

**Committee on Regional Trade Agreements**  
**Sixty-first Session**

**ECONOMIC PARTNERSHIP AGREEMENT BETWEEN JAPAN AND VIET NAM,  
GOODS AND SERVICES**

Note on the Meeting of 28 June 2011

*Chairman: Mr. F. Riegert (France)*

1. The 61<sup>st</sup> Session of the Committee on Regional Trade Agreements (hereinafter 'CRTA' or the 'Committee') was convened in Airgram WTO/AIR/3754, and corrigendum 1 dated 17 May and 21 June 2011.
2. Under Agenda Item B.III of this session, the CRTA considered the Economic Partnership Agreement (EPA) between Japan and Viet Nam (hereinafter 'the Agreement'), goods and services.
3. The Chairman noted that the Agreement had entered into force on 1 October 2009. It had been notified to the WTO by the Parties on 1 October 2009 under Article XXIV:7(a) of the GATT 1994 and the Understanding on the Interpretation of Article XXIV of GATT 1994 as an Agreement establishing a free trade area (document WT/REG275/N/1) and under GATS Article V:7(a) as an Agreement providing for the liberalization of trade in services within the meaning of Article V of the GATS (document S/C/N/513). The text of the Agreement was available, together with its Annexes, on the Parties' official websites. The Factual Presentation on the goods and services aspects (document WT/REG275/1 dated 12 April 2011) had been prepared by the Secretariat on its own responsibility in full consultation with the Parties, in accordance with paragraph 7(b) of the Transparency Mechanism for Regional Trade Agreements (document WT/L/671). In addition, written questions and replies on the Agreement had been distributed in document WT/REG275/2, dated 10 June 2011. He proposed to organize the consideration of the Agreement by first asking the Parties and then other Members to give any general comments. The Committee would then turn to the specifics of the Agreement, using the Factual Presentation, to guide the debate and then through the questions and replies document.
4. The representative of Viet Nam thanked the Committee for providing an important opportunity to present the Agreement on Economic Partnership between Viet Nam and Japan, and through that, Viet Nam's policy of integration into the regional and multilateral trading system. The Agreement had been negotiated in January 2007, after a joint study completed earlier and an official declaration by the Leaders of the Parties in 2006. The decision to negotiate and conclude the Agreement was an integral part of the firm policy direction of economic integration into the regional and global economy. In implementing this policy direction, Viet Nam had fully committed to making its utmost effort to enhance the multilateral trading system, with the WTO playing a central role. At the same time, Viet Nam was negotiating and concluding bilateral and regional trade agreements with the other States of the Association of South East Asia Nations (ASEAN), with a view to complementing the multilateral trading system represented by the WTO.

5. Following these principles, Viet Nam believed that the Agreement with Japan, and all other EPAs/FTAs that it had signed, were fully consistent with the basic principles and criteria of the WTO applicable to regional trade agreements. They also shared the common objectives of the WTO which was to promote economic and trade relations between the Parties, which in turn, would bring about stable development and the wealth of nations. Towards these ends, careful analysis showed Japan to be one of the most suitable EPA/FTA partners for Viet Nam. After almost 35 years of diplomatic relations, both countries had enjoyed comprehensive and progressive friendships in many areas. From an economic perspective, revenue from bilateral trade in 2007 was over US\$12 billion, three times higher than that in 2000. Direct investment by Japanese investors in Viet Nam was also widespread over many sectors from industry to services and agriculture. In 2006, when the negotiations were launched, over US\$9 billion of Japanese direct investment had been registered in Viet Nam, making Japan the third biggest investor in Viet Nam. More importantly, with actual investment of more than US\$ 4.8 billion, Japan ranked the first among operating investors in Viet Nam. In addition to that encouraging foundation, the two economies enjoyed very complimentary production and trade structures. Viet Nam was competitive in tropical agricultural products and consumer industrial products such as footwear and clothing, which were welcomed in Japan. On the other hand, Japan was famous for its basic metal and high-tech products, as well as the latest technology and investment capital, which were critical for Viet Nam's industrialization and modernization. The Agreement also provided Japanese investors and exporters access to the ASEAN market of over 550 million consumers and other markets with trade preferences with Viet Nam and ASEAN such as China, Korea, and India. Vietnamese exporters in turn would enjoy access to the Japanese market of 125 million wealthy consumers. Last but not least, the two countries shared a common view of the significant benefits that an integrated East Asia could bring to regional and global peace and prosperity.

