EMBASSY OF JAPAN
HANOI

Hanoi, September 21, 2009

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 to propose on behalf of the Government of Japan the following understanding:

1. For the purpose of contributing to the implementation of the Project for Reinforcement of Customs Functions of the Haiphong Port (hereinafter referred to as "the Project") 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 up to eight hundred and sixty-one million Japanese Yen (¥861,000,000) (hereinafter referred to as "the Grant").

2. The Grant shall be available during the period between the date of entry into force of the present understanding and March 31, 2010. The period may be extended by mutual consent between the authorities concerned of the two Governments.

3. (1) The Grant shall be used by the Government of the Socialist Republic of Viet Nam properly and exclusively for the purchase of such products of Japan or the Socialist Republic of Viet Nam and such services of Japanese or Vietnamese nationals necessary for the implementation of the Project as listed below (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 Vietnamese physical or juridical persons in the case of Vietnamese nationals.) :

(a) products and services necessary for the construction of the facility for a large-scale X-ray inspection equipment (hereinafter referred to as "the Facility");

(b) equipment and services necessary for the procurement and / or the installation thereof;

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(c) services necessary for the transportation of the products referred to in (a) and (b) above to ports in the Socialist Republic of Viet Nam and those for internal transportation therein; and

(d) services necessary for the training in operating the equipment referred to in (b) above.

(2) Notwithstanding the provisions of sub-paragraph (1) above, when the two Governments deem it necessary, the Grant may be used for the purchase of the products of the kind referred to in (a) and (b) of sub-paragraph (1) above, which are products of countries other than Japan or the Socialist Republic of Viet Nam and the services of the kind referred to in (a), (b), (c) and (d) of sub-paragraph (1) above, which are services of nationals of countries other than Japan or the Socialist Republic of Viet Nam.

4. The Government of the Socialist Republic of Viet Nam or its designated authority shall enter into contracts in Japanese Yen with Japanese nationals for the purchase of the products and the services referred to in paragraph 3. Such contracts shall be verified by the Government of Japan to be eligible for the Grant.

5. (1) The Government of Japan shall execute the Grant by making payments in Japanese Yen to cover the obligations incurred by the Government of the Socialist Republic of Viet Nam or its designated authority under the contracts verified in accordance with the provisions of paragraph 4 (hereinafter referred to as "the Verified Contracts") to an account to be opened in the name of the Government of the Socialist Republic of Viet Nam at a bank in Japan designated by the Government of the Socialist Republic of Viet Nam or its designated authority (hereinafter referred to as "the Bank").

(2) The payments referred to in sub-paragraph (1) above shall be made when payment requests are presented by the Bank to the Government of Japan under an authorization to pay issued by the Government of the Socialist Republic of Viet Nam or its designated authority.

(3) The sole purpose of the account referred to in sub-paragraph (1) above is to receive the payments in Japanese Yen from the Government of Japan and to pay to the Japanese nationals who are parties to the Verified Contracts. The procedural details concerning the credit to and debit from the account referred to in sub-paragraph (1) above will be agreed upon through consultation between the Bank and the Government of the Socialist Republic of Viet Nam or its designated authority.

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

(a) to secure a lot of land necessary for the implementation of the Project and to clear the site;

(b) to provide facilities for distribution of electricity, water supply and drainage and other incidental facilities necessary for the implementation of the Project outside the site referred to in (a) above;

(c) 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 paragraph 3;

(d) 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 products and the services referred to in paragraph 3 be exempted;

(e) to accord Japanese nationals whose services may be required in connection with the supply of the products and the services referred to in paragraph 3 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;

(f) to ensure that the Facility and the products referred to in paragraph 3 be maintained and used properly and effectively for the implementation of the Project;

(g) to bear all the expenses, other than those covered by the Grant, necessary for the implementation of the Project; and

(h) to give due environmental and social consideration in the implementation of the Project.

(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 Project.

(3) With regard to the shipping and marine insurance of the products referred to in paragraph 3, 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 paragraph 3 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 1, 3, 4 and 5 of the Exchange of Notes between the Government of the Socialist Republic of Viet Nam and the Government of Japan dated September 21, 2009, concerning Japanese economic cooperation to be extended with a view to strengthening friendly and cooperative relations between the Socialist Republic of Viet Nam and Japan (hereinafter referred to as "the Exchange of Notes"), the representatives of the Government of the Socialist Republic of Viet Nam and of the Government of Japan wish to record the following procedural details which have been agreed upon between the authorities concerned of the two Governments:

1. The Government of Japan designates the Japan International Cooperation Agency (JICA) to implement necessary works aiming at expediting the proper execution of the Japanese grant aid.

2. The Government of the Socialist Republic of Viet Nam shall ensure that the products and / or the services referred to in paragraph 3 of the Exchange of Notes will be procured in accordance with the "Guidelines of the Japanese Grant Aid for General Projects and for Fisheries" of JICA, which set forth, inter alia, the procedures of tendering to be followed except where such procedures are inapplicable or inappropriate.

3. Any official of the Government of the Socialist Republic of Viet Nam shall not undertake any part of the Japanese nationals' work on the purchase of the products and the services mentioned in paragraph 4 of the Exchange of Notes.

4. When the plan and/or design of the Project mentioned in paragraph 1 of the Exchange of Notes is to be modified, the Government of the Socialist Republic of Viet Nam shall have a prior consultation with and obtain the consent to the modification of the Government of Japan, in accordance with the aforementioned "Guidelines of the Japanese Grant Aid for General Projects and for Fisheries".

Hanoi, September 21, 2009

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Minister of Finance
of the Socialist Republic of Viet Nam

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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 September 21, 2009 concerning Japanese economic cooperation to be extended with a view to strengthening friendly and cooperative relations between the Socialist Republic of Viet Nam and Japan (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 paragraph 3 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 referred to in paragraph 4 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, September 21, 2009

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of the Socialist Republic of Viet Nam

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