BỘ NGOẠI GIAO	CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM Độc lập - Tự do - Hạnh phúc
Số: 50/2016/TB-LPQT	*Hà Nội, ngày 12 tháng 8 năm 2016*

THÔNG BÁO
Về việc điều ước quốc tế có hiệu lực

Thực hiện quy định tại Điều 56 của Luật Điều ước quốc tế năm 2016, Bộ Ngoại giao trân trọng thông báo:

Hiệp định thương mại tự do giữa nước Cộng hòa xã hội chủ nghĩa Việt Nam với Liên minh Kinh tế Á - Âu và các quốc gia thành viên Liên minh, ký tại Bu-ra-bai ngày 29 tháng 5 năm 2015 có hiệu lực từ ngày 05 tháng 10 năm 2016.

Bộ Ngoại giao trân trọng gửi bản sao Hiệp định theo quy định tại Điều 59 của Luật nêu trên./.

TL. BỘ TRƯỞNG
KT. VỤ TRƯỞNG
VỤ LUẬT PHÁP VÀ ĐIỀU ƯỚC QUỐC TẾ
PHÓ VỤ TRƯỞNG

Nguyễn Văn Ngự

Burabay, 29 May 2015

Mr. Nguyen Tan Dung
Prime-Minister of the Socialist Republic of Viet Nam

Dear Prime-Minister!

I have the honour to acknowledge the receipt of Your letter of today's date May 29th, 2015 which reads as follows:

"I have the honour to refer to the Free Trade Agreement between the Socialist Republic of Viet Nam, of the one part, and the Eurasian Economic Union and its Member States, of the other part, signed today, further on referred to as the Free Trade Agreement, and to confirm the following agreement reached between the Socialist Republic of Viet Nam and the Russian Federation:

1. Notwithstanding the provisions of Chapter 8 (Trade in Services, Investment and Movement of Natural Persons) of the Free Trade Agreement, from the date of entry into force of the Free Trade Agreement in respect of all matters covered by Articles 8.21, 8.23, 8.24 and 8.25 of the Free Trade Agreement and relevant Annexes contained in Protocol No. 1 between the Socialist Republic of Viet Nam and the Russian Federation to the Free Trade Agreement, the Socialist Republic of Viet Nam shall accord to persons, including service suppliers and investors, of the Russian Federation as well as to their services, commercial presence, establishment and activities treatment no less favourable than that the Socialist Republic of Viet Nam accords, in like circumstances, to persons, including service suppliers and investors, their services, commercial presence, establishment and activities of Asia-Pacific Economic Cooperation

Member Economies, Organization for Economic Co-operation and Development Member Countries, the European Union and/or its Member States, and the other Member States of the Eurasian Economic Union, either individually or collectively, in accordance with the Socialist Republic of Viet Nam's economic integration agreements.

For greater certainty, Asia-Pacific Economic Cooperation Member Economies, Organization for Economic Co-operation and Development Member Countries, the European Union Member States and other Member States of the Eurasian Economic Union shall be those members of respective organizations and forum as of the date of signing of this letter.

2. Paragraph 1 shall not apply to treatment accorded under economic integration agreements signed by the Socialist Republic of Viet Nam, or to which the Socialist Republic of Viet Nam is party, which have entered into force before the date of entry into force of the Free Trade Agreement.

3. Paragraph 1 shall not apply to the following services sectors:

- Communication and audio-visual services;
- Cultural, sports and recreational activities;
- Transportation; and
- Air transport services and services directly related to the exercise of air traffic rights, except for air repair and maintenance services, selling and marketing of air transport services and computer reservation system services.

I have the honour to propose that this letter and Your Excellency's letter of confirmation in reply shall constitute an agreement between the Socialist Republic of Viet Nam and the Russian Federation.

This agreement shall not be subject to Article 8.38 of the Free Trade Agreement.

This agreement shall constitute an integral part of the Free Trade Agreement, be binding only in respect of the Socialist Republic of Viet Nam and

the Russian Federation and enter into force on the same date with the date of entry into force of the Free Trade Agreement".

I have the honour to confirm that the foregoing is acceptable to the Russian Federation and that Your letter and this letter in reply shall constitute an agreement between the Russian Federation and the Socialist Republic of Viet Nam.

I take this opportunity to convey to You, Mr. Prime-Minister, the assurances of my highest consideration.

Head of the Government
of the Russian Federation
D.A.Medvedev

H.E. Mr. DMITRY MEDVEDEV
Head of the Government of the Russian Federation

Burabay, 29 May 2015

Excellency,

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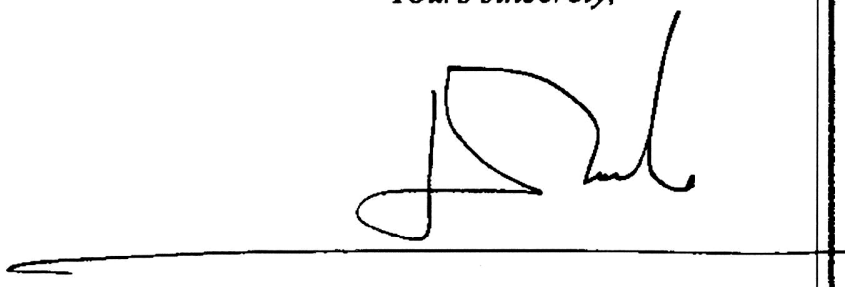
This agreement shall constitute an integral part of the Free Trade Agreement, be binding only in respect of the Socialist Republic of Viet Nam and the Russian Federation and enter into force on the same date with the date of entry into force of the Free Trade Agreement.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



NGUYEN TAN DUNG
Prime Minister of the
Socialist Republic of Viet Nam

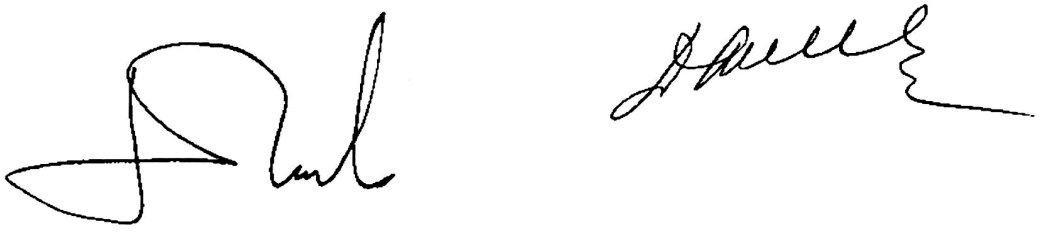
PROTOCOL No. 1
BETWEEN THE SOCIALIST REPUBLIC OF VIET NAM AND THE RUSSIAN FEDERATION TO THE FREE TRADE AGREEMENT BETWEEN THE SOCIALIST REPUBLIC OF VIET NAM, OF THE ONE PART, AND THE EURASIAN ECONOMIC UNION AND ITS MEMBER STATES, OF THE OTHER PART

On the signing of the Free Trade Agreement between the Socialist Republic of Viet Nam, of the one part, and the Eurasian Economic Union and its Member States, of the other part (hereinafter referred to as "the Agreement"), the Socialist Republic of Viet Nam and the Russian Federation have agreed to undertake commitments in respect of trade in services, establishment, commercial presence, activities and movement of natural persons under Chapter 8 (Trade in Services, Investment and Movement of Natural Persons) of the Agreement in accordance with Annex 1 (List of MFN Exemptions in accordance with Articles 8.15 and 8.22 of the Agreement), Annex 2 (Schedule of Specific Commitments under Section II (Trade in Services)), Annex 3 (List of Reservations under Section III (Establishment, Commercial Presence and Activities)) and Annex 4 (Schedule of Specific Commitments under Section IV (Movement of Natural Persons)) to this Protocol.

This Protocol, including Annexes hereto, shall constitute an integral part of the Agreement.

Done at Burabay, this 29th day of May 2015, in two originals in the English language, both texts being equally authentic.

For the Socialist Republic of Viet Nam **For the Russian Federation**



PROTOCOL No. 2
BETWEEN THE SOCIALIST REPUBLIC OF VIET NAM AND THE RUSSIAN FEDERATION TO THE FREE TRADE AGREEMENT BETWEEN THE SOCIALIST REPUBLIC OF VIET NAM, OF THE ONE PART, AND THE EURASIAN ECONOMIC UNION AND ITS MEMBER STATES, OF THE OTHER PART

On the signing of the Free Trade Agreement between the Socialist Republic of Viet Nam, of the one part, and the Eurasian Economic Union and its Member States, of the other part (hereinafter referred to as the Agreement), the Socialist Republic of Viet Nam and the Russian Federation (hereinafter referred to as Parties to this Protocol) have agreed as follows:

In the event of conflict between a provision of the Agreement and a provision of the WTO Agreement, in the implementation of the Agreement as between the Socialist Republic of Viet Nam and the Russian Federation the provision of the WTO Agreement shall prevail to the extent of the conflict.

In addition, except as set out in Article 1.4 (Joint Committee), Article 1.5 (Functions of the Joint Committee), Article 1.6 (Priority Investment Projects), Article 1.7 (Contact Points), Article 2.10 (Trigger Safeguard Measures), Article 2.12 (Committee on Trade in Goods), Article 3.4 (Bilateral Safeguard Measures), Article 3.5 (Notifications), Chapter 4 (Rules of Origin), Article 5.6 (Customs Cooperation), Article 5.7 (Information Exchange), Article 6.7 (Consultations), Article 6.8 (Cooperation), Article 6.9 (Competent Authorities and Contact Points), Article 7.10 (Contact Points and Information Exchange), Article 7.11 (Cooperation), Article 7.12 (Consultations), Article 8.6 (Contact Points), Article 8.7 (Denial of Benefits), Article 8.9 (Accession), Article 8.10 (Amendments), Article 8.11 (Consultations), Article 8.12 (Settlement of Disputes between the Parties to this Chapter), Section III (Establishment, Commercial Presence and Activities), Section V (Investment) of Chapter 8 (Trade in Services, Investment and Movement of Natural Persons), Chapter 9 (Intellectual Property), Chapter 13 (Electronic Technologies in Trade), Chapter 14 (Dispute Settlement), Chapter 15 (Final Provisions) of the Agreement, any issue provided for by the Agreement, which is not regulated by the WTO Agreement, shall not apply between them.