6. To achieve those strategic benefits, following more than ten rounds of official and informal negotiations, the Parties had reached consensus on a comprehensive agreement, covering numerous measures to liberalize trade in goods, trade in services and investment; improve transparency and the business environment; enhance the movement of natural persons and strengthen bilateral comprehensive economic cooperation. The Parties had made substantial commitments in both trade in goods and services. In addition, commitments concerning all other forms of trade regulatory measures, such as technical barriers to trade, sanitary and phytosanitary measures, safeguards, transparency measures, and the protection of intellectual property rights had been in full conformity with the GATT 1994 and GATS. The Agreement also provided for an institutional framework with a Joint Committee and a number of sector-specific Sub-Committees including for rules of origin, SPS, technical regulations, standards and conformity assessment procedures, services, intellectual property, improvement of the business environment, movement of natural person, customs procedures and economic cooperation to ensure the proper implementation of commitments made.

7. Given its comprehensive coverage and substantial commitments, both Parties had preferred to name the Agreement the Agreement on Economic Partnership with the high hope that it would be a mutually beneficial framework towards future flourishing bilateral economic relations. The Agreement was also Viet Nam's first comprehensive bilateral FTA. He thanked the WTO Secretariat for preparing the Factual Presentation, which provided many more details. Japan and Viet Nam had responded to a number of questions from WTO Members, including the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, the European Union, the United States, and Australia, mostly requesting further clarifications on the Parties' commitments in tariffs, services, institutional infrastructure, and relations between the Agreement and other frameworks. Responses to questions from Mexico, which had only been received shortly before the meeting, had been provided to the WTO Secretariat.

8. The effects on bilateral trade were varied: domestic, international, economic and political, and even natural. However, certain impacts from the Agreement were not deniable. Despite the short period of the operation of the Agreement, according to Viet Nam's statistics, the results had been positive with bilateral trade revenues in 2010 at US\$16.7 billion, an increase of 22% on an annual basis, both in terms of exports from Viet Nam (US\$7.7 billion, or a 23% increase) and imports to Viet Nam (US\$9.06 billion, or an increase by 24%). From a broader perspective, Viet Nam believed that the Agreement would provide a favourable and predictable framework for further enhancing trade and investment between the two economies, upgrading the ties between the strategic cooperation partners, and significantly contributing to the regional and multilateral trading systems.

9. The representative of Japan thanked the Committee for the opportunity to present the important elements of the Agreement between Japan and Viet Nam for an Economic Partnership for review by WTO Members. He expressed his deep gratitude, on behalf of the Government of Japan, for the numerous messages of solidarity and encouragement received from around the world since the Great East Japan Earthquake on March 11. Many relief supplies and donations had been delivered to the stricken areas and rescue teams from many countries and regions had devoted themselves to rescue and search activities, and to provide medical assistance under severe circumstances. It was hard to find the words to describe how much such generosity had encouraged and supported the Japanese people. Japan would never forget that the world stood by it in its moment of need and would emerge as a more attractive nation to return the warm solidarity and support extended by the world.

10. Turning to the Agreement, he noted that Japan's basic external economic policy was to maintain and strengthen the multilateral trading system centering on the WTO and it would promote the conclusion of bilateral EPAs/FTAs that complemented but not replaced the WTO. As part of such a policy, Japan concluded with Viet Nam the investment agreement and the Agreement, which had entered into force in 2009. It was the 11th Agreement concluded by Japan, following those with Singapore, Mexico, Malaysia, Chile, Thailand, Philippines, and ASEAN.

11. The Agreement's coverage was wide such as the liberalization of trade in goods and services, movement of natural persons, intellectual property, and improvement of the business environment. By promoting economic partnership in these areas, it aimed at further strengthening economic ties between Japan and Viet Nam. Viet Nam had a population of 85 million and an ample and diligent workforce, and had been experiencing dramatic economic growth in recent years. In addition, as could be seen from a steady increase of investment by Japanese enterprises manufacturing automobiles or electronic products in Viet Nam, its market was highly appealing to Japanese industries as a promising and potential place to invest in and export to. In addition, the Parties had close economic ties, while for Viet Nam, Japan was the most prominent investor, and the third largest trader, following China and the United States. The Agreement was expected to further strengthen such bilateral economic ties, and make firmer the economic partnership with ASEAN as a whole. Many top Japanese enterprises in areas such as automobiles, two-wheeled vehicles, and electronic products had entered the Viet Nam market, and saw it as an important manufacturing base. For these Japanese manufacturers, the abolition or reduction of customs duties on parts and materials unavailable in Japan was helpful in curtailing production costs, enhancing competitiveness, and expanding markets.

