

## CHAPTER IV

### **The Actors on Decision Making to Lift of Arms Embargo**

This chapter will analyze the actors behind the decision to lift arms embargo to Vietnam in accordance to Bureaucratic Politics Model by Graham T. Allison. According to Mochtar Mas'oeed, this model is a group level analysis model which assumes that individuals act within a group in order to influence the government actions or decisions. Thus, foreign policy is determined by small groups like the cabinet, advisory councils, bureaucracy, and interest groups.<sup>1</sup>

#### **A. U.S. Regulations Prohibiting Arms Embargo**

As have been explained in the previous chapter, the arms sale was prohibited by regulation is U.S. itself. Foreign Military Sales Act 1968 prohibits it because Vietnam is not consistent with U.S. foreign policy interests. A more specific regulation is the International Traffic in Arms Regulation Section (ITAR) 126.1 (l). The changes happened when two Executive Communications were released that amended ITAR. The Executive Communications were EC7774 on 113<sup>th</sup> Congress and EC7100 on 114<sup>th</sup> Congress.

An Executive Communication is issued by the President or other body in the executive branch to the federal or state agencies which may affect

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<sup>1</sup> Mas'oeed, M. (1990). *Ilmu Hubungan Internasional: Disiplin dan Metodologi*. Yogyakarta, Indonesia: LP3ES.

legislations.<sup>2</sup> The Executive Communications are EC7774 on 113<sup>th</sup> Session which was to allow the lift of embargo on maritime articles. Meanwhile, the EC7100 on 114<sup>th</sup> Session was to lift the total restriction of the embargo.

Actually, the President himself has the power to lift the restriction of arms transfer to a state without the Congress' approval. However, his action is limited by the regulations. Thus, he needs Congress' approval to do so. According the Arms Export Control Act (AECA) Section 36 (b), it is required for the Executive Branch to notify the Congress leadership, including the Speaker of the House, the Senate Foreign Relations Committee, and the House Foreign Affairs Committee at least 30 days before the Executive Branch is able to take the final steps to allow the sales of the military equipment, articles, services, or construction to other states. Both Executive Communications act as the notification from the Executive Branch to the Legislative Branch. This chapter will analyze the process behind the release of the Executive Communication using group level of analysis.

## **B. Prior Events Related to the Lift of Arms Embargo**

Prior to the release of Executive Communications, there were announcements that trigger to its releases which were done on the visit of both states high officials. The first visit was the visit of Vietnamese Deputy Prime Minister and Foreign Minister, Pham Binh Minh, to Washington DC on October

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<sup>2</sup> Brammer, Robert. (February 11, 2016). Presidential Communications: A Beginner's Guide. Retrieved on December 9, 2016 from <https://blogs.loc.gov/law/2016/02/presidential-communications-a-beginners-guide/>

1-2, 2014 to fulfill the invitation of the Secretary of State. On the Visit, Pham Binh Minh met with the National Security Adviser, Susan E. Rice and the Secretary of State, John Kerry. The visit was to talk about deepening bilateral relationship to remark the 20<sup>th</sup> anniversary of the normalization. The visit also talked about the Trans-Pacific Agreement (TPP); cooperation in some sectors, including science and technology, education and training; as well as settlement of war legacy; rebalancing the condition in South East Asia region; and announcement regarding the relaxation of the embargo.<sup>3</sup>

The second visit was President Obama visit to Vietnam on May 22-25, 2016. President Obama met with several Vietnam's high officials, including President of Vietnam Tran Dai Quang, Prime Minister Nguyen Xuan Phuc, and the General Secretary of Vietnam Communist Party Nguyen Phu Trong who is the most significant Vietnamese leader.<sup>4</sup> It was regarded as the milestone visit with main headline of the visit is to strengthen the bilateral relation in several means, including further talk about TPP, \$11,3 billion Vietjet deals with Boeing which became the biggest commercial deal ever between two states, and announcement regarding the total lift of arms embargo.<sup>5</sup>

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<sup>3</sup> Deputy Prime Minister Pham Binh Minh pays a visit to US. (2014, June 10). Embassy of the Socialist Republic of Vietnam in the United States. Retrieved December 14, 2016, from <http://vietnamembassy-usa.org/news/2014/10/deputy-prime-minister-pham-binh-minh-pays-visit-us>

<sup>4</sup> Hookway, J. (2016, May 22). 5 Things to Know About Obama's Trip to Vietnam. Retrieved December 14, 2016, from <http://blogs.wsj.com/briefly/2016/05/22/5-things-to-know-about-obamas-trip-to-vietnam/>

<sup>5</sup> Hiep, Le Hong. (June 2, 2016). Obama's Visit to Vietnam Gave Many Important Immediate and Long-term Outcomes. Retrieved on December 14, 2016 from [https://www.iseas.edu.sg/images/pdf/ISEAS\\_Perspective\\_2016\\_29.pdf](https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2016_29.pdf)

The visits were considered as the seriousness from both states to escalate the bilateral relationships. Specific to the lift of arms embargo, Vietnam is finally placed on the same position with other states with normal relations with U.S. which is allowed to buy lethal weapons. It is also the result of the growing trust of both states, especially to the issue of human rights and religious which is categorized as sensitive issues.

