

International Trade Practice Group (VCI ITPG)

Anti Dumping | Safeguard | Countervailing Measures | Antitrust | Unfair Competition

Trade, Remedies & Antitrust

TEAM & CAPACITY INTRODUCTION

TUAN A. PHUNG *Esq.*

Managing Partner | VCI Legal

Hon. General Consul | Finnish Consulate HCMC

Secretary General – Vice Chairman | VAFI Vietnam



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Introduction | VCI Legal & Its Partnering Firms

VIETNAM EXPERIENCE

VCI LEGAL INTRODUCTION

- Business Law Firm providing “*In-house Counsel Service*”, specialized legal services for business and some **Key Practice Areas**
- Corporations, M&A & Securities
- Investment and restructuring
- Banking, Finance & Capital Markets
- Insurance
- Real Estate & Construction
- Petroleum, Mining & Energy
- Infrastructure, Transport & Logistics
- Trade Policy & Competition
- Tax & Transfer Pricing
- Labor, HR Management & Compliance
- Alternative Dispute Resolution: Mediation, Arbitration



LOCAL INSIGHTS MEET INTERNATIONAL EXPERTISE

- A full service law firm with a seasoned team of multi-disciplinary professionals
- in-depth understanding of the legal system, business environment, and cultural background in Vietnam.
- Offices: Hanoi and Ho Chi Minh City
- Professional staff: 25
- Languages: *Vietnamese, English, Japanese, French, Chinese, Korean*



INTERNATIONAL AWARDS



- **Legal500, Chambers & Partners, IFLR 1000, Asialaw Profiles** and Legalese's **Tax Director Handbook** (global legal directories & ranking agencies) and international professional magazines list VCI Legal among the top law firms in Vietnam for: *M&A, competition law, banking and corporate, insurance, taxation, intellectual property, investment,*



- **Acquisition International Magazine:**

- *Vietnam Corporate Law Firm of the Year 2012-2014,*
- *M&A Vietnam Law Firm of the Year 2013,*
- *Real Estate Law Firm of the year 2012-2013*



- **ACQ Global Magazine:**

- *Vietnam Banking & Finance Law Firm of the Year 2012-2013*
- *Vietnam Capital Markets Law Firm of the Year 2012-2013*
- *Vietnam Corporate Law Firm of the Year 2012-2013*
- *Vietnam M&A Law Firm of the Year 2012-2013*



- **Finance Monthly – Law Firm of the Year 2011-2013**

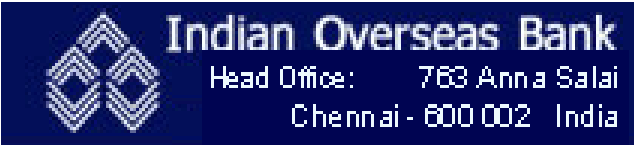
- **Corporate LiveWire – M&A Vietnam Law Firm of the Year 2012-2013**

- **Asialaw- Highly Recommended Firm for the Year 2014**



Typical Clients & Experience*

Financial Services



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Typical Clients & Experience* Technology – Petroleum – Heavy Industry



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Typical Clients & Experience*

FMCG & Logistics



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Typical Clients & Experience* Real Estate & Construction



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Services Overview

Full-service business law firm:

- All traditional legal services
 - Incorporation, M&A, Securities, Cross-border transactions, Foreign Investment,
 - Tax, Securities, Finance & Banking
 - Consultancy - Representation, Litigation & Dispute Settlement
 - International Trade, Antitrust & Competition
- PLUS business-oriented, specialized legal services:
 - In-house Counsel Service
 - Investment Structuring & Placement
 - Legal Compliance of Risk Management
 - IP Strategic Management Service
 - IP Enforcement Service

Key Practice Areas

STRATEGIC PRACTICE AREAS:

- Corporation, Securities & M&A
- Trade Policy, Anti trust & Competition
- Tax - Transfer Pricing
- HR Management & Compliance
- Real Estate – Infrastructure
- Local & Overseas Investment Structure
- Petroleum - Mining - Energy

built on “*In-house Counsel Service*” platform

Relevant TR & AT Experience

- Advising client in 1st Anti-trust case in Vietnam (vertical restraint)
- Contributor of the Competition Law in Vietnam from 1st -13th draft (when the law is enacted);
- MOIT Letter of recognition for excellence and significant contribution to the drafting of Competition Law in Vietnam
- Publications on anti-trust, competition laws in US & Vietnam
- Frequent contact and strong working relationships with *inter alia* MOIT, MOF, MPI and MOH