12. In October 2006, the Prime Ministers of Japan and Viet Nam (Mr. Abe and Mr. Dũng) decided to start negotiations. The first round of negotiations was held in January 2007, and thereafter, during nine meetings. At the 9th meeting in September 2008, both countries confirmed the successful completion of negotiations on major elements, to be followed by the finalization of the legal texts of the Agreement. The Agreement was signed in Tokyo by the Minister for Foreign Affairs of Japan (Mr. Nakasone) and the Minister of Industry and Trade of Viet Nam (Mr. Hoang) on 25 December 2008, and entered into force on 1 October 2009.

13. The Agreement was a comprehensive economic partnership agreement, and included tariff elimination as its central component. Within ten years, it would eliminate up to 92% of tariffs in terms of two-way trade volume in 2006. In addition, the two countries did not maintain any restrictive regulations of commerce that would be incompatible with GATT 1994, and the Agreement neither established any restrictions on commerce nor maintained any existing ones. Thus, the Agreement met the GATT 1994 requirement that duties and other restrictive regulations of commerce should be eliminated on substantially all trade, which made it compatible with Article XXIV of GATT 1994. Moreover, it provided national treatment in trade in services for a broad range of sectors/sub-sectors and was therefore compatible with Article V of the GATS. It provided not only for the liberalization of trade in goods and services, but also covered other matters such as the simplification of customs procedures, cooperation between the authorities against illegal trade, exchange of information on sanitary and phytosanitary measures, and effective and transparent implementation of the intellectual property protection systems. The Agreement established in addition to the Joint Committee, Sub-Committees in areas such as customs procedures, trade in services, movement of natural persons, and cooperation. The Joint Committee had met once at the time of entry into force of the Agreement, and the Operational Rules for its effective implementation had been adopted. The Sub-Committee on the Movement of Natural Persons had met three times thus far. While a Chapter on Investment had not been included in the Agreement, the Investment Agreement between Japan and Viet Nam, which stipulated high-level commitments, had been incorporated through the coordination provision (Article 9(4)), and operated essentially as a Chapter on Investment.

14. He noted that it was difficult to measure the genuine economic effects of the Agreement as the actual volume of trade and investment between the Parties could have been affected by various factors, such as economic fluctuations resulting from the global economic crisis and natural disasters. Nevertheless, it was clear that the Agreement provided a solid foundation and institutional infrastructure for increased trade and investment with Viet Nam by strengthening economic partnership through various means provided in the Agreement. He thanked the Committee for the opportunity to submit a report on the Agreement which Japan was convinced contributed to furthering economic prosperity in Asia as well as strengthening economic ties between the Parties. Japan would also continue its efforts to enhance the multilateral trading system based around the WTO.

15. The Chairman opened the floor to Members for any general comments.

16. The representative of the European Union thanked the Parties for their comprehensive presentations and written answers. He noted that the Agreement did not provide for broad liberalization in all sectors and the replies to written questions in this regard had not really been satisfactory as they did not provide further information. While it was true that RTAs were the result of negotiations and processes, the Committee should receive a more detailed explanation for why the Parties had not substantially liberalized whole sectors. The EU encouraged the Parties and notably Japan to make further commitments in areas that had not yet been liberalized and to make use of the general review clause for trade in goods to review their concessions five years after the entry into force of the Agreement.

17. The representative of Mexico thanked the Secretariat and parties for their work and replies submitted and he would contact the Parties if any further clarifications were needed.

18. The representative of the United States thanked the Parties for the information provided and the Secretariat for the Factual Presentation. The Factual Presentation indicated that Viet Nam would eliminate duties on almost 92% of all tariff lines covering roughly 90% of its imports (by value) from Japan; 91.7% of industrial lines became duty free and almost 93% of agricultural tariff lines became duty free. Japan eliminated duties on 89% of all tariffs covering 96.5% of imports by value from Viet Nam; however although around 96% of industrial tariffs became duty free only 61% of agricultural tariffs became duty free. It was disappointing to note Japan's disproportionate

liberalization between industrial and agricultural sectors and as the United States had stated repeatedly in the CRTA the selective coverage of agricultural goods had adverse effects on the trade of other Members. Moreover, the continued, systematic protection of these Parties' agricultural sectors in their FTAs made multilateral liberalization all the more difficult.

