Agreement Nr ASIE//2003/005-711

FINANCING AGREEMENT

between

THE EUROPEAN COMMUNITY

and

THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM

"Multilateral Trade Assistance Project Vietnam II (MUTRAP II)"

FINANCING AGREEMENT

Special Conditions

The European Community, hereinafter referred to as **"the Community"**, represented by the Commission of the European Communities, hereinafter referred to as **"the Commission"**,

of the one part, and

The Government of the Socialist Republic of Vietnam, represented by the Ministry of Trade, hereinafter referred to as **"the Beneficiary"**,

of the other part,

HAVE AGREED AS FOLLOWS:

ARTICLE 1 - NATURE AND PURPOSE OF THE OPERATION

1.1. The Community shall contribute to the financing of the following Project:

Multilateral Trade Assistance Project Vietnam II (MUTRAP II)
Accounting number: ASIE/2003/005711

hereinafter referred to as "the project", which is described in the Technical and Administrative Provisions in Annex II.

1.2 This project will be implemented in accordance with the financing agreement and the annexes thereto: the General Conditions (Annex I) and the Technical and Administrative Provisions (Annex II).

ARTICLE 2 – THE COMMUNITY'S FINANCIAL CONTRIBUTION

2.1 The total cost of the project is estimated at 5.350.000 euro.

2.2 The Community undertakes to finance a maximum of 5.100.000 euro. The breakdown of the Community's financial contribution into budget headings is shown in the budget included in the Technical and Administrative Provisions in Annex II.

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ARTICLE 3 - THE BENEFICIARY'S CONTRIBUTION

3.1 The Beneficiary shall contribute 250.000 euro to the project.

3.2 Where some of the Beneficiary's contribution is not financial, the detailed arrangements shall be set out in the Technical and Administrative Provisions in Annex II to the financing agreement.

ARTICLE 4 – PERIOD OF EXECUTION

The period of execution of the financing agreement shall commence on the entry into force of the financing agreement and end at 30/06/2010. This period of execution shall comprise two phases: an operational implementation phase, which shall commence on the entry into force of the financing agreement and end at 30/06/2008. As from this date shall commence the closure phase, which shall end at the end of the period of execution.

ARTICLE 5 - DEADLINE FOR THE SIGNATURE OF THE CONTRACTS IMPLEMENTING THE FINANCING AGREEMENT

Contracts implementing the financing agreement shall be signed by 26/11/2006 at the latest. That deadline may not be extended.

ARTICLE 6 – CRITERIA TO BE SATISFIED BY THE BENEFICIARY

6.1 The tasks set out in the Technical and Administrative Provisions in Annex II are entrusted to the Beneficiary.

6.2 Accordingly, in so far as the corresponding implementing tasks have been entrusted to it, the Beneficiary undertakes to guarantee during the period of execution of the financing agreement referred to in Article 4 of these Special Conditions the maintenance of a system of managing the Community funds which satisfies the following criteria:

- effective segregation of the duties of authorising officer and accounting officer;
- existence of an effective system for internal control for decentralised management operations;
- for project support, procedures for the presentation of separate accounts showing the use made of Community funds;
- existence of a national institution for independent external auditing;
- procurement procedures referred to in Article 7 of the General Conditions.

6.3 The procedures of the system of management of Community funds by the Beneficiary, which have been the subject of a prior audit by the Commission, shall be documented and remain accessible to the Commission, which reserves the right to carry

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out documentary and on-the-spot checks to ensure that the criteria set out in this Article are respected during the period of execution of the financing agreement. The Commission must be informed of any substantial changes affecting these procedures.

6.4 Where appropriate, the Technical and Administrative Provisions in Annex II will set out the adversarial clearance-of-accounts procedure and set up financial correction mechanisms, in particular as regards recovery by means of offsetting.

ARTICLE 7 - ADDRESSES

All communications concerning the implementation of this financing agreement shall be in writing, refer expressly to the project and be sent to the following addresses:

a) **for the Commission**

The Delegation of the European Commission to Vietnam
Suite 703, Metropole Center
56 Ly Thai To Street
Hanoi

b) **for the Beneficiary**

The Ministry of Trade
31 Trang Tien Street
Hanoi

ARTICLE 8 - ANNEXES

8.1 The following documents shall be annexed to this agreement and form an integral part thereof:

Annex I: General Conditions

Annex II: Technical and Administrative Provisions.

8.2 In the event of a conflict between the provisions of the Annexes and those of the Special Conditions of the financing agreement, the provisions of the Special Conditions shall take precedence. In the event of a conflict between the provisions of Annex I and those of Annex II, the provisions of Annex I shall take precedence.

ARTICLE 9 - OTHER SPECIAL CONDITIONS APPLYING TO THE PROJECT

9.1 Following the establishment of the Project Task Force by the Beneficiary, the transfer of funds for decentralised payments under the project can be done only on the basis of a positive assessment by the Commission of the compliance with the Technical and Administrative Provisions in Annex II with regard to the segregation of duties of the

Authorising Officer and Accounting Officer, the internal control and the procedures for the presentation of separate accounts showing the use made of Community funds.

9.2 When the criteria for decentralisation agreed in the financing agreement (ref: article 6.2) are no longer met, the Commission may decide to undertake the management of the operations concerned in a centralised manner. This decision should be made by the relevant geographical Director in EC Headquarters.

ARTICLE 10 – ENTRY INTO FORCE OF THE FINANCING AGREEMENT

The financing agreement shall enter into force on the date on which it is signed by the last party.

Done at Brussels and Hanoi in three original copies in the English language, two copies being handed to the Commission and one to the Beneficiary.

FOR THE COMMISSION

Mr Erich W. Muller
Director
Asia Directorate
EuropeAid Cooperation Office

Signature

Date: 24/05/2004

FOR THE BENEFICIARY

Mr. Truong Dinh Tuyen
Minister for Trade
Ministry of Trade
Government of Vietnam

Signature

Date:

ANNEX I - GENERAL CONDITIONS

TITLE I - PROJECT/PROGRAMME FINANCING

ARTICLE 1 – GENERAL PRINCIPLE

1.1 The Community's financial contribution shall be limited to the amount specified in the financing agreement.

1.2 The provision of the Community financing shall be subject to fulfilment of the Beneficiary's obligations under this financing agreement.

ARTICLE 2 - COST OVERRUNS AND COVERING THEM

2.1 Individual overruns of the budget headings of the financing agreement shall be dealt with by reallocating funds within the overall budget, in accordance with Article 20 of these General Conditions.

2.2 Wherever there is a risk of overrunning the global amount set in the financing agreement, the Beneficiary shall immediately inform the Commission and seek its prior approval for the corrective measures planned to cover the overrun, proposing either to scale down the project/programme or to draw on its own or other non-Community resources.

2.3 If the project/programme cannot be scaled down, or if the overrun cannot be covered either by the Beneficiary's own resources or other resources, the Commission may, exceptionally, at the Beneficiary's duly substantiated request, grant additional Community financing. Should it so agree, the excess costs shall be financed, without prejudice to the relevant Community rules and procedures, by the release of an additional financial contribution to be set by the Commission.

TITLE II - IMPLEMENTATION

ARTICLE 3 – GENERAL PRINCIPLE

3.1 The project/programme shall be implemented under the responsibility of the Beneficiary with the approval of the Commission.

3.2 The Commission shall be represented in the State of the Beneficiary by its Head of Delegation.

MAY 2003

ARTICLE 4 - PERIOD OF EXECUTION

4.1 The financing agreement shall lay down a period of execution, which shall commence on the entry into force of the financing agreement and end on the date specified to this end in Article 4 of the Special Conditions.

