CENTRE FOR INTERNATIONAL LAW

CIL RESEARCH PROJECT ON INTERNATIONAL MARITIME CRIMES

VIET NAM'S COUNTRY REPORT

By Dr. Nguyen Thi Lan Anh

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I. PART I: GENERAL QUESTIONS ON RATIFICATION AND IMPLEMENTATION OF GLOBAL CONVENTIONS

LEGISLATIVE PROVISIONS ON TREATIES

The Constitution of Vietnam does not provide for the position of international treaties in the hierarchy of domestic legislations. The 1992 Constitution only provides for the mandates of the National Assembly, State President and government in negotiation and signing of international treaties. Accordingly, the National Assembly has the responsibility to ratify or nullify the signature of or accession to international treaties upon the proposal of the President (Art. 84(13)). The President has the authority to conduct on behalf of Vietnam negotiations and sign international treaties with foreign Heads of State, to submit international treaties directly signed to the National Assembly for ratification; and to decide on ratification of, or accession to international treaties, except where they must be submitted to the National Assembly for determination (Art. 103(10)). The Government has responsibility to negotiate, sign, accede to and approve international treaties, and direct the implementation of international treaties which Vietnam has signed or acceded to (Art. 112(8)).

Under the Constitution, the first national legislation governing the signing, ratification and implementation of treaties of Vietnam was the Ordinance on Treaty Conclusion and Implementation enacted by the Standing Committee of the National Assembly in 1998. The Ordinance provided for guiding principles in negotiating, signing, accessing and implementing treaties. These principles was applied frequently as right after 1998, Vietnam entered into the busiest period of negotiating and concluding some important treaties, such as its application to access to WTO, negotiation and conclusion the bilateral trade agreement with the United States, treaties within ASEAN and ASEAN plus. The years from 1998 to 2005 witnessed substantive rounds of negotiation between Vietnam and other countries in order to help Vietnam enter WTO. This period is necessary for Vietnam to have its own experience in the field of treaty law in the new context, so that reconfirms its principles as well as philosophy in this field. The law on treaty of Vietnam was then developed by the upgrading of the 1998 Ordinance to the Law on conclusion, accession to and implementation of treaties of Vietnam in 2005 (hereinafter referred to as the 2005 Treaty Law). The 2005 Treaty Law has provided for detail provisions on the conclusion, accession

and implementation of treaties. With such new and sufficient law on treaty, Vietnam does not have any regulations, manuals or other unofficial documents setting out the practices and procedures to be followed in the ratification, accession and implementation of international treaties.

TREATY RATIFICATION PROCEDURE

Government Agencies Responsible for Treaty Ratification

In Vietnamese Government, the Department of International Law and Treaties of Ministry of Foreign Affairs and the Department of International Law of Ministry of Justice are agencies in charge of providing examination and verification of an initiation for concluding a treaty. Thus, these two agencies have the biggest number of legal experts to provide advice to Vietnamese government on international law and treaties. In order to prepare initiation for concluding treaties, the Legal Departments or International Department of other ministries and branches in the Government also have international law and treaty law experts in their respective expertises. Finally, as an agency to provide advisory opinions for the decisions relating to treaties' conclusion of the National Assembly, the External Relations Committee of the National Assembly also has legal experts on international law and treaties.

An initiative of negotiation and signing of treaties starts with the recommending agencies which under Art 9(1) of the 2005 Treaty Law include the Supreme People's Court, the Supreme People's Procuracy, ministries, ministerial level agencies and Government attached agencies. These agencies, based themselves on their respective legally established tasks and powers and the requirements of international cooperation, will take initiative in submitting to the Government recommendations on the negotiation and signing of treaties.

The recommendations of the recommending agency are subject to be examined and evaluated by responsible authorities. The 2005 Treaty Law provides that the recommending agencies must obtain written examination opinions from the Ministry of Foreign Affairs and evaluation opinions from the Ministry of Justice (Art.9(2)). The Ministry of Justice is normally the agency in charge with the evaluation process of treaties. However, in case of evaluating a treaty recommended for negotiation and signing by the Ministry of Justice or a treaty recommended for negotiation and signing by another agency but on which opinions are divergent, the Minister of Justice will establish a Council for evaluating the treaty. Members of the Treaty-Evaluating Council include representatives from the Ministry of Foreign Affairs, the Government Office, and concerned agencies and organizations (Art.19). The Ministry of Justice or the Treaty-Evaluating Council will evaluate the conformity of the recommending treaty with the Constitution, the compatibility with

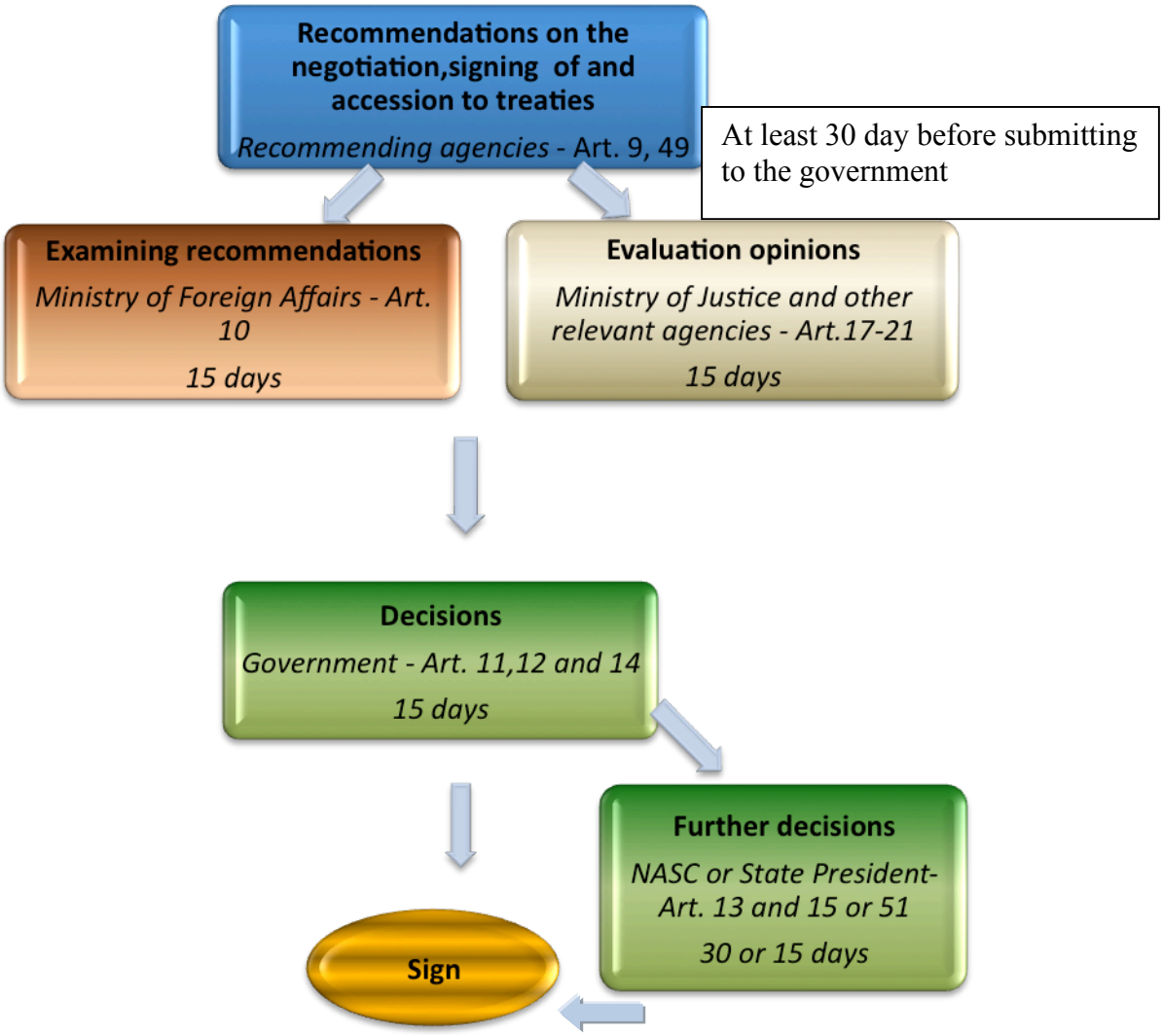
the provisions of Vietnamese laws, the possibility of direct application of the whole or part of the treaty, and the requirements for amendment, supplementation, cancellation or promulgation of legal documents for the implementation of the treaty.

