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**Trade Policy Review Body**

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## **TRADE POLICY REVIEW**

REPORT BY

VIET NAM

Pursuant to the Agreement Establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), the policy statement by Viet Nam is attached.

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Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Viet Nam.

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## 1 OVERVIEW

### 1.1 From Doi Moi Reforms to WTO Accession

1.1. The Government of the Socialist Republic of Viet Nam is pleased to present its first report to the Trade Policy Review Body on recent developments in its trade policies. The Vietnamese Government attaches great importance to both external and domestic transparency in the conduct of its trade policies and therefore welcomes this review, which will contribute to further strengthen this important principle of the multilateral trading system. We also welcome this review as an opportunity to bring WTO Members' attention to the progress Viet Nam has achieved in its trade policies since it became a Member in 2007. It also allows us to highlight both the vital role that the trade and trade-related domestic policies have played in the country's rapid economic and social development, and the future direction.

1.2. Viet Nam has made a long way to its first Trade Policy Review by the World Trade Organization. The foundation of Viet Nam's current trade policy is rooted in the *Doi Moi* (Renovation) policy, began in 1986, that introduced a host of structural reforms aimed to transform Viet Nam from a centrally planned, command economy towards a socialist-oriented market economy. The *Doi Moi* reforms implied the overhaul of the entire economic system. This involved gradually replacing mandatory quotas and administered prices for goods and services and introducing market-based economic instruments. Following the launch of *Doi Moi*, the 1992 Constitution explicitly sanctioned private ownership and recognized this sector as an important element of the economy, ensuring the equality of various economic sectors whilst maintaining a lead role for state-owned enterprises (SOEs). Enterprise reforms have been extended to conversion of SOEs to limited liability companies or joint stock companies by means of equitization. Land reforms allowed households to have control and cash-flow rights on lands and, whilst maintaining entire people's ownership over lands, legalized the sale, exchange, inheritance, mortgage, and rental of land use rights. *Doi Moi* also introduced a two-tier banking system with the State Bank relinquishing its commercial banking functions and concentrating instead on its central banking functions. Other reforms concerned the fiscal regime, monetary policy, lawmaking, and administrative decentralization with delegating some of the major functions and competences of the central Government to the provincial authorities, to mention a few.

1.3. Reforming external trade and foreign direct investment (FDI) regulations as well as progressive opening up of the economy to foreign goods and services were central to the *Doi Moi* policy. The trade reforms were inseparably linked with the reform of the SOEs sector to allow greater role of market forces in foreign trade instead of direct regulation by the State. Thus, the State's monopoly over foreign trade has been removed and the restrictions to establish foreign trading companies were gradually relaxed, allowing a rapid increase in the number of trading enterprises, and producers were allowed to export goods through any licensed foreign trading companies, and finally private companies were allowed to engage directly in foreign trade. In parallel, SOE-specific quotas and targets, which were at the base of the central planning system, have been progressively eliminated and replaced by new trade policy instruments like a price-based tariffs as well as quotas and licenses. The introduction of these new policy instruments was subsequently followed by a gradual liberalization of import barriers allowing for progressive integration into the regional and world economy.

1.4. FDI was likewise progressively liberalized since 1987. As a first step, 100% foreign ownership was permitted in several industries for Greenfield projects, as well as guaranteed free repatriation of profits, capital and assets. Through successive revisions of the FDI regime foreign investors' rights were widened and enhanced to make the investment environment more attractive. These successive liberalization measures have been largely induced by the need to facilitate more FDI inflows, to widen the number of sectors where FDI can contribute to increased production and exports, to achieve better performance of the FDI sector, to narrow the policy gap between foreign and domestic investors, as well as to comply with international commitments made on foreign investments. The FDI policy measures were comprehensive, ranging from registration procedures, investment licensing, land access, trading rights, foreign exchange control, and tax policies. Finally, in 2005 a more level-playing field has been established for all investors, while further simplifying FDI registration procedures.

1.5. Trade and FDI reforms and liberalization were key to improved competitiveness and the export-led growth strategy that Viet Nam has opted for since the reforms implemented from the

mid-1980s. Especially increased FDI inflows had a distinct role in this strategy as massive FDI inflows allowed by the better investment climate has resulted in large increase in industrial output and stimulated export growth. Most of FDI has been conducted under the form of joint ventures with SOEs, which helped the State to orientate international integration. FDI inflow into Viet Nam increased from US\$0.34 billion in 1988 to approximately US\$6.8 billion in 2005, with an annual growth rate of 28%, resulting in the increase of FDI stock from US\$1.4 billion in 1990 to US\$85.45 billion in 2007 (US\$210.5 billion at the end of 2012). As a result, Viet Nam ranked fourth<sup>1</sup> in 2006 among the most attractive developing country locations for FDI. FDI had become a significant contributor to domestic investment (more than 25% of gross investment) and its contribution to exports amounted to 57.9%. FDI has therefore had a key contribution to the success of Viet Nam's export-led growth strategy. FDI contributed to strong trade and economic growth by being at the core of the export base, by bringing capital, skills and training, by creating over one million jobs in foreign invested enterprises (FIEs) and raising incomes.

1.6. During the two decades that elapsed between the launch of *Doi Moi* and WTO accession in 2007, market oriented economic reforms together with trade and investment liberalization have contributed to the considerable development of Viet Nam. Thanks to these reform policies, the country has achieved one of the most remarkable performances internationally in economic growth, raising standards of living, and poverty reduction. Between the start of the reforms in 1986 and 2006, Viet Nam's growth rate has been among the highest worldwide. Average yearly GDP growth rate was 7.0% in between 1996 and 2000, and 7.8% in the period 2002-2006. In the period 1986–2006, foreign trade has expanded at the rate of nearly 20% per year and the country's high export growth has been by far the most dynamic among Asian exporters. The high economic growth over the last two decades has allowed impressive progress in poverty alleviation, even though progress in poverty reduction was uneven. Overall national poverty headcount ratio has declined substantially from 58% in 1993 to 16% in 2006 and again to 14.5% in 2008 and extreme poverty and hunger have been halved.

1.7. Closely linked to the *Doi Moi* reforms, Viet Nam has consciously pursued from the early 1990's a path towards international economic integration through trade agreements, which culminated in the conclusion of its WTO accession negotiations in 2006. During this period, Viet Nam has engaged successively in bilateral and regional trade agreements. Bilateral trade agreements with 40 different trading partners were concluded, mostly in the form of most-favoured-nation treatment arrangements. The Agreement between the Socialist Republic of Viet Nam and the United States of America on trade relations (Viet Nam – US BTA) was the most comprehensive agreement in this period. Signed in July 2000 and effective since December 2001, the agreement includes a wide range of market liberalization commitments in trade in goods, trade in services, protection of intellectual property rights and investment protection. Viet Nam's regional integration efforts resulted in its ASEAN membership in 1995, under which it became party to the CEPT/AFTA liberalization schemes, later subsumed in the ASEAN Trade in Goods Agreement. In addition, Viet Nam joined the Asia-Pacific Economic Cooperation (APEC), the largest economic trade cooperation group in the Asia Pacific region, in November 1998 and it has since been an active and responsible member of the organization. On the other hand, as a founding member of the Asia–Europe Meeting (ASEM) which was established in 1996, Viet Nam has actively participated in cooperation activities in three main areas: political dialogue, economic cooperation and other cooperation.

1.8. The legal and institutional reforms undertaken as early as 1986 have been spurred by steps towards international economic integration, such as ASEAN membership, the Viet Nam – US BTA, as well as WTO accession negotiations, but went well beyond the framework of international trade. Not only did these reforms result in WTO-compatible regulations in a host of areas, such as trade and investment rules, intellectual property, non-discrimination in pricing, but in general established a relatively effective legal system with many market-economic oriented laws and regulations. The creation of a level playing field for domestic and foreign market players compelled significant changes in the legal system, which resulted in increased transparency, improved legislative and regulatory framework and strengthened legal predictability. More fundamentally, these changes, which implied a radical departure from previous legal and institutional practices, ultimately have brought about a rule of law mindset in Viet Nam, which in turn contributed significantly to the economic development of the country. The importance and the magnitude of the changes brought about in more than 20 past years since 1986 in the legal policy making

<sup>1</sup> UNCTAD: World Investment Report 2007.

cannot be underestimated given the difficult starting situation where the country lacked experience in market economy oriented law making and where the vast majority of civil servants were used to methods of central economic planning.

1.9. Since the promulgation of the 1992 Constitution, the National Assembly and the Standing Committee of the National Assembly have passed 368 laws and ordinances, and the Government has issued a large number of implementing decrees. The purpose of these legal acts, *inter alia*, is to bring into full play all production capacities of the country and create an environment for fair competition and help enterprises realize their production potentials and use their resources more effectively. These laws and ordinances regulate almost all of the social and economic areas, including international integration. As a result of the legal and institutional reforms, key institutions of the market economy have been established (such as contract, finance, banking, taxation, real estate market, labor market, technology market, securities market and environment protection), and the interference by the State through administrative measures in economic, commercial and civil matters has been decreased sharply, whilst its role in resolving problems faced by enterprises and traders has been enhanced. The new Constitution requires that State agencies must operate in compliance with the rule of law, economic reform and international integration requirements. Measures to guarantee human rights and citizen's rights must be adopted and strengthened. The forms and regime of ownership is clearly defined by law. Private ownership is protected on an equal footing with other forms of ownership. Property rights on shares, other securities and the right to make investment are recognized by laws. The reformed legal system has contributed to creating a good legal environment for business by protecting the right to do business and prohibiting unfair competition in conformity with the WTO rules. Vietnamese laws and regulations guarantee an equal legal treatment of Vietnamese and foreign investors.