4.2 This period of execution shall comprise two phases:

- an operational implementation phase, in which the principal activities are carried out. This phase shall commence on the entry into force of the financing agreement and end at the latest 24 months before the end of the period of execution;

- a closure phase, during which final audits and evaluation are carried out and contracts for the implementation of the financing agreement are technically and financially closed. This phase shall commence on the date of end of the operational implementation phase and end at the latest 24 months after this date.

4.3 Costs related to the principal activities shall be eligible for Community financing only if they have been incurred during the operational implementation phase. Costs related to final audits and evaluation and closure activities shall be eligible up to the end of the closure phase.

4.4 Any balance remaining from the Community contribution will be automatically cancelled six months after the end of the period of execution.

4.5 In exceptional and duly substantiated cases, a request may be made for the extension of the operational implementation phase and correlatively of the period of execution. If the extension is requested by the Beneficiary, the request must be made at least three months before the end of the operational implementation phase and approved by the Commission before that latter date.

4.6 In exceptional and duly substantiated cases, and after the end of the operational implementation phase, a request may be made for the extension of the closure phase and correlatively of the period of execution. If the extension is requested by the Beneficiary, the request must be made at least three months before the end of the closure phase and approved by the Commission before that latter date.

ARTICLE 5 - DISBURSEMENT

5.1 The Commission shall transfer funds no later than 45 calendar days after the date on which it registers an admissible payment request from the Beneficiary. The payment request is not admissible if at least one essential requirement is not met. The time limit for payments may be suspended by the Commission by informing the Beneficiary, at any time during the period referred to above, that the payment request can not be met, either because the amount is not due or because the appropriate supporting documents have not been produced. If information comes to the notice of the Commission which puts in doubt the eligibility of expenditure appearing in a payment request, the Commission may suspend the time limit for payment for the purpose of further verification, including an

on-spot check, in order to ascertain, prior to payment, that the expenditure is indeed eligible. The Commission shall inform the Beneficiary as soon as possible.

5.2 The Commission shall make payments to the bank account or subaccount indicated on the financial identification form included in the Technical and Administrative Provisions in Annex II. Changes of bank account must be reported using the same financial identification form. The Beneficiary shall guarantee that funds paid by the Commission by way of pre-financing can be identified in this bank account or subaccount.

5.3 This bank account or subaccount shall be denominated in euro and be opened jointly in the name of the Beneficiary at a financial institution approved by the Commission in the State of the Beneficiary.

5.4 This bank account or subaccount shall be endowed to meet actual cash requirements and when required by the reports submitted by the Beneficiary, in accordance with the arrangements laid down in the Technical and Administrative Provisions in Annex II. Transfers in euro shall, if necessary, be converted into the Beneficiary's national currency as and when payments have to be made by the Beneficiary, at the bank rate in force on the day of payment by the Beneficiary or, failing that, the rate stipulated in the Special Conditions.

5.5 The Beneficiary shall notify the Commission of any interest or equivalent benefits yielded by those funds at least once a year and when requests are made for interim payments that clear the pre-financing, and it shall provide an aggregate report six months after the end of the closure phase.

5.6 Any interest or equivalent benefits shall be repaid to the Commission within 45 days of receipt of the Commission's request.

ARTICLE 6 – DEADLINE FOR PAYMENTS BY THE COMMISSION IN THE CASE OF DECENTRALISED MANAGEMENT

6.1 When the Commission is making payments, the Beneficiary shall undertake to provide the Commission with the contractor's requests for payment no more than 15 calendar days after registering an admissible payment request. The Beneficiary shall notify the Commission of the date of registration of this request. The payment request is not admissible if at least one essential requirement is not met. The time limit for payments may be suspended by the Commission by informing the Beneficiary, at any time during the period referred to above, that the payment request can not be met, either because the amount is not due or because the appropriate supporting documents have not been produced. If information comes to the notice of the Commission which puts in doubt the eligibility of expenditure appearing in a payment request, the Commission may suspend the time limit for payment for the purpose of further verification, including an on-spot check, in order to ascertain, prior to payment, that the expenditure is indeed eligible. The Commission shall inform the Beneficiary as soon as possible.

6.2 The deadline referred to in paragraph 1 shall also apply when payment is conditional on approval of a report. In this case, the request for payment shall not be

considered admissible until the Beneficiary has approved the report, either expressly, by notifying the contractor, or tacitly, by allowing the contractual deadline for approval to expire without sending the contractor a document formally suspending that deadline. The Beneficiary shall notify the Commission of the date of approval of the report.

6.3 In the event of any delay in forwarding payment requests attributable to the Beneficiary, the Commission shall not be obliged to pay the contractor the late-payment interest provided for in contracts, which will be payable by the Beneficiary.

TITLE III - AWARD OF CONTRACTS AND GRANTS

ARTICLE 7 – GENERAL PRINCIPLE

All contracts implementing the financing agreement must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

ARTICLE 8 - DEADLINE FOR THE SIGNATURE OF THE CONTRACTS IMPLEMENTING THE FINANCING AGREEMENT

8.1 The contracts implementing the financing agreement shall be signed by both parties within three years of the adoption of the budgetary commitment by the Commission, namely at the latest on the date referred to in Article 5 of the Special Conditions. That deadline may not be extended.

8.2 The above provision shall not apply to audit and evaluation contracts, which may be signed later.

8.3 On the date referred to in Article 5 of the Special Conditions, any balance for which contracts have not been signed will be cancelled.

8.4 A contract which has not given rise to any payment within three years of its signature shall be automatically terminated and its funding cancelled.

ARTICLE 9 - ELIGIBILITY

9.1 Participation in invitations to tender for works, supply or service contracts shall be open on equal terms to all natural and legal persons of the Member States of the Community and, in accordance with the specific provisions in the basic acts governing the cooperation sector concerned, to all natural and legal persons of the beneficiary third countries or of any other third country expressly mentioned in those acts.

9.2 Participation in calls for proposals shall be open on equal terms to all legal persons of the Member States of the Community and, in accordance with the specific provisions in the basic acts governing the cooperation sector concerned, to all natural and

legal persons of the beneficiary third countries or of any other third country expressly mentioned in those acts.

9.3 Exceptionally, in duly substantiated cases approved by the Commission, it may be decided, on the basis of the specific conditions laid down in the basic acts governing the cooperation sector concerned, to allow third-country nationals other than those referred to in paragraphs 1 and 2 to tender for contracts.

9.4 Goods and supplies financed by the Community and necessary for the performance of works, supply and service contracts and procurement procedures launched by the grant beneficiaries for the execution of the action financed must originate in countries eligible to participate on the terms laid down in the previous three paragraphs.

9.5 This nationality rule shall also apply to the experts proposed by service providers taking part in tender procedures or service contracts financed by the Community.

TITLE IV - RULES APPLICABLE TO THE PERFORMANCE OF CONTRACTS

ARTICLE 10 - ESTABLISHMENT AND RIGHT OF RESIDENCE

10.1 Where justified by the nature of the contract, natural and legal persons participating in invitations to tender for works, supply or service contracts shall enjoy a provisional right of establishment and residence in the Beneficiary's country. This right shall remain valid for one month after the contract is awarded.

10.2 Contractors (including the grant beneficiaries) and natural persons whose services are required for the performance of the contract and members of their family shall enjoy similar rights during the implementation of the project/programme.

ARTICLE 11 - TAX AND CUSTOMS PROVISIONS

11.1 Save where otherwise provided in the Special Conditions, taxes, duties or other charges (including value added tax - VAT - or equivalent taxes) shall be excluded from Community financing.