### **C. Analysis**

The writer finds that the phenomena of lifting arms embargo to Vietnam is pushed by Vietnam government itself. Vietnam currently faces the aggressiveness of China in South China Sea. The construction of Spratlys and Paracel Islands for military purposes in South China Sea and one-sided decision to move China National Petroleum Corporation (CNPC) oil rig into Vietnam claimed sea territory were few among many examples of China uncontrolled aggressiveness.<sup>6</sup>

Currently, Former Soviet Union, Russia and France are among the top supplier states for Vietnam's military when U.S. still embargo Vietnam. Former Soviet Union was the largest supplier for Vietnam military because of its shared ideology which was resulted from Vietnam War. It supplied to all forces of Vietnam's military: Ground, Air, and Navy Forces. After the dissolution of Soviet Union, Russia continue to supply military equipment to Vietnam. However, Vietnam feels the need to improve or modernize its military capability in order to

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<sup>6</sup> Kurlantzick, J. (2015, September). A China-Vietnam Military Clash. Retrieved April 20, 2017, from <http://www.cfr.org/china/china-vietnam-military-clash/p37029>

deter China. Upgrading its military capability with U.S. military equipment is among the best option.

The desire to modernize Vietnam's military capability is supported by the rising of its military budget. As have been explained in Chapter III, Vietnam's military budget is almost tripled from 2003-2015. It is expected that Vietnam's military budget will continue to grow until reach \$6 billion by 2020. In 2015, Vietnam's military budget is the fourth largest in Southeast Asia states after Singapore, Indonesia, and Thailand, states which are much wealthier than Vietnam.<sup>7</sup> However, despite the large amount of military budget, U.S. government view towards Vietnam is not good. Vietnam is labelled as a state which has problems with human rights issues. In order to influence U.S. government view to Vietnam, Vietnamese Government used two mediums: lobbying group and think tank.

### **1. The Lobby of Podesta Group to the Executive and Legislative Branch**

Vietnam Government, through the Embassy of the Socialist Republic of Vietnam, hired a lobbying group to influence U.S. government perception towards Vietnam. It hired Podesta Group, a powerful lobby firm based in Washington D.C. which is owned by John and Tony Podesta. Chairman Tony Podesta was ranked as the third most influential lobbyist in Washington by his peers in 2007

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<sup>7</sup> Zachary Abuza and Nguyen Nhat Anh, Z., & Anh, N. (2016, October 28). Vietnam's Military Modernization. Retrieved April 20, 2017, from <http://thediplomat.com/2016/10/vietnams-military-modernization/>

which shows how powerful this lobbying group performance in influencing the decision making process.<sup>8</sup>

Podesta Group has strong ties with major U.S. political figure, David Adams, who was Hillary Clinton's legislative affairs chief when she was Secretary of State. David Adams was working for Vietnam on behalf of Podesta Group. David Adams is very important for Vietnam's lobby because he has insider knowledge to Department of State and Department of Defense on how both departments think about Vietnam issue. Vietnam government paid Podesta Group \$30,000/month for two years or \$1.08 million in total.<sup>9</sup>

David Adams's role on behalf of Podesta Group, is connecting Vietnam Government to David Shear. He was the U.S. ambassador to Hanoi who is now an Assistant Secretary of Defense for Asian and Pacific Security Affairs. David Shear helps shape U.S. military policy to Asia, including the issue to respond Vietnam's request for U.S. lethal military weapons to deter China.

Besides that, Podesta Group also linked Vietnamese Government with the U.S. Executive and Legislative Branch. Vietnam's major goal is to lift U.S. arms embargo by convincing President Obama and the Congress that they have shown progress on human rights issues as had been set by U.S. government as a condition. Podesta Group also has been lobbying for President Obama visit to

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<sup>8</sup> Isenberg, D. (2010, May 10). The Podesta Group: Playing Both PMC Sides. Retrieved April 20, 2017, from <https://www.cato.org/publications/commentary/podesta-group-playing-both-pmc-sides>

<sup>9</sup> Rushford, G. (2015, August 4). How Hanoi Buys Influence in Washington, D.C. Retrieved April 20, 2017, from <http://rushfordreport.com/?p=391>

Vietnam that expected to happen on the end of 2015, which was actually happened on May 2016.

