Free Trade Agreement Between The European Union And The Socialist Republic of Vietnam

September 2018

ASIA BRIEFING

DEZAN SHIRA & ASSOCIATES
Your Partner for Growth in Asia

Table of Contents

The European Union, hereinafter referred to as "the Union", and

the Socialist Republic of Vietnam, hereinafter referred to as "Vietnam",

RECOGNISING their longstanding and strong partnership based on the common principles and values reflected in the Partnership and Cooperation Agreement, and their important economic, trade and investment relationship;

DESIRING to further strengthen their relationship as part of and in a manner coherent with their overall relations, and convinced that this Agreement will create a new climate for the development of trade and investment between the Parties;

RECOGNISING that this Agreement will complement and promote regional economic integration efforts;

DETERMINED to strengthen their economic, trade, and investment relations in accordance with the objective of sustainable development, in its economic, social, and environmental dimensions, and to promote trade and investment under this Agreement in a manner mindful of high levels of environmental and labor protection and relevant internationally recognized standards and agreements;

DESIRING to raise living standards, promote economic growth and stability, create new employment opportunities, and improve the general welfare and, to this end, reaffirming their commitment to promoting trade and investment liberalization;

CONVINCED that this Agreement will create an expanded and secure market for goods and services and a stable and predictable environment for investment, thus providing an opportunity to enhancing the competitiveness of their firms in global markets;

REAFFIRMING their commitment to the Charter of the United Nations signed in San Francisco on 26 June 1945 and having regard to the principles articulated in The Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948;

RECOGNISING the importance of transparency in international trade to the benefit of all stakeholders;

SEEKING to establish clear and mutually advantageous rules governing their trade and investment and to reduce or eliminate the barriers to mutual trade and investment;

RESOLVED to contribute to the harmonious development and expansion of international trade by removing obstacles to trade through this Agreement and to avoid creating new barriers to trade or investment between the Parties that could reduce the benefits of this Agreement;

BUILDING on their respective rights and obligations under the World Trade Organization Agreement and other multilateral, regional and bilateral agreements, and arrangements to which they are party,

DESIRING to promote the competitiveness of their companies by providing them with a predictable legal framework for their trade and investment relations;

HAVE AGREED as follows:

Chapter One

Objectives and General Definitions

Article 1.1

Establishment of a Free Trade Area

The Parties to this Agreement hereby establish a free trade area, consistent with Article XXIV of the GATT 1994 and Article V of the GATS.

Article 1.2

Objectives

The objectives of this Agreement are to liberalize and facilitate trade and investment between the Parties in accordance with the provisions of this Agreement.

Article 1.3

Definitions of General Application

For purposes of this Agreement, unless otherwise specified:

“Agreement on Agriculture” means the Agreement on Agriculture contained in Annex 1A of the WTO Agreement;

“Agreement on Government Procurement” means the Agreement of Government Procurement contained in Annex 4 of the WTO Agreement;

“Agreement on Pre-shipment Inspection” means the Agreement on Pre-shipment Inspection contained in Annex 1A of the WTO Agreement;

“Anti-Dumping Agreement” means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 contained in Annex 1A of the WTO Agreement;

“Customs Valuation Agreement” means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 contained in Annex 1A of the WTO Agreement;

“day” means a calendar day;

“DSU” means the Understanding on Rules and Procedures Governing the Settlement of Disputes contained in Annex 2 of the WTO Agreement;

“GATS” means the General Agreement on Trade in Services contained in Annex 1B of the WTO Agreement;

“GATT 1994” means the General Agreement on Tariffs and Trade 1994 contained in Annex 1A of the WTO Agreement;

“Harmonized System” means the Harmonized Commodity Description and Coding System, including all legal notes and amendments thereto (hereinafter referred to as the ‘HS’);

“IMF” means the International Monetary Fund;

“Import Licensing Agreement” means the Agreement on Import Licensing Procedures contained in Annex 1A of the WTO Agreement;

“measure” means any law, regulation, rule, procedure, decision, administrative action, practice, or any other form;

“natural person of a Party” means a national of Vietnam, or of one of the Member States of the Union, according to their respective legislation;

“Partnership and Cooperation Agreement” means the Partnership and Cooperation

Agreement between the European Union and its Member States, of the one part, and the

Socialist Republic of Vietnam, of the other part, signed on […];

“person” means a natural person or a juridical person;

“Safeguards Agreement” means the Agreement on Safeguards contained in Annex 1A of the WTO Agreement;

“SCM Agreement” means the Agreement on Subsidies and Countervailing Measures contained in Annex 1A of the WTO Agreement;

“SPS Agreement” means the Agreement on the Application of Sanitary and Phytosanitary Measures contained in Annex 1A of the WTO Agreement;

“TBT Agreement" means the Agreement on Technical Barriers to Trade contained in Annex 1A of the WTO Agreement;

“TRIPS Agreement” means the Agreement on Trade-Related Aspects of Intellectual Property Rights contained in Annex 1C of the WTO Agreement;

“WIPO” means the World Intellectual Property Organization;

"WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization done at Marrakesh on 15 April 1994;

"WTO" means the World Trade Organization.

Chapter Two

National Treatment and Market Access for Goods

Article 1

Objective

The Parties shall progressively and mutually liberalize trade in goods over a transitional period starting from the entry into force of this Agreement in accordance with the provisions of this Agreement and in conformity with Article XXIV of the GATT 1994.

Article 2

Scope and coverage

Except as otherwise provided[1], this Chapter shall apply to trade in goods between the Parties.

Article 3:

Definitions

For the purposes of this Chapter:

Customs duty includes any duty or charge of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge imposed on or in connection with such importation or exportation. A "customs duty" does not include any:

(a) charge equivalent to an internal tax imposed consistently with Article

[National Treatment] of this Chapter;

(b) duty imposed consistently with Chapter [Trade Remedies];

(c) duties applied consistently with the [2]Article VI, XVI and XIX of the GATT 1994, the WTO Agreement on Implementation of Article VI of the GATT 1994, the WTO Agreement on Subsidies and Countervailing Measures, the WTO Agreement on Safeguards, Article 5 of the WTO Agreement on Agriculture and the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the "DSU")

(d) fee or other charge imposed consistently with Article 10 of this Chapter.

Agricultural goods mean those goods referred to in Article 2 of the WTO Agreement on Agriculture;

Agricultural export subsidies shall have the meaning assigned to that term in Article 1(e) of the Agriculture Agreement, including any amendment of that Article;

Import/export licensing procedures means administrative procedures[2] used for the operation of import/export licensing regimes requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation/exportation to/from the customs territory of the importing/exporting Party;

Performance requirement means a requirement that:

(a) a given level or percentage of goods be exported;

(b) goods of the Party granting an import license be substituted for imported goods;

(c) a person benefiting from an import license purchase other goods in the territory of the Party granting the import license, or accord a preference to domestically produced goods;

[1] Check whether legally required

[2] Those procedures referred to as "licensing' as well as other similar administrative procedures.

(d) a person benefiting from an import license produce goods in the territory of the Party granting the import license, with a given level or percentage of domestic content; or,

(e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows.

A **remanufactured good** means a good in HS chapters 84, 85, 87, 90 and 9402, except Annex [Z] that:

a) is entirely or partially comprised of parts obtained from goods that have been used beforehand; and,

b) has similar performance and working conditions as well as life expectancy compared to the original new good and is given the same warranty as the new good.

Consular transactions means the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a third party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shippers' export declaration or any other customs documentation in connection with the importation of the good.

Article 4

Classification of goods

The classification of goods in trade between the Parties shall be that set out in each Party's respective tariff nomenclature in conformity with the Harmonized Commodity Description and Coding System 2012 ("HS 2012") and its amendments.

Article 5

Remanufactured goods

The Parties shall accord to remanufactured goods the same treatment as that provided to new like goods. A Party may require specific labelling of remanufactured goods in order to prevent deception of consumers. The application of this Article is subject to a transitional period of no longer than three years from the entry into force of this Agreement.

Article 6

Customs valuation

The Parties shall apply the provisions of Article VII of GATT 1994 and the WTO Agreement on the Implementation of Article VII of GATT 1994 for the purposes of determining the customs value of goods traded between the Parties.

Article 7

Reduction and/or elimination of customs

Duties on Imports

1. Except as otherwise provided in this Agreement, each Party shall reduce and/or eliminate its customs duties on goods originating in the other Party in accordance with the Schedules set out in Annexes [on Tariff liberalization] (hereinafter referred to as "Schedules"). For the purposes of this Chapter, "originating" means qualifying under the rules of origin set out in Annex [on Rules of Origin].

2. For each good, the base rate of customs duties, to which the successive reductions are to be applied under paragraph 1, shall be that specified in the Schedules. The tariff elimination established under the Schedule of Vietnam shall not apply to used motor-vehicles under HS codes 8702, 8703 and 8704.

3. If at any moment a Party reduces its applied most favored nation customs duty rates, the originating good shall be eligible for that duty rate if and for as long as it is lower than the rate of customs duty applied in accordance with that Party's Schedule.

4. Except as otherwise provided in this Agreement, neither Party may increase any existing customs duty as specified in that

Party's Schedule [3], or adopt any new customs duty, on a good originating in the other Party.

5. A Party may at any time accelerate unilaterally the reduction and/or elimination of customs duties on originating goods of the other Party set out in its Schedule in Annex [X]. A Party considering this shall inform the other Party as early as practicable before the new rate of customs duty takes effect. This shall not preclude either Party from raising a customs duty to the level established in its Schedule following a unilateral reduction.

6. On the request of either Party, the Parties shall consult to consider accelerating and broadening the scope of the reduction and/or elimination of customs duties set out in their Schedules in Annex [X]. An agreement by the Parties on such acceleration and/or broadening shall supersede any duty rate or staging category determined pursuant to their Schedules for such good. Such an agreement shall come into effect after each Party completes its domestic legal procedures.

Article 8

Repaired goods

1. For the purposes of this Article, repair means any processing operation undertaken on goods to remedy operating defects or material damage and entailing the re-establishment of goods to their original function or to ensure their compliance with technical requirements for their use, without which the goods could no longer be used in the normal way for the purposes for which it was intended. Repair of goods include restoring and maintenance.

It shall not include an operation or process that either:

(a) destroys the essential characteristics of goods or creates a new or commercially different goods; or

(b) transforms unfinished goods into finished goods;

(c) is used to improve or upgrade the technical performance of goods.

2. A Party shall not apply customs duty to goods, regardless of their origin, that re-enter its territory after those goods have been temporarily exported from its territory to the territory of the other Party for repair, regardless of whether such repair could be performed in the territory of the Party from which the goods were temporarily exported for repair.

3. Paragraph 2 does not apply to goods imported in bond, into free trade zones, or in similar status, that are exported for repair and are not re-imported in bond, into free trade zones, or in similar status.

4. A Party shall not apply customs duty to goods, regardless of their origin,

imported temporarily from the territory of the other Party for repair.

Article 9

Export duties, taxes, or other charges

1. No duties, taxes, or other charges of any kind imposed on, or in connection with, the exportation of goods to the territory of the other Party that are in excess of those imposed on like goods destined for the domestic market, shall be maintained or introduced, other than in accordance with the Schedule in Annex [XX].

2. If at any moment a Party applies a lower duty, tax, or charge rate on, or in connection with, the exportation of goods and for as long as it is lower than the rate calculated in accordance with the Schedule in Annex [XX], this lower rate shall apply. This paragraph shall not apply to more favorable treatment to any other third party pursuant

[3] EU: subject to the format of the final Schedules

to a preferential trade agreement, including free trade agreement.

3. At the request of either Party, the Trade Committee shall review any duties, taxes, or other charges of any kind imposed on, or in connection with, the exportation of goods to the territory of the other Party, when a Party has granted more favorable treatment to any other third party pursuant to a preferential trade agreement.

Article 10

Agricultural export subsidies

1. The Parties share the objective of the parallel elimination and prevention of the reintroduction in the multilateral context of all forms of export subsidies and disciplines on all export measures with equivalent effect for agricultural goods and shall work together towards an agreement in the WTO to reach that objective.

2. As from the entry into force of this agreement, no Party shall introduce or maintain any export subsidies or other measures with equivalent effect on any agricultural good destined for the territory of the other Party[4].

Article11

Administration of trade regulations

In accordance with Article X of GATT 1994, each Party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, judicial decisions, and administrative rulings pertaining to:

(a) the classification or the valuation of goods for customs purposes;

(b) rates of duty, taxes, or other charges;

(c) requirements, restrictions or prohibitions on imports or exports;

(d) the transfer of payments; and

(e) issues affecting sale, distribution, transportation, insurance,

warehousing inspection, exhibition, processing, mixing or other use of goods

for customs purposes.

Article12

National treatment

Each Party shall accord national treatment to the goods of the other Party in

accordance with Article III of the GATT 1994, including its interpretative Notes

and Supplementary Provisions. To this end, the obligations contained in Article III

of the GATT 1994, including its interpretative Notes and Supplementary

Provisions, are incorporated into and made part of this Agreement, mutatis mutandis.

Article13

Import and export restrictions

1. Except as otherwise provided in this Agreement, neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, in accordance with Article XI of the GATT 1994, including its Notes and Supplementary Provisions. To this end, Article XI of the GATT 1994, The paragraph 2 shall only apply to products liberalized by the importing Party, its Notes and Supplementary Provisions are incorporated into and made a part of this Agreement.

2. The Parties understand that the rights and obligations in paragraph 1 prohibit, in any circumstances in which any other form of restriction is prohibited, a Party from adopting or maintaining:

[4] The paragraph 2 shall only apply to products liberalized by the importing Party

(a) import licensing conditioned on the fulfilment of a performance requirement; or

(b) voluntary export restraints.

3. Paragraphs 1 and 2 shall not apply to the goods listed in Annex Y of this Chapter. Any future amendment of Viet Nam's laws and regulations that reduce the scope of the goods listed in this Annex shall automatically be part of this Agreement. Any preference accorded by Viet Nam regarding the coverage of the goods listed in Annex Y to any other trading partner shall automatically be part of this Agreement.

4. In accordance with the WTO Agreement, a Party may implement any measure authorized by the Dispute Settlement Body of the WTO against the other Party.

5. Each Party shall ensure the transparency of any import and export restrictions not prohibited in paragraph 1.

Article14

Trading rights and related rights

1. Vietnam shall adopt and maintain in force appropriate legal instruments allowing foreign pharmaceutical companies to establish foreign invested enterprises in order to perform importation of pharmaceuticals, which duly got the marketing authorization from Vietnam's authority.

   Without prejudice to Vietnam's Schedule of Specific Commitments in services contained in Annex […] under Chapter […], such foreign invested enterprises are allowed to sell pharmaceuticals legally imported by them to distributors or wholesalers that have the right to distribute pharmaceuticals in Vietnam.

2. Foreign invested enterprises referred to in para 1 who are allowed to import pharmaceuticals shall be allowed to:

(i) build their own warehouses to store pharmaceuticals legally imported by them into Vietnam;

(ii) provide information related to pharmaceuticals legally imported by them to Health Care Practitioners in accordance with the regulations issued by the Ministry of Health; and,

(iii) do the clinical study and testing pursuant to Article [2 of the Annex Pharmaceutical Products and Medical Devices] and in accordance with the regulations issued by the Ministry of Health to ensure the pharmaceuticals legally imported by them are suitable for Vietnamese people.

Article15

Import and export licensing procedures

A. Import licensing procedures

1. The Parties affirm their existing rights and obligations under the WTO Agreement on Import Licensing Procedures.

2. Each Party shall notify the other Party of its existing import licensing procedures, including the legal basis and the relevant official internet site, within 30 days after the entry into force of this Agreement unless these were already notified or provided under Article 5 or Article 7.3 of the WTO Import Licensing Agreement.

The notification shall contain the same information as referred to in Article 5 or Article 7.3 of the WTO Import Licensing Agreement.

3. Each Party shall notify the other Party of any introduction or modification of any import licensing procedure which it intends to adopt normally no later than 45 days before the new procedure or modification takes effect. In no case shall a Party provide such notification later than 60 days following the date of its publication unless these were already notified in accordance with Article 5 of the WTO Import Licensing Agreement. The notification shall contain the same information as referred to in Article 5 of the WTO Import Licensing Agreement.

4. Each Party shall publish on an official internet site any information that it is required to publish under Article 1.4(a) of the WTO Import Licensing Agreement.

5. Upon request of a Party, the other Party shall respond within 60 days to a reasonable enquiry regarding any import licensing procedure which it intends to adopt or has adopted or maintained, as well as the criteria for granting and/or the allocation of import licenses including the eligibility of persons, firms, and institutions to make such an application, the administrative body(ies) to be approached, and the list of products subject to the import licensing requirement. I did

6. The Parties shall introduce and administer any import licensing procedures in accordance with:

(a) Paragraphs 1 through 9 of Article 1 of the WTO Import Licensing Agreement;

(b)Article 2 of the WTO Import Licensing Agreement;

(c) Article 3 of the WTO Import Licensing Agreement.

To this end, the provisions referred to in subparagraphs (a), (b) and (c) of this paragraph are incorporated into and made part of this Agreement and shall apply between the Parties.

7. The Parties shall only adopt or maintain automatic import licensing procedures as a condition for importation into its territory in order to fulfil legitimate objectives after having conducted an appropriate impact assessment.

8. The Parties shall grant import licences for an appropriate length of time which shall not be shorter than foreseen in the domestic legislation stipulating the obligation of import licences and which shall not preclude imports.

9. Where a Party has denied an import licence application with respect to a good of the other Party, it shall, upon request of the applicant and promptly after receiving the request, provide the applicant with a written explanation of the reason(s) for the denial. The applicant shall have the right of appeal or review in accordance with the domestic legislation or procedures of the importing Member.

10. The Parties shall only adopt or maintain nonautomatic import licensing procedures[5] in order to implement a measure that is not inconsistent with this Agreement, including with Article 19 [General Exceptions] of this Chapter. A Party adopting nonautomatic import licensing procedures shall indicate clearly the purpose being implemented through such licensing procedure.

B. Export licensing procedures

1. Each Party shall notify the other Party of its existing export licensing procedures, including the legal basis and the relevant official internet site, within 30 days after the entry into force of this Agreement.

2. Each Party shall notify the other Party of any introduction or modification of an export licensing procedure which it intends to adopt normally no later than 45 days before the new procedure or modification takes effect. In no case shall a Party provide such notification later than 60 days following the date of its publication.

import licensing procedures where approval of the application is not granted for all legal and natural persons who fulfil the requirements of the Party concerned for engaging in import operations involving the products subject to import licensing procedures

3. The notification referred to under paragraphs 1 and 2 shall contain the following information:

a. the texts of its export licensing procedures, including any modifications;

[5] For the purpose of this Article, "non-automatic import licensing procedures" is defined as import licensing procedures where approval of the application is not granted for all legal and natural persons who fulfil the requirements of the Party concerned for engaging in import operations involving the products subject to import licensing procedures.

b. the products subject to each licensing procedure;
c. for each procedure, a description of:
    i. the process for applying for a licence;
    ii. criteria which an applicant must meet to be eligible to seek a licence.
d. a contact point or points from which interested persons can obtain further information on the conditions for obtaining an export licence;
e. the administrative body(ies) to which an application or other relevant documentation must be submitted;
f. the period during which each export licensing procedure will be in effect;
g. if the Party intends to use a licensing procedure to administer an export quota, the overall quantity and, where practicable, value of the quota and the opening and closing dates of the quota; and,
h. any exceptions or derogations available to the public from a licensing requirement, how to request these exceptions or derogations, and the criteria for granting them.

4. Each Party shall publish any applicable export licensing procedures including the legal basis and a reference to the relevant official internet site. Each Party shall also publish any new export licensing procedures or any modification

to its export licensing procedure, as soon as possible but in any case no later than 45 days after its adoption and at least 25 working days before its entry into force.

5. Upon request of a Party, the other Party shall respond within 60 days to a reasonable enquiry regarding any export licensing procedures which it intends to adopt or has adopted or maintained as well as the criteria for granting and/or the allocation of export licenses including the eligibility of persons, firms, and institutions to make such an application, the administrative body to be approached, and the list of products subject to the export licensing requirement.

6. The Parties shall introduce and administer any export licensing procedures in accordance with:

(a) Paragraphs 1 through 9 of Article 1 of the WTO Import Licensing Agreement;

(b)Article 2 of the WTO Import Licensing Agreement;

(c) Article 3 of the WTO Import Licensing Agreement with the exception of its paragraph 5(a), (c), (j), (k).

To this end, the provisions referred to in subparagraphs (a), (b) and (c) of this paragraph are incorporated into and made part of this Agreement and shall apply, mutatis mutandis, between the Parties.

7. The Parties shall ensure that all export licensing procedures are neutral in application and administered in a fair, equitable, non-discriminatory and transparent manner.

8. The Parties shall grant export licences for an appropriate length of time which shall not be shorter than foreseen in the domestic legislation stipulating the obligation of export licences and which shall not preclude exports.

9. Where a Party has denied an export licence application with respect to a good of the other Party, it shall, upon request of the applicant and promptly after receiving the request, provide the applicant with a written explanation of the reason(s) for the denial. The applicant shall have the right of appeal or review in accordance with the domestic legislation or procedures of the exporting Member.

