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*Vietnamese Victims of Agent Orange and U.S.-Vietnam
Relations*

Michael F. Martin, Foreign Affairs, Defense, and Trade Division

November 21, 2008

Abstract. This report examines various estimates of the effects of Agent Orange on Vietnam's people and environment, the history of U.S. policy on the issue, the current clean up efforts in Vietnam, the various forms of assistance - including U.S. assistance - provided to people with medical conditions associated with dioxin exposure, and the implications for bilateral relations. It concludes with a brief discussion of possible congressional responses to the issue.

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CRS Report for Congress

Vietnamese Victims of Agent Orange and U.S.-Vietnam Relations

November 21, 2008

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Prepared for Members and
Committees of Congress

Vietnamese Victims of Agent Orange and U.S.-Vietnam Relations

Summary

Since the end of the Vietnam War in 1975, there has been a gradual warming of bilateral relations between the United States and Vietnam, culminating in the appointment of the first U.S. ambassador to Vietnam in 1996 and granting Vietnam permanent normal trade relations (PNTR) in 2007. Over the last three decades, many — but not all — of the major issues causing tension between the two nations have been resolved.

One major legacy of the Vietnam War that remains unresolved is the damage that Agent Orange, and its accompanying dioxin, have done to the people and the environment of Vietnam. For the last 30 years, this issue has generally been pushed to the background of bilateral discussions by other issues considered more important by the United States and/or Vietnam. With most of those issues presently resolved, the issue of Agent Orange/dioxin has emerged as a regular topic in bilateral discussions.

According to various estimates, the U.S. military sprayed approximately 11-12 million gallons of Agent Orange over nearly 10% of Vietnamese territory between 1961 and 1971. One scientific study estimated that between 2.1 million and 4.8 million Vietnamese were directly exposed to Agent Orange; Vietnamese advocacy groups claims that there are over one million Vietnamese suffering from serious health problems caused by exposure to the dioxin in Agent Orange.

In the last few years, the people of Vietnam have become increasingly concerned about the issue of Agent Orange. This is placing more pressure on the Vietnamese government to remove the dioxin from the environment and provide better care to the people exposed to Agent Orange. The Vietnamese government has long sought U.S. assistance. Although the United States has provided scientific and technical support, it has repeatedly denied any legal liability to provide assistance and has questioned Vietnam's assertions about the extent of the environmental and health problems attributed to Agent Orange and dioxin. As a result, there is a growing possibility of friction between the two governments over the issue of Agent Orange.

Recently, the United States has shown a greater willingness to cooperate on some aspects of the issue, including the appropriation of \$3 million for dioxin removal and health care facilities in Da Nang. However, there is a sense that the Vietnamese government and people would like to see the United States do more to remove dioxin from their country and provide help for victims of Agent Orange.

This report examines various estimates of the effects of Agent Orange on Vietnam's people and environment, the history of U.S. policy on the issue, the current clean up efforts in Vietnam, the various forms of assistance — including U.S. assistance — provided to people with medical conditions associated with dioxin exposure, and the implications for bilateral relations. It concludes with a brief discussion of possible congressional responses to the issue. This report will be updated as conditions warrant.

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Vietnamese Victims of Agent Orange and U.S.-Vietnam Relations

Since the mid-1990s, bilateral relations between the United States and Vietnam have become virtually normalized. The United States has granted Vietnam permanent normal trade relations (PNTR) status and Vietnam has become a member of the World Trade Organization (WTO) — two major objectives of the Vietnamese government following the end of the Vietnam War. As part of the bilateral agreements related to PNTR and WTO membership, Vietnam has made a number of significant changes in its trade policies, and has increased its efforts to help assist the United States recover the remains of U.S. soldiers and civilians who died during the Vietnam War. The two nations also have expanded their nascent cooperation on strategic and military issues.

Although the United States remains concerned about human rights in Vietnam, tensions between the two nations are comparatively low. However, inside Vietnam, there is a long-standing issue that could cause friction in the future — the condition of Vietnamese people affected by Agent Orange and its unintended byproduct, the dioxin 2,3,7,8-tetrachlorodibenzo-p-dioxin, or TCDD.¹ Agent Orange was one of several herbicides that the U.S. military used widely in southern Vietnam during the Vietnam War. Over the last decade, there has been a groundswell of concern among the Vietnamese people about the continuing problems of environmental damage and illnesses associated with Agent Orange. Some non-governmental organizations (NGOs) in Vietnam are seeking compensation or assistance from the U.S. government and the manufacturers of Agent Orange. Partially in response to this rising tide of popular concern, the Vietnamese government has raised the profile of this issue in various bilateral fora with the U.S. officials, including the June 2008 summit between President Bush and Prime Minister Nguyen Tan Dung.

According to one estimate, there are up to five million Vietnamese spanning three generations who have medical conditions that are purported to be related to exposure to the Agent Orange and its accompanying dioxin that the U.S. military sprayed across much of South Vietnam as part of Operation Ranch Hand.² The Vietnamese government and various Vietnamese interest groups have long sought U.S. assistance with the clean up of the residual dioxin in Vietnam, as well as financial support to provide medical treatment to people exposed to Agent Orange.

¹ For purposes of this report, the term “dioxin” and “TCDD” will be used interchangeably, unless otherwise noted.

² Operation Ranch Hand was the military code name for the spraying of herbicides from U.S. Air Force aircraft across much of southern Vietnam, as well as parts of Cambodia and Laos, from 1962 through 1971 in an effort to eliminate jungle cover for North Vietnamese and Viet Cong forces.

The official U.S. response to date has been to deny any legal liability and to contest that the medical conditions are related to exposure to Agent Orange and dioxin. The Vietnamese government and people have objected to these denials given the level of support provided to U.S. veterans who were presumably exposed to Agent Orange and the extensive clean up efforts made at Love Canal, Times Beach, and other U.S. locations found to have elevated levels of dioxin in the soil.³

In the waning months of the George W. Bush Administration, there were some indications that the United States was becoming more flexible on this issue in the future — just as the issue has risen in importance in Vietnam. The Bush Administration showed some willingness to provide greater support in cleaning up the dioxin in Vietnam. For example, following President Bush’s November 2006 meeting with then Prime Minister Phan Van Khai, the two governments issued a joint statement that included the sentence, “The United States and Vietnam also agreed that further joint efforts to address the environmental contamination near former dioxin storage facilities would make a valuable contribution to the continued development of their bilateral relations.”⁴

In addition, the 110th Congress demonstrated a willingness to provide assistance for both the dioxin clean-up and humanitarian support for Vietnamese believed to be affected by exposure to dioxin. In May 2007, Congress appropriated \$3 million to the State Department for the clean up of dioxin in and around an ex-military base in Da Nang used as a distribution center for Agent Orange during the Vietnam War. Some of the funds were to be used to provide medical care for residents near the ex-military base. According to State Department, the specific plans for using the \$3 million are still being developed. A newly established U.S. Agency for International Development (USAID) Mission in Vietnam is to coordinate and implement the use of the funds. It is not clear when the USAID expects to expend the \$3 million, or if additional U.S. support for Agent Orange/dioxin remediation and medical care will be provided in the future.

As discussed below, some Members of Congress have also stated that the United States has a “moral obligation” to the people of Vietnam — many of whom were either allies at the time or were innocent civilians — to help address the perceived environmental and health problems created by the use of Agent Orange during the Vietnam War.

Although both sides appear to be willing to discuss the issue, the legacy of Agent Orange has the potential to adversely affect U.S.-Vietnamese relations in the future. With other key issues apparently resolved, Agent Orange has emerged as one of Vietnam’s top concerns. However, Vietnam’s interest in forming closer economic ties with the United States — such as its formal request for inclusion in the U.S.

³ Observation based on various interviews conducted by author with Vietnamese officials and citizens.

⁴ “Joint Statement Between the Socialist Republic of Vietnam and the United States of America,” Office of the Press Secretary, The White House, November 17, 2006.

Generalized System of Preferences (GSP) program⁵ and the possible negotiation of a bilateral investment treaty (BIT) — may counteract Vietnam’s interest in U.S. assistance with the legacy of Agent Orange into the background.

For the United States, the recent growth in bilateral trade and U.S. investment in Vietnam is providing a strong incentive to improve relations with its ex-enemy. According to many U.S. manufacturers, Vietnam is one of the more attractive alternative sources to China for a variety of imported products. Also, some analysts think that friendly relations with Vietnam offer a strategic counterbalance to the growth of Chinese influence in Asia. In addition, greater assistance with the clean-up of dioxin in Vietnam and/or aid in providing medical care for dioxin victims may enhance the image of the United States in Southeast Asia. If the United States continues to deny the legitimacy of Vietnam’s environmental and health claims — and the responsibility to help ameliorate the damage caused by Agent Orange/dioxin — it risks causing harm to its relations with Vietnam, and possibly weakening U.S. soft power in Asia.⁶

Brief History of Post-War U.S.-Vietnam Relations and the Agent Orange Issue

From 1975 to about 2000, although the Agent Orange issue was on Vietnam’s agenda, it was generally pushed into the background.⁷ There are many reasons for this, including Vietnam’s desire for greater trade opportunities with the United States, the U.S. desire for a more complete accounting for U.S. soldiers still listed as “missing in action” (MIA) in Vietnam, Vietnam’s invasion of Cambodia in 1978, and the rising tide of Vietnamese “boat people.”

In 1975, following North Vietnam’s victory over South Vietnam, President Ford severed diplomatic relations and imposed a trade embargo on Vietnam.⁸ Although Vietnam sought to normalize relations, it was predicated on the United States honoring President Nixon’s “secret promise” of \$3.25 billion in reconstruction

⁵ For more information on Vietnam’s GSP application, see CRS Report RL34702, *Potential Trade Effects of Adding Vietnam to the Generalized System of Preferences Program*, by Michael F. Martin and Vivian C. Jones.

⁶ There has been considerable criticism of a perceived U.S. neglect of Southeast Asia, and a growth in Chinese influence in the region. For more information on this issue see CRS Report RL34620, *Comparing Global Influence: China’s and U.S. Diplomacy, Foreign Aid, Trade, and Investment in the Developing World*, coordinated by Thomas Lum.

⁷ For more information on the history of U.S.-Vietnam normalization, see CRS Report RL33316, *U.S.-Vietnam Relations: Background and Issues for Congress*, by Mark E. Manyin.

