

# Practical & Legal Aspects of Doing Business in the New Vietnam



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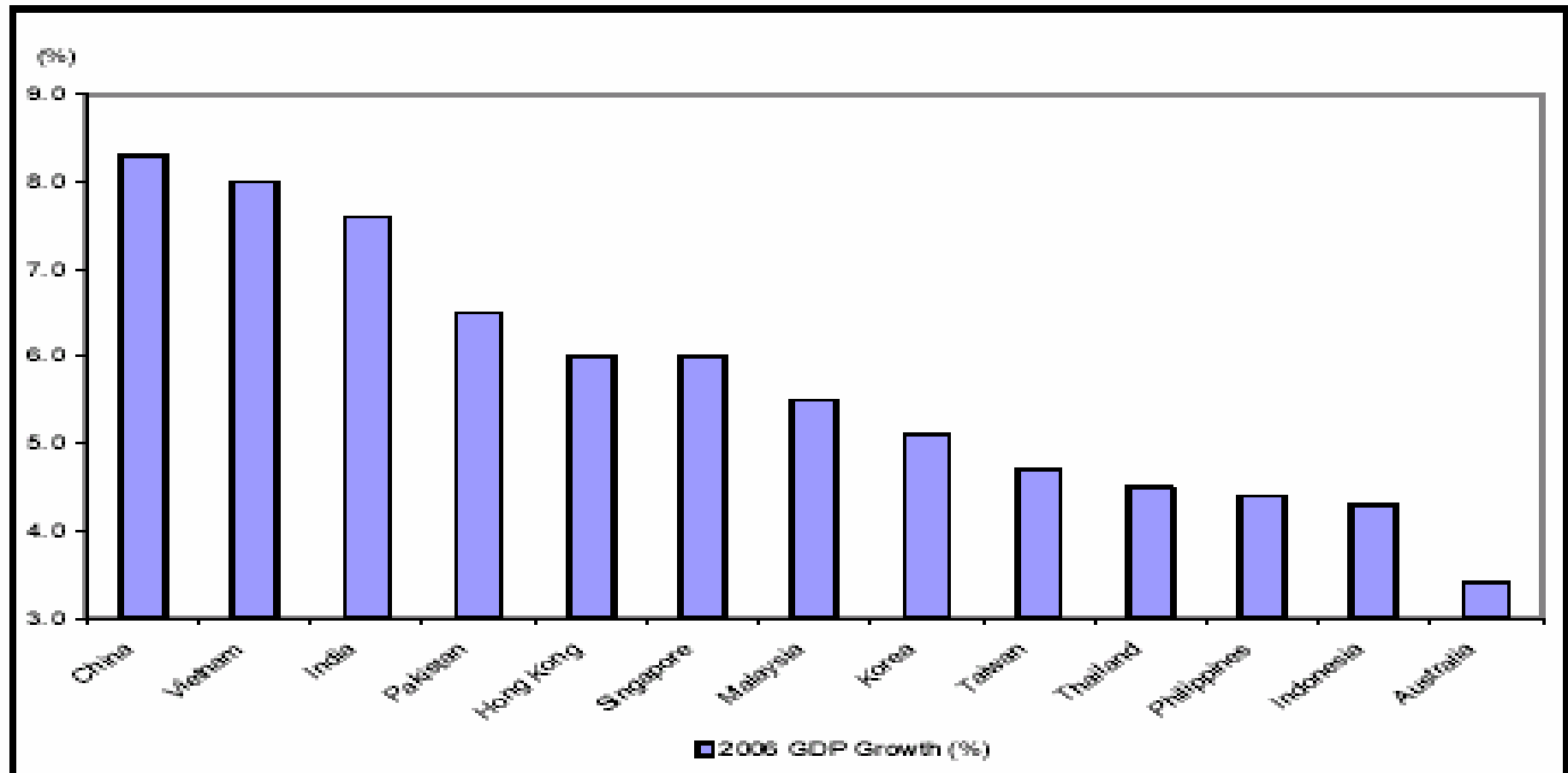
# SOUTHEAST ASIA