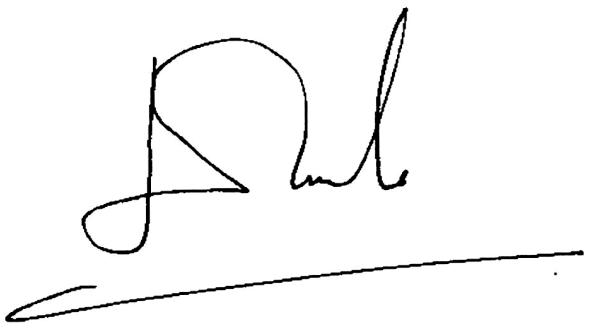
Nothing in the Agreement is intended to create and does not create any rights, benefits, advantages, privileges or immunities for States that are not parties to the Agreement, persons of such States or their goods, services or investments, or obligations of the Parties to this Protocol in respect thereof.

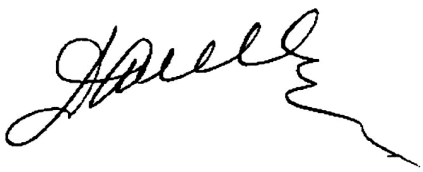
For greater certainty, this Protocol shall not prevent the Parties to this Protocol from benefiting from the commitments made in Annex I (Schedules of Tariff Commitments) and Protocol No. 1 to the Agreement.

This Protocol shall constitute an integral part of the Agreement. The provisions of Chapter 14 (Dispute Settlement) of the Agreement shall apply with respect to the settlement of disputes between the Parties to this Protocol regarding the interpretation or application of this Protocol with the modifications set out in paragraph 2 of Article 8.12 of the Agreement, *mutatis mutandis*.

Done at Burabay, this 29th day of May 2015, in two originals in the English language, both texts being equally authentic.

For the Socialist Republic of Viet Nam **For the Russian Federation**





FREE TRADE AGREEMENT BETWEEN THE SOCIALIST REPUBLIC OF VIET NAM, OF THE ONE PART, AND THE EURASIAN ECONOMIC UNION AND ITS MEMBER STATES, OF THE OTHER PART

PREAMBLE

The Socialist Republic of Viet Nam (hereinafter referred to as "Viet Nam"), of the one part, and the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation (hereinafter referred to as "the Member States of the Eurasian Economic Union"), and the Eurasian Economic Union, of the other part:

RECOGNISING the importance of enhancing their longstanding and strong friendship and the traditional multi-faceted cooperation between the Parties;

DESIRING to create favourable conditions for the development and diversification of trade between them and for the promotion of commercial and economic cooperation in areas of common interest on the basis of equality, mutual benefit, non-discrimination and international law;

REAFFIRMING their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization and other existing international agreements to which the Parties are party;

RECOGNISING the need to uphold the principles and practices which promote free and unhindered trade in a stable, transparent and non-discriminatory manner;

CONVINCED that this Agreement will enhance the competitiveness of the economies of the Parties in global markets and create conditions encouraging economic, trade and investment relations between them;

BEING CONSCIOUS of the importance of trade facilitation in promoting efficient and transparent procedures to reduce costs and ensure predictability;

EMPHASISING the complementarities of the economies of the Parties and the significant potential to advance economic relations by further developing the framework for trade and investment;

ACKNOWLEDGING the important role and contribution of investments in enhancing trade and cooperation between the Parties and the need to further promote and facilitate cooperation and greater business opportunities provided by this Agreement;

REAFFIRMING the importance of ongoing economic cooperation initiatives between the Parties, and agreeing to further develop the existing economic partnership in areas where the Parties have mutual interests;

DESIRING to eliminate barriers to trade and investment between the Parties, lower business costs and enhance economic efficiency; and

CONVINCED that joint efforts between the Parties towards an advanced free trade agreement will develop an enhanced framework for the promotion and development of economic and trade relations between Viet Nam and the Member States of the Eurasian Economic Union in their common interest and for their mutual benefit;

HAVE AGREED as follows:

CHAPTER 1
GENERAL PROVISIONS

ARTICLE 1.1

General Provisions and Definitions

For the purposes of this Agreement, unless otherwise specified:

a) **"central customs authority"** means the highest authorised customs authority of Viet Nam or each of the Member States of the Eurasian Economic Union exercising, in accordance with the respective domestic laws and regulations, the functions of implementing the relevant government policies, regulations, control and supervision in the customs sphere;

b) **"customs authorities"** means the customs authority or customs authorities of Viet Nam or the Member States of the Eurasian Economic Union;

c) **"customs duty"** means any duty or charge of any kind imposed on or in connection with the importation of a good, but does not include any:

i. charge equivalent to an internal tax imposed consistently with Article III.2 of GATT 1994;

ii. fee or other charge in connection with the importation commensurate with the cost of services rendered; and

iii. duty imposed consistently with Chapter 3 (Trade Remedies) of this Agreement;

d) **"days"** means calendar days including weekends and holidays;

e) **"declarant"** means a person who declares goods for customs purposes or on whose behalf the goods are declared;

f) **"Eurasian Economic Commission"** means the permanent regulatory body of the Eurasian Economic Union in accordance with the Treaty on the Eurasian Economic Union of 29 May 2014 (hereinafter referred to as "the Treaty on the EAEU");

g) **"GATS"** means the General Agreement on Trade in Services, in Annex 1B to the WTO Agreement;

h) **"GATT 1994"** means the General Agreement on Tariffs and Trade 1994 and its interpretative notes, in Annex 1A to the WTO Agreement;

i) **"good"** means any merchandise, product, article or material;

j) **"Harmonized System"** or **"HS"** means the Harmonized Commodity Description and Coding System established by the International Convention on the Harmonized Commodity Description and Coding System, done on 14 June 1983 as adopted and implemented by the Parties in their respective laws and regulations;

k) **"laws and regulations"** includes any law or any other legal normative act;

l) **"measure"** means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, practice or any other form;

m) **"originating"** means qualifying under the rules of origin set out in Chapter 4 (Rules of Origin) of this Agreement;

n) **"Parties"** means Viet Nam, of the one part, and the Member States of the Eurasian Economic Union and the Eurasian Economic Union acting jointly or individually within their respective areas of competence as derived from the Treaty on the EAEU, of the other part;

o) **"person"** means a natural person or a juridical person;

p) **"SCM Agreement"** means the Agreement on Subsidies and Countervailing Measures, in Annex 1A to the WTO Agreement;

q) **"SPS Agreement"** means the Agreement on the Application of Sanitary and Phytosanitary Measures, in Annex 1A to the WTO Agreement;

r) **"TBT Agreement"** means the Agreement on Technical Barriers to Trade, in Annex 1A to the WTO Agreement;

s) **"TRIPS Agreement"** means the Agreement on Trade-Related Aspects of Intellectual Property Rights, in Annex 1C to the WTO Agreement;

t) **"WTO"** means the World Trade Organization established in accordance with the WTO Agreement; and

u) **"WTO Agreement"** means the Marrakesh Agreement Establishing the World Trade Organization, done on 15 April 1994.

ARTICLE 1.2

Establishment of Free Trade Area

The Parties hereby establish a Free Trade Area consistent with Article XXIV of GATT 1994 and Article V of GATS.

ARTICLE 1.3

Objectives

The objectives of this Agreement are:

a) to liberalise and facilitate trade in goods between the Parties through, *inter alia*, reduction of tariff and non-tariff barriers and simplification of customs formalities;

b) to liberalise and facilitate trade in services between the Parties;

c) to facilitate, promote and enhance investment opportunities between the Parties through further development of favourable investment environments;

d) to support economic and trade cooperation between the Parties;

e) to protect adequately and effectively intellectual property and promote cooperation in the field thereof; and

f) to establish a framework to enhance closer cooperation in the fields agreed in this Agreement and facilitate communications between the Parties.

ARTICLE 1.4

Joint Committee

The Parties hereby establish a Joint Committee comprising representatives of each Party, which shall be co-chaired by two representatives – one from Viet Nam and the other from the Eurasian Economic Union or from a Member State of the Eurasian Economic Union. The Parties shall be represented by senior officials delegated by them for this purpose.

ARTICLE 1.5

Functions of the Joint Committee

1. The Joint Committee shall have the following functions:

a) considering any matter related to the implementation and operation of this Agreement;

b) supervising the work of all committees and other bodies established under this Agreement;

c) considering ways to further enhance trade relations between the Parties;

d) considering and recommending to the Parties any amendment to this Agreement; and

e) taking other actions on any matter covered by this Agreement as the Parties may agree.

2. In the fulfilment of its functions, the Joint Committee may establish subsidiary bodies, including *ad hoc* bodies, and assign them with tasks on specific matters. The Joint Committee may, if necessary, decide to seek advice of third persons or groups.

3. Unless the Parties agree otherwise, the Joint Committee shall convene:

a) in regular session every year, with such sessions to be held alternately in the territories of the Parties; and

b) in special session within 30 days of the request of a Party, with such sessions to be held in the territory of the other Party or at such location as the Parties may agree.

4. The Joint Committee shall meet within 30 days of a Party giving an advance notice in accordance with Article 15.3 of this Agreement in order to discuss the implications of that action for the Parties and for any arrangement made under this Agreement.

5. All decisions of the Joint Committee, committees and other bodies established under this Agreement shall be taken by consensus of the Parties.

ARTICLE 1.6

Priority Investment Projects

1. Priority investment projects shall be approved by the Government of Viet Nam on the one side and the respective Governments of the Member States of the Eurasian Economic Union on the other side.

2. Notwithstanding other provisions of this Agreement and as a result of consultations of the Parties aimed at support of priority investment projects, the Parties shall be entitled to provide additional preferences. Such decisions shall be made by the relevant authorities of the respective Parties within their competence.

ARTICLE 1.7

Contact Points

1. Each Party shall designate a contact point or contact points to facilitate communications between the Parties on any matter covered by this Agreement and shall notify the Joint Committee of its contact point or contact points.

2. Upon request of a Party, the other Party's contact point or contact points shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communications with the requesting Party.

ARTICLE 1.8

Confidential Information

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

2. Nothing in this Agreement shall require a Party to provide confidential information, the disclosure of which would impede law enforcement or

otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

ARTICLE 1.9

General and Security Exceptions

1. Article XX of GATT 1994 and Article XIV of GATS are incorporated into and form part of this Agreement, *mutatis mutandis*.

2. Article XXI of GATT 1994 and Article XIV *bis* of GATS are incorporated into and form part of this Agreement, *mutatis mutandis*.

3. The Joint Committee shall be informed to the fullest extent possible of measures taken under paragraph 2 of this Article and of their termination.

ARTICLE 1.10

Dual Use Goods and Services

The Parties recognise the sovereign right of Viet Nam and the Member States of the Eurasian Economic Union to regulate trade in dual use goods and services subject to their respective export control laws and regulations as well as international obligations.

ARTICLE 1.11

Measures to Safeguard the Balance of Payments

Article XII of GATT 1994 and the Understanding on the Balance-of-Payments Provisions of GATT 1994 are incorporated into and form part of this Agreement, *mutatis mutandis*.