After evaluation, the Ministry of Justice or the Evaluating Council sends the evaluation results to the recommending agency and the Ministry of Foreign Affairs within fifteen days after the date of receipt of the dossier of request for evaluation (Art. 21.2 of the 2005 Treaty Law).

The Ministry of Foreign Affairs will assert the necessity and purposes of negotiation and signing of a treaty (on the basis of evaluating the relations between Vietnam and the foreign contracting party concerned), the conformity of the treaty with fundamental principles of international law, the conformity of the treaty with national interests and foreign policy of Vietnam, the conformity of the treaty with treaties on the same field, to which Vietnam is a party, the authorities to sign the treaty, the name under which the treaty will be signed, the title, form, language(s), entry into force and wording techniques of the treaty, the compliance with the order and procedures for making recommendations on the negotiation and signing of treaties and the concise between the Vietnamese text and the foreign-language text of the treaty (Art.10(2)).

The National Assembly Standing Committee will provide further opinions for treaty ratification process. This is required in the cases where the evaluated treaty contains provisions that contravene, or have not been made in, legal documents promulgated by the National Assembly or the National Assembly Standing Committee, or a treaty the implementation of which requires amendment, supplementation, cancellation or promulgation of legal documents of the National Assembly or the National Assembly Standing Committee. In such situations, the Ministry of Justice has to coordinate with the recommending agency in proposing measures to handle these cases (Art.20.3).

The evaluation and examination must be completed strictly with the timeframe which can be summarized in the following chart:



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From the chart, one can calculate that once the recommendations on the negotiation and signing of treaties is ready, the minimum time frame for achieving the decision on signing or negotiating a treaties is: 30 (from the date to consult opinions of Ministry of Foreign Affairs, Ministry of Justice and other agencies) + 15 (for government consideration) + 30 (for National Assembly Standing Committee if necessary) + 15 (for government re-considering after receiving the opinion of the National Assembly Standing Committee) = **90days.** If in any steps in the procedures lead to the requirements of additional information or amendment, the time to achieve final decision may take longer.

In practice, in majority cases, this time frame is strictly followed by relevant agencies. However, if at the end of the procedure, i.e. submitting to the National Assembly Standing Committee, there is

some disagreement leading to further preparation and justification from the recommending agency, the 2005 treaty Law does not provide any time frame for the resubmission. This may cause the delay in treaty conclusion, accession and ratification of Vietnam.

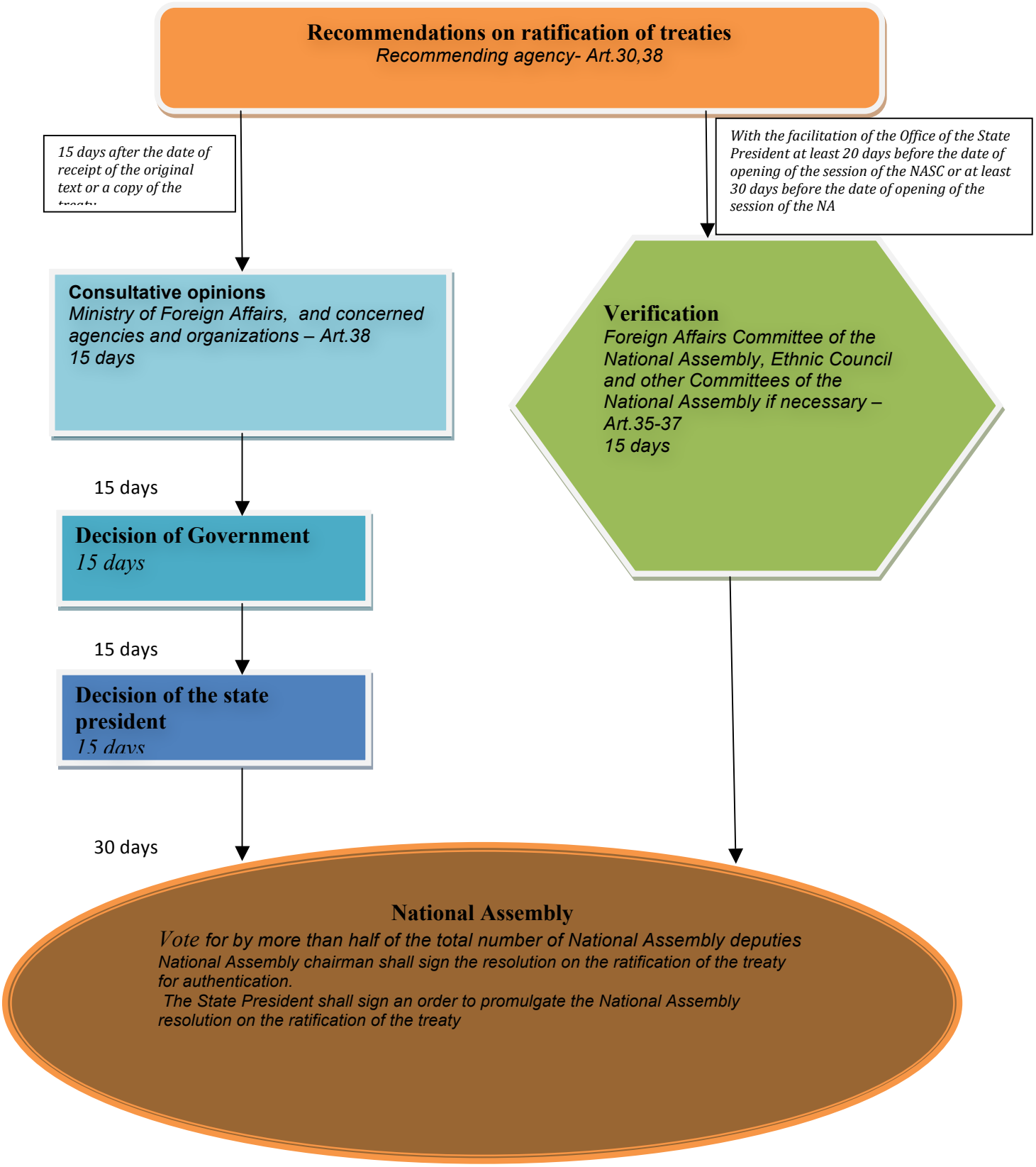
Treaty Ratification Procedure

The meaning of ratification is provided for under Art. 2(7) of the 2005 Treaty Law as a legal act performed by the National Assembly or the State President, expressing the consent of Vietnam to be bound by a signed treaty. Ratification as provided in the 2005 Treaty Law is distinguished to approval which means a legal act performed by the Government, expressing the consent of Vietnam to be bound by a signed treaty. Treaties subject to ratification are stipulated under Art. 31 including:

- Treaties that contain provisions that the treaties are subject to ratification;
- Treaties signed in the name of the State;
- Treaties signed in the name of the Government, which contain provisions contrary to the provisions of legal documents promulgated by the National Assembly or the National Assembly Standing Committee or relating to the state budget.