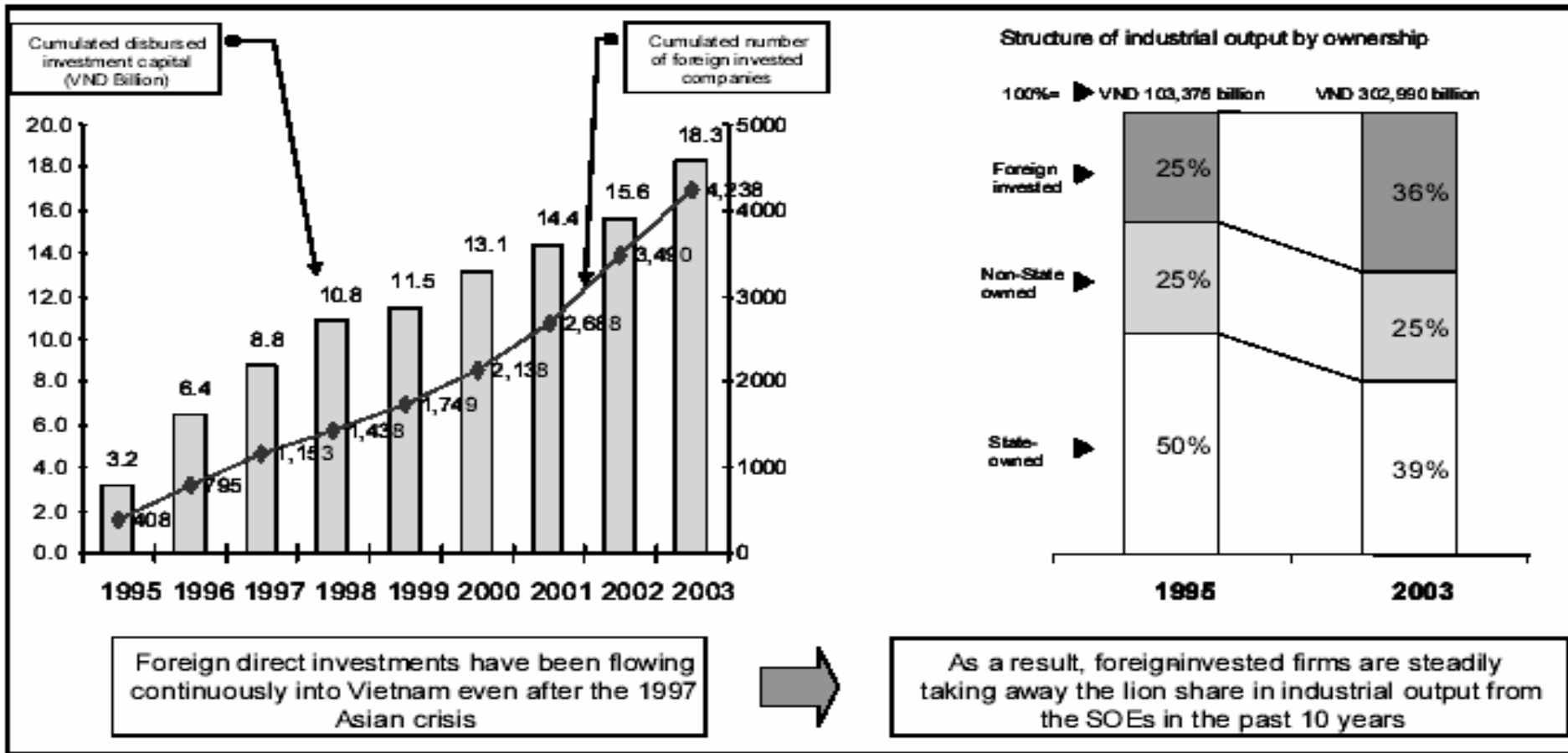


# This year Vietnam has second highest growth rate in Asia!



Source: Merrill Lynch, Asian Development Bank

# The steadily growing foreign direct investment (FDI) sector



Source: ADB, World Bank, Vietnam Pioneer Partners

# Why Export to Vietnam?

- U.S.-Vietnam BTA opens market to U.S. goods & services
- Vietnam will soon join WTO
- U.S. products are preferred
- Growing infrastructure = demand for capital equipment
- US-Vietnam trade is expanding rapidly

# Attitude Towards Americans





“Hello. Goodmorning! Are you American?”



