EMBASSY OF JAPAN
HANOI

4039

Hanoi, December 21, 2004

Excellency,

I have the honour to confirm the following understanding recently reached between the representatives of the Government of Japan and of the Government of the Socialist Republic of Viet Nam concerning a Japanese loan to be extended with a view to promoting the economic stabilization and development efforts of the Socialist Republic of Viet Nam:

1. A loan in Japanese yen up to the amount of two billion yen (¥2,000,000,000) (hereinafter referred to as "the Loan") will be extended, in accordance with the relevant laws and regulations of Japan, to the Government of the Socialist Republic of Viet Nam by Japan Bank for International Cooperation (hereinafter referred to as "the Bank") to support Third Poverty Reduction Support Credit.

2. (1) The Loan will be made available by a loan agreement to be concluded between the Government of the Socialist Republic of Viet Nam and the Bank. The terms and conditions of the Loan as well as the procedures for its utilization will be governed by the said loan agreement which will contain, inter alia, the following principles:

(a) The repayment period will be twenty (20) years after the grace period of ten (10) years;

(b) The rate of interest will be one and three-tenths per cent (1.3%) per annum; and

(c) The disbursement period will be two (2) years from the date of coming into force of the said loan agreement.

His Excellency
Mr. Vo Hong Phuc
Minister of Planning and Investment
of the Socialist Republic of Viet Nam

(2) The disbursement period mentioned in sub-paragraph (1)(c) above may be extended with the consent of the authorities concerned of the two Governments.

3. (1) The Loan shall be made available to cover payments already made and/or to be made by importers in the Socialist Republic of Viet Nam to suppliers of eligible source countries under such contracts as have been and/or may be entered into between them for purchases of products, except such products as will be enumerated in a list to be mutually agreed upon between the authorities concerned of the two Governments, and/or for purchases of services incidental to the purchase of those products, provided that such purchases are made in such eligible source countries for products produced in and/or services supplied from those countries.

(2) The list mentioned in sub-paragraph (1) above may be modified by agreement between the authorities concerned of the two Governments.

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

4. The Government of the Socialist Republic of Viet Nam shall take measures to have the equivalent in Vietnamese currency of the amount of yen disbursements of the Loan transferred to the state budget account opened in the name of the Government of the Socialist Republic of Viet Nam. The amount thus transferred shall be included in the state budget of the Government of the Socialist Republic of Viet Nam, and shall be used to support the implementation of the reform program of the Socialist Republic of Viet Nam to achieve policy goals stated in Vietnam's Comprehensive Poverty Reduction and Growth Strategy approved in May 2002 and expanded in November 2003 (hereinafter referred to as "the CPRGS").

5. The Government of the Socialist Republic of Viet Nam shall ensure that the products and/or services mentioned in sub-paragraph (1) of paragraph 3 are procured in accordance with the guidelines for procurement of the Bank, which set forth, inter alia, the procedures of international tendering to be followed except where such procedures are inapplicable or inappropriate.

6. With regard to the shipping and marine insurance of the products purchased under the Loan, 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.

7. The Government of the Socialist Republic of Viet Nam shall exempt the Bank from all fiscal levies and taxes imposed in the Socialist Republic of Viet Nam on and/or in connection with the Loan as well as interest accruing therefrom.

8. The Government of the Socialist Republic of Viet Nam shall take necessary measures to ensure that the Loan be used properly and exclusively for purchases of products and/or services mentioned in sub-paragraph (1) of paragraph 3.

9. The Government of the Socialist Republic of Viet Nam shall, upon request, furnish the Government of Japan and the Bank with information and data concerning the use of the Loan and the progress of the implementation of the CPRGS.

10. 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 should be grateful if Your Excellency would confirm the foregoing understanding on behalf of the Government of the Socialist Republic of Viet Nam.

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

Norio Hattori
Ambassador Extraordinary
and Plenipotentiary of Japan

Record of Discussions

In connection with the Exchange of Notes dated December 21, 2004 (hereinafter referred to as "the Exchange of Notes"), concerning a Japanese loan to be extended with a view to promoting the economic stabilization and development efforts of the Socialist Republic of Viet Nam (hereinafter referred to as "the Loan"), 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 3 of the Exchange of Notes, Japanese Note Verbale No. J.D.132/2004 dated December 21, 2004 and Vietnamese Note Verbale No. 8195 BKH/KTDN dated December 21, 2004, it was a shared view of the two Delegations that suppliers of eligible source countries mean nationals of the eligible source countries or juridical persons incorporated and registered in those countries, and which have their appropriate facilities for producing or providing goods and services in those countries and actually conduct their business there.

2. With regard to sub-paragraph (1) of paragraph 3 of the Exchange of Notes, the representative of the Japanese Delegation stated that the Japanese Loan may be made available to cover payments already made and/or to be made between January 1, 2004, and the previous date of coming into force of the relevant loan agreement as well as payments to be made on and after the date of coming into force of the said loan agreement, for purchases of the products and/or services referred to in the said sub-paragraph.

3. With regard to the Loan, the representative of the Japanese Delegation stated that the Loan could be characterized as the co-financing with the third Poverty Reduction Support Credit extended by the International Development Association (hereinafter referred to as "the IDA") to the Socialist Republic of Viet Nam.

4. With regard to paragraph 4 of the Exchange of Notes, the representative of the Japanese Delegation stated that, concerning the reform program of the Socialist Republic of Viet Nam referred to in the said paragraph (hereinafter referred to as "the Program"), the Government of Japan is highly interested in public financial management and improvement of the business environment, and that the possibility of Japanese co-financing with succeeding Poverty Reduction Support Credits to be extended by the IDA will be subject to confirmation of the performance and the progress achieved by the Government of the Socialist Republic of Viet Nam in implementing the Program, especially in the said two areas.

5. With regard to paragraph 8 of the Exchange of Notes, the representative of the Japanese Delegation stated that:

(a) the necessary measures referred to in the said paragraph include measures preventing 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 sub-paragraph (1) of paragraph 3 of the Exchange of Notes; and

(b) the Government of the Socialist Republic of Viet Nam will take all necessary measures to enable and facilitate an ex-post procurement audit to be carried out by independent auditors which Japan Bank for International Cooperation (hereinafter referred to as "the Bank") will designate and to be paid at the Bank's expense, in order to ensure fairness and competitiveness of the procurement process, in case where the Bank considers such an audit to be necessary.

6. With regard to paragraph 9 of the Exchange of Notes, the representative of the Japanese Delegation stated that information and data referred to in the said paragraph include reports of the Public Expenditure Review conducted jointly by the Government of Vietnam and the World Bank for sound expenditure management.

7. The representative of the Vietnamese Delegation stated that his Delegation had no objection to the statements by the Japanese Delegation mentioned in paragraphs 2, 3, 4, 5 and 6 above.

Hanoi, December 21, 2004

Vo Hong Phuc
Minister of Planning and Investment
of the Socialist Republic of Viet Nam

Norio Hattori
Ambassador Extraordinary
and Plenipotentiary of Japan