⁸ President Johnson imposed a trade embargo on the Democratic Republic of Vietnam (North Vietnam) on May 4, 1964, using his authority under the Trading with the Enemy Act of 1917. President Ford extended the embargo to all of Vietnam on April 30, 1975.

assistance,⁹ which the United States was unwilling to do.¹⁰ Although President Carter signaled a willingness to discuss normalization soon after his inauguration, the emotional issue of U.S. prisoners of war/missing in action (POW/MIAs), the migration of Vietnam's so-called "boat people," Vietnam's 1978 invasion of Cambodia (known at that time as Democratic Kampuchea), and Vietnam's border conflict with China¹¹ made any significant warming of relations politically impossible. U.S.-Vietnamese relations became even more frosty following the signing of a mutual defense treaty between Vietnam and the Union of Soviet Socialist Republics (USSR) on November 3, 1978.¹² These circumstances pushed the issue of Agent Orange effectively off the bilateral agenda despite Vietnamese efforts to raise the subject.

President Reagan was generally opposed to any move towards normalizing relations with Vietnam so long as Vietnamese forces remained in Cambodia and the Vietnamese government had not provided a "full accounting" of U.S. POW/MIAs.¹³ In addition, the Reagan Administration, which repeatedly expressed a skepticism about U.S. veterans claiming medical problems related to Agent Orange exposure, was generally unwilling to discuss the issue of Vietnamese nationals with similar medical conditions supposedly caused by Agent Orange exposure.

Following Vietnam's withdrawal from Cambodia in 1989, President Bush reopened communication with Vietnam. In April 1991, President Bush announced a U.S. "roadmap" for normalization of relations that included greater cooperation in locating and returning the remains of approximately 2,200 U.S. soldiers and civilians who were still unaccounted for at that time. Vietnam responded by allowing the United States to open an MIA office in Hanoi and offering greater cooperation and assistance in locating the remains of U.S. personnel. On February 6, 1991, President George H. W. Bush said,

⁹ During the peace negotiations for the Vietnam War, then President Nixon wrote a secret letter on February 1, 1973 to then Prime Minister Pham Van Dong promising the United States would contribute "in the range of \$3.25 billion" in postwar reconstruction assistance over a five-year period.

¹⁰ In 1976, Congress passed legislation — the International Security Assistance and Arms Export Control Act (S. 2662) — that would have partially ended the embargo on trade with Vietnam, but President Ford vetoed the bill.

¹¹ Following Vietnam's invasion of Cambodia, Chinese troops entered Vietnam, precipitating a border conflict. Given the Cold War politics of the time, the United States was more concerned about maintaining its developing relations with China than fostering relations with Vietnam.

¹² The Vietnamese-USSR mutual defense treaty was primarily targeted at the People's Republic of China (China), not the United States. Both Vietnamese and USSR relations with the China had soured during the 1970s, and both nations perceived a military threat from neighboring China. For Vietnam, the threat was quite real, as China attacked Vietnam in 1979, in part in response to Vietnam's invasion of Cambodia.

¹³ For more information on the POW/MIA issue, see CRS Report RL33452, *POWs and MIAs: Status and Accounting Issues*, by Charles A. Henning.

I am pleased today to sign into law H.R. 556 [P.L. 102-4], the ‘Agent Orange Act of 1991.’ This legislation relies on science to settle the troubling questions concerning the effect on veterans of exposure to herbicides — such as Agent Orange — used during the Vietnam era.¹⁴

However, President’s Bush approval of assistance for U.S. veterans exposed to Agent Orange did not extend to Vietnamese veterans and civilians; Vietnamese efforts to discuss the issue were generally rebuffed by the United States.

President Clinton built on the general thaw in bilateral relations by signaling the end of U.S. opposition to Vietnam receiving international financial assistance. On February 3, 1994, President Clinton announced the end of the U.S. trade embargo on Vietnam. In April 1994, Congress passed the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236) that expressed the Senate’s support for the normalization of relations with Vietnam. Despite some congressional efforts to tie normalization to the POW/MIA issue, President Clinton continued to advance U.S. relations with Vietnam by appointing the first post-war ambassador to Vietnam in 1996 and signing the U.S.-Vietnam bilateral trade agreement (BTA) in 2000.

Towards the end of the Clinton Administration, the United States signaled an increased willingness to address the Agent Orange issue. In March 2000, then Defense Secretary William Cohen pledged greater U.S. cooperation with Vietnam’s Agent Orange problems during a trip to Hanoi. Eight months later, during President Clinton’s five-day trip to Vietnam, the United States and Vietnam agreed to set up a joint research study on the effects of dioxin/Agent Orange.

However, there continued to be clear limits on U.S. willingness to provide assistance. In August 2000, then U.S. Assistant Deputy Under Secretary of Defense Gary Vest traveled to Hanoi for bilateral meetings on environmental security, which included discussions of the Agent Orange issue. Following those meetings, Vest stated, “It is very important to emphasize we were not here to discuss a U.S. government cleanup of contamination.” Vest went on to explain that it was his understanding that under current international and U.S. law that the U.S. military could only undertake contamination cleanup activities outside of the United States if there is a clear liability under an international agreement or if specifically authorized by Congress.¹⁵

Progress towards the resumption of normal bilateral relations continued during the Bush Administration. Congress ratified the U.S.-Vietnam BTA in October 2001; the new agreement went into effect on December 10, 2001. Under the BTA, the United States granted Vietnam conditional normal trade relations (NTR).¹⁶ Vietnam’s conditional NTR status was renewed every year until December 2006, when Congress passed P.L. 109-432, a comprehensive trade and tax bill, that granted

¹⁴ “Statement on Signing the Agent Orange Act of 1991,” February 6, 1991, as posted by The American Presidency Project, [<http://www.presidency.ucsb.edu/index.php>].

¹⁵ “US Wants Private, World Role in Agent Orange Plan,” Reuters, August 4, 2000.

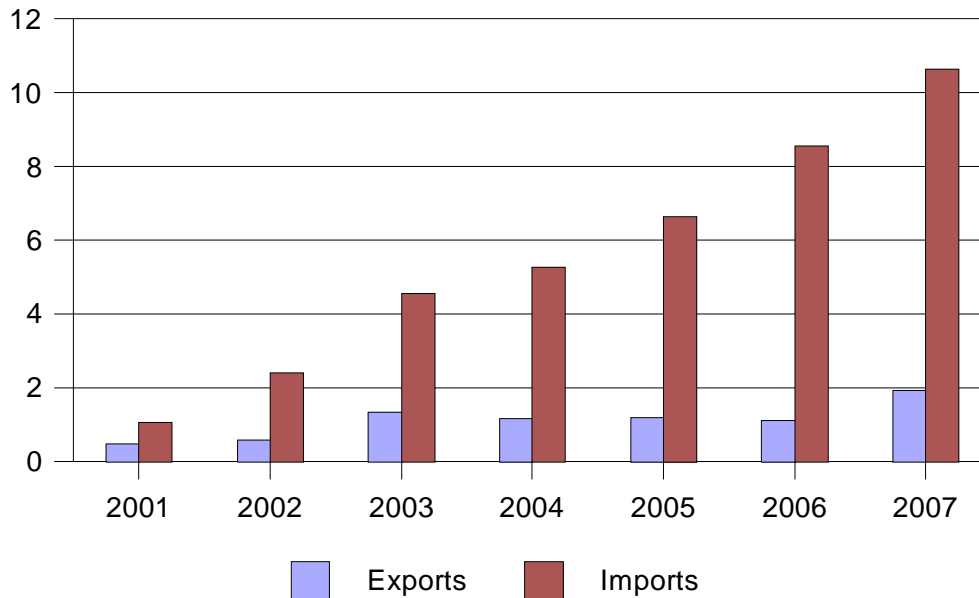
¹⁶ Previously known as temporary most favored nation (MFN) status.

Vietnam permanent NTR status as part of a wider agreement that saw Vietnam become a member of the World Trade Organization (WTO) on January 11, 2007.

Following the lifting of the trade embargo and the granting of NTR status, U.S. trade with Vietnam grew rapidly (see **Figure 1**). In addition, a rising number of U.S. companies invested in manufacturing facilities in Vietnam. Between 2001 and 2007, total bilateral trade between the two nations rose from \$1.5 billion to \$12.5 billion, according to official U.S. trade statistics.

Relations between Vietnam and the United States have also improved on matters of national security. In 2005, the United States and Vietnam signed an international military education training (IMET) agreement. Since then, a number of Vietnamese military officials have participated in training programs in the United States, and U.S. naval vessels have been allowed to make port of call visits to Vietnam. The two countries are also discussing possible joint military exercises in the future.

Figure 1. U.S. Trade with Vietnam, 2001-2007
(U.S. \$ Billions)



Source: U.S. International Trade Commission

Despite the general improvement in bilateral relations during the Bush Administration, the joint U.S.-Vietnamese studies of the effects of Agent Orange on Vietnam fell apart among claims of failure to act in good faith by both parties. In a “sensitive” but not classified dispatch of February 16, 2003, from the U.S. embassy in Hanoi to the Secretary of State, a State Department official wrote that the Vietnamese government was unwilling to accept internationally recognized scientific methods because the results may not support their claims of widespread

environmental damage and severe health effects.¹⁷ The Vietnamese government claimed that U.S. officials were instructed to prevent the completion of the exposure studies by senior government officials. In March 2005, the United States unilaterally terminated the research project.¹⁸

Moreover, the Bush Administration has been reluctant to provide direct assistance to people with health problems related to exposure to dioxin. During an April 2006 trip to Vietnam, then U.S. Secretary of Veterans Affairs James Nicholson was pressed by Vietnamese journalists to explain why the United States offered compensation to U.S. Vietnam veterans with Agent Orange-related medical conditions, but not to Vietnamese veterans and civilians.¹⁹ In June 2006, then U.S. Secretary of Defense Donald Rumsfeld reportedly stated that the United States would not compensate supposed Vietnamese Agent Orange victims, but would be willing to provide scientific information and technical advice on the effects of dioxin.²⁰

More recently, there have been modest efforts to revitalize joint research on Agent Orange exposure and the effect of dioxin on the people of Vietnam. These studies frequently involve non-government organizations (NGOs) in addition to agencies from both the U.S. and Vietnamese governments. In September 2008, U.S. and Vietnamese experts and officials met in Hanoi for a week-long meeting to discuss U.S. aid in the remediation of the effects of Agent Orange.

Current U.S. Government Assistance

Since the resumption of diplomatic relations, the U.S. government has maintained a comparatively consistent policy on the issue of Agent Orange/dioxin contamination in Vietnam. On the one hand, the U.S. government has been willing to offer some assistance with scientific research to evaluate the extent and severity of dioxin contamination, and, in locations where serious contamination has been found, provide financial and technical assistance with the containment and clean-up effort. On the other hand, the U.S. government has repeatedly reiterated that it “does not recognize any legal liability for damages alleged to be related to Agent Orange.”²¹ In addition, the U.S. government has continually questioned the credibility of Vietnam’s evidence that the dioxin contained in Agent Orange and other herbicides sprayed during the war are responsible for the various illnesses, health problems, and

¹⁷ The disclosed text of the dispatch, “Joint Research on Health/Environmental Effects of Agent Orange/Dioxin - An Assessment of Vietnamese Attitudes,” is available online at [http://www.ffrd.org/Agent_Orange/Embassy_memo.pdf].

