Hanoi. We recognize this dialogue as an important follow-up to the meeting that was held in Washington, DC, last November with Vietnam's Ministry of Information and Communications (MIC), the U.S. Government, and the U.S. information and communications technology (ICT) industry.

The Telecommunications Industry Association (TIA) represents the global information and communications technology (ICT) industry through standards development, advocacy, tradeshows, business opportunities, market intelligence and world-wide environmental regulatory analysis. For over 80 years, TIA has enhanced the business environment for broadband, mobile wireless, information technology, networks, cable, satellite and unified communications. Members' products and services empower communications in every industry and market, including healthcare, education, security, public safety, transportation, government, the military, the environment and entertainment. TIA co-owns the SUPERCOMM® tradeshow and houses a standards development organization accredited by the American National Standards Institute (ANSI).

Vietnam is a rapidly growing country for ICTs and could have great opportunities to enhance its ICT infrastructure with the world's most sophisticated technologies. In September 2007, Vietnam had 39.6 million fixed and mobile subscribers. Just one year later in September 2008, the number of fixed and mobile subscribers grew to 70.4 million, which is 82 percent of its population.

To further stimulate ICT deployment and investment by global companies in Vietnam, in December 2008 the Vietnamese MIC issued a draft telecommunications law. TIA applauds the Ministry of Information and Communications for their advancement in establishing a telecommunications law to set the framework for legal and market certainty. However, there are two Articles in the law which our companies feel need further clarification, and principles that we would like more clearly articulated in the law.



We ask the Commerce Department to convey these messages in your ongoing government-to-government discussions.

Section 5 of the draft telecommunications law concerns "Telecom Standards and Quality," which includes Article 30 "Telecom Technical Standards and Norms," and Article 31 "Management of Standards and Telecom Service Quality." These two articles specify the system of standards and technical norms and requirements for putting network equipment into service.

While Article 30(1) states that technical standards may draw on international standards, it does not clearly express a preference for globally recognized, international standards and norms. Specifically, a preference for and the use of international standards and norms in technical regulation as consistent with the spirit of the World Trade Organization's (WTO) Technical Barriers to Trade (TBT) Agreement, Articles 2 and 3. Furthermore, the Vietnam Articles are unclear on conformity assessment procedures and whether "in-country" testing will be mandatory. We urge Vietnam to avoid creating non-tariff trade barriers by establishing requirements for products that can only be evaluated by domestic entities. In keeping with Article 5.1.1 of the WTO TBT Agreement, Vietnam should accredit foreign conformity assessment bodies on terms no less favorable than domestic bodies, if third-party certification will be required under the law.

If mandatory national or regional standards and mandatory in-country testing rules are exercised, it may delay the introduction of new products and technologies, add to additional costs for suppliers, and hinder technological evolution in Vietnam. In today's highly competitive and challenging global economy, it is more important than ever to minimize such impediments to the efficient flow of goods, while maintaining high levels of product safety. TIA urges the U.S. Department of Commerce to engage MIC and other appropriate regulatory agencies to defer first to international standards and accept third party testing.

As other policies we would like the Commerce Department to emphasize during the ongoing cooperation with MIC are:

- **Technology neutrality:** As a leader in driving the APEC Technology Choice Pathfinder stated in the APEC Hanoi Declaration, Commerce could emphasize adherence TBT Annex 3 as Vietnam builds its standardization capacity.
- **APEC MRA:** Please emphasize the importance of further work in implementing the APEC MRA. Since in the draft law Vietnam states they will abide by any existing MRA agreements, we would like to ensure favorable progress in the one venue where there could be qualitative progress.

We appreciate your continuing leadership in representing the U.S. ICT industry globally and wish you success as you engage with Vietnam. If there are any questions



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concerning the issues we have raised, please contact Nick Fetchko, Director for International and Government Affairs, at 202-346-3246 or [nfetchko@tiaonline.org](mailto:nfetchko@tiaonline.org).

Sincerely,

Grant Seiffert  
President