HB2142

EMBASSY OF JAPAN
HANOI

Hanoi, June 1st, 2001

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 arrangements:

1. For the purpose of contributing to the execution of the project for Reconstruction of Bridges in Mekong Delta Area (hereinafter referred to as "the Project") by the Government of the Socialist Republic of Viet Nam, the Government of Japan will 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 three billion seven hundred and thirty four million yen (¥3,734,000,000) (hereinafter referred to as "the Grant").

2. The Grant will, in accordance with the relevant laws and regulations of Japan, be made available during each of the following periods within the limit of the corresponding amount for each term, unless such period is extended by mutual agreement between the authorities concerned of the two Governments:

(1) term I
period between the date of coming into force of the present arrangements and March 31, 2002;
one billion two hundred and forty four million yen (¥1,244,000,000)

(2) term II
period between April 1, 2002 and March 31, 2003;
one billion three hundred and forty eight million yen (¥1,348,000,000)

(3) term III
period between April 1, 2003 and March 31, 2004
one billion one hundred and forty two million yen (¥1,142,000,000)

His Excellency
Mr. LE NGOC HOAN
Minister of Transport
of the Socialist Republic of Viet Nam

3. (1) The Grant will be used by the Government of the Socialist Republic of Viet Nam properly and exclusively for the purchase of the products of Japan or the Socialist Republic of Viet Nam and the services of Japanese or Vietnamese nationals listed below : (The term "nationals" whenever used in the present arrangements 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 bridges (hereinafter referred to as "the Facilities") ;

(b) vehicles, equipment and materials necessary for the execution of the Project and services necessary for the procurement thereof ;

(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.

(d) services necessary for the training in constructing the Facilities .

(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 mentioned 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 mentioned 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 will enter into contracts in Japanese yen with Japanese nationals for the purchase of the products and 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 will 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 in a bank of 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 will 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 by 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 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 will take necessary measures :

(a) to secure lots of land necessary for the construction of the Facilities and to clear the sites ;

(b) to provide facilities for distribution of electricity, water supply and drainage and other incidental facilities outside the sites ;

(c) to ensure prompt unloading and customs clearance at ports of disembarkation in the Socialist Republic of Viet Nam and internal transportation therein of the products purchased under the Grant ;

(d) to exempt Japanese nationals from customs duties, internal taxes and other fiscal levies which may be imposed in the Socialist Republic of Viet Nam with respect to the supply of the products and services under the Verified Contracts;

(e) to accord Japanese nationals whose services may be required in connection with the supply of the products and services under the Verified Contracts 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 Facilities constructed and the products purchased under the Grant be maintained and used properly and effectively for the execution of the Project ; and

(g) to bear all the expenses, other than those covered by the Grant, necessary for the execution of the Project.

(2) With regard to the shipping and marine insurance of the products purchased under the Grant, the Government of the Socialist Republic of Viet Nam will refrain from imposing any restrictions that may hinder fair and free competition among the shipping and marine insurance companies.

(3) The products purchased under the Grant shall not be re-exported from the Socialist Republic of Viet Nam.

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

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 arrangements shall be regarded as constituting an agreement between the two Governments, which will enter into force on the date of Your Excellency's reply.

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

RYUICHIRO YAMAZAKI
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 Japan and the Government of the Socialist Republic of Viet Nam dated June 1st, 2001 concerning Japanese economic cooperation to be extended with a view to strengthening friendly and cooperative relations between Japan and the Socialist Republic of Viet Nam, the representatives of the Government of Japan and of the Government of the Socialist Republic of Viet Nam 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), an official agency established by Japanese law for the purpose of implementing Japanese economic cooperation, as an organ responsible for necessary works aiming at expediting the proper execution of the Japanese grant aid.

2. The Government of the Socialist Republic of Viet Nam will ensure that the products and/or the services mentioned in sub-paragraph (1) of paragraph 3 of the above-mentioned Exchange of Notes will be procured in accordance with "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 purchase of the products and services mentioned in paragraph 4 of the above-mentioned Exchange of Notes.

4. When the plan and/or design of the Project mentioned in paragraph 1 of the above-mentioned 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, June 1st, 2001

LE NGOC HOAN
Minister of Transport
of the Socialist Republic of Viet Nam

RYUICHIRO YAMAZAKI
Ambassador Extraordinary
and Plenipotentiary of Japan

Record of Discussions

In connection with the Exchange of Notes dated June 1st, 2001 concerning Japanese economic cooperation to be extended with a view to strengthening friendly and cooperative relations between Japan and the Socialist Republic of Viet Nam (hereinafter referred to as "the Exchange of Notes"), the representatives of the Japanese Delegation and of the Vietnamese 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 his Delegation has no objection to the statement by the representative of the Japanese Delegation referred to above.