ARTICLE 1.12

Relation to Other International Agreements

1. This Agreement shall apply without prejudice to the rights and obligations of the Parties arising from bilateral and multilateral agreements to which the Parties are party, including the WTO Agreement and the Parties' respective WTO obligations and commitments.

2. Without prejudice to Article 4.7 of this Agreement, the provisions of this Agreement shall neither apply between the Member States of the Eurasian Economic Union or between the Member States of the Eurasian Economic Union and the Eurasian Economic Union, nor shall they grant Viet Nam the rights and privileges that the Member States of the Eurasian Economic Union grant exclusively to each other.

ARTICLE 1.13

Transparency

1. Each Party shall ensure, in accordance with its respective laws and regulations, that its laws and regulations of general application as well as its respective international agreements, with respect to any matter covered by this Agreement, are promptly published or otherwise made publicly available, including wherever possible in electronic form.

2. To the extent possible, in accordance with its respective laws and regulations, each Party shall:

   a) publish in advance such laws and regulations referred to in paragraph 1 of this Article that it proposes to adopt; and

   b) provide interested persons and the other Party with a reasonable opportunity to comment on such laws and regulations referred to in paragraph 1 of this Article that it proposes to adopt.

3. Upon request of a Party, the other Party shall promptly respond to specific questions and provide information on the laws and regulations referred to in paragraph 1 of this Article.

CHAPTER 2
TRADE IN GOODS

ARTICLE 2.1

Most-Favoured-Nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III of GATT 1994, any advantage, favour, privilege or immunity granted by a Party to any good originating in or destined for the territory of any third country shall be accorded immediately and unconditionally to the like good of the other Party or like good destined for the territory of such Party.

2. Nothing in paragraph 1 of this Article obliges a Party to provide the other Party with an advantage, favour, privilege or immunity on a most-favoured-nation basis which the former Party provides to any other third country fulfilling any of the following criteria:

   a) to adjacent countries for the purposes of facilitating frontier traffic;

   b) to the participants of a customs union, free trade area or regional economic organisation, or any other regional trade agreements as defined in Article XXIV of GATT 1994; or

   c) to developing and least developed countries in accordance with GATT 1994, Generalized System of Preferences under United Nations Conference on Trade and Development or the respective laws and regulations of the Parties.

ARTICLE 2.2

National Treatment

Article III of GATT 1994 and the interpretative notes to this Article are incorporated into and form part of this Agreement, *mutatis mutandis*.

ARTICLE 2.3

Reduction and/or Elimination of Customs Duties

1. Except as otherwise provided for in this Agreement, each Party shall progressively reduce and/or eliminate customs duties on originating goods of the other Party in accordance with its schedule of tariff commitments in Annex 1 to this Agreement and shall not increase any customs duty or adopt any new customs duty resulting in the customs duty rate for originating goods of the other Party exceeding the level specified in its schedule of tariff commitments in Annex 1 to this Agreement.

2. A Party may, at any time, unilaterally accelerate the reduction and/or elimination of customs duties on originating goods of the other Party set out in its schedule of tariff commitments in Annex 1 to this Agreement. This shall not preclude either Party from raising a customs duty to the level established in its schedule of tariff commitments in Annex 1 to this Agreement for the respective year following a unilateral reduction. A Party considering such raise, reduction and/or elimination of a customs duty shall inform the other Party as early as practicable before the new rate of customs duty takes effect.

3. The Parties may consider accelerating the reduction and/or elimination of customs duties set out in their schedules of tariff commitments in Annex 1 to this Agreement by amending this Agreement in accordance with Article 15.5 of this Agreement.

4. If the rate of customs duty on an originating good of a Party applied in accordance with Annex 1 to this Agreement is higher than the most-favoured-nation applied rate of customs duty on the same good, such good shall be eligible for the latter one.

ARTICLE 2.4

Changes to HS Code and Description

1. Each Party shall ensure that any change to its HS code and description shall be carried out without impairing tariff concessions undertaken in accordance with Annex 1 to this Agreement.

2. Such change to Viet Nam HS code and description and the Eurasian Economic Union HS code and description shall be carried out by Viet Nam and the Eurasian Economic Commission, respectively. The Parties shall make any change to their HS code and description publicly available in a timely manner and inform each other every three months.

ARTICLE 2.5

Fees, Charges and Formalities Connected with Importation and Exportation

1. Article VIII of GATT 1994 and the interpretative notes to this Article are incorporated into and form part of this Agreement, *mutatis mutandis*.

2. Each Party shall ensure that its competent authorities make available through their official websites information about fees and charges it imposes.

ARTICLE 2.6

Administration of Trade Regulations

Each Party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, judicial decisions and administrative rulings of general application pertaining to trade in goods between the Parties in accordance with Article X of GATT 1994.

ARTICLE 2.7

Subsidies

1. The rights and obligations of the Parties in respect of subsidies for goods not covered by the Agreement on Agriculture, in Annex 1A to the WTO Agreement, shall be governed by the provisions of Article XVI of GATT 1994, the SCM Agreement and their respective WTO obligations and commitments.

2. The Parties share the objective of multilateral elimination of export subsidies for agricultural goods.

3. The rights and obligations of the Parties in respect of export subsidies on any agricultural good destined for the territory of the other Party shall be governed by their respective WTO obligations and commitments.

4. Each Party shall ensure transparency in the area of subsidies covered by this Article. Upon request of a Party, the other Party within a reasonable period of time shall give notice on a specific subsidy, as defined in the SCM Agreement, that it grants or maintains. Such notice shall contain the information set out in Article 25.3 of the SCM Agreement.

ARTICLE 2.8

Import Licensing

1. Each Party shall ensure that its import licensing procedures, as defined in Articles 1 through 3 of the Agreement on Import Licensing Procedures, in Annex 1A to the WTO Agreement (hereinafter referred to as "the Agreement on Import Licensing Procedures"), are implemented in a transparent and predictable manner, and applied in accordance with the Agreement on Import Licensing Procedures.

2. Each Party shall publish its rules and information concerning licensing procedures in a manner consistent with Article 1.4 of the Agreement on Import Licensing Procedures. A Party which introduces licensing procedures or changes in these procedures shall notify the other Party of such licensing procedures or changes in these procedures within 60 days of publication. Such notification shall contain information set out in Articles 5.2 and 5.3 of the Agreement on Import Licensing Procedures. The information shall be provided through a contact point of each Party designated for this purpose.

ARTICLE 2.9

Quantitative Restrictions

1. Neither Party may adopt or maintain any quantitative restriction, including prohibition or restriction on the importation of any good of the other Party or on the exportation of any good destined for the territory of the other Party, except in accordance with its WTO obligations and commitments, and to this end Articles XI and XIII of GATT 1994 and the interpretative notes to these Articles are incorporated into and form part of this Agreement, *mutatis mutandis*.

2. Each Party shall ensure the transparency of any quantitative restriction permitted in accordance with paragraph 1 of this Article and shall ensure that any such measure is not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade between the Parties.

ARTICLE 2.10

Trigger Safeguard Measures

1. The Eurasian Economic Union may apply a trigger safeguard measure to originating goods of Viet Nam listed in Annex 2 to this Agreement and imported into the territories of the Member States of the Eurasian Economic Union if the volume of imports during any calendar year exceeds the relevant trigger level for that year specified in Annex 2 to this Agreement.

2. A trigger safeguard measure shall be applied in the form of a customs duty equal to the most-favoured-nation rate of customs duty applied with respect to the goods concerned on the date when the trigger safeguard measure comes into effect.

3. A trigger safeguard measure shall be applied for a period of time not exceeding six months.

4. Notwithstanding paragraph 3 of this Article, if on the date of the application of the trigger safeguard measure the volume of imports concerned exceeds 150 percent of the relevant trigger level, the period of application of such measure may be extended by another three months.

5. The Eurasian Economic Commission shall publish the data on the volume of imports concerned in a readily accessible manner for Viet Nam. Upon finding that the conditions referred to in paragraph 1 of this Article are met, the Eurasian Economic Commission shall immediately give notice thereof in writing. The Eurasian Economic Commission shall also give notice in writing at least 20 days before taking decision on the application of a trigger safeguard measure, as well as three days after taking such decision, provided that such decision comes into effect not earlier than 30 days from the date the decision is taken, without prejudice to the right of the Eurasian Economic Union to apply such measure. If the Eurasian Economic Union decides not to apply the trigger safeguard measure it shall promptly notify Viet Nam of its decision in writing.

6. Upon request of a Party, the other Party shall promptly enter into consultations and/or provide the requested information with the aim of clarifying the conditions of imposition and application of a trigger safeguard measure under paragraphs 1 through 4 of this Article.

7. Every three years from the date of entry into force of this Agreement, the Parties shall review the operation of this Article and, if necessary, jointly decide to amend this Article as well as Annex 2 to this Agreement in accordance with Article 15.5 of this Agreement.

ARTICLE 2.11

State Trading Enterprises

Each Party shall ensure that its state trading enterprises operate in consistence with Article XVII of GATT 1994 and its WTO obligations and commitments.

ARTICLE 2.12

Committee on Trade in Goods

1. The Parties hereby establish the Committee on Trade in Goods (hereinafter referred to as "the Goods Committee"), comprising representatives of each Party.

2. The Goods Committee shall meet upon request of either Party to consider any matter arising under this Chapter and under Chapters 3 (Trade Remedies), 4 (Rules of Origin), 5 (Customs Administration and Trade Facilitation), 6 (Technical Barriers to Trade) and 7 (Sanitary and Phytosanitary Measures).

3. The Goods Committee shall have the following functions:

   a) reviewing and monitoring the implementation and operation of the Chapters referred to in paragraph 2 of this Article;

   b) reviewing and making appropriate recommendations, as needed, to the Joint Committee on any amendment to the provisions of this Chapter and to the schedules of tariff commitments in Annex 1 to this Agreement in order to promote and facilitate improved market access;

   c) identifying and recommending measures to resolve any problem that may arise;

   d) reporting the findings on any other issue arising from the implementation of this Chapter to the Joint Committee.

CHAPTER 3
TRADE REMEDIES

ARTICLE 3.1

Countervailing Measures

1. The Parties shall apply countervailing measures in accordance with the provisions of Articles VI and XVI of GATT 1994 and the SCM Agreement.

2. For the purposes of conducting countervailing investigations and applying countervailing measures by Viet Nam, the Member States of the Eurasian Economic Union shall be considered individually and not as the Eurasian Economic Union as a whole, unless there are subsidies within the meaning of Article XVI of GATT 1994 and the SCM Agreement available at the level of the Eurasian Economic Union for all Member States of the Eurasian Economic Union.