11.2 The State of the Beneficiary shall apply to procurement contracts and grants financed by the Community the most favoured tax and customs arrangements applied to States or international development organisations with which it has relations.

11.3 Where the Framework Agreement or exchange of letters applicable includes more detailed provisions on this subject, they shall apply as well.

ARTICLE 12 - FOREIGN EXCHANGE ARRANGEMENTS

12.1 The State of the Beneficiary undertakes to authorise the import or purchase of the foreign currency necessary for the implementation of the project. It also undertakes to apply its national foreign exchange regulations in a non-discriminatory manner to the contractors allowed to participate referred to in Article 9 of these General Conditions.

12.2 Where the Framework Agreement or exchange of letters applicable includes more detailed provisions on this subject, they shall apply as well.

ARTICLE 13 – USE OF DATA FROM STUDIES

Where the financing agreement involves the financing of a study, the contract related to this study, signed for the implementation of the financing agreement, shall govern the ownership of that study and the right for the Beneficiary and the Commission to use data in the study, to publish it or to disclose it to third parties.

ARTICLE 14 - ALLOCATIONS OF AMOUNTS RECOVERED UNDER CONTRACTS

14.1 Amounts recovered from payments wrongly effected, from guarantees of pre-financing payments or from performance guarantees supplied on the basis of contracts financed under this financing agreement, shall be allocated to the project/programme.

14.2 The financial penalties imposed by the contracting authority on candidate or tenderer who is in a case of exclusion in the context of a procurement contract, the calling upon of tender guarantees, as well as the damages granted to the Commission shall be repaid to the general budget of the European Communities.

ARTICLE 15 - FINANCIAL CLAIMS UNDER CONTRACTS

The Beneficiary undertakes to confer with the Commission before taking any decision concerning a request for compensation made by a contractor and considered by the Beneficiary to be justified in whole or in part. The financial consequences may be borne by the Community only where the Commission has given its prior approval. Such prior approval is also required for any use of funds committed under the present financing agreement to cover costs arising from disputes relating to contracts.

TITLE V - GENERAL AND FINAL PROVISIONS

ARTICLE 16 – VISIBILITY

16.1 Every project/programme financed by the Community shall be the subject of appropriate communication and information operations. These operations shall be defined under the responsibility of the Beneficiary with the approval of the Commission.

16.2 These communication and information operations must follow the rules laid down and published by the Commission for the visibility of external operations in force at the time of the operations.

ARTICLE 17 – PREVENTION OF IRREGULARITIES, FRAUD AND CORRUPTION

17.1 The Beneficiary undertakes to check regularly that the operations financed with the Community funds have been properly implemented. It shall take appropriate measures to prevent irregularities and fraud and, if necessary, bring prosecutions to recover funds wrongly paid.

17.2 "Irregularity" shall mean any infringement of the financing agreement, implementing contracts or Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the European Communities, or by an unjustified item of expenditure.
"Fraud" shall mean any intentional act or omission concerning:
- the use or presentation of false, incorrect or incomplete, statements or documents which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by them, or on their behalf;
- non-disclosure of information in violation of a specific obligation, with the same effect;
- the misapplication of such funds for purposes other than those for which they are originally granted.

The Beneficiary shall immediately inform the Commission of any element brought to its attention which arouses suspicions of irregularities or fraud and of any measure taken to deal with them.

17.3 The Beneficiary undertakes to take every appropriate measure to remedy any practices of active or passive corruption whatsoever at any stage of the procedure for the award of contracts or grants or in the implementation of the related contracts. "Passive corruption" shall mean the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, or accepts a promise of such an advantage, to act or refrain from acting in

accordance with his duty or in the exercise of his functions in breach of his official duties, which has, or would have, the effect of harming the financial interests of the European Communities. "Active corruption" shall mean the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official, for himself or for a third party, to act or refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties, which has, or would have, the effect of harming the financial interests of the European Communities.

ARTICLE 18 - VERIFICATIONS AND CHECKS BY THE COMMISSION, THE EUROPEAN ANTI-FRAUD OFFICE (OLAF) AND THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES

18.1 The Beneficiary agrees to the Commission, OLAF and the Court of Auditors of the European Communities conducting documentary and on-the-spot checks on the use made of Community funding under the financing agreement (including procedures for the award of contracts and grants) and carrying out a full audit, if necessary, on the basis of supporting documents of accounts and accounting documents and any other documents relating to the financing of the project/programme, throughout the duration of the agreement and for seven years after the date of the last payment.

18.2 The Beneficiary also agrees that OLAF may carry out on-the-spot checks and verifications in accordance with the procedures laid down by Community law for the protection of the financial interests of the European Communities against fraud and other irregularities.

18.3 To that end, the Beneficiary undertakes to grant officials of the Commission, OLAF and the Court of Auditors of the European Communities and their authorised agents access to sites and premises at which operations financed under the financing agreement are carried out, including their computer systems, and to any documents and computerised data concerning the technical and financial management of those operations, and to take every appropriate measure to facilitate their work. Access by authorised agents of the European Commission, OLAF and the Court of Auditors of the European Communities shall be granted on conditions of strict confidentiality with regard to third parties, without prejudice to public law obligations to which they are subject. Documents must be accessible and filed in a manner permitting easy inspection, the Beneficiary being bound to inform the Commission, OLAF or the Court of Auditors of the European Communities of the exact location at which they are kept.

18.4 The checks and audits described above shall also apply to contractors and subcontractors who have received Community funding.

18.5 The Beneficiary shall be notified of on-the-spot missions by agents appointed by the Commission, OLAF or the Court of Auditors.

ARTICLE 19 – CONSULTATION BETWEEN THE COMMISSION AND THE BENEFICIARY

19.1 The Beneficiary and the Commission shall consult each other before taking any dispute relating to the implementation or interpretation of this financing agreement further.

19.2 The consultation may lead to the amendment, suspension or termination of the financing agreement.

ARTICLE 20 – AMENDMENT OF THE FINANCING AGREEMENT

20.1 Any amendment to the Special Conditions and Annex II to the financing agreement shall be made in writing and be the subject of an addendum.

20.2 If the request for an amendment comes from the Beneficiary, the latter shall submit that request to the Commission at least three months before the amendment is intended to enter into force, except in cases which are duly substantiated by the Beneficiary and accepted by the Commission.

20.3 For technical adjustments which do not affect the objectives and results of the project/programme and alterations in matters of detail which do not affect the technical solution adopted, and with no reallocation of funds, the Beneficiary shall inform the Commission of the amendment and its justification in writing as soon as possible and apply that amendment.

20.4 The use of contingency funds shall be subject to the Commission's prior written approval.

20.5 The specific cases of the extension of the operational implementation phase or closure phase are governed by Article 4(5) and (6) of these General Conditions.

ARTICLE 21 – SUSPENSION OF THE FINANCING AGREEMENT

21.1 The financing agreement may be suspended in the following cases:

(a) The Commission may suspend the implementation of the financing agreement if the Beneficiary breaches an obligation under the financing agreement, and notably if, in so far as the corresponding implementing tasks have been entrusted to it, it ceases to satisfy the criteria laid down in Article 6 of the Special Conditions.

(b) The Commission may suspend the financing agreement if the Beneficiary breaches an obligation relating to respect for human rights, democratic principles and the rule of law and in serious cases of corruption.

(c) The financing agreement may be suspended in cases of force majeure, as defined below. "Force majeure" shall mean any unforeseeable and exceptional situation or event beyond the partie's control which prevents either of them from fulfilling any of their obligations, not attributable to error or negligence on their part (or the part of their

contractors, agents or employees) and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as force majeure. A party shall not be held in breach of its obligations if it is prevented from fulfilling them by force majeure. A party faced with force majeure shall inform the other party without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimise possible damage.