Podesta Group’s efforts of lobbying can be checked on Foreign Agents Registration Act (FARA) website: [fara.gov](http://fara.gov). From the website, it can be seen that Podesta Group had contacted both Executive and Legislative Branch, as well as several news sites. It contacted the Department of State and Senate Committee on Foreign Relations discussing about U.S.-Vietnam relations. The Hill, Washington Post, and Politico were among the news sites that Podesta Group approached about Vietnam public relations.<sup>10</sup> The choice of Vietnam government to hire Podesta Group seems like the best option since it directly influence the major actor within U.S. bureaucracy.<sup>11</sup>

Date	Person Contacted	Office	Means of Contact	Subjects Discussed
12/12/2013	Julian Pecquet	The Hill	e-mail	Vietnam public relations
12/16/2013	Michael Schiffer	Senate Committee on Foreign Relations	e-mail, meeting	US-Vietnam relations
12/16/2013	Charles Comer, Anna Nelson	U.S. Department of State	phone	US-Vietnam relations
12/17/2013	Autum Brewington	Washington Post	e-mail	Vietnam public relations
12/18/2013	Charles Comer, Anna Nelson	U.S. Department of State	phone	US-Vietnam relations
12/19/2013	Blake Hourshell	Politico	e-mail	Vietnam public relations
12/19/2013	Julian Pecquet	The Hill	e-mail	Vietnam public relations
12/20/2013	Mass mailing	Various	e-mail	Filed as informational materials with DOJ

U.S. Department of Justice. (2014). *Supplemental Statement Pursuant to the Foreign Agent Registration Act of 1938* (Rep. No. OMB NO. 1124-0002). Washington D.C., United States: U.S. Department of Justice. Retrieved April 21, 2017, from <https://www.fara.gov/docs/5926-Supplemental-Statement-20140130-10.pdf>

**Figure 4.1 Podesta Group’ Lobbies to the Government and Media**

<sup>10</sup> Justice, U. D. (2014). *Supplemental Statement Pursuant to the Foreign Agent Registration Act of 1938* (Rep. No. OMB NO. 1124-0002). Washington D.C., United States: U.S. Department of Justice. Retrieved April 21, 2017, from <https://www.fara.gov/docs/5926-Supplemental-Statement-20140130-10.pdf>.

<sup>11</sup> Woodruff, B. (2016, May 25). From Team Hillary to Vietnam Lobbyist. Retrieved April 20, 2017, from <http://www.thedailybeast.com/articles/2016/05/25/from-team-hillary-to-vietnam-lobbyist.html>

## **2. Center for Strategic and International Studies and the U.S. Military Industrial Complex**

Besides using lobbyist group, Vietnam Embassy also influenced U.S. government through a think tank, Center for Strategic and International Studies (CSIS). CSIS is an influential U.S. think tank which has audiences of Washington insiders. In this part, the effort is related with U.S. military industrial complex (MIC).

The relation with CSIS can be seen since the General Secretary of the Communist Party, Nguyen Phu Trong, made a major speech at CSIS that declared “protecting and promoting human rights is the main objective of our development... We want to ensure, promote and protect the rights of all people in Vietnam.” The speech was presented a day after he met with President Obama in Washington D.C. and became the first appearance by a high rank official of Communist Party at CSIS headquarter.<sup>12</sup>

One of the analysts and a high-rank official at CSIS is Murray Hiebert. He is a senior adviser and deputy director of the Southeast Asia Program at Center for Strategic and International Studies (CSIS). His stance is strongly support the lift of arms embargo. It is because he is backed by Lockheed and Boeing which will be most benefited when the arms embargo is lifted. Lockheed aimed to sell P-3 Orion and C-130 Hercules surveillance planes to Vietnam while Boeing wanted to

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<sup>12</sup> Op. Cit. <http://rushfordreport.com/?p=391>



offer P-8 Poseidon military surveillance. Both defense manufacturers were attended a secret defense symposium hosted by Vietnam government.<sup>13</sup>