¹⁸ “US Abandons Health Study on Agent Orange,” *Nature*, Vol. 434, April 7, 2005, p. 687.

¹⁹ *Ibid.*

²⁰ “US Refuses to Compensate Agent Orange Victims,” Australian Broadcasting Company, June 5, 2006.

²¹ “Testimony of Deputy Assistant Secretary Scot Marciel, Bureau of East Asian & Pacific Affairs, U.S. Department of State,” Subcommittee on Asia, the Pacific, and Global Environment Hearing, *Our Forgotten Responsibility: What Can We Do to Help Victims of Agent Orange?*, May 15, 2008.

birth defects prevalent in the Vietnamese population. As a result, the United States has demonstrated a greater willingness to participate in programs designed to assess, contain, and clean-up dioxin found in Vietnam's physical environment than to support or assist programs designed to address the health problems of Vietnamese nationals.

Current U.S. governmental assistance is almost exclusively in the form of cooperative efforts to identify, contain, and remove dioxin contamination related to the spraying of Agent Orange. According to the testimony of a State Department official before a House subcommittee in May 2008, examples of U.S.-Vietnamese cooperation on Agent Orange include:

- The creation of a Joint Advisory Committee (JAC) to review possible joint activities related to dioxin contamination;
- Joint workshops conducted by the U.S. Department of Defense and the Vietnamese Ministry of National Defence to share historical information on U.S. military operations in Vietnam related to Agent Orange handling and storage;
- A five-year, \$2 million project — involving the U.S. Environmental Protection Agency (EPA) and the Vietnamese Academy of Science and Technology and the Ministry of National Defence — to enhance Vietnam's ability to conduct laboratory analysis of soil and tissue samples; and
- \$400,000 in financial support from the Department of State and the EPA for dioxin mitigation planning assistance in Da Nang.

The U.S. government has provided assistance to health-related programs in Vietnam that were associated with other types of medical conditions, including war-related conditions. For example, the United States has provided Vietnam with HIV/AIDS related assistance through the President's Emergency Plan for AIDS Relief (PEPFAR).²² Vietnam is one of 15 "focus countries" and is the only Asian country to receive PEPFAR assistance. Similarly, the United States — via the Agency for International Development and the Leahy War Victims Fund — has provided Vietnam with financial support for assistance programs for people disabled by landmines and unexploded ordnance.²³

According to the Department of State, there has been \$40 million in support for "mine-action programs" since 1993 and \$43 million in disability assistance since

²² For more information about the U.S. PEPFAR activities in Vietnam, see CRS Report RL34569, *International HIV/AIDS, Tuberculosis, and Malaria: Key Changes to U.S. Programs and Funding*, by Kellie Moss.

²³ For more information about U.S. unexploded ordnance activities in Vietnam, see the U.S. Department of State's website, "To Walk the Earth in Safety: The U.S. Commitment to Humanitarian Mine Action," at [<http://www.state.gov/t/pm/rls/rpt/walkearth/2006/68018.htm>].

1989 through the Leahy War Victims Fund; funding for Agent Orange related projects has amounted to \$2 million.²⁴ Although the State Department did not provide an itemization of the use of the \$2 million, apparently most of the funds were used for technical and scientific activities.²⁵

To date, the primary forum for U.S. consultation with the Vietnamese government on the issue of Agent Orange has been the JAC. The first JAC meeting was held in Hanoi on June 5 and 6, 2006, during which the Vietnamese delegation “proposed to accelerate cooperation” of the topics of environmental clean-up, care and treatment of dioxin victims, and scientific research. According to the official minutes of the meeting, the first two topics were deemed “outside the scope” of the JAC’s activities. At the second JAC meeting — held on August 14 and 15, 2007, again in Hanoi — the U.S. co-chair stated that JAC was not a “policy making body,” but was a “scientific advisory committee” created to “provide expert scientific consultation to inform AO/dioxin related programs in Vietnam.” The third JAC meeting was held September 8-11, 2008, in Hanoi. The meeting focused on various environmental remediation efforts in Vietnam, as well as presentations from various donor organizations working on the Agent Orange/dioxin issue in Vietnam.

In May 2007, Congress passed the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110-28) that appropriated \$3 million for assistance to Vietnam for environmental remediation of dioxin-contaminated storage sites and to support health programs in communities near those sites.²⁶ On February 1, 2008, U.S. Ambassador to Vietnam Michael Michalak informed a joint meeting of U.S. and Vietnamese officials that “final steps are being taken to determine how these funds will be spent.”²⁷ In his March 2008 testimony to the Senate Committee on Foreign Relations Subcommittee on East Asian and Pacific Affairs, Assistant Secretary for East Asian and Pacific Affairs Christopher R. Hill stated, “... we are now devising a plan to implement \$3 million ... set aside by Congress for environmental remediation and health-related programs.”²⁸

Since Hill’s testimony, there have been no further announcements from either the U.S. embassy or the State Department about the utilization of the \$3 million.

²⁴ Statement of Assistant Secretary for East Asian and Pacific Affairs Christopher R. Hill, Senate Committee on Foreign Relations, Subcommittee on East Asian and Pacific Affairs, March 12, 2008.

²⁵ Personal communications with representative of State Department, April 25, 2008.

²⁶ For details, see CRS Report RL33900, *FY2007 Supplemental Appropriations for Defense, Foreign Affairs, and Other Purposes*, by Stephen Daggett, Amy Belasco, Pat Towell, Susan B. Epstein, Connie Veillette, Curt Tarnoff, and Rhoda Margesson.

²⁷ “U.S. Ambassador to Vietnam Michael Michalak Meets with Vietnamese and American Members of the ‘Dialogue Group’ to Discuss Dioxin Remediation Efforts,” press release, Embassy of the United States in Vietnam, February 1, 2008.

²⁸ Statement of Assistant Secretary for East Asian and Pacific Affairs Christopher R. Hill, Senate Committee on Foreign Relations, Subcommittee on East Asian and Pacific Affairs, March 12, 2008.

According to the State Department, the U.S. Agency for International Development (USAID) will be the lead agency for the utilization of the funds. The State Department and USAID indicated that a portion of those funds may be used for the creation of a full-time position in Vietnam to handle Agent Orange and dioxin-related environmental remediation and health care activities. Other possible activities to be funded out of the \$3 million include additional environmental remediation studies and cooperative healthcare programs, such as the operation of healthcare clinics near the identified “hotspots.”²⁹ The State Department and USAID are reportedly examining the current assistance programs for Vietnamese nationals exposed to Agent Orange to determine the preferred allocation of the \$3 million appropriation.

The Effects of Agent Orange on Vietnam

Virtually every aspect of the effects of Agent Orange on Vietnam is infused with uncertainty and/or controversy. There is some question about the amount of Agent Orange and other herbicides sprayed in Vietnam, as well as the amount of dioxin contained in the Agent Orange used. It is also unclear exactly where the herbicides were sprayed and the amount sprayed at each location. Nor is it known who was exposed to Agent Orange and its dioxin, and for what duration they were exposed. Finally, there is limited information about the long-term effects of Agent Orange on the environment and people of Vietnam.

The uncertainty and controversies are in part attributable to the general “fog of war.” At the time the herbicides were used, there was little consideration within the U.S. military about potential long-term environmental and health effects of the widespread use of Agent Orange in Vietnam. Similarly, both the South Vietnamese and North Vietnamese governments were not keeping detailed troop deployment information in anticipation of future claims of health problems associated with exposure to Agent Orange and dioxin. In addition, after the war ended, many Vietnamese combatants returned to their home towns, far away from the jungles where they once were sprayed with herbicides from U.S. military aircraft.

Given that direct information about Agent Orange exposure is not available, the alternative generally used has been to seek indirect evidence of dioxin exposure. Soil samples taken from supposedly sprayed and unsprayed locations can be analyzed to determine the amount and extent to which Vietnam has been contaminated with dioxin due to Operation Ranch Hand. At the same time, blood and tissue samples can be taken from Vietnamese nationals across the country to determine how much dioxin is present in their systems. To date, relatively few of these studies have been done, in part because of the cost associated with the research, and in part because of the political implications of the findings of such studies.

Although the research on the use of Agent Orange and other herbicides in Vietnam — and the resulting exposure of the people of Vietnam to dioxin — is limited in scale, it is possible to draw a few tentative conclusions from existing

²⁹ Conversation with representatives of State Department on April 25, 2008, and USAID on April 29, 2008.

studies. First, numerous areas of southern Vietnam was sprayed with Agent Orange and other herbicides during the Vietnam War, with widely varying levels of contamination with dioxin. Second, millions of Vietnamese were directly exposed to dioxin at the time the herbicides were sprayed, and millions more have been exposed to dioxin that remains in the soil and waterways of southern Vietnam.³⁰ Third, blood and tissue studies of Vietnamese nationals provide some evidence of higher than normal levels of dioxin in the systems of people presumed to have been exposed to Agent Orange, but methodological problems make interpretation of the data difficult and open to debate. Fourth, research in Vietnam on the long-term health effects of exposure to varying levels of dioxin is limited, making it difficult to firmly establish the connection between dioxin exposure and a variety of health problems purportedly occurring among the Vietnamese people with unusually high frequency.

Brief History of the Use of Agent Orange in Vietnam

Agent Orange was a chemical herbicide used from 1961 to 1971 by the U.S. military in the then Republic of Vietnam (a.k.a. — South Vietnam) and portions of the then Democratic Republic of Vietnam (a.k.a. — North Vietnam) to deny their military enemy cover in Vietnam's dense foliage.³¹ An approximately 50-50 mix of two chemicals — 2,4,-D (2,4, dichlorophenoxyacetic acid) and 2,4,5-T (2,4,5 trichlorophenoxyacetic acid) — Agent Orange derived its name from the orange band painted on the side of the 55-gallon drums in which the herbicide was delivered. Agent Orange was manufactured under Department of Defense (DOD) contracts for military-use in Vietnam by several companies, including Diamond Shamrock Corporation, Dow Chemical Company, Hercules Inc., Monsanto Company, T-H Agricultural & Nutrition Company, Thompson Chemicals Corporation, and Uniroyal Inc.

Agent Orange was one of 15 herbicides used during the Vietnam War, principally as part of Operation Ranch Hand, the key component of the U.S. military's overall herbicide program, Operation Trail Dust.³² Other herbicides used in Vietnam included Agent Blue, Agent Green, Agent Orange II (a.k.a. Super Orange), Agent Pink, Agent Purple, Agent White, Bromacil, Dalapon, Dinoxol, Diquat, Diuron, Monuron, Tandex, and Trinoxol. However, Agent Orange was the most extensively-used herbicide during the war.