10. The Parties shall only adopt or maintain automatic export licensing procedures as a condition for exportation from its territory in order to fulfil legitimate objectives after having conducted an appropriate impact assessment.

11. The Parties shall only adopt or maintain nonautomatic export licensing procedures[6] in order to implement a measure that is not inconsistent with this Agreement, including with Article 20 [General Exception] of this Chapter.

A Party adopting nonautomatic export licensing procedures shall indicate clearly the purpose being implemented through such licensing procedure.

Article16:

Administrative fees and other charges on imports and exports and formalities

1.The Parties agree that fees, charges, formalities and requirements (other than import and export customs duties and measures listed in Article 3 a), b) and c)), which shall not be levied on an ad valorem basis imposed in connection with the importation and exportation of goods shall be consistent with their obligations under Article VIII of the GATT 1994 including its Notes and Supplementary Provisions.

2. Each Party shall make available fees and charges it imposes in connection with importation or exportation through the internet or via any other officially designated medium.

3. Neither Party shall require consular transactions, including related fees and charges, in connection with the importation of or exportation to of goods to the other Party. After three years of entry into force of this Agreement, a Party may not require consular authentication for the importation of goods covered by this Agreement.

Article17

Origin marking

Except as otherwise provided in this Agreement, where Viet Nam applies obligatory country of origin marking requirements to non-agricultural products falling under the scope of this Chapter, Viet Nam shall accept the marking "Made in EU", or a similar marking in the local language, as fulfilling such requirements.

Article18

State trading enterprises

1. The Parties affirm their existing rights and obligations under GATT Article XVII, its Notes and Supplementary Provisions and the WTO Understanding on the Interpretation of Article XVII of the GATT 1994, which are hereby incorporated into and made part of this Agreement.

2. Insofar as one of the Parties requests information of the other Party on individual cases of state trading enterprises and on their operations, including information on their bilateral trade, the requested Party shall ensure transparency in line with the rules set out in GATT Article XVII.4 (d) on confidential information.

Article19

Elimination of sectoral nontariff measures

1.The Parties undertake the commitments on sector specific nontariff measures on goods as set out in Annexes (hereinafter referred to as “Sectoral Annexes”).

2. Except as otherwise provided in this Agreement, 10 years from the entry into force of this Agreement and on the request of either Party, the Parties shall enter into negotiations with the aim of broadening the

[6] For the purpose of this Article, "non-automatic import licensing procedures" is defined as import licensing procedures where approval of the application is not granted for all legal and natural persons who fulfil the requirements of the Party concerned for engaging in import operations involving the products subject to import licensing procedures.

scope of their commitments on sector specific nontariff measures on goods.

Article20

General exceptions

1. Nothing in this Chapter prevents the taking of measures in accordance with Article XX of the GATT 1994, its Notes and Supplementary Provisions, which are hereby incorporated into and made part of this Agreement.

2. The Parties understand that before taking any measures provided for in Articles XX(i) and XX(j) of the GATT 1994, the exporting Party intending to take the measures shall supply the other Party with all relevant information. Upon request, the Parties shall consult with a view to seeking a solution acceptable to the Parties. The Parties may agree on any means needed to put an end to the difficulties.

Where exceptional and critical circumstances requiring immediate action make prior information or examination impossible, the Party intending to take the measures may apply forthwith the precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

Article21

Committee on trade in goods

1. The Parties hereby establish a Committee on Trade in Goods, comprising representatives of each Party.

2. The Committee shall meet once a year or at the request of either Party or of the Trade Committee to consider any matter arising under this Chapter, Chapter [Rules of Origin] or any other Chapter as provided under Chapter [Institutional, General and Final Provisions]

3. The Committee shall meet alternately in the European Union or Viet Nam or at such venues and times as may be agreed by the Parties. Meetings may be held by any means of communication as mutually determined by the Parties.

4. The Committee shall implement the following functions in accordance with Article X.2 [Specialised Committees] of Chapter [Institutional, General and Final Provisions]:

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

(b) identifying and recommending measures to resolve any difference that may arise, and to promote and facilitate improved market access, including any acceleration of tariff commitments under Article 3.4;

(c) recommending the Trade Committee to establish any working groups, as it deems necessary; and,

(d) undertaking any additional work that the Trade Committee may assign.

(e) propose decisions to be adopted by the Trade Committee for amending the list of fragrant rice varieties, included in the Annex 2 [x], Elimination of Customs duties, section B point 13 c).

ANNEX [X]

Reduction And/or Elimination of Customs Duties

See Annex 2 [C]

ANNEX [XX]

Reduction And/or Elimination of Customs Duties

To be discussed

ANNEX [Y]

a) Measures of Viet Nam governing the importation of the following goods:

	Description
	Right-hand steering vehicles (including their components and those modified to left-hand drive ones prior to importation into Viet Nam), except for specialized right-hand steering vehicles operating in small areas such as cranes, trench and canal digging machines, garbage trucks, road sweepers, road construction trucks, airport passenger transportation buses, fork-lifts used at warehouses and ports.
	Used consumer goods, comprising: - Textiles and clothes; footwear; - Electronic goods (including printers, fax machines, laptops of more than 3 years since the date of manufacture, disk drivers); - Refrigerating equipment and products; - Household electric goods; - Medical apparatus; - Furniture; - Household goods made from porcelain, clay, glass, metal, resin, rubber, plastic, and other materials.
	Used vehicles and spare parts, including: - Used motor-vehicles of more than 5 years since the date of manufacture; - Used machines, structures, inner tires, tires, accessories, motors of automobiles, tractors, 2-wheel and 3-weel motorbikes; - Internal combustion engines and machines with internal combustion engines having capacity below 30 CV - Bicycles, 2-wheel and 3-wheel vehicles;
	Asbestos products and materials under amphibole group.
	All types of specialized coding machines and cipher software programs used in the sector of protection of state secrets.

ANNEX [Y]

b) Measures of Viet Nam governing the exportation of the following goods:

Description
Round timber and sawn timber produced from domestic natural forests; wooden products (except handicrafts; those produced from cultivated forest's wood, from imported wood and from artificial pallet).
All types of specialized coding machines and cipher software programs used in the sector of protection of state secrets.

ANNEX [Z]

Goods Excluded from the Definition of the Remanufactured Goods

AHTN 2012	Description AHTN 2012
Chapter 84	
8414.51	Table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125W.
8414.59	Other
84.15	Air conditioning machines, comprising a motor driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated.
84.18 (ex 8418.50,8418.61, 8418.69,8418.91)	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 84.15.
8419.11.10	Household type
8419.19.10	Household type
8421.12.00	Clothes dryers
8421.21.11	Filtering machinery and apparatus for domestic use
8421.91	Of centrifuges, including centrifugal dryers:
8422.11.00	Of the household type
8422.90.10	Of machines of subheading 8422.11
84.43	Printing machinery used for printing by means of plates, cylinders and other printing components of heading 84.42; other printers, copying machines and facsimile machines, whether or not combined; parts and accessories thereof.
84.50 (ex 8450.20)	Household or laundry type washing machines, including machines which both wash and dry.
8451.30.10	Single roller type domestic ironing machines
8452.10.00	Sewing machines of the household type
84.71 (ex 8471.50, 8471.60, 8471.70, 8471.80, 8471.90)	Industrial or laboratory furnaces and ovens, including incinerators, nonelectric.
8508.11.00	Of a power not exceeding 1,500 W and having a dust bag or other receptacle capacity not exceeding 20 l

8508.19.10	Of a kind suitable for domestic use
8508.70.10	Of vacuum cleaners of subheading 8508.11.00 or 8508.19.10
85.09	Electromechanical domestic appliances, with self-contained electric motor, other than vacuum cleaners of heading 85.08.
85.10	Shavers, hair clippers and hair removing appliances, with self-contained electric motor.
85.16	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hair dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 85.45.

85.17 (ex 8517.61, 8517.62, 8517.70)	Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 84.43, 85.25, 85.27 or 85.28.
85.18 (ex 8518.10, 8518.29)	Microphones and stands therefor; loudspeakers, whether or not mounted in their enclosures; headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers; audio-frequency electric amplifiers; electric sound amplifier sets.
85.19 (ex 8519.20, 8519.50, 8519.89)	Sound recording or reproducing apparatus.
85.21	Video recording or reproducing apparatus, whether or not incorporating a video tuner.
85.22	Parts and accessories suitable for use solely or principally with the apparatus of heading 85.19 or 85.21.
85.25	Transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders.
8525.80	Television cameras, digital cameras and video camera recorders:
85.27	Reception apparatus for radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock.
8528.72	Other, colour:
8528.73.00	Other, monochrome
85.29	Parts suitable for use solely or principally with the apparatus of headings 85.25 to 85.28.
85.39 (ex 8539.10, 8539.21, 8539.41)	Electric filament or discharge lamps, including sealed beam lamp units and ultra-violet or infra-red lamps; arc-lamps.
87.02	Motor Vehicles for the transport of ten or more persons, including the driver.
87.03	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars.
87.04	Motor vehicles for the transport of goods.

ANNEX 2 (a)

Pharmaceutical Products and Medical Devices

Article 1

General Provisions

The Parties confirm their shared objectives and principles of:

(a) eliminating and preventing non-tariff barriers to bilateral trade based on principles of openness, non-discrimination and transparency;

(b) using international standards, practices and guidelines developed within the framework of relevant international organisations as a basis for their technical regulations.

Article 2

International Standards

The Parties will use international standards, practices and guidelines for pharmaceutical products or medical devices, including those developed the World Health Organisation (WHO), the Organisation for Economic Cooperation Development (OECD), the International Conference on Harmonization (ICH) [7] and the Pharmaceutical Inspection Convention and Pharmaceutical Inspection Co-operation Scheme (PIC/S) for pharmaceutical products and the International Medical Device Regulators Forum (IMDRF) for medical devices as a basis for their technical regulations, except in those cases, duly substantiated on the basis of scientific and technical information, when such international standards, practices or guidelines would be ineffective or inappropriate for the fulfilment of the legitimate objectives pursued.[8]

Article 3

Transparency

1. Each Party shall ensure that its laws, regulations, procedures, administrative rulings and implementing guidelines of general application (hereinafter referred to as "rules") regarding any matter related to the pricing, reimbursement or regulation of pharmaceutical products or medical devices are promptly published or otherwise made available at an early appropriate stage, in such a manner as to enable interested parties to become acquainted with them.

2. In accordance with domestic law, each Party shall, to the extent possible:

(a) make publicly available in advance any such rules that it proposes to adopt or significantly amend;

(b) provide reasonable opportunities for interested persons to make comments on any such proposed rules, allowing, in particular, a reasonable period of time for consultation and;

(c) address in writing, including by means of electronic communication, significant and substantive issues raised in written comments received from interested persons during the comment period.

3. Whenever possible, each Party shall allow a reasonable interval between the publication of any such rules and their entry into force.

4. To the extent that an authority established by a Party to operate or administer its health care programmes introduce or operate procedures for the listing, pricing and / or reimbursement of pharmaceutical products, the Party shall:

(a) ensure that all criteria, methodologies, rules and procedures, including guidelines

[7] With a view to implement this provision Vietnam commits to amending its legislation in order to abolish the requirement of a minimum period of existing authorisation in the territory of the EU, prior to the submission of a request for a marketing approval in Vietnam, and any extra requirements related to clinical studies going beyond those stipulated in international practices (in particular ICH guidelines).

[8] For Vietnam, the standards, practices and guidelines of the ASEAN Consultative Committee on Standards and Quality (ACCSQ) are also a basis for scientific and technical regulations.

and other implementing measures, that apply to the listing, pricing and/or reimbursement of pharmaceutical products, including those used, if any, to determine comparator products, are transparent, fair, reasonable and non-discriminatory, and are disclosed to the legal right holder of a product promptly upon request;

(b) ensure that decisions on all requests and applications for the pricing or approval of pharmaceutical products for reimbursement are adopted and communicated within a reasonable and specified period from the date of their receipt;

(c) provide the legal right holder of a product with timely and meaningful opportunities to provide comments at relevant points in the pricing and reimbursement decision-making processes, without prejudice to the Parties' laws on confidentiality;

(d) in case of a negative decision on listing, pricing and/or reimbursement, provide the legal right holder of a product with a statement of reasons, based upon objective and verifiable criteria, that is sufficiently detailed to understand the basis of the decision, including the criteria applied and, if appropriate, any expert opinions or recommendations on which the decision is based. In addition, this right holder shall be informed of any remedies available to him under the laws in force and of the time limits allowed for applying for such remedies. 3

Article 4

Origin marking

For pharmaceutical products, Viet Nam may apply obligatory country of origin marking requirements at Member State's level. However, Viet Nam is encouraged to consider to accept the marking "Made in EU" or a similar marking in the local language as fulfilling such requirements.

Article 5

Definitions

For the purposes of this Annex:

Pharmaceutical/Medicinal products [9] means any substance or combination of substances which may be administered to human beings with a view to making a medical diagnosis, to treating or preventing diseases or to restoring, correcting or modifying physiological functions or structures. Pharmaceutical products include, for example, chemical drugs, biologics/ biologicals (vaccines, (anti)toxins, blood components, blood derived products), herbal drugs, radiopharmaceuticals, recombinant products. When the following products are regulated as pharmaceutical products by both Parties, gene therapy products, cell therapy products or tissue engineered products will also fall under this Annex.

Medical device [10] means any product fulfilling the definition of medical device and in vitro medical diagnostic medical device as stipulated in Final Document GHTF/SG1/N071:2012 by the International Medical Device Regulators Forum (GHTF/IMDRF).

[9] This definition is without prejudice to the Vietnamese law on pharmacy and EC Directive 2001/83/EC.

[10] For Vietnam, this definition is without prejudice to the Vietnamese legislation on medical devices.

ANNEX 2 (b)

Motor vehicles and Motor Vehicles' Parts

Article 1

General Provisions

1. This Annex shall apply to motor vehicles in UNECE vehicle regulations' category M1 as well as parts and equipment regulated in UNECE regulations applying to UNECE vehicle category M1, originating in the Parties and falling in particular under HS Chapters 40, 84, 85, 87 and 94 of HS 2012. Where an UNECE Regulation applicable to M1 vehicles also regulates parts and equipment of UNECE vehicle regulations' categories M2 and N3, these parts and equipment originating in the Parties shall also be covered by this Annex. All these products are hereinafter referred to as “products covered by this Annex”. Motor vehicles, parts and equipment are to be understood as defined under the UNECE 1958 Agreement and its Regulations. For the purposes of this Annex, "originating" means qualifying under the rules of origin set out in [Chapter on Rules of Origin].

2. With regard to the products covered by this Annex, the Parties confirm the following shared objectives and principles:

(a) eliminating and preventing non-tariff barriers to bilateral trade;

(b) promoting compatibility and convergence of regulations based on international standards;

(c) promoting recognition of approvals based in particular on approval schemes applied under the UNECE 1958 Agreement ”Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions” administered by the World Forum for Harmonization of Vehicle Regulations (hereinafter referred to as the "WP.29") within the framework of the United Nations Economic Commission for Europe (hereinafter referred to as “UNECE”); 2

(d) establishing competitive market conditions based on principles of openness, non-discrimination and transparency;

(e) securing the protection of human health, safety and the environment; and

(f) enhancing cooperation to foster continued mutually beneficial development in trade.

Article 2

International Standards

1. The Parties recognize that the UNECE Regulations of WP.29 are the relevant international standards for the products covered by this Annex.

2. Vietnam is encouraged to become a signatory of the Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions (UNECE 1958 Agreement).

3. The Parties shall recognize technical requirements of UNECE Regulations as providing a sufficient level of protection for ensuring road safety or the protection of the environment or public health in the area regulated by such UNECE Regulation. The Parties shall not stipulate any further technical requirements in the area regulated by such UNECE Regulation.

Article 3

Regulatory Convergence

(a) The Parties shall at any time refrain from introducing any new domestic technical regulation, markings and conformity assessment procedures diverging from technical requirements of UNECE

Regulations in areas covered by such Regulations, or where the completion of such Regulations is imminent, unless there are substantiated reasons, based on scientific or technical information, why a specific technical requirement of UNECE Regulation is ineffective or inappropriate for ensuring road safety or the protection of the environment or public health.

(b) A Party which introduces a new domestic technical regulation as referred to in subparagraph (a) shall, upon request from the other Party, identify the parts of the domestic technical regulation, markings and conformity assessment procedures which substantially deviate from the relevant technical requirements, markings and conformity assessment procedures of UNECE Regulations and provide due justification as to the reasons for the deviation.

2. Insofar as a Party has introduced and maintains, in accordance with paragraph 1, domestic technical regulations that diverge from existing technical requirements, markings and conformity assessment procedures of UNECE Regulations, that Party shall review these domestic technical regulations at regular intervals, not exceeding five years, with a view to increasing their convergence to the relevant technical requirements, markings and conformity assessment procedures of UNECE Regulations. When reviewing their domestic technical regulations, the Parties shall consider whether the circumstances that gave rise to the divergence still exist. The outcome of these reviews, including scientific and technical information used, shall be notified to the other Party upon request.

Article 4

Market Access

1.The Parties shall accept on its market as compliant with its domestic technical requirements and conformity assessment procedures, without further testing or marking requirements to verify or attest compliance with requirements in the area regulated by the relevant UNECE Regulations, products covered by this Annex and which are covered by a valid UNECE type-approval certificate.

2.1. In the case of parts and equipment, the product to be imported shall normally be accompanied by the relevant UNECE type approval certificate. The importing Party shall endeavour to consider a valid UNECE type approval marking affixed to a product as sufficient proof of the existence of a valid type approval certificate.

2.2. When Viet Nam is a Contracting Party to the 1958 Agreement, it shall accept, according to the principles and procedures of the above-mentioned Agreement, a valid UNECE type approval marking affixed to a product covered by this Annex as sufficient proof of the existence of a valid type 4 approval certificate where such UNECE marking is prescribed explicitly by the relevant UNECE Regulations to which the EU has acceded.

2.3. When Vietnam is a Contracting Party to the 1958 Agreement, the EU shall accept a valid UNECE type approval issued by a Vietnamese type approval authority according to the rights and obligations under the 1958 Agreement.

3.1. For whole vehicles of UNECE vehicle category M1[11], Vietnam shall accept on its market as compliant with its domestic technical regulations and conformity assessment procedures, without further testing or marking requirements to verify or attest compliance with domestic technical requirements, such new whole vehicles covered by this category for which a valid UNECE International Whole Vehicle Type Approval has been issued by an EU type approval authority according to the principles and procedures of the 1958 Agreement. At the first importation of a vehicle type, the product to be imported shall be accompanied

[11] This includes pick-up vehicles classified in M1.

by the relevant UNECE type approval certificate.

3.2. After 5 years from the date of entry into force of this Agreement, for a following period of 7 years, Vietnam shall accept a valid whole vehicle EC Certificate of Conformity. At the first importation of a vehicle type, the product to be imported shall be accompanied by the relevant EC type approval certificate. Such an EC Certificate of Conformity shall be considered as sufficient proof for the purposes of paragraph 3.1. When such UNECE International Whole Vehicle Type Approval is available for M1 vehicles, Vietnam shall notify the European Union whether it wishes to continue accepting valid whole vehicle EC Certificates of Conformity together with the UNECE International Whole Vehicle Type Approval of a specific vehicle category.

3.3. When Vietnam is a Contracting Party to the 1958 Agreement and is a signatory of the UNECE International Whole Vehicle Type Approval, the EU shall accept a valid UNECE International Whole Vehicle Type Approval issued by a Vietnamese type approval authority according to the rights and obligations under the 1958 Agreement.

4.1. Every month or at the latest when notifying it to the UNECE, the competent authorities of each Party, which is a signatory to the 1958 Agreement, shall send to the competent authorities of the other Party a list of the wheeled vehicle, equipment or parts, approvals of which it has refused to grant or has withdrawn during the preceding period; in addition, on receiving a request from the competent authority of the other Party, it shall send forthwith to 1 This includes pick-up vehicles classified in M1. 5 that competent authority a copy of all relevant information on which it based its decision to grant, refuse to grant, or to withdraw an approval of a whole vehicle or an approval of equipment or parts to the relevant UNECE Regulation.

4.2. Should the competent authorities of the Parties find that certain motor vehicles, equipment or parts bearing approval marks issued under UNECE Regulations, or EC laws and regulations for whole vehicles when applicable, by a type approval authority of the other Party do not conform to the approved type, they shall advise the competent authorities of the other Party which issued the approval. That Party shall take the necessary steps to bring these products of its manufacturers into conformity with the approved types and shall advise the other Party applying the Regulation through type approval of the steps it has taken, which may include, if necessary, the withdrawal of approval. Where there might be a threat to road safety or to the environment, the Party which issued the approval and after receiving the information about the non-conformity to the approved type(s) shall inform thereof the other Party about the situation. The Parties may prohibit the sale and use of such motor vehicles, equipment or parts. In such cases and upon request from one of the Parties, the other Party shall send a copy of all relevant

information upon which the approval has been granted.