21.2 No prior notice shall be given of the suspension decision. As a precautionary measure, payments referred to in Article 5.1 of these General Conditions shall be suspended.

21.3 When the suspension is notified, the consequences on the ongoing contracts or contracts to be signed will be indicated.

ARTICLE 22 – TERMINATION OF THE FINANCING AGREEMENT

22.1. If the issues which led to the suspension of the financing agreement have not been resolved within a maximum period of four months, either party may terminate the financing agreement at two months' notice.

22.2. Where a financing agreement has not given rise to any payment within three years of its signature or no implementing contract has been signed by the date referred to in Article 5 of the Special Conditions, that financing agreement will automatically be terminated.

22.3 When the termination is notified, the consequences on the ongoing contracts or contracts to be signed will be indicated.

ARTICLE 23 - DISPUTE-SETTLEMENT ARRANGEMENTS

23.1 Any dispute concerning the financing agreement which cannot be settled within a six-month period by the consultations between the parties provided for in Article 19 of these General Conditions may be settled by arbitration at one of the parties' request.

23.2 In this case the parties shall each designate an arbitrator within 30 days of the request for arbitration. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration (The Hague) to designate a second arbitrator. The two arbitrators shall in their turn designate a third arbitrator within 30 days. Failing that, either party may ask the Secretary-General of the Permanent Court of Arbitration to designate the third arbitrator.

23.3 Unless the arbitrators decide otherwise, the procedure laid down in the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States shall apply. The arbitrators' decisions shall be taken by a majority within a period of three months.

23.4 Each party shall be bound to take the measures necessary for the application of the arbitrators' decision.

Annex II

Technical and Administrative Provisions

(decentralised ex-ante procedures)

Beneficiary: GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM

Title: Multilateral Trade Assistance Project Vietnam II (MUTRAP II)

Project No: ASIE/2003/005711

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1 OBJECTIVES

1.1 Overall Objective

The overall objective is to assist Vietnam to improve and put in place conditions for sustained and stable economic growth through stronger integration into the global trading system and ultimately contribute in turn to poverty alleviation.

1.2 Project Purpose

Strengthen the capacity of the government of Vietnam and Vietnamese stakeholders for managing WTO accession and meet their commitments and challenges from other international and regional trade related agreements.

1.3 Main Results

The main results of the intervention will be:

a) Increased government capacity to enter WTO timely and meet requirements for membership, including progress in sector specific issues;

b) Progress on development of coherent and social and environmental sustainable trade and economic integration strategy as part of economic policy reform process, inter alia through enhanced local institutional and human capacity in trade issues, as well as legal advice and training;

c) Increased knowledge and networking on international trade and WTO issues among the Government, the private sector, training and research institutions and other public and private stakeholders;

d) Increased government capacity to further integrate effectively into the regional trade related arrangements such as AFTA, ASEM, ASEAN plus dialogue partners;

e) Improved conditions of doing business in Vietnam for European operators through enhanced market access and trading environment as a result of Vietnam's commitments in the WTO.

2. PROJECT DESCRIPTION

Problems to be addressed and Rationale

Over the last several years Vietnam has embarked on a comprehensive program of economic and trade policy reforms, including fiscal reforms, banking sector restructuring, civil service reform and governance.

After the establishment of the Vietnam Working Party, WTO accession negotiations have been progressing steadily. Vietnam has shown determination

to enter WTO by 2005 and has been looking for meaningful and effective technical assistance from European Union as an important element to help Vietnam realising this target.

Non-membership of the WTO prevents Vietnam from benefiting from access to markets on most beneficial terms, from having recourse to dispute and settlement mechanisms and, in particular, from defending its interests during the next round of WTO negotiations. In addition, countries outside the WTO are likely to lose out on foreign direct investments (FDI), since international investors tend to favour countries with a common framework agreement on trade and investment.

Preparing for accession to the World Trade Organization (WTO) and meeting commitments under the Asean Free Trade Area (AFTA) are major challenges for the government of Vietnam.

Vietnam has the genuine desire to join further in the globalisation process and reap the full benefits from it. However, managing the WTO accession process as well as meeting the AFTA and the US-Vietnam Bilateral Trade Agreement (BTA) commitments poses a number of important challenges to Vietnam including: strengthening basic management capacity, financial & human resources, and the adaptation of the legislative framework.

Economic, legal and administrative reforms are needed to make the Vietnamese economy more competitive. An important part of this transition is a shift to a system and culture governed by law, leading to better governance.

This requires technical assistance to the Vietnamese administration for capacity building. Specifically, technical assistance is required to provide Vietnamese officials with a full understanding of obligations and benefits of WTO membership, training on technical issues concerning WTO obligations, preparing relevant legislation and develop international negotiation skills.

The European Commission is keen to provide such assistance having identified the clear link between trade policy and development policy in order to assist developing countries in their fight against poverty. Trade-related technical assistance is a high political and development priority. This is fully recognised in the CSP and NIP for Vietnam.

Stakeholders/beneficiaries

The programme will benefit the staff of the Government of Vietnam and in particular the Ministries involved in the accession process and implementation of WTO rules. Although government officials are the main immediate beneficiaries of the project, the list of beneficiaries is much wider. Journalists,

students and the business community will benefit from presentations of trade issues and this will help to create a critical mass of interest groups following closely on trade issues, allowing them to better defend their interest in the context of WTO accession negotiations. Universities and training institutions will also be beneficiaries of the project and conveyor belts to reaching the pre-professional layer of society. The ultimate beneficiary is the population of Vietnam as a whole.

2.1 Activities

In order to achieve the agreed results, activities will comprise:

- Training activities of Vietnamese government officials and representatives from the private sector (primarily in Vietnam; some activities in Europe and Asia like regional seminars, attendance to consultations or bilateral or multilateral negotiations) on specific trade issues where local expertise may be limited.
- Support to the management of the WTO accession process for the Ministry of Trade, the Coordination office of the Prime Minister and line ministries.
- Research on the impact of services liberalisation following international agreements;
- Fostering knowledge of the Doha Development Agenda (DDA) through training and dissemination activities, as well as participation in DDA related meetings and workshops;
- Outreach activities to disseminate information about the integration process, trade facilitation as well as the project activities;
- Establishment of the Technical Barrier to Trade (TBT) and Sanitary/Phytosanitary (SPS) enquiry points;
- Training of judges on trade related issues;
- Support to the establishment and training of Trade Law Chairs in Universities and the review of Commercial Law of Vietnam in the context of WTO accession and other domestic trade development;
- Coordination of other donor funded technical assistance to Vietnam related to WTO accession;
- Training of Vietnamese government officials on negotiation techniques;
- Any other technical assistance activity related to EU-Vietnam or regional trade development.

These activities will be organised as follows:

1. Programme management support activities, including planning, human resources management, PSC facilitation, monitoring and review.

2. Component 1: Sector Specific activities, including training in legal and policy advice as well as capacity building in the following areas: Agriculture; Services (general and sectoral); SPS (Animal, plants, health, fisheries/TBT, enquiring points).

3. Component 2: Horizontal issues, including legal development, capacity building network & curricular development; information and awareness raising; trade and environment, gender, social issues.

Activities are broadly defined to maintain a sufficient degree of flexibility in the management of the project, in line with the recommendations of the mid-term evaluation of MUTRAP I.

In all the above activities, the programme will endeavour to promote equal opportunities for men and women.

