

Preamble

Japan and the Socialist Republic of Viet Nam (hereinafter referred to in this Agreement as "Viet Nam"),

Recognizing that a dynamic and rapidly changing global environment brought about by globalization and technological progress presents various economic and strategic challenges and opportunities to the Parties;

Conscious of their longstanding friendship and strong economic and political ties that have developed through many years of fruitful and mutually beneficial cooperation between the Parties;

Believing that such a bilateral relationship will be enhanced by forging a mutually beneficial economic partnership through trade liberalization, trade facilitation, and cooperation;

Recognizing the development gap between the Parties;

Reaffirming that the economic partnership will provide a useful framework for enhanced cooperation and serve the common interests of the Parties in various fields as agreed in this Agreement and lead to the improvement of economic efficiency and the development of trade, investment, and human resources;

Recognizing that such a partnership will create a larger and new market, and enhance the attractiveness and vibrancy of their markets;

Recalling Article XXIV of the General Agreement on Tariffs and Trade 1994 and Article V of the General Agreement on Trade in Services in Annex 1A and Annex 1B, respectively, to the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, April 15, 1994;

Convinced that this Agreement would open a new era for the relationship between the Parties; and

Determined to establish a legal framework for an economic partnership between the Parties;

HAVE AGREED as follows:

Chapter 1 General Provisions

Article 1 Objectives

The objectives of this Agreement are to:

- (a) liberalize and facilitate trade in goods and services between the Parties;
- (b) ensure protection of intellectual property and promote cooperation in the field thereof;
- (c) promote cooperation and coordination for the effective enforcement of competition laws in each Party;
- (d) facilitate the movement of natural persons between the Parties;
- (e) improve business environment in each Party;
- (f) establish a framework to enhance closer cooperation in the fields agreed in this Agreement; and
- (g) create effective procedures for the implementation of this Agreement and for the settlement of disputes.

Article 2 General Definitions

For the purposes of this Agreement, the term:

- (a) "Area" means with respect to a Party, (i) the territory of the Party, including its territorial sea; and (ii) the exclusive economic zone and the continental shelf with respect to which the Party exercises sovereign rights or jurisdiction in accordance with international law;

Note: Nothing in this subparagraph shall affect the rights and obligations of the Parties under international law, including those under the United Nations Convention on the Law of the Sea.

- (b) "customs authority" means the competent authority that is responsible for the administration and enforcement of customs laws and regulations;
- (c) "GATS" means the General Agreement on Trade in Services in Annex 1B to the WTO Agreement;
- (d) "GATT 1994" means the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement. For the purposes of this Agreement, references to articles in the GATT 1994 include the interpretative notes;

- (e) "Harmonized System" or "HS" means the Harmonized Commodity Description and Coding System set out in the Annex to the International Convention on the Harmonized Commodity Description and Coding System, and adopted and implemented by the Parties in their respective laws;
- (f) "Parties" means Japan and Viet Nam, and "Party" means either Japan or Viet Nam; and
- (g) "WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, April 15, 1994.

Article 3 Transparency

1. Each Party shall, in accordance with its laws and regulations, promptly publish, or otherwise make publicly available, its laws, regulations, administrative procedures, and administrative rulings and judicial decisions of general application as well as international agreements to which the Party is a party, with respect to any matter covered by this Agreement.
2. Each Party shall make available to the public the names and addresses of the competent authorities responsible for laws, regulations, administrative procedures, and administrative rulings, referred to in paragraph 1.
3. Each Party shall, upon request by the other Party, within a reasonable period of time, respond to specific questions from, and provide information to, the other Party with respect to matters referred to in paragraph 1.
4. When introducing or changing its laws, regulations, or administrative procedures that significantly affect the implementation and operation of this Agreement, each Party shall, in accordance with its laws and regulations, endeavor to provide, except in emergency situations, a reasonable interval between the time when such laws, regulations, or administrative procedures as introduced or changed are published or made publicly available and the time when they enter into force.

Article 4 Public Comment Procedures

The Government of each Party shall, in accordance with the laws and regulations of the Party, endeavor to adopt or maintain public comment procedures, in order to:

- (a) make public in advance regulations of general application that affect any matter covered by this Agreement, when the Government adopts, amends, or repeals them; and
- (b) provide a reasonable opportunity for comments by the public and give consideration to those comments before adoption, amendment, or repeal of such regulations.

Article 5 Administrative Procedures

1. Where administrative decisions which pertain to or affect the implementation and operation of this Agreement are taken by the competent authorities of a Party, the competent authorities shall, in accordance with the laws and regulations of the Party:

- (a) inform the applicant of the decision within a reasonable period of time after the submission of the application considered complete under the laws and regulations of the Party, taking into account the established standard periods of time referred to in paragraph 3; and
- (b) provide, within a reasonable period of time, information concerning the status of the application, at the request of the applicant.