Relevant Experience - 1

- One of the most experienced law firms in advising global consumer products companies in Vietnam:
 - Sale & Distribution Management
 - Competition & Trade Policies
 - Marketing Support: Advertising and Promotion,
 - Quality Control & Manufacturing Management
 - Transactional Support, Transfer Pricing & Taxation
- Partners' in-depth experience in working with:
 - Unilever, Kimberly Clark, Coca Cola, Pepsi, P&G
 - HP, SONY, SC Johnson, AT&T, T-Systems
 - Shell, Philips, ORANA, THP Group, Rebisco

First antitrust – price control case in Vietnam

- Advise client in first vertical restraint case
 - THP vs. Vietnam Beverage in distribution
- Advising & represent a group of top European – American dairy product companies working with VCAD on competitive market & price fixing accusations



Antitrust Experience

- representing Eurocham Board and nutrition companies in working with local authorities)
- Working with and advising business associations
 - EUROCHAM, AMCHAM,
 - YBA, VASEP,
 - VAFI, YBA
- Overseas anti-dumping cases (in co-operation with foreign firms in US & Canada)
 - Shrimp (US); VASEP
 - Bicycle (Canada): VBMA

Other Trade Remedy Experiences

- Preliminary advice for US PEEC (USA Poultry & Egg Council) in the case of certain imported chicken meat;
- Professional contributor of the drafting of Competition Law in Vietnam (1st -13th draft)
- MOIT Letter of recognition for excellence and significant contribution to the drafting of Competition Law in Vietnam
- Various professional publications on anti-trust, competition laws in US & Vietnam
- Frequent contact and strong working relationships with antitrust, competition and price control authorities: MOIT, MOF, MPI and MOH v.v.

Local & Overseas Experts

- **Commercial Lawyers**
- **Economists**
- **Trade Consultants**
- **Lobbyist**



VCI ITPG UNIQUE QUALIFICATIONS

Who are we?

- *International trade*: practice before the U.S. Customs Service handling classification, valuation, country of origin marking, and fraud investigations,
- *Security related compliance programs*: the Customs Trade Partnership Against Terrorism (CTPAT)
- antidumping, countervailing duties and safeguard cases: attorneys active before the U.S. ITC and DOC
- before U.S. Trade Representative (USTR) in cases under the Generalized System of Preferences (GSP) and Section 301 of the Trade Act

US Legal Partners

VCI Legal allies with leading law firms in the US (DC, NYC), America Continent and Europe

- Many years in TR & AT practices: represent importers, producers and exporters in: *agricultural, industrial and consumer products* as diverse as *metals, industrial bearings, chemicals, apparel, foodstuffs, alcoholic beverages and machine tools*
- Clients include companies and state agencies is NORWAY, CHINA, THAILAND, EASTERN EUROPE; UKRAINE; BRAZIL, etc.
- Expertise in TR & AT investigations cover a vast areas of Anti Dumping law especially under
 - DOC's NME methodology.
 - AD investigations involving aquaculture

Global Market Coverage

Together with partnering firms

- WASHINGTON – USA: the cradle of most of SIA's experience and success. Good relationship with the US Government, World Bank and other institutions.
- AFRICA: on-the-ground support to clients to enter African market by devising investment strategies, dealing with tariff and other commercial barriers.
- ASIA & ASEAN COUNTRIES: assisting clients in industries such as chemicals, fertilizers, crop protection products.
- VIETNAM: regular working relations
 - Regular contact of Vietnamese & US Government in WTO and trade-related issues
 - Participant of STAR programs
 - Many other investments project: feasibility studies and investment incentive

International Business & Trade

- Our US lawyers have assisted clients in over 60 different countries on all continents with
 - attorneys fluent in *Chinese, German, Japanese & Spanish*
 - international transaction lawyers are sensitive to the nuances of transacting business
 - offices in Ohio, Florida, and Washington D.C.
- We represent manufacturing, service, and financing interests with emphasizes international transactions, trade, investments, and finance in: *Argentina, Brazil, Canada, China, Chile, European Union, Hong Kong, India, Israel, Japan, Mexico, Switzerland*

VCI ITPG Experiences

- Combined experience > 60 years in US anti dumping lawsuits;
- CLIENTS:
 - importers, producers and exporters; companies and state agencies including VIETNAMESE GOVERNMENT
 - Nationality : NORWAY, CHINA, THAILAND, EASTERN EUROPE; UKRAINE; BRAZIL, etc.
- INDUSTRIES: agricultural, industrial and consumer products as diverse as metals, industrial bearings, chemicals, apparel, foodstuffs, alcoholic beverages and machine tools
- expertise in AD investigations cover a vast areas of Anti Dumping law especially DOC's NME methodology.