2.2 Time Schedule

The first six months of the operational implementation phase of the project will include an inception phase to confirm the content and specific locations of each Project activity and to draw up a detailed timetable for implementation.

The last six months of the operational implementation phase of the project will be dedicated to phasing out activities and to preparing for the post-project situation. The end of the operational implementation period is set at 30/06/2008. The end of the execution period is set at 30/06/2010. All contracts for the implementation of the Financing Agreement must be signed within three years of the date of the financing decision apart from the final evaluation and audit.

2.3 Location

The project will be implemented primarily in the capital of the Socialist Republic of Vietnam, with some activities (like regional seminars, attendance to consultations, or bilateral or multilateral negotiations) that could take place in other parts of Vietnam, Europe and Asia.

2.4 Logical Framework

The initial Logical Framework for the project is annexed as Attachment 1. This may be updated or adapted in the Overall Work Plan, to which it will then be annexed, without necessitating an amendment to the Financing Agreement.

3. ADMINISTRATIVE PROVISIONS

3.1 Implementation Modalities

A Financing Agreement will be signed between the Government of the Socialist Republic of Vietnam, represented by the Ministry of Trade, and the European Commission.
The project will be implemented following a decentralized approach with ex-ante control.

3.1.1 Executing Authority

The Executing Authority (EA) for the project is the **Ministry of Trade** which will also be the Contracting Authority under the terms laid out under paragraph 3.4 and for 3.5 except for those cases defined therein where the EC will be the Contracting Authority.

3.1.2 Implementing Agency/ies

The same Ministry of Trade will be the Implementing Agency. It may nominate under its own responsibility sub-implementing agencies, in particular those, which are member agencies of the National Committee for international Economic Co-operation (NCIEC).

3.1.3 Project Steering Committee

(a) The Executing Authority will establish a Project Steering Committee (PSC) with responsibility for policy guidance and co-ordination between all institutions and groups involved in the project.

(b) The PSC will meet at the beginning of the project and every six months afterwards and will assist the Executing Authority with providing guidance on policy and strategy to the Programme

(c) The PSC will review and endorse the Project Task Force's (PTF) six-monthly reports, as well as the policy and strategic implications of Overall and Annual Work Plans and Budgets drafted by the PTF before they are sent to the Executing Authority and Commission for final consideration and approval.

(d) The PSC will also assist in facilitating overall project implementation.

(e) The PSC will be chaired by the Executing Authority at ministerial or Director General level. EC representatives will attend the PSC meetings as Observers with the right to speak. Other stakeholders, especially private sector representatives such as VCCI, Eurocham, may be invited as observers with the right to speak.

(f) Technical Advisory Board: A Technical Advisory Board composed by representatives of the private sector, VCCI, Viettrade, EU MS cooperation, and other suitable organisations, if appropriate, may be established under the chairmanship of the EC and would meet as appropriate.[2]

The Technical Advisory Board will provide input and advice to the project through the PSC.

[2] A representative of the Euro TAP Viet II project may also need to participate in those meetings and possibly participate in meetings of the PSC where appropriate.

3.1.4 Project Task Force

(a) The Ministry of Trade will establish a Project Task Force (PTF). This PTF will be based in the offices provided by the Ministry of Trade.

(b) Within the framework of the Work Plans and disbursement schedules approved by the Executing Authority and by the Commission, the PTF will have operational autonomy to cover the technical, administrative, financial and human resources aspects related to project co-ordination, implementation and management.

(c) The PTF will, in particular, undertake the following tasks:

1. Prepare the Initial Plan of Activities (IPA), the Overall Work Plan and Budget (OWP), and the Annual Work Plans and Budgets (AWP) for the approval of the Executing Authority and the Commission;

2. Ensure the management of all financial, personnel and administrative affairs;

3. Execute the activities as approved by the Executing Authority and by the Commission in accordance with EC procedures;

4. Assist and support implementing staff and beneficiaries with technical and planning know-how;

3.1.5 Project Director

(a) The PTF will be headed by a Vietnamese Project Director appointed by the Executing Authority, Ministry of Trade, and endorsed by the Commission. The Project Director must have confirmed management capacities. The Project Director will act as Secretary to the PSC.

(b) The Project Director is fully responsible for the activities of the PTF. The Project Director is responsible to the Executing Authority for delivering the project results and for making the most effective and efficient use of resources made available to the project, irrespective of their nature (human, technical or financial resources) and their origin (local or European).

(c) The Project Director's responsibilities include:

1. Approving the Work Plans and Budgets to be submitted to the PSC and subsequently to both the Executing Authority and the Commission for approval;

2. Executing the activities, as approved by the Executing Authority and by the Commission, in accordance with EC procedures;

3. Approving the tender dossiers and calls for proposals dossiers to be submitted to the Commission for final approval before being officially launched;

4. Signing the contracts to be concluded by the Ministry of Trade after having submitted them to the Commission for approval;

5. Executing payments from the project account (as foreseen in section 3.5 below) and requesting payments to be processed by the Commission (as foreseen in section 3.5 below) or by the Executing Authority (for the Beneficiary's financial contribution);

6. Ensuring that project activities are well co-ordinated and that necessary pre-conditions are met concerning post-project ownership, operation, maintenance and sustainability;

7. Preparing standardised six-monthly progress reports to monitor all technical, financial and administrative aspects on the utilisation and impact of all resources made available to the project;

8. Control of accurate implementation of analytical accounting systems and the respect of EC Procurement procedures;

9. Preparing and attaching to the final year AWP a proposed blueprint for phasing out Project activities and preparation for the post-project situation;

10. Informing the Executing Authority and the Commission of any event, which might jeopardise the success of the project.

3.1.6 Project Coordinator

The Project Co-ordinator will second and substitute the Project Director in all his responsibilities whenever the latter is not available. The appointment of the Project Co-ordinator by the Executing Authority has to be endorsed by the Commission. He/she must have confirmed management capacities. Preferably he/she will be a government official seconded full time to the project.

3.1.7 European Technical Assistance Team (ETAT)

(a) A European Technical Assistance Team (ETAT) will assist the Beneficiary in the implementation of the project, including the provision of:

1. Technical expertise tasks, including:

   - Provision of advice on policy matters and legislation, and other specific technical expertise
   - Provision of training.
   - Other related tasks as needed.

2. Administrative, preparatory and ancillary tasks relating to planning, monitoring, reporting on project components, procurement, and financial management.

These tasks will involve neither the exercise of public authority nor the use of discretionary powers of judgement.

(b) The ETAT will work under terms of reference agreed by both the Executing Authority and the Commission.

(c) The ETAT Team Leader will assist the Project Director in drafting Work Plans and Budgets, as well as reports. The ETAT Team Leader will verify, before adoption by the national Project Director, the Workplans and Budgets, the reports, tender dossiers, draft contracts, as well as project payments from the project account. A register of the above verifications will be maintained at the PTF.

(d) The ETAT Team Leader will report to the Project Director, but will have the obligation to directly inform the Commission of any problem of any nature as soon as it arises. In any event, the ETAT Team Leader will submit to the Commission a six-monthly progress report. The ETAT Team Leader will attend PSC meetings as an observer with the right to speak. He will support the Project Director in his role as secretary of the PSC.

3.2 Inputs

(a) Seconded Government Staff

- One Project Director
- If and when necessary: One Project Co-ordinator as per point 3.1.6
- One Accounting Officer.

(b) A European Technical Assistance Team (ETAT) consisting of:

One long-term European Technical Expert for 32 calendar-months appointed as ETAT Team Leader will be a senior expert in economics, law or business administration with project management experience in EC-funded project (ideally in Asia) and with a solid background in WTO/international trade issues.

