

**REPORT**

**OF THE**

**VIET NAM - EFTA**  
**JOINT STUDY GROUP**

17 February 2011

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# 1 General Background

## 1.1 Background of Viet Nam - EFTA engagement and mandate of the Joint Study Group

1. Following various contacts between government representatives of Viet Nam and the Member States of the European Free Trade Association (EFTA), the Parties on 19 May 2010 signed a Joint Statement establishing a Joint Study Group (JSG) to evaluate the feasibility of a future Free Trade Agreement.

2. The mandate of the JSG was (i) to analyse trade flows and investment relations of, and between, Viet Nam and the EFTA States, (ii) to examine relevant legal frameworks and (iii) to assess opportunities and challenges for the Parties in negotiating and concluding a Free Trade Agreement.

3. In view of the possible negotiation of a Free Trade Agreement between both sides, the JSG was to examine, in particular, the following elements: Trade in goods (including: rules of origin and customs procedures, trade facilitation, trade disciplines, sanitary and phytosanitary measures (SPS) and technical barriers to trade (TBT)); trade in services; investment; intellectual property rights; legal and institutional issues; other possible issues (e.g. sustainable development, technical assistance, competition, government procurement); and WTO compatibility of a future Free Trade Agreement.

4. The Viet Nam-EFTA Joint Study Group held three meetings between August 2010 and January 2011. This Report contains a summary of the deliberations of the Group.

## 1.2 Structure and functioning of EFTA

5. The European Free Trade Association (EFTA) is an intergovernmental organisation set up in 1960 for the promotion of free trade and economic integration to the benefit of its four Member States: Iceland, Liechtenstein, Norway and Switzerland. It has offices in Geneva (headquarters), Brussels<sup>1</sup> and Luxembourg<sup>2</sup>.

6. The Association has responsibility for: (i) the management of the EFTA Convention, which forms the legal basis of the organisation and governs relations between the EFTA Member States; (ii) the European Economic Area (EEA) Agreement, which enables three of the four EFTA States (Iceland, Liechtenstein and Norway) to participate in the EU's Internal Market; and (iii) EFTA's worldwide network of free trade and economic partnership agreements.

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<sup>1</sup> The services in Brussels provide support for the management of the European Economic Area (EEA) Agreement, including through preparation of new legislation and input into EU decision making.

<sup>2</sup> The EFTA Statistical Office in Luxembourg is a liaison office between Eurostat and the EFTA national statistical institutes. Its main objective is to contribute to the development of a broad and integrated European statistical system.

7. The EFTA Council is the forum in which Member States consult and take decisions by consensus. At Ministerial level, the Council normally meets twice a year, and at ambassadorial level monthly. A number of specialised committees and expert groups assist and report directly to the Council. For example, the Committee on Third-Country Relations oversees the functioning and development of free trade and cooperation agreements with partner countries outside the European Union.

8. In free trade negotiations, all EFTA Member States are represented by a chief negotiator, one of whom also acts as EFTA Spokesperson. EFTA Free Trade Agreements are negotiated and signed jointly by the Member States, but implemented individually by them. EFTA as an intergovernmental organisation has no treaty-making authority.

### **1.3 WTO compatibility of a possible free trade agreement**

9. Viet Nam and the four EFTA States are members of the World Trade Organisation (WTO). All Parties attach the highest priority to a well-functioning multilateral trading system and are committed to the rules provided for under the WTO system. In their view, the multilateral and bilateral approaches to trade liberalisation are mutually supportive.

10. Under WTO rules, a member state may enter into a Free Trade Agreement granting more favourable terms to the participating states than to other WTO members if certain conditions stipulated in the relevant provisions of the WTO Agreements are observed, in order to ensure the complementary nature of the FTA with the WTO system (notably Article XXIV of the GATT and the 1979 Enabling Clause, for trade in goods, and Article V of the GATS, for trade in services). A Free Trade Agreement between the Parties would have to comply with these rules.

## **2 Overview of trade and economic relations**

### **2.1 Viet Nam's economy**

#### **2.1.1 General overview of the economy and main recent developments**

11. Viet Nam has undertaken an economic reform process over the past 20 years. Launched in 1986, the Doi Moi (Renovation) process sought to revive economic growth and development by a gradual transition from a centrally planned economy to a market-based one. The economy responded strongly and rapidly to Doi Moi.

12. As a result of Doi Moi, Viet Nam has become one of the fastest growing economies in the world. The economy grew by a multiple of 10 from the late 1980s to 2006, which made Viet Nam the 58<sup>th</sup> largest economy in the world in 2006.

13. During the period 2006-2010, the world economy experienced significant turbulences and instabilities. Despite formidable difficulties, the Vietnamese authorities have, on the one hand, promptly implemented strong measures to curb the negative impact of the global crisis on Viet Nam, and on the other hand, reaffirmed their commitments to economic liberalization and international integration. Viet Nam joined the WTO in January 2007 following more than a decade-long negotiation process. WTO membership has provided Viet Nam with an anchor to the global market and reinforced the domestic economic reform process.

14. In addition, Viet Nam has been strengthening the institutions of a market economy. The business and investment environments are improved. Major markets have been established and consolidated country-wide as well as become more connected to the global market.

#### **2.1.2 Main economic indicators**

15. The annual real GDP growth rate of Viet Nam averaged 6.8% during the period 1986-2006, with relatively little volatility and moderate inflation. In 2009, despite the aftermath effects of the global recession, Viet Nam still maintained an annual GDP growth rate of 5.32%<sup>3</sup>.

16. In 2010, the economy is forecast to grow at 6.7%. Real GDP per capita in 2010 is expected to be US\$1,160.

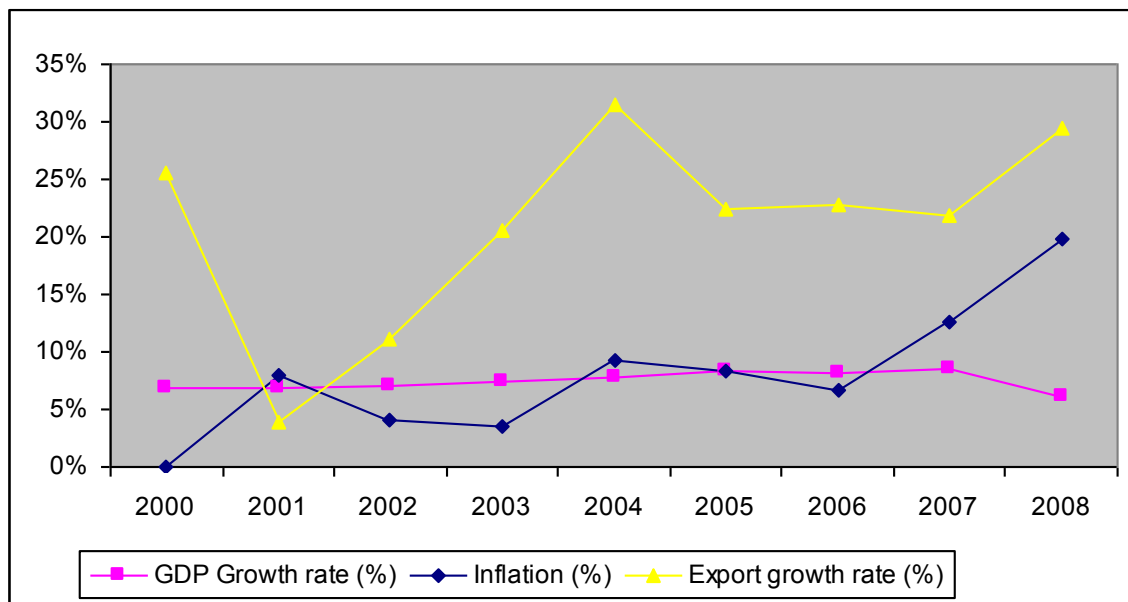
17. The economic transformation and high growth rates have been accompanied by unprecedented progress in poverty reduction. The poverty rate plunged from 58% in 1993 to 37.5% in 1998 and 9.5% (estimated) during the period 2006 -2010.

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<sup>3</sup> Source: General Statistic Office of Viet Nam

**Table 1: Major economic indicators**

	Indicator	Unit	Estimated 2006-2010
1	Average annual GDP growth rate	%	7.0
2	GDP per capita in 2010	US\$	1,160
3	State Budget in comparison with GDP	%	28
4	Population growth rate	%	1.04
5	Labour in agriculture, forestry and aquaculture compare to total labour force	%	50
6	Jobs created	million	8.07
7	Unemployment rate 2010	%	2.88
8	Households in poverty	%	9.5 <sup>4</sup>

**Figure 1: Main economic indicators**

<sup>4</sup> Source: Ministry of Labour, Invalids and Social Affairs of Viet Nam. According to the General Office of Statistics, the number is 10.6%.

### 2.1.3 Structure of the economy and main sectors of production

18. Agriculture and aquaculture are strong bases for Viet Nam's socio-economic development. In recent years, aquaculture has increased rapidly. In 2008, its production accounted for 23.6% of the total value of agricultural/aquacultural production.

19. Industry and construction accounted for 41.1% of total GDP during the period 2006-2010. Manufacturing accounted for 87.6% of industrial production. Other major industries include food processing (20.6%), power supply and distribution (5.2%), as well as oil and gas (6.8%).

20. The services sector accounted for 38.6% of total GDP of Viet Nam. Major sectors include retail, transportation, telecommunications, tourism and hospitality.

**Table 2: GDP contribution by sector**

	<b>GDP Contribution by Sectors</b>	<b>Unit</b>	<b>Estimated 2006-2010</b>
1	- Agriculture, forestry and aquaculture	%	20.3
2	- Industry and construction	%	41.1
3	- Services	%	38.6

### 2.1.4 Main trading partners and patterns for goods and services

21. In recent years, Viet Nam's participation in international economic integration has benefited the country with positive impacts. In 2007 and 2008, exports reached US\$48.6 billion and US\$62.7 billion, respectively, equivalent to 21.9% and 29.1% growth compared with 2006 and 2007. In 2009, the value of exports reached US\$57.1 billion, down 8.9% compared with 2008 but still higher than before 2007. In terms of imports, the total import value in 2007 was US\$62.7 billion, an increase of 39.8% from 2006. The value of imports in 2008 and 2009 was US\$80.7 billion and US\$69.9 billion respectively.