## 1.2 Viet Nam in the Multilateral Trading System

1.10. After 11 years of accession negotiation, on 11 January 2007, Viet Nam became the 150<sup>th</sup> Member of the World Trade Organization, marking a milestone in Viet Nam's international economic integration and openness process. WTO accession was a logical consequence of the domestic economic and trade reforms and trade liberalization that Viet Nam had been pursuing since the late 1980s-early 1990s and it crowned a process of reforms and efforts to integrate into the world economy. However, the Government of Viet Nam considers WTO accession not as the end of a process, but rather as a renewed basis for further domestic reforms. To Viet Nam, whose economic development is greatly dependent on foreign trade and access to open markets, the openness, stability and predictability that the WTO can provide in international trade is of utmost importance. Furthermore, as Viet Nam being attached to the rule-based multilateral trading system embodied in the WTO, its rules and principles will guide us in furthering the economic reforms and materializing the modernization policies.

1.11. Since its accession to the WTO in 2007, Viet Nam has greatly benefited from the multilateral trading system. Viet Nam now enjoys legally guaranteed MFN status in all WTO Members' markets, which creates a level playing field in our export markets. WTO membership has also ensured improved market access conditions for Vietnamese goods, especially textiles and clothing, which have greatly benefited from the elimination of the quota system. As a result, since 2007, Viet Nam's textile and clothing export growth rate increased. Statistics show that in 2011-2012 the country respectively ranked second, third and fifth among the exporters to the textile and clothing markets of the United States, Japan, and the European Union. On the other hand there is evidence that WTO accession had a strong and positive impact on Viet Nam's imports and inward FDI and because of a strong bi-directional relationship between FDI and exports, the WTO accession may have indirectly influenced Viet Nam's exports through the FDI channel. Viet Nam's welfare gains from WTO membership appear considerable. The IMF has estimated the annual consumer gains from the availability of cheaper imports (i.e. the increase in the consumer surplus) at US\$1 billion (1.5% of GDP) in 2007, and US\$2.2 billion (1.7% of GDP) in 2012, and projected to rise to about US\$2.3 billion (0.9% of GDP) in 2019.

1.12. Significant achievements have been recorded in Viet Nam's establishment of the market economy, which has been instituted as one of the key drivers for the country's sustainable development. As a result, major trading partners such as Australia, China, India, Japan, Korea, Russia, and Switzerland, among others, as well as a large number of other African, American,

Asian and European countries have recognized Viet Nam's full market economy status in conformity with WTO rules.

1.13. Beyond the direct economic benefits, the most important aim of Viet Nam's WTO accession was to enable improvement in development policies and the implementation of long-term changes envisaged for the economy. As a result of WTO accession, Viet Nam has succeeded in gaining institutional and policy reforms, moving towards improving its investment and business environment, and finding ways to increase its commodity and service exports.

1.14. We recognize the pivotal role of the multilateral trading system as well as its relevance for conducting our international trade activities. The Government reaffirms its full commitment to the principles and rules of the multilateral trading system as embodied in the WTO Agreements, and considers them as the foundation for its trade and economic integration policies. Since becoming a new WTO Member in 2007, Viet Nam has fully implemented its accession commitments. Even against a backdrop of an unfavorable world economic situation, the Government has exerted its best efforts in reforming the country's trade and investment regime in a WTO-consistent manner with a view to creating a more favorable business environment, contributing to the strength of the multilateral trading system.

1.15. During its slightly longer than six years of WTO Membership, Viet Nam has attached a major interest to a successful completion of the Doha negotiations. Although the Doha Round has fallen short of our expectations, and we are disappointed to see the deadlock it is now facing, Viet Nam actively shared views in the negotiations of trade facilitation, NAMA, Agriculture, rules, and services, etc., either individually or together with like-minded WTO Members. Viet Nam considers that an early completion of the Doha round negotiations would allow Members to rebuild the confidence in the multilateral trading system, which could also be supportive to the ongoing major restructuring of the Vietnamese economy.

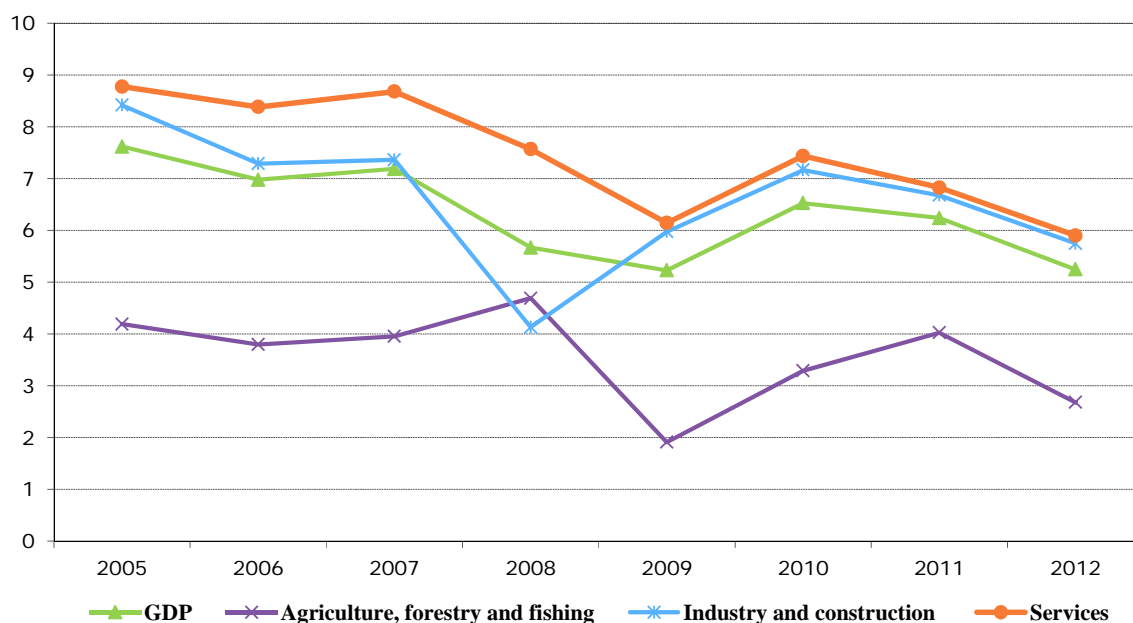
## 2 ECONOMIC DEVELOPMENTS AND TRADE POLICIES

### 2.1 Economic Developments

2.1. It is widely recognized that Viet Nam has been among the most successful East Asian economies since the launch of the *Doi Moi* policy in 1986. Economic growth surpassed 9% per year just prior to the Asian financial crisis in 1997-1998, and exceeded 8% per year before the great recession and financial crisis in 2008-2009. Between 2005 and 2010 Viet Nam's GDP<sup>2</sup> has grown by 35.8% to which three major factors made uneven contributions: increase in agriculture, forestry and fisheries sector, industry and construction and increase in services, whose contribution to GDP growth were respectively 11%, 39% and 50%. However, in the 2<sup>nd</sup> half of the 2000s, the economy started to experience a period of turbulence characterized by slow growth, weak international competitiveness and macroeconomic instability. In late 2007 and early 2008, Viet Nam was confronted with the economic overheating resulting from massive capital inflows. Attempts to sterilize these inflows were not able to prevent a boom in banking credit, an acceleration of inflation, a ballooning trade deficit and asset price bubbles. In addition, in 2008, Viet Nam's economy, besides the domestic challenges, was caught in the midst of the global financial crisis. A determined reaction by the government from March 2008 onwards succeeded in stabilizing the economy and reducing the trade deficit to manageable levels.

2.2. Weak domestic demand weighed on real GDP growth, which slowed from 6.42% in 2010 to 5.25% (y/y) in 2012, its slowest pace of expansion since 1999. This decelerating growth was due to various factors. Spiraling inflation in 2011 changed consumer expectations, and this caused private consumption growth to weaken to 5% last year, from an average of 7.5% annually in 2007-11. Furthermore, inward FDI, which had been one of the main drivers of economic growth also seen a lackluster expansion. As a positive sign for renewed growth, headline inflation has declined from double digits to about 7% (y/y) in March 2013. Calm has returned to financial markets with the State Bank of Viet Nam (SBV)'s unceasing efforts to provide liquidity and the merger of several small weak banks. The current account surplus surged to over US\$9 billion in 2012. Currently, gross international reserves rose to more than 3 months of prospective imports of goods and non-factor services.

<sup>2</sup> GDP data based on 2010 comparative prices.

**Chart 1: Growth of output 2005-2012**

Source: General Statistics Office of Viet Nam.

