



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

**COUNCIL DECISION**

**establishing the Community position within the General Council of the World Trade Organisation on the accession of the Socialist Republic of Viet Nam to the World Trade Organization**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### Overview of the Terms of Viet Nam's Accession to the WTO

#### **I Introduction**

Members of the World Trade Organisation (WTO) and the Socialist Republic of Viet Nam have reached the concluding stage of agreement on the terms for Viet Nam's accession to the organisation. This comes after almost 11 years of negotiations, which began when Viet Nam submitted its application to join the WTO 1995. There must now be a Council Decision approving the terms of Viet Nam's entry, before the EU can formally support Viet Nam's entry.

A summary of the terms of the accession is set out below.

#### **II Summary of terms of Viet Nam's WTO Accession by Sector**

##### ***Industrial goods***

The simple average of Viet Nam's Applied Tariffs for industrial and fisheries goods are at the level 17.5%. With the date of accession to WTO Viet Nam will set its initial bound rates (IBR) at 16.2% on average. The average of final bound rates (FBR) will be reduced to 12.4 %. 70% of all tariff lines will be below 15% duty rates. Only 7% of the lines will remain at peak level above 25%. All tariffs will be bound. Implementation periods range from 0 to 12 years with an average of 4.4 years.

##### Industrial tariffs in detail

Tariffs on Medical equipment and ITA 0/0 will be eliminated, and tariffs for Pharmaceutical will go down from 3.6 % (applied) to 2.6% (FBR) in 3 years.

On Machinery and Appliances which are of important interest for European Industries, the average tariffs will go from 10.50 % (applied) to 9.2 % (FBR) within 3.7 years.

Average duty rates for Steel 0/0 will be reduced from 17.3% (applied) to 16.4 % (IBR), to go down to 11.5 % (FBR) within 3 years (average), while the chapter Steel (Non MSA) will remain on higher level, going up from 16.9% (applied) to an initial bound rate of 21.8% to be then reduced to 17.8% (FBR) within 3 years (average).

Duties in the chemical sector will go from 11.9% (applied) to 7.4% (FBR) within average of 4.6 years; Paper from 18.8% (applied) to 12.8 % (FBR) in 4.4 years.

Vehicles and parts with few exemptions go down from 53.3% (applied) to 40.7% (FBR) in average of 5.7 years.

##### ***Agriculture***

On market access for agricultural goods, Viet Nam will cut its tariffs on the most exported products from average applied rates of 27% to annual average final bound rate of 21%. Specifically, significant reductions have been achieved on tariffs on products such as: meat preparations (down from on average 50% applied to 27% final bound rate), cereal and pasta

preparations (down from 43% to 27%), alcoholic beverages (down from 88% to 46%, spirits to 45%), and cocoa preparations (down from 33% to 18%).

As from the date of accession, Viet Nam does not intend to use quantitative or other import restrictions on any agricultural product, except for measures allowed under the provisions of WTO Agreements.

In relation to domestic support, Viet Nam will not bind any AMS, because its support does not reach the 10% *de minimis* level. The majority of Viet Nam's domestic support measures are Green Box measures concerning general services (mostly infrastructure), payments to producers as disaster assistance and payments for regional assistance.

Vietnam has committed to eliminating export subsidies applied to agricultural products by the date of accession.

### ***Trading rights and liberalisation of state trading enterprises***

Viet Nam has made considerable improvements in the areas of State Trading and trading rights. The sectors/products subject to State trading have been reduced to the following: crude oil, refined petrol and gasoline, aircraft spare parts and aviation equipment, film, newspapers and cigarettes and cigars. As regards trading rights, Viet Nam will grant all enterprises with foreign direct investment full trading rights no later than 1 January 2007, except for the products subject to State trading. For specified products however, full trading rights will be granted two years later, on 1 January 2009. These products are pharmaceuticals, cinematographic film, calendars, post cards, industrial printers and print machinery, TV and radio transmission apparatus and video camera recorders. There are no restrictions as regards the right to choose a distributor in Viet Nam.

### ***Services***

A large part of the accession negotiations focused on services, of paramount importance to the EU as the world's leading exporter in this field. Foreign equity limitations are in many instances only temporary, as part of a gradual phase-in to 100 per cent foreign ownership. European services suppliers will overall enjoy considerable additional market access opportunities coupled with guarantees that they will not be discriminated against Vietnamese companies. Legal security regarding the conditions under which European companies are able to operate in a range of sectors will be greatly improved. Upon the EU's request, Viet Nam has also made specific pledges in the Working party report on its licensing procedures and conditions (including transparency, fees, time for consideration and information) that were a source of concern for companies in several sectors. Viet Nam's commitments cover a wide range of service sectors, including key sectors of interest to the EU such as:

Professional services: the commitments of Viet Nam on accounting, auditing, bookkeeping, taxation, architectural, engineering services are extensive with almost no restrictions. European law firms will be able to establish foreign law firms, branches and partnerships in Viet Nam. Consultation on Vietnamese law is possible under certain conditions.

Courier services: express delivery operators will be able have 100% ownership 5 years after accession and will be granted a treatment no less favourable than Viet Nam Post.