22. Viet Nam's export destinations are becoming more diverse and the country has a firm foothold in key markets around the world, such as the United States, the European Union, China and Japan. Following the country's membership in the WTO, exports have grown in most markets.

23. Viet Nam's major export partners are ASEAN, Japan, China, the United States and the EU. After joining the WTO, Viet Nam's export structure has shifted towards new markets. However, the above mentioned markets are still the largest markets for Viet Nam.

24. These markets account for more than 70% of total exports of agricultural products, aquatic products, textiles and footwear. The proportion of exports to these markets was 77.4% in 2004 and 72.3% in 2009. Among those destinations, processed and

refined goods are exported mainly to industrialized countries while raw materials to regional ones. Viet Nam's WTO membership has also contributed to the change in this ratio. In the period 2004-2008, the export of processed goods increased to China, ASEAN and the United States, but declined to Europe and Japan.

25. In terms of regional markets, exports to all regions are unevenly distributed and traditional markets still account for a large percentage. Asia remains the number one export partner of Viet Nam with export turnover in 2009 of US\$26.9 billion, accounting for 47.2% of total exports. Exports to Asia are higher than to other markets and this region continues to dominate the export market structure of Viet Nam.

26. Exports to the U.S. and Europe constituted US\$13.3 billion and US\$12.8 billion, respectively representing 23.3% and 22.4% of total exports in 2009.

27. During the past years, exports of industrial products and handicrafts have always constituted a high proportion (60%) of total exports. Agriculture, forestry and fishery products and mineral fuels each accounts for less than 20% of the goods exported. The export structure has shifted towards an increase of the proportion of industrial/manufacturing goods with high technology content while the proportion of crude oil has been decreasing.

28. The list of key exports contains crude oil, textiles and clothing, footwear, seafood, wood products, electronics, computers, coffee, rice, rubber, coal, electric cable, plastic products, cashew nuts, suitcases etc. Among these, the export ratio has been virtually unchanged over the years, except for crude oil.

29. Viet Nam mainly imports materials and machinery to serve domestic production and exports. Between 2001 and 2009, imports of consumer goods have tended to rise. The country's key import commodities include machinery and equipment, tools and spare parts, petroleum products, materials for the textiles, garments and footwear, iron and steel industry, metals, plastic materials, fertilizers, animal feed, pharmaceuticals, automotive products, and computer and electronics.

30. In terms of proportion, raw materials and machinery in 2009 reached US\$56.7 billion and accounted for 82.5% of the total import value. There are some imported goods which have experienced a steady increase, including wheat (79.7%), fertilizer (41.9%), plastic materials (25.9%) and rubber (64.5%).

31. Imports of products made from iron and steel, coke and petroleum products, tobacco materials, automobile, consumer goods and automobile components and motorcycle accessories together reached 6 billion, accounting for 8.8% of total imports.

32. The volume of trade in services of Viet Nam has increased consistently during the 1991-2008 period (except for 1999 where there was a decrease) at an annual rate of 24.1%. From 1991 to 2008, the annual growth rates of service exports and imports were 22.6% and 25.9% respectively whereas those of the total exports and imports were 20.1%



and 21% respectively. As a result, the share of services trade in total foreign trade increased from 6% in 1990 to 9.5% in 2008.

33. At the same time, Viet Nam's services imports have increased considerably, from US\$2.304 billion in 1996 to US\$3.382 billion in 2001, US\$5.036 billion in 2005, and US\$7.931 billion in 2008. As a result, the services trade deficit has been rising fast, from US\$61 million in 1996 to US\$819 million in 2008.

**Table 3: Services exports and imports of Viet Nam, 1990-2008<sup>5</sup>**

Year	Export			Import			Service exports minus imports (USD million)
	Turn-over (USD million)	Change (%)	Share in total exports (goods and services) (%)	Turn-over (USD million)	Change (%)	Share in total imports (goods and services) (%)	
1990	182	-	7.0	126	-	4.4	56
1991	449	146.7	17.7	270	114.3	10.4	179
1992	724	61.2	21.9	412	52.6	14.0	312
1993	772	6.6	20.5	694	68.4	15.0	78
1994	1283	66.2	24.0	1264	82.1	17.8	19
1995	2147	67.3	28.3	1982	56.8	19.6	165
1996	2243	4.5	23.6	2304	16.2	17.1	-61
1997	2530	12.8	21.6	3153	36.8	21.4	-623
1998	2616	3.4	21.8	3146	-0.2	21.3	-530
1999	2493	-4.7	17.8	3040	-3.4	20.6	-547
2000	2702	8.4	15.7	3252	7.0	17.2	-550
2001	2810	4.0	15.8	3382	4.0	17.3	-572
2002	2948	4.9	15.0	3698	9.3	15.8	-750
2003	3272	11.0	14.0	4050	9.5	13.8	-778
2004	3867	18.2	12.7	4739	17.0	11.5	-872
2005	4265	10.3	11.6	4480	-5.5	10.9	-215
2006	5100	19.6	11.4	5792	29.3	11.4	-692
2007	6460	26.7	11.7	7176	23.9	10.3	-716
2008	7096	9.8	10.2	7915	10.3	8.9	-819

<sup>5</sup> Source: WTO (2004). Statistics. GSO (2008). Statistical Yearbook 2007. Hanoi: Statistical Publishing House; GSO (2008 and 2009). Annual Report 2008, Quarterly Report I/2009, and Half Year Report I/ 2009

### **2.1.5 Inward and outward investments**

34. Since the introduction of the Law on Foreign Investment in 1987 until the end of 2009, leaving aside projects which have expired or been withdrawn, there have been over 10,960 active licensed projects with a total registered capital of more than US\$177 billion. To date, investors from 89 countries and territories have committed investments in Viet Nam. Chinese Taipei, Republic of Korea, Malaysia, Japan, and Singapore are the top five countries and territories investing in Viet Nam, accounting for 60.47% of the licensed projects with a total investment capital accounting for 53.53% of the total foreign investment capital of Viet Nam. Investments are mainly undertaken in the following sectors: manufacturing, real estate, construction, telecommunications, tourism and hospitality.

35. The total outward FDI of Viet Nam is still moderate, with a total number of projects of 533, representing US\$6.36 billion of committed capital. Major sectors include mining, art and entertainment, agriculture, forestry and aquaculture, and manufacturing.

## **2.2 The EFTA States' economies**

### **2.2.1 General overview of the economy and main recent developments**

36. The EFTA countries are advanced, diversified and open economies with high trade-to-GDP ratios. Taken together, they constituted the world's eighth largest merchandise trader and the fifth largest trader in commercial services in 2009, counting the European Union as one.

37. All EFTA States have been significantly affected by the global financial and economic crisis of recent years. The Icelandic economy experienced a significant recession following the collapse of its banking sector in late 2008. The economy has since stabilised. Ongoing structural reforms are laying the basis for recovery which is projected for 2011.

38. In Norway, the fall in output was limited and of shorter duration than in other developed markets. A strong government response supported domestic demand and helped sustain employment. As a result, economic recovery is well established.

39. Switzerland, too, experienced economic recession in 2009. In 2010, however, strong external and relatively robust domestic demand has driven economic recovery, and the outlook going forward is positive.

40. The two catalysts of the Liechtenstein economy - the export industry and the financial services sector - were also directly impacted by the global crisis. The outlook has since improved, with the continued global stabilisation auguring well for recovery.

## 2.2.2 Main economic indicators<sup>6</sup>

41. In 2009, the combined gross domestic product (GDP) of the EFTA States amounted to US\$888 billion, with the shares of Switzerland, Norway and Iceland accounting for 55.5%, 43.1% and 1.4% of the total, respectively.

42. Real GDP decreased in 2009 by -6.8%, -1.4% and -1.9% in Iceland, Norway and Switzerland, respectively. Growth is expected to be positive from 2010 in Norway and Switzerland and to move back into positive territory in 2011 in Iceland.

**Table 4: Real GDP (percentage change from previous year)**

	ICELAND	NORWAY	SWITZERLAND
2008	1.0	0.8	1.9
2009	-6.8	-1.4	-1.9
2010 (OECD forecast)	-3.6	0.5	2.7
2011 (OECD forecast)	1.5	1.8	2.2

Note: Figures for Liechtenstein are not available.

43. Inflation in Iceland rose significantly in 2008 and remained high through 2009 as a result of the marked decline in the exchange rate. In the course of 2010, inflation has fallen sharply in line with the recent strengthening of the krona and muted domestic demand, and projections point towards continued containment. In Norway, inflation in 2008 was relatively high mainly due to rising labour costs and high import prices. Having eased off in 2009, inflation is expected to remain at a moderate level going forward. Inflation in Switzerland and Liechtenstein fell back in 2009 in line with the fall in oil prices and the domestic slowdown and is projected to remain low in 2010 and 2011.

**Table 5: Inflation (consumer price index, percentage change from previous year)**

	ICELAND	LIECHTENSTEIN	NORWAY	SWITZERLAND
2008	12.7	2.4	3.8	2.4
2009	12.0	-0.5	2.2	-0.5
2010 (OECD forecast)	5.3	0.5	2.4	0.5
2011 (OECD forecast)	1.8	0.1	1.5	0.1

Note: Liechtenstein has the same inflation rate as Switzerland as a result of the monetary union between the two countries.

44. Unemployment rates across the EFTA States rose in 2009 as the financial crisis impacted the real economy, but remained low in comparison with most OECD countries. While all EFTA States experience unemployment rates that are slightly higher than usual through 2010, forecasts suggest that these will stabilise in 2011.

<sup>6</sup> Source: OECD (2010), OECD Economic Outlook, Volume 2010/2, No.88, November.

**Table 6: Unemployment rates (percent of labour force)**

	ICELAND	LIECHTENSTEIN	NORWAY	SWITZERLAND
2008	3.0	2.3	2.6	3.5
2009	7.3	2.8	3.2	4.4
2010 (OECD forecast)	7.5	--	3.6	4.4
2011 (OECD forecast)	8.1	--	3.9	4.3

45. Government budgets were in surplus in Liechtenstein, Norway and Switzerland in 2009 and will remain in comparatively good shape going forward, although mild deficits are expected in Liechtenstein and Switzerland following the recent recession. Iceland's government financial balance showed a sharp deficit in 2008-2009 reflecting one-time recapitalisation costs. Significant fiscal consolidation is underway, however, with the aim of achieving an overall budget surplus in 2013.