2.3. In the 1<sup>st</sup> quarter of 2013, GDP grew by an estimated 4.89% compared to the same period of 2012, which is slightly higher than the corresponding figure of 4.75% for the 1<sup>st</sup> quarter of 2012. Growth of agriculture, forestry and fishery output has attained 2.24% in Q1/2013, down from 2.81% growth in Q1/2012, contributing a modest 0.31% to the general GDP growth rate. However, within this sector forestry rose by 5.38%, which is higher than the growth rate of 4.97% in the corresponding period of 2012. Growth of industry also decreased in Q1/2013, attaining 4.95% against 5.80% realized in Q1/2012, contributing 1.73% to GDP growth. In contrast, construction output has considerably soared in the 1<sup>st</sup> quarter of this year relative to the same period of 2012, as the sector's output grew by 4.79%, against a modest 0.77% increase in Q1/2012. The growth of the service sector is also higher as its output rose by 5.65%, which is higher than the growth rate of 4.99% in the same period of 2012, contributing to 2.6% to GDP growth.

**Table 1: Economic growth forecast 2013-2017**

	2013	2014	2015	2016	2017
GDP	6.3 <sup>a</sup>	5.9	7.0	7.1	7.2
Private consumption	5.9	6.5	7.2	7.1	7.2
Government consumption	7.2	7.2	7.2	7.9	8.1
Gross fixed investment	7.0	8.5	9.2	9.5	9.3
Exports of goods and services	12.0	10.6	12.6	13.2	13.9
Imports of goods and services	11.4	10.8	12.9	12.9	13.4
Domestic demand	6.1	6.6	8.0	7.9	7.8
Agriculture	3.2	3.1	3.3	3.3	3.3
Industry	8.5	8.0	8.0	7.0	7.0
Services	2.7	4.7	7.3	8.5	8.8

a IMF estimate.

Source: Economist Intelligence Unit, *Viet Nam Country Report*, March 2013.

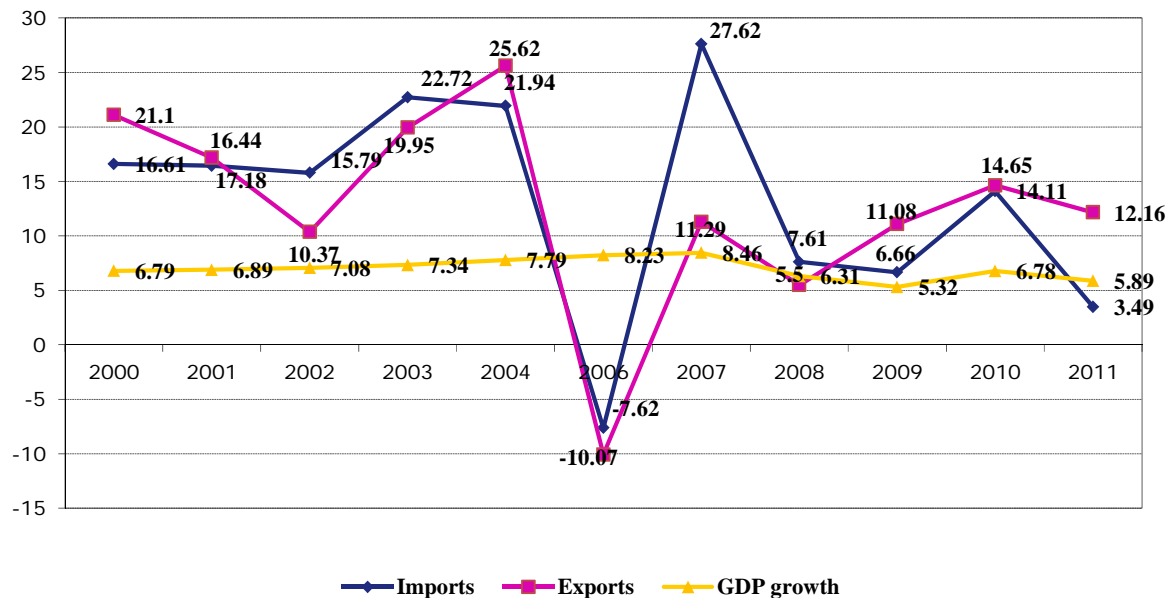
2.4. Rapid growth was accompanied by extraordinary increases in trade. The continuous domestic economic reforms and trade openings were at the heart of the explosion of FDI inflow and trade from the early 1990s until 2008. Between 1990 and 2000, the yearly average growth rate of exports of goods and services reached 19.6%, and the import growth rate was on average 16%. As a result, the share of trade in the GDP grew from 23% in 1986 to 67% in 1991, then to 97% in 1998 and 171% in 2007. Yearly average export and import growth rates have fallen to 13.5% and

13.9% respectively during the period 2001–2006, which further decreased between 2007 and 2011 to reach only 10.85% and 11.90% mainly due to slowing of GDP and trade growth rates in 2008, and declines in both imports and exports for 2009. However, since 2010, the growth rate of exports and imports has been recovered fairly well, contributing to the overall economic growth of the country.

2.5. Evidence shows that in the period 2007–2011, export growth has been mainly driven by external demand and trade expansion, trade liberalization, as well as improved competitiveness. In terms of geographical destinations, overall, export markets have not been diversified, as major exports markets remained Viet Nam's traditional markets (ASEAN, US, EU, Japan), although exports are increasingly concentrated on newly opened markets (China and Republic of Korea) as a result of regional FTAs. Imports have expanded rapidly immediately after WTO accession, albeit slowing down recently due to domestic economic hardship and slower investment inflows.

2.6. Throughout the whole period since the opening of the economy, Viet Nam has been facing a persistent and continuously widening trade deficit closely related to considerable domestic savings-investment gap, as well as macroeconomic and trade policies. However, the trade deficit narrowed since 2009 mostly because of domestic economic downturn.

**Chart 2: Evolution of exports and imports of goods and services (annual % growth)**



Source: World Bank World Development Indicators.

## 2.2 Economic and Trade Policies

### 2.2.1 Macroeconomic and Structural Policies

#### 2.2.1.1 Monetary and Exchange Rate Policies

2.7. SBV has implemented a sound monetary policy, which was flexibly adjusted in line with different stages of the economic cycle. The ultimate goal of monetary policy management, as prescribed by the Law on State Bank of Viet Nam 2010, is to stabilize the value of national currency identified by the inflation target. The monetary policy framework has continuously been modernized and more indirect and market-oriented instruments have been introduced.

2.8. Viet Nam operates a managed floating exchange rate mechanism, on the basis of the foreign currency basket of countries with a commercial, lending and investment relationship with Viet Nam and in compliance with macro-economic objectives from time to time. Viet Nam has accepted the obligations of Article VIII of IMF since November 2005 and maintained an exchange system free of restrictions on payments and transfers for current international transactions.



2.9. Amidst the global financial crisis in recent years, Viet Nam's economy suffered heavily from adverse external conditions with increasing pressures on inflation and macro-economic imbalances. In such context, the SBV has actively conducted monetary policy in a prudent and flexible manner toward containing inflation and stabilizing macro-economic conditions. As a result, the management of monetary policy by the SBV has significantly contributed to attaining these objectives. In particular, inflation in 2012 was curbed at 6.81%, reflecting considerable improvements over the inflation rate of 11.75% in 2010 and 18.13% in 2011. Economic growth in 2012 reached 5.03%.

2.10. In 2013, the SBV continues to manage monetary policy in a prudent and flexible manner in close coordination with fiscal policy to lower inflation and improve economic growth as compared to 2012. Encouraging results have been achieved such as lower interest rates, stable exchange market, increased international reserves and improved credit performance. In the first half of 2013, compared with the end of 2012, inflation rate was as low as 2.4%, lending interest rates reduced by 3-4 percentage points, returning to the level of 2005-2006 period while GDP growth reached 4.9%.

### 2.2.1.2 Fiscal Policy

2.11. Since the launch of *Doi Moi* policy, Viet Nam has carried out three important tax reforms to make them better contribute to the country's socio-economic development. The first tax reform had been implemented in the period 1990-1995 in order to introduce a unified tax system comprising 9 taxes in the state-owned sector, the privately owned industries and trade sector and the agriculture sector, which each had previously subject to different taxation. The second phase of tax reforms took place between 1997 and 2005 in the context of Viet Nam joining the ASEAN Free Trade Agreement (AFTA) preparing for WTO accession. This second reform phase aimed to introduce modern taxes, such as the value-added tax (VAT) and the corporate income tax (CIT), reflecting the Government's policy to implement market economy oriented taxes. During this reform the regulations on import and export duties as well as on special consumption taxes (SCT) have been amended to ensure internal consistency of the tax system. The third phase of tax reform (2006-2010) had the objectives to encourage domestic production, investment and export activities, ensure adequate level of revenue collection for the State budget, make taxes more coherent with Viet Nam's international economic integration, ensure fairness and equity, and contribute to the process of tax administration reform. The main reform measures included the amendment of VAT legislation (2008) to widen the tax base by reducing the number of goods and services exempt of VAT and reforming the tax rate structure; the amendment of the SCT legislation (in 2005 and 2008) reduced the taxes on beer and alcohol products to expand the market and ensure non-discrimination between imported and domestic goods in line with our WTO accession commitments; the reform of the corporate income tax (CIT) in 2008 reduced the tax rate from 28% to 25% and simplified certain tax incentives by narrowing the scope of tax exemptions and reductions. Moreover new taxes have been introduced such as the Personal Income Tax (2009), the royalty tax (2009), the non-agricultural land use tax (2010), and the environmental protection tax (2010).