ARTICLE 3.2

Anti-Dumping Measures

1. The Parties shall apply anti-dumping measures in accordance with the provisions of Article VI of GATT 1994 and the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, in Annex 1A to the WTO Agreement.

2. For the purposes of conducting anti-dumping investigations and applying anti-dumping measures by Viet Nam, the Member States of the Eurasian Economic Union shall be considered individually and not as the Eurasian Economic Union as a whole, unless both Parties agree otherwise.

ARTICLE 3.3

Global Safeguard Measures

The Parties shall apply global safeguard measures in accordance with the provisions of Article XIX of GATT 1994 and the Agreement on Safeguards, in Annex 1A to the WTO Agreement.

ARTICLE 3.4

Bilateral Safeguard Measures

1. Where, as a result of the reduction or elimination of a customs duty under this Agreement, any originating good of a Party is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions as to constitute a substantial cause of serious injury or threat thereof to the domestic industry producing like or directly competitive goods in the territory of the importing Party, the importing Party may apply a bilateral safeguard measure during the transition period for that good to the extent necessary to remedy or prevent the serious injury or threat thereof, subject to the provisions of this Article.

2. A bilateral safeguard measure shall only be applied upon demonstrating clear evidence that increased imports constitute a substantial cause of or are threatening to cause serious injury.

3. The Party intending to apply a bilateral safeguard measure under this Article shall promptly, and in any case before applying a measure, notify the other Party and the Joint Committee. The notification shall contain all pertinent information, which shall include evidence of serious injury or threat thereof caused by increased imports, a precise description of the good concerned and the proposed measure, as well as the proposed date of introduction, expected duration and timetable for the progressive removal of the measure if relevant.

4. The Party that may be affected by the measure shall be offered compensation in the form of substantially equivalent trade liberalisation in relation to the

imports from such Party. The Party shall, within 30 days from the date of notification referred to in paragraph 3 of this Article, examine the information provided in order to facilitate a mutually acceptable resolution of the matter. In the absence of such resolution, the importing Party may apply a bilateral safeguard measure to resolve the problem, and, in the absence of mutually agreed compensation, the Party against whose good the bilateral safeguard measure is applied may take compensatory action. The bilateral safeguard measure and the compensatory action shall be promptly notified to the other Party. The compensatory action shall normally consist of suspension of concessions having substantially equivalent trade effects and/or concessions substantially equivalent to the value of the additional duties expected to result from the bilateral safeguard measure. Compensatory action shall be taken only for the minimum period necessary to achieve the substantially equivalent trade effects and in any event, only while the bilateral safeguard measure under paragraph 5 of this Article is being applied.

5. If the conditions set out in paragraph 1 of this Article are met, the importing Party may apply a bilateral safeguard measure in the form of:

   a) suspension of further reduction of any applicable rate of customs duty provided for in this Agreement for the good concerned; or

   b) increase of the applicable rate of customs duty for the good concerned to a necessary level not exceeding the base rate indicated in Annex 1 to this Agreement.

6. The Parties may apply a bilateral safeguard measure for the following periods of time:

   a) in the case of a good for which the customs duty reaches the final reduction rate within three years from the date of entry into force of this Agreement, a Party may apply a bilateral safeguard measure for a period of time not exceeding two years. A Party shall not apply a bilateral safeguard measure again on the same good during the one-year period after the expiration of the previous bilateral safeguard measure. Any bilateral safeguard measure shall not be applied more than twice to the same good.

b) in the case of a good for which the customs duty reaches the final reduction rate after three years from the date of entry into force of this Agreement, a Party may apply a bilateral safeguard measure for a period of time not exceeding two years. The period of application of a bilateral safeguard measure may be extended by up to one year if there is evidence that it is necessary to remedy or prevent serious injury or threat thereof and that the industry is adjusting. A Party shall not apply a bilateral safeguard measure again on the same good for the period of time equal to that during which such measure had been previously applied. Any bilateral safeguard measure shall not be applied more than twice to the same good.

7. Upon the termination of the bilateral safeguard measure, the rate of customs duty shall be the rate, which would have been in effect on the date of termination of the measure.

8. Neither Party may apply, with respect to the same good, at the same time:

a) a bilateral safeguard measure; and

b) a measure under Article XIX of GATT 1994 and the Agreement on Safeguards, in Annex 1A to the WTO Agreement.

9. Domestic industry referred to in paragraph 1 of this Article means the producers as a whole of the like or directly competitive goods operating within the territory of a Party or those producers whose collective production of the like or directly competitive goods constitutes a major proportion but not less than 25 percent of the total domestic production of such good.

10. Transition period referred to in paragraph 1 of this Article in relation to particular goods subject to a bilateral safeguard measure, means:

a) the period of time from the date of entry into force of this Agreement until seven years from the date of completion of the customs duty elimination or reduction in the case of a good for which the customs

duty reaches the final reduction rate within three years from the date of entry into force of this Agreement;

b) the period of time from the date of entry into force of this Agreement until five years from the date of completion of the customs duty elimination or reduction in the case of a good for which the customs duty reaches the final reduction rate after three years, but only up to five years from the date of entry into force of this Agreement; and

c) the period of time from the date of entry into force of this Agreement until three years from the date of completion of the customs duty elimination or reduction in the case of a good for which the customs duty reaches the final reduction rate after five years from the date of entry into force of this Agreement.

ARTICLE 3.5

Notifications

1. All official communications and documentation exchanged between the Parties with respect to matters covered by this Chapter shall take place between the relevant authorities having the legal power to initiate and conduct investigations under this Chapter (hereinafter referred to as "the investigating authorities"). In case Viet Nam intends to apply a measure under this Chapter, the other Party may designate a different responsible authority and shall notify Viet Nam of its designation.

2. The Parties shall exchange information on the names and contacts of the investigating authorities within 30 days from the date of entry into force of this Agreement. The Parties shall promptly notify each other of any change to the investigating authorities.

3. The Party intending to apply a global safeguard measure shall immediately provide to the other Party a written notification of all pertinent information on

the initiation of an investigation, the provisional findings and the final findings of the investigation.

CHAPTER 4
RULES OF ORIGIN

SECTION I. GENERAL PROVISIONS

ARTICLE 4.1

Scope

The rules of origin provided for in this Chapter shall be applied only for the purposes of granting preferential tariff treatment in accordance with this Agreement.

ARTICLE 4.2

Definitions

For the purposes of this Chapter:

a) **"aquaculture"** means farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from feedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

b) **"authorised body"** means the competent authority designated by a Party to issue a Certificate of Origin under this Agreement;

c) **"CIF value"** means the value of the goods imported and includes the cost of freight and insurance up to the port or place of entry into the country of importation;

d) **"consignment"** means goods that are sent simultaneously covered by one or more transport documents to the consignee from the exporter, as

well as goods that are sent over a single post-invoice or transferred as a luggage of the person crossing the border;

e) **"exporter"** means a person registered in the territory of a Party where the goods are exported from by such person;

f) **"FOB value"** means the free-on-board value of the goods, inclusive of the cost of transport to the port or site of final shipment abroad;

g) **"importer"** means a person registered in the territory of a Party where the goods are imported into by such person;

h) **"material"** means any matter or substance including ingredient, raw material, component or part used or consumed in the production of goods or physically incorporated into goods or subjected to a process in the production of other goods;

i) **"non-originating goods"** or **"non-originating materials"** means goods or materials that do not fulfil the origin criteria of this Chapter;

j) **"originating goods"** or **"originating materials"** means goods or materials that fulfil the origin criteria of this Chapter;

k) **"producer"** means a person who carries out production in the territory of a Party;

l) **"production"** means methods of obtaining goods including growing, mining, harvesting, raising, breeding, extracting, gathering, capturing, fishing, hunting, manufacturing, processing or assembling such goods; and

m) **"verification authority"** means the competent governmental authority designated by a Party to conduct verification procedures.

ARTICLE 4.3

Origin Criteria

For the purposes of this Chapter, goods shall be considered as originating in a Party if they are:

a) wholly obtained or produced in such Party as provided for in Article 4.4 of this Agreement; or

b) produced entirely in one or both Parties, exclusively from originating materials from one or both Parties; or

c) produced in a Party using non-originating materials and satisfy the requirements of product specific rules specified in Annex 3 to this Agreement.

ARTICLE 4.4

Wholly Obtained or Produced Goods

For the purposes of Article 4.3 of this Agreement, the following goods shall be considered as wholly obtained or produced in a Party:

a) plants and plant goods, including fruit, berries, flowers, vegetables, trees, seaweed, fungi and live plants, grown, harvested, or gathered in the territory of a Party;

b) live animals born and raised in the territory of a Party;

c) goods obtained from live animals in the territory of a Party;

d) goods obtained from gathering, hunting, capturing, fishing, growing, raising and aquaculture in the territory of a Party;

e) minerals and other naturally occurring substances extracted or taken from the air, soil, waters or seabed and subsoil in the territory of a Party;

f) goods of sea fishing and other marine goods taken from the high seas, in accordance with international law, by a vessel registered or recorded in a Party and flying its flag;

g) goods manufactured exclusively from goods referred to in subparagraph f) of this Article, on board a factory ship registered or recorded in a Party and flying its flag;

h) waste and scrap resulting from production and consumption conducted in the territory of a Party provided that such goods are fit only for the recovery of raw materials;

i) used goods collected in the territory of a Party provided that such goods are fit only for the recovery of raw materials;

j) goods produced in outer space on board a spacecraft provided that the same spacecraft is registered in a Party; and

k) goods produced or obtained in the territory of a Party solely from goods referred to in subparagraphs a) through j) of this Article.

ARTICLE 4.5

Value Added Content

For the purposes of this Chapter and product specific rules specified in Annex 3 to this Agreement, the formula for calculating value added content (hereinafter referred to as "VAC") shall be:

$$\frac{\text{FOB value} - \text{Value of Non-Originating Materials}}{\text{FOB value}} \times 100\%$$

where the value of non-originating materials shall be:

a) CIF value of the materials at the time of importation to a Party; or

b) the earliest ascertained price paid or payable for non-originating materials in the territory of the Party where the working or processing takes place.

When, in the territory of a Party, the producer of the goods acquires non-originating materials within such Party, the value of such materials shall not include freight, insurance, packing costs and any other costs incidental to the transport of those materials from the location of the supplier to the location of production.