**Table 7: General government financial balance and general government gross debt, 2009**

	ICELAND	NORWAY	SWITZERLAND
Government financial balance (% of GDP)	-9.9	9.9	1.2
Government gross debt (% of GDP)	122.7	49.2	41.6

Note: Figures for Liechtenstein are not available.

### 2.2.3 Structure of the economy and main sectors of production

46. Liechtenstein and Switzerland are internationally renowned financial centres and hosts to major international companies. The Swiss economy is based on high-quality products, such as in the areas of pharmaceuticals, biotechnology, machinery, watch-making, banking and insurance. Liechtenstein, despite its small size and limited national resources, is highly industrialized and specialized in capital- and R&D-intensive, high-technology products, notably precision instruments.

47. Iceland and Norway stand out in fish production, the metal industry and maritime transport. The Icelandic economy benefits from renewable natural resources, in particular rich fishing grounds, and hydro- and geothermal power. While still relying on fishing and fish processing, the Icelandic economy has in the last two decades diversified notably into the aluminium industry and services. Much of Norway's economic growth has been fuelled by an abundance of natural resources, including petroleum, hydroelectric power, and fisheries. Other important sectors include services, in particular maritime transport and oil-related industries.

## 2.2.4 Main trading partners and patterns for goods and services

48. EFTA's merchandise trade with the world in 2009 was worth US\$522 billion<sup>7</sup>. In that year, the EFTA States imported an equivalent of US\$226 billion of goods, while exporting for US\$296 billion. These figures represented a fall of 18.2% and 19.9%, respectively, as compared with 2008, due to the global financial and economic crisis. In 2008, EFTA's total merchandise trade with the world had amounted to US\$646 billion, an increase of 15.2% from the previous year.

**Table 8: The EFTA States' Trade with the World**

	2006	2007	2008	2009	2007/06	2008/07	2009/08
	In thousand US dollars				Annual percentage change		
<b>IMPORTS</b>							
Iceland	5,562,433	6,214,710	5,688,312	3,292,721	11.7	-8.5	-42.1
Norway	64,277,862	80,336,348	87,690,600	67,086,710	25.0	9.2	-23.5
Switzerland	141,467,712	161,287,705	183,200,333	155,994,721	14.0	13.6	-14.9
EFTA	211,308,006	247,838,763	276,579,245	226,374,152	17.3	11.6	-18.2
<b>EXPORTS</b>							
Iceland	3,456,339	4,769,615	5,356,052	4,028,821	38.0	12.3	-24.8
Norway	122,123,496	136,468,090	164,145,745	119,057,561	11.8	20.3	-27.5
Switzerland	147,883,721	172,122,396	200,335,647	173,147,939	16.4	16.4	-13.6
EFTA	273,463,556	313,360,102	369,837,444	296,233,521	14.6	18.0	-19.9
<b>IMPORTS + EXPORTS</b>							
Iceland	9,018,772	10,984,326	11,044,364	7,321,542	21.8	0.6	-33.7
Norway	186,401,358	216,804,439	251,836,345	186,144,271	16.3	16.2	-26.1
Switzerland	289,351,432	333,410,101	383,535,980	329,142,660	15.2	15.0	-14.2
EFTA	484,771,561	561,198,865	646,416,689	522,607,673	15.8	15.2	-19.2

49. In a longer-term perspective, EFTA's imports and exports have grown steadily. Over the ten-year period 1999-2008, imports rose from US\$116 billion to US\$277 billion and exports from US\$128 billion in 1999 to US\$370 billion. During this period, EFTA consistently registered a trade surplus.

50. The EFTA countries' main source of imports is the European Union, which in 2009 accounted for 74.3% of overall imports, followed by the United States (5.9%), China (4.5%) and Japan (2.3%). In 2009, EFTA's 22 Free Trade Agreements involving 31 partner countries outside the EU covered 5% of its imports. The main export destination for the EFTA States is the EU, accounting for 68% of merchandise exports in 2009, followed by EFTA's 31 FTA partners with almost 9%. Other important export destinations are the United States (7.8%), Japan (2.7%) and China (2.6%).

<sup>7</sup> All trade statistics, unless otherwise indicated, are taken from Global Trade Information Services 'Global Trade Atlas'. Trade statistics for Liechtenstein are included in Swiss trade statistics by virtue of Liechtenstein's customs union treaty with Switzerland.

51. EFTA's main export commodities to the world in 2009 were (share of value of total exports):

- Mineral fuel, oil (27.6%)
- Pharmaceutical products (14.1%)
- Machinery, reactors, boilers (9.6%)
- Organic chemicals (5.7%)
- Electrical machinery (5.1%)
- Optical, medical instruments (4.9%)

52. EFTA's main categories of import from the world in 2009 were (share of value of total imports):

- Machinery, reactors, boilers (12.2%)
- Electrical machinery (8.5%)
- Pharmaceutical products (8.1%)
- Vehicles, not railway (7.4%)
- Mineral fuel, oil (6.5%)
- Precious stones (5.9%)

53. Annexed Table A:1 outlines EFTA's main export and import commodities by Member State. Switzerland's leading export items in 2009 were pharmaceutical products (23.8%), machinery and mechanical appliances (12.1%) and organic chemicals (9.3%). Machinery and mechanical appliances, pharmaceutical products and precious stones were Switzerland's largest import commodities in that year, accounting for 10.7%, 10.6% and 8.3% respectively. Mineral fuels (64.6%), machinery and mechanical appliances (6.3%), and fish and crustaceans (5.8%) constituted Norway's main export items in 2009, while the main import items were machinery and mechanical appliances (15.9%), electrical machinery (10.3%) and vehicles (8.8%). Iceland exported mainly fish (36.6%) and aluminium (34.6%), while importing electrical machinery (15%), mineral fuels (12.6%) and inorganic chemicals (12.2%).

54. The EFTA States are important players in global commercial services trade, in line with the importance of the services industry in their economies. Services accounted for 61.3% of Iceland's GDP (2008), 53% of Liechtenstein's GDP (2006), 48.5% of Norway's GDP (2008) and 60.4% of Switzerland's GDP (2007).<sup>8</sup> Total trade in commercial services for the EFTA States in 2008 amounted to US\$207 billion<sup>9</sup>, with exports accounting for 60% and imports for 40%. In that year, the EFTA States together ranked fifth in world commercial services trade.

55. Switzerland exported US\$76.3 billion of commercial services in 2008, equivalent to approximately 2% of the world's total exports, and imported for US\$36.3 billion, or 1% of the world's total imports. Norway also had substantive services exports and imports in that year, amounting to US\$45.6 billion and US\$43.9 billion respectively. In

<sup>8</sup> World Trade Organisation Statistics Database; Liechtenstein Statistics

<sup>9</sup> Data on trade in services are taken from the World Trade Organisation Statistics Database

2008, Iceland's exports and imports of commercial services were worth US\$2.2 and US\$2.5 billion, respectively.

### **2.2.5 Inward and outward investments**

56. The EFTA States are substantial investors abroad while also receiving a significant amount of inward foreign direct investment (FDI). In 2009, the combined stock of FDI from the EFTA countries amounted to US\$977 billion, making the EFTA States together the fifth largest investors abroad globally<sup>10</sup>. In that year, the outward stock of FDI amounted to 59% of Iceland's, 43% of Norway's and 164% of Switzerland's GDP.

57. Switzerland is the largest source of FDI amongst the EFTA States, with a stock of outward FDI of US\$805 billion in 2009. Norway's and Iceland's outward stocks amounted to US\$165 billion and US\$7 billion, respectively. FDI from the EFTA countries is concentrated in finance and banking (Switzerland), chemical and plastics (Iceland and Switzerland), mining and oil and gas extraction (Norway), as well as manufacturing.

58. The total inward stock of FDI into the EFTA States in 2009 amounted to US\$588 billion. In Iceland, the focus of foreign direct investment is in the financial and insurance sector but is also in manufacturing (metal and mechanical products). Inward FDI into Norway is concentrated in the oil and gas exploration and extraction as well as in manufacturing (notably chemicals and chemical products), while maritime transport and financial intermediation also register significant investments from abroad. Inward FDI in Switzerland is primarily found in finance and trade, but also in chemicals and plastics.

## **2.3 Trade and investment arrangements of Viet Nam**

59. Viet Nam has concluded more than 100 bilateral trade agreements with its trading partners. These agreements are an important legal basis for the establishment of trade and economic cooperation. They contain provisions on economic, trade and technical cooperation. However, without substantial and detailed commitments, they only set up general principles and a basis for further strengthening the cooperation of both sides in the future.

60. Viet Nam, together with ASEAN, has concluded and implemented 6 regional free trade agreements, namely the ASEAN Free Trade Area (AFTA), the ASEAN-China Free Trade Agreement (ACFTA), the ASEAN-Korea Free Trade Agreement (AKFTA), the ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEP), the ASEAN-India Free Trade Agreement (AIFTA) and the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA).

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<sup>10</sup> Aggregate FDI statistics are taken from UNCTAD, World Investment Directory

61. Viet Nam's FTA commitments are consistent with Viet Nam's WTO commitments while going beyond them in certain areas. These FTAs aim at a deeper integration and market access, providing at the same time the necessary instruments for domestic economy safety. They cover various sectors and fundamental principles on trade in goods, trade in services, investment, electronic commerce, movement of natural persons, dispute settlement mechanism, sanitary and phytosanitary measures, standards, technical regulations and conformity assessment procedures, intellectual property, competition and other trade-related issues. The most important commitment of trade in goods is the reduction and elimination of tariffs among contracting parties. With regard to trade in services, Viet Nam's commitments generally do not go beyond the level of WTO concessions. Investment provisions in FTAs reflect the standards of Viet Nam's investment promotion and protection agreements and provide further favourable conditions for investors of other parties.

62. With respect to bilateral free trade agreements, Viet Nam has concluded the Economic Partnership Agreement with Japan (VJEPA). It is a comprehensive bilateral agreement, including commitments on trade in goods, trade in services, investment and other sectors of economic cooperation between the two parties. The agreement is constructed in conformity with WTO's principles and standards. Fundamental principles agreed by the parties are to ensure equality and mutual benefits while recognizing the development gap between the Parties.

