HB2608

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM AND THE GOVERNMENT OF THE ITALIAN REPUBLIC ON THE CONCESSION OF A SOFT LOAN FOR THE "WATER SUPPLY AND DISTRIBUTION IN ME LINH" PROJECT

The Government of the Italian Republic, represented by the Ministry of Foreign Affairs, Directorate General for Development Cooperation, and the Government of the Socialist Republic of Vietnam, represented by the Ministry of Planning and .vestment,

RECALLING the traditional friendly relations between the Republic of Italy and the Socialist Republic of Vietnam;

STRESSING the importance of a sound economic and social cooperation between the two Countries;

FOLLOWING the Memorandum of Understanding signed in Rome on May 26th, 1997;

REMINDING the request, dated 25th May 1999, for a soft loan to be utilised for the oject "Water Supply and Distribution in Me4 Linh" (the Project);

CONSIDERING that on June 6th, 2001 the Steering Committee of the Directorate General for Cooperation with Developing Countries (DGCS) of the Ministry of Foreign Affairs of the Italian Republic has approved the concession of a soft loan, up to a maximum of 5.164.568,99 Euro, in favour of the Socialist Republic of Vietnam to be utilised for financing the Project;

have agreed as follows:

ARTICLE 1

1.1 The Italian Government provides Vietnam with a soft loan not exceeding Euro 5.164.568,99 through the Istituto Centrale per il Credito a Medio Termine (Mediocredito Centrale). A Financial Convention between the Ministry of Finance of the Socialist Republic of Vietnam and the above mentioned Mediocredito Centrale shall be signed.

1.2 The above mentioned amount of Euro 5.164.568,99 is to be understood as a ceiling and under no circumstances whatsoever the ceiling can be overcome. Should the offer of the contractor selected through the bidding procedure overcome the amount financed by the Italian Cooperation, either a discount is negotiated with the winner or the Vietnamese Counterpart accept to finance the difference with his own funding. Should the global price be less or equal to Euro5.164.568,99, the amount of the Italian financing will be equal to the value of the contract awarded. Anyway the Italian Government reserves the right to finance only the amount that is in line with market prices.

The Italian Government also reserves the right to withdraw the concession of the soft loan in case of non compliance with the conditions and procedural steps mentioned in the present Memorandum.

ARTICLE 2

2.1 The soft loan must be used for supplies, equipment and services related to the Project of Italian origin as specified in the feasibility Study of the Project. The soft loan must be used through bidding procedures, in accordance with the principles set out in the Manual of Instructions adopted by the European Commission on 10th November 1999, and restricted to Italian Companies. Part of the above mentioned equipment may be purchased in Vietnam, or in other developing countries, up to the maximum value of 45% of the soft loan.

2.2 The above mentioned supplies and services are exempted in Vietnam from taxes or custom duties.

ARTICLE 3

The soft loan is expressed in Euro and is subject to the following concessional terms:

a) Nominal interest rate: 0,5%;
b) Repayment period: 36 years of which 24 years of grace period.

ARTICLE 4

The Vietnamese Government commits himself to execute civil works related to the Project, which have been roughly estimated to 31.200.000.000 Vietnam Dong.

ARTICLE 5

According to the procedures followed by the Italian Cooperation for the concession of soft loans, the main steps to be followed before the disbursement are the following:

a) The Government of Vietnam forwards the bidding plan and a draft of bidding documents to DGCS (through the Italian Embassy in Hanoi) for a "no objection" appraisal.

b) The DGCS (through the Italian Embassy in Hanoi) informs the Government of Vietnam of its "no objection" on the above documentation criteria and procedures.

c) The Government of Vietnam sends to DGCS a copy of the bidding invitation at least four weeks (28 days) before issuing the bid notice in order to allow the advertising of the invitation through Italian newspapers.

d) The Government of Vietnam executes the bid in accordance with the approved bidding plan and bidding documents and submits to DGCS a summary of the selection procedure and the contract. All bid documentation shall be maintained for consultation, upon request, by DGCS.

e) The DGCS verifies the selection procedure and the contract and in case of positive evaluation ask the Steering Committee of the Directorate General for Development Cooperation to issue its final approval.

f) The Italian Ministry of Economy and Finance issues the Project Financing Decree.

Mediocredito Centrale and the Ministry of Finance of the Socialist republic of Vietnam, sign a Financial Convention which provides the legal framework between the Lender and the Borrower. The Financial Convention constitutes the basis for the actual disbursement.

ARTICLE 6

The two Governments commit themselves to implement the appropriate monitoring and control procedures on the appropriate use of the soft loan in accordance with conditions mentioned in the present Memorandum and in the Project's Feasibility Study.

ARTICLE 7

This MoU shall enter into force on the receiving date of the last written notification confirming the fulfillment of the contracting Parties of all internal constitutional procedures and remain into force until the last payment by Mediocredito Centrale is made.

The MoU may be denounced earlier on not less than 6 (six) months with a written notice by either Parties. In this case, the part of the soft loan utilised by the Government of Vietnam shall be paid according to the provisions of Article 3.

In witness thereof the undersigned Representatives, duly authorised by their respective Governments, have signed the present Memorandum of Understanding.

Done in Rome on the 29 of November 2002, in two originals each in the English language, both texts been equally authentic.

For the Government
of the Socialist Republic of Vietnam

For the Government
of the Italian Republic

BỘ NGOẠI GIAO

Số : 02/2004 /LPQT

SAO Y BẢN CHÍNH
(Để thực hiện)

Hà Nội, ngày 5 tháng 02 năm 2004

TL. BỘ TRƯỞNG BỘ NGOẠI GIAO
KT. Vụ trưởng Vụ Luật pháp và Điều ước quốc tế
Phó Vụ trưởng

Nguyễn Hoàng Anh

Nơi nhận :

- Văn phòng Quốc hội (để báo cáo),
- Văn phòng Chủ tịch nước (để báo cáo),
- Văn phòng Chính phủ (để báo cáo và đăng Công báo)
- Bộ Kế hoạch và Đầu tư,
- Bộ Tài chính,
- Bộ Tư pháp,
- Bộ Tài nguyên và Môi trường,
- Bộ Nông nghiệp và Phát triển nông thôn,
- Ngân hàng Nhà nước Việt Nam,
- Đại sứ quán CHXHCN Việt Nam tại I-ta-li-a,
- Uỷ ban nhân dân tỉnh Quảng Ngãi,
- Uỷ ban nhân dân tỉnh Cà Mau,
- Uỷ ban nhân dân tỉnh Vĩnh Phúc,
- Vụ Châu Âu 2, Bộ Ngoại giao,
- Vụ Luật pháp và Điều ước quốc tế, Bộ Ngoại giao,
- Lưu trữ, Bộ Ngoại giao.

Bốn Bản ghi nhớ giữa Chính phủ nước Cộng hòa xã hội chủ nghĩa Việt Nam và Chính phủ nước Cộng hòa I-ta-li-a về cung cấp tín dụng ưu đãi cho các Dự án:

- *Tăng cường hệ thống cảnh báo lũ lụt - giai đoạn I,*
- *Cấp nước Thị xã Cà Mau,*
- *Cấp nước Thị xã Quảng Ngãi,*
- *Cấp nước Mê Linh,*

có hiệu lực từ ngày 12 tháng 8 năm 2003.