ARTICLE 4.6

Insufficient Working or Processing

1. The following operations undertaken exclusively by themselves or in combination with each other are considered to be insufficient to meet the requirements of Article 4.3 of this Agreement:

a) preserving operations to ensure that a product retains its condition during transportation and storage;

b) freezing or thawing;

c) packaging and re-packaging;

d) washing, cleaning, removing dust, oxide, oil, paint or other coverings;

e) ironing or pressing of textiles;

f) colouring, polishing, varnishing, oiling;

g) husking, partial or total bleaching, polishing and glazing of cereals and rice;

h) operations to colour sugar or form sugar lumps;

i) peeling and removal of stones and shells from fruits, nuts and vegetables;

j) simple sharpening, grinding;

k) cutting;

l) sifting, screening, sorting, classifying;

m) placing in bottles, cans, flasks, bags, cases, boxes, fixing on surface and all other simple packaging operations;

n) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

o) simple mixing of products (components) which does not lead to a sufficient difference of product from the original components;

p) simple assembly of a product or disassembly of products into parts; and

q) slaughter of animals, sorting of meat.

2. For the purposes of paragraph 1 of this Article, "simple" describes activities which do not require special skills or machines, apparatus or equipment especially designed for carrying out such activities.

ARTICLE 4.7

Accumulation of Origin

Without prejudice to Article 4.3 of this Agreement, the goods or materials originating in a Party, which are used as material in the manufacture of a product in the other Party, shall be considered as originating in such Party where the last

operations other than those referred to in paragraph 1 of Article 4.6 of this Agreement have been carried out. The origin of such material shall be confirmed by a Certificate of Origin (Form EAV) issued by an authorised body.

ARTICLE 4.8

De Minimis

1. Goods that do not undergo a change in tariff classification pursuant to Annex 3 to this Agreement are nonetheless considered originating if:

   a) the value of all non-originating materials that are used in the production of the goods and do not undergo the required change in tariff classification, does not exceed 10 percent of the FOB value of such goods; and

   b) the goods meet all other applicable requirements of this Chapter.

2. The value of materials referred to in subparagraph a) of paragraph 1 of this Article shall be included in the value of non-originating materials for any applicable VAC requirement.

ARTICLE 4.9

Direct Consignment

1. Preferential tariff treatment in accordance with this Chapter shall be granted to originating goods provided that such goods are transported directly from the territory of the exporting Party to the territory of the importing Party.

2. Notwithstanding paragraph 1 of this Article, originating goods may be transported through the territory of one or more third countries, provided that:

   a) transit through the territory of a third country is justified for geographical reasons or related exclusively to transport requirements:

b) the goods have not entered into trade or consumption there; and

c) the goods have not undergone any operation there other than unloading, reloading, storing or any necessary operation designed to preserve their condition.

3. A declarant shall submit appropriate documentary evidence to the customs authorities of the importing Party confirming that the conditions set out in paragraph 2 of this Article have been fulfilled. Such evidence shall be provided to the customs authorities of the importing Party by submission of:

a) the transport documents covering the passage from the territory of a Party to the territory of the other Party containing:

i. an exact description of the goods;

ii. the dates of unloading and reloading of the goods (if the transport documents do not contain the dates of unloading and reloading of the goods, other supporting document containing such information shall be submitted in addition to transport documents); and

iii. where applicable:

- the names of the ships or other means of transport used;

- the containers' numbers;

- the conditions under which the goods remained in the country of transit in proper condition;

- the marks of the customs authorities of the country of transit; and

b) the commercial invoice in respect of the goods.

4. A declarant may submit other supporting documents to prove that the requirements of paragraph 2 of this Article are fulfilled.

5. If the transport documents cannot be provided, a document issued by the customs authorities of the country of transit containing all the information referred to in subparagraph a) of paragraph 3 of this Article shall be submitted.

6. If a declarant fails to provide the customs authorities of the importing Party with documentary evidence of direct consignment, preferential tariff treatment shall not be granted.

ARTICLE 4.10

Direct Purchase

1. The importing Party shall grant preferential tariff treatment for originating goods in cases where the invoice is issued by a person registered in a third country, provided that such goods meet the requirements of this Chapter.

2. Notwithstanding paragraph 1 of this Article the importing Party shall not grant preferential tariff treatment in cases where the invoice is issued by a person registered in a third country included in the list of offshore countries to be established in a joint protocol. The respective competent authorities of the Parties shall be entitled to adopt such protocol by mutual consent and shall make it publicly available.

3. Without prejudice to paragraph 2 of this Article before the joint protocol referred to in paragraph 2 of this Article is adopted, the list of offshore countries or territories specified in Annex 4 to this Agreement shall apply.

ARTICLE 4.11

Packaging Materials for Retail Sale

1. Packaging materials and containers in which goods are packaged for retail sale, if classified with the goods, shall be disregarded in determining whether

all the non-originating materials used in the production of those goods have undergone the applicable change in tariff classification set out in Annex 3 to this Agreement.

2. Notwithstanding paragraph 1 of this Article in determining whether the goods fulfil the VAC requirement, the value of the packaging used for retail sale will be counted as originating or non-originating materials, as the case may be, in calculating the VAC of the goods.

ARTICLE 4.12

Packing Materials for Shipment

Packing materials and containers in which goods are packed exclusively for transport shall not be taken into account for the purposes of establishing whether the goods are originating.

ARTICLE 4.13

Accessories, Spare Parts, Tools and Instructional or Other Information Materials

1. In determining whether the goods fulfil the change in tariff classification requirements specified in Annex 3 to this Agreement, accessories, spare parts, tools and instructional or other information materials, which are part of the normal equipment and included in its FOB price, or which are not separately invoiced, shall be considered as part of the goods in question and shall not be taken into account in determining whether the goods qualify as originating.

2. Notwithstanding paragraph 1 of this Article in determining whether the goods fulfil the VAC requirement, the value of accessories, spare parts, tools and instructional or other information materials shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating VAC of the goods.

3. This Article shall apply only where:

a) accessories, spare parts, tools and instructional or other information materials presented with the goods are not invoiced separately from such goods; and

b) the quantities and value of accessories, spare parts, tools and instructional or other information materials presented with the goods are customary for such goods.

ARTICLE 4.14

Sets

Sets, as defined in Rule 3 of the General Rules of the interpretation of the Harmonized System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 percent of the FOB value of the set.

ARTICLE 4.15

Indirect Materials

In order to determine the origin of goods, the origin of the following indirect materials which might be used in the production of such goods and not be incorporated into such goods shall not be taken into account:

a) fuel and energy;

b) tools, dies and moulds;

c) spare parts and materials used in the maintenance of equipment and buildings;

d) lubricants, greases, compounding materials and other materials used in the production or used to operate equipment and buildings;

e) gloves, glasses, footwear, clothing, safety equipment;

f) equipment, devices used for testing or inspecting the goods;

g) catalyst and solvent; and

h) any other goods that are not incorporated into such goods but the use of which in the production of such goods can be demonstrated to be a part of that production.

SECTION II. DOCUMENTARY PROOF OF ORIGIN

ARTICLE 4.16

Claim for Preferential Tariff Treatment

1. For the purposes of obtaining preferential tariff treatment, the declarant shall submit a Certificate of Origin to the customs authorities of the importing Party in accordance with the requirements of this Section.

2. The Certificate of Origin submitted to the customs authorities of the importing Party shall be an original, valid and in conformity with the format as set out in Annex 5 to this Agreement and shall be duly completed in accordance with the requirements set out in Annex 5 to this Agreement.

3. The authorised body of the exporting Party shall ensure that Certificates of Origin are duly completed in accordance with the requirements set out in Annex 5 to this Agreement.

4. The Certificate of Origin shall be valid for a period of 12 months from the date of issuance and must be submitted to the customs authorities of the importing Party within that period but not later than the moment of the

submission of the import customs declaration, except in circumstances stipulated in paragraph 2 of Article 4.20 of this Agreement.

5. Where the central customs authorities and the authorised bodies of the Parties have developed and implemented the Electronic Origin Certification and Verification System (hereinafter referred to as "EOCVS") referred to in Article 4.29 of this Agreement, the customs authorities of the importing Party in accordance with its respective domestic laws and regulations may not require the submission of the original Certificate of Origin if the customs declaration is submitted by electronic means. In this case, the date and number of such Certificate of Origin shall be specified in the customs declaration. Where the customs authorities of the importing Party have a reasonable doubt as to the origin of the goods for which preferential tariff treatment is claimed and/or there is a discrepancy with the information containing in the EOCVS, the customs authorities of the importing Party may require the submission of the original Certificate of Origin.

ARTICLE 4.17

Circumstances When Certificate of Origin Is Not Required

A Certificate of Origin is not required in order to obtain preferential tariff treatment for commercial or non-commercial importation of originating goods where the customs value does not exceed the amount of 200 US dollars or the equivalent amount in the importing Party's currency or such higher amount as such importing Party may establish, provided that the importation does not form part of one or more consignments that may reasonably be considered to have been undertaken or arranged for the purposes of avoiding the submission of the Certificate of Origin.

ARTICLE 4.18

Issuance of Certificate of Origin

1. The producer or exporter of the goods or its authorised representative shall apply to an authorised body of the exporting Party for a Certificate of Origin in writing or by electronic means if applicable.

2. The Certificate of Origin shall be issued by the authorised body of the exporting Party to the producer or exporter of the goods or its authorised representative prior to or at the time of exportation whenever the goods to be exported can be considered originating in a Party within the meaning of this Chapter.

3. The Certificate of Origin shall cover the goods under one consignment.

4. Each Certificate of Origin shall bear a unique reference number separately given by the authorised body.

5. If all goods covered by the Certificate of Origin cannot be listed on one page, additional sheets, as set out in Annex 5 to this Agreement, shall be used.

6. The Certificate of Origin shall be done in hard copy and shall comprise one original and two copies.

7. One copy shall be retained by the authorised body of the exporting Party. The other copy shall be retained by the exporter.

8. Without prejudice to paragraph 4 of Article 4.16 of this Agreement, in exceptional cases, where a Certificate of Origin has not been issued prior to or at the time of exportation it may be issued retroactively and shall be marked "ISSUED RETROACTIVELY".

9. The submitted original Certificate of Origin shall be retained by the customs authorities of the importing Party except in circumstances stipulated in its respective domestic laws and regulations.

ARTICLE 4.19

Minor Discrepancies

1. Where the origin of the goods is not in doubt, the discovery of minor discrepancies between the information in the Certificate of Origin and in the documents submitted to the customs authorities of the importing Party shall not, of themselves, invalidate the Certificate of Origin, if such information in fact corresponds to the goods submitted.

2. For multiple goods declared under the same Certificate of Origin, a problem encountered with one of the goods listed shall not affect or delay the granting of preferential tariff treatment for the remaining goods covered by the Certificate of Origin.