# Ho Chi Minh Sought to Build Relationship with Americans



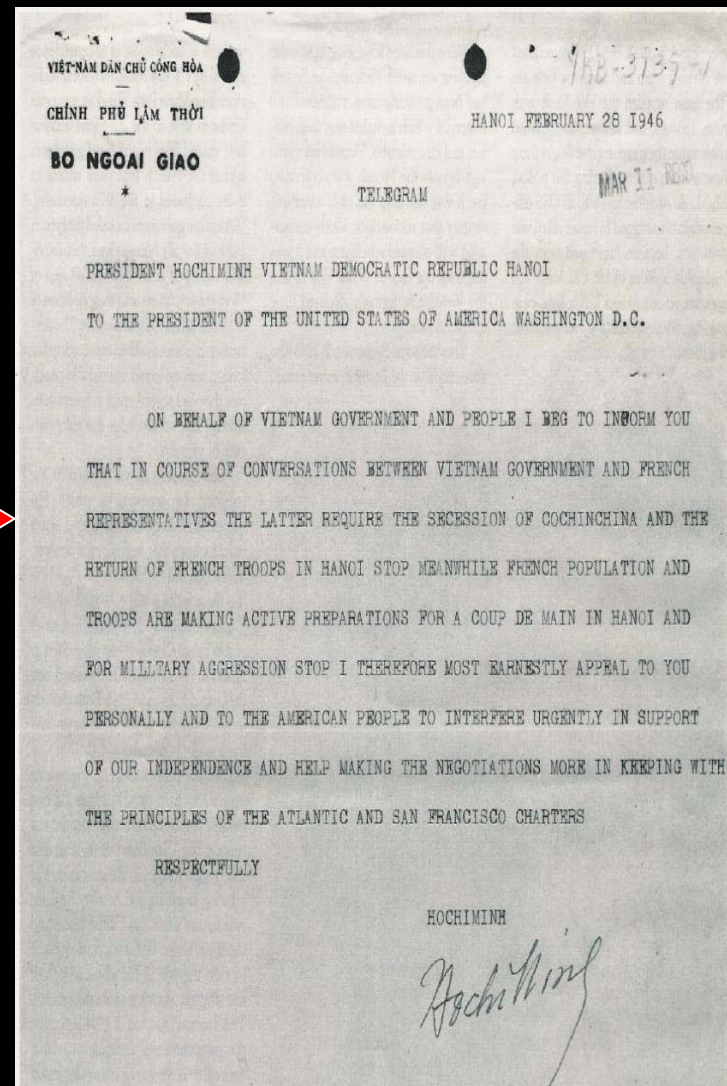
**Ho Chi Minh and Vo Nguyen Giap With Americans named "The Deer Team," in 1945 in mountains outside Hanoi.**

**Giap in White Suit Ho Chi Minh**



**Ho Chi Minh and Giap with American Comrades of OSS, 1945**

**Urgent telegram from Ho Chi Minh to Truman, requesting U.S. assistance vs. the French. 2/1946. One of several communications (this one, via State Dept never delivered to the White House).**



# Ho Chi Minh Influenced by American Political Thought



Ba Dinh Square, Hanoi  
September 2, 1945

**"All people are created equal. They are endowed by their Creator with certain unalienable Rights; among these are Life, Liberty and the pursuit of Happiness."**

--Ho Chi Minh

(Note the change from "Men" in the U.S. Declaration  
To "People" in the Vietnamese Declaration)

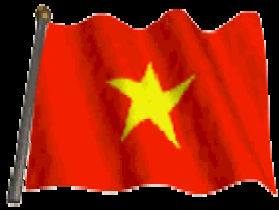


**Declaration of Independence**  
The new Democratic Republic  
of  
Vietnam

# Vietnamese Perspective on Dealing with U.S. Firms

- High regard for US technology
- High name brand recognition
- Respect for US business practices
  - Honor contracts
  - Good post-sales support/training
- Hungry for US capital investment