5. The competent authorities of each Party may verify by random sampling in accordance with its domestic legislation that the products comply with the relevant domestic technical requirements attested by an UNECE International Whole Vehicle Type Approval certificate or, as applicable, an EC type approval certificate in the case of whole vehicles, and an UNECE type-approval certificate showing compliance with the relevant UNECE Regulations in the case of parts and equipment. Each Party may require the supplier to withdraw a product from its market in case the product concerned does not comply with those regulations and requirements.

Article 5

Products with New Technologies or New Features

1. Subject to the laws of each Party, neither Party shall unduly delay the placing on its market of parts and equipment covered by

this Annex on the ground that the product incorporates a new technology or a new feature.

2. When a Party decides to refuse the placing on its market or requires the withdrawal from its market of parts and equipment of the other Party covered by this Annex on the ground that it incorporates a new technology or a new feature creating a risk for human health, safety or the environment, it shall immediately notify this decision and its reasoning to the economic operators concerned.

Article 6

Other Measures Restricting Trade

Each Party shall refrain from nullifying or impairing the market access benefits accruing to the other Party under this Annex through other regulatory measures specific to the sector covered by this Annex. This is without prejudice to the right to adopt measures necessary for road safety, the protection of the environment or public health and the prevention of deceptive practices provided such measures are based on substantiated scientific or technical information.

Article 7

Joint Cooperation

1. In the Committee on Trade in Goods, the Parties shall cooperate and exchange information on any issues relevant for the implementation of this Annex.

2. Pursuant to the [Chapter on Cooperation and Capacity Building], upon request, a Party shall give appropriate consideration to proposals that the other Party makes for co-operation under the terms of this Annex. This cooperation shall be undertaken, inter alia, through dialogue in appropriate channels, joint projects, technical assistance and capacity-building programmes on technical regulations and conformity assessment procedures, as mutually agreed. Subject to the [Chapter on Cooperation and Capacity Building], cooperation shall focus on building up technical capacity with regard to enhancing testing competence and procedures for acceptance of type approvals. Cooperation may include such forms as training, internships or exchange of experiences for officials of the Vietnamese Type Approval Authority in EU Type Approval Authorities or similar projects.

Article 8

Implementation

1. The Parties agree to establish a Working Group on Motor Vehicles and Parts under the Trade in Goods Committee in order to facilitate the implementation of this Annex.

2. The Working Group shall monitor the effective implementation of and may consider any matter relating to this Annex. The two Parties shall establish contact points for effective communication.

3. Unless otherwise specified, this Annex shall come into effect after 3 years from the date of entry into force of this Agreement.

4. Upon request of a Party, but not before 10 years from the date of entry into force of this Agreement, the Parties may convene to review this annex, including a discussion on the coverage of UNECE categories L, M and N.

Annex 2 [c]

Reduction and/or Elimination of Customs Duties

Section A.

General provisions

1. Except as otherwise provided in a Party's Schedule in this Annex, the following staging categories apply to the reduction and/or elimination of customs duties on originating goods from the other Party set out in each Party's Schedule in this Annex pursuant to Article [7] [reduction and/or elimination of customs duties]:

(a) customs duties on originating goods provided for in the items in staging category "A" in a Party's Schedule shall be eliminated entirely and such goods shall be free of any customs duty on the date this Agreement enters into force;

(b) customs duties on originating goods provided for in the items in staging category "B3" in a Party's Schedule shall be removed in four equal annual stages beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any customs duty;

(c) customs duties on originating goods provided for in the items in staging category "B5" in a Party's Schedule shall be removed in six equal annual stages beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any customs duty;

(d) customs duties on originating goods provided for in the items in staging category "B7" in a Party's Schedule shall be removed in eight equal annual stages beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any customs duty;

(f) customs duties on originating goods provided for in the items in staging category "B9" in the Vietnam's Schedule shall be removed in 10 equal annual stages beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any customs duty;

(g) customs duties on originating goods provided for in the items in staging category "B10" in a Party's Schedule shall be removed in 11 equal annual stages

beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any customs duty;

(h) customs duties on originating goods provided for in the items in staging category "B10*" in the Vietnam's Schedule shall be removed in 11 annual stages, beginning on the date this Agreement enters into force, pursuant to the table below, and such goods shall thereafter be free of any customs duty;

Tariff code	Year										
HS 2012	1	2	3	4	5	6	7	8	9	10	11
2203.00.10 2203.00.90	34 %	33 %	32 %	30 %	29 %	25 %	22 %	18%	15 %	11 %	0 %

(l) customs duties on originating goods provided for in the items in staging “B10**” in the Vietnam’s Schedule shall be removed in 11 annual stages, beginning on the date this Agreement enters into force pursuant to the table below, and such goods shall thereafter be free of any customs duty. In the case this Agreement enters into force in 2016, customs duties on originating goods shall remain at the base rate in 2016, then reduced to rates of year 1, year 2, year 3, year 4, year 5, year 6, year 7, year 8, year 9, year 10, year 11 in 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027 accordingly.

Tariff code	Base	Year									
HS 2012	rate	1	2	3	4	5	6	7	8	9	10	11
2710.12.11 2710.12.12 2710.12.13 2710.12.14 2710.12.15 2710.12.16	20 %	20 %	20 %	20 %	20 %	8 %	8 %	7 %	7 %	7 %	7 %	0 %
2710.12.20	10 %	10 %	10 %	10 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	0 %
2710.12.30	20 %	20 %	20 %	20 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	0 %
2710.12.40 2710.12.50 2710.12.60	20 %	17 %	16 %	14 %	13 %	11 %	10%	8 %	7 %	7 %	7 %	0 %
2710.12.70	20 %	20 %	20 %	20 %	20 %	8 %	8 %	7 %	7 %	7 %	7 %	0 %
2710.12.80 2710.12.90	20 %	20 %	20 %	20 %	20 %	15 %	10 %	7 %	7 %	7 %	7 %	0 %
2710.19.71 2710.19.72	8 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	0 %
2710.19.79 2710.19.81 2710.19.82 2710.19.83	10 %	9 %	8 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	0 %
2710.20.00	7 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	7 %	0 %
2710.91.00 2710.99.00	40 %	40 %	20 %	20 %	20 %	11 %	9 %	7 %	7 %	7 %	7 %	0 %

(j) customs duties on originating goods provided for in the items in staging category “B15” in Vietnam’s Schedule shall be removed in 16 equal annual stages beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any customs duty;

(k) the ad valorem component of the customs duties on originating goods provided for in the items in staging category A+EP in the EU's Schedule shall be eliminated upon the date of entry into force of this Agreement; the tariff elimination shall apply to the ad valorem duty only; the specific duty resulting from the entry price system that the EU applies to certain fruits and vegetables in accordance with the Common Customs Tariff provided for in Commission Implementing Regulation (EU) No 543/ of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors[12] shall be maintained.

(l) customs duties on originating goods provided for in the items in staging category “R75” in the EU's Schedule, shall be applied pursuant to the below table:

[12] EU OJ L 157, 15.6.2011, p. 1.

Year	Customs duty (EUR / tonnes.)
2016	120
2017	115
2018	110
2019	105
2020	100
2021	95
2022	90
2023	85
2024	80
From 2025 onwards	75

The preferential customs duties indicated in the table above shall apply from the date of entry into force of this Agreement in the relevant year and onwards. The duties shall not be retroactively reduced;

(m) Tariff lines with “CKD” indicated in the “Base rate” and “Category” columns in the Vietnam’s Schedule are not applicable.

2. The base rate of customs duty and staging category for determining the interim rate of customs duty at each stage of reduction for an item are specified for the item in each Party’s Schedule.

3. Without prejudice to Article 7 of Chapter [x] National Treatment and Market Access for Goods to this Agreement, under no circumstances shall the EU preferential customs duty under this Agreement be higher than EU customs duties applied to goods originating in Vietnam on the day before the date of entry into force of this Agreement, from that date until the seventh year after entry into force.

4. Rates of customs duties in the interim stages shall be rounded down, at least to the nearest 10th of a percentage point, or, if the rate of customs duty is expressed in monetary units, at least to the nearest 10th of one-euro cent in the case of the EU Party.

5.For the purposes of this Annex and a Party's Schedule in this Annex, the first reduction shall take effect on the date of entry into force of this agreement. Any subsequent annual reduction shall take effect on 1 January of the relevant year following the year of entry into force as provided for in Article [X.15] (Entry into force).

Section B.

Tariff rate quotas

6. For the administration in Year 1 of each tariff rate quota established under this Agreement, the Parties shall calculate the volume of that tariff rate quota by discounting the volume corresponding to the period running between

0710.40.00B

2001.90.30B

the 1st of January and the date of entry into

force of the Agreement.

EU – Tariff rate quotas

7. The EU shall administer its tariff quotas in accordance with its internal regulations that facilitate trade between the two parties with a view to maximizing utilization of TRQ quantities.

8. *Birds' egg and egg yolks*

Originating goods classified in the following tariff lines in the EUs' Schedule shall be duty-free within the following aggregated quantity as specified below:

0408.11.80
0408.19.81
0408.19.89
0408.91.80
0408.99.80

Aggregate Annual Quantity (Metric Tonnes): 500 tonnes

9. Garlic

Originating goods classified in the following tariff line in the EUs' Schedule shall be duty-free within the following aggregated quantity as specified below:

0703.20.00

Annual Quantity (Metric Tonnes): 400 tonnes

10. Sweetcorn

a) Originating goods classified in the following tariff lines in the EUs' Schedule shall be duty-free within the following aggregated quantity as specified below:

0710.40.00A
2001.90.30A
2005.80.00A

Aggregate Annual Quantity (Metric Tonnes): 5.000 tonnes

b) The aggregated quantity of originating goods classified in the following tariff lines in the EU's Schedule shall not be counted in the tariff rate quota quantity;

2005.80.00B

Rice

a) Originating goods classified in the following tariff lines in the EUs' Schedule shall be duty-free within the following aggregated quantity as specified below:

1006.10.21 1006.10.23 1006.10.25 1006.10.27 1006.10.92 1006.10.94 1006.10.96 1006.10.98	1006.20.11 1006.20.13 1006.20.15 1006.20.17 1006.20.92 1006.20.94 1006.20.96 1006.20.98

Annual Quantity (Metric tonnes expressed in husked rice equivalent): 20.000 tonnes

b) Originating goods classified in the following tariff lines in the EUs' Schedule shall be duty-free within the following aggregated quantity as specified below:

1006.30.21 1006.30.23 1006.30.25 1006.30.27 1006.30.42 1006.30.44 1006.30.46 1006.30.48	1006.30.61 1006.30.63 1006.30.65 1006.30.67 1006.30.92 1006.30.94 1006.30.96 1006.30.98

Annual Quantity (Metric Tonnes expressed in milled rice equivalent): 30.000 tonnes

c) Originating goods classified in the following tariff lines in the EUs' Schedule shall be duty-

free within the following aggregated quantity as specified below:

1006.10.21	1006.20.11	1006.30.21	1006.30.61
1006.10.23	1006.20.13	1006.30.23	1006.30.63
1006.10.25	1006.20.15	1006.30.25	1006.30.65
1006.10.27	1006.20.17	1006.30.27	1006.30.67
1006.10.92	1006.20.92	1006.30.42	1006.30.92
1006.10.94	1006.20.94	1006.30.44	1006.30.94
1006.10.96	1006.20.96	1006.30.46	1006.30.96
1006.10.98	1006.20.98	1006.30.48	1006.30.98

Annual Quantity (Metric Tonnes expressed in milled rice equivalent): 30.000 tonnes

To be eligible for duty free import under the quota under point 11.c of this Annex quota, rice must belong to a one of the following varieties of fragrant rice:

- Jasmine 85
- ST 5, ST 20
- Nang Hoa 9 (Nàng Hoa 9)
- VD 20
- RVT
- OM 4900
- OM 5451
- Tai nguyen Cho Dao (Tài nguyên Chợ Đào)

This list may be amended by the Committee on trade in Goods in accordance with the procedure foreseen under the chapter [XX] Institutional, General and Final Provisions. Furthermore, it should be accompanied by an authenticity certificate issued by the competent authorities of Viet Nam stating that the rice belongs to one of the varieties mentioned above.

12. Manioc (cassava) starch

Originating goods classified in the following tariff line in the EU's Schedule shall be duty-free within the following aggregated quantity as specified below:

1108.14.00

Annual Quantity (Metric Tonnes): 30.000 tonnes

13. Tuna

Originating goods classified in the following tariff lines in the EU's Schedule within the following aggregated quantity shall be duty-free as specified below:

1604.14.11

1604.14.18

1604.14.90

1604.19.39

1604.20.70

Aggregate Annual Quantity (Metric Tonnes): 11.500 tonnes

14. Surimi

Originating goods classified in the following tariff line in the EU's Schedule within the following aggregated quantity and shall be duty-free as specified below:

1604.20.05

Annual Quantity (Metric Tonnes): 500 tonnes

15. Sugar and other products containing high levels of sugar

Originating goods classified in the following tariff lines in the EU's Schedule shall be duty-free within the following aggregated quantity as specified below:

1701.13.10	1702.90.50
1701.13.90	1702.90.71
1701.14.10	1702.90.75
1701.91.00	1702.90.79
1701.99.10	1702.90.95
1701.99.90	1806.10.30
1702.30.50	1806.10.90

Aggregate annual quantity (Metric Tonnes expressed in raw sugar equivalent): 20.000 tonnes

16. Specialty sugar

Originating goods classified in the following tariff lines in the EU's Schedule shall be duty-free within the following aggregated quantity as specified below:

1701.14.90

Annual Quantity (Metric Tonnes): 400 tonnes

17. Mushrooms

Originating goods classified in the following tariff lines in the EU's Schedule shall be duty-free within the following aggregated quantity as specified below:

0711.51.00
2001.90.50
2003.10.20
2003.10.30

Aggregate annual quantity (Metric Tonnes): 350 tonnes

18. Ethanol

Originating goods classified in the following tariff lines in the EU's Schedule within the following aggregated quantity shall be duty-free as specified below:

2207.10.00

2207.20.00

Aggregate annual quantity (Metric Tonnes): 1.000 tonnes

19. Manitol, Sorbitol, Dextrins and other modified starches

Originating goods classified in the following tariff lines in the EU's Schedule within the following aggregated quantity shall be duty-free as specified below:

2905.43.00 2905.44.11	2905.44.19 2905.44.91	3505.10.10 3505.10.90 3824.60.19

Aggregate annual quantity (Metric Tonnes): 2.000 tonnes

Vietnam tariff rate quotas

20. The implementation period, volume of quotas, administration methods and other terms and conditions relating to the allocation of Viet Nam tariff rate quotas for the following products shall be consistent with Viet Nam's commitments in the WTO.

21. The in-quota customs duties on originating goods provided for in the items in staging category "B10-in quota" in the Vietnam's Schedule shall be removed in 11 equal annual stages beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any in quota customs duty. The out of quota customs duties on originating goods provided for in the items in staging category "B10-in quota" in the Vietnam's Schedule are unbound.

Tariff Schedule of Vietnam General Notes

1.Relation to the Vietnam's Export and Import Classification Nomenclature (EICN). The provisions of this Schedule are generally expressed in terms of the EICN, and the interpretation of the provisions of this Schedule, including the product coverage of subheadings of this Schedule, shall be governed by the General Notes, Section Notes and Chapter Notes of the EICN. To the extent that provisions of this Schedule are identical to the corresponding provisions of the EICN, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the EICN. 2. Base Rates of Customs Duty. Except as otherwise provided in this Annex, the base rates of customs duty set out in this Schedule reflect the Vietnam's Most-Favoured-Nation (MFN) rates of duty in effect on 26 June 2012.

For more detail on Vietnam's Tariff Schedules, follow the attached links on the main page.

Tariff Schedule of The EU General Notes

1. Relation to the Combined Nomenclature (CN) of the European Community. The provisions of this Schedule are generally expressed in terms of the CN, and the interpretation of the provisions of this Schedule, including the product coverage of subheadings of this Schedule, shall be governed by the General Notes, Section Notes, and Chapter Notes of the CN. To the extent that provisions of this Schedule are identical to the corresponding provisions of the CN, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the CN.

2. Base Rates of Customs Duty. The base rates of customs duty set forth in this Schedule reflect the European Community's Common Customs Tariff rates of duty in effect on 26 June 2012.

For more detail on the EU's Tariff Schedules, follow the attached links on the main page.

APPENDIX 1-[x] EXPLANATORY NOTE

Athletic/Sports footwear

Footwear covered by the ex-out description for CN codes 6403.91.11B,

6403.91.13B
6403.91.16B
6403.91.18B
6403.99.91B
6403.99.93B
6403.99.96B
6403.99.98B

in the EU's Schedule must have a non-slip outer sole manufactured from synthetic materials such as low-density polymers or have technical features such as hermetic pads containing gas or fluid mechanical components specially designed to absorb impacts or special materials such as low-density polymers. In addition, such shoes must have a fastening device or lacing system with a minimum of 5 eyelet holes on each side of the upper of the shoe which gives the foot stability in the shoe. The inner sole of such shoes must be moulded.

Annex 2 [d] Elimination and/or Reduction of Export Duties

Section A

General provisions

1. The following categories apply to the elimination and/or reduction of export duties, taxes, or other charges of any kind imposed on, or in connection with, the exportation of goods to the territory of the other Party (hereinafter referred to as "export duties") on goods set out in the Export duty Schedule of Vietnam in this Annex pursuant to Article 9:

(a) export duties on goods provided for in the items in staging category "B5a" in the schedule to this Annex shall be reduced to 10% in six equal annual stages beginning on the date this Agreement enters into force, and export duties on such goods shall thereafter be set to 10%;

(b) export duties on goods provided for in the items in staging category "B5b" in the schedule to this Annex shall be reduced to 20% in six equal annual stages beginning on the date this Agreement enters into force, and export duties on such goods shall thereafter be set to 20%;

(c) export duties on goods provided for in the items in staging category "B5*a" in the schedule to this Annex shall remain at the base rate for five years beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any export duty;

(d) export duties on goods provided for in the items in staging category "B5*b" in the schedule to this Annex shall remain at the base rate for five years beginning on the date this Agreement

enters into force, and export duties on such goods shall thereafter be set to 20%;

(e) export duties on goods provided for in the items in staging category “B7*” in the schedule to this Annex shall remain at the base rate for seven years beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any export duty;

(f) export duties on goods provided for in the items in staging category “B10” in the schedule to this Annex shall be removed in 11 equal annual stages beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any export duty;

(g) export duties on goods provided for in the items in staging category “B10*” in the schedule to this Annex shall remain at the base rate for 10 years beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any export duty;

(h) export duties on goods provided for in the items in staging category “B12” in the schedule to this Annex shall be removed in 13 equal annual stages beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any export duty;

(i) export duties on goods provided for in the items in staging category “B12*” in the schedule to this Annex shall remain at the base rate for 12 years beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any export duty;

(j) export duties on goods provided for in the items in staging category “B15” in the schedule to this Annex shall be removed in 16 equal annual stages beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any export duty;

(k) export duties on goods provided for in the items in staging category “B15*a” in the schedule to this Annex shall remain at the base rate for 15 years beginning on the date this Agreement enters into force, and such goods shall thereafter be free of any export duty;

(l) export duties on goods provided for in the items in staging category “B15*b” in the schedule to this Annex shall remain at the base rate for five years beginning on the date this Agreement enters into force, and shall be reduced to 15% in year six and maintained at 15% until year 16 and shall thereafter be free of any export duty;

(m) export duties on goods provided for in the items in staging category “B15*c” in the schedule to this Annex shall remain at the base rate for five years beginning on the date this Agreement enters into force, and shall be reduced to 20% in year six and maintained at 20% until year 16 and shall thereafter be free of any export duty;

(n) export duties on goods provided for in the items in staging category “B15*d” in the schedule to this Annex shall remain at the base rate for five years beginning on the date this Agreement enters into force, and shall be reduced to 25% in year six and maintained at 25% until year 16 and shall thereafter be free of any export duty;

(o) export duties on goods provided for in the items in staging category “B15*e” in the schedule to this Annex shall remain at the base rate for five years beginning on the date this Agreement enters into force, and shall be reduced to 35% in year six and maintained at 35% until year 10, and shall be reduced to 30% in year 11 and maintained at 30% until year 16 and shall thereafter be free of any export duty;

(p) export duties on goods provided for in the items in staging category “S” in the schedule to this Annex shall remain at the base rate beginning on the date this Agreement enters into force.

2. The base rate of export duty and staging category for determining the interim rate of export duty at each stage of reduction for an item are specified for the item in the Schedule in this Annex.

3. In the case of amendments of the Vietnamese export tariff list, commitments made under the Schedule in this Annex shall apply based on correspondence of the description of the good, irrespective of its tariff classification.

4. Rates of export duties in the interim stages shall be rounded down, at least to the nearest 10th of a percentage point.

5. For the purposes of this Annex and the Schedule in this Annex, the first reduction shall take effect on the date of entry into force of this agreement. Any subsequent annual reduction shall take effect on 1 January of the relevant year following the year of entry into force as provided for in Article [X.15] (Entry into force).

Section B

Export Duty Schedule of Vietnam

For more detail on Vietnam's export duty schedules, follow the attached links on the main page.