2.12. More recently, in May 2011, the Prime Minister issued Decision No. 732/QĐ-TTg ("Decision 732") approving the tax reform strategy for the period 2011-2020 regarding tax policy and tax management. Under the Decision, there are 10 tax categories that shall be reformed, including (1) value-added tax (VAT)<sup>3</sup>, (2) corporate income tax (CIT)<sup>4</sup>, (3) personal income tax (PIT)<sup>5</sup>, (4) special consumption tax, (5) import-export taxes, (6) royalty tax, (7) agricultural land use tax; (8) non-agricultural land use tax; (9) environmental protection tax, and (10) fees and charges. Accordingly, license tax shall be no longer valid and changed to a management fee for the annual business. VAT on goods and services would gradually be reformed until a single tax rate could be applied by 2020 (excluding the 0% VAT rate applied to export goods and services). Regarding the special consumption tax, a road map to reduce tax on tobacco, beer, liquor and automobiles would ensure regulation of the domestic market as well as satisfy the requirements of

<sup>3</sup> Law No. 31/2013/QH13 amending and supplementing a number of articles of the Law on value-added tax.

<sup>4</sup> Law No. 32/2013/QH13 amending and supplementing a number of articles of the Law on corporate income tax.

<sup>5</sup> Law No. 26/2012/QH13 amending and supplementing a number of articles of the Law on personal income tax.

global integration. Import tax and related trade barriers would be reduced to facilitate free trade. Corporate income taxes would be reformed with the rate being gradually reduced under an appropriate roadmap to help companies enhance their capital and production and sharpen their competitive edge. Under the plan, total revenues from tax and fee in the period 2011-2015 are expected to account for 22-23% GDP, the period 2016-2020 accounts for 21-22% GDP; local revenues (excluding crude oil revenues) accounts for more than 70% of total state budget revenues in 2015 and more than 80% in 2020. By 2015, tax administration would also be modernized to meet global standards by ensuring that at least 65% of total enterprises use electronic-tax filing. The tax reform strategy would also aim to make Viet Nam one of the leading countries in ASEAN for the most favorable conditions for doing business in terms of taxation in 2020.

2.13. The economic development gained a significant momentum with the establishment and operation of the stock market from July 2000. Since then, the capital market has seen rapid development and has gradually been integrating with the international capital market. Viet Nam's stock market has become an important capital channel for the economy, attracting the participation of foreign and domestic investors, enhancing the transparency and corporate governance, and contributing to the ongoing restructuring and equitization of SOEs in the country.

#### **2.2.1.3 Economic Restructuring**

2.14. In 2012, the Government took renewed efforts to help stabilize the macro-economy, which resulted in the comprehensive "Master Plan on Economic Restructuring attached to change of growth model towards improvement of quality, efficiency and competitiveness for the period 2013-2020", adopted on 19 February 2013. The Master Plan aims to achieve the socialist-oriented market economy, create a system of sound, stable and long-term economic growth, promote the allocation and use of social resources in competitive sectors and products, improve labor productivity and competitiveness, create an efficient economic structure, promote industries using high technology, improve the internal strength of the economy, and enhance international integration.

2.15. The policy document sets the main parameters for macro-economic and trade policies, amongst others, and provides the broad guidelines for structural reforms. It calls for a prudent monetary policy, which is to be linked to a tight fiscal policy to control inflation while ensuring macroeconomic stability and sound growth.

2.16. The Master Plan provides guidance for restructuring the economy in order to address the structural factors for the current economic difficulties, namely slow and inefficient growth, weak international competitiveness and macroeconomic instability. The three key areas of concern, identified as the most in need of urgent reforms, are the SOEs sector, the financial - banking system, and public investment, where the Government intends to implement reforms over the short run (2013-2015). Through these reforms, it is expected that the economy would be restructured in such a way that creates a new, faster growth paradigm by 2020 that results from enhanced efficiency and improved international competitiveness. The Master Plan indicates that the new growth model is expected to make Viet Nam a modern industrialized country by this time.

2.17. The Master Plan envisages the restructuring of investment, with focus on public investment. It calls for the mobilization of different sources of capital for development investment, so that the total investment accounts for 30-35% of the GDP with State investment maintained at the level of 35-40% of total social investment. The Government is to provide the greatest possible scope and opportunity for private – especially domestic – investment, and encourage and facilitate private investment in infrastructure and key economic zones, as well as in sectors and products with high development potential.

2.18. The Master Plan provides for the restructuring of the banking system with the road map as follows: (i) In the 2011-2015 period, focus on strengthening financial situation and improving operational capabilities of credit institutions, enhancing safety and operational efficiency of credit institutions and enhancing regulation compliance and market discipline in banking operation; (ii) By 2020, restructure fundamentally, thoroughly and comprehensively credit institutions so as to develop a system of multi-functional credit institutions towards modern, safe and efficient operation, with diversification in ownership structure, size and type, which are capable of greater

competitiveness and based on advanced technology and banking governance in consistence with international standards. Accordingly, various determined and comprehensive measures have been taken proactively and a remarkable workload has been finished to pave the way for accelerating banking reforms and non-performing loans (NPL) resolution, specifically: (i) completing legal framework by developing Plan to restructure credit institutions (CI) system; introducing regulations on post-supervision measures, M&A; enhancing prudential ratio, assets classification regulation in line with international practices; (ii) comprehensively supervising all banks and identifying banks which need restructuring; and (iii) proactively resolving NPL by developing Plan on NPL resolution and establishing Viet Nam Asset Management Company (AMC). As a result, Viet Nam has gained initial positive outcomes: (i) systemic safety and soundness has been significantly improved; (ii) weak banks have been closely monitored, and dealt with appropriate measures, so that monetary market remained stabilized; (iii) NPL ratio continues to decrease. Besides, for the first time, Viet Nam has conducted a financial sector assessment program (FSAP) supported by IMF/WB. This would provide a comprehensive picture of the financial sector and lay down important directions for the future financial and banking reforms.

2.19. Regarding the reorganization of the SOEs sector, the Master Plan follows the project on "Restructuring of SOEs, focusing on State economic groups, general corporations in the period 2011–2015" approved by the Prime Minister in 2012, and which instructed the ministries to classify SOEs according to the nature of their activities, their role in the economy, and the desired level of State ownership. The classification would provide the basis for further equitization of SOEs as well as for rationalization of the structure of the SOEs sector. The decisive factor for the classification would be the role that the State wishes to play in the economy. The project gave initial restructuring priority to enterprises in commerce, construction, lottery, telecom, water supply, urban sanitation, irrigation, maintenance of roads and railways. In turn, the Master Plan reiterates the classification and re-organization of SOEs, now with the objective that SOEs are concentrated in the defense industries, natural monopolies, high-tech sectors, and in industries supplying primary goods and services. The Government will speed up the equitization and ownership diversification in SOEs in which full State ownership is not deemed necessary. As a result, the State would equitize nearly half of the 1,309 SOEs. The remaining 692 SOEs would later be reorganized into 44 economic groups and general corporations with 150 subsidiary companies. The Master Plan instructs SOEs to restructure their investment portfolio and business lines so as to reduce the scope of their activities on their core business functions, and to divest in their non-core businesses and in joint-stock companies in which the State does not need to be the dominant shareholder.

#### **2.2.1.4 Competition Policy and Consumer Protection**

2.20. The Government of Viet Nam recognizes the indispensable role of effective competition policy in a market economy, as well as the benefits of competitive markets for economic efficiency and economic development. The momentum for the adoption of a competition law has been created by the advances achieved during the transition towards a socialist-oriented market economy in which, according to the 1992 Constitution, private ownership and the right to set up enterprises and freely engage in business are clearly recognized and protected. The progressive opening up of the Vietnamese market to foreign goods, services and investment called for protecting the economic benefits from regional and global trade integration against possible anti-competitive behaviors. The process of accession to the WTO has played a distinguished role in the way towards the adoption of a competition law in Viet Nam. Enacted on 3 December 2004 and entered into effect on 1 July 2005, the Vietnamese Law on Competition (VLC) was the result of a four-year drafting process, with reference to the statutes of nine foreign jurisdictions and the model laws promoted by UNCTAD and the World Bank.

2.21. The overall goal of the VLC is to promote a competitive business environment and socio-economic development in Viet Nam as well as to protect the legitimate interests of the State, enterprises, and consumers. The VLC applies to anti-competitive agreements (concerted practices), abuse of dominant and monopoly positions, and mergers and acquisitions, as well as to unfair competition. The Law applies to all business enterprises and professional and trade associations in Viet Nam; overseas enterprises and associations registered in Viet Nam; public utilities and state monopoly enterprises; and State administrative bodies. It has superseding power over all the other enacted laws regarding restrictive business practices and unfair competition practices. Therefore, VLC is applicable to every business without discrimination towards ownership types of enterprises (domestic and foreign, state-owned or privately-owned).

Since 2005, Viet Nam competition authorities (Viet Nam Competition Authority and Viet Nam Competition Council) have handled more than 40 competition restriction cases, in which 3 cases with final decisions; more than 90 unfair competition cases; and 16 cases of merger and acquisition.