Hanoi, June 1st, 2001

LE NGOC HOAN
Minister of Transport
of the Socialist Republic of Viet Nam

RYUICHIRO YAMAZAKI
Ambassador Extraordinary
and Plenipotentiary of Japan

BỘ GIAO THÔNG VẬN TẢI
CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
MINISTRY OF TRANSPORT
SOCIALIST REPUBLIC OF VIETNAM

80 Trần Hưng Đạo
Hà Nội - Việt Nam

Tel: 84-4 252079
Fax: 84-4 267291

Hanoi, June 1st, 2001

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows :

"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 arrangements:

1. For the purpose of contributing to the execution of the project for Reconstruction of Bridges in Mekong Delta Area (hereinafter referred to as "the Project") by the Government of the Socialist Republic of Viet Nam, the Government of Japan will 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 three billion seven hundred and thirty four million yen (¥3,734,000,000) (hereinafter referred to as "the Grant").

2. The Grant will, in accordance with the relevant laws and regulations of Japan, be made available during each of the following periods within the limit of the corresponding amount for each term, unless such period is extended by mutual agreement between the authorities concerned of the two Governments:

(1) term I
period between the date of coming into force of the present arrangements and March 31, 2002;
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(2) term II
period between April 1, 2002 and March 31, 2003;
one billion three hundred and forty eight million yen (¥1,348,000,000)

His Excellency
Mr. RYUICHIRO YAMAZAKI
Ambassador Extraordinary
and Plenipotentiary of Japan

(3) term III

period between April 1, 2003 and March 31, 2004

one billion one hundred and forty two million yen (¥1,142,000,000)

3. (1) The Grant will be used by the Government of the Socialist Republic of Viet Nam properly and exclusively for the purchase of the products of Japan or the Socialist Republic of Viet Nam and the services of Japanese or Vietnamese nationals listed below : (The term "nationals" whenever used in the present arrangements 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 bridges (hereinafter referred to as "the Facilities") ;

(b) vehicles, equipment and materials necessary for the execution of the Project and services necessary for the procurement thereof ;

(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.

(d) services necessary for the training in constructing the Facilities .

(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 mentioned 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 mentioned 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 will enter into contracts in Japanese yen with Japanese nationals for the purchase of the products and 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 will 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 in a bank of 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 will 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 by 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 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 will take necessary measures :

(a) to secure lots of land necessary for the construction of the Facilities and to clear the sites ;

(b) to provide facilities for distribution of electricity, water supply and drainage and other incidental facilities outside the sites ;

(c) to ensure prompt unloading and customs clearance at ports of disembarkation in the Socialist Republic of Viet Nam and internal transportation therein of the products purchased under the Grant ;

(d) to exempt Japanese nationals from customs duties, internal taxes and other fiscal levies which may be imposed in the Socialist Republic of Viet Nam with respect to the supply of the products and services under the Verified Contracts;

(e) to accord Japanese nationals whose services may be required in connection with the supply of the products and services under the Verified Contracts 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 Facilities constructed and the products purchased under the Grant be maintained and used properly and effectively for the execution of the Project ; and

(g) to bear all the expenses, other than those covered by the Grant, necessary for the execution of the Project.

(2) With regard to the shipping and marine insurance of the products purchased under the Grant, the Government of the Socialist Republic of Viet Nam will refrain from imposing any restrictions that may hinder fair and free competition among the shipping and marine insurance companies.

(3) The products purchased under the Grant shall not be re-exported from the Socialist Republic of Viet Nam.

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

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 arrangements shall be regarded as constituting an agreement between the two Governments, which will enter into force on the date of Your Excellency's reply."

I have further the honour to confirm on behalf of the Government of the Socialist Republic of Viet Nam the foregoing arrangements and to agree that Your Excellency's Note and this Note shall be regarded as constituting an agreement between the two Governments, which will enter into force on the date of this reply.

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

LE NGOC HOAN
Minister of Transport
of the Socialist Republic of Viet Nam

Agreed Minutes on Procedural Details

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

4. When the plan and/or design of the Project mentioned in paragraph 1 of the above-mentioned 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, June 1st, 2001

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

Hanoi, June 1st, 2001

Ryuichiro Yamazaki

RYUICHIRO YAMAZAKI
Ambassador Extraordinary
and Plenipotentiary of Japan

Le Ngoc Hoan

LE NGOC HOAN
Minister of Transport
of the Socialist Republic of Viet Nam

BỘ NGOẠI GIAO

Số : 38 /LPQT

SAO Y BẢN CHÍNH
(Để thực hiện)

Hà Nội, ngày 18 tháng 6 năm 2001

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

Trần Duy Thi

Nơi nhận :

- Văn phòng Chính phủ (để báo cáo),
- Bộ Kế hoạch và Đầu tư,
- Bộ Giao thông - vận tải,
- Bộ Tài chính,
- Ngân hàng Nhà nước Việt Nam,
- Tổng cục Hải quan,
- Đại sứ quán Việt Nam tại Nhật Bản,
- Vụ Châu Á 1,
- Vụ LPQT,
- Lưu trữ.

Công hàm trao đổi giữa Chính phủ Cộng hoà xã hội chủ nghĩa Việt Nam và Chính phủ Nhật Bản về việc Chính phủ Nhật Bản viện trợ không hoàn lại trị giá 3,734 tỷ Yên cho dự án "Xây dựng cầu khu vực đồng bằng sông Cửu Long" có hiệu lực từ ngày 01 tháng 6 năm 2001.