2. The competent authorities of a Party shall, in accordance with the laws and regulations of the Party, endeavor to establish standards for taking administrative decisions in response to submitted applications. The competent authorities shall endeavor to:

- (a) make such standards as specific as possible; and
- (b) make such standards publicly available except when it would extraordinarily raise administrative difficulties for the Government of the Party.

3. The competent authorities of a Party shall, in accordance with the laws and regulations of the Party, endeavor to:

- (a) establish standard periods of time between the receipt of applications by the competent authorities and the administrative decisions taken in response to the submitted applications; and
- (b) make publicly available such periods of time, if established.

Article 6 Confidential Information

1. Each Party shall, in accordance with its laws and regulations, maintain the confidentiality of information provided in confidence by the other Party pursuant to this Agreement.

2. Notwithstanding paragraph 1, the information provided pursuant to this Agreement may be transmitted to a third party subject to prior consent of the Party which provided the information.

3. Nothing in this Agreement shall require a Party to provide confidential information, the disclosure of which would impede the enforcement of its laws and regulations, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article 7 Taxation

1. Unless otherwise provided for in this Agreement, the provisions of this Agreement shall not apply to any taxation measures.

2. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

3. Articles 3 and 6 shall apply to taxation measures, to the extent that the provisions of this Agreement are applicable to such taxation measures.

Article 8 General and Security Exceptions

1. For the purposes of Chapters 2, 3, and 4, Articles XX and XXI of the GATT 1994 are incorporated into and form part of this Agreement, *mutatis mutandis*.

2. For the purposes of Chapters 7 and 8, Articles XIV and XIV *bis* of the GATS are incorporated into and form part of this Agreement, *mutatis mutandis*.

Article 9 Relation to Other Agreements

1. The Parties reaffirm their rights and obligations under the WTO Agreement or any other agreements to which both Parties are parties.

2. In the event of any inconsistency between this Agreement and the WTO Agreement, the WTO Agreement shall prevail to the extent of the inconsistency.

3. In the event of any inconsistency between this Agreement and any agreement other than the WTO Agreement to which both Parties are parties, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution, taking into consideration general principles of international law.

4. The provisions of the Agreement between Japan and the Socialist Republic of Viet Nam for the Liberalization, Promotion and Protection of Investment, signed at Tokyo on November 14, 2003 (hereinafter referred to in this Article as "BIT"), except its Article 20, as may be amended, are incorporated into and form part of this Agreement, *mutatis mutandis*.

5. Nothing in this Agreement shall be construed so as to derogate from any of obligations of a Party under the BIT, if such an obligation entitles the other Party to treatment more favorable than that accorded by this Agreement.

Article 10 Implementing Agreement

The Governments of the Parties shall conclude a separate agreement setting forth the details and procedures for the implementation of this Agreement (hereinafter referred to in this Agreement as "the Implementing Agreement").

Article 11 Joint Committee

1. A Joint Committee shall be established under this Agreement.

2. The functions of the Joint Committee shall be:

- (a) reviewing and monitoring the implementation and operation of this Agreement;
- (b) considering and recommending to the Parties any amendments to this Agreement;
- (c) supervising and coordinating the work of all Sub-Committees established under this Agreement;
- (d) adopting:
 - (i) the Implementing Regulations referred to in Part 2 of Annex 1 and Rule 11 of Annex 3; and
 - (ii) any necessary decisions; and
- (e) carrying out other functions as the Parties may agree.

3. The Joint Committee:
 - (a) shall be composed of representatives of the Governments of the Parties; and
 - (b) may establish, and delegate its responsibilities to, Sub-Committees.
4. The Joint Committee shall establish its rules and procedures.
5. The Joint Committee shall meet at such time and venue as may be agreed by the Parties.

Article 12 Communications

Each Party shall designate a contact point to facilitate communications between the Parties on any matter relating to this Agreement.

Chapter 2 Trade in Goods

Article 13 Definitions

For the purposes of this Chapter, the term:

- (a) "bilateral safeguard measure" means a bilateral safeguard measure provided for in paragraph 4 of Article 20;
- (b) "customs duty" means any customs or import duty and a charge of any kind imposed in connection with the importation of a good, but does not include any:
 - (i) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of the GATT 1994, in respect of the like goods or, directly competitive or substitutable goods of the Party or in respect of goods from which the imported goods have been manufactured or produced in whole or in part;
 - (ii) anti-dumping or countervailing duty applied pursuant to a Party's law and applied consistently with the provisions of Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement, and the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement; or