Chapter 3
Trade Remedies

Section A

Anti-dumping and countervailing duties

Article 1

General Provisions

1. The Parties affirm their rights and obligations arising from Article VI of GATT 1994, the WTO Agreement on Implementation of Article VI of the GATT 1994, and from the WTO Agreement on Subsidies and Countervailing Measures.

2. The Parties, recognizing that anti-dumping and countervailing measures can be abused to obstruct trade, agree that:

(i) trade remedies should be used in full compliance with the relevant WTO requirements and should be based on a fair and transparent system; and

(ii) careful consideration should be given to the interests of the Party against whom such measure is to be imposed.

3. For the purpose of this Section, origin shall be determined in accordance with Article 1 of the WTO Agreement on Rules of Origin.

Article 2

Transparency

1.Both Parties agree that trade remedies should be used in full compliance with the relevant WTO requirements and should be based on a fair and transparent system.

2. Both Parties shall ensure, immediately after any imposition of provisional measures and in any case before final determination is made, full and meaningful disclosure of all essential facts and considerations which form the basis for the decision to apply measures. This is without prejudice to Article 6.5 of the WTO Agreement on Implementation of Article VI of GATT 1994 and Article 12.4 of the WTO Agreement on Subsidies and Countervailing Measures. Disclosures shall be made in writing and allow interested parties sufficient time to make their comments.

3. Provided it does not unnecessarily delay the conduct of the investigation, each interested party shall be granted the possibility to be heard in order to express their views during trade remedies investigations.

Article 3

Consideration of Public Interest

Anti-dumping or countervailing measures may not be applied by a Party where, on the basis of the information made available during the investigation, it can clearly be concluded that it is not in the public interest to apply such measures. Public interest shall take into account the situation of the domestic industry,

importers and their representative associations, representative users and representative consumer organizations, to the extent they have provided relevant information to the investigating authorities.

Article 4

Lesser duty rule

Should a Party decide to impose any anti-dumping or countervailing duty, that party shall endeavour to ensure that the amount of such duty shall not exceed the margin of dumping or countervailable subsidy, and it should be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry.

Article 5

Exclusion from mediation and bilateral dispute settlement mechanism

The provisions of this Section shall not be subject to the Mediation and Dispute Settlement provisions of this Agreement.

SECTION B

Global Safeguard Measures

Article 1

General provisions

1. Each Party retains its rights and obligations under Article XIX of GATT 1994, the WTO Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture. 2. No Party shall apply with respect to the same good at the same time:

(i) a bilateral safeguard measure under section XY of this Agreement; and

(ii) a measure under Article XIX of GATT 1994 and the Safeguards Agreement. 3. For the purpose of this Section, origin shall be determined in accordance with Article 1 of the WTO Agreement on Rules of Origin.

Article 2

Transparency

1. Notwithstanding Article 1, at the request of the other Party and provided the latter has a substantial interest, once a global safeguard investigation has been initiated, the Party initiating that safeguard investigation or intending to take safeguard measures shall provide immediately ad hoc written notification of all pertinent information leading to the initiation of a global safeguard investigation and, as the case may be, the proposal to impose the global safeguard measures including on the provisional findings, where relevant. This is without prejudice to Article 3.2 of the WTO Agreement on Safeguards.

2. When imposing safeguard measures, the Parties shall endeavour to impose them in a way that least affects bilateral trade. 3. For the purpose of paragraph 2, if one Party considers that the legal requirements are met for the imposition of definitive safeguard measures, the Party intending to apply such measures shall notify the other Party and give the possibility to hold bi-lateral consultations. If no satisfactory solution has been reached within 30 days of the notification, the importing Party may adopt the definitive safeguard measures. The possibility for consultations should also be offered to the other Party in order to exchange views on the information referred to in paragraph 1. 3

Article 3

Exclusion from mediation and bilateral dispute settlement mechanism

The provisions of this Section referring to WTO rights and obligations shall not be subject to the Mediation and Dispute Settlement provisions of this Agreement.

SECTION C

Bilateral Safeguard Clause

Article 1 Application of a Bilateral Safeguard Measure

1. If, as a result of the reduction or elimination of a customs duty under this Agreement, any good originating in the territory 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 cause or threaten to cause serious injury to a domestic industry producing like or directly competitive goods, the importing Party may adopt measures provided for in paragraph 2 in accordance with the conditions and procedures laid down in this Section during the transition period only, except as otherwise provided under Article 2.5.(c) of this Section.

2. The importing Party may take a bilateral safeguard measure which:

(a) suspends further reduction of the rate of customs duty on the good concerned provided for under this Agreement; or

(b) increases the rate of customs duty on the good to a level which does not exceed the lesser of:

i. the MFN applied rate of customs duty on the good in effect at the time the measure is taken; or
ii. (ii) the base rate of customs duty specified in the Schedules included in Annex XX (Tariff Reduction/Elimination Schedules) pursuant to Article XX (Reduction and/or Elimination of Customs Duties on Imports).

Article 2

Conditions and Limitations

1. A Party shall notify the other Party in writing of the initiation of an investigation described in paragraph 2 and consult with the other Party as far in advance of applying a bilateral safeguard measure as practicable, with a view to reviewing the information arising from the investigation and exchanging views on the measure.

2. A Party shall apply a bilateral safeguard measure only following an investigation by its competent authorities in accordance with Articles 3 and 4.2(c) of the Agreement on Safeguards contained in Annex 1A to the WTO Agreement (hereinafter referred to as the “Agreement on Safeguards”) and to this end, Articles 3 and 4.2(c) of the Agreement on Safeguards are incorporated into and made part of this Agreement, mutatis mutandis.

3. In the investigation described in paragraph 2, the Party shall comply with the requirements of Article 4.2(a) of the Agreement on Safeguards and to this end, Article 4.2(a) of the Agreement on Safeguards is incorporated into and made part of this Agreement, mutatis mutandis.

4. Each Party shall ensure that its competent authorities complete any such investigation within one year of its date of initiation.

5. Neither Party may apply a bilateral safeguard measure:

(a) except to the extent, and for such time, as may be necessary to prevent or remedy serious injury and to facilitate adjustment;

(b) for a period exceeding two years, except that the period may be extended by up to two years if the competent authorities of the importing Party determine, in conformity with the procedures specified in this Article, that the measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment and that there is evidence that the industry is adjusting, provided that the total period of application of a safeguard measure, including the period of initial application and any extension thereof, shall not exceed four years; or

(c) beyond the expiration of the transition period, except with the consent of the other Party.

6. In order to facilitate adjustment in a situation where the expected duration of a safeguard measure is over two years, the Party applying the measure shall progressively liberalize it at regular intervals during the period of application.

7. When a Party terminates a bilateral safeguard measure, the rate of customs duty shall be the rate that, according to its Schedule included in Annex XX (Tariff

Reduction/Elimination Schedules), would have been in effect but for the measure.

Article 3

Provisional Measures

In critical circumstances where delay would cause damage that would be difficult to repair, a Party may apply a bilateral safeguard measure on a provisional basis pursuant to a preliminary determination that there is clear evidence that imports of an originating good from the other Party have increased as the result of the reduction or elimination of a customs duty under this Agreement, and such imports cause serious injury, or threat thereof, to the domestic industry. The duration of any provisional measure shall not exceed 200 days, during which time the Party shall comply with the requirements of Articles 2.2 and 2.3. The Party shall promptly refund any tariff increases if the investigation described in Article 2.2 does not result in a finding that the requirements of Article 1.1 are met. The duration of any provisional measure shall be counted as part of the period prescribed by Article 2.5(b).

Article 4

Compensation

1. A Party applying a bilateral safeguard measure shall consult with the other Party in order to mutually agree on appropriate trade liberalising compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the safeguard measure. The Party shall provide an opportunity for such consultations no later than 30 days after the application of the bilateral safeguard measure.

2. If the consultations under paragraph 1 do not result in an agreement on trade liberalising compensation within 30 days after the consultations begin, the Party whose goods are subject to the safeguard measure may suspend the application of concessions with respect to originating goods of the applying Party that have trade effects substantially equivalent to the safeguard measure. The applying Party's obligation to provide compensation and the other Party's right to suspend concessions under this paragraph shall terminate on the date the safeguard measure terminates.

3. The right of suspension referred to in paragraph 2 shall not be exercised for the first 24 months during which a bilateral safeguard measure is in effect, provided that the safeguard measure conforms to the provisions of this Agreement.

Article 5

Definitions

For the purposes of this Section:

domestic industry shall be understood in accordance with Article 4.1(c) of the Agreement on Safeguards. To this end, Article 4.1(c) is incorporated into and made part of this Agreement,

mutatis mutandis; serious injury and threat of serious injury shall be understood in accordance with Article.

4.1(a) and (b) of the Agreement on Safeguards. To this end, Article 4.1(a) and (b) is incorporated into and made part of this Agreement, mutatis mutandis; and transition period means a period for a good from the date of entry into force of this Agreement until 10 years from the entry into force of this Agreement.

Article 6

Use of the English language

In order to ensure the maximum efficiency for the application of the trade remedies rules under these Sections, the investigating authorities of the Parties shall use the English language as a basis for communications and documents exchanged in the context of trade remedies investigations between the Parties.

Chapter 4

Protocol Concerning the Definition of The Concept Of "Originating Products" And Methods Of Administrative Co-Operation

TABLE OF CONTENTS

List of Annexes

Title I

General provisions

Article 1

Definitions

For the purposes of this Protocol:

(a) "manufacture" means any kind of working or processing, manufacturing, producing, processing or assembling goods;

(b) "material" means any ingredient, raw material, component or part, etc., used in the manufacture of the product;

(c) "product" means the product being manufactured, even if it is intended for later use in another manufacturing operation;

(d) "good" means both a material and a product;

(e) "customs value" means the value as determined in accordance with the 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on customs valuation);

(f) “value of materials” means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the European Union or in Vietnam;

(g) "ex-works price" means the price paid for the product ex works to the manufacturer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs related to its production, minus any internal taxes which are, or may be, repaid when the product obtained is exported.

Where the actual price paid does not reflect all costs related to the manufacturing of the product which are actually incurred in the European Union or in Vietnam, the ex-works price means the sum of all those costs, minus any internal taxes which are, or may be, repaid when the product obtained is exported; Where the last working or processing has been subcontracted to a manufacturer, the term ‘manufacturer’ referred to in the first paragraph may refer to the enterprise that has employed the subcontractor.

(h) “chapters” and “headings” and “subheadings” mean the chapters, the headings (four-digit codes) and sub-headings (six digit codes) used in the nomenclature which makes up the Harmonized Commodity Description and Coding System, referred to in this Protocol as “the Harmonized System” or “HS”;

(i) “classified” refers to the classification of a product or material under a particular chapter, heading, or sub-heading of the Harmonized System;

(j) “consignment” means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

(k) “territories” includes territorial seas;

(l) “Party” refers to the Union or Vietnam;

(m) ‘fungible materials’ means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another once they are incorporated into the finished product;

(n) “originating goods or originating materials” means goods or materials that qualify as originating in accordance with the provisions of this Protocol;

(o) “non-originating goods or non-originating materials” means goods or materials that do not qualify as originating under this Protocol;

(p) “exporter” means a person located in the exporting Party who is exporting the goods to

the other Party and who is able to prove the origin of the exported goods, whether or not he is the manufacturer and whether or not he himself carries out the export formalities.

Title II

Definition of the concept of “originating products”

Article 2

General requirements

For the purpose of implementing this Agreement, the following products shall be considered as originating in a Party:

(a) products wholly obtained in a Party within the meaning of Article 4;

(b) products obtained in a Party incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing inthe Party concerned within the meaning of Article 5.

Article 3

Cumulation of origin

1. Notwithstanding Article 2, products shall be considered as originating in the exporting Party if such products are obtained there by incorporating materials originating in the other Party, provided that the working or processing carried out in the exporting Party goes beyond the operations referred to in Article 6.

2. Materials listed in Annex III originating in an ASEAN country which is applying with the Union a preferential agreement in accordance with Article XXIV of the GATT 1994, shall be considered as materials originating in Vietnam when further processed or incorporated into one of the products listed in Annex IV.

3. For the purposes of paragraph 2, the origin of the materials shall be determined according to the rules of origin applicable in the framework of the Union's preferential agreements with those countries.

4. For the purposes of paragraph 2, the originating status of materials exported from one of the ASEAN countries to Vietnam to be used in further working or processing shall be established by a proof of origin as if these materials were exported directly to the Union.

5. The cumulation provided for in paragraphs 2 to 4 shall only apply provided that:

(a) the ASEAN countries involved in the acquisition of the originating status have undertaken to:

(i) comply or ensure compliance with this Protocol; and

(ii) provide the administrative cooperation necessary to ensure the correct implementation of this Protocol both with regard to the Union and among themselves;

(b) the undertakings referred to in subparagraph (a) have been notified to the Union;

(c) the tariff duty applicable by the Union to the products in Annex IV obtained in Vietnam by use of such cumulation is higher or the same than the duty applicable by the Union to the same product originating in the ASEAN country involved in the cumulation.

6. Proofs of origin issued by application of paragraph 2 shall bear the following entry:

“Application of Article 3(2) of the Protocol of the EU-Vietnam FTA”.

7. Fabrics originating in the Republic of Korea shall be considered as originating in Vietnam when further processed or incorporated into one of the products listed in Annex V obtained there, provided that they have undergone working or processing in Vietnam which goes beyond the operations referred to in Article 6.

8. For the purposes of paragraph 7, the origin of the fabrics shall be determined according to the rules of origin applicable in the framework

of the Union's preferential agreement with the Republic of Korea except for the rules set out in Annex II(a) to the Protocol concerning the definition of originating products and methods of administrative cooperation.

9. For the purposes of paragraphs 7, the originating status of the fabrics exported from the Republic of Korea to Vietnam to be used in further working or processing shall be established by a proof of origin as if these fabrics were exported directly from the Republic of Korea to the Union.

10. The cumulation provided for in paragraphs 7 to 9 shall only apply provided that:

(a) the Republic of Korea is applying with the Union a preferential agreement in accordance with Article XXIV of the GATT 1994;

(b) the Republic of Korea and Vietnam have undertaken and jointly notified to the Union their undertaking:

i. to comply or ensure compliance with the cumulation provided for by this provision, and,

ii. to provide the administrative cooperation necessary to ensure the correct implementation of this Protocol both with regard to the Union and between themselves.

11. Proofs of origin issued by Vietnam by application of paragraph 7 shall bear the following entry: “Application of Article 3(7) of the Protocol of the EU/Vietnam FTA”.

12. On request of a Party, the Committee on Customs may decide that fabrics originating in a country with which the Union and Vietnam both apply a preferential agreement in accordance with Article XXIV of the GATT 1994, shall be considered as originating in a Party when further processed or incorporated into one of the products listed in Annex V obtained there, provided that they have undergone working or processing in a Party which goes beyond the operations referred to in Article 6.

13. The Committee on Customs shall take a decision on the request for cumulation and the modalities for such cumulation referred to in paragraph 12 taking into account the interests of the other Party and the objectives of the agreement.

Article 4

Wholly obtained products

1. The following shall be considered as wholly obtained in a Party:

(a) mineral products extracted from their soil or from their seabed;

(b) plants and vegetable products grown and harvested or gathered there;

(c) live animals born and raised there;

(d) products from live animals raised there;

(e) products from slaughtered animals born and raised there;

(f) products obtained by hunting, or fishing conducted there;

(g) products of aquaculture, where the fish, crustaceans and molluscs are born or raised there from eggs, fry, fingerlings and larvae;

(h) products of sea fishing and other products taken from outside any territorial sea by their vessels;

(i) products made aboard their factory ships exclusively from products referred to in (h);

(j) used articles collected there fit only for the recovery of raw materials;

(k) waste and scrap resulting from manufacturing operations conducted there;

(l) products extracted from the seabed or below the seabed which is situated outside any territorial sea but where it has exclusive exploitation rights;

(m) goods produced there exclusively from the products specified in (a) to (l).

2. The terms 'their vessels' and 'their factory ships' in paragraph 1(h) and (i) shall apply only to vessels and factory ships:

(a) which are registered in a Member State of the Union or in Vietnam;

(b) which sail under the flag of a Member State of the Union or of Vietnam;

(c) which meet one of the following conditions:

i. they are at least 50% owned by nationals of a Member State of the Union or of Vietnam; or,

ii. they are owned by companies

- which have their head office and their main place of business in a Member State of the Union or Vietnam, and
- which are at least 50% owned by a Member State of the Union or by Vietnam, by public entities or nationals of one of those Parties.

Article 5

Sufficiently worked or processed products

1. For the purposes of Article 2(b), products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the list in Annex II are

fulfilled.

2. The conditions referred to above indicate, for all products covered by the Agreement, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials.

It follows that if a product which has acquired originating status, by fulfilling the conditions set out in the list is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

3. By way of derogation from paragraph 1 and subject to paragraphs 4 and 5 of this Article, non-originating materials which, according to the conditions set out in the list, in Annex II are not to be used in the manufacture of a given product may nevertheless be used, provided that their total value or net weight assessed for the product does not exceed:

(a) 10% of the weight of the product or ex work price for products falling within Chapters 2 and 4 to 24 of the Harmonized System, other than processed fishery products of Chapter 16;

(b) 10% of the ex-works price of the product for other products, except for products falling within Chapters 50 to 63 of the Harmonized System, for which the tolerances mentioned in Notes 6 and 7 of Annex I, shall apply.

4. Paragraph 3 shall not allow exceeding any of the percentages for the maximum value or weight of non-originating materials as specified in the rules laid down in the list in Annex II.

5. Paragraphs 3 and 4 shall not apply to products wholly obtained in a Party within the meaning of Article 4. However, without prejudice to Article 6 and 7(2), the tolerance provided for in those paragraphs shall nevertheless apply to the sum of all the materials which are used in the manufacture of a product and for which the rule laid down in the list in Annex II for that product requires that such materials be wholly obtained.

Article 6

Insufficient working or processing

1. The following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 5 are satisfied:

(a) preserving operations to ensure that the products remain in good condition during transport and storage;

(b) breaking-up and assembly of packages;

(c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;

(d) ironing or pressing of textiles and textile articles;

(e) simple painting and polishing operations;

(f) husking and partial or total milling of rice; polishing and glazing of cereals and rice;

(g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;

(h) peeling, stoning and shelling, of fruits, nuts and vegetables;

(i) sharpening, simple grinding or simple cutting;

(j) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);

(k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

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

(m) simple mixing of products, whether or not of different kinds; mixing of sugar with any

material;

(n) simple addition of water or dilution or dehydration or denaturation of products;

(o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;

(p) a combination of two or more of the operations specified in points (a) to (o);

(q) slaughter of animals.

2. For the purpose of paragraph 1, operations shall be considered simple when neither special skills nor machines, apparatus or tools especially produced or installed for those operations are required for their performance.

3. All operations carried out either in the Union or in Vietnam on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

Article 7

Unit of qualification

1. The unit of qualification for the application of the provisions of this Protocol shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonized System.

2. When a consignment consists of a number of identical products classified under the same subheading of the Harmonized System, each individual item shall be taken account when applying the provisions of this Protocol.

Where, under General Rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Article 8

Accessories, spare parts and tools

Accessories, spare parts, tools and instructional or other information materials dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 9

Sets

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component products are originating products. 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 per cent of the ex-works price of the set.

Article 10

Neutral elements

In order to determine whether a product originates, it shall not be necessary to

determine the origin of the following which might be used in its manufacture:

(a) energy and fuel;

(b) plant and equipment, including goods to be used for their maintenance;

(c) machines and tools and dies and moulds; spare parts and materials used in the maintenance of equipment and buildings; lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; gloves, glasses, footwear, clothing, safety equipment and supplies; equipment, devices and supplies used for testing or inspecting the good; catalyst and solvent;

(d) other goods which do not enter, and which are not intended to enter into the final composition of the product.

Article 11

Accounting segregation

1. If originating and non-originating fungible materials are used in the working or processing of a product, competent authorities may, at the written request of economic operators, authorise the management of materials using the accounting segregation method without keeping the materials in separate stocks.

2. Competent governmental authorities may make the granting of authorisation referred to in paragraph 1 subject to any conditions they deem appropriate.

3. The authorisation shall be granted only if by use of the accounting segregation method it can be ensured that, at any time, the number of products obtained which could be considered as originating in the Union or in Vietnam is the same as the number that would have been obtained by using a method of physical segregation of the stocks.

4. If authorised, the accounting segregation method and its application shall be recorded on the basis of the general accounting principles applicable in the Union or in Vietnam, depending on where the product is manufactured.

5. A manufacturer using the accounting segregation method shall make out or apply for origin declarations for the quantity of products which may be considered as originating in the exporting Party. At the request of the customs authorities or competent governmental authorities of the exporting Party, the beneficiary shall provide a statement of how the quantities have been managed.

6. Competent authorities shall monitor the use made of the authorisation referred to in paragraph 3 and may withdraw it if the manufacturer makes improper use of it or fails to fulfil any of the other conditions laid down in this protocol.

Title III

Territorial requirements

Article 12

Principle of territoriality

1. The conditions set out in Title II relating to the acquisition of originating status must be fulfilled without interruption in a Party.

2. If originating goods exported from a Party return from a non-Party, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

(a) the returning goods are the same as those exported; and,

(b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that non-Party or while being exported.