WORLDWIDE EXPERIENCES

The Partners of VCI ITPG have experience in:

- WASHINGTON USA; AFRICA; ASIA & ASEAN COUNTRIES
 - devising investment strategies, dealing with tariff and other commercial barriers.
 - clients in industries such as chemicals, fertilizers, crop protection products.
- VIETNAM: involvements in shrimp and bicycle antidumping investigation
 - lawyers and consultants experience and working knowledge of anti dumping and other laws in the US & the international practice on antidumping and countervailing duties
 - Specializing in business, trade and investment matters, particularly on *trade and investment liberalization*.
 - Expertise in *negotiations & removing trade barriers*

TRADE RESOURCES

- Specializes in technical aspects of U.S. international trade law: accounting, finance and data processing supports in AD and countervailing investigations.
- Strong backgrounds in more than 80 product categories: steel products, consumer electronics and electronic components, mineral and chemical products, textiles and a **variety of agricultural products**, and have been involved in hundreds of NME AD investigations in assisting some 36 countries
- Trade Resources maintains a large in-house computer data processing capability to organize and synthesize quantitative information.
- Extensive knowledge of SAS programming in computing dumping margins. TRC senior staff includes former DOC officials involved in the early development and implementation of DOC's SAS program.

Trade Consulting Firm

CLIENTS >36 COUNTRIES

EXPERIENCE AROUND THE WORLD

 Across Industries

The Americas

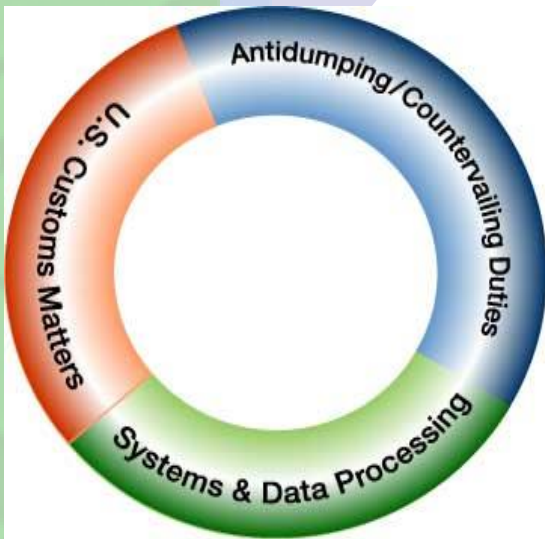
- Argentina
- Brazil
- Canada
- Chile
- Columbia
- Ecuador
- Mexico
- Trinidad and Tobago
- United States
- Venezuela

Europe

- Austria
- Belgium
- France
- Germany
- Italy
- Netherlands
- Norway
- Romania
- Spain
- Sweden
- Turkey
- Ukraine
- United Kingdom

Africa, Near and Far East

- China
- India
- Israel
- Japan
- Kazakhstan
- Korea
- Philippines
- Singapore
- South Africa
- Taiwan
- Thailand
- Turkey



Government Relation & Lobbying Firm

- Former high ranking official US Federal Government in Trade, Justice and State Department
- Specializing in business, trade and investment matters, particularly on *trade and investment liberalization*.
- Expertise in *negotiations & removing trade barriers* by developing and executing convincing cases to government & the U.S. Congress.
- **Ongoing relations with senior policy makers:** DOC, U.S. Trade Representative, the National Economic Counsel, White House group for economic matters.

Key Legal & Economic Advisors
DEFENSE TEAM



LEGAL & TAX ADVISORS

- 1. Phung Anh Tuan Esq.** | *Managing Partner*, 18 years of experience in corporate & securities, M&A & Investment Banking, equity and real estate investments, antitrust, anti dumping, IP management and commercial litigation
- 2. Kent Wong Esq.** | *Partner*, many years experience from working in Big 4 firms, specializing in global tax and transfer pricing regulation and advisement
- 3. Long D. Nguyen Esq.** | *Of Counsel*, with many years experience in corporate law, M&A, cross-border investment, banking & finance, and international commercial transactions
- 4. Tu Phan** | *Senior Associate*, specializing in corporate, M&A and energy investment works; 12 year of experience
- 5. Minh Nguyen** | PhD & LL.M, *Corporate Relations Director*, 17 years of work experience in
 - business, legal and tax consulting;
 - governmental administration: high ranking governmental official