Meanwhile, treaties subject to approval are provided for under Article 43 of the 2005 Law of Treaty including: (i) Treaties in the name of the Government which contain a provision requiring approval; (ii) Treaties in the name of the Government which contain provisions contrary to the provisions of legal documents of the Government and (iii) Treaties in the name of the Government which contain a provision requiring the completion of domestic legal procedures. Government is the authorized agency to approve such treaties.

The procedures for the ratification of treaties are provided for under Arts. 30-41 of the 2005 Treaty Law and can be summarized in the following chart:


Recommendations on ratification of treaties
Recommending agency- Art.30,38
15 days after the date of receipt of the original text or a copy of the
With the facilitation of the Office of the State President at least 20 days before the date of opening of the session of the NASC or at least 30 days before the date of opening of the session of the NA
Consultative opinions
Ministry of Foreign Affairs, and concerned agencies and organizations – Art.38
15 days
Verification
Foreign Affairs Committee of the National Assembly, Ethnic Council and other Committees of the National Assembly if necessary – Art.35-37
15 days
15 days
Decision of Government
15 days
15 days
Decision of the state president
15 days
30 days
National Assembly
Vote for by more than half of the total number of National Assembly deputies
National Assembly chairman shall sign the resolution on the ratification of the treaty for authentication.
The State President shall sign an order to promulgate the National Assembly resolution on the ratification of the treaty

Upon the receipt of the original text of the treaty, the minimum time limit to reach the decision on ratification is: 15 + 15 (getting consultative opinions) + 15 (for the recommending agencies submit to the Government) + 15 (for the Government consideration) + 15 (for recommending agencies submitting to the state president) + 15 (state president consideration) + 30 = **120 days.** Similar to the timeframe to negotiating, signing of and accession to treaties, the procedures for the ratification of treaties usually strictly followed by relevant agencies. However, the treaty law did not provide for any time frame for re-submission. This may cause the delay of treaty ratification.

TREATY IMPLEMENTATION PROCEDURE

Government Agencies Responsible for Treaty Implementation

Recommending agencies when preparing a submission document or report on the recommendation on the negotiation and signing of a treaty must also provide recommendations on direct application of the whole or part of the treaty or recommendations on amendment, supplementation, cancellation or promulgation of legal documents (Art 14(10)).

The development of implementing legislation has to comply with the requirement on promulgation of legal documents provided for by Law No.17/2008/QH12 dated on 3 June 2008. In general, this is the common requirement to enact legislation without any distinction between normal domestic legislations and incorporated legal legislations. The promulgation process is only varied upon the levels of the legal documents. The first step in the legislation development process is making law proposal. Art. 23 of the Law No. 17/2008/QH12 stipulates that agencies, organizations and deputies of the National Assembly with the right to submit proposed drat legal documents may submit their law/ordinance development proposals. In case of implementation legislation for a treaty, such proposals as mentioned above have been made when recommending agencies prepare a submission document or report on the recommendation on the negotiation and signing of a treaty. Once the proposal has been included in the law development program, under Art.30 of Law No.17/2008/QH12, the Standing Committee of the National Assembly will establish Drafting Boards and appoint the lead drafting agencies which usually are the recommending agencies.

As part of the promulgation of normal domestic legal documents, if the implementing legislations are developed at law or ordinance levels, such draft implementing legislations must be examined by Ministry of Justice, submitted by Government, verified by the Ethnic Council and other committees

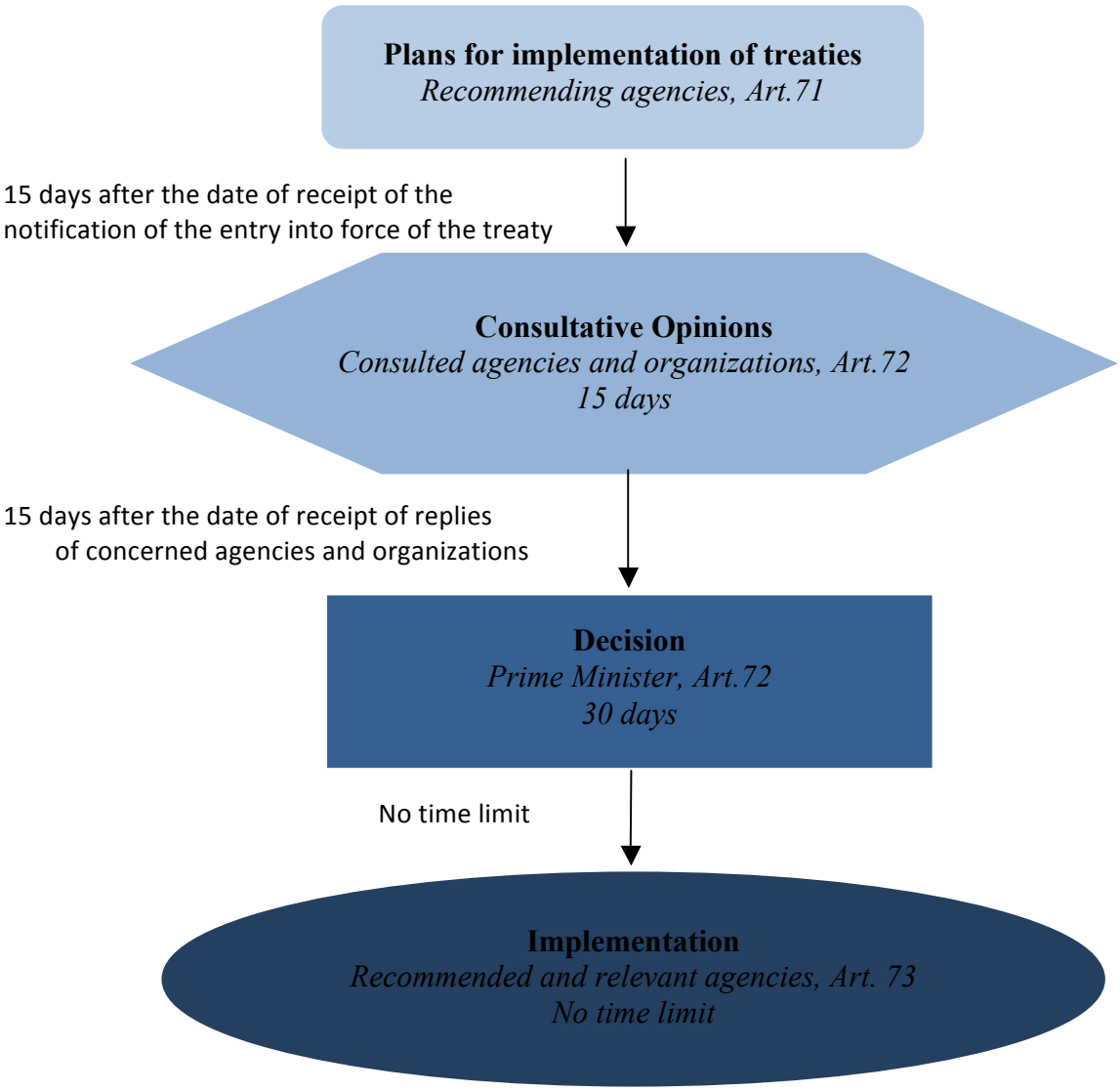
of the National Assembly and finally approved by the National Assembly (Chapter III, Arts. 22-57 of Law No.17/2008/QH12). Regarding implementing legislations at sub-law levels, the draft implementing legislations have to be examined by Ministry of Justice and approved by the Government (Chapter V, Arts. 59-68 of Law No. 17/2008/QH12). In general, the development and promulgation of legal documents will be monitored and checked by authorized agencies and in case inappropriate procedure or content are detected, authorized agencies will have the responsibility to amend or terminate such legal documents (Art 87 of Law No.17/2008/QH12).