2.22. The Government of Viet Nam attaches great importance to the role of the Competition Law as an indispensable element in furthering the reform process towards an effective competitive economy. Therefore, one of the priorities of the "Strategy for the Development and Improvement of Viet Nam's Legal System to the Year 2010 and Direction for the Period up to 2020" is to further improve the VLC to create more freedom for business activities and establish comprehensive markets. In a similar vein, the "Socio-economic Development Strategy for the Period 2011-2020", states that VLC and its enforcement should be improved in order to establish a competitive market, effectively control abuse of dominant or monopoly positions, and protect consumers.

2.23. Closely linked to effective competition in Viet Nam, the Law on Protection of Consumers' Rights was passed by the National Assembly in 2010 and came into effect in 2011, which marked a significant milestone in consumer protection in Viet Nam. So far, the Vietnamese Competition Authority, which is to implement both the VLC and the Law on Protection of Consumers' Rights, has handled more than 150 consumer protection cases.

#### **2.2.1.5 Trade Remedy Regime**

2.24. In the context of global economic integration and in consideration of the fact that a number of Vietnamese industries are infant and facing an increasing number of trade remedy cases from foreign countries, Viet Nam recognizes the importance of developing the legal framework for application of trade remedy measures to protect legitimate interests of domestic enterprises. Our trade remedy regime is in full compliance with the WTO agreements on trade remedies.

2.25. In the area of anti-dumping, the Ordinance No. 20/2004/PL-UBTVQH11 sets out the framework for filing of complaints, initiation and conduct of an anti-dumping investigation, consultation with relevant parties, confidentiality, preliminary and final determinations, application of anti-dumping measures, review, complaints, and handling of violations. Decree No. 90/2005/ND-CP further details provisions to implement the Ordinance No. 20/2004/PL-UBTVQH11.

2.26. Countervailing measures may be applied pursuant to the Ordinance on Anti-Subsidy for imports into Viet Nam No. 22/2004/PL-UBTVQH11 and Decree No. 89/2005/ND-CP detailing a number of provisions of the Ordinance. The Ordinance and the Decree stipulate the definition of subsidy, investigation procedure and method of application of anti-subsidy measures.

2.27. The application of safeguard measures is regulated by the Ordinance No. 42/2002/PL-UBTVQH10 on safeguard measures against goods imported into Viet Nam and Decree No. 150/2003/ND-CP detailing the Ordinance. The Ordinance and the Decree describe the conditions for application of safeguard measures, investigation procedures, methods of application of safeguard measures and compensation.

2.28. Regarding the implementation of legal framework for trade remedies, Viet Nam has not conducted any countervailing investigation so far. With regard to safeguard measures, Viet Nam initiated a safeguard investigation against imports of float glass through Decision No. 3329/QĐ-BCT of 1 July 2009 and terminated the case with no safeguard measures imposed. Recently, on 26 December 2012, the Ministry of Industry and Trade initiated a safeguard investigation on imports of certain refined vegetable oils. On 22 April 2013, Viet Nam made the decision to impose the provisional safeguard measure with the duty of 5% and the investigation is underway. With regard to anti-dumping measures, on 2 July 2013, Viet Nam has made a decision to initiate an anti-dumping investigation on certain cold-rolled stainless steel originating in the Republic of Indonesia, Malaysia, Chinese Taipei, and the People's Republic of China.

#### **2.2.2 Implementation of WTO Accession Commitments**

2.29. As a strong supporter of the multilateral trading system, Viet Nam has been seriously implementing all of its accession commitments. Even against the backdrop of the international

financial and economic crises, the Government gave priority to reforming the country's trade and investment regime with a view to full compliance with our WTO accession commitments. Viet Nam has started to prepare for the implementation of its accession commitments long before the official day of its membership. The Government has commenced a set of action plan preparing the administrative agencies concerned at both central and provincial government levels for the implementation of our accession commitments.

2.30. The legislative work to implement our accession commitments required not only revisiting the whole body of domestic laws, but also reviewing the legal system itself. To ascertain that no loophole remains in the transposition of our accession commitments in domestic legislation, a clause has been systematically entered in legislative acts providing that, in cases where a legal document and an international treaty to which Viet Nam is a party contain different provisions on the same matter, the provisions of the treaty shall prevail.

#### 2.2.2.1 Tariffs

2.31. Viet Nam has made ceiling binding on its entire tariff nomenclature (10,600 lines). As a result, the average *ad valorem* tariff rate of 17.5% was to be reduced to 11.4% by 2019. For agricultural products, the tariff reductions had to be made from 22.4% to 20.9%, and for non-agricultural products tariff the reductions will result in average tariff being brought down from 13.1% to 12.6% within the implementation period.

2.32. As all other newly acceded Members, Viet Nam has committed to participate in a number of sectoral liberalization agreements and initiatives. One of those sectors in which Viet Nam committed to make full participation is information technology with the Information Technology Agreement (ITA).

2.33. Viet Nam has constantly taken the necessary legislative measures to implement its tariff reduction commitments in accordance with its Schedule.<sup>6</sup> Progress of tariff reduction commitments has been made either in accordance with the Schedule or faster than scheduled. Viet Nam's average import tariff rate in 2012 is 10.4%, much lower than its WTO commitment due to the fact that tariff reduction of a number of Vietnamese products has been made faster than scheduled.

2.34. For non-agricultural products, in general the current applied tariff rates were lower than those committed until the end of 2009. The highest tariff reduction was applied for seafood, textiles, garment, wood and paper, iron and steel, electronic and other manufactured products. For seafood, around two third of applied tariff lines are lower than committed, the remaining equal to those in commitments.

2.35. Tariff quotas are applicable for eggs, refined and raw sugar, tobacco materials and salt. Viet Nam has implemented these commitments on schedule.<sup>7</sup>

<sup>6</sup> Commitments to reduce tariffs and export taxes on goods are stipulated in Decision No. 39/2006/QĐ-BTC dated 28 July 2006, Decision No. 106/2007/QĐ-BTC dated 20 December 2007, Decision No. 123/2008/QĐ-BTC dated 26 December 2008, Circular No. 216/2009/TT-BTC dated 12 November 2009, Circular No. 184/2010/TT-BTC dated 15 November 2010, Circular No. 157/2011/TT-BTC dated 14 November 2011, Circular No. 193/2012/TT-BTC dated 15 November 2012.

<sup>7</sup> Legal documents on tariff quotas include Decision No. 35/2006/QĐ-BTM dated 8 December 2006 on *Volume of 2007 tariff quotas for imports*; Decision No. 77/2006/QĐ-BTC dated 29 December 2006 on *Promulgating the list of commodities and their tariff rates subject to tariff quotas*; Decision No. 14/2007/QĐ-BCT dated 28 December 2007 on *Volumes of tariff quota applicable to imported goods in 2008*; Circular No. 16/2008/TT-BCT dated 9 December 2008 *Guiding importation of commodities under the list of tariff quota control in 2009*; Circular No. 37/2009/TT-BCT dated 15 December 2009 *guiding importation of commodities under the list of tariff quota control in 2010's import tariff quotas*; Circular No. 188/2009/TT-BTC dated 29 September 2008 *promulgating the list of goods and import tax rates subject to tariff quotas*; Circular No. 45/2010/TT-BCT dated 31 December 2010, *stipulating the import of goods of the list of management of export and import upon tariff quota in 2011*; Circular No. 02/2012/TT-BCT dated 18 January 2012, *stipulating the import of material tobacco under the 2012 tariff quota*; Circular No. 22/2012/TT-BCT dated 6 August 2012, *on the import of salt, sugar, and poultry eggs under the tariff quotas 2012*; Circular No. 111/2012/TT-BTC dated 4 July 2012 *promulgating the list of goods and import tax rates subject to tariff quotas*; Circular No. 04/2013/TT-BCT dated 8 February 2013, *on the import of salt, sugar, and poultry eggs under the tariff quotas 2013*; Circular No. 02/2013/TT-BCT dated 18 January 2013, *stipulating the import of material tobacco under the 2013 tariff quota*



2.36. Viet Nam implements tariff rates with respect to used passenger cars having 15 seats or fewer in a manner to ensure that applied absolute tariff rates are not higher than combined tariff rates under its WTO commitments. With regard to export tariff, Viet Nam has reduced steel waste and scrap tariff to 17% and tariff of other metal waste and scrap to 22% pursuant to its WTO commitments.

#### **2.2.2.2 Other Commitments on Trade in Goods**

2.37. Viet Nam made numerous accession commitments on trade in goods other than tariffs. Following is the review information on the implementation of the most notable ones.

2.38. Regarding excise duties, such as on alcoholic beverages, the pre-existent tax differentials between domestically produced and imported goods have been removed through amendment to the Law on Excise Duty that took effect on 1 April 2009 and its implementing Decree No. 26/2009/ND-CP.

2.39. Viet Nam has abolished upon WTO accession all kinds of export subsidies for agricultural products. However, in accordance with the Agreement on Agriculture, Viet Nam is still able to reserve two forms of export subsidies permitted by WTO to developing countries to reduce the costs of marketing agricultural exports and the costs of international transport and freight.