A contaminant of the manufacture of Agent Orange (as well as Agent Purple) was 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), a dioxin thought to be responsible for most of the medical problems associated with exposure to Agent Orange.

³⁰ Dioxin is not water soluble, but an unknown amount of dioxin has washed into the rivers, streams and coastal waters of Vietnam, and presumably settled into its river and ocean beds.

³¹ The U.S. military also sprayed herbicides in Cambodia and Laos, but information on those programs is not included in this report.

³² For brief military accounts of Operation Ranch Hand, see Major William A. Buckingham, Jr., "Operation Ranch Hand: Herbicides in Southeast Asia," *Air University Review*, July-August 1983; and USAFTSGT Dale K. Robinson's article from the Air Force booklet, "Air Commando, 1950-1975: Twenty-Five Years at the Tip of the Spear."

Because TCDD was an unwanted byproduct, its concentration varied by production run, manufacturer, and the proportion of 2,4,5-T in the formulation. A 1978 General Accounting Office (GAO, now known as Government Accountability Office) report indicated that a 1971 DOD analysis of its remaining Agent Orange inventory found TCDD contamination levels ranging from 0.05 to 47.0 parts per million (p.p.m.).³³ Various studies made during and soon after the Vietnam War found lower ranges for TCDD concentration levels in stockpile samples, ranging from 0.05 to 17.0 p.p.m.³⁴

Estimates of Vietnamese Exposure to Agent Orange

In general, research into the level of Vietnamese exposure to Agent Orange and dioxin has followed two different approaches. One approach has attempted to determine how much Agent Orange was sprayed in Vietnam, where and when it was sprayed, and who was in the area when the herbicide was sprayed. From this data, researchers can then determine the level of exposure to Agent Orange and dioxin. The second approach examines the amount of dioxin in blood and tissue samples taken from people in Vietnam, and then infers each person's level of exposure. Because of data and other methodological problems, neither approach has been able to provide conclusive information on the general pattern of Agent Orange and TCDD exposure in Vietnam.

Amount Used. Precise information on how much Agent Orange was sprayed in Vietnam during the war is difficult to find, though several studies estimate the amount in the range of 11-12 million gallons. A 1978 GAO report states that 18.85 million gallons of herbicide were applied during the Vietnam War, of which 11.22 million gallons were Agent Orange.³⁵ According to William Buckingham's calculations, Operation Ranch Hand sprayed about 19 million gallons of herbicide, of which 11 million gallons were Agent Orange.³⁶ Dale Robinson reports that Operation Ranch Hand dispensed between 17.7 and 19.4 million gallons of herbicide, of which "approximately 10.6 to 11.7 million gallons" were Agent Orange.³⁷ A 2003 study of the extent of use and distribution patterns for herbicides based on DOD records estimated between 19.3 and 20.3 million gallons of herbicide were used in Vietnam, of which up to 12.1 million gallons were Agent Orange.³⁸ A study by H. Lindsey Arison found that 19.4 million gallons of herbicides were used in Vietnam, of which 11.7 million gallons were Agent Orange.³⁹

³³ General Accounting Office, *Use of Agent Orange in Vietnam* (CED-78-158), August 16, 1978.

³⁴ See Jeanne Mager Stellman, Steven D. Stellman, Richard Christian, Tracey Weber, and Carrie Tomasallo, "The Extent and Patterns of Usage of Agent Orange and Other Herbicides in Vietnam," *Nature*, Vol. 422, April 2003, for details.

³⁵ GAO, op. cit.

³⁶ Buckingham, op. cit.

³⁷ Robinson, op. cit.

³⁸ Stellman, et al., op cit.

³⁹ H. Lindsey Arison III, "The Herbicidal Warfare Program in Vietnam, 1961-1971, (continued...)

Exposure. Data on exposure to Agent Orange for Vietnamese nationals is even more difficult to determine for several reasons. First, while official records for Operation Ranch Hand are available, it is difficult to be certain about how much herbicide was sprayed on what locations due to mitigating combat conditions.⁴⁰ Second, in addition to the areas intentionally exposed to Agent Orange, an unknown amount of herbicide was leaked or spilled on military bases.⁴¹ Third, it is difficult to correlate the presence of Vietnamese nationals in exposed areas during or soon after the distribution of Agent Orange in a location. Fourth, the scientific tests on soil and tissue samples are expensive. The typical cost of determining the dioxin level in one person is \$1,000. The Vietnamese government states it lacks the financial resources to conduct comprehensive exposure studies.

Exposure studies generally fall into two types: (1) estimates of the concentration of Agent Orange applied or found at studied locations; and (2) tests to determine the concentration of dioxin in the tissue samples of persons who may have been exposed to Agent Orange during the Vietnam War. In part because of difficulties in determining where, when and how much Agent Orange was distributed in different locations in Vietnam, there are also varying estimates on the number of Vietnamese nationals who were exposed.

Concentrations. A 2005 study of the concentration of Agent Orange distribution in Vietnam determined that an estimated 1.7 million hectares (4.2 million acres) were sprayed with herbicides containing 2,4,5-T, and by extension, containing TCDD.⁴² **Figure 2** shows the sprayed areas.

According to the Vietnamese government, about 12,000 square miles (9.6%) of the nation was sprayed with herbicides during the war.⁴³ Over 10,000 square miles were sprayed more than twice and over 1,300 square miles were sprayed more than 10 times. Sprayed areas are distributed across much of southern Vietnam, ranging from Quang Tri to the north and Ca Mau in the South.

A 2005 article cited evidence of Agent Orange distribution levels ranging from 185 liters per hectare (l/ha) to 21,007 l/ha.⁴⁴ Another study concluded “the residual

³⁹ (...continued)

Operations Trail Dust/Ranch hand,” July 12, 1995, available online at [http://www.utvet.com/agentorange2.html].

⁴⁰ According to Stellman, et al., planes on occasion dumped their load of herbicide on non-targeted locations as part of an evasive maneuver or as the result of a plane crash.

⁴¹ According to several cited sources, DOD records for Operation Ranch Hand record multiple cases of herbicide leakages or spills at airbases.

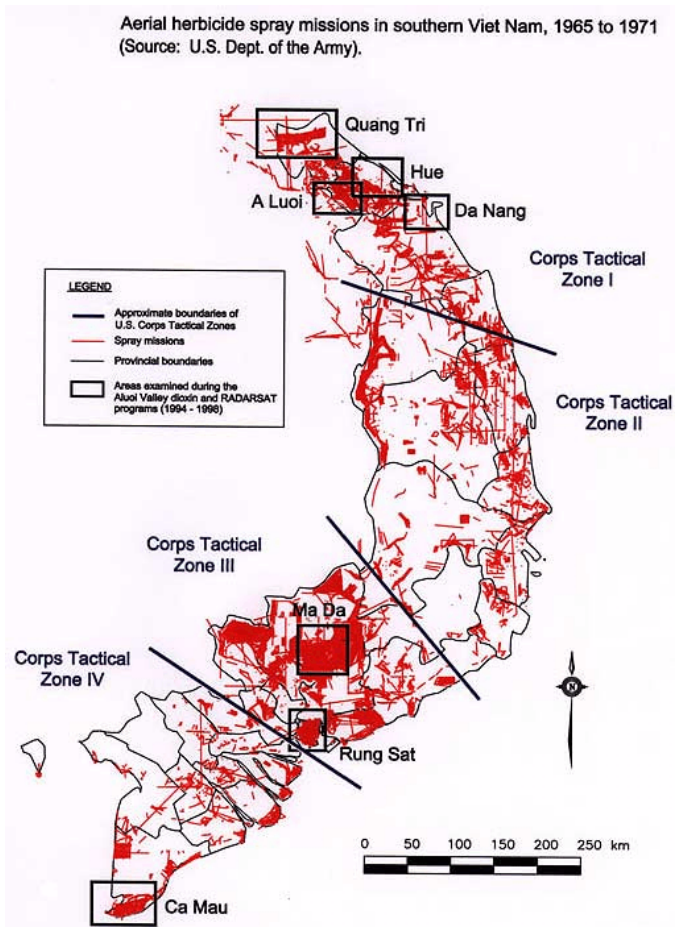
⁴² Stellman, et al., op. cit.

⁴³ Ministry of Natural Resources and Environment, *Human and Environmental Consequences of Agent Orange/Dioxin in Viet Nam: Overcoming Activities*, pamphlet. The total land area of Vietnam is 125,622 square miles, or a little larger than the State of New Mexico.

⁴⁴ Michael G. Palmer, “The Legacy of Agent Orange: Empirical Evidence from Central (continued...) ”

levels of wartime Agent Orange dioxin (TCDD) in soils of southern Vietnam are generally at or below background levels found in industrialized nations of North America.⁴⁵ However, several researchers maintain that Vietnam's frequent and heavy rains have probably leached most of the dioxin out of the soil of Vietnam during the 30-40 years since Agent Orange was sprayed.

Figure 2. Map of Areas of Vietnam Sprayed with Herbicides



There are specific locations where TCDD concentrations appear to remain high, despite the passage of over three decades. The main “dioxin hot spots” are located in and around the military bases that served as hubs for Operation Ranch Hand,

⁴⁴ (...continued)

Vietnam,” *Social Science & Medicine*, vol. 60 (2005), pp. 1061-1070. One liter = 0.264172052 U.S. gallons; 1 hectare = 2.47105381 acres.

⁴⁵ L.W. Dwernychuk, T.M. Hung, T.G. Boivin, G.S. Bruce, P.T. Dung, L.K. Son, C.T. Hatfield, N.T. Dung, J.A. Allen, D.D. Nhu, P.V. Thuc, D.J. Moats, and L. Borton, “The Agent Orange Dioxin Issue in Viet Nam: A Manageable Problem,” Hatfield Consultants, Ltd., paper presented at the 26th International Symposium on Halogenated Persistent Organic Pollutants — Dioxin 2006 held on August 21-25, 2006, in Oslo, Norway.

including the airbases at Bien Hoa, Da Nang, Nha Trang, and Phu Cat. In addition, the A Luoi (or A Shau) Valley, south of Quang Tri and west of Da Nang, was considered an important segment of the Ho Chi Minh Trail and was therefore heavily sprayed, making it another “hot spot.”