63. It is clear that Viet Nam is still in its early stage of integration through the conclusion of free trade agreements. Almost all FTAs signed by Viet Nam are traditional agreements which cover trade in goods only, with separate agreements by sector (excluding AANZFTA). As a developing country with low competitiveness, the FTA policy followed by Viet Nam is selective and is concluded with an appropriate timeframe, in accordance with the actual conditions of Viet Nam's economy.

## **2.4 Trade and investment arrangements of the EFTA States**

64. Since the early 1990s, and in addition to their close contractual links with the EU, the EFTA States have established an extensive network of preferential trade relations with partners worldwide. At the time of writing, and excluding the EU27, the EFTA States had a network of 22 Free Trade Agreements with a total of 31 partner countries and territories around the world: Albania, Canada, Chile, Colombia, Croatia, Egypt, the Gulf Cooperation Council (comprising Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates), Israel, Jordan, the Republic of Korea, Lebanon, Macedonia, Mexico, Morocco, Palestinian Authority, Peru, the Southern African Customs Union (comprising Botswana, Lesotho, Namibia, South Africa and Swaziland), Serbia, Singapore, Tunisia, Turkey and Ukraine<sup>11</sup>. These FTAs aim at enhancing the framework conditions for economic exchange and cooperation, including mutual market access, and ensuring that economic operators are granted non-discriminatory treatment vis-à-vis their main competitors in the respective markets.

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<sup>11</sup> The Agreements with Colombia, the Gulf Cooperation Council, Peru, and Ukraine had not yet entered into force.



65. In early 2011, EFTA was engaged in free trade negotiations with India and Hong Kong China, with Russia, Belarus and Kazakhstan, and with Indonesia. Negotiating processes with Thailand and Algeria have been on hold since 2006 and 2009, respectively. Preparations for free trade negotiations were ongoing with Bosnia-and-Herzegovina, and with Montenegro. Joint Declarations on Cooperation are in operation between EFTA and eight countries<sup>12</sup>.

66. On a bilateral basis, an Economic Partnership Agreement between Switzerland and Japan entered into force on 1 September 2009. Iceland, Norway and Switzerland are engaged in bilateral negotiating processes with China.

## **2.5 Existing bilateral trade and investment arrangements and other cooperation between Viet Nam and the EFTA States**

67. Bilateral commitments and agreements in the field of investment and development cooperation include: (i) Viet Nam-Iceland Agreement on Investment Promotion and Protection (2002); (ii) Viet Nam-Norway Agreement on general conditions and procedures for development cooperation (1996); (iii) Viet Nam-Switzerland Agreement on Investment Promotion and Protection (1992); (iv) Viet Nam-Switzerland Framework Agreement on Development Cooperation (2002); (v) 1<sup>st</sup> Mutual Financial Aid Agreement between Viet Nam and Switzerland (1993); (vi) 2<sup>nd</sup> Mutual Financial Aid Agreement between Viet Nam and Switzerland (2002).

68. The signing of the above mentioned agreements has helped Viet Nam gradually integrate into the global economy, contributed to promote investment and development cooperation and reinforced the confidence of European investors in the investment environment of Viet Nam. They have also helped Viet Nam to integrate deeper into the regional and international economy.

69. Since the agreements on development cooperation and credit were signed, total overseas development assistance (ODA) projects with Viet Nam as the beneficiary have increased considerably, actively supporting the process of economic development, poverty reduction and improving social welfare in Viet Nam.

70. Bilateral commitments and agreements in the field of economic cooperation and trade include: (i) Viet Nam - Iceland Declaration on mutual benefits in trade facility (2002); (ii) Viet Nam - Norway Trade and Economic Cooperation Agreement (1997); (iii) Viet Nam - Switzerland Postal Cooperation Agreement (1975); (iv) Viet Nam - Switzerland Air Transport Cooperation Agreement (1979); (v) Viet Nam - Switzerland Trade and Economic Cooperation Agreement (1993).

71. Since these agreements were signed, economic and trade relations between Viet Nam and these countries have flourished thanks to a political and legal basis for

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<sup>12</sup> Malaysia, Mauritius, MERCOSUR (Argentina, Brazil, Paraguay, Uruguay), Mongolia and Panama).

economic exchange that is expanded and ensured at the State level. The exchange of goods and services between Viet Nam and EFTA States has increased significantly.

72. Major cooperation agreements have established the legal basis and created confidence for enterprises in cooperation, investment and development of specialized services in areas committed by parties.

73. Bilateral commitments and agreements in the field of finance include: (i) The Two Mutual Financial Aid Agreements I & II (MF I-1993 and MF II-2002) between Viet Nam - Switzerland; The Double Tax Avoidance Agreement between Viet Nam and Norway (1995); The Double Tax Avoidance Agreement between Viet Nam and Switzerland (1996); The Double Tax Avoidance Agreement between Viet Nam and Iceland (2002).

74. The implementation of the above mentioned agreements has been successful without any notable problems.

## **2.6 Bilateral trade and investment between Viet Nam and the EFTA States**

75. Taking the EFTA States as the reporting countries, bilateral trade in goods between the EFTA States and Viet Nam amounted to US\$803 million in 2008, with imports into the EFTA States from Viet Nam accounting for 64% (US\$511 million) and exports from the EFTA States into Viet Nam for 36% (US\$292 million) of total bilateral trade<sup>13, 14</sup>. Merchandise trade between the EFTA States and Viet Nam has experienced double-digit year-to-year growth rates in nominal value since 2006 (16.9% in 2006, 37.1% in 2007 and 33% in 2008).

76. Taking Viet Nam as the reporting country, total bilateral merchandise trade between the EFTA States and Viet Nam amounted to US\$2.6 billion in 2008<sup>15</sup>. Viet Nam's imports from, and exports to, the EFTA States accounted for, respectively, 76% (US\$1,984 billion) and 24% (US\$624 million) of total bilateral trade, respectively.

77. The discrepancy in the trade data reported by the EFTA States and Viet Nam results, in large part, from the inclusion of gold bullion in Vietnamese import statistics that are not reflected in the corresponding export statistics from Switzerland, due to Switzerland's practice of classifying, for trade purposes, bullion as a financial asset. Other discrepancies may arise from differences in coverage of national trade statistics,

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<sup>13</sup> All bilateral trade statistics are sourced from the Global Trade Information Services 'Global Trade Atlas'. The EFTA States and Viet Nam are respectively considered as the reporting countries.

<sup>14</sup> According to the EFTA States, bilateral trade in 2009 amounted to USD 2.7 billion, an increase of 232% over bilateral trade in 2008. This surge is in large part due to a significant increase in Vietnamese exports of gold artefacts to Switzerland - trade in precious stones and metals (HS 71) rose by 2311% and represented 86% of EFTA's imports from Viet Nam in that year - and to the sale of three A330 airplanes by Switzerland to Viet Nam between August and October.

<sup>15</sup> Bilateral trade data as reported by Viet Nam is not available for 2009 from the Global Trade Atlas database.

valuation systems, classification, time of recording and differences in methods of calculating trade data.

78. Among the EFTA States, Switzerland was Viet Nam's largest trading partner. In terms of commodity structure (see Table A:2 in the Annex)<sup>16</sup>, Swiss exports to Viet Nam consist predominantly of machinery and mechanical appliances, pharmaceutical products, chemical products, electrical machinery as well as optical, medical and surgical instruments. Viet Nam exports mainly precious stones and metals, footwear, fish and crustaceans, as well as coffee, tea and spices to Switzerland. Exports by Norway are made up largely of machinery and mechanical appliances, fish and crustaceans, and electrical machinery. Footwear, furniture and bedding, and woven apparel and clothing are the main imports into Norway from Viet Nam. Fish and crustaceans as well as meat represent Iceland's main export items to Viet Nam; its main bilateral imports consist of footwear; woven apparel and clothing as well as furniture and bedding.

79. In terms of investment, and according to EFTA statistical sources, Swiss FDI flows into Viet Nam totalled CHF158 million (US\$151.8 million) in 2008, reaching a stock of CHF209 million (US\$193 million)<sup>17</sup>, while Norwegian FDI in Viet Nam amounted to NOK379 million (US\$67 million)<sup>18</sup> in that year.

80. According to Viet Nam's statistical sources, Swiss FDI realized in Viet Nam as off December 2008, amounted to US\$531 million. Norwegian FDI committed by 2008 totalled US\$35.3 million, while realized FDI was only US\$9.6 million.

81. There are considerable discrepancies in the FDI data reported by the EFTA States and Viet Nam. This may be due to differences in collection and reporting methods as well as difficulties related to the misidentification of the original source country, for example when recorded inward investment is sourced via a third country.

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<sup>16</sup> The EFTA States as reporting countries.

<sup>17</sup> Swiss National Bank

<sup>18</sup> Statistics Norway

### 3 Substantive issues

#### 3.1 Trade in goods

##### 3.1.1 Industrial goods, including fish

###### 3.1.1.1 Background

82. With regard to trade in industrial goods, the EFTA States' import tariffs are relatively low on average. Iceland's simple average applied ad valorem MFN rate for 2008 was 2.3%, Norway's was 0.6% and Switzerland's was 2.2%. Switzerland applies duties on precious stones and metals as well as inorganic chemicals. Norway maintains duties on certain textile products, while Iceland has certain duties on clothing and footwear.

83. The average applied ad valorem tariff in Viet Nam on industrial goods was 15.7% in 2008<sup>19</sup>. According to the commitments in the WTO, most of Viet Nam's duties will have been reduced to their final bound level by 2014, except for certain fish products (tariff line 0303.29 *Other*) and motor cars and vehicles (under heading 8703), which will not reach their final bound level until 2017 and 2019, respectively.

84. While none of the EFTA States have export duties for industrial goods, Viet Nam is applying such duties on some minerals and natural resources exported in raw form with an aim to achieve sustainable exploitation of natural resources and balanced environment protection. Viet Nam's export duties are applied on an MFN basis. In 2010, the rates of export duties applied ranged from zero on certain products (crocodile hides and skins, wood charcoal of coconut, etc.) to 33% on some scrap metal.

###### 3.1.1.2 Approaches in FTAs

85. Viet Nam and EFTA agree that an FTA should be established in accordance with WTO rules, thus aiming to reduce and/or eliminate duties and other restrictive regulations on substantially all the trade.