Treaty Implementation Procedure

An international treaty may be directly or indirectly implemented in Vietnam. Accordingly, a treaty may have direct effect in Vietnam without any incorporation activities or a treaty may have indirect effect by incorporating into provisions or a legislation of the domestic legal system. The options between direct or indirect implementation or the combination between the two implementation manners will be decided by the National Assembly, the State President or the Government of Vietnam upon the requirements, contents and nature of a treaty (Art. 6(3) of the 2005 Treaty Law). As mentioned above, under Art. 14(10) of the 2005 Treaty Law, recommending agencies when preparing a submission document or report on the recommendation on the negotiation and signing of a treaty must also provide recommendations on direct application of the whole or part of the treaty or recommendations on amendment, supplementation, cancellation or promulgation of legal documents.

After a treaty is concluded and arrived in Vietnam, the Ministry of Foreign Affairs is the responsible agency to make certified copies and circulate to all relevant agencies in Vietnam. The Government Office is in charge of publishing the treaty on Official Gazette ("Cong bao") (Arts 68 and 69 of the 2005 Treaty Law). Since a treaty has been published on the Official Gazette, a systematic procedure for implementation is clearly provided under Chapter VII of the 2005 Treaty Law by requiring an implementation plan, the adoption of the plan and the execution of the plan. Accordingly, the recommending agencies have to prepare a plan for implementation of a treaty which under Article 73.2, must contain the following contents: (i) The implementation schedule; (ii) Proposed responsibilities of concerned state agencies in the organization of the implementation of the treaty; (iii) Recommendations on amendment, supplementation, cancellation or promulgation of legal documents for the implementation of the treaty; (iv) Measures of organization, management, financing and other necessary measures for the implementation of the treaty; and (v) Popularization, dissemination of the contents of the treaty. The implementation plan is subsequently submitted for approval.

The procedure for the implementation of treaty into Vietnamese law is stimulated by Articles 71-73 of the 2005 Treaty Law as follows:



Although the last step in the implementation process has no time limit, the recommending agency, concerned agencies and organizations, within the scope of their tasks and powers, are responsible for organizing the execution of the implementation plan (Art.73.1). The recommending agencies have to make reports on the conclusion, accession to and implementation of treaties within the scope of their state management and send them on the 15th of November at the latest *annually* to the Ministry of Foreign Affairs for compilation and submission to the Government. When requested, the recommending agencies have to report on the conclusion, accession to and implementation of treaties to the State President or the Government (Art. 99(6)). In addition, the implementation of a treaty is supervised by the National Assembly, the National Assembly Standing

Committee, the Ethnic Council Committees of the National Assembly and National Assembly deputies' delegations (Art.100.1).

CRIMINAL JURISDICTION GIVEN TO NATIONAL COURTS

The Criminal Procedure Code No. 19/2003/QH11 of 26 November 2003 stipulates the basic principles for criminal jurisdiction of Vietnamese courts. The criminal jurisdiction based on territory principle is provided for under Art.171 of the Code. Accordingly, the courts competent to adjudicate criminal cases are the courts of the places where the offenses were committed. Where an offense is committed in different places or if the place where an offense was committed is unknown, the court competent to adjudicate the case will be the one of the place where the investigation is completed. For defendants committing offenses abroad, if they are to be adjudicated in Vietnam, the provincial-level people's courts of their last residences in the country shall adjudicate them. If the defendants' last residences in the country cannot be determined, the President of the Supreme People's Court will on a case-by-case basis issue decisions to assign the People's Court of Hanoi city or Ho Chi Minh City to adjudicate such cases. For defendants committing offenses abroad, if they fall under the adjudicating jurisdiction of a military court, they will be adjudicated by the Military Court of the military-zone or higher level under decisions of the President of the Central Military Court.

With regard to jurisdiction to adjudicate offenses committed on board aircraft or seagoing ships of Vietnam, which are operating outside the airspace or the territorial sea of Vietnam, Art. 172 of the Code stipulates that offenses committed on board aircraft or sea-going ships of Vietnam which are operating outside the airspace of the territorial sea of Vietnam will fall under the jurisdiction of the Vietnamese courts of the places of the first return airports or seaports or the places where such aircraft or sea-going ships are registered.

II. PART II: IMPLEMENTATION OF GLOBAL CONVENTIONS TO WHICH VIETNAM IS A PARTY

1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS)

Implementing Legislation

With the recommendation of the former Committee on Boundaries of the Government (currently is the National Committee on Boundaries, an affiliation of Ministry of Foreign Affairs), Vietnam signed UNCLOS since 1982 and ratified in 1994, before the 1998 Ordinance and Law on Treaties of Vietnam were in effect. Therefore, the ratification process was not fully followed the current provisions of

the 2005 treaty law. In fact, ensuring the implementation of treaties is one of the weaknesses of the 1998 Ordinance.

Currently, UNCLOS is scatterly implemented by the Law No. 06/2003/QH11 dated on 17 June 2003 on National Boundaries, Law No. 17/2003/QH11 dated on 26 November 2003 on Fisheries, Law No. 52/2005/QH11 dated on 29 November 2005 on Environmental Protection, 1993 Law on Petroleum (which subsequently amended and supplemented by the 2000 and 2005 Laws), 1977 Declaration on territorial sea, contiguous zone, exclusive economic zone, and continental shelf and 1982 Declaration on Straight Baselines. There are also a number of resolutions, decrees and decisions to provide details provisions on fisheries and petroleum activities and environmental protection. The main content of these laws can be summarized as follows:

- Arts. 7-9 of the National Boundaries Law define the internal water and territorial sea of Vietnam.
- The Fisheries Law provides rules for development, exploitation and protection of aquatic resources (Chapters II and III). It sets out rules and procedures for registering fishing ships and fishing activity. It also provides framework for international cooperation on fishery activities (Chapters V and VII).
- Arts. 55-58 of the Law on Environmental Protection provide for principles for marine environmental protection, conservation and rational use of marine resources, control and treatment of marine environmental pollution, and prevention and response to marine environmental incidents.
- The Laws on Petroleum regulated the petroleum activities by identifying the places entitled to conduct such activities, rights and obligation under petroleum contract including the obligation related to environmental protection.