ARTICLE 4.20

Specific Cases of Issuance of Certificate of Origin

1. In the event of theft, loss or destruction of a Certificate of Origin, the producer or exporter of the goods or its authorised representative may apply to the authorised body of the exporting Party for a certified duplicate of the original Certificate of Origin, specifying the reasons for such application. The duplicate shall be made on the basis of the previously issued Certificate of Origin and supporting documents. A certified duplicate shall bear the words "DUPLICATE OF THE CERTIFICATE OF ORIGIN NUMBER_DATE_". The certified duplicate of a Certificate of Origin shall be valid no longer than 12 months from the date of issuance of the original Certificate of Origin.

2. Due to accidental errors or omissions made in the original Certificate of Origin, the authorised body shall issue the Certificate of Origin in substitution for the original Certificate of Origin. In this instance, the Certificate of Origin shall bear the words: "ISSUED IN SUBSTITUTION FOR THE CERTIFICATE OF ORIGIN NUMBER___DATE___". Such Certificate of Origin shall be valid no longer than 12 months from the date of issuance of the original Certificate of Origin.

ARTICLE 4.21

Alterations in Certificate of Origin

Neither erasures nor superimpositions shall be allowed on the Certificate of Origin. Any alteration shall be made by striking out the erroneous data and printing any additional information required. Such alteration shall be approved by a person authorised to sign the Certificate of Origin and certified by an official seal of the appropriate authorised body.

ARTICLE 4.22

Record-Keeping Requirements

1. The producer and/or exporter of the goods shall keep all records and copies of the documents submitted for the issuance of a Certificate of Origin for the period of no less than three years from the date of issuance of the Certificate of Origin.

2. An importer who has been granted preferential tariff treatment must keep the copy of the Certificate of Origin, based on the date when the preferential tariff treatment was granted, for the period of no less than three years.

3. The application for a Certificate of Origin and all documents related to such application shall be retained by the authorised body for the period of no less than three years from the date of issuance of the Certificate of Origin.

SECTION III. PREFERENTIAL TARIFF TREATMENT

ARTICLE 4.23

Granting Preferential Tariff Treatment

1. Preferential tariff treatment under this Agreement shall be applied to originating goods that satisfy the requirements of this Chapter.

2. Customs authorities of the importing Party shall grant preferential tariff treatment to originating goods of the exporting Party provided that:

   a) the goods satisfy the origin criteria referred to in Article 4.3 of this Agreement;

   b) the declarant demonstrates compliance with the requirements of this Chapter;

   c) a valid and duly completed original Certificate of Origin has been submitted in accordance with the requirements of Section II (Documentary Proof of Origin) of this Chapter to the customs authorities of the importing Party. An original Certificate of Origin may not be required to be submitted if the Parties have implemented the EOCVS as stipulated in paragraph 5 of Article 4.16 of this Agreement.

3. Notwithstanding paragraph 2 of this Article, where the customs authorities of the importing Party have a reasonable doubt as to the origin of the goods for which preferential tariff treatment is claimed and/or to the authenticity of the submitted Certificate of Origin, such customs authorities may suspend or deny the application of preferential tariff treatment to such goods. However, the goods can be released in accordance with the requirements of such Party's respective domestic laws and regulations.

ARTICLE 4.24

Denial of Preferential Tariff Treatment

1. Where the goods do not meet the requirements of this Chapter or where the importer or exporter of the goods fails to comply with the requirements of this Chapter, the customs authorities of the importing Party may deny preferential tariff treatment and recover unpaid customs duties in accordance with the respective domestic laws and regulations.

2. The customs authorities of the importing Party may deny preferential tariff treatment if:

a) the goods do not meet the requirements of this Chapter to be considered as originating in the exporting Party; and/or

b) other requirements of this Chapter are not met, including:

i. the requirements of Article 4.9 of this Agreement;

ii. the requirements of Article 4.10 of this Agreement;

iii. the submitted Certificate of Origin has not been duly completed as specified in Annex 5 to this Agreement;

c) the verification procedures undertaken under Articles 4.30 and 4.31 of this Agreement are unable to establish the origin of the goods or indicate the inconsistency of the origin criteria;

d) the verification authority of the exporting Party has confirmed that the Certificate of Origin had not been issued (i.e. forged) or had been annulled (withdrawn);

e) the customs authorities of the importing Party receive no reply within a maximum of six months after the date of a verification request made to the verification authority of the exporting Party, or if the response to the request does not contain sufficient information to conclude whether the goods originate in a Party; or

f) the customs authorities of the importing Party within 60 days from the date of dispatch of the notification, stipulated in paragraph 2 of Article 4.31 of this Agreement, do not receive a written consent from the verification authority, pursuant to paragraph 5 of Article 4.31 of this Agreement, for conducting a verification visit or receive a refusal to conduct such verification visit.

3. Where the importing Party determines through verification procedures that an exporter or producer of the goods has engaged in providing false and/or incomplete information for the purposes of obtaining Certificates of Origin, customs authorities of the importing Party may deny preferential tariff treatment to identical goods covered by the Certificates of Origin issued to that exporter or producer in accordance with its respective domestic laws and regulations.

4. In cases as set out in subparagraph b) of paragraph 2 of this Article and paragraph 1 of Article 4.25 of this Agreement customs authorities of the importing Party are not required to make a verification request, as provided for in Article 4.30 of this Agreement, to the authorised body for the purposes of making decisions on denial of preferential tariff treatment.

ARTICLE 4.25

Temporary Suspension of Preferential Tariff Treatment

1. Where a Party has found:

   a) systematic fraud regarding claims of preferential tariff treatment under this Agreement in respect of the goods exported or produced by a person of the other Party; or

   b) that the other Party systematically and unjustifiably refuses to fulfil obligations under Articles 4.30 and/or 4.31 of this Agreement,

such Party may in exceptional circumstances temporarily suspend preferential tariff treatment under this Agreement.

2. Temporary suspension of preferential tariff treatment referred to in paragraph 1 of this Article may be applied to the goods concerned:

   a) of a person where the importing Party has concluded that such person of the exporting Party has committed systematic fraud regarding claims of preferential tariff treatment under this Agreement;

b) of the person who is subject to verification request or verification visit request referred to in subparagraph b) of paragraph 1 of this Article,

3. Where the importing Party has concluded that the already suspended preferential tariff treatment in accordance with subparagraph a) of paragraph 2 of this Article had not resulted in cessation of systematic fraud regarding claims of preferential tariff treatment under this Agreement, it may temporarily suspend preferential tariff treatment with regard to identical goods classified in the same tariff lines at 8-10 digit level of the respective domestic nomenclatures of the Parties.

4. For the purposes of this Article:

a) a finding of systematic fraud can be made where a Party has concluded that a person of the other Party has systematically provided false or incorrect information in order to obtain preferential tariff treatment under this Agreement as a result of an investigation based on objective, compelling and verifiable information;

b) systematic and unjustifiable refusal to fulfil obligations under Articles 4.30 and/or 4.31 of this Agreement means a systematic refusal to verify the originating status of the goods concerned and/or to carry out verification visits as requested by a Party or absence of response to verification and verification visit requests;

c) identical goods means the goods which are the same in all respects including physical characteristics, quality and reputation.

5. A Party that has made a finding pursuant to paragraph 1 or 3 of this Article, shall:

a) notify the other Party and provide the information and evidence upon which the finding was based;

b) engage in consultations with the other Party with a view to achieving a mutually acceptable solution.

6. If the Parties have not achieved a mutually acceptable solution within 30 days of the engagement into consultations pursuant to subparagraph b) of paragraph 5 of this Article, the Party that has made the finding shall refer the issue to the Joint Committee.

7. If the Joint Committee has not resolved the issue within 60 days of the referral of such issue to the Joint Committee, the Party which has made the finding may temporarily suspend preferential tariff treatment under this Agreement pursuant to paragraphs 2 and 3 of this Article. The Party that has made a decision on temporary suspension shall immediately notify the other Party and the Joint Committee. Temporary suspension shall not apply to the goods which have already been exported on the day that the temporary suspension comes into effect. The day of such exportation shall be the date of a transport document issued by a carrier.

8. Temporary suspension of preferential tariff treatment under this Article may be applied until the exporting Party provides convincing evidence of the ability to comply with the requirements of this Chapter and ensure the fulfilment of all the requirements of this Chapter by producers or exporters of the goods but shall not exceed a period of four months, which may be renewed for no longer than three months.

9. Any suspension under this Article and any renewed suspension shall be subject to periodic consultations of the Parties with a view to resolving the issue.

SECTION IV. ADMINISTRATIVE COOPERATION

ARTICLE 4.26

Administrative Cooperation Language

Any notification or communication under this Section shall be conducted between the Parties through the relevant authorities in the English language.

ARTICLE 4.27

Authorised Body and Verification Authority

Each Government of the Parties shall designate or maintain an authorised body and a verification authority.

ARTICLE 4.28

Notifications

1. Prior to the issuance of any Certificate of Origin under this Agreement by the authorised body, each Party shall provide the other Party, through the Ministry of Industry and Trade of Viet Nam and the Eurasian Economic Commission, respectively, with the names and addresses of each authorised body and verification authority, together with the original and legible specimen impressions of their stamps, sample of the Certificate of Origin to be used and data on the security features of the Certificate of Origin.

2. Viet Nam shall provide the Eurasian Economic Commission with the original information referred to in paragraph 1 of this Article in sextuplicate. The Eurasian Economic Commission may request Viet Nam to provide additional sets of such information.

3. Viet Nam and the Eurasian Economic Commission shall publish on the internet the information on the names and addresses of the authorised body and verification authority of each Party.

4. Any change to the information stipulated in this Article shall be notified by the Ministry of Industry and Trade of Viet Nam and the Eurasian Economic Commission in advance and in the same manner.

ARTICLE 4.29

Development and Implementation of Electronic Origin Certification and Verification System

1. The Parties shall endeavour to implement an EOCVS no later than two years from the date of entry into force of this Agreement.

2. The purpose of the EOCVS is the creation of a web-database that records the details of all Certificates of Origin issued by an authorised body and that is accessible to the customs authorities of the other Party to check the validity and content of any issued Certificate of Origin.

3. The Parties shall establish a working group that shall endeavour to develop and implement an EOCVS.

ARTICLE 4.30

Verification of Origin

1. Where the customs authorities of the importing Party have a reasonable doubt about the authenticity of a Certificate of Origin and/or the compliance of the goods, covered by the Certificate of Origin, with the origin criteria, pursuant to Article 4.3 of this Agreement, and in the case of a random check, they may send a request to the verification authority or authorised body of the exporting Party to confirm the authenticity of the Certificate of Origin and/or the compliance of the goods with the origin criteria and/or to provide, if requested, documentary evidence from the producer and/or exporter of the goods.