One study of Da Nang airbase found soil concentrations of “TCDD toxic equivalents” (TEQ) of up to 365 parts per billion (p.p.b.) — 365 times the international maximum level of 1.0 p.p.b.⁴⁶ Seventeen out of the 23 soil samples taken at Da Nang airbase exceeded the international maximum standard.⁴⁷ A study of soil samples from the Bien Hoa airbase found one sample with a TEQ concentration at over 1,000 p.p.b.⁴⁸ By comparison, the maximum concentration of TCDD found at Love Canal, New York was 17,200 p.p.b.; at Times Beach, Missouri, the maximum concentration was 1,750 p.p.b. Both U.S. communities were evacuated after evidence of dioxin contamination was found.⁴⁹

Tissue Samples. Another method of determining exposure levels to Agent Orange and TCDD is to take tissue samples — usually blood, breast milk, or adipose tissue⁵⁰ — from people who may have been exposed and compare the presence of TEQ to a control group who presumably were not exposed. A 1995 study of over 3,200 Vietnamese nationals living in sprayed and unsprayed areas of Vietnam found elevated TEQ levels for people residing in southern Vietnam and presumably more heavily exposed to Agent Orange when compared to residents of northern Vietnam who were less likely to have been exposed to Agent Orange.⁵¹ Average blood levels of TEQ were nearly six times higher among the people from sprayed areas, average breast milk levels were nearly four times higher, and average adipose levels were over 24 times higher.⁵² A separate study of blood dioxin levels of Da Nang residents reported TCDD concentrations “more than 100 times globally acceptable levels.”⁵³

⁴⁶ T.G. Boivin, K.S. Le, L.W. Dwernychuk, M.H. Tran, G.S. Bruce, N.H. Minh, N.T. Tran, K.S. Trinh, T.D. Phung, D. Moats, J.A. Allen, L. Borton, and M. Davies, “Agent Orange Dioxin Contamination in the Environment and Human Population in the Vicinity of Da Nang Airbase, Viet Nam,” Hatfield Consultants, Ltd.

⁴⁷ Ibid.

⁴⁸ Boivin, et al., op. cit.

⁴⁹ E.J. Dionne, Jr. “Ultrahigh Level of Poison Cited at Love Canal,” *New York Times*, July 13, 1982.

⁵⁰ Adipose tissue is specialized connective tissue that functions as the major storage site for fat in the human body.

⁵¹ Arnold Schecter, Le Cao Dai, Le Thi Bich Thuy, Hoang Trong Quynh, Dinh Quang Minh, Hoang Dinh Cau, Pham Hoang Phiet, Nguyen Thi Ngoc Phuong, John D. Constable, Robert Baughman, Olaf Pöpke, J.J. Ryan, Peter Fürst and Seppo Räsänen, “Agent Orange and the Vietnamese: The Persistence of Elevated Dioxin Levels in Human Tissues,” *American Journal of Public Health*, Vol. 84, No. 4 (April 1995), pp. 516-522.

⁵² Ibid.

⁵³ Boivin, et al., op. cit.

Elevated TCDD concentrations were also found in blood samples of Bien Hoa residents.⁵⁴

Studies of U.S. Vietnam War veterans to determine dioxin concentrations in their bodies have obtained seemingly contradictory results. A 2006 study of U.S. Army Chemical Corps Vietnam War veterans revealed statistically significant elevated TCDD levels in blood samples for veterans who reported spraying Agent Orange when compared to veterans who reported they had not sprayed Agent Orange.⁵⁵ A 1988 study of blood and adipose tissue sample from Vietnam veterans found higher TCDD levels when compared to a control group, leading the authors to conclude, “it is likely that the elevated TCDD levels arose from wartime exposure.”⁵⁶

However, other studies failed to find elevated TCDD levels among Vietnam veterans. A second 1988 study, which compared U.S. veterans who served in part of Vietnam “heavily sprayed” with Agent Orange to veterans who did not serve in Vietnam, found the TCDD levels in the two groups were “nearly identical.”⁵⁷ A third 1988 study, which compared TCDD levels in adipose tissue from Vietnam veterans, non-Vietnam veterans, and non-veterans, also revealed no significant difference between the three study groups.⁵⁸

Some scientists maintain that the apparent contradictions in the study results may reflect differences in the circumstances surrounding Vietnam veterans exposure to Agent Orange. There seems to be a general pattern that veterans who handled or sprayed Agent Orange have elevated levels of TCDD. Results are less consistent for veterans who operated in areas sprayed with Agent Orange. Some studies find elevated TCDD levels, others do not. Some scientists speculate that studies comparing Vietnam veterans to other control groups fail to find differences in the TCDD levels because the Vietnam veterans include people who were exposed to Agent Orange as well as people who were not exposed.

⁵⁴ Ibid.

⁵⁵ Han K. Kang, Nancy A. Dalager, Larry L Needham, Donald G. Patterson, Jr., Peter S. J. Lees, Katherine Yates, and Genevieve M. Matanoski, “Health Status of Army Chemical Corps Vietnam Veterans who Sprayed Defoliant in Vietnam,” *American Journal of Industrial Medicine*, Vol. 49 (2006), pp. 875-884.

⁵⁶ P. C. Kahn, M. Gochfeld, M. Nygren, M. Hansson, C. Rappe, H. Velez, T. Ghent-Guenther and W. P. Wilson, “Dioxins and Dibenzofurans in Blood and Adipose Tissue of Agent Orange-Exposed Vietnam Veterans and Matched Controls,” *Journal of the American Medical Association*, Vol. 259, No. 11 (March 18, 1988), pp. 1661-1667.

⁵⁷ The Centers for Disease Control Veterans Health Studies, “Serum 2,3,7,8-tetrachlorodibenzo-p-dioxin levels in US Army Vietnam-era Veterans,” *Journal of the American Medical Association*, Vol. 260, No. 9 (September 2, 1988), pp. 1249-1254.

⁵⁸ Han K. Kang, Kevin K. Watanabe, Joseph Breen, Janet Reemers, Margaret G. Conomos, John Stanley, and Michele Flicker, “Dioxin and Dibenzofurans in Adipose Tissue of US Vietnam Veterans and Controls,” *American Journal of Public Health*, Vol. 81, No. 3 (March 1991), pp. 341-349.

Studies have also examined food produced in contaminated areas to determine if they contain significantly elevated levels of TCDD or other dioxins. One study of various food crops and livestock from the A Luoi Valley revealed negligible TCDD levels in rice, manioc and vegetable oil samples, but exceptionally high TCDD levels in some duck fat and fish fat samples.⁵⁹ It is thought that the higher levels in fish and ducks are an indication that TCDD remains in the sediment of Vietnam's rivers, streams, lakes and ponds. Other studies have also found evidence of elevated dioxin levels in Vietnamese immigrants from non-sprayed areas, children born after the war, as well as elevated TCDD levels in food and soil samples from the study area.⁶⁰

Number of Vietnamese Exposed. Determining how many Vietnamese nationals were exposed to Agent Orange during and after the Vietnam War is both complicated and controversial. One study estimated the number of Vietnamese nationals exposed to Agent Orange and/or dioxin ranged from 2.1 to 4.8 million.⁶¹ Vietnam Victims of Agent Orange Association (VAVA) estimates that three million Vietnamese were exposed to Agent Orange during the war and at least one million suffer serious health problems due to that exposure.⁶²

Vietnam's Health Claims

The Vietnamese government maintains that TCDD is harming the health of its people in several ways. First, Vietnamese civilians and soldiers who were directly exposed to Agent Orange during the war are experiencing certain diseases and health problems at a rate higher than the nation's unexposed population. Second, people living in areas with residual TCDD in the soil and water are also suffering from health complications related to the aftereffects of Operation Ranch Hand. Third, the children of people exposed to dioxin have an unusually high level of birth defects and/or health problems.

In 1998 and again in 2000, the Vietnam Red Cross (VRC) compiled lists of diseases it associated with Agent Orange/dioxin exposure (see box). In March 2008, Vietnam's Ministry of Health reportedly compiled a confidential list of 17 diseases and deformities that it maintained were related to exposure to dioxin. The VRC list contained many of the same diseases identified by the U.S. Department of Veterans Affairs as being related to exposure to Agent Orange, including bronchial carcinoma, tracheal cancer, laryngeal neoplasm, prostate cancer, and type 2 diabetes. Other

⁵⁹ L. Wayne Dwernychuk, Hoang Din Cau, Christopher T. Hatfield, Thomas G. Boivin, Tran Manh Hung, Phung Tri Dung, and Nguyen Dinh Thai, "Agent Orange/Dioxin Hot Spots — A Legacy of U.S. Military Bases in Southern Viet Nam," paper presented at Viet Nam — United States Scientific Conference on Human Health and Environmental Effects of Agent Orange/Dioxin, Hanoi, March 2002.

⁶⁰ Arnold Schechter, Hoang Trong Quynh, Marian Pavuk, Olaf Pöpke, Rainer Malisch, and John D. Constable, "Food as a Source of Dioxin Exposure in the Residents of Bien Hoa City, Vietnam," *Journal of Occupational and Environmental Medicine*, Vol. 45, No. 8, August 2003.

⁶¹ Stellman, et al., op. cit.

⁶² Tom Fawthrop, "Vietnam's War Against Agent Orange," BBC News, April 15, 2008.

diseases on the VRC's list are not recognized by the U.S. government as being related to dioxin exposure. The Ministry of Health also considers congenital deformities and mental disorders in the children of those exposed to TCDD as being dioxin-related. The U.S. government only considers spinal bifida as being potentially caused by Agent Orange exposure by a parent.

In the last few years, much of the Vietnamese government's concern about the effects of Agent Orange has focused on the affected children and their families. Because the deformities and disorders are frequently quite severe, the children often require continual care. Given the current status of Vietnam's health care system, it is not possible to place many of the children in managed-care facilities. As a result, most of the children are tended by their families. This not only creates a financial burden for the families, it typically means a significant loss of household income as at least one person must remain at home with the affected child or children.

**Vietnam Red Cross List of Diseases
Caused by Agent Orange/Dioxin**
(combined 1998 and 2000 lists)

- Acute, chronic and subacute peripheral neuropathy
- Chloracne
- Diabetes (Type 2)
- Hepatoma
- Hodgkin's disease
- Lipid metabolism
- Malignant (non-Hodgkin's) lymphoma
- Multiple myeloma (Kahler's disease)
- Porphyria cutanea tarda
- Prostate cancer
- Reproductive abnormalities
- Respiratory cancers (bronchial, tracheal, and laryngeal)
- Sarcoma
- Spinal bifida

Source: Confidential Vietnamese official

Clean-Up Efforts

The prospects for cleaning up the dioxin in Vietnam distributed by the spraying of Agent Orange and other herbicides are complicated by the area sprayed, the passage of time, and a general lack of resources. There is a supposition that Vietnam's episodic heavy rains and the passage of time have probably removed most of the dioxin from sprayed areas, but there are no definitive studies to verify this notion.

