EMBASSY OF JAPAN
HANOI

Hanoi, June 30, 2010

Excellency,

I have the honour to refer to the recent discussions held between the representatives of the Government of Japan and of the Government of the Socialist Republic of Viet Nam concerning Japanese economic cooperation to be extended with a view to strengthening friendly and cooperative relations between the two countries and also to promoting the efforts by the Government of the Socialist Republic of Viet Nam to address climate change with special emphasis on the adaptation to and the mitigation of climate change as well as on the improvement of access to clean energy, and to propose on behalf of the Government of Japan the following understanding:

1. For the purpose of contributing to the implementation of the Programme for the Improvement of Capabilities to Cope with Natural Disasters Caused by Climate Change (hereinafter referred to as "the Programme") by the Government of the Socialist Republic of Viet Nam, the Government of Japan shall extend to the Government of the Socialist Republic of Viet Nam, in accordance with the relevant laws and regulations of Japan, a grant of two billion Japanese Yen (¥ 2,000,000,000) (hereinafter referred to as "the Grant").

2. (1) The Grant and its accrued interest shall be used by the Government of the Socialist Republic of Viet Nam properly and exclusively for the purchase of such products and services necessary for the implementation of the Programme (hereinafter referred to collectively as "the Components") as well as for such fees necessary for the implementation of the Programme enumerated in a list to be mutually agreed upon between the authorities

His Excellency
Mr. PHAM KHOI NGUYEN
Minister of Natural Resources and Environment
of the Socialist Republic of Viet Nam

concerned of the two Governments, provided that such products are of eligible source countries and such services are of nationals of eligible source countries (The term "nationals" whenever used in the present understanding means Japanese physical persons or Japanese juridical persons controlled by Japanese physical persons in the case of Japanese nationals, and physical or juridical persons of countries other than Japan in the case of nationals of countries other than Japan.).

(2) The scope of the eligible source countries referred to in sub-paragraph (1) above shall be agreed upon between the authorities concerned of the two Governments.

(3) The list mentioned in sub-paragraph (1) above will be subject to modifications which may be agreed upon between the authorities concerned of the two Governments.

3. For the effective, smooth and appropriate purchase of the Components and for other necessary supports to the Government of the Socialist Republic of Viet Nam, the Government of the Socialist Republic of Viet Nam shall conclude an employment contract with an independent and competent agent (hereinafter referred to as "the Agent") to act on behalf of the Government of the Socialist Republic of Viet Nam. The said employment contract shall be approved by the Government of Japan in a written form to be eligible for the Grant and its accrued interest.

4. (1) The Government of the Socialist Republic of Viet Nam shall open a Japanese Yen ordinary deposit account at a bank in Japan in the name of the Government of the Socialist Republic of Viet Nam (hereinafter referred to as "the Account") within fourteen (14) days after the date of entry into force of the present understanding and shall notify in writing the Government of Japan of the completion of the procedure for opening the Account within seven (7) days after the date of the opening of the Account.

(2) The sole purpose of the Account is to receive the payment in Japanese Yen by the Government of Japan referred to in paragraph 5 as well as to make payments necessary for the purchase of the Components, for the fees referred to in sub-paragraph (1) of paragraph 2 and for such other payment as may be agreed upon between the authorities concerned of the two Governments.

5. The Government of Japan shall execute the Grant by making payment in Japanese Yen of the amount referred to in paragraph 1 to the Account during the period between the date of receipt of the written notification referred to in sub-paragraph (1) of paragraph 4 and

March 31, 2011. The period may be extended by mutual consent between the authorities concerned of the two Governments.