Vietnam



# Remember:

- 80% of Vietnam's population was born after 1975...they bear no memory & no animosity
- The quality and extent of American-built infrastructure compared with the Soviets is typically pointed out as a standard of doing things "well" in American business
- Vietnamese genuinely like and want to work with Americans

USA

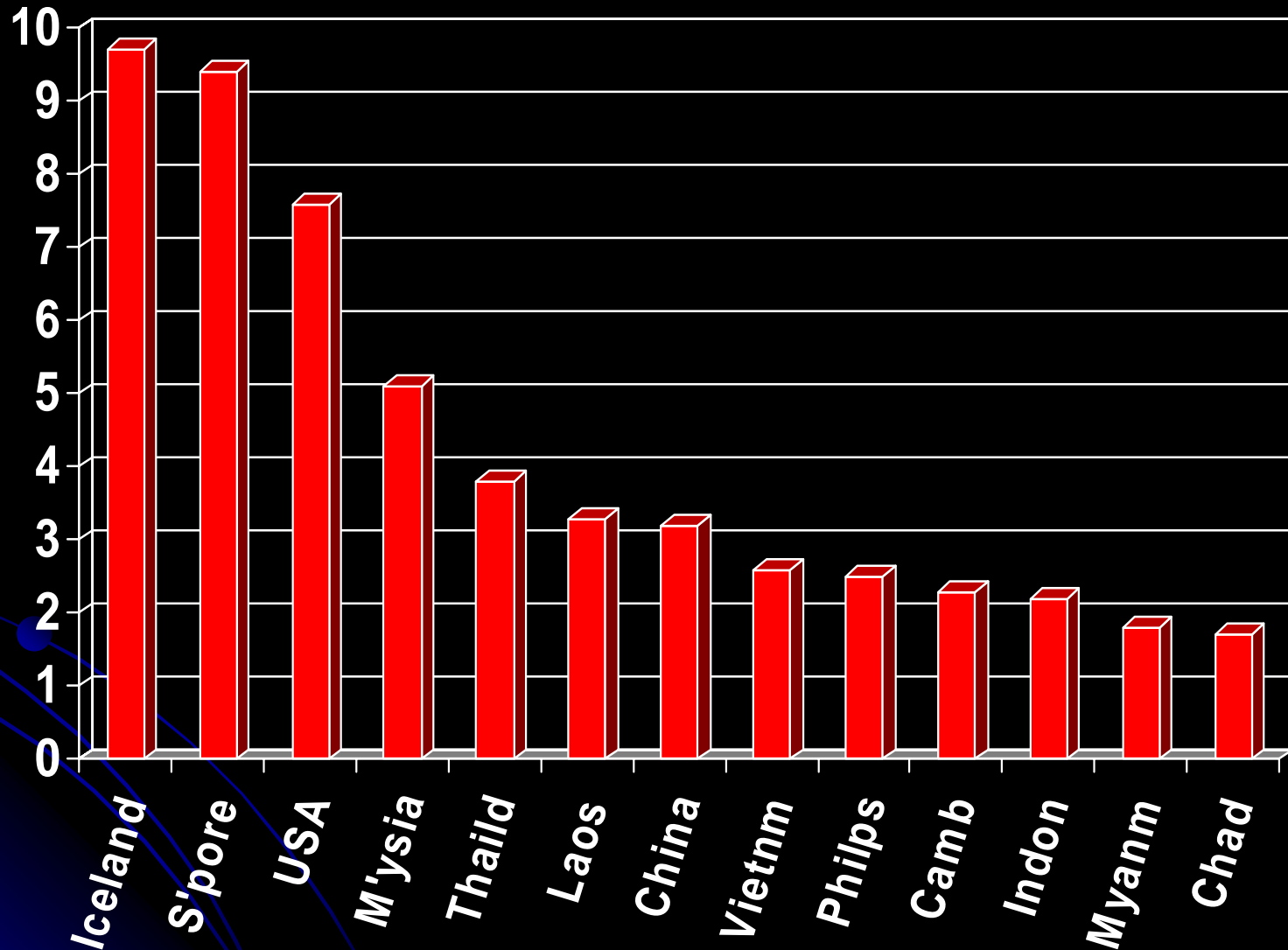


# Corruption



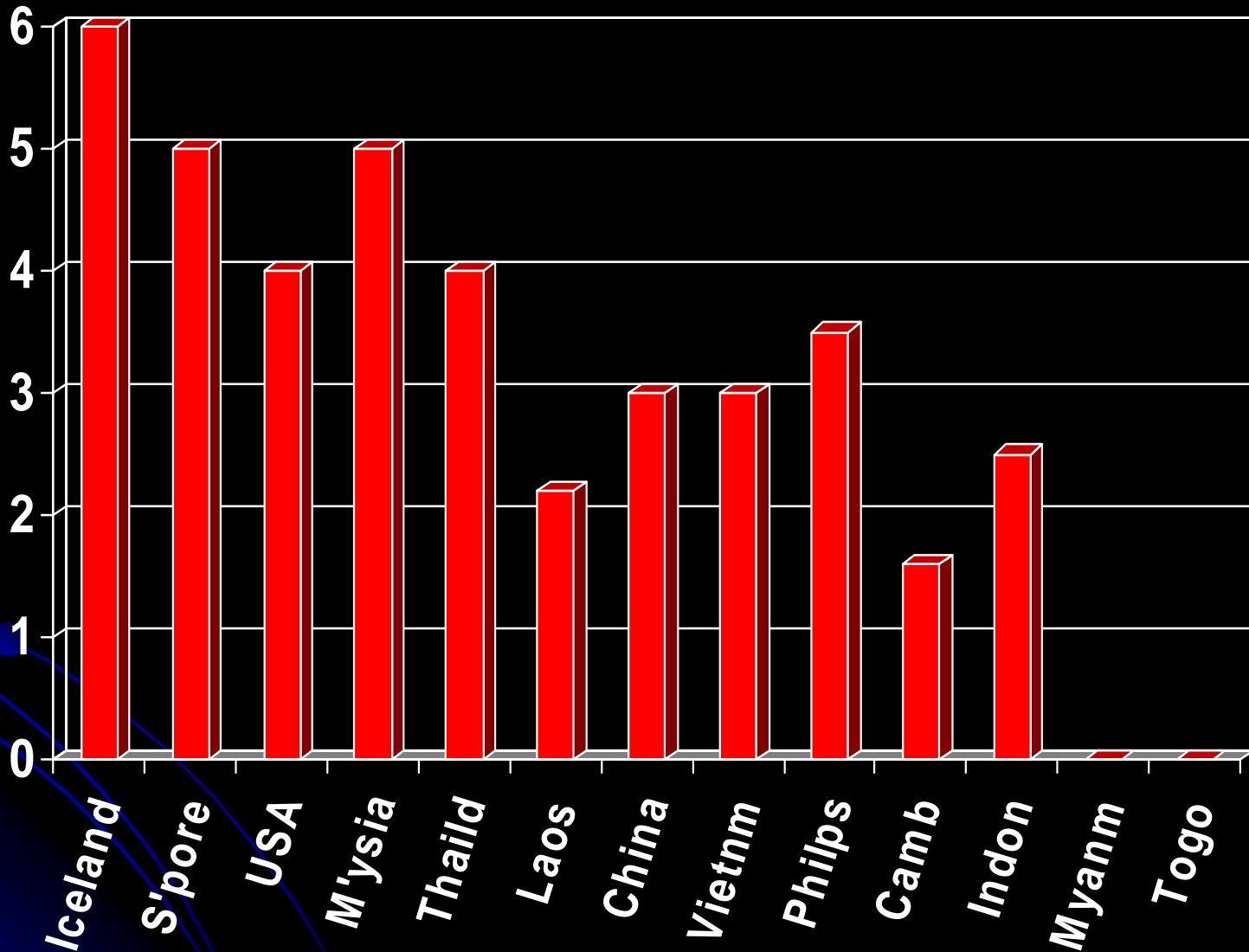


# Corruption in Southeast Asia(TI)



(Source: Transparency International, an independent NGO, [www.transparency.org](http://www.transparency.org). Highly-respected, based in Berlin. Regularly updates its Corruption Perceptions Index as advice to foreign investors.)