86. With regard to market access for industrial goods, EFTA's basic position is to offer duty free access for goods of HS chapters 25-97, as of the entry into force of the agreement (with very limited exceptions for some agricultural products within these chapters), depending on the overall balance in the outcome of the negotiations. Fish and other marine products are considered industrial goods in accordance with the framework of the WTO and are included in EFTA's basic position of duty free access. In all its existing FTAs, EFTA has granted the total elimination of duties on industrial products (with the very limited exceptions mentioned above).

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<sup>19</sup> Source: WTO Tariff Profile 2009

87. In Viet Nam's existing FTAs, there is no distinction between industrial and agricultural goods. The coverage and time frame for overall tariff reduction and abolition for Viet Nam varies from FTA to FTA (e.g. ACFTA: 90% by 2018; AIFTA: 70% by 2021; AJCEP: 84.6% by 2023; VJCEP: 92% by 2025; AKFTA: 90% by 2018)<sup>20</sup>. For industrial goods, the current estimated proportion of tariff lines with zero duty applied by Viet Nam is 37.2%, increasing to 56% by 2012.

88. With respect to export duties, the EFTA States' approach is that such duties should be prohibited. This position reflects their view that export duties lead to a less efficient allocation of resources.

89. Export duties are not covered by any of Viet Nam's existing FTAs. As such duties are considered by Viet Nam to be important and necessary policy tools, Viet Nam has not included them in trade negotiations.

### **3.1.2 Agricultural goods**

#### **3.1.2.1 Background**

90. The EFTA States are net importers of food. Almost half (in calorific terms) of their domestic food consumption is imported. The main import items of the EFTA States comprise fruits, nuts, vegetables, spices, juices and cereals.

91. Norway applies tariffs on certain agricultural products to enable Norwegian farmers to sell their products domestically. Due to the high cost levels and specific production conditions in the country, it is considered necessary to apply duties for sensitive products. The most important agricultural products for Norway are meat, dairy products, grains, and some fruits and vegetables.

92. The agricultural policy in Switzerland also needs to take into account difficult production conditions, while aiming to ensure a sufficient rate of domestic supply and promoting a high quality of basic and processed agricultural goods. As in Norway, duties are applied on basic agricultural products (such as grains, oilseeds, meat, dairy products, fruits, vegetables), as well as on processed products that contain such sensitive ingredients.

93. Agricultural production in Iceland is limited in scope and variety and consists mainly of meat, dairy products and some vegetables and flowers. These products are mostly consumed domestically. Again, duties are applied on imports of such products in support of domestic producers and taking into account the specificities of the market.

94. Agriculture plays an important role in Viet Nam's national economy, accounting for the livelihood of two-thirds of the population and for 22% of total GDP. The total

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<sup>20</sup> Percentages refer to the number of tariff lines which are granted zero duty at the end of the implementation period. In some agreements a few lines are subject to a reduction rather than full elimination of the duty.

trade value of agricultural, forestry, and fishery products reached US\$16.5 billion and US\$15.6 billion in 2008 and 2009 respectively, accounting for 25% of total export value<sup>21</sup>. Major agricultural products for export are rice, coffee, rubber, tea, cashew nut, pepper, tropical vegetables and fruit. The ratio of export to production is high: pepper 95-98%, coffee and cashew nut 90%, rubber 85%, tea 75%, and rice 25%.

95. With respect to trade in agricultural goods, the EFTA States' applied tariffs are on average higher than those of Viet Nam. The simple average ad valorem duty in 2009 was 28.6% for Iceland, 43.2% for Norway and 36.9% for Switzerland. The average applied ad valorem tariff in Viet Nam on agricultural goods was 18.9% in that year.<sup>22</sup>

96. Viet Nam does not provide export subsidies for agricultural products (except those permissible for developing countries in accordance with Viet Nam's WTO accession commitments). In line with their WTO commitments, Switzerland currently applies such subsidies for certain processed agricultural products and Norway for certain basic and processed agricultural products. On the other hand, none of the EFTA States apply export duties on agricultural goods, whereas there are such duties in Viet Nam for aloe wood (HS 12.11 with 15% duty) and hides and skins (0-10% duty).

### **3.1.2.2 Approaches in FTAs**

97. EFTA does not have a common policy on agriculture. EFTA's Free Trade Agreements therefore cover trade in basic agricultural products in three separate bilateral agreements, negotiated between Iceland, Norway and Switzerland/Liechtenstein and the partner country respectively. Each bilateral agreement positively lists the concessions granted for basic agricultural products. Through a reference contained in the main Agreement, these bilateral agreements are made part of the instruments establishing the Free Trade Area according to GATT Article XXIV. This approach allows for tailor-made solutions taking into account the specific needs and interests of all Parties involved.

98. The EFTA States generally grant concessions in various sectors, with priority given to non-sensitive products and to the specialities of the trade partner. With regard to tropical products, such as rice, nuts, coffee, tea and certain vegetables and fruits, the EFTA States have, in many of their FTAs, granted the partner country free market access or very low import duties. Complementarities in the agricultural productions of the EFTA States and their FTA partners, both regarding product coverage and seasonal variations, often allows EFTA to accommodate the partner country's interest in improved market access for key export products.

99. EFTA Free Trade Agreements generally cover trade in processed agricultural products (PAPs) in an Annex to the FTA. In this context, PAPs are, in general terms, products made from basic agricultural products through industrial processing (see Box 1).

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<sup>21</sup> To note that while the statistics presented reflect agriculture, forestry and fishery products, neither forestry nor fishery products are considered agricultural goods, but rather industrial goods (as is the case in the WTO).

<sup>22</sup> Source: WTO Tariff Profile 2009

Due to the high cost of agricultural raw materials in the EFTA States, domestic PAPs producers are at a disadvantage compared to competitors in other countries. For that reason, the EFTA States apply price compensation schemes, aiming at equalising the differences between domestic and world market prices for agricultural raw materials used in the processed product. As part of these measures, the EFTA States levy special import duties on PAPs, which amount to the difference between domestic and world market prices for the agricultural raw material concerned. The part of the duty reflecting this price difference is not subject to dismantling under the FTAs, whereas the part not related to compensation measures (the so-called industrial element of the duty) is subject to dismantling. The tariff lines the EFTA States consider as processed agricultural products represent approximately 20% of the agricultural tariff lines (HS chapters 1-24 minus fish and other marine products).

**Box 1: Processed and basic agricultural products in EFTA's FTAs**

**Processed agricultural products**

The distinction between basic and processed agricultural products (PAPs) in EFTA's FTAs builds on the European Union's approach and classification of these products. PAPs are in the EU referred to as "Non-Annex-I" products.

In EFTA's existing FTAs, PAPs are contained in positive lists which are based on the EFTA States' relevant agreements with the EU. Provisions for industrial products generally also apply to PAPs.

Main PAPs groups are:

- Processed dairy products (HS Code 0403)
- Frozen fruit and vegetables (HS Code 0710)
- Confectionery industry products (HS Code 1704, 1806, 1905)
- Various prepared foods and sauces, including pasta, ice creams and soups (HS Codes 1901, 1902, 1904, 2103)
- Non-alcoholic beverages, alcoholic beverages and spirit drinks (HS Chapter 22)

**Basic agricultural products**

EFTA normally defines basic agricultural products as all products falling under HS Chapters 1-24, minus fish and processed agricultural products.

100. In Viet Nam, agriculture bears a significant impact on the majority of its population, and influences the socio-economic development and political stability of the country. Thus, agriculture is always a sensitive area in bilateral and multilateral FTA negotiations. In FTA negotiations, Viet Nam has not separated agriculture into basic and processed products, as in the WTO's classification. However, the level of commitments of different agricultural products and between raw material and processed products are

different depending on the level of sensitivity, such as high, medium, low, or the level of competitiveness. In addition, in its WTO commitments and bilateral and multilateral FTAs, tariff quotas are applicable to agricultural products.

101. The proportion of zero duty lines applied by Viet Nam on agricultural products under its FTAs is around 20% on average (about 250 out of 1,227 agricultural tariff lines).

### **3.1.3 Rules of origin and customs procedures**

#### **3.1.3.1 Rules of Origin**

##### **3.1.3.1.1 Background**

102. Preferential rules of origin are used to determine whether a product qualifies for preferential treatment under an FTA on importation into a partner country. They are necessary to restrict reciprocally negotiated benefits to economic operators of the Parties concerned. As a minimum, such rules ensure that goods which are merely trans-shipped or subject to minimal processing in the territories of the Parties will not qualify for tariff preferences under the FTA.

103. According to the FTAs concluded by EFTA and Viet Nam, a product is considered to originate in the country where it is “wholly obtained”, or where the last substantial processing or transformation took place.

##### **3.1.3.1.2 Approaches in FTAs**

104. In Viet Nam’s Decree 19/2006/ND-CP on the origin of goods, not-wholly-obtained goods are certified as the origin from the country/territory where the last substantial transformation took place. The criteria of “Ad- valorem percentage” and “Manufacturing or processing operations” shall be applied as the substituted or supplemented criterion when verifying substantial transformation. The list of goods subjected to the criteria of “Ad- valorem percentage” and “Manufacturing or processing operations” is issued by Ministry of Industry and Trade. In this regard, Viet Nam applies the following definitions:

- “Change in tariff classification” means a change in classification of HS of goods as prescribed in the Nomenclature and Tariff Rate for Export-Import Goods, which is generated in a country/territory within the manufacturing, subcontracting or working process from non-originating materials of that country/ territory.
- “Ad valorem percentage” means the ratio of the value added obtained after a country/territory manufactures, subcontracts or processes the non-originating materials of that country/territory, to the total value of goods turned out.



- “Manufacturing or processing operations” mean main operations which constitute major features of goods.

105. In most FTAs concluded by Viet Nam, the rules of origin are closely aligned to the ATIGA model (ASEAN Trade in Goods Agreement), with regard to methodology, terminology and substance.

106. In EFTA’s FTAs, substantial transformation is defined by applying one of the following methods or a combination thereof:

- Under the “change in tariff classification” method, a product after production is classified under a different tariff heading from that of its component materials;
- Under the “value-added” method, a minimum percentage of the value of a product needs to be added within the country or preferential area for which origin is being claimed, thereby limiting the value of inputs from non-Parties;
- Under the “specified process or manufacture operation” method, the origin is based on the country in which a specified manufacturing or processing operation has been undertaken.