Vietnam has neither legislation implementing UNCLOS provisions on piracy nor other legislation on piracy (Articles 100 – 110 of UNCLOS).

The Resolution ratifying the 1982 Convention on the Law of the sea of the National Assembly dated on 23 June 1994 "assigned to the National Assembly Standing Committee and Government to research and conduct necessary amendment and complement on the current legislations in order to ensure the compliance with 1982 UNCLOS and Vietnamese interests". With the purpose of developing an implementation legislation for 1982 UNCLOS, the National Committee on Boundaries is currently drafting the Law on maritime zones of Vietnam. The law is drafted with the aim at stipulating general and unified principles to delimit Vietnamese maritime zones, strengthening the

mechanism for exploitation, exploration, protection and management activities to protect Vietnam's sovereignty, sovereignty rights, jurisdiction and legitimate interests over its maritime zones and fostering international cooperation for peace and stability of the region and the world. This Law is expected to be approved by the National Assembly in the coming session in March 2011. Unfortunately, with the general approach, the Law may not include any provision on privacy, thus this is still a loophole in Vietnamese legislations.

Jurisdiction over acts of piracy

Currently, the 2003 Criminal Procedural Code of Vietnam (No. 19/2003/QH11 of November 26, 2003) is the main legislation of Vietnam providing for criminal jurisdiction and has no provision on universal jurisdiction. The 2007 Law on Legal Assistance, however, open the possibility of directly apply foreign laws under the provisions of treaties to which Vietnam is a contracting party (Art.3.2). Therefore, it can be submitted that in theory, as a party of 1982 UNCLOS, Vietnam may apply its obligation directly to prosecute arrested pirates of any nationality for acts which take place outside of Vietnam's territory and which do not have any connection to Vietnam.

Prosecution of acts of piracy

Not withstanding the possibility of exercise universal jurisdiction in theory, to date, Vietnam has no case before national courts for acts of piracy that occur outside its territorial sovereignty.

1988 CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION (1988 SUA) .

Lead Agency

With the recommendation of the Ministry of Transport, Vietnam accessed SUA 1988 in 2000. Ministry of Transport is also the lead agency in the implementation process.

Offences and Penalties under 1988 SUA (Articles 3 and 5)

Vietnam does not have implementing legislation for SUA 1988. This may due to the fact that current legislations of Vietnam are already containing similar provisions to SUA 1988. Indeed, the 1993 Penal Code of Vietnam has two provisions dealing with the similar offences as covered by SUA 1988, namely hijacking aircrafts and ships (Art.221) and operating maritime means in violation of navigation regulations of Vietnam (Art.223). In addition, Arts. 212 to 214 also cover some offences relating to safe navigation, namely breaching the regulations on operating waterborne transport devices, obstructing waterway traffic, and putting into use waterborne transport devices which fail

to meet safety standards. Comparison between Arts. 221 and 223 of the Penal Code of Vietnam and offences under Art.3 of SUA 1988:

Vietnamese legislation	***SUA 1988***
Article 221. Hijacking aircrafts, ships 1. Those who use force, threaten to use force or use other tricks to appropriate aircrafts or ships shall be sentenced to between seven and fifteen years of imprisonment. 2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between twelve years and twenty years of imprisonment: a) In an organized manner; b) Using weapons or dangerous means; c) Inflicting injury on or causing harm to the health of other persons; d) Dangerous recidivism. 3. Committing the crime and causing human death or other particularly serious consequences, the offenders shall be sentenced to twenty years imprisonment, life imprisonment or capital punishment. 4. The offenders may also be subject to probation or residence ban for between one and five years.	***Article 3*** 1. Any person commits an offence if that person unlawfully and intentionally: 1. seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or 2. performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or 3. destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or 4. places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to en-danger the safe navigation of that ship; or 5. destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or 6. communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or 7. injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f). 2. Any person also commits an offence if that person: 1. attempts to commit any of the offences set forth in paragraph 1; or 2. abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or 3. threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in the safe navigation of the ship in question paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger.
Article 223 ***Operating maritime means in violation of navigation regulations of the Socialist Republic of Vietnam*** 1. Those who operate ships or other waterborne transport devices into or out of Vietnam or pass through Vietnam's territorial waters and violate the navigation regulations of the Socialist Republic of Vietnam in circumstances other than those stipulated in Articles 80 and 81 of this Code shall be subject to a fine of between fifty million dong and two hundred million dong or a prison term of between three months and two years. 2. Committing the crime and causing serious consequences, the offenders shall be subject to a fine of between two hundred million dong and five hundred million dong or a prison term of between one and three years. 3. Committing the crime and causing very serious or particularly serious consequences, the offenders shall be subject to a fine of between five hundred million and eight hundred million dong or a prison term of between three and seven years. 4. The waterborne transport device may be confiscated.	***Article 4*** 1. This Convention applies if the ship is navigating of is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States. 2. In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

In addition, Arts. 212 to 214 are considered to supplement to Art.223 in providing some specific acts that violate navigation regulation. Art. 212 applies to those who operate waterborne transport

devices and violate the regulations on waterway traffic safety, causing loss of lives or serious damage to the health and/or property of other persons. Art.213 applies to those who commit one of the following acts of obstructing waterway traffic, causing loss of lives or serious damage to the health and/or property of their persons. Art. 214 applies to those who are directly responsible for the mobilization or technical status of waterway traffic means but permit the use of the waterborne transport devices which obviously fail to meet safety standards, causing loss of lives or serious damage to the health and/or property of other persons, or who have already been disciplined or administratively sanctioned for such act or have already been sentenced for such offense, not yet entitled to criminal record remission but continue to commit it.

The comparison shows that provisions in Vietnamese Penal Code do cover almost all of the offences provided for under Art.3 of SUA 1988. Art.221 covers the offences concerning the use of force or threat to use force for seizing or exercising control over the ship and the consequence of killing or injuring person (compatible to sub-para. 1.1, 1.2, 1.7, 2.1 and 2.3). This article does not cover the offences of destroying or causing damage to a ship or its cargo in cases provided under paras.1.3-1.5 of Art.3, however, Arts. 212 and 214 by providing the consequences of "causing loss of lives or serious damage to the health and/or property of other persons" can be considered to cover such offences of SUA 1988. Only the offence relating to communicating information that endangers the safe navigation of a ship (under sub-para. 1.6) was not mentioned in any article. Notwithstanding, it is noteworthy notice that the offences stipulated under Art.3 of SUA 1998 was draft with the clear purpose of protecting "the safe navigation of a ship" as this phrase was repeated almost in every sub-paragraph of Art.3.1. This purpose was not in the wording of Art.221. Instead, the Penal Code of Vietnam provided separate articles of 223, 212, 213, and 214 for offences relating to safe navigation. However, the scope of Art.223 is limited to the navigation regulations of Vietnam and in case of navigating into or out of Vietnam or pass through Vietnam's territorial waters and is made with no connection to the use of force or threat to use of force (Arts. 80 and 81 stipulate offences concerning spying and infringing upon territorial security) and all of the other relevant articles in the Penal Code of Vietnam do not express the possibility of applying to any foreigners who conduct similar offences in foreign territories. All offences in the penal Codes which similar to SUA offences will be prescribed with the punishment varied from a prison term of 3 months to capital punishment or a fine between VND 50- 200 million. The levels of punishment will be based on the nature of the offences and the situation of the commitment of each offence including attempts, abetment and threatening to commit offence. For example the difference between threat to use of

force and use of force to appropriate aircrafts or ships is from seven to fifteen years of imprisonment (Art.221(1) of the 1993 Penal Code).