# Corruption in SE Asia (ICRG)



(Source: International Country Risk Guide at [www.icrg.com](http://www.icrg.com), is a service purchased by companies to assist in forecasting political risk and corruption. Country Experts are required to do analyses and submit data)

# U.S. Foreign Corrupt Practices Act



The Foreign Corrupt Practices Act of 1977 was enacted principally to prevent corporate bribery of foreign officials. This act has three major parts:

1. It requires the keeping by corporations of accurate books, records, and accounts;
2. It requires issuers registered with the Securities and Exchange Commission to maintain a responsible internal accounting control system; and
3. It prohibits bribery by American corporations of foreign officials.

# Creative Examples of Bribery/Corruption in Vietnam:

- Free meals from the briber's restaurant plus about \$363
- \$4 (additional to the lawful fee of \$6)
- A free weekend away in Hong Kong
- \$25 to assist in regaining work lost
- \$250 and \$200 to two separate football players to induce them to throw a football game
- The free use of seven waste bins and the erection of an illegal fence
- The free use of a car
- Payment the monthly instalments of a loan for the purchase of a time-share apartment in Spain, \$2450, and the free use of a new car
- Discharge of a debt of \$541
- Free car tires or repairs to cars
- Travel Junkets....The Las Vegas Trade Show
- Education of Children in foreign schools



# Corruption is a threat to foreign investment (ICRG)

- It distorts the economic and financial environment;
- it reduces the efficiency of government and business by enabling people to assume positions of power through patronage rather than ability;
- it introduces an inherent instability into the political process.



# Case in Point

- Road contracts were let on the basis of largest offered bribe; the contractor recovered the cost of the bribe by using substandard material in the road; the road deteriorated rapidly, resulting in additional contracts being let for repair of the road. Result: loss to the government, motor vehicle accidents, delays in product transportation, more. [Govt Anti-Corruption Official visiting the U.S. on a sanctioned tour.]



# Vietnam has made substantial progress in curtailing corruption

→ While the Corruption/Transparency Indices do not yet show it, there is the perception that Vietnam is overtaking China in terms of improvement



# **Proper Use of Advisors & Consultants**

# Right Kind of Expertise is Critical

- **Vietnam is a vastly different business milieu than U.S., and expert assistance is critical**
- **Importance of Choosing the Best Advisors**
  - Unless your project never anticipates any government oversight or approvals, need experts with comfort and experience in Hanoi as well as HCMC
  - No substitute for recent, in-country experience
  - Due diligence on advisors first, then “choose wisely” (be wary of selections based on “family connections”)





One Country...



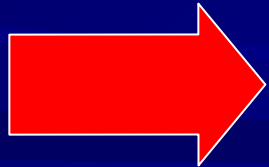
...2 Distinct  
Business Cultures



# Always remember!

- Although unified, Vietnam is comprised of 2 major and distinct business cultures- Hanoi & Ho Chi Minh City (Saigon):

- Each has its own distinct foods, accents, attitudes, perceptions and prejudices

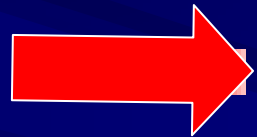


- Your experts or advisors must have experience in smoothly working with each, otherwise you may require 2 teams.