107. In recent negotiations, EFTA has aimed at simple and user-friendly rules on the basis of alternative tariff shift rules and value added rules for most products. In most FTAs concluded by EFTA, the rules of origin are closely aligned to the Pan-Euro-Mediterranean model, with regard to methodology, terminology and substance.

### **3.1.3.2 Customs procedures**

#### **3.1.3.2.1 Background**

108. The customs codes of all EFTA States have been revised and modernised recently (Iceland: 2006; Switzerland: 2007; Norway: 2009). Due to the close ties between the economies of the EFTA States and the EU, the relevant rules of the EFTA States are very similar to those of the European Customs Code.

109. As a result of the adoption by the World Customs Organisation (WCO) in 2005 of the SAFE frameworks of standards, the EU introduced in 2009 a system of pre-arrival notification for all goods arriving from non-EU countries. The EFTA States are in a process of adapting national procedures to these standards, and are examining, with the EU, the establishment of customs procedures to be applied at national borders.

110. As members of the WCO, Viet Nam and the EFTA States have ratified a number of WCO Conventions, e.g. on the Harmonised Commodity Description and Coding

System and on the ATA Carnet for the Temporary Admission of Goods. Their rules and procedures are also in line with the revised WCO Kyoto Convention on the Simplification and Harmonisation of Customs Procedures.

### **3.1.3.2.2 Approaches in FTAs**

111. As signatories to the above mentioned international Conventions, the EFTA States and Viet Nam generally limit the scope of provisions on customs procedures in FTAs to elements that are necessary for the application of rules of origin.

### **3.1.3.3 Customs cooperation**

#### **3.1.3.3.1 Background**

112. Neither the WCO Johannesburg Convention on Mutual Administrative Assistance in Customs Matters (2003) nor the WCO Nairobi Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (1997) are applicable between the EFTA States and Viet Nam. To date no multilateral instruments are in place for customs cooperation between the Parties.

#### **3.1.3.3.2 Approaches in FTAs**

113. In most FTAs concluded by both EFTA and Viet Nam, cooperation between customs administrations is limited to the verification of origin by the Party of export at the request of the Party of import. In some cases, it has been observed that EFTA or Viet Nam have concluded protocols or agreements on mutual assistance in customs matters that contain more detailed rules allowing for customs administrations to exchange information with a view to the proper application of customs legislation and to assist each other in enforcement against breaches of customs legislation.

### **3.1.4 Trade facilitation**

#### **3.1.4.1 Background**

114. The EFTA States and Viet Nam consider that customs legislation and procedures should be transparent, user-friendly and simple. Trade facilitation aims at simplifying and accelerating the clearance of imported and exported goods, thereby reducing costs for the business community. With the reduction of tariffs, inter alia, as a consequence of bilateral preferential trade agreements, the relative importance of transaction costs and time due to customs formalities and procedures is rising.

115. In all EFTA States, automated customs systems, with simplified procedures for reliable traders, and risk management systems have been implemented in recent years and are continuously updated.

### **3.1.4.2 Approaches in FTAs**

116. Recognising the benefits of trade facilitation, EFTA has sought to cover such measures in recent free trade agreements and negotiations. For example, in the EFTA-Canada FTA, which entered into force in 2009, the main trade facilitation principles of transparency (publication of rules and legislation), simplification (simplified procedures and risk management), and cooperation (at multilateral level and in the Joint Committee) were included. In future FTAs the EFTA States aim at including similar, or where appropriate even additional, measures related to trade facilitation.

117. In Viet Nam's existing FTAs, there is usually a statement that customs legislation and procedures should be predictable, consistent and transparent. Viet Nam attaches great importance to striking a balance between trade facilitation and effective and efficient lawful enforcement of customs procedures and regulations. To facilitate trade, Viet Nam has improved the application of IT, modern technology and facilities in the course of clearance and inspection; Viet Nam has implemented e-customs on a pilot basis and accepts electronic declaration in parallel with strengthening the risk management and post-clearance inspection.

118. Within frameworks of existing FTAs, the ASEAN Trade in Goods Agreement (ATIGA) has the most comprehensive coverage, including provisions on broad principles of trade facilitation, and at the same time, providing for subsequent formulation of an action plan on trade facilitation within ASEAN. In other FTAs, there are also provisions which emphasize the importance and role of customs procedures in promoting trade facilitation, and express in-principle commitments to further trade facilitation through simplification and harmonization of customs procedures.

### **3.1.5 Trade remedies**

#### **3.1.5.1 Background**

119. The term "trade remedies" is generally used for trade policy instruments that allow governments to take protective measures against imports that cause injury to domestic industries. Such remedies include anti-dumping, countervailing and safeguard measures.

120. In trade relations between Viet Nam and the EFTA States, no trade remedy measure has ever been taken, before or after Viet Nam's accession to the WTO. None of the EFTA States have implemented any anti-dumping, countervailing or safeguard measures during the last two decades.

121. Before and after Viet Nam's accession to the WTO, Viet Nam has never applied any trade remedy measures, including anti-dumping, countervailing or safeguard measures.

### **3.1.5.2 Approaches in FTAs**

122. In their FTAs, the EFTA States build on WTO rules relating to trade remedies. WTO-plus elements are included to reflect the closer relationship created through a preferential agreement, such as non-application of anti-dumping measures, pre-emptive consultations between the Parties, or other measures aiming to minimise trade distortions.

123. In its FTAs, Viet Nam builds on WTO rules relating to trade remedies. These FTAs often have regulations on bilateral safeguards, while the remaining measures, such as anti-dumping and countervailing measures, are not often stipulated separately. WTO-plus elements related to trade remedies, if covered by the FTA, reflect the closer relationship created through a preferential agreement, such as the possibility to consult before initiating an investigation under the WTO Agreement; a certain time period is usually allocated for such consultation.

### **3.1.6 Sanitary and phytosanitary measures (SPS)**

#### **3.1.6.1 Background**

124. With the decreasing levels of tariffs, trade barriers related to sanitary and phytosanitary measures have become an important issue in international trade policy.

125. Considering the import and export commodities of Viet Nam and the EFTA States, and in particular the importance of food and fishery products, SPS issues may significantly impact the good functioning of trade between the Parties.

126. Viet Nam and all EFTA States are signatories to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter the WTO Agreement on SPS), and no bilateral arrangements apply in this field to date.

127. The EFTA States' legislation on SPS is largely based on EU law, as a consequence of both the EEA Agreement between Iceland, Norway and Liechtenstein and the EU, and the relevant bilateral agreement between Switzerland and the EU.

128. Viet Nam's legislation on SPS measures is based on the national legal system that can be divided into (i) laws and (ii) regulations that provide guidelines for implementing the laws.

#### **3.1.6.2 Approaches in FTAs**

129. EFTA's and Viet Nam's approach in this area is governed by the relevant WTO regulations (WTO Agreement on SPS), including the provisions on transparency, proportionality and equivalence.

130. Viet Nam's approach in its FTAs, as a developing country, is to request other Parties, particular developed ones, to recognize the different levels of development.

Development elements are normally included to assist and to take into account Viet Nam's special needs and endeavours in relation to SPS measures.

131. In recognition of the importance of SPS issues and in order to promote mutual understanding and cooperation, the EFTA States in their FTAs normally provide for an information exchange process and establish contact points to facilitate rapid and direct consultations between SPS experts of the Parties. In addition, and in particular with less developed countries, the EFTA States are ready to assist their partners in implementing prevalent SPS standards and in meeting the necessary requirements for exporting into the EFTA States.

### **3.1.7 Technical barriers to trade (TBT)**

#### **3.1.7.1 Background**

132. As with SPS, trade barriers related to technical regulations and standards have gained in relative importance in international trade over recent years.

133. All EFTA States and Viet Nam are signatories to the WTO Agreement on Technical Barriers to Trade (hereinafter the WTO Agreement on TBT). No bilateral arrangements on technical regulations, standards or conformity assessment are currently in place between the two sides.

134. As in the area of SPS, the EFTA States' TBT legislation largely follows EU law, under the EEA Agreement for Iceland, Norway and Liechtenstein, and the relevant bilateral arrangements between Switzerland and the EU.

135. Viet Nam's TBT legislation follows the principles and rules of the WTO Agreement on TBT. Other countries' regulations and standards are among the important sources for reference in formulating standards, technical regulations and conformity assessment procedures in Viet Nam.

#### **3.1.7.2 Approaches in FTAs**

136. Viet Nam's and EFTA's approach is governed by relevant WTO regulations (WTO Agreement on TBT).

137. To facilitate trade between the Parties, Viet Nam considers the establishment of transparency and an information exchange process between contact points to be crucial. On the other hand, being a developing country, Viet Nam envisions development dimension issues to be addressed as appropriate in this context.

138. The EFTA States normally provide for an information exchange process and establish contact points to facilitate rapid and direct consultations between TBT experts of the Parties. Further elements may be added as appropriate. As in the case of SPS, the EFTA States engage with less developed partners to assist in the implementation of

prevalent TBT standards and in meeting the necessary requirements for exporting into the EFTA States.

## **3.2 Trade in services**

### **3.2.1 Background**

139. Given the importance of the services industry (see sections 2.1 and 2.2 above), targeted liberalisation of services that builds on the WTO's General Agreement on Trade in Services (GATS) could provide benefits for both sides. However, statistics on bilateral EFTA-Viet Nam trade in services are not available.

140. The EFTA States have particular strengths notably in banking, insurance, business, maritime transport, telecommunication, energy, tourism and travel services, as well as services auxiliary to all modes of transport.

141. Viet Nam has a considerable advantage with its large and high-potential market for various types of services, its welcoming investment environment, steadily-improved legal framework conforming with international standards, and most notably a stable political environment for business activities.

142. On a bilateral basis, air agreements are currently in force between Viet Nam and Norway and Switzerland, respectively.

### **3.2.2 Approaches in FTAs**

143. As regards the approach to the legal provisions on services, the Parties agree that these should be based on the GATS and may be complemented by enhanced provisions and commitments applying to both sides. In light of Article V of the GATS, a services chapter should have substantial coverage in terms of sectors and volume of trade and should not exclude, a priori, any mode of supply.