ECONOMIC & FINANCIAL ADVISORS

1. **Nhi Trong Le** *Partner*, Banking and Capital Market,
2. **Huy Le** | *MBA Financial Advisor*, 28 years of practical experience in investment & trade promotion;
3. **Khoa Bui Esq.** *Associate*, banking, corporate & trade litigation
4. **Phuoc T. Doan** *Special Counsel* anti trust, trade policies and communication expert, 12 years of experience
5. **Du V. Tran** | *PhD, Chief Economist*, trade & antitrust modelling, market structuring
6. **Toan Q. Nguyen** | *PhD Senior Investment & Economics Advisor**, corporate turnaround and management strategy

[* affiliated M&A consulting firm]

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Antitrust & Trade Remedies

SERVICES & APPROACHES



General Services

- Health check service for
 - Legal, Transfer Pricing,
 - Taxation & Compliance
- Report and consulting on approaches to
 - Tax planning
 - Transfer Pricing
 - Legal Compliance
 - Risk Management Issues

General Services

- Advisory and representative service in working with media, 3rd parties & authorities
- Antitrust health check service for
 - Antitrust Compliance
 - Pricing
 - Taxation & Transfer Pricing,
- Report and consulting on approaches to
 - Tax planning; Transfer Pricing
 - Legal Compliance
 - Risk Management Issues

Investigation & Litigation Services

- Working with investigators and Government Offices
 - helping to control the scope of the investigation and
 - preparing responses for legal and regulatory queries
- Preparation of materials & documents
 - costs & price for products
 - responses to investigators' requests
 - all legal documents related to the investigations
- Representative as legal counsel of milk companies at investigative hearings & court of laws, when needed

For Price Investigations at MOIT & MOF

- Developing and implementing defense strategies
- Documentation review & preparations
- Materials constituting product price
- Working with investigators to understand requests and limit scope of investigation where possible
- Providing expert witnesses on key issues
- Assist in preparation for and represent the milk company during hearing proceedings

Antitrust Investigation Dispute Resolution Services

- Working with investigators and Government Offices
 - helping to control the scope of the investigation and
 - preparing responses for legal and regulatory queries
- Preparation of materials & documents
 - costs & price for products
 - responses to investigators' requests
 - all legal documents related to the investigations
- Representative as legal counsel at investigative hearings & court of laws,

Price Investigations Advisory Services

- Pricing investigation at MOIT & MOF
 - Developing and implementing defense strategies
 - Documentation review & preparations
 - Materials constituting product price
 - Working with investigators to understand requests and limit scope of investigation where possible
 - Providing expert witnesses on key issues
 - Assist in preparation for and represent the milk company during hearing proceedings



Local and international lawyers, economist, auditors, trade specialist & lobbyist

PROFESSION TEAM & APPROACHES

Multi-disciplinary Approach

- Trade Remedies & Antitrust investigations are among most complicated legal & economic exercise in global trade which require professional of various discipline
- The investigation will be **highly visible** and will be subject to **strong political pressures**.
- Counsel for both side will aggressively **push for high damages level**

Multi-disciplinary Approach | 1

- TR & AT investigations are **highly complex**, involving **law, accounting, computer analysis & economics** which can be further complicated by Non-Market Economy (NME) status,
- Investigation's high political profile, requiring major **direct involvement of Senior Professionals** with **diverse skills**.
- TR & AT investigations require **substantial inputs** from invested companies, particularly for NME “dumping” investigations.
- **Involvement of skilled local professionals** to work with local industries & to provide **effective communications** with overseas counsels & consultants

DEFENSE TEAM | Experts

Lawyers with extensive experience not only in legal matters generally, but also with

- particular complexity of related products
- negotiation of trade remedies;

Trade specialists with

- technical expertise in TR and Antitrust investigations, products & markets; and
- computer programs will use to determine dumping margins and relevant damages;

DEFENSE TEAM | Expertises

Government Affairs professionals & high profiles lobbyists:

access to senior U.S. Government officials to educate the importance of the continued exports of Vietnamese products, not only to Vietnam but also to U.S. interests

Vietnamese professional lawyers and accountants with the training in US and practice experience