6. (1) The Government of the Socialist Republic of Viet Nam shall take necessary measures:

(a) to ensure that the Grant and its accrued interest be completely disbursed from the Account to be ready for the payments necessary for the purchase of the Components as well as for the fees referred to in sub-paragraph (1) of paragraph 2 within a period of twelve (12) months after the date of the execution of the Grant unless the period is extended by mutual consent between the authorities concerned of the two Governments and to refund the amount remaining in the Account after the period to the Government of Japan;

(b) to ensure prompt unloading and customs clearance at ports of disembarkation in the Socialist Republic of Viet Nam and to assist internal transportation therein of the products referred to in sub-paragraph (1) of paragraph 2;

(c) to ensure that customs duties, internal taxes and other fiscal levies which may be imposed in the Socialist Republic of Viet Nam with respect to the purchase of the Components as well as the employment of the Agent be exempted ;

(d) to accord Japanese nationals and /or nationals of third countries, including such nationals employed by the Agent, whose services may be required in connection with the supply of the Components such facilities as may be necessary for their entry into the Socialist Republic of Viet Nam and stay therein for the performance of their work;

(e) to present, through the Agent, to the Government of Japan a report prepared in a written form acceptable to the Government of Japan on the transactions on the Account together with copies of contracts and other documents concerning the relevant transactions without delay when the Grant and its accrued interest are completely disbursed from the Account in accordance with the provisions of sub-paragraph (2) of paragraph 4, or when the period for the use of the Grant and its accrued interest expires in accordance with the provisions of (a) above, or upon request by the Government of Japan;

(f) to ensure that the Components be maintained and used properly and effectively for the implementation of the Programme;

(g) to secure lots of land necessary for the implementation of the Programme and to clear the sites;

(h) to provide facilities for distribution of electricity, water supply and drainage and other incidental facilities necessary for the implementation of the Programme outside the sites referred to in (g) above;

(i) to bear all the expenses, other than those covered by the Grant and its accrued interest, necessary for the implementation of the Programme; and

(j) to give due environmental and social consideration in the implementation of the Programme.

(2) While ensuring fair treatment of sources of information, the Government of the Socialist Republic of Viet Nam shall provide the Government of Japan with necessary information, including information on corrupt practice, related to the Programme.

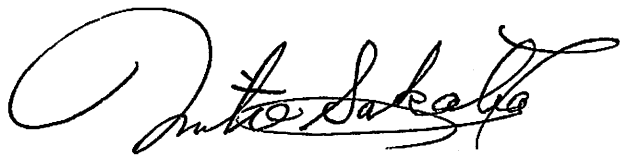
(3) With regard to the shipping and marine insurance of the products referred to in sub-paragraph (1) of paragraph 2, the Government of the Socialist Republic of Viet Nam shall refrain from imposing any restrictions that may hinder fair and free competition among the shipping and marine insurance companies.

(4) The products referred to in sub-paragraph (1) of paragraph 2 shall not be exported or re-exported from the Socialist Republic of Viet Nam.

7. The two Governments shall consult with each other in respect of any matter that may arise from or in connection with the present understanding.

I have further the honour to propose that this Note and Your Excellency's Note in reply confirming on behalf of the Government of the Socialist Republic of Viet Nam the foregoing understanding shall constitute an agreement between the two Governments, which shall enter into force on the date of Your Excellency's Note in reply.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.



MITSUO SAKABA
Ambassador Extraordinary
and Plenipotentiary of Japan

Agreed Minutes on Procedural Details

With reference to paragraphs 2, 3, 4 and 6 of the Exchange of Notes between the Government of the Socialist Republic of Viet Nam (hereinafter referred to as "the Recipient") and the Government of Japan (hereinafter referred to as "the Donor") dated June 30, 2010 (hereinafter referred to as "the Exchange of Notes") concerning the Japanese economic cooperation to be extended with a view to strengthening friendly and cooperative relations between the two countries and also to promoting the efforts by the Government of the Socialist Republic of Viet Nam to address climate change with special emphasis on the adaptation to and the mitigation of climate change as well as on the improvement of access to clean energy (hereinafter referred to as "the Grant"), the representatives of the Recipient and of the Donor wish to record the following procedural details, as agreed upon between the authorities concerned of the two Governments:

1. The products and services referred to in sub-paragraph (1) of paragraph 2 of the Exchange of Notes (hereinafter referred to collectively as "the Components") and the fees referred to in sub-paragraph (1) of paragraph 2 of the Exchange of Notes shall be those enumerated in Appendix I.

2. The Grant and its accrued interest shall be used by the Recipient properly and exclusively for the purchase of the Components as well as for such fees referred to in sub-paragraph (1) of paragraph 2 of the Exchange of Notes with due attention to economy and efficiency.