In addition, political and other considerations have tended to shift the focus on Agent Orange clean-up efforts towards the confinement and clean-up of dioxin from the identified "hot spots" with elevated levels of dioxin in the soil, such as the airbases used by Operation Ranch Hand. Both the Vietnamese and U.S. governments have had reasons to avoid or delay consideration of the topic of Agent Orange clean-up. It is thought that Vietnam avoided raising the issue prior to its obtaining NTR in 2002 and "permanent normal trade relations" (PNTR) status with the United States in 2006 and membership in the World Trade Organization (WTO) in 2007. The U.S.

government purportedly also has avoided the issue because of concerns about potential liability issues and/or presumptions of responsibility.⁶³

However, since Vietnam obtained PNTR status and joined the WTO, the issue of Agent Orange and its clean-up has risen in prominence in bilateral relations.⁶⁴ In February 2007, the United States announced it would provide \$400,000 to support mitigation planning for the dioxin clean-up of the Da Nang airbase.⁶⁵ In June 2007, the DOD presented the Vietnamese Ministry of Defense with a detailed map of herbicide storage locations from 1962 to 1971 during a Hanoi workshop on chemical herbicide use during the Vietnam War.⁶⁶

The clean-up of the Da Nang airbase is a joint operation involving the Vietnamese Ministry of Defence, the U.S. Environmental Protection Agency (EPA) and a group called the U.S.-Vietnam Dialogue Group on Agent Orange/Dioxin (Dialogue Group).⁶⁷ In 2006, the Vietnamese government estimated the cost for the detoxification of the Da Nang and the Bien Hoa airbases could reach \$10 million.⁶⁸ In 2008, the estimated cost of cleaning up the Da Nang airbase was raised to \$14 million.⁶⁹

The Dialogue Group announced on February 1, 2008, that \$1.2 million had been spent on the first two stages of the Da Nang clean-up project, primarily on containment measures, including a concrete cap over the former Agent Orange loading area and fencing around a dioxin-contaminated lake downstream from the airbase.⁷⁰ In addition to the U.S. government, major funding for the Da Nang clean-up is being provided by the Ford Foundation. The *Voice of Vietnam*, a Vietnamese

⁶³ For more information on the mutual reluctance of the Vietnamese and U.S. government to raise the issue of Agent Orange, see Robert Dreyfuss, "Apocalypse Still," *Mother Jones*, January 2000.

⁶⁴ The United States extended PNTR status to Vietnam in December 2006, and Vietnam became a member of the WTO on January 1, 2007. For details, see CRS Report RL33316, *U.S.-Vietnam Relations: Background and Issues for Congress*, by Mark Manyin.

⁶⁵ "US Gives Vietnam \$400,000 to Plan Clean-up of Agent Orange Hotspot," Associated Press, February 9, 2007.

⁶⁶ "US, Vietnam Continue Wartime Toxin Cleanup Efforts," *Thanh Nien News*, June 21, 2007.

⁶⁷ The Dialogue Group includes representatives from the American Association for the Advancement of Science, the Aspen Institute, the Ford Foundation, Ngoc Tam Hospital Corporation, Vietnam National University, and the World Committee on Disability — as well as the Vietnamese government. There are no current U.S. government officials in the Dialogue Group.

⁶⁸ "Vietnam to Clean Dioxin in Hot Spots," *Thanh Nien News*, July 19, 2006.

⁶⁹ Ben Stocking, "Agent Orange Work Progresses in Vietnam," Associated Press, February 1, 2008.

⁷⁰ "US-Vietnam Project Starts Agent Orange Remediation," Agence France-Presse, February 1, 2008.

government-run radio station, reported on February 15, 2008, that the clean-up of the Da Nang airbase is expected to be completed by the end of 2008.⁷¹

Information on the status of clean-up projects on other hot spots is limited. There are unconfirmed reports that the Vietnamese military has begun clean-up operations at the Bien Hoa airbase. There is limited evidence of detoxification efforts undertaken in areas heavily sprayed with Agent Orange. One area where the Vietnamese government — with the assistance of international agencies such as the Asian Development Bank and other contributors — has attempted to address the long-term damage caused by Agent Orange is the rehabilitation of affected forestland.⁷²

The Vietnamese government asserts it lacks the financial resources to undertake the clean-up projects on their own. In addition, other war-related projects — such as the removal of unexploded ordnance and care of Vietnam’s war veterans — require significant financial resources, making it difficult to allocate more resources to Agent Orange and dioxin. The United Nations Development Program (UNDP) announced in August 2007 it would provide \$350,000 in financial support for the clean-up of the airbases at Da Nang, Bien Hoa, and Phu Cat.⁷³ According to UNDP estimates, it will cost nearly \$51 million to clean-up all three hotspots.⁷⁴

Vietnam’s Assistance to the Victims⁷⁵

Information on Vietnam’s assistance program for people exposed to Agent Orange is limited. In 1999, Vietnam created the Office of National Steering Committee for the Overcoming of the Consequences of Toxic Chemicals used by the United States in the War in Vietnam — also known as Office 33 or Committee 33 — to coordinate the various programs designed to overcome the various consequences of the use of herbicides during the war, including environmental remediation and health care assistance for people suffering from diseases associated with dioxin exposure.

Committee 33 works with Vietnam’s Ministry of Health to provide special assistance to Vietnamese presumed to be suffering from conditions related to exposure to Agent Orange. People who have certain medical conditions are eligible to receive a disability stipend from the AO Central Payments Programme (see details

⁷¹ “Da Nang to be Free of Dioxin in 2008,” *Voice of Vietnam*, February 15, 2008.

⁷² For one account of the forest rehabilitation effort, see Christie Aschwanden, “Through the Forest, a Clearer View of the Needs of a People,” *New York Times*, September 18, 2007.

⁷³ “UNDP Helps Clean Dioxin Hotspots in Vietnam,” *Saigon Times*, August 28, 2007.

⁷⁴ *Ibid.*

⁷⁵ Portions of this section and following sections of the report were written by Evan Coutts, a 2008 summer intern for the Congressional Research Service.

below) of up to 300,000 Vietnamese dong (\$20) per month.⁷⁶ According to one source, the Vietnamese government categorizes people eligible for compensation into three groups: (1) those who have partially or totally lost the ability to work; (2) children with deformities or who have lost the ability to work; and (3) orphans with deformities or who are unable to work.⁷⁷ One study estimated the total Vietnamese budget for Agent Orange compensation in 2000 at \$41 million.⁷⁸ The annual cost of providing a \$20 per month stipend to all of Vietnam's estimated 2.1-4.8 million "victims" of Agent Orange would be \$500 million to \$1.2 billion.

Vietnam's federal government also works closely with private and provincial government agencies providing assistance to people with medical conditions purportedly related to Agent Orange exposure. On July 24, 1998, the VRC established the Agent Orange Victims Protection Fund. Various national organizations, such as Vietnam Association of Veterans, Confederation of Vietnam Labour Unions, Vietnam Farmers Association, Vietnam Women's Union, Vietnam Lawyers Association, and the Ho Chi Minh Youth Union, contributed to the central fund. In addition, there are 57 Agent Orange Victims Protection Funds at the provincial level. Between 1998 and 2004, the VRC fund raised 23 billion dong (\$1.4 million) and provincial funds raised 50 billion dong (\$3.1 million) for programs to provide aid to people who were exposed to dioxin.

Government Support

A current focus of the Vietnamese government's efforts on Agent Orange/dioxin is the identification of people affected by Agent Orange/dioxin and ensuring that they receive their monthly stipend from the AO Central Payments Programme. Identifying those with diseases or disabilities directly related to dioxin is done at the local level according to standards put in place by the Ministry of Health and the Ministry of Labour, War Invalids, and Social Affairs (MoLISA).⁷⁹ The Medical Test Boards of cities, provinces, and branches "determine the extent to which the victims have been infected, their deformities and damages to their health."⁸⁰ The district files the paperwork with MoLISA and, if approved, the funds for the stipends are distributed. According to a 2006 MoLISA report, approximately half of the households with disabled members were receiving either direct income support

⁷⁶ Tom Fawthrop, "Agent Orange Victims Sue Monsanto," *Corpwatch*, November 4, 2004. For comparison, the U.S. State Department estimates that Vietnam's per capita GDP in 2007 was approximately \$70 per month.

⁷⁷ Michael G. Palmer, "The Legacy of Agent Orange: Empirical Evidence from Central Vietnam," *Social Science and Medicine*, Vol. 60 (2005), pp. 1061-1070.

⁷⁸ *Ibid.*

⁷⁹ "Health Check-up for Agent Orange Victims," Press Release - Embassy of Vietnam, January 8, 2001.

⁸⁰ *Ibid.*

through the AO Central Payments Programme, free medical treatment, and/or a Health Insurance Card.⁸¹

AO Central Payments Programme. The Vietnamese government's main effort in assisting those affected by Agent Orange is the AO Central Payments Programme. Established in 2000, it offers monetary benefits to former soldiers, civilians and children exposed to Agent Orange. More than 200,000 individuals receive a monthly allowance, totaling 60 billion dong, or \$4 million, a month.⁸² The program currently costs the government \$50 million a year.⁸³ Compensation consists of monthly payments, ranging from \$5.70 to \$7.14 for adults and \$3.40 to \$6.00 for children.⁸⁴ Families can receive multiple stipends based on the number of eligible recipients. The program also covers the survivors of Vietnamese war veterans who died as a direct result of AO-associated diseases. There are no AO Central Payment Programme formal provisions made for non-monetary benefits except for humanitarian center assistance and medical treatment for orphans. Furthermore, persons able to work or study and those already receiving state benefits (such as the Health Insurance Card) are excluded from the program.

Health Insurance Card. The Vietnamese government has created a Health Insurance Card, which provides access to free health care. The goal of the Ministry of Health's Health Insurance Department is to provide 70%-80% of the population with health insurance by 2010 and all students, as well as all children under the age of six with health insurance by 2008.⁸⁵ In the first six months of 2007, 14.5 million people were granted Health Insurance Cards. However, as of August 2007, only half of the total number of people who needed them had them.⁸⁶ There are also voluntary health insurance cards that require city residents pay an annual premium of VND 280,000 (\$17), and rural residents, VND 200,000 (\$12.50).⁸⁷ In addition, coverage

⁸¹ Michael Palmer, "The Case of Agent Orange; Term Given to a Herbicide and Defoliant Used during the Vietnam War by the U.S. Military," *Contemporary Southeast Asia*, April 1, 2007.

⁸² "Human and Environmental Consequences of Agent Orange/Dioxin in Viet Nam," Ministry of Natural Resources and Environment.

⁸³ "Ten Percent of Agent Orange Victims receive Aid," *Vietnam News Agency*, May 16, 2008.