144. Services chapters in EFTA's FTAs reflect the GATS' scope and key provisions (notably MFN treatment, market access and national treatment) and are complemented by several annexes. These annexes typically cover issues such as financial and telecommunications services.

145. Viet Nam's commitments on trade in services in FTAs are generally similar to its WTO commitments, except for some special cases at the request of negotiating partners.

## **3.3 Investment**

### **3.3.1 Background**

146. Bilateral investment between Viet Nam and the EFTA States is growing, albeit from a relatively low base. The stock of Swiss FDI in Viet Nam has more than doubled

since 2005 with a presence in several sectors, including construction and pharmaceuticals. The stock of Norwegian FDI in Viet Nam is concentrated in the fish and aquaculture, maritime, oil and gas, and renewable energy sectors.

147. Norway, Iceland and Switzerland are Members of the OECD and have taken investment liberalisation measures by virtue of the relevant legal instruments of that organisation. Liechtenstein has done so on an autonomous basis. The respective instruments provide for non-discriminatory market access and for national treatment of foreign investors with few exceptions. Through this process, the EFTA States have not only liberalised their investment regimes but also introduced legislation that provides for a high degree of transparency and predictability.

148. "LOCATION Switzerland" is the official programme of the Swiss government to promote inward investment, with a website<sup>23</sup> providing information pertaining to the establishment and running of businesses in the country. Norway also offers a government portal to that effect<sup>24</sup>, and "Innovation Norway" has established offices in Hanoi in order to assist Norwegian-Vietnamese business cooperation. In Iceland, the "Invest in Iceland Agency" is promoting inward investment, functioning as a "one-stop shop" for foreign investors. In Liechtenstein, the establishment of most businesses requires approval<sup>25</sup>.

149. A bilateral agreement on the promotion and protection of investments exists between Viet Nam and Switzerland. This agreement primarily contains disciplines on the treatment and protection of legally admitted investments ("post-establishment" phase). Agreements for the avoidance of double taxation are in force between Viet Nam and Iceland, Norway and Switzerland, respectively.

150. Since promulgation of the first Law on Foreign Investments in 1987, the investment regime in Viet Nam has been gradually liberalized by unilateral efforts. Viet Nam also made significant commitments during its WTO accession process. Those commitments include removing equity limitations in many services sectors and eliminating performance requirements in accordance with the Agreement on Trade-related Investment Measures (TRIMs) of the WTO.

151. The Law on Investment and Law on Enterprise of Viet Nam, which were promulgated in 2005, immediately before its WTO accession, further liberalized Viet Nam's investment environment. The Laws include guarantees against nationalization or confiscation of investors' assets. They also provide investors freedom to select the form of investment, capital raising methods, the geographical location and scale of investment, investment partners and the duration of investment in accordance with Viet Nam's laws and its commitments under the international treaties. Investors are guaranteed equal access to sources of capital, foreign exchange, land and natural resources, legal instruments and data on the national economy and investment opportunities.

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<sup>23</sup> [www.locationswitzerland.ch](http://www.locationswitzerland.ch)

<sup>24</sup> [www.bedin.no](http://www.bedin.no)

<sup>25</sup> [www.liechtenstein.li](http://www.liechtenstein.li)

### **3.3.2 Approaches in FTAs**

152. FTAs concluded by the EFTA States follow various patterns regarding the coverage of investment. In recent agreements negotiated by EFTA, the investment chapter primarily focuses on the establishment phase of the investment, providing for non-discriminatory market access for investments in non-services sectors with a few exceptions (set out in an Annex based on a negative-listing approach). In addition, EFTA's FTAs normally include provisions on current payments and capital movements, based on the principle of freedom of transfers related to the investments. EFTA also emphasises the need for transparency.

153. Viet Nam has signed several FTAs which include certain substantive investment commitments. They primarily focus on protection elements, such as guarantees against expropriation, compensation in case of strife, and insurance of investors' right to lodge claims in international arbitrations. Commitments on the pre-establishment phase, if any, are still moderate and subject to reservations.

## **3.4 Intellectual property rights**

### **3.4.1 Background**

154. Intellectual property rights (IPR) have become increasingly important in international trade policy and agreements. They play a key role in creating an environment for economic operators to engage in research, development and innovation. Providing for security and predictability for rights holders, IPR are conducive to trade and investment.

155. Viet Nam is a member of the World Intellectual Property Rights Organization (WIPO) and a signatory to a series of international conventions in this field, such as the Paris and Berne Conventions, the Madrid Protocol, the Patent Cooperation Treaty, the Rome Convention, the Geneva Convention (1971) and the UPOV Convention. As a member of the WTO, Viet Nam commits to implement the WTO Agreement on Trade - Related Aspects of Intellectual Property Rights (TRIPS). A new Law on Intellectual Property was adopted in 2005 and amended in 2009, bringing Viet Nam's legal system on intellectual property into compliance with international standards, particularly TRIPS/WTO, creating a fair and competitive environment and strengthening the creation and exploitation of specific types of IPR, such as copyright and related rights, industrial design, trademarks, trade names, geographical indications. However, so far there has been no proven research in Viet Nam on the positive effect of the Intellectual Property Law on foreign investment, technology transfer and innovative activities.

156. All EFTA States are members of WIPO and signatories to the above-mentioned conventions, alongside others. As Viet Nam, the EFTA States are also signatories to the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In many respects, protection beyond the TRIPS agreement is provided for in the EFTA States.



### **3.4.2 Approaches in FTAs**

157. EFTA's FTAs contain provisions to ensure adequate and effective protection of intellectual property rights in the Parties, notably through the principles of national treatment and most-favoured-nation treatment. More detailed provisions are normally contained in an annex that covers international conventions, patents, designs, trademarks, copyrights, geographical indications, protection of undisclosed test data and enforcement of IPR. EFTA's FTAs generally go beyond the minimum level of protection required by the TRIPS Agreement in different areas of IPR, or further specify some of its provisions.

158. Viet Nam's approach in this field is governed by the objective of ensuring social welfare policy and developing its technology, economy and culture. In particular, IPR protection aims to balance the interests between right-holders and the public, in order to promote investment in creative activities and to ensure access to new knowledge, technology and products. Viet Nam expects to obtain agreements on measures (including legal measures and technical cooperation) to strengthen the capacity to implement international commitments and TRIPS standards. Furthermore, Viet Nam may consider accepting TRIPS-plus protection provided that the feasibility of commitments and the interests of the country are ensured. In fact, the Viet Nam-Japan Economic Partnership Agreement and the Viet Nam-US Bilateral Trade Agreement provide higher levels of protection in some respects and contain a separate chapter on technical cooperation.

## **3.5 Sustainable development**

### **3.5.1 Background**

159. Provisions on sustainable development are increasingly included in international trade agreements, reflecting a holistic approach to trade taken in various recent FTAs. EFTA has recently elaborated a set of draft provisions on sustainable development, with the aim of completing its comprehensive approach to preferential trade agreements.

160. Sustainable development is one of the key targets set by the Vietnamese Government in its socio-economic development plans. The government has approved the strategic orientation for sustainable development in Viet Nam (Viet Nam's Agenda 21) in August 2004.

### **3.5.2 Approaches in FTAs**

161. EFTA's proposed approach on sustainable development is based on internationally recognised texts and principles in the fields of environment and labour. EFTA does not seek to introduce any provisions which could have trade distorting effects, nor does it seek to harmonise the domestic legislations of the Parties in this area.

162. Viet Nam has not yet concluded any FTAs that contain commitments on sustainable development. FTAs and other trade agreements should contribute to the

overall objective of sustainable development as specified by the approved strategic orientation for sustainable development in Viet Nam.

## **3.6 Technical cooperation**

### **3.6.1 Background**

163. Provisions on technical cooperation are included in some of EFTA's FTAs. The main objective is to assist free trade partners in the preparation for and implementation of the agreements and to strengthen their capacity to benefit from preferential access to the EFTA markets. Capacity-building, training, and transfer of know-how in trade-related matters are at the core of EFTA's technical assistance activities. In addition, individual EFTA Member States may engage in cooperation activities on a bilateral basis.

164. As a developing country, technical cooperation from trading partners has been an important factor assisting Viet Nam in its international economic integration. Capacity building and technical cooperation activities are therefore crucial in many areas, both during and after the FTA negotiation (i.e. the implementation stage).

### **3.6.2 Approaches in FTAs**

165. To make the best use of available resources, technical assistance provided by EFTA through the EFTA Secretariat focuses on areas where EFTA can provide expertise, such as technical standards, sanitary and phytosanitary standards, rules of origin and customs procedures, fisheries, trade in services, intellectual property rights, and promotion of exports towards the EFTA States. However, EFTA's approach is flexible and allows for an examination of other trade and investment related requests for assistance from partner countries.

166. Technical cooperation provisions can be built in the FTAs, but can also be reflected in separate programmes with the trading partners.

## **3.7 Legal and institutional issues**

### **3.7.1 Background**

167. Legal and institutional issues in a FTA set out certain objectives and general rules on which the agreement is based. Legal provisions include, for example, provisions on the relation to other agreements, on the relationship between the Parties, on dispute settlement, on transparency and confidentiality, on the rules on accession and withdrawal, as well as on the FTA's entry into force and termination.

168. FTAs normally establish an institutional framework with a governing body to supervise and review the implementation and operation of the FTA. The governing body also oversees the further development of the FTA and aims to resolve possible difficulties or disputes at an early stage through consultations.

169. Dispute settlement provisions provide an effective, efficient and transparent process for consultations and settlement of disputes arising under the FTA.

### **3.7.2 Approaches in FTAs**

170. FTAs concluded by EFTA and Viet Nam all contain a set of general rules applicable to all parts of the agreement. These may include provisions on objectives, entry into force, amendments and withdrawal, and termination. Both EFTA and Viet Nam consider transparency to be an important principle, and include provisions in conformity with the WTO framework to that effect in their FTAs.

171. In EFTA and Viet Nam's FTAs, a Joint Committee is established as the governing body for the agreement supervising its implementation. The Joint Committee normally meets at senior officials' level and takes decisions by consensus. In addition, the Parties may authorize contact points to facilitate members' communications on the issues covered by the FTA.