A maximum of 95 calendar-months, unallocated short-term European expertise on various WTO-related issues are foreseen as required

(c) Local Technical Assistance (LTA).

A maximum of 334 calendar-months of unallocated local expertise are foreseen. LTA includes 162 calendar-months long-term and 172 calendar-months short-term technical personnel hired locally on a temporary basis to assist in the design, implementation and supervision of the project.

Provision is also made under the project budget for local office support staff required for the functioning of the PTF.

(d) Regional Technical Assistance (RTA)

A maximum of 6 calendar-months of unallocated regional expertise on WTO and Regional trade integration issues are foreseen as required.

(e) Financial resources

To carry out training, study tours, and seminars in Vietnam/Europe/Asia Region, curricular development, information etc. and operations of the Project Task Force (PTF), meetings and evaluation.

3.3 Contribution Details

(a) The Beneficiary's contribution will cover an in-kind contribution of 250,000 euro.

(b) The Vietnamese Government will cover all costs related to the participation of officials in meetings, workshops and other events as part of the normal functioning of the public services.

(c) The Vietnamese Government will cover all salaries related to the participation of their staff in the project, provide appropriate office facilities, including furniture, electricity and communication lines free of charge for European and local experts.

(d) In general, the Vietnamese Government will cover any project-related operating costs not included in the EC contribution.

(e) Where EC and the Vietnamese Government are both providing financial contributions to the same category of activity, the specific actions to be covered by each party will be clearly identified in the Annual Workplan and Budget concerned and recorded in the project's six-monthly and final reports.

(f) The Vietnamese Government will be responsible for facilitating constructive and effective co-operation of the concerned Ministries and other public authorities.

3.4 Project Costs and Financing

The total cost of the project is estimated at 5,350,000 Euro, of which the EC contribution is 5,100,000 Euro. The Vietnamese Government will provide a financial contribution of 50,000 Euro, and in-kind contribution to the counter-value of 200,000 Euro. The table below summarises the project budget:

Category Breakdown	EC contribution	Beneficiary contribution	Total	Contracting Authority
1. Services	**3,250,000**	**60,000**	**3,310,000**	
1.1 International TA	2,400,000		2,400,000	EC
1.2 Regional TA	100,000		100,000	MoT
1.3 Local TA	550,000	60,000	610,000	MoT
1.4 Monitoring, Evaluation and Audit	200,000		200,000	EC
2. Supplies	**200,000**		**200,000**	**MoT**
2.1 Equipment	200,000		200,000	
3. Operating costs	**1,250,000**	**190,000**	**1,440,000**	**MoT**
3.1 Local Support Staff	250,000	50,000	300,000	
3.2 Operational Expenditures of PTF	250,000	140,000	390,000	
3.3 Other Operational Costs for Seminar/Workshops/Training/Study Tours	750,000		750,000	
4. Information	**150,000**		**150,000**	**MoT**
5. Contingencies	**250,000**		**250,000**	**MOT, EC**
Total Project	**5,100,000**	**250,000**	**5,350,000**	

The breakdown of the budget is indicative and may be adjusted according to need, subject to prior written agreement by the Commission. The tendering schedule is reflected in the high level timeline of the programme.

3.5 Mobilisation of the Project Budget

(a) Contractual Modalities

1. Services

1.1. The European long term expert will be recruited either through a call for tender or through the use of individual expert procedures. The services of European short term experts will be managed through service contracts concluded by the Commission. This could be done either via calls for tender or framework contract procedures.

2.1. The services of LTA and regional TA will be managed through service contracts foreseen in the Overall and/or Annual Work Plans and Budgets and concluded by the Ministry of Trade after endorsement by the European Commission.

LTA includes long and short-term technical personnel hired locally on a temporary basis to assist in the design, implementation and supervision of the project.

3.1. The contracts for monitoring, evaluation and audits will be managed through service contracts concluded by the European Commission.

2. Supplies

Supplies will be managed through supply contracts concluded by the Executing Authority after endorsement by the European Commission.

3. Operating Costs

Operating costs will be managed on the basis of the Overall and/or Annual Work Plans and Budgets. Operating costs will include provisions for the local procurement of services, supplies or works, unless otherwise stipulated in this Financing Agreement.

4. Information

See operating costs.

5. Contingencies

Contingencies can only be used on the basis of a written request by the Project Director and following the prior written agreement of the Commission.

(b) Financial Modalities

1. EC disbursements for the implementation of the project will be executed after verification of the conformity of the expenses with the needs established in the work programme and in accordance with the availability of annual budgetary payment appropriations.

2. The Project Director, appointed by the Executing Authority/Implementing Agency, will be the Authorising Officer.

3. The Accounting Officer will be the Financial and Accounting Department of the Ministry of Trade. The Accounting Officer will be responsible for the proper implementation of payments, including acting as co-signatory to the project account.

4. There will be no hierarchical relationship between the Project Director and the Accounting Officer (neither formal nor practical).

5. Payments shall be made as follows:

5.1 The Commission shall make the payments for the services of ETAT, the services for monitoring, evaluation and audits as well as for supplies not included in the operating costs.

5.2 The Beneficiary shall make the payments for the operating costs, the services of the LTA and RTA and the information costs, as foreseen in the Overall and/or Annual Work Plans and Budgets. EC thresholds for each contract managed on the basis of the AWP must be respected.

(a) The Beneficiary shall establish for this sole purpose an appropriate interest bearing bank account in Vietnam, denominated in euro, hereafter referred to as the "project account". Transfers by the EC into the project account shall be made in Euro and converted, where necessary, into the currency of the recipient State as and when payments fall due;

(b) The project account shall be operated with the joint signatures of the Project Director and the Accounting Officer. Subordinate accounts will only be opened with the express agreement of the Commission;

(c) Disbursement from the project account shall be made by the Project Director and the Accounting Officer in line with the project's requirements and the agreed work plans and budgets within the limit of the budget line;

(d) The Commission shall provide initial pre-financing of 100,000 euro following notification of the opening of the project account and of the identity of the co-signatories in order to cover the personnel and recurrent costs of starting up the project as well as the inception phase activities;

(e) The Commission shall, on the basis of the agreed Overall and first year Work Plans and budgets, provide further pre-financing of up to 80 % of the estimated costs as specified in the first paragraph of this point 5.2, during the first year of implementation, decreased by the amounts already transferred;

(f) For the second and subsequent years of implementation, the mechanism adopted for the first year is reapplied. However, the 80% prefinancing of the agreed annual costs will be adjusted by deducting the actual balance of the previous year.

(g) The Accounting Officer shall, every six months, prepare expenditure reports justifying the use of pre-financing received. These reports will be countersigned by the Authorising Officer. On a six monthly basis these reports shall be submitted for inspection to a qualified firm of external auditors.

(h) Once certified by the external auditors as being in conformity with project progress, the approved Work Plan and Budget, the agreed implementation procedures and generally accepted accounting rules, these six-monthly reports may be the basis of requests by the Project Director through the Executing Authority to the Commission for the transfer of subsequent pre-

financing (maximum 20 %). Such requests shall normally be made every six months and shall include copies of all bank statements for the preceding period.

