

ACCELERATED WTO IMPLEMENTATION – FOREIGN-OWNED IMPORT COMPANIES NOW PERMITTED MULTIPLE DISTRIBUTORS

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Until very recently, wholly foreign-owned companies that established themselves in Vietnam for the purpose of importing their products from their overseas affiliates were only permitted to market each category of product through a single Vietnamese distributor. That restriction has just been relaxed.

Vietnam's Ministry of Industry and Trade recently issued Circular No. 05/2008/TT-BCT ("Circular 05"), amending and supplementing various provisions under Circular No. 09/2007/TT-BTM regarding the trading activities of foreign-owned companies in Vietnam.

Circular 05 authorizes foreign-owned import companies (both joint ventures and wholly foreign-owned companies) to sell their imported goods to multiple Vietnamese distributors instead of a single distributor as previously restricted. In addition, while the foreign-owned company will be required to file quarterly reports identifying their distributors, they will no longer be required to register their distributor(s) with the authorities.

Circular 05 is welcome progress to all foreign-owned import companies. Not only does it operate to expedite Vietnam's compliance with its WTO Commitments, but it removes a barrier to trade that was causing imported products to cost more on the local market (adding to Vietnam's already high inflation), and in some cases making it possible for local distribution companies to monopolize segments of the market.

Many foreign investors already understand that Vietnam will open its market further in 2009, when wholly foreign-owned import companies will be allowed to expand their business to include domestic distribution activities. However, companies importing restricted goods such as pharmaceuticals which are restricted from distribution will not benefit from the 2009 phase-in. Circular 05 will be especially helpful to pharmaceutical companies and others importing such goods for which distribution remains off limits in the foreseeable future.

Circular 05 also means that foreign investors who do not need to sell their products to end users in Vietnam may opt to utilize a foreign-owned import company with multiple distributors rather than having to establish their own combined import and distribution company (when distribution becomes lawful in January 2009).

Circular 05 takes effect on May 10, 2008.

The information in this notice is general and should not be relied upon without seeking further legal assistance. For more information please contact Mr. Kien Trung Trinh (kien.tt@tillekeandgibbins.com) or Mr. John E. King (john.k@tillekeandgibbins.com) at Tilleke & Gibbins – Hanoi. [April 29, 2008]