Jurisdiction over offences under SUA 1988 (Article 6)

Compulsory jurisdiction

As mentioned above, criminal jurisdiction of Vietnamese courts is provided for under the 2003 Criminal Procedure Code. Accordingly, Art. 172 gives Vietnamese courts' jurisdiction over an offence committed by a foreign national or Vietnamese outside Vietnamese territory against or on board a ship flying Vietnamese flag at the time of the offences (similar to the flag state principle as required under Article 6 (1) (a) of SUA 1988). Art. 171 gives Vietnamese courts' jurisdiction over an offence committed by a foreign national in Vietnam's territory, including territorial sea (equivalent to the territoriality principle as required under Article 6 (1) (b) of SUA 1988). Art.171 also provides for jurisdiction of Vietnamese courts over offences committed by Vietnamese outside its territory (equivalent to the nationality principle under Article 6 (1) (c) of SUA 1988). In case that an offence committed by a foreign national outside Vietnamese territory when the foreign national who committed the offence is present in Vietnamese territory after the commission of the offence (presence of offender under Article 6 (4) of SUA 1988), the 2003 Criminal Procedure does not provide for any applicable provision as it is silent on universal jurisdiction. As analyzed above, the only possibility for Vietnamese courts to establish their jurisdiction is to rely on Art.3.2 of the Law on Legal Assistance and apply directly provisions of SUA 1988. Theoretically this possibility is feasible, however, no case has happened in fact to test the willingness of Vietnamese courts. Some believes that the courts may need an authorization from a resolution of the National Assembly Standing Committee or a resolution from the Judge Committee to expand their jurisdiction in the context of economic integration. At the moment, due to the constrain of budget and the requirement of foreign languages, Vietnamese courts may not ready for such extension.[1]

Permissive Jurisdiction

The 2003 Criminal Procedure Code of Vietnam does not mention the possibility of establishing Vietnamese Courts' jurisdiction over an offence committed by a stateless person whose habitual residence is in its territory (as the nationality principle under Article 6 (2) (a) of SUA 1988). It neither provides for jurisdiction over an offence committed by a foreign national and during which, a national of your country is seized, threatened, injured or killed (passive personality principle Article

[1] Private interview with a former high ranking official of the Supreme Court of Vietnam.

6 (2) (b)) or an offence committed by a foreign national in an attempt to compel your country to do or abstain from doing any act (protective personality principle, Article 6 (2) (c) of SUA 1988).

Arrest and Delivery of Offenders by Master of Vessel (Article 8)

The responsibilities of masters when criminal acts are committed on board of seagoing vessels are provided for under the Vietnam Maritime Code No 40/2005/QH11 dated 14 June 2005. Accordingly, upon detecting criminal acts committed on board the seagoing vessel, the master may:

- Take all necessary measures to stop such acts and draw up files as provided for by law;
- Protect evidence and, depending on the practical conditions, hand over the offenders together with relevant files to a competent state agency in the first Vietnamese port at which the seagoing vessel calls or to a public-duty vessel of the Vietnamese people's armed forces encountered on the sea, or inform such acts to the nearest Vietnamese diplomatic mission or consulate and follow the instructions given by such agency, if the seagoing vessel calls at a foreign port.

In case of necessity to protect the safety and order of the seagoing vessel, persons and cargo on board, the master may confine to a separate compartment any person who has committed a criminal act. These provisions indicate that the Maritime Code allows the Master to arrest an person who has committed a SUA offence and deliver that person to appropriate Vietnamese authorities. This provision is slightly different from the requirement to deliver that person to appropriate authorities in another State Party, as defined in Article 8 of 1988 SUA.

Prosecutions under SUA 1988 National Legislation

There are a number of cases concerning SUA offences or equivalent to SUA offences. These cases mainly relate to marine accidents or robbery, However, so far, all of the offenders in such cases trialed before Vietnamese courts are Vietnamese. There were only a few cases relating to foreign nationals conducted the offences within Vietnamese territory, but instead of prosecution, the authorities of Vietnam sent the offenders to their countries. For example, on 24 August 2008, four Cambodians used AK guns to attack the captain of the KG8141 ship and rob the cargos. Vietnamese sea polices arrested the Cambodian offenders and handled them to Cambodian authorities for punishment.

1999 INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM (1999 Terrorism Financing Convention)

Lead Agency

With the recommendation of the Ministry of Public Security, Vietnam accessed to 1999 Terrorism Financing Convention in 2002. The Ministry of Public Security is also the lead agency in the implementing process of the 1990 Terrorism Financing Convention.

Offences and Penalties under the 1999 Terrorism Financing Convention (Article 2 together with the Annex and Article 4)

Vietnam has no implementing legislation for 1999 Terrorism Financing Convention. However, in order to incorporate the obligations required by the Convention, the penal law of Vietnam has been amended and supplemented. Art 230b was supplemented in the Law No.37/2009/QH12 dated on 19 June 2009 amending and supplementing some articles of the Penal Code. The article stipulates that those who raise money and contribute money and property in whatever form to terrorism organizations or terrorists will be sentenced to between five and ten years of imprisonment. Offenders may also be subject to probation, residence ban for between one to five years, confistication of part or the whole of their property.

The 2009 Law also defines that terrorisms are those who intend to close public panic by infringing upon the lives of others persons or destroying property of agencies, organization and individuals or those commit the crimes in case of infringing upon body freedom and health or appropriating and damaging property of agencies, organizations and individuals or those commit the crimes in case of threatening to commit any of the above mentioned acts.

These amendment and complement are sufficient to implement the obligations set forth under Art. 2 of the 1999 Terrorism Financing Convention.[2] However, Art.230b of the Penal Code is not detail

[2] Art. 2 of the 1999 Financing Terrorism Convention provides that

1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:
(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or
(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.
2. (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;
(b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.
3. For an act to constitute an offence set forth in paragraph 1, it shall not be necessary that the funds were actually used to carry out an offence referred to in paragraph 1, subparagraphs (a) or (b).

enough to provide that persons who finance the commission of SUA offences or hostage taking offences would be guilty of an offence. It neither covering attempts, participation as an accomplice, organization or contribution to the commission of the offence.