19. The representative of the European Union noted that the Agreement did not contain provisions for the elimination and prohibition of export duties of any good destined for the other Party. He asked the Parties to explain why such provisions were not included and to elaborate on any current and future export duties and how they intended to ensure compliance with provisions under Article XXIV of the GATT to eliminate duties and other restrictive regulations of commerce on substantially all the trade between the Parties. In this regard, the EU recalled that the obligation in Article XXIV was to eliminate duties between the Parties, including export duties.

20. The representative of Japan indicated that there were no export duties between the Parties, nor was there any intention at present to introduce such duties. While acknowledging the point made by the EU he indicated that this had not been a major issue in the negotiations.

21. The representative of Viet Nam said that as the EU had indicated, the Agreement resulted from the process of negotiations reflecting the interests of the Parties in their trade relations. He understood that export duties were not prohibited expressly in any WTO regulation. It was important to point out that in the Agreement the Parties had fully complied with the requirements of GATT Article XXIV to have substantial liberalization of trade and as could be seen, at the end of implementation Viet Nam would have liberalized almost 90% of trade and Japan 96%.

22. The representative of Japan responding to the questions from the United States and the European Union on liberalization noted that the substantially all trade criteria applied to overall trade and did not require the same level of liberalization in all sectors. Second he pointed out that the Agreement had achieved a very high level of liberalization, particularly on the date of entry into force of the Agreement when 82% of lines and 93% of imports were liberalized with final liberalization expected of 96.5% of imports. There were also other kinds of liberalization such as tariff rate quotas in the package so he believed that it would be better to take a look at the overall picture before making a judgement on consistency with GATT Article XXIV.

23. The representative of Australia joined other delegations in thanking the Parties for their written responses which had helped to better understand elements of the Agreement. He said that the intent of Australia's written question on substantially all the trade had been to express concern that the level of liberalization did not meet the substantially all the trade requirement. Japan in its presentation of the Agreement had made the commitment to liberalize tariffs the centrepiece. In their responses, the Parties had indicated that substantially all the trade did not amount to all trade. Australia was not suggesting this but rather that substantially all the trade must fall somewhere between the commitments made by the Parties and 100% tariff elimination. He noted the comment from Japan that all the trade of all Parties to the Agreement should be considered when measuring substantially all the trade but when one Party was committing to eliminate less than 90% of applied tariffs that would obviously drag down the overall level of tariff elimination. Second, on Question 5 relating to Japan's scheduling of its MFN exemptions on fishing, energy and other services, Australia's question was not on the scheduling but on the commitments and why Japan had committed to less in the Agreement than it had in the GATS.

24. The representative of the United States directed Members to Question 19 from the United States in which it had noted that 946 tariff lines would retain a duty at the end of implementation. The majority fell under HS Sections I-IV (about 84%) and notably 53% of lines for animal and animal products and 51% for prepared foods would still retain a duty at the end of implementation in 2024. So like Australia, the United States remained concerned about

implementation and were surprised to hear Japan justifying its delayed or non elimination of agricultural tariffs by the elimination of industrial tariffs.

25. The representative of Japan responding to Australia's question on MFN exemptions in services sectors acknowledged that these were included in the Agreement because they were sensitive sectors but they were not in Japan's exemptions under the GATS. Japan was not intending to request a waiver in terms of GATS commitments. With regard to the question from the United States his intention had not been to use the elimination of industrial tariffs to justify what had been done in agriculture but he had simply indicated the need to look at overall tariff elimination.

26. The Chairman said that the consideration of the goods and services aspects of the Economic Partnership Agreement between Japan and Viet Nam had allowed the Committee to clarify a number of questions and oral discussion of the RTA could now be concluded in accordance with paragraph 11 of the Transparency Mechanism. If any delegations wished to ask follow-up questions they were invited to forward submissions in writing to the Secretariat by 6 July 2011 and Parties were asked to submit replies in writing by no later than 20 July 2011. In accordance with paragraph 13 of the Transparency Mechanism all written submissions, as well as minutes of the meeting would be circulated promptly, in all WTO official languages, and would be made available on the WTO website.

27. The Committee took note of the comments made.

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