⁸⁴ Michael G. Palmer, "Healing the Wounds of War? A Discussion of Agent Orange Compensation Programmes in the United States and Vietnam," *International Journal of Comparative Sociology*, June 2003, vol. 44: pp. 266 - 279. Compensation figures presented in U.S. dollars; no Vietnamese dong equivalents provided.

⁸⁵ "More to Receive Health Insurance Coverage," *Vietnam News Agency*, March 31, 2007.

⁸⁶ "Culture and Society Vietnam's Poverty Rate Slightly Falls," *Vietnam News Briefs*, August 30, 2007; "Vietnam Only Half of Those Eligible Have Health Insurance Cards, Says Official," *Thai Press Reports*, May 21, 2007.

⁸⁷ "Vietnam State Health Insurance Costs Rise," *Thai Press Reports*, May 4, 2007.

may infringe on the recipient's right to receive monetary compensation from the AO Central Payments Programme.⁸⁸

The government has also set aside August 10 as "Agent Orange Day," an official commemoration in support of the "victims" of Agent Orange/dioxin. August 10, 1961, was the date of the first usage of Agent Orange defoliant on Vietnamese forests. In 2008, the Vietnam Red Cross organized a "month of action" to support Agent Orange/dioxin victims, running from August 10 to September 9.⁸⁹

U.S. Civil Suit for Compensation

The Vietnamese government has also been supportive of a U.S. civil suit, *Vietnam Association for Victims of Agent Orange/Dioxin v. Dow Chemical Co.*, seeking compensation for the Vietnamese exposed to Agent Orange from the manufacturers of the herbicide. On October 5, 2005, the U.S. District Eastern District of New York dismissed the case, concluding that the government contractor defense — which protects government contractors from state tort liability under certain circumstances when they provide defective products to the government — applied to the manufacturers of Agent Orange and other herbicides used during the Vietnam War. The District Court ruling was appealed to the United States Court of Appeals for The Second Circuit in New York City. On February 22, 2008, the Second Circuit Court upheld the decision of the District Court.⁹⁰ On October 6, 2008, the plaintiffs filed a petition with the U.S. Supreme Court requesting a reconsideration of the Appeal Court's decision.

The civil suit mirrors one submitted on behalf of U.S. Vietnam veterans in the same U.S. District Court in 1979. Although the District Court also dismissed the claim in the 1979 case, there was an out-of-court settlement in which the manufacturers of Agent Orange agreed to pay \$180 million to Vietnam veterans who claimed that exposure to Agent Orange caused them numerous health problems. It was also thought that the court case and the out-of-court settlement contributed to the passage of the various laws providing Vietnam veterans with medical coverage and disability compensation for conditions attributed to Agent Orange and dioxin. It has been speculated that the Vietnamese plaintiffs are hoping that their court case may result in a similar out-of-court settlement and/or passage of federal laws granting them assistance or compensation.

The Vietnamese government and various Vietnamese organizations reacted strongly to the U.S. Court of Appeals decision. The Vietnam Association for Victims

⁸⁸ Michael G. Palmer, "Healing the Wounds of War? A Discussion of Agent Orange Compensation Programmes in the United States and Vietnam," *International Journal of Comparative Sociology*, June 2003, vol. 44: p. 273.

⁸⁹ "Month of Action to Help Dioxin Victims Nationwide," Vietnam Net, August 10, 2008.

⁹⁰ 90 United States Court of Appeals for The Second Circuit, Docket N. 05-1760-cv, In re "Agent Orange" Product Liability Litigation, February 22, 2008.

of Agent Orange/Dioxin called the decision “irrational, biased, and unfair.”⁹¹ The Vietnam Association of War Veterans termed the decision “legally and morally erroneous.”⁹² Foreign Ministry spokesman Le Dzung said, “It is particularly regretful that the ruling came in a time that the U.S. government has started cooperating with Vietnam to resolve the consequences caused by Agent Orange/dioxin.”⁹³

Vietnamese Americans and Agent Orange

There are an estimated 1.6 million Vietnamese Americans in the United States. Approximately half of the Vietnamese Americans left Vietnam either immediately after the end of the war or as part of the “boat people” migration of the late 1970s and early 1980s. Some of those Vietnamese emigres were soldiers for the Army of the Republic of Vietnam (ARVN), and may have handled Agent Orange and other herbicides during the Vietnam War.⁹⁴ It is likely that some of them may have been exposed to Agent Orange and may have health problems related to that exposure.

Information about possible dioxin-related medical problems among the Vietnamese American population is not readily available. Because much of the Vietnamese American community is unfriendly towards the current Vietnamese government, some Vietnamese Americans may be reluctant to publicize their medical problems that may be potentially related to exposure to Agent Orange.

Other Sources of Assistance

Prior to the early 1990s, there was little domestic or international non-governmental involvement in assisting those with AO-related diseases. In recent years, support specifically for people exposed to AO/dioxin has grown, mostly provided by non-governmental organizations (NGOs). Inside Vietnam, several Agent Orange-related organization have been formed to raise funds via charity events and celebrity concerts. Outside of Vietnam, a variety of NGOs have offered technical assistance and financial support for the provision of medical care for Agent Orange victims.

Vietnamese Non-Governmental Assistance

Vietnam Red Cross Fund to Support Agent Orange Victims. In 1998, the Prime Minister of Vietnam announced the establishment of a fund to support

⁹¹ Press statement of the Vietnam Association for Victims of Agent Orange/Dioxin, February 25, 2008.

⁹² “Veterans Protest US Court’s Agent Orange Verdict,” *Thanhnie News*, March 9, 2008.

⁹³ “US Court’s Ruling Erroneous and Unjust: VN Foreign Ministry Spokesman,” Ministry of Foreign Affairs, February 25, 2008.

⁹⁴ Under an agreement between the United States and South Vietnam, ARVN soldiers were responsible for the transport and handling of the herbicides used in Operation Ranch Hand.

Agent Orange victims under the Vietnam Red Cross (VRC).⁹⁵ The VRC's Fund to Support Agent Orange Victims has 62 chapters in 64 cities and provinces across the country. It receives financial and material support from both domestic and foreign donors, as well as special fundraising events. It has raised more than 350 billion dong, or \$21 million, over the past decade.⁹⁶

The VRC provides treatment, rehabilitation, literacy and vocational training programs, and monetary support. Since its creation, it has assisted more than 667,000 people, with almost 87,000 having received startup capital for new businesses reportedly employing more than 150,000 people.⁹⁷ The VRC plans on raising at least 10 billion dong (\$602,000) annually and will contribute at least one billion dong (\$60,000) to provincial funds.⁹⁸

One major contributor to the VRC's Agent Orange programs is the Rare Antibody Antigen Supply, Inc. (RAAS) — a blood plasma company founded in the United States, but now also operating in China and Vietnam. RAAS has donated over 17 billion dong (\$1 million) to the VRC, and over 71 billion dong (\$4.4 million) in various forms of assistance.

Vietnam Association for Victims of Agent Orange (VAVA). At present, there are VAVA chapters in 50 provinces. Hundreds of districts and communes in Vietnam have benefitted from contributions from VAVA.⁹⁹ VAVA's work includes encouraging people exposed to Agent Orange in overcoming the difficulties of daily life; providing monetary and social assistance; raising public awareness; managing donations from individuals, organizations and businesses; and organizing volunteer activities.¹⁰⁰

Charity Events. In the past decade, various organizations and groups have held multiple charity events to benefit those affected by Agent Orange, ranging from walks to raise awareness, benefit concerts, sports tournaments, and auctions, and have raised a considerable amount of money for aid. The amount of funds brought in has been substantial, with the most for a single event reportedly being around \$1 million-\$2 million. The charity events frequently feature well-known Vietnamese pop stars and/or international celebrities. For example, fund-raising concerts have been given by Vietnamese artists Trong Tan and Khanh Linh, as well as Peter Yarrow of the folk group Peter, Paul, and Mary.

⁹⁵ "For Agent Orange Victims," Press Release - Ministry of Foreign Affairs, Government of Vietnam, undated.

⁹⁶ "Agent Orange Victims Fund Raises 353 Billion VND," Vietnam News Agency, June 11, 2008.

⁹⁷ "Fund to Help Agent Orange Victims Expands," *Thanh Nien News*, June 5, 2008.

⁹⁸ *Ibid.*

⁹⁹ "Ten Percent of Agent Orange Victims Receive Aid," Vietnam News Agency, May 16, 2008.

¹⁰⁰ *Ibid.*

Peace Villages. With the support of government assistance, a network of special schools, or “Peace Villages,” have been set up across the country for children suffering from disabilities, many caused by AO/dioxin. Many of the villages have been set up near dioxin “hot spots.” The Hoa Binh Peace Village and Vietnam Friendship Village, two of the more well-known centers, are residential facilities with health care services for orphaned children, elderly or disabled adults, and children affected by dioxin poisoning and other mental and physical disabilities. Although they are privately run and funded, the Vietnamese government has given them land grants, including 27,000 square meters for the Vietnam Friendship Village. Thousands of victims, particularly children with disabilities, have been cared for and treated in the aforementioned villages and other centers around the country. However, such support activities “only meet a small part of [the] very large and long-term demand of Agent Orange/dioxin victims.”¹⁰¹

International Sources of Assistance

The Ford Foundation. Since 2000, the Ford Foundation has funded a wide variety of programs and initiatives aimed at addressing the impact of Agent Orange and dioxin on post-war Vietnam. These include assisting in the development of scientific facilities to assess the impact of dioxin on the people of Vietnam, contributing to the clean-up efforts at the Da Nang airbase, supporting health care facilities for people with medical conditions associated with dioxin, disability rights advocacy, and organizing the U.S.-Vietnam Dialogue Group on Agent Orange. Through August 2008, the Ford Foundation had made grants of nearly \$6.5 million to Agent Orange/dioxin related projects in Vietnam, and had committed to more in the future.

The Ford Foundation is the largest international contributor of assistance to Vietnam’s efforts to clean up dioxin. From 2000 to 2007, the Ford Foundation gave grants totaling more than \$4.8 million to government agencies, NGOs, and universities to promote the study of Agent Orange/dioxin related diseases, the creation of adequate healthcare services for children and the disabled, environmental clean-up projects, and scientific research.¹⁰²

In September 2007, the Ford Foundation pledged \$7.5 million in support for the Dialogue Group.¹⁰³ Since November 2006, the Ford Foundation has supported the work of the Aspen Institute in establishing the Dialogue Group’s effort to bring key individuals in both the United States and Vietnam together to develop practical responses to the health and environmental consequences of the use of herbicides during the Vietnam War.

¹⁰¹ Professor Nguyen Thi Ngoc Phuong, MD, testimony before the House Committee on Foreign Affairs, Subcommittee on Asia, the Pacific and the Global Environment, May 15, 2008.