Article 13

Non-alteration

1. The products declared for home use in a Party shall be the same products as exported from the other Party in which they are considered to originate. They shall not have been altered, transformed in any way or

subjected to operations other than operations to preserve them in good condition or other than adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing Party carried out under customs supervision in the country(ies) of transit or splitting prior to being declared for home use.

2. Storage of products or consignments may take place provided they remain under customs supervision in the country(ies) of transit.

3. Without prejudice to provisions of Title IV, the splitting of consignments may take place where carried out by the exporter or under his responsibility, provided they remain under customs supervision in the country(ies) of splitting.

4. In case of doubt, the importing Party may request the declarant to provide evidence of compliance, which may be given by any means, including:

i. contractual transport documents such as bills of lading;

ii. factual or concrete evidence based on marking or numbering of packages;

iii. any evidence related to the goods themselves;

iv. a certificate of non-manipulation provided by the customs authorities of the country(ies) of transit or splitting or any other documents demonstrating that the goods remained under customs supervision in the country(ies) of transit or splitting.

Article 14

Exhibitions

1. Originating products, sent for exhibition in a country other than a Party and sold after the exhibition for importation in a Party shall benefit on importation from the provisions of this Agreement provided it is shown to the satisfaction of the customs authorities that:

(a) an exporter has consigned these products from a Party to the country in which the exhibition is held and has exhibited them there;

(b) the products have been sold or otherwise disposed of by that exporter to a person in a Party;

(c) the products have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition; and,

(d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A proof of origin must be issued or made out in accordance with the provisions of Title IV and submitted to the customs authorities of the importing Party in the normal manner.

The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign products, provided that the products remain under customs control.

Title IV

Proof of origin

Article 15

General requirements

1. Products originating in the Union shall, on importation into Vietnam benefit from this Agreement upon submission of any of the following proofs of origin:

(a) a certificate of origin made out in accordance with Articles 16 to 18;

(b) an origin declaration made out in accordance with Article 19 by:

i. an approved exporter within the meaning of Article 20 for any consignment regardless of its value, or

ii. any exporter for consignments the total value of which does not exceed EUR 6000;

(c) a statement of origin made out by exporters registered in an electronic database in accordance with the relevant legislation of the Union after the Union has notified to Vietnam that such legislation applies to its exporters. Such notification may stipulate that letters a) and b) shall cease to apply to the Union.

2. Products originating in Vietnam shall, on importation into the Union, benefit from this Agreement upon submission of any of the following proofs of origin:

(a) a certificate of origin, made out in accordance with Articles 16 to 18;

(b) an origin declaration made out by any exporter for consignments the total value of which is to be determined in national legislation of Vietnam and will not exceed EUR 6000;

(c) an origin declaration made in accordance with in Article 19 by an exporter approved or registered in accordance with the relevant legislation of Vietnam after Vietnam has notified to the Union that such legislation applies to its exporters. Such notification may stipulate that letter a) shall cease to apply to Vietnam.

3. Originating products within the meaning of this Protocol shall, in the cases specified in Article 24, benefit from the Agreement without submitting any of the documents referred to in

this Article.

Article 16

Procedure for the issue of a certificate of origin

1. A certificate of origin shall be issued by the competent authorities of the exporting Party on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorised representative.

2. For this purpose, the exporter or his authorised representative shall fill out both the certificate of origin, specimen of which appear in Annex VII, and the application form. The specimen of the application form to be used for exports from the Union to Vietnam appears in Annex VII; the specimen of the application form to be used for exports from Vietnam will be determined in the domestic legislation of Vietnam. These forms shall be completed in one of the languages in which this Agreement is drawn up and in accordance with the provisions of the domestic law of the exporting Party. If they are hand-written, they shall be completed in ink in printed characters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through to prevent any subsequent addition.

3. The exporter applying for the issue of a certificate of origin shall be prepared to submit at any time, at the request of the competent authorities of the exporting Party, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

4. A certificate of origin shall be issued by the competent authorities of the exporting Party if the products concerned can be considered as products originating in the Union or in Vietnam and fulfil the other requirements of this Protocol.

5. The competent authorities issuing certificates of origin shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of this Protocol. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate. They shall also ensure that the

forms referred to in paragraph 2 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.

6. The date of issue of the certificate of origin shall be indicated in Box 11 of the certificate.

7. The Certificate of Origin shall be issued as near as possible to but not later than three

working days after the date of exportation (the declared shipment date).

Article 17

Certificates of origin issued retrospectively

1. Notwithstanding Article 16(7), a certificate of origin may also be issued after exportation of the products to which it relates in the specific situations where:

(a) it was not issued at the time of exportation because of errors or involuntary omissions and other valid reasons; or,

(b) it is demonstrated to the competent authorities that a certificate of origin was issued but was not accepted at importation for technical reasons;

(c) the final destination of the products concerned was not known at the time of exportation and was determined during their transportation or storage and after possible splitting of consignments in accordance with Article 13.

2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the products to which the certificate of origin relates and state the reasons for his request.

3. The competent authorities may issue a certificate of origin retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.

4. Certificates of origin issued retrospectively must be endorsed with the following phrase in English:

"ISSUED RETROSPECTIVELY"

5. The endorsement referred to in paragraph 4 shall be inserted in Box 7 of the certificate of

origin.

Article 18

Issue of a duplicate certificate of origin

1. In the event of theft, loss or destruction of a certificate of origin, the exporter may apply to the competent authorities which issued it for a duplicate made out on the basis of the export documents in their possession.

2. The duplicate issued in this way must be endorsed with the following word in English:

DUPLICATE

3. The endorsement referred to in paragraph 2 shall be inserted in Box 7 of the duplicate certificate of origin.

4. The duplicate, which must bear the date of issue of the original certificate of origin, shall take effect as from that date.

Article 19

Conditions for making out an origin declaration

1 An origin declaration may be made out if the products concerned can be considered as products originating in the Union or in Vietnam and fulfil the other requirements of this Protocol.

2. The exporter making out an origin declaration shall be prepared to submit at any time, at the request of the competent authorities of the exporting Party, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

3. An origin declaration shall be made out by the exporter on the invoice, the delivery note or any other commercial documents which describe the products concerned in sufficient

details to enable them to be identified, by typing, stamping or printing on that document the declaration, the text of which appears in Annex VI, using one of the linguistic versions set out in that Annex and in accordance with the provisions of the domestic law of the exporting Party. If the declaration is hand-written, it shall be written in ink in capital characters.

4. Origin declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 20 shall not be required to sign such declarations provided that he gives the competent authorities of the exporting Party a written undertaking that he accepts full responsibility for any origin declaration which identifies him as if it had been signed in manuscript by him.

5. An origin declaration may be made out after exportation on condition that it is presented in the importing Party no longer than two years or the period specified in the legislation of the importing Party after the entry of the goods into the territory.

6. The conditions for making out an origin declaration referred to in paragraphs 1 to 5 apply mutatis mutandis to statements of origin made out be an exporter registered as provided for under Article 15(1)(c) and 15(2)(c).

Article 20

Approved exporter

1. The competent authorities of the exporting Party may authorise any exporter, hereinafter referred to as 'approved exporter', who exports products under this Agreement to make out origin declarations irrespective of the value of the products concerned. An exporter seeking such authorisation must offer to the satisfaction of the competent authorities all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this Protocol.

2. The competent authorities may grant the status of approved exporter subject to any conditions specified in domestic legislation which they consider appropriate.

3. The competent authorities shall grant to the approved exporter an authorisation number which shall appear on the origin declaration.

4. The competent authorities shall monitor the use of the authorisation by the approved exporter.

5. The competent authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, no longer fulfils the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorisation.

Article 21

Validity of proof of origin

1. A proof of origin shall be valid for twelve months from the date of issue in the exporting country and must be submitted to the customs authorities of the importing country within that period.

2. Proofs of origin which are submitted to the customs authorities of the importing Party after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the importer failed to submit these documents by the final date due to force majeure or other valid reasons beyond his control.

3. In other cases of belated presentation, the customs authorities of the importing Party may accept the proofs of origin where the products have been imported before the said final date.

Article 22

Submission of proof of origin

For the purpose of claiming preferential tariff treatment, proofs of origin shall be submitted to the customs authorities of the importing Party in accordance with the procedures applicable in that Party. The said authorities may require a translation of the proof of origin if it is not issued in English.

Article 23

Importation by instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing Party, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonized System falling within Sections XVI and XVII or headings 7308 and 9406 of the Harmonized System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

Article 24

Exemptions from proof of origin

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this Protocol and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post, this declaration can be made on the customs declaration CN22/CN23 or on a sheet of paper annexed to that document.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

3. Furthermore, the total value of these products shall not exceed:

(a) when entering the Union, EUR 500 in the case of small packages or EUR 1 200 in the case of products forming part of travellers' personal luggage;

(b) when entering Vietnam, 200 US dollars both in the case of small packages and in the case of products forming part of travellers' personal luggage.

Article 25

Supporting documents

The documents referred to in Articles 16(3) and 19(2), used for the purpose of proving that products covered by an origin declaration or a certificate of origin can be considered as products originating in the Union or in Vietnam and fulfil the other requirements of this Protocol may consist inter alia of the following:

(a) direct evidence of the manufacturing or other processes carried out by the exporter or

supplier to obtain the goods concerned, contained for example in his accounts or internal book-keeping;

(b) documents proving the originating status of materials used, issued or made out in a Party, where these documents are used in accordance with domestic law;

(c) documents proving the working or processing of materials in a Party, issued or made out in a Party, where these documents are used in accordance with domestic law;

(d) proof of origin proving the originating status of materials used, issued or made out in a Party in accordance with this protocol.

Article 26

Preservation of proof of origin and supporting documents

1. The exporter making out an origin declaration or applying for the issuance of a certificate of origin shall keep for at least three years a copy of this origin declaration or of the certificate origin as well as the documents referred to in Article 16(3) and 19(2),

2. The competent authorities of the exporting Party issuing a certificate of origin shall keep for at least three years the application form referred to in Article 16(2).

3. The customs authorities of the importing Party shall keep for at least three years the proofs of origin submitted to them.

4. Each Party shall permit, in accordance with that Party’s laws and regulations, exporters in

its territory to maintain documentation or records in any medium, provided that the documentation or records can be retrieved and printed.

Article 27

Discrepancies and formal errors

1. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not ipso facto render the proof of origin null and void if it is duly established that this document does correspond to the products submitted.

2. Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

3. For multiple goods declared under the same proof of origin, a problem encountered with one of the goods listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining goods listed in the proof of origin.

Article 28

Amounts expressed in euro

1. For the application of the provisions of Article 15(1)(b)(ii) and Article 24(3)(a) in cases where products are invoiced in a currency other than euro, amounts in the national currencies of the Member States of the Union or of Vietnam equivalent to the amounts expressed in euro shall be fixed annually by each of the countries concerned.

2. A consignment shall benefit from the provisions of Article 15(1)(b)(ii) or Article 24(3)(a) by reference to the currency in which the invoice is drawn up, according to the amount fixed by the Party concerned.

3. The amounts to be used in any given national currency shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The amounts shall be communicated to the European Commission by 15 October and shall apply from 1 January the following year. The European Commission shall notify all countries concerned of the relevant amounts.

4. A Party may round up or down the amount resulting from the conversion into its national currency of an amount expressed in euro. The rounded-off amount may not differ from the amount resulting from the conversion by more than 5 per cent. A Party may retain unchanged its national currency equivalent of an amount expressed in euro if, at the time of the annual adjustment provided for in paragraph 3, the conversion of that amount, prior to any rounding off, results in an increase of less than 15 per cent in the national currency equivalent. The national currency equivalent may be retained unchanged if the conversion would result in a decrease in that equivalent value.

5. The amounts expressed in euro shall be reviewed by the [Customs Committee] at the request of the Union or of Vietnam. When carrying out this review, the [Customs Committee] shall consider the desirability of preserving the effects of the limits concerned in real terms, for this purpose, it may decide to modify the amounts expressed in euro.

Title V

Arrangements for administrative co-operation

Article 29

Cooperation between competent authorities

1. The authorities of the Parties shall provide each other, through the European Commission, with specimen impressions of stamps used in their competent authorities for the issue of certificates of origin and with the addresses of the customs authorities responsible for verifying those certificates and origin declarations.

2. In order to ensure the proper application of this Protocol, the Parties shall assist each other, through their competent authorities, in checking the authenticity of the certificates of origin or the origin declarations and the correctness of the information given in these documents.

Article 30

Verification of proofs of origin

1. Subsequent verifications of proofs of origin shall be carried out at random or whenever the competent authorities of the importing Party have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Protocol.

2. For the purposes of implementing the provisions of paragraph 1, the competent

authorities of the importing Party shall return the certificate of origin and the invoice, if it has been submitted, or the origin declaration, or a copy of these documents, to the competent authorities of the exporting Party giving, where appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the proof of origin is incorrect shall be forwarded in support of the request for verification.

3. The verification shall be carried out by the competent authorities of the exporting Party. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.

4. If the competent authorities of the importing Party decide to suspend the granting of preferential treatment to the products concerned while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary. Any suspension of preferential treatment shall be reinstated as soon as possible after the originating status of the products concerned or the fulfilment of the other requirements of this Protocol has been ascertained by the competent authorities of the importing Party.

5. The competent authorities requesting the verification shall be informed of the results of this verification as soon as possible. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in the Parties and fulfil the other requirements of this Protocol.

6. If in cases of reasonable doubt there is no reply within ten months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting competent authorities may, except in exceptional circumstances, refuse entitlement to the preferences.

Article 31

Dispute settlement

Where disputes arise in relation to the verification procedures of Article 30 which cannot be settled between the competent authorities requesting a verification and the competent authorities responsible for carrying out this verification, they shall be submitted to the [Committee on Customs].

In all cases of disputes between the importer and the competent authorities of the importing Party, the settlement of those disputes shall be under the legislation of that Party.

Article 32

Penalties

The Parties shall provide for procedures for penalties to be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining a preferential treatment for products.

Article 33

Confidentiality

Each Party shall maintain, in accordance with its law, the confidentiality of information and data collected in the process of verification and shall protect that information and data from disclosure that could prejudice the competitive position of the person providing them. Any information and data communicated between the authorities of the Parties competent for the administration and enforcement of origin determination shall be treated as confidential.

Title VI

Ceuta and Melilla

Article 34

Application of this Protocol

1. The term "Union" does not cover Ceuta and Melilla.

2. Products originating in Vietnam, when imported into Ceuta or Melilla, shall enjoy in all respects the same customs regime as that which is applied to products originating in the customs territory of the European Union under Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the Union. Vietnam shall grant to imports of products covered by the Agreement and originating in Ceuta and Melilla the same customs regime as that which is granted to products imported from and originating in the Union.

3.For the purpose of the application of paragraph 2 concerning products originating in Ceuta and Melilla, this Protocol shall apply mutatis mutandis subject to the special conditions set out in Article 35.

Article 35

Special conditions

1. Provided that they meet the provisions of Article 13, the following shall be considered as:

(1) products originating in Ceuta and Melilla:

(a) products wholly obtained in Ceuta and Melilla;

(b) products obtained in Ceuta and Melilla in the manufacture of which products other than those referred to in (a) are used, provided that:

i. the said products have undergone sufficient working or processing within the meaning of Article 5; or that,

ii. those products are originating in a Party, provided that they have been submitted to working or processing which goes beyond the operations referred to in Article 6.

(2) products originating in Vietnam:

(a) products wholly obtained in Vietnam;

(b) products obtained in Vietnam, in the manufacture of which products other than those referred to in (a) are used, provided that:

i. the said products have undergone sufficient working or processing within the meaning of Article 5; or that,

ii. those products are originating in Ceuta and Melilla or in the Union, provided that they have been submitted to working or processing which goes beyond the operations referred to in Article 6.

2. Ceuta and Melilla shall be considered as a single territory.

3. The exporter or his authorised representative shall enter "Vietnam" and "Ceuta and Melilla" on the proof of origin.

4. The Spanish customs authorities shall be responsible for the application of this Protocol in Ceuta and Melilla.

Title VII

Final provisions

Article 36

Committee

1. The Committee on Customs, established as a specialised committee pursuant to Article [X.2] ‘Specialised Committees’ in Chapter [X] ‘Institutional, General and Final Provisions’, and in line with Article [X] ‘Committee on Customs’ in Chapter [X] ‘Customs and Trade

Facilitation', may review the provisions of this Protocol and submit a proposal for a decision to be adopted by the Trade Committee to amend it.

2. The Committee on Customs shall also endeavour to agree upon the uniform administration of the rules of origin, including tariff classification and valuation matters relating to the rules of origin and technical, interpretive or administrative matters relating to this Protocol.

Article 37

Amendments to this Protocol

Following the conclusion of a free trade agreement between the Union and one or several

ASEAN countries, the Committee on Customs may submit a proposal for a decision to be adopted by the Trade Committee to amend this Protocol to ensure coherence between the Rules of Origin applicable within the context of the preferential exchanges between ASEAN countries and the Union.

Article 38

Transitional provisions for goods in transit or storage

The provisions of this Agreement may be applied to goods which comply with the provisions of this Protocol and which on the date of entry into force of this Agreement are either in transit, in the Parties in temporary storage, in customs warehouses or in free zones, subject to the submission to the customs authorities of the importing Party of a proof of origin made out retrospectively, and if requested, together with the documents showing that the goods have not been altered, in accordance with Article 13.

Annex I

Introductory Notes to The List in Annex II

Note 1 – General introduction

The list sets out the conditions required for all products to be considered as sufficiently worked or processed within the meaning of Article 5 of this Protocol. There are four different types of rule, which vary according to the product:

(a) through working or processing a maximum content of non-originating materials is not exceeded;

(b) through working or processing the 4-digit Harmonized System heading or 6-digit Harmonized System sub-heading of the manufactured products becomes different from the 4-digit Harmonized System heading or 6-digit sub-heading respectively of the materials used. However, in the case set out in point 3.3. 2nd paragraph, the 4-digit Harmonized System heading, or 6-digit Harmonized System sub-heading of the manufactured products may be the same as the 4-digit Harmonized System heading or 6-digit sub-heading respectively of the materials used;

(c) a specific working and processing operation is carried out;

(d) working or processing is carried out on certain wholly obtained materials.

Note 2 – The structure of the list

2.1. The first two columns in the list describe the product obtained. The first column gives the heading number or chapter number used in the Harmonized System and the second column gives the description of goods used in that system for that heading or chapter. For each entry in the first two columns, a rule is specified in column 3. Where, in some cases, the entry in the first column is preceded by an "ex", this signifies that the rules in column 3 apply only to the part of that heading as described in column 2.

2.2. Where several heading numbers are grouped together in column 1 or a chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rules in column 3 apply to all products which, under the Harmonized System, are classified in headings of the chapter or in any of the headings grouped together in column 1.

2.3. Where there are different rules in the list applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rules in column 3.

2.4. Where two alternative rules are set out in column 3, separated by "or", it is at the choice of the exporter which one to use.

Note 3 – Examples of how to apply the rules

3.1. Article 5 of this Protocol, concerning products having acquired originating status which are used in the manufacture of other products, shall apply, regardless of whether this status has been acquired inside the factory where these products are used or in another factory in a Party.

3.2. Pursuant to Article 6, the working or processing carried out must go beyond the list of operations mentioned in that Article. If it does not, the goods shall not qualify for the granting of the benefit of preferential tariff treatment, even if the conditions set out in the list below are met. Subject to the provision referred to in the first sub-paragraph, the rules in the list represent the minimum amount of working or processing required. The carrying-out of more working or processing also confers originating status, without prejudice to Article 6 (see point 3.2). Conversely, the carrying-out of less working or processing cannot confer originating status.

3.3. Where a rule uses the expression “Manufacture from materials of any heading, except that of the product” all non-originating materials classified in headings other than that of the product may be used (CTH). Where a rule uses the expression "Manufacture from materials of any heading", then materials of any heading(s) (even materials of the same description and heading as the product) may be used.

3.4. Where a rule uses the expression “Manufacture in which the value of all the materials used does not exceed x% of the ex-works price of the product” then the value of all non-originating material is to be considered and the percentage for the maximum value of non-originating materials may not be exceeded through the use of Article 5(3) [tolerance].

3.5 If a rule provides that a specific non-originating material may be used, the use of materials which still are in an earlier stage of the manufacturing process of that specific material is allowed, and the use of materials resulting from further processing of that specific non-originating material is not. If a rule provides that a specific non-originating material may not be used, the use of materials which still are in an earlier stage of the manufacturing process of that specific non-originating material is allowed, and the use of materials resulting from further processing of that specific non-originating material is not.

Example: when the list-rule for Chapter 19 requires that “non-originating materials of headings 1101 to 1108 cannot exceed 20% weight”, the use of non-originating cereals of Chapter 10 (materials at an earlier stage in the manufacturing process of goods of 1101 to 1108) is not limited by the 20% weight.

3.6. When a rule in the list specifies that a product may be manufactured from more than one material, this means that one or more materials may be used. It does not require that all have to be used.

3.7. Where a rule in the list specifies that a product must be manufactured from a particular material, the condition does not prevent the use of other materials which, because of their inherent nature, cannot satisfy this requirement.