Using his position as a senior analyst, he successfully drove CSIS direction towards this issue into supporting the arms ban to Vietnam. It can be seen by several articles written at CSIS. For example on the article titled “Fully Lifting the U.S. Lethal Arms Ban Will Add Momentum to U.S.-Vietnam Relations” which is written by him. CSIS also published a report titled “A New Era in U.S.-Vietnam Relations: Deepening Ties Two Decades after Normalization”, which is also written by Murray Hiebert together with other two authors.<sup>14</sup> On the first article, it is written that

Fully lifting the U.S. lethal arms ban will remove another remaining vestige of distrust between the two new partners.... Lifting the ban could be messaged as a confidence-building measure to convey to Hanoi that the United States in return would like to see Vietnam take increased initiatives in the next phase of defense relations, particularly in the area of defense trade.<sup>15</sup>

#### **D. Result**

The lobbying effort through Podesta Group had succeeded on shifting the view of U.S. government towards Vietnam and linked the needs between Vietnam

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<sup>13</sup> Pham, M., & Ali, I. (2016, May 11). Quietly, Vietnam hosts arms gathering attended by U.S. companies. Retrieved April 20, 2017, from <http://www.reuters.com/article/us-vietnam-usa-arms-idUSKCN0Y21EK>

<sup>14</sup> Hiebert, M., Nguyen, P., & Poling, G. B. (2014, June). *A New Era in U.S.-Vietnam Relations: Deepening Ties Two Decades after Normalization* (Rep.). Retrieved April 21, 2017, from [https://csis-prod.s3.amazonaws.com/s3fs-public/legacy\\_files/files/publication/140609\\_Hiebert\\_USVietnamRelations\\_Web.pdf](https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/140609_Hiebert_USVietnamRelations_Web.pdf)

<sup>15</sup> Hiebert, M., & Nguyen, P. (2017, April 07). Fully Lifting the U.S. Lethal Arms Ban Will Add Momentum to U.S.-Vietnam Relations. Retrieved April 20, 2017, from <https://www.csis.org/analysis/fully-lifting-us-lethal-arms-ban-will-add-momentum-us-vietnam-relations>

and U.S. military complex. As the outcomes of Podesta Group lobbying to the Executive Branch are the Executive Communication EC7774 on 113<sup>th</sup> Congress and EC7100 on 114<sup>th</sup> Congress which act as the notification from the Executive Branch to the Legislative Branch according to the AECA Section 36(b). Both Executive Communications are sent from Department of State, which is headed by the Secretary of State, to the Office of the President of the Senate, who is the Vice President of United States Joe Biden, and then referred to the Senate Foreign Relations Committee. It is a committee in the Senate that concern on the relations with other states. The coordination direction of the Executive Communication, which is through Department of State and the Senate Foreign Relations Committee, is in line with FARA report regarding lobby which has been done by Podesta Group.

In relation with Boeing and Lockheed, both defense manufacturers' wins in this issue can be seen from the demand of Vietnamese Government towards their products that is much helped by CSIS. Vietnam aimed at maritime patrol aircraft, for example used Lockheed's P-3Cs and new Boeing's KC-46. Vietnam Government also interested on F-16 from Lockheed, F/A-18 Super Hornet from Boeing, as well as both companies' helicopters. Beside on the defense side, the win also happened on the commercial side where VietJet Air ordered 100 of

Boeing 737 Max 200 valued at \$11,3 billion. It was the largest aircraft order from a Vietnam airplane company.<sup>16</sup>

It can be concluded that the arms embargo can be lifted because of a lobbyist group, Podesta Group, and a U.S. think tank, Center for Strategic and International Studies (CSIS). Both are paid by Vietnam Embassy in U.S. Podesta Group lobbied both Executive and Legislative Branch. It is indicated for lobbying Department of Defense on the Executive Branch and Senate Committee on Foreign Relations on the Legislative Branch. Meanwhile, CSIS is driven by Murray Hiebert who is backed by two major defense manufacturers, Lockheed and Boeing.

**Table 4.1 The Process to Lift Arms Embargo to Vietnam**

No.	Actions	Date
1.	The Announcement to Lift the Maritime Lethal Weapons Embargo	October 2, 2014
2.	The Issuing of Executive Communication EC7774, allowing the sales of maritime lethal weapon	November 11, 2014
3.	The Announcement to fully Lift Arms Embargo to Vietnam	May 23, 2016
4.	The Issuing of Executive Communication EC7100, allowing the sales of lethal weapons	November 15, 2016

Source: Various sources

<sup>16</sup> Rich, G. (2016, May 23). Boeing, Lockheed Look To Gain As U.S. Lifts Vietnam Arms Embargo. Retrieved April 20, 2017, from <http://www.investors.com/news/boeing-signs-11-3-billion-vietjet-order-obama-lifts-arms-embargo/>