(i) In case of urgency, duly justified by the Project Director, the Commission may be requested to make a temporary partial disbursement on the basis of a non-audited request. Any such temporary disbursement, once agreed by the EC Delegation in Hanoi, will be recovered from subsequent audited requests;

(j) All expenses of the project covered by the EC grant will be supported by supporting documents such as contracts, bills, receipts and bank statements. Such documents as well as the book accounting and the inventory logbook shall be kept for at least seven years from the last payment. The project's bookkeeping will be in accordance with the double-entry system and shall include the registration of each receipt and each expense. The accounting results of these books must appear in a general book of the project, including the interest accounting. Even if the national legislation does not foresee it, the Commission may request the application of minimum criteria of analytical accounting, according to the nature and the needs of the Project;

(k) Interest generated by the project account will be accounted for separately;

(l) All funds in the project account, including any interest generated thereon, or other equivalent benefits, shall remain the property of the Commission and as such be repaid to the Commission. Any unused balances remaining available on the termination of the project shall revert to the Commission.

3.6 Planning and Reporting

(a) Work Plans and reports will be drafted in accordance with EC standard formats. They will include at least:

1. An Initial Plan of Activities (IPA), including activities to be undertaken in the inception phase, to be submitted within two months of the establishment of the PTF.

2. The Overall Work Plan and Budget (OWP) as well as the first Annual Work Plan and Budget (AWP) to be submitted within three months of arrival of the ETAT Team Leader. The OWP and the successive AWP will include objectively verifiable indicators for monitoring project progress;

3. Successive Annual Work Plans and Budgets (AWP);

4. Six-monthly technical and financial progress reports;

5. Any special reports related to priority issues;

6. A final project completion report, including a technical and a financial art, the recapitulative situation of the bank account and the status of interests, the complete list of assets, their location and destination, the location of the complete project's archives/documents.

(b) Work plans and reports are deemed approved only when both the Executing Authority and the European Commission have endorsed them in writing.

(c) Except for the initial activities foreseen in the approved IPA, expenditure can only take place following the approval of the OWP and an AWP.

(d) Approval of an AWP may necessitate a revision of the OWP so as to ensure continuous consistency between the AWP and OWP. Any such revisions of the OWP will be notified in writing to the Executing Authority and the Commission when the AWP is submitted for their approval. In such cases, approval of the AWP will constitute an approval of the revised OWP.

(e) Activities that are not foreseen in an approved Annual Work Plan may only be implemented subject to budgetary availability following prior written authorisation by the Executing Authority and the Commission. Such authorisations will be identified as an amendment to the approved Annual Work Plan and will be annexed thereto.

3.7 Monitoring and Evaluation

(a) Day-to-day technical and financial monitoring will be a continuous process as part of the Project Director's responsibilities.

(b) Independent consultants recruited directly by the Commission on specifically established terms of reference will carry out external monitoring and mid-term and final evaluations.

3.8 Audit and Internal Control

(a) A national institution for independent external auditing is in existence. The National institution for independent external auditing is the Vietnamese State Audit. This programme falls under the remit of the Institution.

(b) The Commission shall, in accordance with EC procurement rules, appoint, in accordance with EC procurement rules, a reputable external auditor/accountant (i.e international firm member of an internationally recognised auditing body). The accountant's role shall include

1. six-monthly audits of the project account for submission to the European Commission. The costs thereof will be paid as part of the specific allocation under services.
2. monitoring the segregation of duties between the Authorising Officer and the Accounting Officer.

(c) The Financial and Accounting Department of the Ministry of Trade will ensure internal control of management operations and of financial management of the Vietnamese contribution budget in accordance with the current regulations of Vietnam.

3.9 Visibility

(a) Public relations and awareness raising will be designed to increase the visibility, and thus the effectiveness, of the project. They will also serve to give European Commission co-operation maximum visibility.

(b) Particular attention will be given to the promotion of the Project at exhibitions, conferences and similar events, as well as in all public and official written material connected with the project. All such activities shall be conducted in close collaboration with the Delegation of the European Commission to the Socialist Republic of Vietnam.

(c) All equipment and documentation connected with the project shall carry the European Community and Vietnamese flags.

3.10 Donor Co-ordination

In order to preserve the necessary coherence between the activities of the present project and those activities undertaken by other donors in the sector, regular open exchange of information and meetings, when appropriate, will take place with all interested parties to avoid overlapping of activities and/or financing and to incorporate the lessons learnt by these other actors into the work of the project.

4. SPECIFIC CONDITIONS

The following are essential conditions that have to be met during project implementation:

- Timely establishment of the Project Steering Committee (PSC) by the government and ongoing commitment to provide guidance and support to the project.
- The government will ensure that government staff is made available for project activities and consultation where appropriate.
- The government will endeavour to ensure continuity in the personnel involved in this project, especially where the Project invests in training and other knowledge transfer.
- The government will provide a proper working environment complete with the required utilities and facilities.
- Equipment will be purchased locally and/or imported by the project free of any taxes and duties under the procurement procedures stipulated in this Financing Agreement. These supplies can only be used for activities foreseen in the approved Work Plans. In the interest of the project's sustainability, equipment

and vehicles will be handed over to the appropriate authorities at the end of the Project on the basis of a detailed proposal prepared by the Project Director and approved by the Executing Authority and the Commission.

- The Ministry of Trade will appoint and assign, prior to project commencement and at an appropriate professional level, the Director of the Project and Accounting Officer, and if possible, the Project Coordinator. The Vietnamese Government is also committed to maintaining line staff in their posts where the project has invested training and other resources in them.

- The Vietnamese Government will invite the EC to take part in meetings with the Government and other international donors, which focus on the co-ordination of programmes being implemented in WTO- and international trade related fields.

- The Government of Vietnam will grant to the ETAT staff of the project - and to their families - benefits, privileges and exemptions that are no less favourable than those granted to expatriates under other bilateral or multilateral agreements or arrangements for technical co-operation.

- The Government of Vietnam will ensure the introduction and use of an analytical accounting system of the project's expenditure.

Abbreviations used:

AFTA:	ASEAN Free trade association
ASEAN:	Association of South East Asian Nations
AWP:	Annual Work Plan
CEPT	Common Effective Preferential Tariff
CSP:	Country Strategy Paper
DDA:	Doha Development Agenda
EC:	European Commission
EU:	European Union
Eurocham:	European Chamber of Commerce in Vietnam
FDI:	Foreign Direct Investment
GWP:	Global Work Plan
IMF:	International Monetary Fund
IPA:	Initial Plan of Activities
IPR:	Intellectual Property Rights
LDC:	Least developed country
MoT:	Ministry of Trade
MPI:	Ministry of Planning and Investment
MS:	Member States
NCIEC:	National Committee for International Economic Co-operation
PSC:	Project Steering Committee
PTF:	Project Task Force
QSG:	Quality support group

SIA:	Sustainability Impact Assessment
SOE:	State owned enterprises
SPS:	Sanitary and Phytosanitary Measures
TA:	Technical Assistance
TAPs:	Technical and Administrative Provisions
TBT:	Technical Barriers to Trade
TRTA:	Trade-related technical assistance
UNCTAD:	United Nations Conference on Trade and Development
VCCI:	Vietnamese Chamber of Commerce and Industry
WB:	World Bank
WTO:	World Trade Organisation