Example: Flat-rolled products of iron and non-alloy steel, of a width of 600 mm or more, which have been painted, varnished or coated with plastics are classified in the HS under 7210 70. The PSR for 7210 is “Manufacture from ingots or other primary forms or semi-finished materials of heading 7206 and 7207. This rule does not prevent the use of non-originating paint and varnish (heading 3208) or plastics (chapter 39).

Note 4 – General provisions concerning certain agricultural goods

4.1. Agricultural goods falling within Chapters 6, 7, 8, 9, 10, 12 and heading 2401 which are grown or harvested in the territory of a Party shall be treated as originating in the territory of that Party, even if grown from seeds, bulbs, rootstock, cuttings, grafts, shoots, buds, or other live parts of plants imported from a non-Party.

4.2 Whenever the rules for products in Chapters 1-24 incorporate some limitations in weight, it should be noted that in accordance with Article 5(2) of the Protocol, these limitations in weight only apply to non-originating materials. Consequently, originating materials are not to be taken into account for the calculation of the limitations in weight. In addition, these limitations are expressed in different manners. In particular:

- When the rule uses the expression “the weight of the materials of Chapters/headings....” it means that the weight of each material mentioned should be added up and that the total weight should not exceed the maximum % Example: The rule for Chapter 19 provides that the weight of the materials of Chapters 2, 3 and 16 used does not exceed 20% of the weight of the final product. In case the weight of the final product contains 12% of materials of Chapter 3 and 10% of materials of Chapter 16, the product does not meet the origin conferring rule of Chapter 19 as the combined weight exceeds 20%.
- When the rule uses the expression “the individual weight of the materials of Chapters/headings” it means that the weight of each material mentioned should not exceed the maximum %. The combined weight of the materials added together has no relevance. Example: The rule for Chapter 22 provides that the individual weight of sugar and of the materials of Chapter 4 does not exceed 20% of the weight of the final product. In case the weight of the final product contains 15% of sugar as well as 10% of materials of Chapter 4, the origin conferring rule of Chapter 22 is complied with. Each individual material is less than 20%. On the contrary, in case the weight of the final product contains 25% of sugar as well as 10% of materials of Chapter 4, the origin conferring rule is not met.
- When the rule uses the expression “the total combined weight of sugar and of the materials of Chapter 4 does not exceed a % in weight of the final product” it means that both the weight of the sugar and the materials of Chapter 4 must meet individually their weight limitation as well as their combined weights added up must meet the combined weight restriction. A combined weight limitation expresses a further restriction to the individual weight limitations.

Example: The rule for heading 1704 provides that the combined weight of sugar and of the materials of Chapter 4 does not exceed 50% of the weight of the final product. The individual weight limitations for materials of Chapter 4 are 20% and for sugar 40%. In case the weight of the final product contains 35% of sugar as 25 well as 15% of materials of Chapter 4, both the individual weight limitations and the combined weight limitations of the origin conferring rule of heading 1704 are complied with. On the contrary, in case the weight of the final product contains 35% of sugar as well as 20% of materials of Chapter 4, the combined weight represents 55%. In that case the individual weight limitations are respected but the combined weight limitation is exceeded and therefore the origin conferring rule of heading 1704 is not complied with.

Note 5 - Terminology used in respect of certain textile products

5.1. The term "natural fibres" is used in the list to refer to fibres other than artificial or synthetic fibres. It is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, includes fibres which have been carded, combed or otherwise processed, but not spun.

5.2. The term "natural fibres" includes horsehair of heading 0511, silk of headings 5002 and 5003, as well as wool-fibres and fine or coarse animal hair of headings 5101 to 5105, cotton fibres of headings 5201 to 5203, and other vegetable fibres of headings 5301 to 5305.

5.3. The terms "textile pulp", "chemical materials" and "paper-making materials" are used in the list to describe the materials, not classified in Chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.

5.4. The term "man-made staple fibres" is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of headings 5501 to 5507.

Note 6 - Tolerances applicable to products made of a mixture of textile materials

6.1. Where, for a given product in the list, reference is made to this Note, the conditions set out in column 3 shall not be applied to any basic textile materials used in the manufacture of this product and which, taken together, represent 10 % or less of the total weight of all the basic textile materials used. (See also Notes 6.3 and 6.4).

6.2. However, the tolerance mentioned in Note 6.1 may be applied only to mixed products which have been made from two or more basic textile materials. The following are the basic textile materials:

- silk wool coarse animal hair
- fine animal hair
- horsehair
- cotton
- paper-making materials and paper; 26 - flax
- true hemp

- jute and other textile bast fibres
- sisal and other textile fibres of the genus Agave
- coconut, abaca, ramie and other vegetable textile fibres
- synthetic man-made filaments
- artificial man-made filaments
- current-conducting filaments
- synthetic man-made staple fibres of polypropylene
- synthetic man-made staple fibres of polyester
- synthetic man-made staple fibres of polyamide
- synthetic man-made staple fibres of polyacrylonitrile
- synthetic man-made staple fibres of polyimide
- synthetic man-made staple fibres of polytetrafluoroethylene
- synthetic man-made staple fibres of poly (phenylene sulphide)
- synthetic man-made staple fibres of poly (vinyl chloride)
- other synthetic man-made staple fibres
- artificial man-made staple fibres of viscose
- other artificial man-made staple fibres
- yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped
- yarn made of polyurethane segmented with flexible segments of polyester, whether or not gimped;

products of heading 5605 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film

- other products of heading 5605
- glass fibres
- metal fibres.
-

Example: A yarn, of heading 5205, made from cotton fibres of heading 5203 and synthetic staple fibres of heading 5506, is a mixed yarn. Therefore, non-originating synthetic staple fibres which do not satisfy the origin rules may be used, provided that their total weight does not exceed 10% of the weight of the yarn.

Example: A woollen fabric, of heading 5112, made from woollen yarn of heading 5107 and synthetic yarn of staple fibres of heading 5509, is a mixed fabric. Therefore, synthetic yarn which does not satisfy the origin rules, or woollen yarn which does not satisfy the origin rules, or a combination of the two, may be used, provided that their total weight does not exceed 10% of the weight of the fabric.

Example: Tufted textile fabric, of heading 5802, made from cotton yarn of heading 5205 and cotton fabric of heading 5210, is only a mixed product if the cotton fabric is itself a mixed fabric made from yarns classified in two separate headings, or if the cotton yarns used are themselves mixtures.

Example: If the tufted textile fabric concerned had been made from cotton yarn of heading 5205 and synthetic fabric of heading 5407, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is, accordingly, a mixed product. 6.3. In the case of products incorporating "yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped", this tolerance is 20 % in respect of this yarn. 6.4. In the case of products incorporating "strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film", this tolerance is 30 % in respect of this strip.

Note 7 - Other tolerances applicable to certain textile products

7.1. Where, in the list, reference is made to this Note, textile materials which do not satisfy the rule set out in the list in column 3 for the made-up product concerned, may be used, provided that they are classified in a heading other than that of the product and that their value does not exceed 8 % of the ex-works price of the product.

7.2. Without prejudice to Note 6.3, materials, which are not classified within Chapters 50 to 63, may be used freely in the manufacture of textile products, whether or not they contain textiles. 28 Example: If a rule in the list provides that, for a particular textile item (such as trousers), yarn must be used, this does not prevent the use of metal items, such as buttons, because buttons are not classified within Chapters 50 to 63. For the same reason, it does not prevent the use of slide-fasteners, even though slide-fasteners normally contain textiles.

7.3. Where a percentage rule applies, the value of non-originating materials which are not classified

within Chapters 50 to 63 must be taken into account when calculating the value of the non-originating materials incorporated.

Note 8 - Definition of specific processes and simple operations carried out in respect of certain products of Chapter 27

8.1. For the purposes of headings ex 2707 and 2713, the "specific processes" are the following:

a. vacuum-distillation;
b. re-distillation by a very thorough fractionation process;
c. cracking;
d. reforming;
e. extraction by means of selective solvents;
f. the process comprising all of the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolourisation and purification with naturally active earth, activated earth, activated charcoal or bauxite;
g. polymerisation;
h. alkylation;
i. isomerisation.

8.2. For the purposes of headings 2710, 2711 and 2712, the "specific processes" are the following:

a. vacuum-distillation;
b. re-distillation by a very thorough fractionation process;
c. cracking;
d. reforming;
e. extraction by means of selective solvents;
f. the process comprising all of the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolourisation and purification with naturally active earth, activated earth, activated charcoal or bauxite;
g. polymerisation;
h. alkylation;
i. isomerisation;
j. in respect of heavy oils of heading ex 2710 only, desulphurisation with hydrogen, resulting in a reduction of at least 85 % of the sulphur content of the products processed (ASTM D 1266-59 T method);
k. in respect of products of heading 2710 only, deparaffining by a process other than filtering;
l. in respect of heavy oils of heading ex 2710 only, treatment with hydrogen, at a pressure of more than 20 bar and a temperature of more than 250 °C, with the use of a catalyst, other than to effect desulphurisation, when the hydrogen constitutes an active element in a chemical reaction. The further treatment, with hydrogen, of lubricating oils of heading ex 2710 (e.g. hydrofinishing or decolourisation), in order, more especially, to improve colour or stability shall not, however, be deemed to be a specific process;
m. in respect of fuel oils of heading ex 2710 only, atmospheric distillation, on condition that less than 30 % of these products distils, by volume, including losses, at 300 °C, by the ASTM D 86 method;
n. in respect of heavy oils other than gas oils and fuel oils of heading ex 2710 only, treatment by means of a high-frequency electrical brush discharge;
o. in respect of crude products (other than petroleum jelly, ozokerite, lignite wax or peat wax, paraffin wax containing by weight less than 0.75 % of oil) of heading ex 2712 only, de-oiling by fractional crystallisation. 8.3. For the purposes of headings ex 2707 and 2713, simple operations, such as cleaning, decanting, desalting, water separation, filtering, colouring, marking, obtaining a sulphur content as a result of mixing products with different sulphur contents, or any combination of these operations or like operations, do not confer origin.

Annex II

List of Working or Processing Required to Be Carried Out on Non-Originating Materials In Order That The Product Manufactured Can Obtain Originating Status

See link attached on main page.

Annex III

Materials Referred to In Paragraph 2 Of Article 3

HS	Description
030741	Live, fresh or chilled cuttlefish and squid
030751	Live, fresh or chilled octopus

Annex IV

Products Referred to In Paragraph 2 Of Article 3

HS	Description
160554	Prepared or preserved cuttlefish and squid
160555	Prepared or preserved octopus

Annex V

Products Referred to In Paragraph 7 Of Article 3

HS	Description
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted;
Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted;

Annex VI

Text of the Original Declaration

The origin declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

Bulgarian version

Износителят на продуктите, обхванати от този документ (митническо разрешение № …

(1)) декларира, че освен където е отбелязано друго, тези продукти са с …преференциален произход (2).

Spanish version

El exportador de los productos incluidos en el presente documento (autorización aduaneran° .. …()13) declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial . …(2)

Croatian version

Izvoznik proizvoda obuhvaćenih ovom ispravom (carinsko ovlaštenje br. .....(1)) izjavljuje da su, osim ako je to drugačije izričito navedeno, ovi proizvodi .....(2) preferencijalnog podrijetla.

Czech version

Vývozce výrobků uvedených v tomto dokumentu (číslo povolení …(1)) prohlašuje, že kromě zřetelně

[13] When the invoice declaration is made out by an approved exporter, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

označených, mají tyto výrobky preferenční původ v …(2)

Danish version

Eksportøren af varer, der er omfattet af nærværende dokument, (toldmyndighedernes tilladelse nr. ...(1)), erklærer, at varerne, medmindre andet tydeligt er angivet, har præferenceoprindelse i ...(2)

German version

Der Ausführer (Ermächtigter Ausführer; Bewilligungs-Nr. ...(1)) der Waren, auf die sich dieses Handelspapier bezieht, erklärt, dass diese Waren, soweit nicht anderes angegeben, präferenzbegünstigte ...(2) Ursprungswaren sind.

Estonian version

Käesoleva dokumendiga hõlmatud toodete eksportija (tolliameti kinnitus nr. ...(1)) deklareerib, et need tooted on ...(2) sooduspäritoluga, välja arvatud juhul kui on selgelt näidatud teisiti.

Greek version

Ο εξαγωγέας των προϊόντων που καλύπτονται από το παρόν έγγραφο (άδεια τελωνείου υπ΄αριθ. ...(1)) δηλώνει ότι, εκτός εάν δηλώνεται σαφώς άλλως, τα προϊόντα αυτά είναι προτιμησιακής καταγωγής ...(2)

English version

The exporter of the products covered by this document (customs authorization No ...(1)) declares that, except where otherwise clearly indicated, these products are of ...(2) preferential origin

French version

L'exportateur des produits couverts par le présent document (autorisation douanière n° ...(1))

déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle ...

(2)

Italian version

L'esportatore delle merci contemplate nel presente documento (autorizzazione doganale

n. ...(1)) dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ...(2)

Latvian version

Eksportētājs produktiem, kuri ietverti šajā dokumentā (muitas pilnvara Nr. …(1)), deklarē, ka,

iznemot tur, kur ir citādi skaidri noteikts, šiem produktiem ir priekšrocību izcelsme no …14(2)

Lithuanian version

Šiame dokumente išvardintų prekių eksportuotojas (muitinės liudijimo Nr …(1)) deklaruoja,

kad, jeigu kitaip nenurodyta, tai yra …(2) preferencinės kilmės prekės.

Hungarian version

A jelen okmányban szereplő áruk exportőre (vámfelhatalmazási szám: …(1)) kijelentem, hogy

eltérő jelzés hiányában az áruk kedvezményes …(2) származásúak.

Maltese version

L-esportatur tal-prodotti koperti b'dan id-dokument (awtorizzazzjoni tad-dwana nru. …(1)) jiddikjara li, ħlief fejn indikat b'mod ċar li mhux hekk, dawn il-prodotti huma ta' oriġini preferenzjali …(2).

Dutch version

De exporteur van de goederen waarop dit document van toepassing is (douanevergunning nr. ...(1)), verklaart dat, behoudens uitdrukkelijke andersluidende vermelding, deze goederen van preferentiële ... oorsprong zijn (2).

Polish version

Eksporter produktów objętych tym dokumentem (upoważnienie władz celnych nr …(1) deklaruje, że z wyjątkiem gdzie jest to wyraźnie określone, produkty te mają …(2) preferencyjne pochodzenie.

Portuguese version

O abaixo assinado, exportador dos produtos cobertos pelo presente documento (autorização aduaneira n°. ...(1)), declara que, salvo expressamente indicado em contrário, estes produtos são de origem preferencial ...(2)

Romanian version

Exportatorul produselor ce fac ojiectul acestui document (autorizaţia vamală nr. …(1)) declară că, exceptând cazul în care în mod expres este indicat ltfel, aceste produse sunt de origine preferenţială …(2)

---

14 Origin of products to be indicated. When the invoice declaration relates, in whole or in part, to products originating in Ceuta and Melilla, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

Slovenian version

Izvoznik blaga, zajetega s tem dokumentom (pooblastilo carinskih organov št …(1)) izjavlja, da, razen če ni drugače jasno navedeno, ima to blago preferencialno …(2) poreklo.

Slovak version

Vývozca výrobkov uvedených v tomto dokumente (číslo povolenia …(1)) vyhlasuje, že okrem zreteľne označených, majú tieto výrobky preferenčný pôvod v …(2).

Finnish version

Tässä asiakirjassa mainittujen tuotteiden viejä (tullin lupa n:o ...(1)) ilmoittaa, että nämä tuotteet ovat, ellei toisin ole selvästi merkitty, etuuskohteluun oikeutettuja ... alkuperätuotteita (2).

Swedish version

Exportören av de varor som omfattas av detta dokument (tullmyndighetens tillstånd nr. ...(1)) försäkrar att dessa varor, om inte annat tydligt markerats, har förmånsberättigande ... ursprung

(Place and date)[15]

.....

(Signature of the exporter, in addition to the name of the person signing the declaration has to be indicated in clear script)[16]

[15] These indications may be omitted if the information is contained on the document itself.

[16] In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

Annex VII

Specimens of a Certificate of Origin and Application for a Certificate of Origin

Printing instructions

1. Each form shall measure 210 x 297 mm; a tolerance of up to minus 5 mm or plus 8 mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than 25 g/m2. It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.

2. The competent authorities of the Parties may reserve the right to print the forms themselves or may have them printed by approved printers. In the latter case, each form must include a reference to such approval. Each form must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it can be identified.

SPECIMEN OF A CERTIFICATE OF ORIGIN

MOVEMENT CERTIFICATE

1. Exporter (Name, full address, country)	**EUR.1** **No**	
	See notes overleaf before completing this form.	
	2. Certificate used in preferential trade between ..... **And** ..... (Insert appropriate countries, groups of countries or territories)	
3. Consignee (Name, full address, country) (Optional)	**4. Country, group of countries or territory in which the products are considered as originating**	**5. Country, group of countries or territory of destination**
6. Transport details (Optional)	**7. Remarks**	

8. Item number; Marks and numbers; Number and kind of packages (1); Description of goods	**9. Gross mass (kg) or other measure (litres, m^3., etc.)**	**10. Invoices** (Optional)

(1) If goods are not packed, indicate number of articles or state « in bulk » as appropriate

(2) Complete only where the regulations of the exporting country or territory require.

11. CUSTOMS (EU) or ISSUING AUTHORITIES (VN)

ENDORSEMENT

Declaration certified

Export document (2)

Form

..... No ……...

Of ……

Customs office .....……

Issuing country or territory

..... Stamp

.....

.....

Place and date …….....

.....

…….....

(Signature)

12. DECLARATION BY THE EXPORTER

I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate.

Place and date …….....

.....

(Signature)

13. REQUEST FOR VERIFICATION, to

Verification of the authenticity and accuracy of this certificate is requested.

.....

(Place and date)

Stamp

.....

(Signature)

14. RESULT OF VERIFICATION

Verification carried out shows that this certificate (1)

☐ was issued by the customs office (EU) issuing authority (VN) indicated and that the information contained therein is accurate.

☐ does not meet the requirements as to authenticity and accuracy (see remarks appended).

.....

(Place and date)

Stamp

.....

(Signature)

(1) Insert X in the appropriate box.

Note –

1. Certificate must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the Customs authorities (EU) issuing authority (VN) of the issuing country or territory.

2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.

3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

SPECIMEN OF AN APPLICATION FOR A CERTIFICATE OF ORIGIN
(for exports from the Union to Vietnam)

APPLICATION FOR A MOVEMENT CERTIFICATE

1. Exporter (Name, full address, country)	**EUR.1** **No**	
	See notes overleaf before completing this form.	
	2. Application for a certificate to be used in preferential trade between ..... **and** ..... (Insert appropriate countries or groups of countries or territories)	
3. Consignee (Name, full adress, country) (Optional)	**4. Country, group of countries or territory in which the products are considered as originating**	**5. Country, group of countries or territory of destination**
6. Transport details (Optional)	**7. Remarks**	

8. Item number; Marks and numbers; Number and kind of packages (1) **Description of goods**	**9. Gross mass (kg) or other measure (litres, m^3., etc.)**	**10. Invoices** (Optional)

(1) If goods are not packed, indicate number of articles or state « in bulk » as appropriate

DECLARATION BY THE EXPORTER

I, the undersigned, exporter of the goods described overleaf,

DECLARE that the goods meet the conditions required for the issue of the attached certificate; SPECIFY as follows the circumstances which have enable these goods to meet the above conditions:

.....
.....
.....
.....

SUBMIT the following supporting documents (1):

.....
.....
.....
.....

UNDERTAKE to submit, at the request of the appropriate authorities, any supporting evidence which these authorities may require for the purpose of issuing the attached certificate, and undertake, if required, to agree to any inspection of my accounts and to any check on the processes of manufacture of the above goods, carried out by the said authorities;

REQUEST the issue of the attached certificate for these goods.

…… . .....
(Place and date)

. .....
(Signature)

1 For example: import documents, movement certificates, invoices, manufacturer's declarations, etc., referring to the products used in manufacture or to the goods re-exported in the same state.

Annex VIII

Explanatory Notes

1. For the purposes of Article 1(p), the “exporter” is not necessarily the person (the seller) that issues the sales invoice for the consignment (third party invoicing). The seller can be located in the territory of a non-Party to the agreement.
2. For the purposes of Article 4(1)(b) “plants and vegetable products” includes notably live trees, flowers, fruits, vegetables, seaweeds and fungi.
3. For the purposes of Article 11 general accounting principles means the recognised consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures.
4. For the purpose of Article 13(4) the terms "In case of doubt" means that the importing Party has the discretion of determining the cases for which the declarant is requested to provide evidence of compliance with Article 13 but that it cannot routinely require the submission of that evidence.
5. For the purposes of Article 17(1) “in writing” includes an application being made by electronic means.
6. For the purpose of Article 17(3) the terms “to submit at any time, at the request of the competent authorities of the exporting Party, all appropriate documents” covers both the situation whereby the competent authorities request systematically the submission of all supporting documents as well as the situation whereby the competent authorities only make targeted requests for the submission of the supporting documents.
7. For the purposes of Article 21(3) “another commercial document” can be, for example, an accompanying: delivery note, a pro-forma invoice or a packing list. A transport document, such as a Bill of Lading or the Airway Bill, cannot be considered as another commercial document. An origin declaration on a separate form is not permitted. The origin declaration may be submitted on a separate sheet of the commercial document when the sheet is an obvious part of this document.
8. As regards the application of Article 32, the customs authorities of the exporting country endeavour to inform the importing authorities about the receipt of the verification request. They may do so in any form, including electronic. They also endeavour to inform the requesting authorities in case they need more time than the period of ten months foreseen to carry out verification and provide a reply.
9. As regards the application of Article 32(6), the requesting competent authorities shall check with the requested competent authorities whether they have effectively received the request before refusing the entitlement of preferences.