2.40. Concerning trading rights (the right to import and export), Viet Nam has committed to grant full import trading rights on par with Vietnamese traders to foreign individuals and FIEs from 1 January 2007 except for some products for which full import trading rights were to be granted from 1 January 2009 and other that would remain under permanent exception. Since its WTO accession, Viet Nam has adopted several legislative acts to give effect to this accession commitment, such as the Government Decree No. 23/2007/ND-CP implementing the Commercial Law regarding trading and distribution activities by FIEs in Viet Nam, the Decision No. 10/2007/QĐ-BTM publicizing roadmaps for goods trading and directly related activities, the Circular No. 09/2007/TT-BTM providing guidance on the Decree No. 23/2007/ND-CP, the Circular No. 05/2008/TT-BCT amending and supplementing the Circular No. 09/2007/TT-BTM. On 22 April 2013, the Minister of Industry and Trade issued the Circular No. 08/2013/TT-BCT providing guidelines on the import, export, and distribution of goods by FIEs in Viet Nam. Accordingly, FIEs are allowed to exercise export and import rights, distribution rights, establish retail outlets, engage in the trading of goods and related activities with an export processing enterprise, contribute capital to, or purchase shares in, Vietnamese enterprises that engage in the trading of goods and related activities. The Circular No. 08/2013/TT-BCT, which replaced the Circular No. 09/2007/TT-BTM and Circular No. 05/2008/TT-BCT, took effect on 7 June 2013. Trading rights for foreign traders without commercial presence in Viet Nam is prescribed in the Decree No. 90/2007/ND-CP. According to this Decree, foreign traders without commercial presence in Viet Nam have import right and export right on goods which are allowed to import and export pursuant to domestic laws and market access commitments of Viet Nam since the Certificate of import and export right registration is granted. Those foreign traders are also allowed to buy goods for exporting and sell imported goods to Vietnamese traders who have business registration on those goods pursuant to current domestic laws. Procedures for granting, modifying, extending and revoking the Certificate of import and export right registration of foreign traders without commercial presence in Viet Nam are laid down in the Circular No. 28/2012/TT-BCT.

2.41. With respect to customs, Viet Nam has fully complied with WTO principles on customs fees and customs valuation determination pursuant to the WTO Customs Valuation Agreement; simplifying and harmonizing customs procedures to further facilitate trade.

2.42. With respect to price management, pursuant to the WTO commitments, the price management mechanism has been gradually improved in a way consistent with the movement of the market economy. The promulgation of Decree No. 75/2008/ND-CP of the Government which details the implementation of the Ordinance on Prices clearly reflected the changes in the price management in the areas of price valuation, stabilization, registration and declaration, whereby the State has gradually granted the price valuation rights to enterprises. More recently, since 1 January 2013 the Ordinance on Prices has been replaced by the Law on Price 2012. With the issuance of the new Law, the scope and circumstances for application of price registration and declaration have significantly been narrowed down.

### 2.2.2.3 Trade in Services

2.43. In its services Schedule, Viet Nam made specific commitments in 11 sectors covering more than 110 out of the 155 sub-sectors of the WTO classification (as listed in document W/120). All Market Access and National Treatment commitments have been implemented.

2.44. For commitments which provided higher levels of Market Access or National Treatment to foreign services and service providers than the pre-existing regulations, the Government has issued new legal documents to implement the commitments. The sectors concerned are distribution<sup>8</sup>, banking<sup>9</sup>, insurance<sup>10</sup>, and telecommunication<sup>11</sup>, and services relating to securities<sup>12</sup> (part of banking services in the WTO services classification list). For the remaining services, the commitments have been implemented pursuant to the Resolution No. 71/2006/QH11 dated 29 November 2006 ratifying the WTO Protocol on Accession of the Viet Nam and the Law on Signatory of, Accession to and Implementation of International Treaties No. 41/2005/QH11 dated 24 June 2005.

2.45. As a matter of fact, sectors that have been relatively quickly liberalized (i.e. with no or short transitional period) are banking services, distribution services, construction, healthcare, tourism, insurance, business services (legal, information technology, research and development).

2.46. With respect to the banking sector, by 2011, restrictions on deposit raising activities in VND of foreign bank branches were removed; foreign banks are allowed to establish banks with 100% foreign capital in Viet Nam and to carry out similar banking activities as domestic commercial banks. To date, all WTO commitments in the banking sector have been fully implemented. Foreign credit institutions can be present in Viet Nam in various forms, including subsidiaries, branches, joint ventures, representative offices and participation in joint stock commercial banks.

2.47. In the insurance and security sectors, Viet Nam allows the establishment of wholly foreign-owned companies in joint-stock form and branches of foreign non-life and security companies, creating a transparent and equal environment for foreign financial service providers.

2.48. In the telecommunication sector, right after the accession, foreign investors were allowed to establish joint ventures with registered telecommunication service providers in Viet Nam. For services with network infrastructure, the foreign ownership in joint venture cannot exceed 49%

<sup>8</sup> Decree No. 23/2007/ND-CP dated 12 February 2007 on *Guiding implementation of Commercial Law regarding purchase and sale of goods and activities directly related to the purchase and sale of goods by foreign invested enterprises in Viet Nam*; Circular No. 09/2007/TT-BTM dated 17 July 2007 *Guiding implementation of Decree No. 23/2007/ND-CP*, amended and augmented by Circular No. 05/2008/TT-BCT dated 14 April 2008; Decision No. 10/2007/QĐ-BTM dated 21 May 2007 *Promulgating roadmaps of WTO commitments on merchandise trade and directly related activities* and Circular No. 08/2013/TT-BCT providing *Guidelines on the Import, Export, and Distribution of Goods by Foreign Invested Enterprise in Viet Nam*, replacing the two aforementioned Circulars.

<sup>9</sup> Decree No. 22/2006/ND-CP dated 28 February 2006 on *Organization and operation of foreign bank branches, joint-venture banks, banks with 100% foreign capital, and representative offices of foreign credit institutions in Viet Nam*, partly replaced by Decree No. 57/2012/ND-CP dated 20 July 2012 on *the financial regulations applicable to branches of foreign banks*; Circular No. 03/2007/TT-NHNN dated 5 June 2007 *Guiding implementation of some articles of Decree No. 22/2006/ND-CP*, replaced by Circular No. 40/2011/TT-NHNN dated 15 December 2011, *regulating on licensing and organizations, operations of commercial banks, foreign bank branches, representative offices of foreign credit institutions and other foreign organizations with banking operations in Viet Nam*; Decree No. 69/2007/ND-CP dated 20 April 2007 on *Foreign investors' purchase of shares of Vietnamese commercial banks*; Circular No. 07/2007/TT-NHNN dated 29 November 2007 *Guiding implementation of Decree No. 69/2007/ND-CP*.

<sup>10</sup> Decree No. 45/2007/ND-CP dated 27 March 2007 on *detailed guidelines for implementation of a number of articles of Law Regulating Businesses in Insurance Activity*, replaced by Decree No. 123/2011/ND-CP dated 28 December 2011, *detailing a number of articles of the Law amending and supplementing a number of articles of the Law on Insurance Business, and amending and supplementing a number of articles of the Government's Decree No. 45/2007/ND-CP of 27 March 2007, detailing a number of articles of the Law on Insurance*.

<sup>11</sup> *Law on Telecommunication* dated 23 November 2009; Decree No. 121/2008/ND-CP dated 3 December 2008 on *Investment activities in the postal and telecommunication sector*, replaced by Decree No. 25/2011/ND-CP dated 6 April 2011 *detailing and guiding the implementation of a number of articles of the Law on Telecommunications*.

<sup>12</sup> Decision No. 55/2009/QĐ-TTg dated 15 April 2009 on *Participation rate of foreign investors' in Vietnamese securities market*.

(for basic services) and 50% (for value-added services) of chartered capital of the joint-venture company; and ownership of 51% is considered as the party has controlling power over its governance. For services without network infrastructure, the foreign ownership in a joint venture cannot exceed 70% (for Virtual Private Network services) and 65% (for other services) of the chartered capital of the joint-venture company.

2.49. In the distribution sector, the establishment of 100% foreign-owned enterprises was allowed as from 1 January 2009. Recent significant development in the retail sub-sector is the fact that, for the first time, FIEs are exempted from the economic needs test process when opening a retail outlet beyond the first one if the outlet is of less than 500 square meters in size and is located in designated areas for trading activities. In addition a clearer licensing process and new guidelines regarding the establishment of an Economic Needs Assessment Committee will help to improve transparency in the overall licensing process. The new regulation also establishes simpler procedures to obtain licenses for existing retail outlets, and provides for rules to permit FIEs to export goods that have been imported into Viet Nam. These new regulations create rights to foreign retailers and distributors that go beyond Viet Nam's scheduled commitments.

#### **2.2.2.4 Trade-Related Intellectual Property Rights**

2.50. In the area of trade-related intellectual property rights, Viet Nam undertook to fully comply with all of the provisions of the TRIPS Agreement from the date of accession to the WTO, without recourse to any transitional period. In 2008, the year following WTO accession, Viet Nam's IP legislation was reviewed by the TRIPS Council. As taking IPR more seriously, in June 2009, the National Assembly of Viet Nam adopted the amendments to the Intellectual Property Law as well as to the Criminal Code with a view to completing its IPR legal framework. All laws and regulations relating to intellectual property rights have been notified to WTO and WIPO.