Attachment 1: Logical Framework

	Intervention logic	Objectively verifiable indicators of achievement	Sources and means of verification	Assumptions and risks
Overall objective	• To assist Vietnam to improve and put in place conditions for sustained and stable economic growth through stronger integration into the global trading system and ultimately contribute in turn to poverty alleviation.	• GDP real rate of growth • EU-Vietnam import/export flow • EU-Vietnam investment flow	• Exports and import statistics from Vietnamese Government, EU and international organisations • GDP figures from Vietnamese Government and multilateral organisations	
Project Purpose	• To strengthen the capacity of the government of Vietnam and Vietnamese stakeholders for managing WTO accession and meet their commitments and challenges from other regional and international trade related agreements	• Progress in WTO accession negotiations • Number, scope and quality of WTO regulations/legislation adopted • Number of WTO commitments implemented • Successful adoption of skills transferred by European experts to the government of Vietnam and stakeholders • Better awareness of relevant stakeholders of the technical issues disseminated	• WTO reports; • Reports from DG TRADE on progress in negotiations accessions • Reports from US and ASEAN on progress on other trade commitments • Project's regular reports; • Reports from Vietnam and European chambers of commerce based in Vietnam • Evaluation and tests applied before and after training programmes • Final project reports and evaluations • Attendance reports to dissemination activities and evaluation of these events by participants	• Positive growth in world trade and open trading system; • Relatively stable macroeconomic environment; • Continued commitment of Government of Vietnam to increase liberalisation of the economy. • Absence of energy shocks, SARS and other unexpected events in the world economy.
Project Results	1. Increased Government capacity to enter WTO timely and meet requirements for membership including progress in sector specific issues.	• Increased capacity of Ministry Trade • Increased capacity of ministries involved in accession in process	• WTO reports • Project's reports • Reports from Vietnamese and European Chambers of Commerce	• Minimum of stability in postings of government officials with trade related responsibilities. • Good co-ordination amongst agencies involved • Good co-ordination between government agencies and private sector parties involved in dissemination activities • Continued interest from training research institutions and business community • GOV allows for public debate of international trade issues

	Intervention logic	Objectively verifiable indicators of achievement	Sources and means of verification	Assumptions and risks
	2. Progress on development of coherent and social and environmental sustainable trade and economic integration strategy as part of economic policy reform process, inter alia through enhanced local institutional and human capacity in trade issues as well as training and legal advices	• Quality of Vietnamese published trade (strategy) documents • Social and environmental sustainable liberalisation process encompasses trade policy • Changed legislation in accordance with WTO rules and Vietnam's other international obligations and commitments • Policy material produced by the programme actually used for legislation • Better awareness of relevant stakeholders of the technical issues disseminated • Proper policy consultation mechanisms in place	• Published laws and regulations • Number, scope and quality of WTO regulations/legislation adopted and implemented • Number of government officials, business representatives and organisations participating in various activities (training, seminars, workshops etc) also from gender perspective	*As above*
	3. Increased knowledge and networking on international trade and WTO issues among the government, the private sector, training and research institutions and other public and private stakeholders	• number of government officials, business representatives and organisations participating in various activities (training, seminars, workshops etc) also from gender perspective • level of increased awareness, and understanding of participants in various activities (e.g. based on feedback forms); • training and research material produced • information and advocacy material produced • networks established • quality and quantity of coverage in the local media of trade issues	As above plus: • Final training and evaluation reports • Attendance reports to dissemination activities and evaluation of these events by participants • Surveys with NGOs and other institutes • Research reports • Media reports	*As above*
	4. Increased government capacity to further integrate effectively into the regional trade related arrangements such as AFTA, ASEM, ASEAN plus dialogue partners	• number of government officials, business representatives and organisations participating in various activities (training, seminars, workshops etc) also from gender perspective • level of increased awareness, and understanding of participants in various activities (e.g. based on feedback forms); • training and research material produced • quantity and quality of Vietnamese contributions to agreements/discussions at regional level	As above	As above plus Vietnam will continue to pursue an active regional trade integration strategy

	Intervention logic	Objectively verifiable indicators of achievement	Sources and means of verification	Assumptions and risks
	5. Improved conditions of doing business in Vietnam for European operators including enhanced bilateral market access of Vietnamese and European business operators	• Vietnamese Legislation and implementation does not discriminate against European businesses as a result of Vietnam's commitments in the WTO. • Business operators know where to receive and do get from Vietnamese support institutions relevant information on market access including TBT/SPS • simplification and rationalisation of various procedures pertaining to permits and other regulatory requirements relating to international trade	*As above, where appropriate plus* • Trade Statistics • Investment Statistics	• *As above*

Activities	Intervention Logic	Inputs	Expected Results	Assumptions
	• Programme management support activities: --planning – human resources management – PSC facilitation – monitoring and review	• Long term International Technical Expert: 32 months • Monitoring, Evaluation and Auditing • Information • Contingencies	• (1.1) [1]LT Expert: 605,000 € • (1.4) Monitoring, Evaluation and Audit: 200,000 € • (4) Information: 150,000 € • (2.1) Equipment: 50,000 € • Other operating costs: • (3.1) Local support staff: 250,000 € • (3.2) Operational expenditure PTF: 250,000 € • (5) Contingencies: 250,000 €	• Availability of right calibre experts • Timely deployment of resources • Fulfilment of the counterpart commitments to the programme
	• Component 1 - Sector specific: legal, policy, capacity building, training 1. Agriculture 2. Services (general and sectoral) 3. SPS (Animal, plants, health, fisheries/TBT, enquiring points)	• European ST expertise: 50 months • Regional Expertise: 6 months • Local Technical Assistance: 140 months	• (1.1) European ST expertise: 945,000 € • (1.2) Regional TA: 100,000 € • (1.3) Local Technical Assistance: 230,000 € • (2.1) Equipment: 150,000 € • (3.3) Seminars and Training: 350,000 €	• As above • Full participation of government officials in training programmes
	• Component 2 – Horizontal issues 1. legal 2. capacity building network & curricular development 3. information & awareness raising 4. trade and environment, gender, social issues	• European ST expertise: 45 months • Local Technical Assistance: 194 months	• (1.1) European ST expertise: 850,000 € • (1.3) Local Technical Assistance: 320,000 € • (3.3) Seminars and Training: 400,000 €	• As above • Full participation of government officials in training programmes

[1] The numbers in brackets refer to the categories in the budget of the TAPs, (point 3.4)

Attachment 2: FINANCIAL IDENTIFICATION

ACCOUNT HOLDER

BENEFICIARY'S NAME

ADDRESS

TOWN/CITY POSTCODE

CONTACT PERSON

TELEPHONE FAX

E - MAIL

VAT NUMBER

BANK

BANK NAME

BRANCH ADDRESS

TOWN/CITY POSTCODE

ACCOUNT NUMBER + CODES

IBAN (optional)

REMARKS :

BANK STAMP + SIGNATURE of BANK REPRESENTATIVE
(Both Obligatory)

DATE + SIGNATURE of ACCOUNT HOLDER :
(Obligatory)

BỘ NGOẠI GIAO

Số : 121 /2004 /LPQT

SAO Y BẢN CHÍNH

Hà Nội, ngày 16 tháng 12 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),
- Văn phòng Chính phủ (để đăng Công báo),
- Bộ Kế hoạch và Đầu tư,
- Bộ Tài chính,
- Bộ Thương mại,
- Ngân hàng Nhà nước Việt Nam,
- Kiểm toán Việt Nam,
- Đại sứ quán Việt Nam và Phái đoàn Việt Nam bên cạnh EU tại Bỉ,
- Vụ Châu Âu 2, Bộ Ngoại giao,
- Vụ Tổng hợp kinh tế, Bộ Ngoại giao,
- Vụ Hợp tác kinh tế đa phương, Bộ Ngoại giao,
- Vụ Luật pháp và Điều ước quốc tế, Bộ Ngoại giao,
- Lưu trữ, Bộ Ngoại giao.

Hiệp định tài chính giữa Chính phủ nước Cộng hòa xã hội chủ nghĩa Việt Nam và Uỷ ban Châu Âu về Dự án hỗ trợ thương mại đa biên cho Việt Nam giai đoạn II (MUTRAP II) có hiệu lực từ ngày 07 tháng 10 năm 2004.