¹⁰² “Addressing the Effects of Agent Orange/Dioxin in Vietnam,” The Ford Foundation, available online at [<http://www.fordfound.org/>].

¹⁰³ Thu Thuy, “US, Vietnam Discuss Agent Orange Remediation,” Thanh Nien News, February 2, 2008.

A philanthropic organization that funds humanitarian efforts around the world, the Ford Foundation has been involved with both the environmental and health legacy of Agent Orange/dioxin in Vietnam since 2000.¹⁰⁴ In 2006, a Special Initiative on Agent Orange was established, seeking to address the healthcare services offered to disabled Vietnamese, reduce exposure to at-risk communities, aid in “hot spot” clean-up efforts, and encourage dialogue between Vietnam and the United States about the legacy of the Vietnam War.¹⁰⁵ The Ford Foundation is working closely with both the Vietnamese and U.S. governments on its Special Initiative on Agent Orange, as well as the United Nation’s Children’s Fund (UNICEF) and the United Nations Development Program (UNDP).

The United Nation’s Children’s Fund (UNICEF). In April 2008, UNICEF launched a project to provide healthcare and education to children with disabilities in Vietnam. In close cooperation with the government of Vietnam, UNICEF started a pilot program in Da Nang to train health workers, educators, parents, and other care givers how to properly monitor the health and nutrition of children with disabilities.¹⁰⁶ In addition to the pilot program, UNICEF has organized a fund-raising campaign that is to be matched dollar for dollar by a \$1 million grant from the Ford Foundation, with the goal of implementing similar programs all over Vietnam.¹⁰⁷

The United Nations Development Program (UNDP). In 2007, the United Nations Development Program (UNDP) provided \$350,000 to a dioxin clean-up program in cooperation with Vietnam’s Ministry of Natural Resources and Environment and Ministry of National Defense.¹⁰⁸ Preliminary plans called for the funds to be used at dioxin contaminations in Da Nang, Bien Hoa, and Phu Dat.

Implications for Bilateral Relations

Over the last 10 years or so, economic and security trade issues have gained priority over war legacy issues in U.S.-Vietnam relations. Although war legacy issues in the United States complicated and held up efforts to normalize relations between the two countries, the perceived mutual benefits of bilateral trade currently exert more influence on overall U.S.-Vietnam relations. However, there still remains the risk that the mismanagement of war legacy issues — such as the status of Vietnam’s “victims” of Agent Orange — could derail or delay further progress in bilateral relations.

¹⁰⁴ “Special Initiative on Agent Orange/Dioxin - Overview,” The Ford Foundation, available online at [<http://www.fordfound.org/programs/signature/agentorange/overview>].

¹⁰⁵ Ibid.

¹⁰⁶ “Improving Healthcare and Education for Children with Disabilities in Vietnam,” UNICEF USA, April 16, 2008.

¹⁰⁷ “UNICEF Launches Initiative to Provide Assistance to Children with Disabilities in Vietnam,” UNICEF USA, April 9, 2008, available online at [<http://www.unicefusa.org/news/releases/unicef-launches-initiative-to.html>].

¹⁰⁸ “UNDP Helps Clean Dioxin Hotspots in Vietnam,” Vietnam News Agency, August 28, 2007.

For the Vietnamese government, it appears that economic and strategic considerations will continue to take priority over U.S. assistance in cleaning up dioxin and providing assistance to people with illnesses thought to be related to dioxin exposure. Vietnam is actively seeking acceptance into the U.S. Generalized System of Preference (GSP) program,¹⁰⁹ which would remove tariffs on U.S. imports of selected goods from Vietnam, and has indicated a long-term interest in negotiating a free trade agreement (FTA) with the United States. Additionally, since the middle of the decade, Vietnam has been seeking to expand its security relations with the United States, perhaps due to China's growing influence in Southeast Asia.

Within Vietnam, however, there is widespread concern about the living conditions of its estimated 2.1 million-4.8 million people who were exposed to Agent Orange and the already identified one million people with medical conditions attributed to that exposure. Much of that concern is focused on the physical problems of Vietnam's children who have medical conditions associated with direct or indirect exposure to dioxin. Some observers think the Vietnamese people's generally positive attitude about the United States could change for the worse if the U.S. government is perceived to be insensitive or intransigent about Agent Orange and its associated problems.

For the U.S. government, the past policy seems to have been to deny legal responsibility for any health effects of Agent Orange while providing some assistance with the assessment, containment and cleaning up of any Agent Orange-related dioxin found in Vietnam. As a result, the United States has been unwilling to provide medical or financial assistance to programs specifically targeted at purported victims of Agent Orange.

For the present, the governments of both nations apparently are comfortable with U.S. involvement being limited to the identification, containment and clean up of dioxin "hot spots." At its current pace, it could take several more years before all of the major dioxin "hot spots" have been remediated.

It is likely public attention will shift to caring for people exposed to Agent Orange once the clean up is done, raising the risk of the emergence of bilateral tensions. The Vietnamese government and people see some inconsistencies between the U.S. government's reluctance to provide aid to Vietnamese victims of Agent Orange and its generous support programs for U.S. veterans who claim their medical problems are Agent Orange related.¹¹⁰ Whereas U.S. Vietnam veterans are "presumed" to have been exposed to Agent Orange, and thereby automatically qualify for various benefits for a range of medical conditions, the U.S. government continues to claim that there is insufficient evidence to demonstrate that the medical

¹⁰⁹ See CRS Report RL34702, *Potential Trade Effects of Adding Vietnam to the Generalized System of Preferences Program*, by Michael F. Martin and Vivian C. Jones.

¹¹⁰ Based on confidential interviews with Vietnamese officials and citizens. For more information about the U.S. assistance programs for U.S. veterans with medical problems associated with exposure to Agent Orange, see CRS Report RL34370, *Veterans Affairs: Health Care and Benefits for Veterans Exposed to Agent Orange*, by Sidath Viranga Panangala and Douglas Reid Weimer.

conditions of Vietnamese who were exposed to Agent Orange are a consequence of their exposure to the herbicide and its dioxin. In the same vein, the willingness of the United States to provide aid to Vietnamese who lost limbs to land mines while refusing to provide help directly to people exposed to Agent Orange can be difficult to explain to Vietnamese officials and civilians. These apparent inconsistencies in U.S. policy could pose future problems for bilateral relations.

Conversely, there is a concern in the United States that if the U.S. government were to seemingly accept some legal or moral responsibility for the Vietnamese “victims” of Agent Orange, it could have undesirable implications for future military conflicts. In this view, for the U.S. government, it remains important that any and all assistance being provided to address the aftereffects of the use of Agent Orange in Vietnam be seen as a humanitarian act, and not an admission of culpability.

Issues and Options for Congress

For over three decades, the effects of Agent Orange and its accompanying dioxin, TCDD, on the people and the environment of Vietnam have remained in the background of U.S.-Vietnamese relations. Currently, through fora such as the Joint Advisory Committee (JAC) and the Dialogue Group, U.S. and Vietnamese officials are meeting and discussing ways to jointly address the “war legacy” issues of Agent Orange, including scientific research, environmental remediation, public awareness, and health care. Assuming that recent patterns of economic and security issues taking precedence over war legacy issues continue, as well as the comparatively positive dynamics in the JAC and the Dialogue Group, it could be argued that there is no need for congressional involvement at this time.

If Congress wishes to address the issues related to Agent Orange, there are several aspects of U.S. policy it could examine and consider. The most immediate issue may be to obtain concrete answers on how and when the \$3 million in assistance Congress appropriated for dioxin clean up efforts in Vietnam in May 2007 will be used. Over 18 months have passed since Congress appropriated \$3 million for dioxin remediation in Da Nang and the provision of medical care facilities in the area. To date, the State Department and USAID have not provided specific information on how these funds are to be used. One option for Congress is to exercise oversight to determine the reasons for the delay in utilizing the appropriated funds and to ascertain the status of USAID’s progress.

In addition, Congress may choose to consider the appropriation of additional funds for exposure assessment research, dioxin remediation, and/or humanitarian assistance to Vietnamese nationals allegedly suffering from medical conditions related to exposure to Agent Orange. Although past cooperative efforts in exposure assessment research encountered problems, it is generally agreed that more research needs to be done and the estimated cost of the research exceeds Vietnam’s current budgetary capacity. Similarly, the projected cost of containing and removing the residual dioxin in and around Vietnam’s Agent Orange “hot spots” is beyond the Vietnamese government’s resources. The precedent for U.S. financial and technical

assistance with dioxin remediation is already established, perhaps making the appropriation of additional funding less problematic.

Appropriations for medical assistance to purported Agent Orange “victims” in Vietnam may be more problematic. Although there exists a precedent, critics remain concerned about the possible implications for future conflicts. In addition, Cambodia and Laos may demand similar treatment, given that parts of their nations were also sprayed with Agent Orange during the Vietnam War. However, past and existing humanitarian aid programs in Vietnam, addressing victims of land mines and HIV/AIDS, demonstrate the provision of aid need not imply legal or moral responsibility.

Another alternative for Congress would be the development of a multi-year policy on the general issue of Agent Orange and dioxin in Vietnam. This policy could take the form of legislation that addresses all aspects of the issue — research on the level of dioxin in Vietnam, general population studies to determine the level of dioxin exposure in Vietnam, dioxin containment and remediation, and medical care for people with medical conditions related to dioxin exposure. The development of such a program would likely necessitate consultation with the incoming Obama Administration, as well as the Vietnamese government, in order to ensure its effective implementation.

One potential benefit of the development of a comprehensive policy on Agent Orange in Vietnam could be the enhancement of U.S. “soft power” in Southeast Asia.¹¹¹ To some analysts, U.S. global influence is being challenged by China (and other nations) by the use of non-military engagement — “soft power” — to encourage other countries to adopt policies or stances consistent with the goals and objectives of the nation employing these policies. It has been postulated that the U.S. military interventions in Afghanistan and Iraq have undermined its global image, and that to restore its image, the United States should more actively engage in “soft power” exercises, such as humanitarian assistance to Vietnam to address its “war legacy” problems. In addition, relations between China and Vietnam since 1975 have ranged from hostile to cool, but more recently China has sought to foster more friendly ties with its neighbors. Increased U.S. assistance for Vietnam’s Agent Orange “victims” could strengthen U.S.-Vietnam relations, and encourage Vietnam to be a stronger partner to the United States in other diplomatic and security areas.

¹¹¹ For more on the issue of U.S. “soft power,” see CRS Report RL34620, *Comparing Global Influence: China’s and U.S. Diplomacy, Foreign Aid, Trade, and Investment in the Developing World*, coordinated by Thomas Lum.