3. (1) The eligible source countries referred to in sub-paragraph (2) of paragraph 2 of the Exchange of Notes shall be Japan and the Socialist Republic of Viet Nam.

(2) Notwithstanding the provisions of sub-paragraph (1) above, when the two Governments deem it necessary, the Grant and its accrued interest may be used for the purchase of the Components, which are products of countries other than Japan or the Socialist Republic of Viet Nam and services of nationals of countries other than Japan or the Socialist Republic of Viet Nam respectively. (The term "nationals" whenever used in the present Agreed Minutes on Procedural Details means Japanese physical persons or Japanese juridical persons controlled by Japanese physical persons in the case of Japanese nationals, and Vietnamese physical or juridical persons in the case of Vietnamese nationals.).

4. (1) The Recipient shall conclude an employment contract, in principle within two months after the date of entry into force of the Exchange of Notes, with Japan International Cooperation System (JICS) which is the independent and competent agent referred to in paragraph 3 of the Exchange of Notes (hereinafter referred to as "the Agent") to act on behalf of the Recipient in accordance with the Scope of the Agent's Services as set forth in Appendix II.

(2) The contracts for the purchase of the Components shall be concluded in Japanese Yen between JICS and Japanese nationals.

(3) The Components shall be procured in accordance with the guidelines issued by the Agent, which set forth, inter alia, the procedures of tendering to be followed except where such procedures are inapplicable or inappropriate.

(4) The Recipient shall ensure that any official of the Recipient does not undertake any part of the Japanese nationals' work and /or the work of nationals of third countries on purchase of the Components.

5. (1) Within ten days after the date of entry into force of the Exchange of Notes, the Recipient and the Donor shall appoint their representatives who will be members of a consultative committee (hereinafter referred to as "the Committee"), the role of which shall be to discuss any matter that may arise from or in connection with the Exchange of Notes. Immediately after the conclusion of the employment contract referred to in sub-paragraph (1) of paragraph 4 above, the Agent shall appoint its representative who will participate in the Committee meetings as an adviser.

(2) The Committee shall be chaired by the representative of the Recipient. Representatives of other organizations than the Agent may, when necessary, be invited to participate in the Committee meetings to provide advisory services.

(3) The terms of reference of the Committee shall be as set forth in Appendix IV.

(4) The first meeting of the Committee shall be held immediately after the approval of the Donor of the employment contract referred to in sub-paragraph (1) of paragraph 4 above. Further meetings will be held upon request of either the Recipient or the Donor. The Agent may advise the Recipient and the Donor on the necessity to call a meeting of the Committee.

6. Disbursement procedure relating to the procurement of the Components and the fees referred to in subparagraph (1) of paragraph 2 of the Exchange of Notes under the Grant and its accrued interest shall be as follows:

(1) The Recipient (or its designated authority) and the bank in Japan referred to in sub-paragraph (1) of paragraph 4 of the Exchange of Notes (hereinafter referred to as "the Bank") shall conclude an arrangement regarding transfer of funds in which the Recipient shall designate the Agent as the representative acting in the name of the Recipient concerning all transfers of funds to the Agent.

(2) The Agent shall make requests to the Bank for transferring of funds to cover expenses necessary for the purchase of all or part of the Components and for the fees referred to in sub-paragraph (1) of paragraph 2 of the Exchange of Notes. Each of the requests shall be accompanied by a detailed estimate of the expenses which is to be covered by the funds transferred and a copy of the approval by the Donor of the contract referred to in paragraph 3 of the Exchange of Notes. A copy of the request and of the estimation shall be sent at the same time to the Recipient.

(3) Pursuant to the Agent's request as per sub-paragraph (2) above, the Bank shall notify the Recipient of the request made by the Agent. The Bank shall pay the amount specified in the request to the Agent from the account referred to in sub-paragraph (1) of paragraph 4 of the Exchange of Notes (hereinafter referred to as "the Account") unless the Recipient makes opposition to such payment within ten (10) working days after the notification by the Bank. The Agent shall make payments to suppliers and/or providers of the Components from the funds received (hereinafter referred to as "the Advances") in accordance with the terms of the contracts with them.