2. All verification requests shall be accompanied by sufficient information to identify the concerned goods. A request to the verification authority of the exporting Party shall be accompanied by a copy of the Certificate of Origin and shall specify the circumstances and reasons for the request.

3. The recipient of a request under paragraph 1 of this Article shall respond to the requesting customs authorities of the importing Party within six months after the date of such verification request.

4. In response to a request under paragraph 1 of this Article verification authority of the exporting Party shall clearly indicate whether the Certificate of Origin is authentic and/or whether the goods can be considered as originating in such Party including by providing requested documentary evidence received from the producer and/or exporter of the goods. Before the response to the verification request, paragraph 3 of Article 4.23 of this Agreement may be applied. The customs duties paid shall be refunded if the received results of the verification process confirm and clearly indicate that the goods qualify as originating and all other requirements of this Chapter are met.

ARTICLE 4.31

Verification Visit

1. If the customs authorities of the importing Party are not satisfied with the outcome of the verification referred to in Article 4.30 of this Agreement, they may, under exceptional circumstances, request verification visits to the exporting Party to review the records referred to in Article 4.22 of this Agreement and/or observe the facilities used in the production of the goods.

2. Prior to conducting a verification visit pursuant to paragraph 1 of this Article the customs authorities of the importing Party shall deliver a written notification of their intention to conduct the verification visit to the verification authority of the Party in the territory of which the verification visit is to occur.

3. The written notification referred to in paragraph 2 of this Article shall be as comprehensive as possible and shall include, *inter alia*:

   a) the name of the customs authorities of the Party issuing the notification;

b) the names of the producer and/or exporter of the goods whose premises are to be visited;

c) the proposed date of the verification visit;

d) the coverage of the proposed verification visit, including reference to the goods subject to the verification and to the doubts regarding their origin; and

e) the names and designation of the officials performing the verification visit.

4. Verification authority shall send the verification request to the producer and/or exporter of the goods whose premises are to be visited and transfer its written consent to the requesting Party within 60 days from the date of dispatch of the notification pursuant to paragraph 2 of this Article.

5. Where a written consent from the verification authority is not obtained within 60 days from the date of dispatch of the notification pursuant to paragraph 2 of this Article or the notifying Party receives a refusal to conduct such a verification visit, the notifying Party shall deny preferential tariff treatment to the goods referred to in the Certificate(s) of Origin that would have been subject to the verification visit.

6. Any verification visit shall be launched within 60 days from the date of the receipt of written consent and finished within a reasonable period of time.

7. The authority conducting the verification visit shall, within a maximum period of 90 days from the first day the verification visit was conducted, provide the producer and/or exporter of the goods, whose goods and premises are subject to such verification, and the verification authority of the exporting Party with a written determination of the outcomes of the verification visit.

8. The verification visit including the actual visit and determination of whether the concerned goods are originating or not shall be carried out and its results sent to the authorised body within a maximum of 210 days. Before the results

of the verification visit are available paragraph 3 of Article 4.23 of this Agreement may be applied.

9. Any suspended or denied preferential tariff treatment shall be reinstated upon the written determination that the goods qualify as originating and the certain origin criteria under this Agreement are fulfilled.

10. Verification team must be formed by the central customs authority of the importing Party in accordance with the respective domestic laws and regulations.

11. The verification authority or the authorised body of the exporting Party shall assist in the verification visit conducted by the customs authorities of the importing Party.

12. The producer and/or exporter of the goods who has given consent for verification visit, shall assist in its implementation, provide access to the premises, financial (accounting) and production documents related to the subject of the verification visit and shall provide any additional information and/or documents, if so requested.

13. If there are obstacles by the authorities or entities of the inspected Party during the verification visit, which result in the absence of possibility to conduct the verification visit, the importing Party has the right to deny preferential tariff treatment to the concerned goods.

14. All costs relating to the conducting of the verification visit shall be borne by the importing Party.

ARTICLE 4.32

Confidentiality

All information provided pursuant to this Chapter shall be treated by the Parties as confidential in accordance with their respective domestic laws and regulations.

It shall not be disclosed without the permission of the person or authority of the Party providing it.

ARTICLE 4.33

Penalties or Other Measures against Fraudulent Acts

Each Party shall provide for criminal or administrative penalties for violations of its respective laws and regulations related to this Chapter.

ARTICLE 4.34

Sub-Committee on Rules of Origin

1. For the purposes of effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Rules of Origin (hereinafter referred to as "the ROO Sub-Committee").

2. The ROO Sub-Committee shall have the following functions:

    a) reviewing and making appropriate recommendations to the Joint Committee and the Goods Committee on:

        i. transposition of Annex 3 to this Agreement that is in the nomenclature of the revised HS following periodic amendments of the HS. Such transposition shall be carried out without impairing the existing commitments and shall be completed in a timely manner;

        ii. implementation and operation of this Chapter, including proposals for establishing implementing arrangements;

        iii. failure to fulfil the obligations by the Parties, as determined in this Section;

iv. technical amendments to this Chapter;

v. amendments to Annex 3 to this Agreement;

vi. disputes arising between the Parties during the implementation of this Chapter; and

vii. any amendment to the provisions of this Chapter and to Annexes 3, 4 and 5 to this Agreement;

b) considering any other matter proposed by a Party relating to this Chapter;

c) reporting the findings of the ROO Sub-Committee to the Goods Committee; and

d) performing other functions as may be delegated by the Joint Committee pursuant to Article 1.5 of this Agreement.

3. The ROO Sub-Committee shall be composed of the representatives of the Parties and may invite representatives of other entities of the Parties with necessary expertise relevant to the issues to be discussed upon mutual agreement of the Parties.

4. The ROO Sub-Committee shall meet at such time and venue as may be agreed by the Parties but not less than once a year.

5. A provisional agenda for each meeting shall be forwarded to the Parties, as a general rule, no later than one month before the meeting.

SECTION V. TRANSITIONAL PROVISIONS

ARTICLE 4.35

Goods in Transportation or Storage

Originating goods which have been in transportation from the exporting Party to the importing Party, or which have been in temporary storage in a bonded area in the importing Party for a period not exceeding one year before the entry into force of this Agreement, shall be granted preferential tariff treatment if they are imported into the importing Party on or after the date of entry into force of this Agreement, subject to the submission of a Certificate of Origin issued retroactively to the customs authorities of the importing Party and subject to the respective domestic laws and regulations or administrative practices of the importing Party.

CHAPTER 5
CUSTOMS ADMINISTRATION AND TRADE FACILITATION

ARTICLE 5.1

Scope

This Chapter shall apply to customs administration measures and performance of customs operations required for the release of goods traded between the Parties, in order to promote:

a) transparency of customs procedures and customs formalities;

b) trade facilitation and harmonisation of customs operations; and

c) customs cooperation including exchange of information between the central customs authorities of the Parties.

ARTICLE 5.2

Definitions

For the purposes of this Chapter:

a) **"customs administration"** means organisational and management activities of the customs authorities of a Party as well as activities carried out within the regulatory framework while implementing the objectives in the customs area;

b) **"customs laws and regulations"** means any norm and regulation enforced by the customs authorities of a Party including laws, rulings, decrees, writs, rules and others;

c) **"express consignments"** means goods delivered through high-speed transportation systems by any type of transport, using an electronic

information management system and tracking the movement in order to deliver the goods to the recipient in accordance with an individual invoice for the minimum possible or a fixed period of time, except for goods sent by international post;

d) **"inward processing"** means the customs procedure under which foreign goods can be brought into the customs territory of a Party conditionally relieved from payment of customs duties and taxes on the basis that such goods are intended for processing or repair and subsequent exportation from the customs territory of such Party within a specified period of time;

e) **"outward processing"** means the customs procedure under which goods, which are in free circulation in the customs territory of a Party, may be temporarily exported for processing abroad and then re-imported with total exemption from customs duties and taxes; and

f) **"temporary admission"** means the customs procedure under which foreign goods can be brought into the customs territory of a Party conditionally relieved totally or partially from payment of customs duties and taxes on the basis that such goods shall be re-exported within a specified period of time in accordance with the customs laws and regulations of such Party.

ARTICLE 5.3

Facilitation of Customs Administration Measures

1. Each Party shall ensure that the customs administration measures applied by its customs authorities are predictable, consistent and transparent.

2. Customs administration measures of each Party shall, where possible and to the extent permitted by its customs laws and regulations, be based on the standards and recommended practices of the World Customs Organization.

3. The central customs authorities of each Party shall endeavour to review their customs administration measures with a view to simplifying such measures in order to facilitate trade.

ARTICLE 5.4

Release of Goods

1. Each Party shall adopt or maintain the performance of customs procedures and operations for the efficient release of goods in order to facilitate trade between the Parties. This shall not require a Party to release goods where its requirements for the release of such goods have not been met.

2. Pursuant to paragraph 1 of this Article, each Party shall:

   a) provide for the release of goods within a period of time no longer than 48 hours from the registration of a customs declaration except in the circumstances stipulated in the customs laws and regulations of the Parties; and

   b) endeavour to adopt or maintain electronic submission and processing of customs information in advance of arrival of the goods to expedite the release of goods upon arrival.

ARTICLE 5.5

Risk Management

Customs authorities of the Parties shall apply a risk management system by means of a systematic assessment of risks to focus inspections on high-risk goods and simplify the application of customs operations on low-risk goods.

ARTICLE 5.6

Customs Cooperation

1. With a view to facilitating the effective operation of this Agreement, central customs authorities of the Parties shall encourage cooperation with each other on key customs issues that affect goods traded between the Parties.

2. Where a central customs authority of a Party in accordance with such Party's respective laws and regulations has a reasonable suspicion of an unlawful activity, such central customs authority may request the central customs authority of the other Party to provide specific confidential information normally collected in connection with the exportation and/or importation of goods.

3. A Party's request under paragraph 2 of this Article shall be in writing, specifying the purpose for which the information is sought and shall be accompanied by sufficient information to identify the concerned goods.

4. The requested Party under paragraph 2 of this Article shall provide a written response containing the requested information.

5. The central customs authority of the requested Party shall endeavour to provide any other information to the central customs authority of the requesting Party that would assist such central customs authority in determining whether imports from or exports to the requesting Party are in compliance with such Party's respective laws and regulations.

6. The central customs authorities of the Parties shall endeavour to establish and maintain channels of communication for customs cooperation, including establishing contact points that will facilitate the rapid and secure exchange of information, and improve coordination on customs issues.