### **2.2.3 Trade Policy Developments since WTO Accession**

#### **2.2.3.1 Multilateral Trading System**

2.51. After joining the WTO in January 2007, Viet Nam pursued renewed efforts to further integrate into the global trading system as a means to achieve sustained and pro-poor economic growth. Viet Nam, whose economy has been increasingly oriented towards international trade since the launch of the *Doi Moi* policy, is a strong supporter of an open, transparent and predictable, rules-based multilateral trading system. As a lower middle-income developing country with an economy in transition, we have a great stake in a credible and strengthened multilateral trading system under the WTO to provide us external support to our further reforms. Therefore, our attachment to the multilateral trading system was and remains a central piece of our trade policy. Viet Nam is convinced that the WTO has a natural central role to play in international trade rule-making, ensuring the stability and openness of global trade system thereby contributing to the growth of the world economy, and in the settlement of trade disputes.

2.52. Viet Nam supports, and is committed to play its part in the efforts to reinforce the role of WTO by bringing the Doha Round to a conclusion, the single most pressing issue currently facing the multilateral trading system. As a newly acceded WTO Member, Viet Nam has been disappointed since its accession to see the successive attempts to conclude the round fail one after the other which inevitably eroded the confidence in the multilateral trading system. Therefore we strongly support the idea that a consensus should emerge through renewed negotiating efforts on or around the mini-package to be brought to the Bali Ministerial Conference. We are confident that WTO Members could successfully converge to a consensus on the proposals in the mini-package of Agriculture, Trade Facilitation, and Trade and Development, provided there is a firm commitment of all to undertake an appropriate post-Bali work to address other outstanding issues of the round.

2.53. We consider the Dispute Settlement System as a cornerstone of the WTO, which has proven that it benefits all WTO Members, provided that panel rulings and/or Appellate Body decisions are complied with in good faith. Unfortunately this is not always the case and therefore we consider that it is essential to improve the efficiency of the mechanism. During less than seven years of membership, Viet Nam had initiated recourse to the DSU provisions to protect its interests in two cases as complainant and in 16 cases as third party. Viet Nam attached great interest to the Doha negotiations on the revision of the Dispute Settlement Understanding with a view to

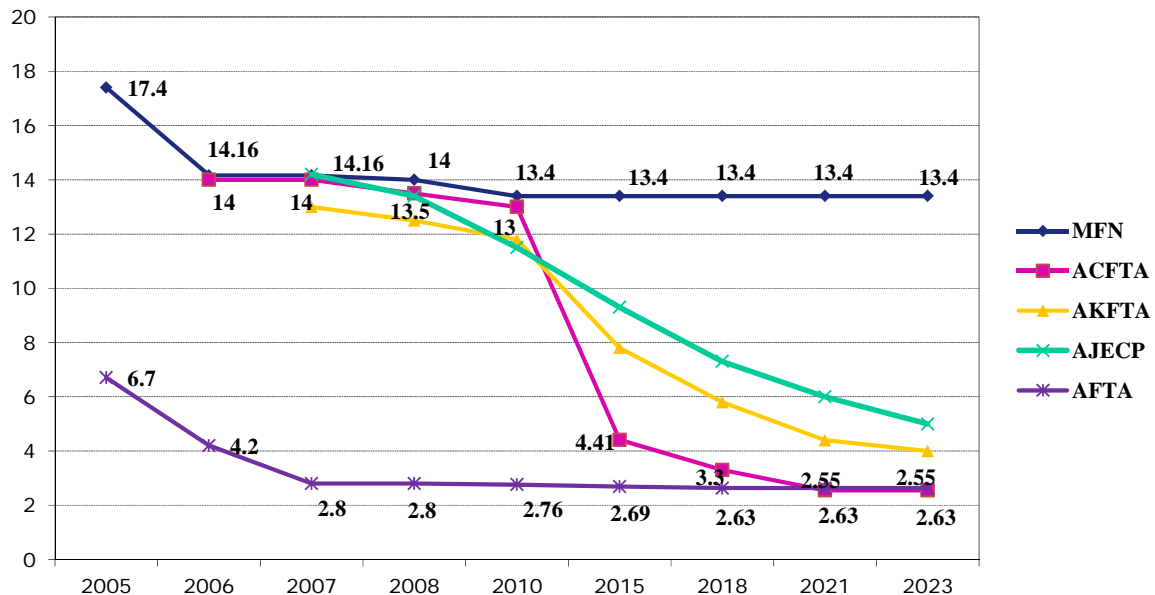


reinforce the compliance with WTO obligations and reinforce the integrity of the multilateral trading system.

### 2.2.3.2 Bilateral and Regional Agreements

2.54. Bilateral and regional trade agreements have played a growing role in Viet Nam's recent trade policy. Viet Nam considers the trade liberalization achieved by regional FTAs as complementary to the liberalization efforts pursued in the WTO in a global framework. The rationale for more active use of preferential trade liberalization by Viet Nam lies in the need to accelerate the liberalization of trade and investment with our most important trading partners. In addition, a bilateral or regional setting seems more conducive to results as compared with the growing complexity of the moving forward with multilateral trade negotiations, as seen in the Doha Round. However, we would also like to stress that the regional trade agreements that the Government of Viet Nam has negotiated or is negotiating are not meant to be trade fortresses. We are convinced that by creating more trade, these preferential arrangements also create opportunities for traders of non-members. Furthermore, as these new generation trade agreements provide for "deep integration" by removing beyond-the-border trade barriers, they directly benefit all WTO Members.

**Chart 3: Viet Nam's tariff reduction plans under selected FTAs**



Source: Central Institute for Economic Management (CIEM).

2.55. With respect to FTAs, it is also a requirement that the participation in a FTA must be in line with our overall multilateral, regional and bilateral economic integration process; must be supportive of trade liberalization in the WTO framework; and strengthen our links within ASEAN. From 2001 to date, Viet Nam has concluded a growing number of regional and bilateral FTAs. To date, we have established FTAs with 16 countries within the framework of six regional FTAs, i.e. the ASEAN Free Trade Agreement (AFTA), ASEAN–China Free Trade Agreement (ACFTA), the ASEAN-Korea Free Trade Agreement (AKFTA), the ASEAN-Japan Free Trade Agreement (AJFTA), the ASEAN-Australia and New Zealand Free Trade Agreement (AANZFTA), the ASEAN - India Free Trade Agreement (AIFTA); and two bilateral FTAs, namely the Viet Nam-Japan Economic Partnership Agreement (VJEPA) and the Viet Nam-Chile Free Trade Agreement (VCFTA), with different scopes of liberalization. The proportion of two-way trade between Viet Nam and other FTA partners have accounted for nearly 60% of total international trade value of Viet Nam, for nearly 50% of exports and nearly 70% of imports. Currently, Viet Nam is participating in the negotiations on the Trans-Pacific Partnership (TPP) Agreement, and is also conducting negotiations with the European Union, the European Free Trade Association, the Customs Union of Belarus, Kazakhstan and Russian Federation, the Republic of Korea and with ASEAN members and China, Japan, Republic of Korea, India, Australia, New Zealand (under a Regional Comprehensive Economic Partnership Agreement).

### 2.2.3.3 Recent Trade and Trade Related Policy Developments

#### 2.2.3.3.1 Trade Strategy

2.56. The Government has adopted in 2011 the "Import-Export Strategy for the Period 2011-20 with a Vision towards 2030" which specifies the country's trade targets by 2020. Accordingly, it is expected that Viet Nam will achieve a balance of trade by 2020 and that the total export turnover in that year will be three times higher than in 2010 with a per capita average of over US\$2,000. In order to attain this goal the Strategy foresees that the average growth rate of exports should be 11-12% per year in 2011-2020, or 12% in 2011- 2015 and 11% in 2016-2020. This figure should be kept at 10% in 2021-2030. Another prerequisite to realize is that the growth rate of imports be lower than that of exports, standing at 10-11% on average per year in 2011-2020, or below 11% in 2011-2015 and below 10% in 2016-2020.

2.57. The strategy focuses on four commodity groups: fuel and minerals, agricultural and seafood products, processing and manufacturing items, and other products. Regarding the commodity composition of trade, the proportion of fuels and minerals in the structure of exports is expected to fall from 11.2% in 2010 to 4.4% in 2020, and the share of agricultural and seafood products in exports is also likely to be cut from 21.2% in 2010 to 13.5% in 2020. Processing and manufacturing industries producing hi-tech and high-intelligence products should see their proportion in exports raise from 55.6% in 2010 to 62.9% in 2020. Similarly, the share of new products in exports should be increased from 12% in 2010 to 19.2% in 2020.