- understand well the requirements of the U.S antidumping law and trade laws
- cultural insights to work effectively with the Vietnamese companies
- assist local companies with the complex and difficult requirements for responding effectively to DOC' s questionnaires
- develop and verify business data from the books of local Industry

Brenda Jacobs

- significant experience in AD and CVD cases, starting with her service as an attorney-advisor in the Office of the General Counsel at the USITC. During that period, she worked on dozens of AD and CVD investigations, assisting in the preparation of the opinions issued by the commissioners. Ms. Jacobs also served for five year as Senior Counsel for Trade Agreements at the DOC.
- In private practice, Ms. Jacobs had a leading role in the defense of Chinese solar cell and solar panel producers in AD and CVD proceedings before the USITC and the DOC. In those investigations, she assisted more than 60 foreign producers in the preparation of their responses to the questionnaires issued by the USITC and the DOC, ensuring that tight deadlines were met and high quality, credible responses were filed. Her initiative to create and present separate webinars for foreign producers, U.S. importers and U.S. purchasers explaining the USITC questionnaires and how to complete them properly greatly increased the response rate for the questionnaires, which constitute key pieces of evidence considered by the agency. She also had responsibility for obtaining separate rate status for many NME producers, through the preparation of thorough and timely completed separate rate applications and she participated in the on site verifications conducted by DOC of both the foreign producers and their U.S. sales affiliates.

Brenda Jacobs - 1

- Further, Ms. Jacobs played a leading role in developing the defense strategy the solar panel foreign manufacturers implemented at the USITC.
- In addition, Ms. Jacobs has represented respondents in numerous respondents in steel dumping investigations (particularly in the last two years), as well as in investigations involving washing machines and woven ribbons, in each instance proposing creative and aggressive strategies to maximize the prospects for a successful outcome. She works with many apparel manufacturers in Asia, including Vietnam, China, Hong Kong, Korea and India on customs and trade policy matters. She had a significant role in the drafting of a Textile and Apparel Exporter's Guide to U.S. Antidumping Investigations, which was distributed widely in Asia.

Neil Ellis

- focuses his practice in the areas of international trade regulation and antitrust. In the international trade area, Neil has represented foreign and domestic companies, manufacturers, exporters and importers before the DOC, the ITC, and the federal courts in import regulatory proceedings. He has represented clients in some of the most complex and controversial antidumping, countervailing duty, and safeguards cases for over 30 years.
- Neil's representations include a diverse range of products such as: solar cells and modules (China, Taiwan), washing machines (Korea), newspaper printing presses (Japan), anti-friction bearings (Japan), steel (Japan, Netherlands, Russia, India, England), lumber (Canada), uranium (former Soviet Union), and motion pictures (U.S./Canada). In highly political "non-market economy" cases, he has provided advice in the negotiation of suspension agreements to settle the antidumping disputes. Neil also has extensive experience advising governments and companies on the use of the dispute settlement system of the World Trade Organization to resolve trade disputes, particularly in the areas of antidumping and countervailing duties. He has participated in all stages of WTO litigation, including consultations, panel and Appellate Body proceedings, compliance proceedings, and arbitrations.

Shawn Higgins

- has experience in a variety of antidumping and countervailing duty issues, including major investigations and reviews before the DOC, and investigations before the ITC. Shawn also counsels companies, trade associations and governments on the use of WTO rules to open markets and resolve disputes. Prior to joining Sidley, Shawn worked for the DOC as a Special Assistant to the Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations and as a Senior International Trade Compliance