Jurisdiction over offences under the 1999 Terrorism Financing Convention (Article 7)

Compulsory Jurisdiction

As mentioned above, the legislation setting the legal basis for Vietnamese Courts' criminal jurisdiction is the 2003 Criminal Procedure Code. Art. 171 of the Code gives Vietnamese jurisdiction over an offence committed by a foreign national in Vietnamese territory of your country (territoriality principle, Article 7 (1) (a) of 1999 Terrorism Financing Convention) and an offence committed by a national of your country outside your territory (nationality principle, Article 7 (1) (c) of 1999 Terrorism Financing Convention). Art.172 of the Code gives Vietnamese jurisdiction over an offence committed by a foreign national or national of your country on board a vessel flying the flag of that State or an aircraft registered in your country (flag state principle, Article 7 (1) (b) of 1999 Terrorism Financing Convention). The possibility of establishing jurisdiction over an offence committed by a foreign national outside your territory when the foreign national who committed the offence is present in your territory after the commission of the offence (presence of offender, Article 7 (4) of 1999 Terrorism Financing Convention) as analyzed above, is limited in theory on the basis of the legal assistance, but has not yet happened in reality.

Permissive Jurisdiction

The 2003 Criminal Procedure Code does not provide for the establishment of Vietnamese courts' jurisdiction over an offence committed by a foreign national directed towards or which resulted in the carrying out of any of the offences in Article 2 (1) of 1999 Terrorism Financing Convention in the territory of or against the national of that country (Article 7 (2) (a)). It neither mentions the jurisdiction over an offence committed by a foreign national directed towards or which resulted in the carrying out of any of the offences in Article 2 (1) (a) and (b) against a State or government

4. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.
5. Any person also commits an offence if that person:
(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;
(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;
(c) Contributes to the commission of one or more offences as set forth in paragraphs 1 or 4 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or
(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

facility of that country abroad, including diplomatic or consular premises of that country (Article 7 (2) (b)) nor an offence committed by a foreign national directed towards or which resulted in the carrying out of any of the offences in Article 2 (1) (a) and (b) committed in an attempt to compel that country to do or abstain from any act (Article 7 (2) (c)). It has no provision on jurisdiction over an offence committed by a stateless person who has his or her habitual residence in the territory of that country (Article 7 (2) (d)). The only permissive jurisdiction that may be established is in case an offence committed on board an aircraft which is owned by Vietnamese government (a slightly narrower than the stipulation of operated by government of state parties under Article 7 (2) (e) of 1999 Terrorism Financing Convention).

Prosecutions under national legislation on terrorist financing

The amendment and complement of the new offence concerning terrorist financing to the penal code of Vietnam in 2009 was rather new. To date, there is no case that was prosecuted in Vietnamese courts over persons who financed the commission of SUA offences and/or hostage taking offences such as the hijacking of ships or the taking of crewmembers hostage for ransom.

EXTRADITION AND MUTUAL LEGAL ASSISTANCE UNDER THE CONVENTIONS .

Extradition

In Vietnam, extradition is granted by international agreement and by virtue of reciprocity. The Constitution has no provision on extradition, but Art. 343 of the 2003 Criminal Procedure Code provides that international agreements which Vietnam has signed or acceded to on the principle of reciprocity is the basis for granting extradition. Art. 4 of the 2007 Law on Legal Assistance further provided that legal assistance is provided on the principles of respect for independence, sovereignty and territorial integrity, non-interference into internal affairs of each other, equality and mutual benefit, compliance with Vietnams Constitution and law and with treaties to which Vietnam is a contracting party. Where there exist no treaties on legal assistance between Vietnam and foreign countries, legal assistance activities follow the principle of reciprocity which, however, do not contravene Vietnamese law and conform to international law and practice. Extradition is included in legal assistance in criminal matters, therefore, also granted on the basis of these principles.

Extradition obligations in Conventions which Vietnam is a party

In principle, international agreements that Vietnam acceded to on the principle of reciprocity are the basis for extradition. Therefore, it may not necessary to amend Vietnamese laws to enable Vietnam to extradite the offenders of the examined Conventions.

Regarding SUA 1988, Art.11 of the Convention provides that

> "the offences set forth in article 3 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 3. Extradition shall be subject to the other conditions provided by the law of the requested State Party" (para.1 and 2).

This provision did not create a direct obligation on extradition for state parties. It only required the inclusion of SUA offences as extraditable offences in any extradition treaty between any of states parties. In the case of no existing extradition treaty, SUA may be used as an alternative but the wording of "at its option" indicated that such usage is optional and depend on the willingness of states parties. Vietnam, therefore, may consider SUA as a basis for extradition if it is not against the legal assistance and extradition principle set forth in its legislations.

Concerning the 1999 Terrorism Financing Convention, Art. 11(2) of the Convention stipulates that "when a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in Article 2. Extradition shall be subject to the other conditions provided by the law of the requested State". The phase "at its option" again allows states to consider granting extradition on the basis of the 1999 Terrorism Financing Convention. As analyzed above, may consider 1999 Terrorism Financing Convention as a basis for extradition if it is not against the legal assistance and extradition principle set forth in its legislations.

At present, although Vietnam has 19 treaties on mutual legal assistance with other countries, she only has concluded an extradition treaty with South Korea (on 15 September 2003) and recently an agreement on the extradition of their prisoners and cooperation in the execution of criminal court rulings (on 3 March 2010) with Thailand. Vietnam is under negotiation extradition treaties with Cambodia, China, India and Australia.

Art.2 of Extradition Treaty between Vietnam and South Korea provided that extraditable offences are offences which, at the time of the request, are punishable under the laws of both Parties by

deprivation of liberty for a period of at least one year or by a more severe penalty. There is no specific provision on SUA or 1999 FIN offences, however, as Vietnam and South Korea are parties of both SUA and Terrorism Financing Convention, it is submitted that the offences of SUA and Terrorism Financing Convention are punishable under the laws of the two. Also, as analyzed above, offences of SUA and Terrorism Financing Convention are covering by Vietnamese penal code, and thus are punishable under Vietnamese law with at least one year or a more severe penalty. Therefore, it can be said that offences of SUA and Terrorism Financing Convention are extraditable under the extradition treaty between Vietnam and South Korea.

Notwithstanding the treaty basis, competence Vietnamese agencies may refuse extradition based on the following grounds provided for under Art.35 of the 2007 Law on Legal Assistance:

i. The persons requested for extradition are Vietnamese citizens;
ii. Under Vietnamese law, the persons requested for extradition cannot be examined for penal liability or serve their penalties due to expired statute of limitations or other lawful reasons;
iii. The persons requested for extradition for penal liability examination have already been condemned by Vietnamese courts with legally effective judgments for the criminal acts stated in the extradition requests or the cases have been suspended under Vietnams criminal procedure law;
iv. The persons requested for extradition are those who are residing in Vietnam for reasons of possible coercion in the extradition-requesting country due to discrimination of race, religion, gender, nationality, ethnicity, social class or political viewpoint;
v. The extradition requests are related to different crimes and each crime can be examined for penal liability under the law of the extradition-requesting country, but fail to comply with Article 33(1) of this Law.[3]
vi. Acts committed by persons requested for extradition are not crimes under Vietnams Penal Code;
vii. Persons requested for extradition are being examined for penal liability in Vietnam for the criminal acts stated in the extradition requests.