After such payments, the Agent may use the remaining amount of the Advances, if any, for the purchase of other part of the Components as well as for the fees referred to in sub-paragraph (1) of paragraph 2 of the Exchange of Notes without transferring the said amount back to the Account.

(4) When the total of the remaining amount in the Account and the remaining amount of the Advances (hereinafter referred to collectively as "the Remaining Amount") is less than three (3) percent of the Grant and its accrued interest excluding the fees referred to in sub-paragraph (1) of paragraph 2 of the Exchange of Notes, the Recipient may request the Agent to reimburse the Remaining Amount to the Recipient for payments which have already been made by the Recipient for the purchase of all or part of the Components,

provided that such payments have been made on or after the date of entry into force of the Exchange of Notes.

When the Agent deems the request by the Recipient appropriate, the Agent shall make requests to the Bank for transferring to the Agent the remaining amount in the Account by issuing to the Bank a Certificate of Eligible Procurement for the Remaining Amount certified by both the Recipient and the Agent as per the form set forth in Appendix III. After such transfer, the Agent shall reimburse the Remaining Amount to the Recipient.

(5) With respect to (a) of sub-paragraph (1) of paragraph 6 of the Exchange of Notes, disbursements from the Account shall be made within a twelve (12) months period after the date of the execution of the Grant, and no further disbursement shall be made thereafter, unless otherwise agreed between the authorities concerned of the two Governments.

7. With respect to (a) of sub-paragraph (1) of paragraph 6 of the Exchange of Notes, when the Donor finds, upon the receipt of the termination report pursuant to (e) of sub-paragraph (1) of paragraph 6 of the Exchange of Notes, that the use of the Grant and its accrued interest is incomplete, it shall notify the Recipient of the procedures for refunding of the Remaining Amount. The Recipient shall refund the Remaining Amount to the Donor without delay through such procedures as notified above.

Hanoi, June 30, 2010

PHAM KHOI NGUYEN
Minister of Natural Resources and Environment
of the Socialist Republic of Viet Nam

MITSUO SAKABA
Ambassador Extraordinary
and Plenipotentiary of Japan

Appendix I

List of Components and Fees

1. Products and services necessary for the construction and / or the rehabilitation of related facilities (hereinafter referred to [collectively] as "the Facilities")

2. Equipment, materials and services necessary for the procurement and/or installation thereof

3. Services necessary for the transportation of the products referred to in paragraphs [1 /1 and 2/ 2] above to ports in the Socialist Republic of Viet Nam and those for internal transportation therein

4. Services necessary for the training in operating the equipment and materials referred to in paragraph 2 above and/or those for guidance in managing the Facilities

5. Services necessary for the technical assistance

6. Fees necessary for the employment of the Agent

Note: The Recipient shall allow the Agent to expend the Grant and its accrued interests on construction supervision by civil engineering consultants in case of construction projects and on monitoring of projects by the third-party organization when requested by the Donor.

Appendix II

Scope of the Agent's Services

1. Conclusion of an agreement for detailed design works and construction supervision with the consultants.

2. Ensuring that the Recipient fully understand the procedures to be employed.

3. (1) Preparation of specifications of products for the Recipient, including, where necessary, detailed discussions with the end-users

(2) Preparation of bid documents appropriate to the type and value of products and services to be procured

(3) Advertisement of bids

(4) Evaluation of bids, including both technical and financial considerations

(5) Submission of recommendations to the Recipient for approval to place orders with suppliers and providers of the Components

4. Receipt and utilization of the Advances in accordance with the employment contract with the Recipient

5. Negotiation and conclusion of contracts with suppliers and providers of the Components, including satisfactory payments, shipment and inspection arrangements, where necessary

6. Checking the progress of the Programme

7. Providing the Recipient with documents containing detailed information of progress of orders, notification of orders placed, amendments to contracts, delivery and service information, shipping documents, etc.

8. Payment to suppliers and providers of the Components from the Advances

Appendix III

Certificate of Eligible Procurement
for the Remaining Amount
(Reimbursement Procedure)

Date:
Ref. No.:

With reference to the payment order, the undersigned hereby certify that the procurement related to the said payment order as listed below complies with all the relevant terms and conditions of the Exchange of Notes between the Government of Japan and the Government of the Socialist Republic of Viet Nam dated June 30, 2010 and the Agreed Minutes on Procedural Details between the authorities concerned of the two Governments dated June 30, 2010.