Joint Declaration

Concerning the Principality of Andorra

1. Products originating in the Principality of Andorra falling within Chapters 25 to 97 of the Harmonised System shall be accepted by Vietnam as originating in the Union within the meaning of this Agreement.
2. The Protocol concerning 'the definition of originating products and Methods of Administrative co-operation' shall apply

mutatis mutandis for the purpose of defining the originating status of the above-mentioned products.

Joint Declaration

Concerning the Republic of San Marino

1. Products originating in the Republic of San Marino shall be accepted by Vietnam as originating in the Union within the meaning of this Agreement.
2. The Protocol concerning 'the definition of originating products and Methods of Administrative co-operation' shall apply *mutatis mutandis* for the purpose of defining the originating status of the above-mentioned products.

Joint Declaration

Concerning the revision of the rules of origin contained in protocol concerning 'the definition of originating products and methods of administrative co-operation'

1. The Parties agree to review the rules of origin contained in this Protocol concerning the definition of originating products and Methods of Administrative co-operation' and discuss the necessary amendments upon request of either Party.
2. Annexes II to IV to the Protocol concerning 'the definition of originating products and Methods of Administrative co-operation' will be adapted in accordance with the periodical changes to the Harmonised System.

Chapter 5

Customs and Trade Facilitation

Article 1

Objectives

1. The Parties recognise the importance of customs and trade facilitation matters in the evolving global trading environment. The Parties agree to reinforce cooperation in this area with a view to ensuring that the legislation and procedures fulfil the objectives of promoting trade facilitation while ensuring effective customs control.
2. To this end, the Parties agree that legislation shall be non-discriminatory and that customs procedures shall be based upon the use of modern methods and effective controls to combat fraud and to promote legitimate trade.
3. The Parties recognise that legitimate public policy objectives, including in relation to security, safety and fight against fraud shall not be compromised in any way.

Article 2

Customs cooperation and mutual administrative assistance

1. The Parties shall cooperate on customs matters between their respective authorities in order to ensure that the objectives set out in Article 1 are attained.

2. The Parties shall develop cooperation, inter alia:

a. exchanging information concerning customs legislation, its implementation, and customs procedures; particularly in the following areas:

- simplification and modernisation of customs procedures,
- enforcement of intellectual property rights by the customs authorities,

- facilitation of transit movements and transhipment;
- relations with the business community,

b. considering developing joint initiatives relating to import, export and other customs procedures including technical assistance, as well as towards ensuring an effective service to the business community;

c. strengthening their cooperation in the field of customs in international organisations such as the Word Trade Organisation (WTO) and the World Customs Organisation (WCO).

d. establishing, where relevant and appropriate, mutual recognition of trade partnership programmes and customs controls including equivalent trade facilitation measures.

3.The Parties shall provide each other with mutual administrative assistance in customs matters in accordance with the provisions of Protocol X.

Article 3

Customs and legislative procedures

1. The Parties agree that their respective customs provisions and procedures shall be based upon:

a. international instruments and standards applicable in the area of customs and trade, including the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, the International Convention on the Harmonized Commodity Description and Coding System (hereinafter referred as “HS Convention”), the Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organisation and the Customs Data Model of the World Custom Organization;

b. the protection of legitimate trade through effective enforcement and compliance of legislative requirements;

c. legislation that avoids unnecessary or discriminatory burdens on economic operators, that provides for further facilitation for operators

d. with high levels of compliance, and that ensures safeguards against fraud and illicit or damageable activities;

e. measures, procedures and remedies shall be proportionate and non-discriminatory and, in their application, shall not unduly delay the release of goods;

2. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and accountability of operations, the Parties shall:

a. simplify and review requirements and formalities wherever possible; in respect of the rapid release and clearance of goods, inter alia allowing the release of goods, without the payment of customs duties, subject to the provision of a guarantee, if required, according to legislation of the Parties, in order to secure the final payment of customs duties.

b. work towards the further simplification and standardisation of data and documentation required by customs and other agencies;

Article 4

Release of Goods

Each Party shall ensure that its customs shall apply requirements and procedures that:

1. provide for the release of goods within a period no greater than that required to ensure compliance with its customs and other trade-related laws and formalities. Each party shall work to further reduce release times and release the goods without undue delay;

2. provide for advance electronic submission and eventual processing of information before physical arrival of goods, so-called pre-arrival processing,

3. to enable the release of goods on arrival.

Article 5

Simplified Customs Procedures

1. Each Party shall provide for simplified customs procedures that are transparent and efficient in order to reduce costs and increase predictability for economic operators, including for small and medium sized enterprises. Easier access to customs simplifications shall also be provided for authorised traders according to objective and non-discriminatory criteria.

2. A single administrative document or electronic equivalent shall be used for the purpose of completing the formalities connected with placing the goods under a customs procedure.

3. The Parties shall apply modern customs techniques, including risk assessment and post-clearance audit methods in order to simplify and facilitate the entry and the release of goods.

4. The Parties shall promote the progressive development and use of systems, including those based upon Information Technology, to facilitate the electronic exchange of data between traders, customs administrations and other related agencies.

Article 6

Transit and Transhipment

1.Each Party shall ensure the facilitation and effective control of transhipment operations and transit movements through their respective territories.

2.Each Party shall ensure cooperation and coordination between all concerned authorities and agencies in their respective territories to facilitate traffic in transit.

Article 7

Risk Management

1. Each Party shall base its examination and release procedures and its post-clearance audit procedures on risk assessment principles and audits, rather than examining each shipment in a comprehensive manner for compliance with all import requirements.

2. The Parties agree to adopt and apply their import, export, transit and transhipments control requirements and procedures for goods on the basis of risk management principles, to be applied to focus compliance measures on transactions that merit attention.

Article 8

Transparency

1. Each Party shall ensure that its customs and other trade-related laws, regulations and general administrative procedures and other requirements, including fees and charges, are readily available to all interested parties and where feasible and possible, official website.

2. Each Party shall designate or maintain one or more inquiry or information points to address inquiries within a reasonable time by interested persons concerning customs and other trade-related matters.

Article 9

Advance Rulings

1. Upon written request from traders each Party shall issue, through its customs authorities, prior to the importation of a good into its territory written advance rulings, in accordance with the parties' laws and regulations, on tariff classification or any other matter as the Parties may agree upon.

2. Subject to any confidentiality requirements in its law each Party shall publish, e.g. on the Internet, its advance rulings on tariff classification and any matters as the Parties may agree upon.

3. To facilitate trade, the Parties shall include in their bilateral dialogue regular updates on changes in their respective legislation on advance rulings.

Article 10

Fees and charges

1. Fees and charges shall only be imposed for services provided in connection with the importation or exportation in question. They shall not exceed the approximate cost of the service provided; and shall not be calculated on an ad valorem basis.

2. Neither Party shall require consular transactions[1], including related fees and charges, in connection with the importation of or exportation to of goods to the other Party. After three years of entry into force of this Agreement, a Party may not require consular authentication for the importation of goods covered by this Agreement.

3. The information on fees and charges shall be published via an officially designated medium, and where feasible and possible, official website. This information shall include the reason for the fee or charge for the service provided, the responsible authority, the fees and charges that will be applied, and when and how payment is to be made.

4. New or amended fees and charges shall not be imposed until information in accordance with paragraph 3 is published and made readily available.

Article 11

Customs Brokers

The Parties agree that their respective customs provisions and procedures shall not require the mandatory use of customs brokers. The Parties shall apply transparent, non-discriminatory and proportionate rules if and when licensing customs brokers.

Article 12

Customs valuation

1. The Parties shall determine the customs value of goods in accordance with the Agreement on the Implementation of Article VII of the GATT (1994).

2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

Article 13

Pre-shipment Inspections

The Parties agree that their respective customs provisions and procedures shall not require the mandatory use of pre-shipment inspections as defined in the WTO Agreement on Pre-shipment Inspection, or any other inspection activity performed at destination, before customs clearance, by private companies.

Article 14

Review and Appeal

Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against customs and other agency administrative actions, rulings and decisions affecting import or export of goods or goods in transit.

Article 15

Relations with the Business Community

The Parties agree:

(a) on the need for timely consultations with trade representatives on legislative proposals and general procedures related to customs and trade facilitation issues. To that end, appropriate consultation between administrations and the business community shall be established by each Party;

(b) to publish or otherwise make available, as far as possible through electronic means, and new legislation and general procedures related to customs and trade facilitation issues prior to the application of any such legislation and procedures, as well as changes to and interpretations of such legislation and procedures. They shall also make publicly available relevant notices of an administrative nature, including agency requirements and entry procedures, hours of operation and operating procedures for customs offices at ports and border crossing points, and points of contact for information enquiries;

(c) on the need for a reasonable time period between the publication of new or

amended legislation, procedures and fees or charges and their entry into force;

(d) to ensure that their respective customs and related requirements and procedures continue to meet the needs of the trading community, follow best practices, and remain as little trade-restrictive as possible.

Article 16

Special committee on Customs

1. The Parties hereby establish a Special Committee on Customs composed of representatives of the Parties. The Committee shall meet on a date and with an agenda agreed in advance by the Parties. The office of chairperson of the Committee shall be held alternately by each of the Parties and rotate annually. The Committee shall report to the XXX Committee.

2. The Committee shall ensure the proper functioning of this chapter, including the enforcement of Intellectual Property Rights by Customs in sub-section 3.2 of the IPR chapter, the Protocol xx on Rules of Origin, the Protocol yy on MAA and any additional customs-related provisions agreed between the Parties.

3. The Committee shall examine the need for, and take, decisions, opinions, proposals or recommendations on all issues arising from their implementation. It shall have the power to adopt decisions on mutual recognition of risk management techniques, risk standards, security controls and trade partnership programmes, including aspects such as data transmission and mutually agreed benefits.

Chapter 6

Technical Barriers to Trade

Article 1

Reaffirmation of the WTO agreement on technical barriers to trade.

1. The Parties reaffirm their existing rights and obligations with respect to each other under the *WTO Agreement on Technical Barriers to Trade*, (hereinafter referred to as the "TBT Agreement") which is incorporated into and made part of this Agreement.

Article 2

Objectives.

1. The objectives of this Chapter are to facilitate and increase bilateral trade in goods by preventing, identifying and eliminating unnecessary obstacles to trade within the scope of the TBT Agreement, and enhancing cooperation between the Parties.

2. The Parties undertake to establish and enhance technical capabilities and institutional infrastructure on matters concerning TBT.

Article 3

Scope and definitions.

1. This Chapter applies to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures as defined in the

TBT Agreement, that may affect trade in goods between the Parties, except:

a. purchasing specifications prepared by governmental bodies for production or consumption requirements of such bodies; or

b. sanitary and phytosanitary measures as defined in Annex A of the Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter referred to as the "SPS 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.

3. For the purposes of this Chapter, the definitions of Annex 1 to the TBT Agreement shall apply.

Article 4

Technical regulations.

1. The Parties agree to make best use of good regulatory practices, as provided for in the TBT Agreement and in this Chapter. In particular, the Parties agree:

a. to assess the available regulatory and non-regulatory alternatives to the proposed technical regulation that may fulfil the Party's legitimate objective, in accordance with Article 2.2 of the TBT Agreement; and to endeavour to assess, inter alia, the impact of the envisaged technical regulation in the form of a regulatory impact assessment as recommended by the TBT Committee;

b. to use relevant international standards, such as those developed by ISO, IEC, ITU, the Codex Alimentarius Commission, as a basis for their technical regulations, except when such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued; and where international standards have not been used as a basis,

c. on request from the other Party, to identify any substantial deviation from the relevant international standard and to explain the reasons why such standards have been judged inappropriate or ineffective for the aim pursued;

d. without prejudice to Article 2.3. of the TBT Agreement, to review technical regulations with a view to increasing their convergence with relevant international standards. In undertaking this review, the Parties shall, inter alia, take into account any new development in the relevant international standards and whether the circumstances that have given rise to divergences from any relevant international standard continue to exist;

e. to specify technical regulations based on product performance requirements, rather than design or descriptive characteristics.

2. In accordance with Article 2.7 of the TBT Agreement, the Parties shall give positive consideration to accepting as equivalent, technical regulations of another Party, even if these regulations differ from its own, provided it is satisfied that these regulations adequately fulfil the objectives of its own regulations.

3. A party that has prepared a technical regulation that it considers to be equivalent to a technical regulation of the other party having compatible objective and product scope may request in writing that the other party recognise it as equivalent. Such a request shall be made in writing and set out the detailed reasons why the technical regulations should be considered to be equivalent, including reasons with respect to product scope. The Party which does not agree that the technical regulations are equivalent shall provide to the other Party, upon request, the reasons for its decision.

Article 5

Standards

1. The Parties reconfirm their obligations under Article 4.1 of the TBT Agreement to ensure that their standardising bodies accept and comply with the Code of Good Practice for the preparation and Adoption of Standards in Annex 3 to the TBT Agreement, and also have regard to the principles set out in *Decisions and Recommendations adopted by the Committee* since 1 January 1995, G/TBT/1/rev.12, , 21 January 2015, Annex to Part I *(Decision of the Committee on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5 and Annex 3 of the Agreement) in the latest version*, issued by the WTO committee on Technical Barriers to Trade.

2. With a view to harmonizing standards on as wide a basis as possible, the Parties shall encourage their standardizing bodies, as well as the regional standardizing bodies of which they or their standardizing bodies are Members:

a. to participate within the limits of their resources, in the preparation of

international standards by relevant international standardizing bodies;

b. to use relevant international standards as a basis for the standards they develop, except where such international standards would be ineffective or inappropriate, for instance because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems.

c. to avoid duplication of, or overlap with the work of international standardizing bodies;

d. to review national and regional standards not based on relevant international standards at regular intervals, with a view to increasing their convergence with relevant international standards;

e. to cooperate with the relevant standardization bodies of the other Party in international standardization activities.

That cooperation may be undertaken in the international standardization bodies or at regional level.

3. The Parties undertake to exchange information on:

a. their use of standards in support of technical regulations;

b. each other's standardization processes, and the extent of use of international standards, regional or sub-regional standards as a base for their national standards.

c. co-operation agreements implemented by either Party on standardization for example on standardization issues in international agreements with third parties to the extent this is not explicitly prohibited by such agreements.

4. The Parties recognize that according to the Annex 1 of the TBT Agreement standards are voluntary. Where standards are made mandatory, through incorporation or referencing in a draft technical regulation or conformity assessment procedure, the transparency obligations set out in Article 7 shall be fulfilled.

Article 6

Conformity assessment procedures

1. Principles, provisions and procedures established in respect of development, adoption and application of technical regulations under Article 4.1., *mutatis mutandis*, with a view to avoiding unnecessary obstacles to trade and ensuring transparency and non-discrimination shall also apply in respect of mandatory conformity assessment procedures.

2. In line with Article 5.1.2. of the TBT Agreement, where a Party requires positive assurance of conformity with its applicable technical regulations, the Party shall require conformity assessment procedures that are not stricter or applied more strictly than necessary to give the importing Party adequate confidence that products conform with the applicable technical regulations or standards, taking account of the risks non-conformity would create.

3. The Parties recognise that a broad range of mechanisms exist to facilitate the acceptance of the results of conformity assessment procedures conducted in the territory of the other Party, including:

a. the importing Party's reliance on a supplier's declaration of conformity;

b. agreements on mutual acceptance of the results of conformity assessment procedures with respect to specific technical regulations conducted by bodies located in the territory of the other Party;

c. use of accreditation to qualify conformity assessment bodies located in the territory of either Party;

d. government designation of conformity assessment bodies, including bodies located in the territory of the other Party;

e. unilateral recognition by a Party of the results of conformity assessment procedures conducted in the other Party's territory;

f. voluntary arrangements between conformity assessment bodies in the territory of each Party;

g. use of regional and international multilateral recognition agreements and arrangements of which the Parties are members.

4. Having regard in particular to those considerations, the Parties undertake:

a. to intensify their exchange of information on these and similar mechanisms with a view to facilitating the acceptance of conformity assessment results;

b. to exchange information on conformity assessment procedures, and in particular on the criteria used to select appropriate conformity assessment procedures for specific products;

c. to consider a supplier's declaration of conformity as assurance of conformity among the options for showing conformance with domestic law;

d. to consider arrangements on mutual acceptance of the results of conformity assessment procedures according to the procedure set out in paragraph 5 of this Article;

e. to exchange information on accreditation policy and to consider how to make best use of international standards for accreditation, and international agreements involving the Parties' accreditation bodies, for example, through the mechanisms of the International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF);

f. to consider joining or, as applicable, encourage their testing, inspection and certification bodies to join any functioning international agreements or arrangements for harmonization and/or facilitation of acceptance of conformity assessment results;

g. to ensure that economic operators have a choice amongst conformity assessment facilities designated by the authorities to perform the tasks required by law to assure compliance;

h. to endeavour to use accreditation to qualify conformity assessment bodies;

i. to ensure that there is independence and there are no conflicts of interest between accreditation bodies and conformity assessment bodies;

5. Upon request from another Party, the Parties may decide to engage in consultation with a view of defining sectoral initiative regarding the use of conformity assessment procedures or the facilitation of acceptance of conformity assessment results that are appropriate for the respective sectors. The Party making the request should substantiate it with relevant information on how this sectoral initiative would facilitate trade. Where a Party declines such a request from the other Party, it shall upon request explain its reason.

6. The Parties reaffirm their obligation under Article 5.2.5 of the TBT Agreement that fees imposed for mandatory conformity assessment of imported products shall be equitable in relation to any fees chargeable for assessing the conformity of like products of national origin or originating in any other country, taking into account communication, transportation and other costs arising from differences between location of facilities of the applicant and the conformity assessment body.

Article 7

Transparency

The Parties acknowledge the importance of transparency with regard to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures. In this regard, the Parties reaffirm their transparency obligations under the TBT Agreement, and agree:

a. to take the other Party's views into account where a part of the process of developing a technical regulation is open to public consultation, and on request to provide written responses in a timely manner to the comments made by the other Party;

b. to ensure that economic operators and other interested persons of the other Party are allowed to participate in any formal public consultation process concerning the

development of technical regulations, on terms no less favourable than those accorded to its own legal or natural persons;

c. further to Article 4.1(a), in cases where impact assessments are carried out, to inform the other Party, upon request, of the outcome of the impact assessment of the proposed technical regulation;

d. when making notifications in accordance with Article 2.9.2 or 5.6.2 of the TBT Agreement, to:

i. allow in principle at least 60 days following the notification for the other Party to provide comments in writing to the proposal; where practicable, to give appropriate consideration to reasonable requests for extending the comment period;

ii. provide the electronic version of the notified text with the notification;

iii. provide, in case the notified text is not in one of the official WTO languages, a detailed and comprehensive description of the content of the measure in the notification format;

iv. reply in writing to written comments received from the other Party on the proposal, no later than the date of publication of the final technical regulation or conformity assessment procedure;

v. provide information on the adoption and the entry into force of the notified measure and the adopted final text through an addendum to the original notification.

e. allow sufficient time between the publication of technical regulations and their entry into force for economic operators of the other Party to adapt, except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise;

f. ensure that all technical regulations and mandatory conformity assessment procedures adopted and in force are publicly available on official websites, and free of charge;

g. ensure that the TBT Enquiry Point provides information and answers in one of the official WTO languages to reasonable enquiries from the other Party or from interested parties of the other Party on adopted technical regulations, conformity assessment procedures and standards

Article 9

Market surveillance

The Parties undertake to:

a. exchange views on market surveillance and enforcement activities;

b. ensure that market surveillance functions are carried out by the competent authorities, and ensure that no conflicts of interest exist between the market surveillance function and the conformity assessment function;

c. ensure that there are no conflicts of interest between market surveillance bodies and the economic operators subject to control or supervision.

Article 10

Marking and labelling

1. The Parties note that a technical regulation may include or deal exclusively with marking or labelling requirements, and agree that where their technical regulations contain mandatory marking or labelling, they will observe the principles of Article 2.2 of the TBT

Agreement and, in particular, that technical regulations should not be

prepared 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.

