

No. 3291

**UNITED STATES OF AMERICA
and
VIET-NAM**

Exchange of notes constituting an agreement relating to a declaration respecting the rights of nationals concerning trade-mark protection. Washington, 3 November 1953, and 25 October and 22 November 1954

Official text: English.

Registered by the United States of America on 25 April 1956.

**ÉTATS-UNIS D'AMÉRIQUE
et
VIET-NAM**

Échange de notes constituant un accord relatif à une déclaration concernant les droits des nationaux en matière de protection des marques de fabrique. Washington, 3 novembre 1953, et 25 octobre et 22 novembre 1954

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 25 avril 1956.

No. 3291. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND VIET-NAM RELATING TO A DECLARATION RESPECTING THE RIGHTS OF NATIONALS CONCERNING TRADE MARK PROTECTION. WASHINGTON, 3 NOVEMBER 1953, AND 25 OCTOBER AND 22 NOVEMBER 1954

I

The Secretary of State to the Vietnamese Ambassador

DEPARTMENT OF STATE

WASHINGTON

November 3, 1953

Excellency :

I have the honor to refer to Article 6 of Vietnamese Ordinance No. 5 of April 1, 1952 (Regulation of Trade-marks) which provides that those whose establishments are located outside of Viet-Nam shall be entitled to the benefits of the Ordinance ". . . if, in the countries where they are located, diplomatic agreements have established reciprocity for Vietnamese trade-marks."

Accordingly, with a view to informing the Government of Viet-Nam of the trade-mark rights which are afforded to nationals of Viet-Nam in the United States of America, the attention of your Excellency is invited to the United States Trade-Mark Act of July 5, 1946 (60 Stat. 427).² Under this law, any foreign national, regardless of domicile, is entitled to a trade-mark registration in the United States of America, upon compliance with the same requirements of the law and subject to the same conditions which are applicable to citizens of the United States of America, and irrespective of whether such trade-mark is registered or not for the applicant outside the United States of America. There is no distinction in the law based upon citizenship, nationality, residence, or location of a business establishment, except that a trade-mark applicant not domiciled in the United States of America is required in all cases to designate the name of a person resident in the United States of America for the possible service of papers in proceedings affecting the trade-mark. Consequently, any person, including one whose business estab-

¹ Came into force on 25 October 1954 by the exchange of the said notes.

² United States of America : 15 U.S.C. § 1051 *et seq.*

lishment is located in Viet-Nam, may apply for and obtain, assuming he meets the other qualifications of the law, the registration of his trade-mark, and thereby receive the protection provided for by this law.

In view of the applicability of the trade-mark law of the United States of America, the Government of the United States of America would greatly appreciate the Government of Viet-Nam stating its assurances that nationals of the United States of America, regardless of domicile or place of business, are entitled to the benefits of Ordinance No. 5 of April 1, 1952. If such assurances are stated, by the Government of Viet-Nam, the Government of the United States of America is prepared, should this procedure be acceptable to the Government of Viet-Nam, to regard the present note and your Excellency's reply conveying these assurances as constituting a definitive statement by the two Governments respecting existing trade-mark rights of the nationals of the other.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State :

Samuel C. WAUGH

His Excellency Tran van Kha
Ambassador of Viet-Nam

II

The Vietnamese Ambassador to the Secretary of State

No. DL 174

October 25, 1954

Mister Secretary :

I have the honour to refer to your note of November 3, 1953, on the meaning and the applicability to give to Article Six of Ordinance No. Five of April 1, 1952, on the protection of trademarks.

In as much as the United States Trade Mark Act of July 5, 1946, grants to Vietnamese citizens the right of registering and the same protection of trademarks as is given to citizens of the United States, the Government of Viet Nam can guarantee that nationals of the United States can benefit from Ordinance No. Five of April 1, 1952.

However, Vietnamese law requires that the organization concerned be situated in the United States itself.

The Government of Viet Nam is ready to consider the note of the Government of the United States of November 3, 1953, and the present note, with the indicated

reservation, as constituting a declaration by the two governments respecting the rights of nationals of the two countries concerning trademark protection.

I wish to avail myself of this opportunity to renew to you, Mister Secretary, the assurances of my highest consideration.

TRAN VAN CHUONG
Ambassador of Viet Nam

The Honorable John Foster Dulles
Secretary of State
Washington 25, D.C.

III

The Secretary of State to the Vietnamese Ambassador

DEPARTMENT OF STATE
WASHINGTON

November 22, 1954

Excellency :

I have the honor to refer to your note of October 25, 1954 relating to the protection of trade-marks.

It is noted that Vietnamese law requires that the organization concerned be situated in the United States.

The note of the Government of the United States of November 3, 1953 and your note of October 25, 1954 are considered as constituting a declaration by the two Governments respecting the rights of nationals of the two countries concerning trade-mark protection.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State :
Thorsten V. KALIJARVI

His Excellency Tran van Chuong
Ambassador of Viet-Nam