The undersigned recipient representative further certifies that the Recipient has neither heretofore applied for reimbursement under the Exchange of Notes nor for any other financing arrangements with other sources of official assistance in respect of any of the amount requested for reimbursement as covered by the payment order.

The following are the principal relevant facts concerning the procurement.

Appendix IV

Terms of Reference of the Committee

1. To formulate a time scale plan for the speedy and effective utilization of the Grant and its accrued interest

2. To exchange views on allocations of the Grant and its accrued interest

3. To identify problems which may delay the utilization of the Grant and its accrued interest, and to explore solutions to such problems

4. To exchange views on publicity related to the utilization of the Grant and its accrued interest

5. To discuss any other matter that may arise from or in connection with the Exchange of Notes

Record of Discussions

With reference to the Exchange of Notes between the Government of the Socialist Republic of Viet Nam and the Government of Japan dated June 30, 2010 concerning the Japanese economic cooperation to be extended with a view to strengthening friendly and cooperative relations between the two countries and also to promoting the efforts by the Government of the Socialist Republic of Viet Nam to address climate change with special emphasis on the adaptation to and the mitigation of climate change as well as on the improvement of access to clean energy (hereinafter referred to as "the Exchange of Notes"), the representatives of the Vietnamese Delegation and of the Japanese Delegation wish to record the following:

1. With regard to sub-paragraph (1) of paragraph 2 of the Exchange of Notes, the representative of the Japanese Delegation stated that the Government of Japan understands that the Government of the Socialist Republic of Viet Nam will take necessary measures to prevent any offer, gift or payment, consideration or benefit which would be construed as a corrupt practice in the Socialist Republic of Viet Nam from being made as an inducement to or reward for the award of the contracts that the independent and competent agent referred to in paragraph 3 of the Exchange of Notes will enter into for the purchase of the products and services referred to in sub-paragraph (1) of paragraph 2 of the Exchange of Notes.

2. The representative of the Vietnamese Delegation stated that the Vietnamese Delegation has no objection to the statement by the representative of the Japanese Delegation referred to above.

Hanoi, June 30, 2010

PHAM KHOI NGUYEN
Minister of Natural Resources and Environment
of the Socialist Republic of Viet Nam

MITSUO SAKABA
Ambassador Extraordinary
and Plenipotentiary of Japan

BỘ NGOẠI GIAO

Số : 35/2010/SL-LPQT

SAO Y BẢN CHÍNH

Công hàm trao đổi giữa Chính phủ nước Cộng hòa xã hội chủ nghĩa Việt Nam và Chính phủ Nhật Bản về việc Chính phủ Nhật Bản cung cấp cho Chính phủ Việt Nam khoản viện trợ không hoàn lại trị giá hai tỷ Yên (2.000.000.000 Yên) cho Chương trình tăng cường năng lực đối phó với thiên tai do biến đổi khí hậu gây ra, ký tại Hà Nội ngày 30 tháng 6 năm 2010, có hiệu lực kể từ ngày 30 tháng 6 năm 2010.

Hà Nội, ngày 16 tháng 7 năm 2010

TL. BỘ TRƯỞNG

KT.VỤ TRƯỞNG

VỤ LUẬT PHÁP VÀ ĐIỀU ƯỚC QUỐC TẾ

PHÓ VỤ TRƯỞNG

BỘ NGOẠI GIAO

Nguyễn Thị Minh Nguyệt

Nơi nhận :

- Văn phòng Quốc hội *(để báo cáo)*;
- Văn phòng Chủ tịch nước *(để báo cáo)*;
- Văn phòng Chính phủ *(để báo cáo)*;
- Phòng Công báo, Văn phòng Chính phủ *(để đăng Công báo)*;
- Bộ Tài nguyên và Môi trường;
- Bộ Kế hoạch và Đầu tư;
- Bộ Tài chính;
- Đại sứ quán Việt Nam tại Nhật Bản;
- Vụ Đông Bắc Á, Bộ Ngoại giao;
- Vụ Luật pháp và Điều ước quốc tế, BNG.