# Vietnamese Negotiating Style



# Most Important!



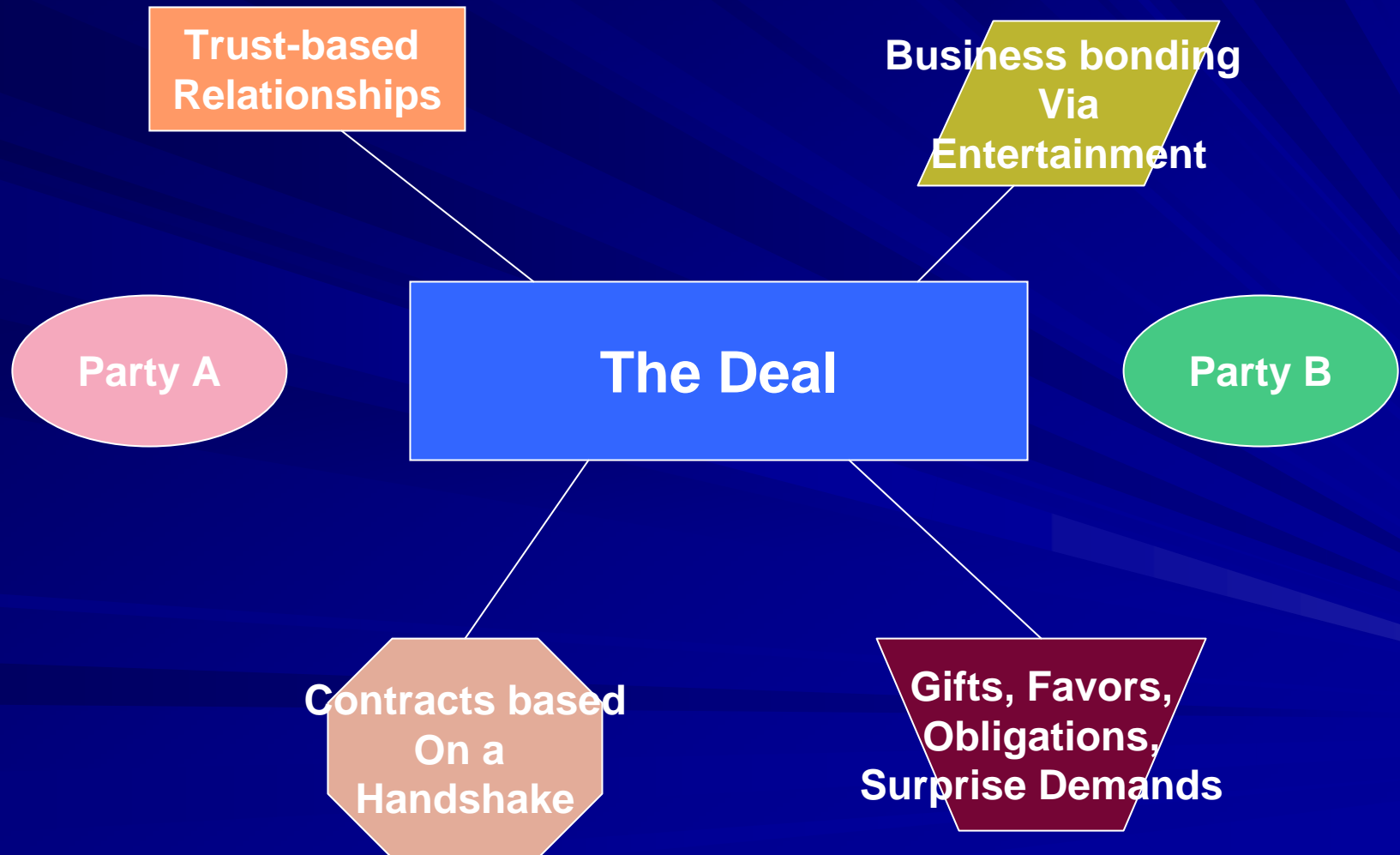
Of All Asian Countries, the natural negotiating style of the Vietnamese is the closest to the American Negotiating Style.

- “Directness”
- “Getting Down to Business”

# The Typical American or Western View of the Deal



# Vietnamese View of the Business Deal





# **Common Problem Areas in Negotiating Deals in Vietnam**

**Language & Communication differences**

**View of the contract**

**Decision-making process**

**Cultural misunderstandings**

# **■ Remember, Business Negotiators in Vietnam also typically face:**

**Regional “North/South” variations**

**Finality of contracts**

**Overall business approach**

**Role of government**

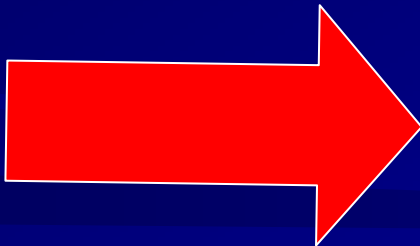
**Legal infrastructure**

**“Surprises” or “Unanticipated demands”**

**Cuisine, banquets, other entertainment**

# Vietnamese Negotiating Style

- *Reasonably Direct, Practical & Flexible*
- *Tend to Take Conservative, Calculated Risks*
- *Typically use a Frank & Open style*
  - Modest, Polite, Non-Aggressive communications
- *Look for the Long-term Commitment to VN in Prospective partners*
- *Written Communications are Slow (e-mail)*
- *Vn Companies Highly Hierarchical*
  - Real Decision-making only by Senior Execs
  - Frequently, Consensus-driven, Top-Level Decision-making Can be Painfully Slow
- *Relationship-Driven Deals*
  - Importance of Family
  - Importance of Building Trust
  - Where Relationship is Strong, Verbal Agreements are Honored