ARTICLE 5.7

Information Exchange

1. In order to facilitate the performance of customs operations, to expedite the release of goods and to prevent violations of customs laws and regulations, the central customs authorities of the Parties shall create and implement electronic information exchange on a regular basis between them (hereinafter referred to as "electronic information exchange") within five years from the date of entry into force of this Agreement.

2. On behalf of the Eurasian Economic Union, the Eurasian Economic Commission shall coordinate the creation and facilitate the operation of the electronic information exchange.

3. For the purposes of this Article, "information" means relevant and authentic data from customs declarations and transport documents.

4. Within one year from the date of entry into force of this Agreement, the central customs authorities of the Member States of the Eurasian Economic Union with the assistance of the Eurasian Economic Commission and the central customs authority of Viet Nam shall enter into consultations in order to develop electronic information exchange in accordance with paragraph 6 of this Article.

5. All requirements and specifications for the operation of electronic information exchange as well as specific contents of information to be exchanged shall be set out in separate protocols between the central customs authorities of the Parties. Such information shall be sufficient for identification of transported goods and performance of efficient customs control.

6. The implementation of electronic information exchange shall be divided into the following stages:

   a) not later than two years from the date of entry into force of this Agreement the authorities involved shall establish trial electronic information exchange between individual customs authorities of the

Parties which are responsible for the customs clearance of particular goods traded between the Parties. Such individual customs authorities and such particular goods shall be determined by the central customs authorities of the Parties in a protocol stipulated in paragraph 5 of this Article;

b) not later than three years from the date of entry into force of this Agreement electronic information exchange shall cover goods for which the trade flow between the Parties will have increased more than 20 percent from the date of entry into force of this Agreement; and

c) not later than five years from the date of entry into force of this Agreement central customs authorities of the Parties shall provide the application of electronic information exchange, covering all goods traded between the Parties, for all customs authorities concerned.

7. Any information exchanged in accordance with the provisions of this Article shall be treated as confidential and shall be used for customs purposes only.

8. The operation of electronic information exchange shall not hinder the application or establishment of any information exchange based on international obligations of the Parties.

ARTICLE 5.8

Publication

1. The competent authorities of each Party shall publish, on the internet or through any other appropriate media, the customs laws and regulations of such Party.

2. The competent authorities of each Party shall designate or maintain one or more enquiry points to process enquiries from interested persons concerning customs issues, and shall publish on the internet information concerning such enquiry points.

3. The competent authorities of a Party shall inform the competent authorities of the other Party of the contact information of the designated enquiry points.

4. To the extent possible, each Party shall publish in advance its laws and regulations of general application governing customs issues that it proposes to adopt and shall provide interested persons with an opportunity to comment before adopting such laws and regulations.

ARTICLE 5.9

Advance Rulings

1. Customs authorities of the Parties shall provide any applicant registered in the importing Party in writing with advance rulings in respect of tariff classification, origin of goods and any additional matter which a Party considers appropriate. The Parties shall endeavour to adopt or maintain the issuance of advance rulings in respect of the application of the method to be used for determining the customs value.

2. Each Party shall adopt or maintain procedures for advance rulings, which shall:

   a) provide that the applicant may apply for an advance ruling before the importation of goods;

   b) require that the applicant for an advance ruling provide a detailed description of the goods and all relevant information needed to process an advance ruling;

   c) provide that its customs authority may, within 30 days from the date of application, request that the applicant provide additional information within a specified period of time;

   d) provide that any advance ruling be based on the facts and circumstances presented by the applicant and any other relevant information available to its customs authority; and

e) provide that an advance ruling be issued to the applicant expeditiously, or in any case within 90 days from the date of the application or 60 days from the date of receipt of all necessary additional information.

3. A customs authority of a Party may reject requests for an advance ruling where the additional information requested by it in accordance with subparagraph c) of paragraph 2 of this Article is not provided within the specified period of time.

4. An advance ruling is valid for at least three years from the date of issuance, or such other period of time exceeding the specified period as required by the customs laws and regulations of the Parties.

5. A customs authority of a Party may modify or revoke an advance ruling:

a) upon a determination that the advance ruling was based on false or inaccurate information;

b) if there is a change in the customs laws and regulations consistent with this Agreement; or

c) if there is a change in material facts or circumstances on which the advance ruling is based.

6. Subject to confidentiality requirements, the customs authorities of the Parties shall publish advance rulings.

ARTICLE 5.10

Customs Valuation

The customs value of goods traded between the Parties shall be determined in accordance with the customs laws and regulations of the importing Party based on the provisions of Article VII of GATT 1994 and the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994. in Annex 1A to the WTO Agreement.

ARTICLE 5.11

Tariff Classification

The Parties shall apply nomenclatures of goods based on the current edition of the Harmonized System to goods traded between them.

ARTICLE 5.12

Transit of Goods

The Parties may mutually recognise identification tools and documents applied by the Parties required for the control of goods and vessels as well as other means of transport in transit.

ARTICLE 5.13

Express Consignments

1. Customs authorities of the Parties shall provide expedited customs clearance for express consignments while maintaining appropriate customs control.

2. Express consignments shall be placed under the customs procedure in an expedited manner in accordance with the customs laws and regulations of the respective Party.

ARTICLE 5.14

Temporary Admission of Goods

In accordance with international standards, customs authorities of the Parties shall endeavour to facilitate the performance of customs operations for the customs procedure of temporary admission of goods.

ARTICLE 5.15

Inward Processing and Outward Processing

In accordance with international standards, customs authorities of the Parties shall endeavour to facilitate the performance of customs operations for temporary importation and exportation of goods for inward processing or outward processing.

ARTICLE 5.16

Confidentiality

All information provided in accordance with this Chapter, excluding statistics, shall be treated by the Parties as confidential in accordance with the respective laws and regulations of the Parties. It shall not be disclosed by the authorities of the Parties without the permission of the person or authority of the Party providing such information.

ARTICLE 5.17

Customs Agents (Representatives)

The customs laws and regulations of each Party shall enable declarants to submit their customs declarations without requiring mandatory recourse to the services of customs agents (representatives).

ARTICLE 5.18

Automation

1. The customs authorities of the Parties shall ensure that customs operations may be performed with the use of information systems and information technologies. including those based on electronic means of communication.

2. The central customs authorities of the Parties shall provide declarants with an opportunity to declare goods in electronic form.

ARTICLE 5.19

Review and Appeal

Each Party shall ensure the possibility of administrative review of customs decisions affecting rights of interested persons and judicial appeal against such decisions in accordance with the laws and regulations of the respective Party.

ARTICLE 5.20

Penalties

Each Party shall adopt or maintain measures that allow for the imposition of administrative penalties for violations of its customs laws and regulations during importation and exportation, including provisions on tariff classification, customs valuation, determination of country of origin and obtaining preferential tariff treatment under this Agreement.

CHAPTER 6

TECHNICAL BARRIERS TO TRADE

ARTICLE 6.1

Objectives

The objectives of this Chapter are to facilitate trade in goods between the Parties by:

a) promoting cooperation on the preparation, adoption and application of standards, technical regulations and conformity assessment procedures in order to eliminate unnecessary technical barriers to trade, reduce, where possible, unnecessary costs to exporters;

b) promoting mutual understanding of each Party's standards, technical regulations and conformity assessment procedures;

c) strengthening information exchange between the Parties in relation to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures;

d) strengthening cooperation between the Parties in the work of international bodies related to standardisation and conformity assessment;

e) providing a framework to realise these objectives; and

f) promoting cooperation on issues relating to technical barriers to trade.

ARTICLE 6.2

Scope

1. This Chapter shall apply to all standards, technical regulations and conformity assessment procedures of the Parties that may directly or indirectly affect the trade in goods between the Parties except:

   a) purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies; and

   b) sanitary or phytosanitary measures as defined in Chapter 7 (Sanitary and Phytosanitary Measures) of this Agreement.

2. In accordance with this Chapter and the TBT Agreement each Party has the right to prepare, adopt and apply standards, technical regulations and conformity assessment procedures.

ARTICLE 6.3

Definitions

For the purposes of this Chapter, the definitions set out in Annex 1 to the TBT Agreement shall apply, *mutatis mutandis*.

ARTICLE 6.4

Incorporation of the TBT Agreement

Except as otherwise provided for in this Chapter, the TBT Agreement shall apply between the Parties and is incorporated into and form part of this Agreement, *mutatis mutandis*.

ARTICLE 6.5

Transparency

1. The Parties acknowledge the importance of transparency with regard to the

preparation, adoption and application of standards, technical regulations and conformity assessment procedures.

2. Each Party should provide the period for comments of at least 60 days following the publication of a notice of the kind envisaged in Articles 2.9 and/or 5.6 of the TBT Agreement, except for situations where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for the Parties.

3. Each Party should allow at least 180 days from the adoption of a technical regulation and/or conformity assessment procedure and their/its entry into force, except for situations where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for the Parties.

4. The Parties shall, to the fullest extent possible, endeavour to exchange information in the English language.

ARTICLE 6.6

Marking and Labelling

The Parties note that in accordance with paragraph 1 of Annex 1 to the TBT Agreement, a technical regulation may include or deal exclusively with marking or labelling requirements, and agree that where such technical regulation contains mandatory marking or labelling requirements, they will act in accordance with the principles of Article 2.2 of the TBT Agreement that technical regulations should not be prepared, adopted and applied with a view to, or with the effect of, creating unnecessary obstacles to international trade, and should not be more trade restrictive than necessary to fulfil a legitimate objective.

ARTICLE 6.7

Consultations

1. Where the day to day application of standards, technical regulations and conformity assessment procedures is affecting trade between the Parties, a Party may request consultations aimed at resolving the matter. A request for consultations shall be directed to the other Party's contact point established in accordance with Article 6.9 of this Agreement.

2. Each Party shall make every effort to give prompt and positive consideration to any request from the other Party for consultations on issues relating to the implementation of this Chapter.

3. Where a matter covered under this Chapter cannot be clarified or resolved as a result of consultations, the Parties may establish an *ad hoc* working group with a view to identifying a workable and practical solution that would facilitate trade. The working group shall comprise representatives of the Parties.

4. Where a Party declines a request from the other Party to establish a working group, it shall, upon request, explain the reasons for its decision.

ARTICLE 6.8

Cooperation

1. For the purposes of ensuring that standards, technical regulations and conformity assessment procedures do not create unnecessary obstacles to trade in goods between the Parties, the Parties shall, where possible, cooperate in the field of standards, technical regulations and conformity assessment procedures.

2. The cooperation pursuant to paragraph 1 of this Article may include the following:

   a) holding joint seminars in order to enhance mutual understanding of standards, technical regulations and conformity assessment procedures in each Party;

(Xem tiếp Công báo số 889 + 890)

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