2. In particular, the Parties agree that where a Party requires mandatory marking or labelling of products:

a. the Party shall only require information which is relevant for consumers or users of the product and/or to indicate the product's conformity with the mandatory technical requirements;

b. unless necessary in view of the risk of the products to human, animal or plant health or life, the environment or national safety,

such Party shall not require any prior approval, registration

or certification of the labels or markings of products as a precondition for placing on its market products that

otherwise comply with its mandatory technical requirements. This provision is without prejudice to the right of the Party to require prior approval of the specific information to be provided on the label or marking in the light of the relevant domestic regulations;

c. where the Party requires the use of a unique identification number by economic operators, the Party shall issue such number to the economic operators of the other Party without undue delay and on a non-discriminatory basis;

d. provided it is not misleading, contradictory or confusing in relation to the information required in the importing Party of the goods, the Party shall permit the following:

i. information in other languages in addition to the language required in the importing Party of the goods;

ii. internationally-accepted nomenclatures, pictograms, symbols or graphics;

iii. additional information to that required in the importing Party of the goods;

e. the Party shall accept that labelling, including supplementary labelling and/or corrections to labelling, take place, where relevant, in authorized premises (for example, in customs or bonded licensed warehouses at the point of import) in the importing Party prior to the distribution and sale of the product. The Party may require that the original labelling is not removed;

f. the Party shall, in cases where it considers that legitimate objectives under the TBT Agreement are not compromised thereby, endeavour to accept non-permanent or detachable labels, or marking or labelling in the accompanying documentation rather than physically attached to the product.

Article 11

Joint co-operation and trade facilitation

1. The Parties shall strengthen their co-operation in the field of standards, technical regulations and conformity assessment procedures with a view to increasing the mutual understanding of their respective systems and to facilitating trade between the Parties. To this end, they may establish regulatory dialogues at both the horizontal and sectoral levels.

2. The Parties shall seek to identify, develop and promote trade facilitating bilateral initiatives regarding standards, technical regulations and conformity assessment procedures that are appropriate for particular issues or sectors. Such initiatives may include:

a. promoting good regulatory practices through regulatory cooperation,

b. including the exchange of information, experiences and data with a view to improving the quality and effectiveness of their standards, technical regulations and conformity assessment procedures and making efficient use of regulatory resources;

c. using a risk-based approach to conformity assessment (for instance, relying on a supplier’s declaration of conformity for low-risk products) and, where appropriate, reduce the complexity of technical regulations, standards and conformity assessment procedures;

d. increasing the convergence of their standards, technical regulations and conformity assessment procedures with relevant international standards, guides or recommendations;

e. avoiding unnecessary divergence of approach of standards, technical regulations and conformity assessment procedures where no international standards, guides or recommendations exist;

f. promoting or enhancing cooperation between the Parties' respective organisations, public or private, responsible for standardisation, conformity assessment and metrology;

g. ensuring efficient interaction and cooperation of regulatory authorities at regional or international level;

h. exchanging information, insofar as possible, about TBT-related agreements and arrangements subscribed to at international level.

3. Upon request, a Party shall give appropriate consideration to proposals that the other Party makes for co-operation under the terms of this Chapter. This cooperation shall be undertaken, inter alia, through dialogue in appropriate channels, joint projects, technical assistance and capacity-building programmes on standards, technical regulations and conformity assessment procedures in selected industrial areas, as mutually agreed.

Article 12

Consultations

1. The Parties shall give prompt and positive consideration to any request from another Party for consultations on issues relating to the implementation of this Chapter.

2. In order to clarify or resolve such issues, the Parties concerned may establish an *ad hoc* working group with a view to identifying a workable and practical solution to facilitate trade. The *ad hoc* working group shall comprise representatives of the Parties concerned.

Article 13

Implementation

1. The Parties shall designate a Contact point in the Ministry of Science and Technology and the European Commission. They shall provide the other Party with the name and the contact details of relevant officials in that organization, including information on telephone, facsimile, e-mail and other relevant details.

2. The Parties shall notify the other Party promptly of any change of its Contact point and amendments to the information of the relevant officials.

3. The Contact point's functions shall include:

a. monitoring the implementation and administration of this Chapter;

b. facilitating cooperation activities, as appropriate, in accordance with Article 11;

c. promptly addressing any issue that a Party raises related to the development, adoption, application or enforcement of standards, technical regulations and conformity assessment procedures;

d. consulting on any matter arising under this Chapter, upon a Party's request;

e. taking any other actions, the Parties consider will assist them in implementing this Chapter;

f. carrying out other functions as may be delegated by the Committee on Trade in Goods.

4. The respective WTO TBT Enquiry points shall perform the following functions under this Chapter:

a. to facilitate the exchange of information between the Parties on standards, technical regulations and conformity assessment procedures, in response to all reasonable requests for such information from a Party;

b. to refer enquiries from a Party to the appropriate regulatory authorities.

Chapter 7

Sanitary and Phytosanitary Measures

Article 1

Scope

1. This Chapter shall apply to the preparation, adoption and application of all SPS measures of a Party may, directly or indirectly affect trade among the Parties.

2. Nothing in this chapter shall affect the rights of the Parties under the TBT Chapter

with respect to measures not within the scope of this chapter.

Article 2

Objectives

The objectives of this Chapter are to:

a. enhance practical implementation of the principles and disciplines contained within SPS Agreement and applicable international standards, guidelines and recommendations developed by relevant international organisations;

b. to protect human, animal or plant life or health in the territory of each Party while facilitating trade between the Parties and ensure that SPS measures imposed by each Party do not create unnecessary obstacles to trade;

c. provide a mean to strengthen communication, cooperation and resolution on SPS issues that affect trade between the Parties and other agreed matters of interest to the Parties, and

d. promote greater transparency in and understanding in the application of each Party's SPS measures.

Article 3

Definitions

For the purposes of this Chapter:

1. WTO SPS Agreement means the WTO Agreement on the Application of Sanitary and Phytosanitary measures.

2. The definitions contained in Annex A of the WTO SPS Agreement shall apply.

3. The Parties may agree on other definitions for the application of this Chapter taking into consideration the glossaries and definitions of the relevant international organizations, such as the CODEX Alimentarius Commission (CODEX), World Organisation for Animal Health (OIE), and the International Plant Protection Convention (IPPC).

4. "Competent authorities" means those organizations recognised by each Party as responsible for developing, implementing and administering the SPS measures within its territory.

Article 4

General provisions

1. The Parties reaffirm their existing rights and obligations with respect to each other under the SPS Agreement.

2. Each Party commits to apply the principles of the SPS Agreement in the development, application or recognition of any sanitary or phytosanitary measure with the intent to facilitate trade among the Parties while protecting human, animal or plant life or health in the territory of each Party.

Article 5

Competent Authorities and contact points

1. To ensure close and effective working relationships between the Parties in achieving objectives of this Chapter, the competent authorities are:

a. In the case of Vietnam, competence authorities in control sanitary and phytosanitary issues shares between Governmental agencies. In this respect the following applies:

i. Ministry of Agriculture and Rural Development is responsible for animal and plant health. It administers surveillance and control to prevent the introduction of diseases of agricultural, economic and animal and human health importance and also a comprehensive program to control as well as prevent the incursion of diseases and pests of economic and plant health importance. For exporting animal and plant products, the Ministry is also responsible for inspection, quarantine and issuing certifications attesting to the agreed

standards and requirements of importing Party.

ii. Ministry of Health, Ministry of Agriculture and Rural development, Ministry of Trade and Industry, in accordance with their respective competences, are responsible for food safety for human consumption. They administer surveillance and control which include developing national technical regulations, approval procedures, carrying out risk assessment of products, inspections of establishments to ensure the compliance with the agreed standards and requirements of importing Party and for importation. For export of foods, the Ministries are also responsible for inspection and issuing health certifications.

b. In the case of European Union, control is shared between the national services of the Member States and the European Commission. In this respect the following applies:

i. As regards exports to Vietnam, the Member States are responsible for control of the production circumstances and requirements, including statutory inspections and issuing health and animal welfare certifications attesting to the agreed standards and requirements.

ii. As regards imports from Vietnam, the Member States are responsible for control of the compliance of the imports with the EU's import conditions.

iii. The Commission is responsible for overall co-ordination, inspection/audits of inspection systems and the necessary legislative action to ensure uniform application of standards and requirements within the Internal European Market.

2. As of the date of entry into force, the competent authorities of each Party shall provide the other with a contact point for communication on all matters arising under this Chapter. The contact points functions shall include:

a. enhancing communication among the Parties' agencies and ministries with responsibility for sanitary and phytosanitary matters;

b. facilitating information exchange so as to enhance mutual understanding of each Party's sanitary and phytosanitary measures and the regulatory processes that relate to those measures and their impact on trade in such goods between the Parties;

3. The Parties shall ensure the information provided under paragraphs 1 and 2 are kept up to date.

Article 6

Import Requirements and Procedures

1. The general import requirements of a Party shall be applicable to the entire territory of the exporting Party, without prejudice to the ability of a party to take decisions and measures in accordance with the criteria set out in article X "Measures linked to animal and plant health".

2. Each Party shall institute only measures that are scientifically justified, consistent with the risk involved and represent the least restrictive measures available and result in the minimum impediment to trade.

3. The importing Party shall ensure that its imports requirements and procedures are applied in a proportional and non-discriminatory manner.

4. The import procedures shall be set with the objectives to minimize negative trade effects and expedite the clearance process while satisfying the importing Party requirements and procedures.

5. The importing Party shall give full transparency on its import requirements and procedures.

6. The exporting Party shall ensure the compliance of the import requirements and procedures of the importing Party.

7. The Parties shall establish and update lists of regulated pests, using scientific names, and make such lists available to the other Party.

Phytosanitary import requirements shall be restricted to measures ensuring the respect of the appropriate level of protection of the importing Party and limited to the regulated pests of concern of the importing Party.

Without prejudice to provisions of Article 6 of the IPPC, the Parties shall not require phytosanitary measures for non-regulated pests.

8. When a Pest risk analysis is required, this shall be carried out without undue delay after the initial request. In case of difficulty, the Parties shall agree within the SPS Committee referred to in Article X on a time schedule in which they shall initiate the process.

9. The importing Party shall have the right to carry out import checks based on the sanitary and phytosanitary risks associated with importations. These checks shall be carried out without undue delay and with a minimum trade disrupting effect. When products do not conform to the requirements of the importing Party, any action taken by the importing Party shall follow the international standards and should be proportionate to the risk involved.

10. The importing Party shall make available the information about the frequency of import checks carried out on products. This frequency may be adapted as a consequence of verifications, import checks or by mutual agreement between the Parties.

11. Any fees imposed for the procedures relating to the import of products under this chapter are equitable in relation to any fees charged on like domestic products and shall be no higher than the actual cost of the service.

Article 7

Verifications

1. In order to obtain or maintain confidence in the effective implementation of the provisions of this Chapter the importing party, within the scope of this Chapter, has the right to carry out verifications, meaning:

a. to carry out verification, including by verifications visits to the exporting party, of all or part of the exporting party's control system, in accordance with the relevant international standards, guidelines and recommendations of the Codex Alimentarius, OIE and IPPC. The expenses of such verification shall be borne by the Party carrying out the verification; and

b. to require information from the exporting party about its control system and be informed of the results of the controls carried out under that system.

2. The Parties shall provide the results and conclusions of the verifications carried out in the territory of the other Party.

3. If the importing party decides to carry out a verification visit to the exporting Party, this visit shall be notified to the other Party at least 60 working days before such verification be carried out, except if agreed otherwise. Any modification to this visit shall be mutually agreed by the Parties.

4. The draft report of verification shall be forwarded to the auditee within 45 working days after completion of the verifications. The auditee shall have 30 working days to comment on the draft report. Comments made by the auditee

shall be attached to and, where appropriate included in the final report. However, where a significant public, animal or plant health risk has been identified during the verification, the auditee shall be informed as quickly as possible and in any case within 10 working days following the end of the verification.

Article 8

Procedure for listing of establishments

1. For approval upon request by the importing Party, for the import of products, the exporting Party shall inform the importing Party of its lists of establishments with satisfactory sanitary

guarantees, according to the provisions set out in annex 1, to demonstrate compliance with the importing Party's requirements.

2. The importing Party shall approve establishments which are situated on the territory of the exporting Party, without prior inspection of individual establishments. If the importing Party rejects the request for approval, it should inform without delay the exporting Party of the elements and justifications upon which the decision was based.

3. Unless additional information is requested, the importing Party shall take the necessary measures in accordance with its applicable legal procedures to allow import on that basis within 45 working days after having received the request of the exporting Party.

Article 9

Measures linked to animal and plant health

1. The Parties recognise the concept of disease-free areas, areas of low disease prevalence, and compartmentalisation in accordance with the SPS Agreement and OIE standards, guidelines or recommendations. The Parties also recognise the official animal health status as determined by the OIE.

2. The Parties recognise the concept of pest-free areas, areas of low pest prevalence, protected zones and pest free production sites in accordance with the SPS Agreement and IPPC standards, guidelines or recommendations.

3. The "SPS Committee" referred to in Article X shall define further details for the procedure for the recognition of the concepts referred to in paragraphs 1 and 2 taking into account the SPS Agreement, OIE and IPPC standards, guidelines or recommendations. The Parties shall also consider factors such as geographical location, ecosystems, epidemiological surveillance, and the effectiveness of the sanitary or phytosanitary controls.

4. When accepting the determination made by the exporting Party, the importing Party shall in principle base its own determination of the animal or plant health status of the exporting Party or parts thereof on the information provided by the exporting Party in accordance with the SPS Agreement, OIE and IPPC standards, guidelines or recommendations. The importing Party will endeavour to provide its decision without undue delay after the initial request.

5. If the importing Party does not accept the determination made by the exporting Party, it shall explain the reasons and shall be ready to enter into consultations as soon as possible to reach a possible alternative solution.

6. The exporting Party shall provide relevant evidence in order to objectively demonstrate to the importing Party that the health status of the areas referred to in paragraphs 1 and 2 is likely to remain unchanged. For these purposes, reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures.

Article 10

Equivalence

1. The Parties recognise that the application of equivalence that principle set down in Article 4 of the SPS Agreement is an important tool for trade facilitation and has mutual benefits for both exporting and importing countries. A determination of equivalence may be made in relation to partial or full equivalence of sanitary and phytosanitary measures and systems.

2. The importing Party shall accept the sanitary and phytosanitary measures of the exporting Party as equivalent if the exporting Party objectively demonstrates that its measures achieve the importing Party's appropriate level of sanitary and phytosanitary protection. To facilitate a determination of equivalence, a Party shall, on request, advise the other Party of the objective of any relevant sanitary or phytosanitary measures.

3. The Parties shall, within three months after receipt request from exporting Party, initiate the consultation process of equivalent determination. The determination of equivalence shall be finalised without undue

delay after the demonstration of equivalence of the proposed measures by the exporting Party. The importing Party shall accelerate the assessment taking into account any knowledge and past experience it has in trading with the exporting country to make the determination as efficiently as possible.

4. In case of multiple requests from the exporting Party, the Parties shall agree within the Committee referred to in Article [Committee on SPS] on a time schedule in which they shall initiate the process.

5. In accordance with the Article 9 of the SPS Agreement, the importing Party shall give full consideration to the requests by the exporting Party for appropriate technical assistance to facilitate the implementation of this Article. This assistance may inter alia be to help identify and implement measures which can be recognized as equivalent or to otherwise enhance market access opportunities.

6. The consideration by a Party of a request from another Party for recognition of the equivalence of its measures with regard to a specific product shall not be in itself a reason to disrupt or suspend ongoing imports from that Party of the product in question. When an equivalence determination is made, it shall be formally recorded and apply to the trade between the Parties in the relevant area without delay.

Article 11

Committee on Sanitary and Phytosanitary Measures

1. The Parties hereby establish a Committee on Sanitary and Phytosanitary Measures ("the SPS Committee").

2. The Committee shall include representatives of the competent authorities of the Parties. All decisions made by the SPS-Committee shall be by mutual agreement.

3. The Committee shall meet in person within one year of the entry into force of this Agreement and shall meet at least annually thereafter or as mutually determined by the Parties. It shall establish its rules of procedures at its first meeting. It shall meet in person, via teleconference, video-conference, or through other means as mutually agreed by the Parties. The agenda shall be set up before the meetings. Parties shall share the chairmanship of the meeting.

4. The Committee may propose to the Trade Committee to establish working groups which shall identify and address technical and scientific issues arising from this Chapter and explore opportunities for further collaboration on SPS matters of mutual interest.

5. The SPS Committee may address any matter related to the effective functioning of this Chapter including to facilitate communication and to strengthen cooperation between the Parties. In particular it shall have the following responsibilities and functions:

a. Develop the necessary procedures or arrangements for the implementation of this Chapter.

b. Monitor the progress of implementation of this Chapter;

c. Provide a forum for discussion of problems arising from the application of certain sanitary or phytosanitary measures with a view to reaching mutually acceptable solutions and promptly addressing any matters that may create unnecessary obstacles to trade among the Parties;

d. Provide a forum to exchange information, expertise and experiences in the field of SPS matters;

e. Identify, initiate and review technical assistance projects and activities among the Parties;

f. any other function that is mutually agreed between the Parties.

The Parties may, by decision in the SPS Committee, adopt recommendations and decisions related to the authorisation of imports, exchange of information,

transparency, recognition of regionalisation, equivalency and alternative measures, and any other matter referred to under the above paragraphs.

Article 12

Transparency and Exchange of Information

1. The Parties shall:

a. pursue transparency as regards SPS measures applicable to trade;

b. enhance mutual understanding of each Party's SPS measures and their application;

c. exchange information on matters related to the development and application of SPS measures, including the progress on new available scientific evidence, that affect, or may affect, trade between the Parties with a view to minimising their negative trade effects;

d. upon request of a Party, communicate the import requirements that apply for the import of specific products within fifteen working days; and

e. upon request of a Party, communicate progress on the application for the authorisation of specific products within fifteen working days.

2. When the information pursuant to paragraph 1 has been made available by notification to the WTO in accordance with its relevant rules and procedures or when the above information has been made available on the official, publicly accessible and fee free web-sites of the Parties, the information exchange shall be considered to have taken place.

3. All notifications under this Chapter shall be made to the contact points referred to under Article (Competent authorities and contact points).

Article 13

Consultations

1. Where a Party considers that a SPS measure affecting trade warrants further discussion, it may, through the contact points, request a full explanation of the SPS measure and if necessary request to hold consultations to resolve it. The other Party shall respond promptly to such requests.

2. Parties shall make every effort to reach an agreeable solution through consultations within a timeframe agreed upon. Should the consultations fail to resolve the matter, it shall be considered by SPS Committee.

Article 14

Emergency Measures

1. Each Party shall notify in writing to the other Party within two working days, of any serious or significant human, animal or plant life or health risk, including any food emergencies, affecting commodities for which trade takes place.

2. Where a Party has serious concerns regarding a risk to human, animal or plant life or health, affecting commodities for which trade takes place, consultations regarding the situation shall, upon request, take place as soon as possible. In this case, each Party shall endeavour to provide in due time all necessary information to avoid disruption in trade.

3. The importing Party may take, without previous notification, measures necessary to protect human, animal or plant life or health. For consignments in transport between the Parties, the importing Party shall consider the most suitable and proportional solution in order to avoid unnecessary disruptions to trade.

4. The Party taking the measures shall inform the other Party as soon as possible and, in any case, no later than twenty-four hours after the adoption of the measure. Either Party may request any information related to the sanitary and phytosanitary situation and any measures adopted. The other Party shall answer as soon as the requested information is available.

5. Upon request of either Party and in accordance with the provisions of Article (Consultations) the Parties shall hold consultations regarding the situation within (ten working days) of the notification. These consultations shall be carried out in order to avoid unnecessary disruptions to trade. The Parties may consider options for the facilitation of the implementation or the replacement of the measures.

Article 15

Technical Assistance and Special and Differential Treatment

1. Technical assistance should be provided to address specific needs of Viet Nam, to comply with sanitary and phytosanitary measure(s) regulated by EU Party including food safety, plant health and animal health, and the use of international standards.

2. In application of Article 10 of the WTO SPS Agreement, for new sanitary and phytosanitary measures, while continuing to achieve the EU level of protection, the EU shall take into account the special needs of so as to maintain export opportunities. The "SPS Committee" referred to in Article X shall be consulted upon request to reflect and decide about:

- longer timeframes for compliance;
- alternative import conditions in the context of equivalence;
- technical assistance activities.

Annex 1

Requirements and provisions for approval of establishments for products

1. The competent authority of the importing Party shall draw up lists of approved establishments and shall make these lists publicly available.

2. Requirements and procedures for approval:

a. The products concerned shall have been authorised by the competent authority of the importing Party. This authorisation shall include the import and certification requirements;

b. The competent authority of the exporting Party shall approve the establishments intended to export and provide the importing Party with satisfactory sanitary guarantees that the establishments meet the relevant requirements of the importing Party;

c. The competent authority of the exporting Party must have the power to suspend or withdraw the export approval of an establishment in the event of non-compliance.

d. The importing Party may carry out verifications in accordance with the provisions of Article X (Verifications of this Chapter as part of the approval procedure.

This verification shall concern the structure, organisation and powers of the competent authority responsible for the approval of the establishment and the sanitary guarantees regarding the compliance with the importing Party's requirements.

These checks may include on the spot inspection of a representative number of establishments appearing on the list or lists provided by the exporting Party.

e. Based on the results of the verification provided for in (d), the importing Party may amend the list of establishments.