Mutual Legal Assistance

[3] Article 33 (1) provides that Persons who may be extradited under the provisions of this Law are those who commit criminal acts for which the Penal Code of Vietnam or the criminal law of the requesting country prescribes penalties of one or more years in prison, life imprisonment or death penalty or who have been sentenced to imprisonment by a court of the requesting country and the remaining imprisonment duration is at least six months

In Vietnam, mutual legal assistance is granted by treaty by virtue of reciprocity. Vietnam enacted the Law No. 08/2007/QH12 on Legal Assistance on 21 November 2007. Art. 4 of this Law stipulates that legal assistance is provided on the principles of respect for independence, sovereignty and territorial integrity, non-interference into internal affairs of each other, equality and mutual benefit, compliance with Vietnams Constitution and law and with treaties to which Vietnam is a contracting party. Where there exist no treaties on legal assistance between Vietnam and foreign countries, legal assistance activities follow the principle of reciprocity which, however, do not contravene Vietnamese law and conform to international law and practice. Art. 17 further provides for the scope of criminal legal assistance between Vietnam and foreign countries covering (i) Service of papers, dossiers and documents related to criminal legal assistance; (ii) Summon of witnesses and experts; (iii) Collection and supply of evidence; (iv) Penal liability examination; (v) Information sharing; and (vi) Other requests for criminal legal assistance.

Relating mutual legal assistance, Art. 12 of SUA required

> 1. State Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in Article 3, including assistance in obtaining evidence at their disposal necessary for the proceedings.
>
> 2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them. In the absence of such treaties, States Parties shall afford each other assistance in accordance with their national law.

Art. 12 of 1999 Terrorism Financing Convention also require

> 1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.
>
> 2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.
>
> 3. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.
>
> 4. Each State Party may give consideration to establishing mechanisms to share with other States Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 5.
>
> 5. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

These requirements of legal assistance under SUA 1988 and 1999 Terrorism Financing Convention fall within the scope of criminal legal assistance between Vietnam and foreign countries provided

for under Art. 17 of the 2007 Law on legal assistance. In addition, from the provision on the required contents of the criminal legal mandate documents under Art.19[4], one can see that the legal assistance provided for under the 2007 Legal Assistance Law cover almost all activities stated in Art. 12 of SUA 1988 and 1999 Terrorism Financing Convention. Therefore, it is possible for Vietnam to fulfill the obligations set forth by SUA and Terrorism Financing Convention on legal assistance.

III. PART III: CONVENTIONS WHICH VIETNAM IS NOT A PARTY TO

Vietnam is currently not a party to 1979 International Convention against the Taking of Hostages (Hostage Taking Convention), 2000 United Nations Convention on Transnational Organized Crimes (2000 UNTOC) and Protocol of 2005 to 1988 SUA (2005 SUA Protocol). Recommending for accessing to the 1979 Hostage Taking Convention is in charge of Ministry of Public Security, to 2000 UNTOC is under duty of Ministry of Justice and to the Protocol belongs to the Ministry of Transport.

[4] **Article 19.** Criminal legal mandate documents.
1. A criminal legal mandate document must contain the following details:
a/ Date, month, year and place of making the document;
b/ Name and address of the legal mandator;
c/ Name and address or head office of the legal mandatory;
d/ Full names and places of permanent residence or working of individuals, full names, addresses or head offices of agencies or organizations directly involved in the criminal legal mandate;
dd/ The jobs subject to criminal legal mandates, clearly indicating the mandate purpose; summarized contents of the case, related circumstances, applicable legal provisions and penalties; schedule of investigation, prosecution and trial; the mandate performance duration.
2. In addition to the contents defined in Clause 1 of this Article, depending on each specific case and at the request of competent bodies of Vietnam or foreign countries, a criminal legal mandate document may cover the following contents:
a/ Signs of identity, nationality and places of residence of subjects in the criminal case or persons having information relating to that case;
b/ Matters to be questioned, questions to be asked, documents, dossiers or material evidences shown and, if possible, a description of characters and appearance of persons requested to produce documents, dossiers and material evidences with regard to evidence collection mandates;
c/ Contents of jobs, questions and requests for summoned witnesses and experts;
d/ Description of assets and places where assets need to be searched for; grounds for determining that the assets acquired from commission of crimes are located in the requesting country and may fall under the jurisdiction of the requesting country; the execution of court judgments or rulings on mandate for search, seizure of, or look for, confiscation of assets acquired from commission of crimes;
dd/ Measures applicable to the criminal legal mandate, which may lead to detection or recovery of assets acquired from commission of crimes;
e/ Requests or procedures of the requesting country to ensure the effective performance of legal mandate, mode or form of supplying information, evidence, documents and articles;
g/ Request for confidentiality of legal mandate;
h/ The purpose, expected time and itinerary of the trip in case competent persons of the requesting country need to arrive in the territory of the requested country for the purpose related to the legal mandate;
i/ The criminal judgment or ruling of a court and documents, evidence or other information necessary for the performance of legal mandates.
3. In case the information stated in the criminal legal mandate document defined in Clauses 1 and 2 of this Article is not sufficient for the performance of legal mandate, competent bodies of the requested country may also send documents to the requesting country, requesting the supply of additional information and fixing a specific deadline for reply on the additional results.

With regard to the 2000 UNTOC, Vietnam has signed the Convention in 2000 and participated in all periodical meetings of state parties to the Convention. The Prime Minister has supported the ratification of the Convention in Document No. 1208/VPCP-NC dated on 28 November 2008 and Document No. 6801/VPCP-KTTH dated on 24 September 2010. Unfortunately, Vietnam only affirms that it will soon ratify to become a full member of the Convention, but currently has not yet ratified. The difficulty and the cause for the delay in ratification is that the Penal Code of Vietnam is lacking provision covering offences under 2000 UNTOC. Both the 1999 Penal Code and the 2009 amending and supplementing law only provided for crimes covered by the Terrorism Financing Convention, yet had any provision on transnational organized crimes.

Concerning the Hostage Taking Convention, the Ministry of Public Security is conducting all necessary activities for accession. The Ministry of Public Security has finished collecting opinions from Ministry of Foreign Affairs, Ministry of Justice and other relevant agencies. Their recommendation has already approved by the Government and prepared for submitting to the National Assembly Standing Committee and the National Assembly. The preparation actually had been started since 2007 (under the Document no. 4967/VPCP- V.III dated on 4 July 2007 of the Government Office assigning duties for governmental agencies in preparing for the meeting of the Standing Committee of the National Assembly). The Standing Committee gave its opinions on the second session on September 2007. However, the currently the ratification process has not yet completed. There are two causes for the delay. First, similar to 2000 UNTOC, the Penal Code of Vietnam is lacking provision for offences concerning hostage taking in accordance to the purpose of those stipulated under the Hostage Taking Convention. Second, Vietnam may concern about the compulsory jurisdiction of the International Court of Justice over any disputes between state parties relating to interpretation and implementation of the Convention. The Ministry of Public Security was required to provide further justification for the concern and prepare for the amendment of the Penal Code. As analyzed above, there is no time frame for the re-submission, thus causing the delay of the ratification process. However, similar to the 2000 UNTOC, Vietnam affirms that it will soon ratify and become a full member of the Hostage Taking Convention.

Concerning the 2005 SUA Protocol, the Ministry of Transport has not yet had any plan to initiate the accession of Vietnam to the Protocol.