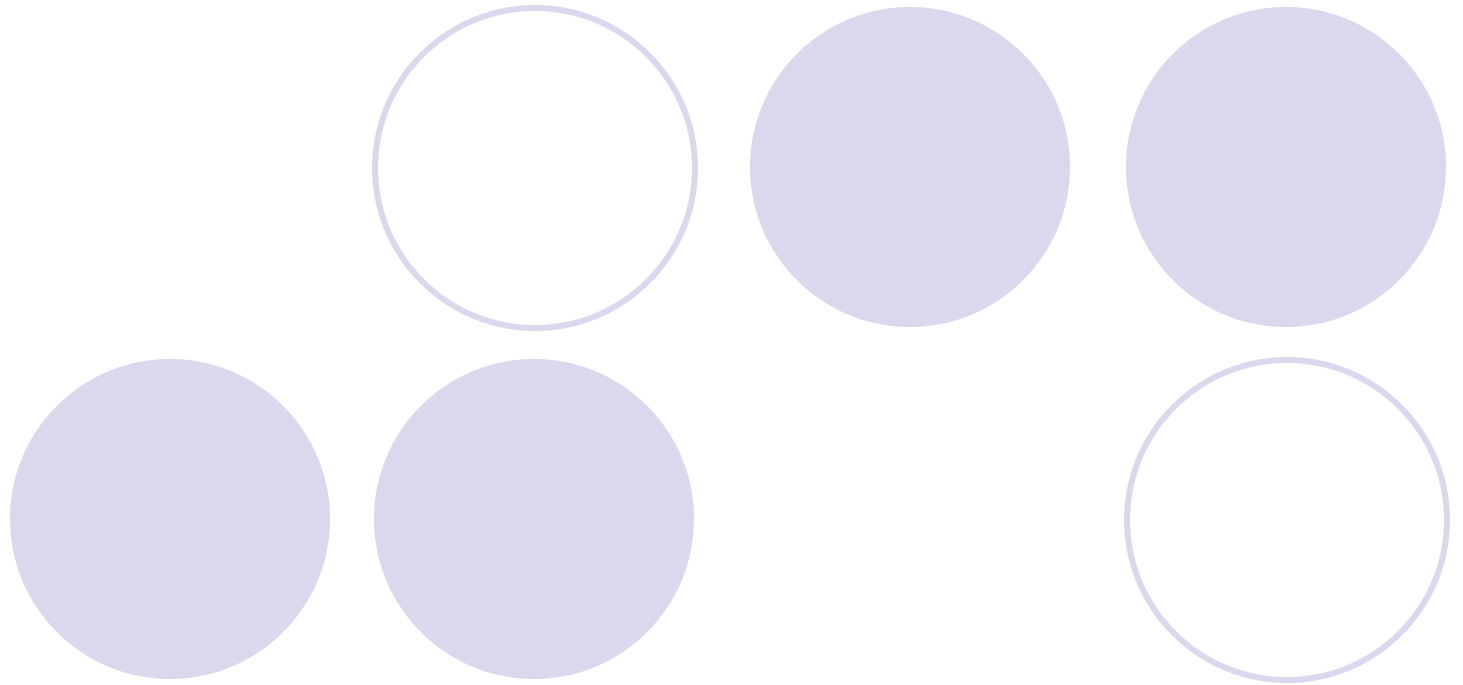
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Justin Becker

- has experience in a variety of AD and CVD issues, including major investigations and reviews before the DOC and investigations before the ITC. Justin also counsels U.S. and foreign clients on national security and international legal issues, including transactions reviewed by the Committee on Foreign Investment in the United States (CFIUS). Prior to joining Sidley, Justin worked for the DOC in the Office of Chief Counsel-Trade Enforcement and Compliance. In this role he provided legal advice concerning the administration of both U.S. and international antidumping and countervailing duty laws. He gained experience working on matters before the U.S. courts and WTO dispute settlement panels. While at the DOC, Justin also participated in antidumping duty investigations and overseas verifications.

David Lyons

- is an associate in Sidley's International Trade group. Prior to joining Sidley, David worked for the DOC in the Office of Chief Counsel-Trade Enforcement and Compliance. While there, he counseled the agency on antidumping and countervailing duty investigations and reviews, and represented the agency before the CIT, the U.S. Court of Appeals for the Federal Circuit, and in dispute settlement proceedings before the WTO's dispute settlement panels and Appellate Body. David also served as in-house counsel to the DOC's Steel Import Monitoring Assistance program and Trade Remedy Compliance Staff.



metal tool chests and tool cabinets

Scope:

The scope of this petition covers certain with drawers ("tool chests and cabinets") Vietnam.

The scope covers all metal tool chests and cabinets, including top chests, intermediate chests, tool cabinets and side cabinets, storage units, mobile work benches, and work stations and that have the following physical characteristics:

- (1) a body made of carbon, alloy, or stainless steel and/or other metals;
- (2) two or more drawers for storage in each individual unit;
- (3) a width (side to side) exceeding 21 inches but not exceeding 60 inches;
- (4) a drawer depth (front to back) exceeding 10 inches but not exceeding 24 inches; and
- (5) prepackaged for retail sale.

MORE QUESTIONS?

Tuan A. Phung Esq.
Managing Partner



- *Honorary Consul General* for Finland in HCM City
 - *Vice Chairman* VAFI (Vietnam Association of Financial Investor)
 - former *Board Member* for the EUROCHAM Vietnam
 - Board Member YBA Young Business Association | HCMC
- 18 years of practicing experience with international companies

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