# **The Viet Kieu**

(Overseas Vietnamese)

# Here is the Honest Challenge...

- **Highly-Qualified, Professional Vietnamese-Americans can be invaluable as consultants, partners, investors, or in-country managers—these you select.**
- **The Vietnamese public and private sectors have had poor experiences with a number of Viet Kieu charlatans from the U.S.**
- **The Vietnamese nationals do not see the Viet Kieu as “Vietnamese” nor are they seen as “Americans” (although we know that they are).**
- **Our Viet Kieu (from the U.S.) sometimes even unknowingly, face distrust and prejudice in some business sectors**





The Political & Cultural Center...



...Hanoi is very different from HCMC





# So What Do You Do?

- **While being facile in the current Vietnamese language is important—it is not enough**
  - Study and use of English is coming on strong among the younger generations
- **Insist on High-quality, professional Viet Kieu advisors**
  - Check out recent in-country experience
  - The “Hanoi test”
- **Appreciate both the strengths and the potential shortcomings that any Viet Kieu may bring to the table**
  - This allow appropriate strategy and planning by the entire project team

# Role and Stature of Vietnamese Women in Business



# The Vietnamese Woman has a Unique Status and Stature in Business



Since the early Viet Minh Days in 1945, The Vietnamese Military Women were Referred to as “The Long Haired Army.”

- Her Honor and Respect at Conference Table was won Historically & Culturally by her participation in Military Combat for nearly 2000 years.
- While her status as an equal is far from perfect, she is found at all levels of government, professions and management.







## ● Hai BaTrung

- 39-42 A.D.
- The Trung Sisters led an Army of 80,000 driving the Chinese out of Vietnam

# Mdme Ut Tich

- Viet Cong Heroine
- Her Famous Battle Cries & Sayings emblazed in the Culture:

**"When the aggressors come, even  
women should take up arms!"**

*("Giac den nha dan ba cung danh!")*

**"We will fight them down to the last  
shred of clothing on our bodies!"**

*("Con cai lai quan cung danh!" )*



**PHAN THI UT**  
*Heroine of the South Vietnam  
Liberation Army  
2nd Class Order for Military  
Exploits*





# Business Challenges

- Weak legal & regulatory system
- Institutional weaknesses (financial)
- Bureaucratic inefficiencies (red tape)
- Lack of physical infrastructure

# Major Items in U.S.-VN Trade

## U.S. Imports

- Clothing
- Footwear
- Wooden Furniture
- Frozen Shrimp
- Petroleum Products
- Cashew Nuts
- Coffee

## U.S. Exports

- Aircraft
- Mining Equipment
- Electronic Machinery
- Steel Wire
- Raw Cotton
- Plastics

# Waves of Legal Reform

- “Transition” Wave (1986-2000): Initial transition laws to support basic market activity
- “Commitment” Wave (2000): “No turning back” commitment to a market-oriented economy with a strong private sector all integrated into the world economy
- “Rules of the Game” Wave (2001-2006): Establish rules of the game for a market economy in line with international best practice; meeting BTA/WTO commitments
- “Institutional/Implementation” Wave (2006-2010): Reorganize and strengthen institutions to implement reforms effectively in practice; fine tune rules of the game for an increasingly modern economy and society
- (Source: Steve Parker, USAID, Hanoi)

# Legal Framework for Franchising

- Franchise activities legally recognized for the first time by the Commercial Law, effective January 1, 2006.
- New Decree 35/2006 dated 31 March 2006 specifically regulates franchise activities.
- Vietnam's new regulation on franchising has opened the market and has no limitations on royalties.
- The new franchise regulation marks an important change in the Government's perspective on franchising services.