Telecommunication services: Operators providing non-facilities-based services will be able to establish joint ventures with up to 51% or 70% foreign capital, depending on the service. For facilities-based services, Viet Nam has bound foreign ownership up to 49%. Viet Nam has also pledged that licensing decisions for both facilities-based and non-facilities-based services would be made in accordance with transparent and objective criteria. A specific clause was included to ensure that existing Business Cooperation Contracts of EU operators would be converted in other forms with conditions no less favourable or renewed. Viet Nam will also apply the reference paper on telecommunication services.

Construction services: the whole sector will be open, with the possibility of direct branching.

Distribution services: although some products are excluded (e.g. processed and crude oil, books, pharmaceutical products and drugs), foreign ownership will be fully allowed as of 1st January 2009.

Environmental services: wastewater treatment, waste management services (except direct collection of household waste), cleaning of exhaust gases and environmental impact assessments are committed, with foreign ownership allowed up to 100% four years after the accession.

Tourism: there is a full opening of hotel and restaurant services, with a transition period of 8 years during which the provision of services needs to be associated with investments in hotels.

Financial services: Viet Nam is binding the possibility for foreign insurance companies to establish with up to 100% ownership. Five years after the accession, the establishment of non-life branches will be authorised as well. Viet Nam also offers extensive commitments for cross-border supply of insurance and reinsurance services, including intermediation. Foreign banks operating in Viet Nam are granted full MFN and national treatment in the placement and operation of Automatic Teller Machines (ATMs). A few months only after its accession (April 2007), Viet Nam will authorise up to 100% foreign ownership for banks.

Maritime Transport services: Viet Nam has undertaken far-reaching commitments that will secure the possibility for European companies to hold the full 100% ownership stake in their operations in Viet Nam within 5 to 7 years from accession for most maritime transport services and key auxiliary services.

### ***Protocol commitments***

In the final, multilateral stage of the accession process, WTO Members collectively sought to ensure the basic compatibility of Viet Nam's trade laws and institutions with WTO rules and agreements, setting these out in the Protocol of accession and Working Party Report. The following issues are of particular interest to the EU:

#### Excise taxation of spirits

The current Vietnamese system of excise tax on spirits sets a tax of 30% for spirits with an alcohol content between 20% to 39%, and tax of 65% for spirits with alcohol content of 40% or more. Viet Nam will change its system within 3 years from accession, and will apply, to all distilled spirit beverages with alcohol content of 20% or more, a single rate of excise tax per litre of pure alcohol contained in a finished product.

### Import and export restrictions

Viet Nam will replace the current import ban of used motor vehicles with an import quota that will be phased out within three years of the accession. Viet Nam will also replace the current import ban of large motorcycles with engine capacity exceeding 175 cm<sup>3</sup> with a non-automatic licensing system by 31 May 2007. As regards export duties, Viet Nam will reduce its current export duties of 35% on ferrous scrap to 17% within 5 years of the accession, and its current export duties of 45% on non-ferrous scrap to 22% within 5 years of the accession.

### Subsidies

Vietnam will eliminate all prohibited subsidies upon accession. Export subsidies based on existing investment licences granted under two specific programmes will be phased out within 5 years of accession, and the programmes terminated. As regards export processing zones, companies establishing themselves in these zones will not be required to export their production as a condition for being eligible to operate in these zones. Vietnam will provide a subsidy notification to the WTO Committee of Subsidies and Countervailing measures by the date of accession.

## **V RECOMMENDATION**

In submitting the terms of Accession of the Socialist Republic of Viet Nam to the WTO for approval by the Council, the Commission commends these terms as representing a balanced but ambitious package of market opening commitments, which will bring substantial benefits to Viet Nam and her WTO trading partners alike.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 133(1) and 133(5) in conjunction with the second subparagraph of Article 300(2) thereof

Having regard to the proposal from the Commission,

Whereas:

- (1) On 4 January 1995 the Government of the Socialist Republic of Viet Nam applied for accession to the Agreement establishing the World Trade Organization (WTO), pursuant to Article XII of that Agreement.
- (2) A Working Party on Viet Nam's accession was established on 31 January 1995 in order to reach agreement on terms of accession acceptable to the Socialist Republic of Viet Nam and all WTO Members.
- (3) The Commission, on behalf of the Community, negotiated a comprehensive series of market opening commitments on the part of the Socialist Republic of Viet Nam which are of particular importance to the Community, provided for in the bilateral agreement between the Socialist Republic of Viet Nam and the Community authenticated by signature on 9 October 2004.
- (4) These commitments are now embodied in the Protocol of Accession of the Socialist Republic of Viet Nam to the WTO.
- (5) Accession to the WTO is expected to make a positive and lasting contribution to the process of economic reform and sustainable development in the Socialist Republic of Viet Nam.
- (6) It will also bring trade relations between the Socialist Republic of Viet Nam and the Community into a stable and legally binding framework.
- (7) The Protocol of Accession should therefore be approved.
- (8) Article XII of the Agreement establishing the WTO provides that the terms of accession are to be agreed between the acceding Member and the WTO, and that the Ministerial Conference of the WTO approves the terms of accession on the WTO side.

Article IV.2 of the Agreement establishing the WTO provides that in the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council.

- (9) Accordingly, it is necessary to establish the position to be taken by the Community within the General Council.

HAS DECIDED AS FOLLOWS:

*Sole Article*

1. The position to be taken by the Community within the General Council of the WTO on the accession of the Socialist Republic of Viet Nam to the WTO, is to approve the accession.

2. This position shall be expressed by the Commission on behalf of the Council

Done at Brussels, [...]

*For the Council  
The President*