#### 2.2.3.3.2 Customs Modernization

2.58. As a major step towards enhanced trade facilitation, the Government adopted in 2011 the ambitious "Strategy for Customs development through 2020" which sets the overall objectives for Viet Nam Customs to become by the year 2020 a modern customs administration that meets the standards equivalent to those of the customs administrations of the developed countries of ASEAN. The Strategy is established by the requirements of economic development and the trend of international economic integration. Moreover, the strategy is also based on experiences of Viet Nam Customs in implementing the Plan of customs reform and modernization from 2004-2006; 2008-2010 combining with the experiences from other Customs Administrations to reach international standards set up by the World Customs Organization. The 2011 Strategy sets specific objectives as follows:

- build and complete the necessary institutional, organizational and legal frameworks that are in conformity with Viet Nam's administration reform objectives and comply with international standards and commitments;
- by 2020, customs techniques and procedures must be simplified, effective, and harmonized with international standards and best practices; as from 2020, process of centralization of customs clearance in a Customs database need to be operational; a national customs single window needs to be implemented and the ASEAN Single Window integrated; adopt post clearance audit techniques and effective risk management methods using IT applications;
- set up modern customs administration in accordance with centralization rules, and build a professional customs workforce meeting the criteria of transparency, integrity, and effective performance;
- set up modern IT customs systems based on centralized data processing, and using e-documents, e-manifest, e-payment, e-certificate;
- specific targets:
  - by 2015, all Customs Departments and all key Customs Branches must apply electronic customs procedure and e-customs procedures;
  - by 2015, the time of customs clearance must be as short as the average of developed countries in the ASEAN region was in 2010, and by to 2020 the time of customs clearance shall be the same as in developed countries.

2.59. To reach the objectives of the "Strategy for Customs development through 2020", Viet Nam Customs has established and implemented the short-term customs reform and modernization plan 2011-2015 with the targets on institutional reform, customs procedures and technique, organization and human resources, equipment and infrastructure, and information technology.

#### **2.2.3.3.3 Energy, in Particular Electric Power Sector**

2.60. In order to attain the objectives of the national socio-economic development strategy and in particular to help the process of national industrialization and modernization under market economy conditions, the Government has adopted in 2007 the "National Energy Development Strategy up to 2020 with 2050 Vision". The strategy provides that the national energy system should be developed in line with the trend of international integration, by efficiently using domestic energy sources and rationally exploiting and using foreign resources, while effectively creating regional and global energy cooperation and developing an independent and self-reliant economy. It requires the creation of an energy market conducive to fair competition, the promotion of new and renewable energies, bio-energy and nuclear power in order to meet the requirements of socio-economic development. It also requires accelerating the removal of energy subsidies and energy monopoly striving to end the pursuit of social policies through energy prices.

2.61. For the electric power industry, the Strategy has clearly set radical measures towards a more market economy friendly system. It required the development of the sector by diversifying the ownership forms. The Strategy requires the separation of public utility activities from production and business activities. The Viet Nam Electricity Group (EVN) would be responsible for developing electricity sources and operating the national transmission system, while the electricity generation and distribution would be open for domestic and foreign economic operators. The strategy also provides for the continued application on a trial basis of the equitization of power plants and distribution units.

2.62. The "National Master Plan for Power Development in the 2011-2020 Period, with Considerations to 2030" adopted in 2011 requires that electricity sales prices will be defined in accordance with market mechanisms, aiming to encourage investment in the development of the electricity sector while encouraging electricity conservation. Regarding the market structure of the electric power sector, the Master Plan goes beyond the stated objective of the 2007 Strategy by envisioning the progressive development of a competitive electricity market in which the State has only a monopoly in the electricity transmission grid in order to ensure security of the national energy system.

2.63. To promote the use of environmentally friendly energy resources in power generation, the Government is encouraging the development of renewable electric power plants. On 29 June 2011, the Government promulgated the Decision No. 37/2011/QĐ-TTg which has set up an incentive mechanism for wind energy project developments that obliges distributors to buy electric power generated from wind energy and introduces feed-in tariffs for grid-connected wind power projects.

#### **2.2.3.3.4 Telecommunications**

2.64. The telecommunication sector went through a gradual reform since the early steps of market opening for foreign investors in 1988 in the form of Business Cooperation Contract (BCC), which allowed foreigners to provide infrastructure deployment and financing while the state-owned partner provided services, with the revenue shared among them. The telecommunication services market has experienced substantial liberalization with the Viet Nam – US BTA of 2001, under which Viet Nam undertook to allow US investments in joint ventures with an equity cap of 49%, and to adopt the pro-competitive regulatory principles of the GATS Reference Paper on Basic Telecommunications. The major milestone in the sector's reforms was achieved with Viet Nam's WTO accession. Viet Nam committed to provide on an *erga omnes* basis to all WTO Members better market access conditions than under Viet Nam-US BTA. Accordingly, joint ventures with foreign participation can provide telecommunications services related to network infrastructure such as telephone services, packet-switched data transmission services, circuit-switched data transmission services, telex services, telegraph services, facsimile services and private leased circuit services. Viet Nam's specific commitments required maximum equity caps on foreign participation, which vary between 49% and 70% depending on the services and the time of implementation. Viet Nam has implemented all of its specific commitments in due time.

2.65. Since its accession to the WTO, Viet Nam has introduced a number of regulatory changes, which were either directly linked to the implementation of accession commitments or went beyond those commitments to establish even better regulatory conditions for operators. The Law on Telecommunications, the Law on Radio Frequency and Decree No. 25/2011/ND-CP detailing and guiding the implementation of a number of articles of the Law on Telecommunications, which made radical changes in the regulatory framework of the telecommunications sector, have been adopted to promote investment and to implement Viet Nam's accession commitments. Article 18 Law on Telecommunications provides that the forms and conditions for investment in telecommunications services applicable to foreign investors must comply with Vietnamese laws and Viet Nam's WTO commitments. The Law also incorporates the GATS' pro-competition regulatory regime. It provides for obligations to provide access and interconnection to essential network facilities, lessens restrictions on private ownership in facilities-based service providers, introduces an open and transparent licensing regime, and establishes a new regulatory body, the Viet Nam Telecommunications Authority (VNTA), to comply with the GATS requirement with respect to regulators.

2.66. While the State holds ownership directly or indirectly in all telecom operators, the market structure is that of a competitive market. For example, while the State has ownership in each of the 6 licensed mobile businesses, competition is fierce among them, especially in terms of prices. Though the telecommunications sector is still protected by equity caps on foreign ownership and the State's involvement in the form of capital contribution in a number of enterprises operating in the telecom sector remains significant, Viet Nam is committed to grant full national treatment to FIEs in all market segments.

### 3 OUTLOOK

3.1. The Government of Viet Nam is determined to successfully pursue the economic restructuring process as stated in the Master Plan on Economic Restructuring attached to change of growth model towards improvement of quality, efficiency and competitiveness for the period 2013-2020, in which structural reforms in the financial sector, SOEs and public investment remain top priorities in the short run, in order to create better conditions for efficient resource allocations, level playing field for market players and reinvigorated economic growth. The successful implementation of the Master Plan is vital for Viet Nam in attaining economic growth in a new, efficient, productive and internationally competitive paradigm by 2020, and achieving the goal of becoming a modern industrialized country by that time.

3.2. The Government of Viet Nam remains resolved in successfully implementing the public administration reform, which is a central element in Viet Nam's policy of transition towards a socialist market economy. Reforming the public administration is also a vital pre-condition for the achievement of economic growth and poverty reduction targets, and for Viet Nam's further regional and global economic integration. Following on the Master Program 2001-2010, the new Program aims to further build a robust and effective public administrative system operating according to the principles of a State of rule-of-law. Among the objectives of the Program include building and perfecting the institutions of the socialist-oriented market economy; creating an equal, open, favorable, transparent and business friendly environment for entrepreneurs, building a modern system of effective and efficient State administration; promoting the rule of law in executive activities of the Government and state administrative agencies; and building a pool of cadres, civil servants and public employees with adequate qualities, capabilities and qualifications meeting the requirements of serving the people and the national development.

3.3. The Government of Viet Nam continues to further economic and trade integration through liberalization on the multilateral, regional and bilateral levels. In the WTO framework, despite the deadlocks of the Doha negotiations, we remain committed to continue to work towards success in all negotiating groups, including on Agriculture, NAMA, Rules and Services, as we wish to achieve commercially-meaningful global improvements in market access conditions to which we are willing to contribute. Whilst firmly committed to strengthening the multilateral trading system and further liberalizing trade through multilateral negotiations under the WTO, the Government of Viet Nam is also actively pursuing regional and bilateral trade policies to achieve additional trade liberalization through Free Trade Agreements with its main trading partners. The Government of Viet Nam's view about regional (preferential) trade agreements is that they should be complementary to the multilateral trading system and fully compatible with relevant WTO provisions.

3.4. The Government of Viet Nam attaches itself to the regional trade policy principle whereby its participation in FTAs is determined in a selective manner and is guided by the contribution of the prospective FTA to Viet Nam's sustainable development, economic advantages and opportunities offered, considerable increase in the country's comparative advantages, and the forecasted contribution to the implementation of the strategic objectives of socio-economic development during 2011-2020 and beyond. Our participation in FTAs must be consistent with the integration capacity of the country, the level of development and the competitiveness of the Vietnamese economy.

3.5. The Government of Viet Nam will further enhance our regional integration, especially through ASEAN and ASEAN+ agreements on trade in goods and trade in services, as well as other FTAs that have been signed, which Viet Nam is firmly committed to fully implement the liberalization commitments according to the agreed schedules and time frames. For those bilateral and regional FTAs that are under negotiations, we will make best effort to conclude them in due course as targeted by all parties.

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