172. EFTA aims for a lean and flexible institutional structure under its FTAs. Its agreements therefore establish only one sub-committee to the Joint Committee, normally named "Sub-Committee on Rules of Origin, Customs Procedures and Trade Facilitation", mandated to cooperate in the respective fields and prepare decisions for adoption by the Joint Committee. The Joint Committee may set up other sub-committees or ad-hoc working groups.

173. Both Viet Nam and EFTA establish provisions on dispute settlement providing for consultation and arbitration mechanisms. Wherever possible, the parties to a dispute should endeavour to resolve the matter amicably through direct consultations or in the Joint Committee. Only if they cannot agree on a solution, the matter may be referred to arbitration.

174. Viet Nam, as a developing country, has included, in some FTAs that it has concluded so far, elements of special and differential treatment (S&D) in dispute settlement, in terms of proceedings and recommendation implementation.

175. In order to have a concise text on dispute settlement, EFTA prefers to include a reference to the Optional Rules of Arbitrating Disputes between two States of the Permanent Court of Arbitration, while clarifying certain issues left open in those rules.

176. In the FTAs concluded by Viet Nam, general exceptions conform to Article XX GATT 1994 and Article XIV GATS. Security exceptions allow a member to take any action which it considers necessary for the protection of its essential security interests. Exceptions related to taxation measures and measures to safeguard the balance of payments are also in accordance with WTO regulations.

## **3.8 Other issues**

### **3.8.1 Government procurement**

#### **3.8.1.1 Background**

177. In 2009, procurements for State needs in Viet Nam constituted 22% of GDP. On the EFTA side, the respective figures are about 15% for Iceland, 3.5% for Liechtenstein, 15% for Norway and 25% for Switzerland (2006).

178. All EFTA States are signatories to the plurilateral Government Procurement Agreement (GPA) of the WTO. This means that government purchases have to be made in conformity with the WTO framework and that the other signatories to the GPA are given preferential access to the government procurement markets in the EFTA States. In conformity with the legally binding provisions of the GPA, all EFTA Member States have developed domestic government procurement legislation. It should also be noted that the EFTA States participating in the European Economic Area (Iceland, Liechtenstein and Norway) are obliged to adhere to the EU Directives on government procurement<sup>26</sup>. Switzerland has an agreement on government procurement with the EU providing for preferential market access on a reciprocal basis.

179. Viet Nam is not yet a signatory to the GPA. However, the law and regulations of Viet Nam on government procurement have improved gradually, tending towards more transparency and competition.

#### **3.8.1.2 Approaches in FTAs**

180. EFTA considers the liberalisation of government procurement markets an objective of its FTAs. EFTA's FTAs normally include requirements for rules to be followed when making government procurements. Provisions and the scope of market access on a reciprocal basis are sought to be as close as possible to the standards of the GPA. EFTA needs to assure that, in the area of government procurement, its FTAs are compatible with the plurilateral framework of the WTO and with internal laws.

181. Up to now, Viet Nam has never concluded any free trade agreement with substantive commitments on government procurement.

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<sup>26</sup> 2004/17 and 2004/18

## **3.8.2 Competition and State Aid**

### **3.8.2.1 Competition**

#### **3.8.2.1.1 Background**

182. The objective of inserting provisions on competition in a FTA is to ensure that the Parties prohibit undertakings from restricting or distorting competition in a way that would harm trade relations and undermine the benefits of trade liberalisation under the agreement. This is generally done by addressing: (i) anti-competitive cooperation between two or more independent undertakings; (ii) abuses of a dominant position.

183. These principles are reflected in the competition laws of the EFTA States, which have been closely aligned with those of the EEA Agreement and the identical provisions of the European Union. The EEA competition rules are directly applicable in all EEA States. In Iceland and Norway the national competition regimes on anti competitive practices are furthermore harmonised with that of the EEA and the EU in the framework of the EEA. In Liechtenstein, having limited national competition legislation, the respective EEA law is directly applicable. In Switzerland, the legal framework has also been aligned with the respective EU regulations.

184. Competition policy in Viet Nam comprises a variety of measures in order to build a competitive economic environment and fair competition for the economy and to effectively protect lawful interests of business undertakings and consumers. The Competition Law of Viet Nam contains legislation on competition restrictive behaviour and on unfair competition behaviour. In detail, the Competition Law of Viet Nam stipulates: (i) competition restrictive agreements; (ii) abuses of monopoly /market dominance; (iii) controls of economic concentrations; and (iv) unfair competition behaviour. Detailed provisions on competition in certain sectoral laws and regulations exist alongside these.

#### **3.8.2.1.2 Approaches in FTAs**

185. In the absence of a multilateral agreement on competition, EFTA has included provisions on competition in its FTAs. EFTA approaches this issue by reconfirming that anti-competitive cooperation between undertakings, cartels and abuses of dominant positions are considered incompatible with an FTA, as far as such practices adversely affect trade between the Parties. In other terms, EFTA seeks to address business practices that would undermine trade liberalisation granted by the FTA, while avoiding that the agreement interferes with competences of national competition authorities or creates any direct obligations for undertakings. Problems arising from anti-competitive practices would primarily be dealt with through consultations between the Parties.

186. In FTA negotiations, Viet Nam consistently includes competition policy as an important element in terms of guaranteeing fair competition environments and handling anti-competition behaviour which may affect the implementation of Agreements.

187. On grounds of the current level of development and enforcement of competition law in Viet Nam, Viet Nam proposes an approach that reflects a cooperation mechanism in dealing with competition issues through consultations and technical assistance.

### **3.8.2.2 State Aid**

#### **3.8.2.2.1 Background**

188. In the context of FTAs, rules on state aid play a significant role in strengthening the effectiveness of other provisions and in creating a level playing field for economic operators involved in cross-border trade. In particular, aid that is directly targeted at imports or exports may distort competition and adversely affect trade flows.

189. Pursuant to the EEA Agreement, state aid regulations in Iceland, Liechtenstein and Norway mirror those of the European Union. The rules aim at creating a level playing field for undertakings involved in trade within the EEA. As for the relationship between Switzerland and the other EFTA States, the EFTA Convention refers to the WTO disciplines on subsidies.

#### **3.8.2.2.2 Approaches in FTAs**

190. EFTA in its FTAs normally includes a reference to the relevant WTO provisions (Articles VI and XVI of the GATT, and the WTO Agreement on Subsidies and Countervailing Measures). In order to give the Parties the possibility to consult before initiating an investigation under the WTO Agreement, a certain time period is usually allocated for such consultations.

191. Since its WTO accession, Viet Nam' regulations on state aid are promulgated in compliance with regulations of the WTO.

### **3.8.3 Market economy status**

#### **3.8.3.1 Background**

192. When acceding to the WTO, Viet Nam had to accept to be treated as a non-market economy (paragraph 255 of the report of the Working party on Accession of Viet Nam to the World Trade Organization). Accordingly, other WTO members reserved their rights to treat Viet Nam as a non-market economy until 31 December 2018.

#### **3.8.3.2 Approaches in FTAs**

193. In the framework of the elaboration of the present Report, Viet Nam has requested its partners to recognise Viet Nam as full market economy, thereby not applying paragraph 255 of the Report of the Working Party on Accession of Viet Nam to the World Trade Organization.

194. The EFTA States would be ready to recognise Viet Nam as a market economy at the latest by the conclusion of FTA negotiations.

## **4 Conclusions and recommendations**

195. The Joint Study Group reviewed existing bilateral economic linkages between Viet Nam and the EFTA States, covering among others trade in goods, trade in services, investment flows and other possible areas of economic cooperation. It also studied the complementary structure of the economies of both sides and examined possible approaches to an FTA.

196. The Joint Study Group comes to the conclusion that there is a significant potential for Viet Nam and the EFTA States to strengthen their economic relationship by further developing their framework for trade and investment. In particular, the Joint Study Group came to a positive conclusion with respect to the feasibility of a FTA between the EFTA States and Viet Nam. Negotiations on such a free trade agreement should consider the substantive issues discussed in this Report, taking into account the interests and different levels of development of the Parties.



## Annex

Table A1: EFTA States trade with the world by selected commodities 2007-2009

	2007	2008	2009	2007	2008	2009	2009/2008
<b>IMPORTS</b>	<b>In thousand US dollars</b>			<b>In per cent</b>			<b>% Change</b>
<b>Iceland</b>							
Total imports from World	6,214,710	5,688,312	3,292,721	100.0	100.0	100.0	-42.1
<i>In per cent of imports from the world</i>	<i>100.00%</i>	<i>100.00%</i>	<i>100.00%</i>				
HS 85 Electrical machinery	621,143	684,165	493,364	10.0	12.0	15.0	-27.9
HS 27 Mineral fuels, oil	562,165	703,111	414,143	9.1	12.4	12.6	-41.1
HS 28 Inorganic chemicals	312,819	608,297	400,053	5.0	10.7	12.2	-34.2
<b>Norway</b>							
Total imports from World	80,336,348	87,690,600	67,086,710	100.0	100.0	100.0	-23.5
<i>In per cent of imports from the world</i>	<i>100.00%</i>	<i>100.00%</i>	<i>100.00%</i>				
HS 84 Machinery, mechanical appliances	12,165,675	14,018,815	10,690,421	15.1	16.0	15.9	-23.7
HS 85 Electrical machinery	7,874,387	8,462,408	6,874,979	9.8	9.7	10.3	-18.8
HS 87 Vehicles (not railway)	8,450,832	8,358,179	5,869,494	10.5	9.5	8.8	-29.8
HS 73 Iron and steel products	3,505,519	4,186,718	3,170,311	4.4	4.8	4.7	-24.3
HS 27 Mineral fuels, oil	3,427,504	4,130,497	3,080,195	4.3	4.7	4.6	-25.4
HS 94 Furniture and bedding	2,725,154	3,020,734	2,266,920	3.4	3.4	3.4	-25.0
HS 39 Plastic, plastic articles	2,377,732	2,585,204	2,041,979	3.0	3.0	3.0	-21.0
HS 90 Optical, medical, surgical instruments	2,074,564	2,318,840	1,947,214	2.6	2.6	2.9	-16.0
<b>Switzerland</b>							
Total imports from World	161,287,705	183,200,333	155,994,721	100.0	100.0	100.0	-14.9
<i>In per cent of imports from the world</i>	<i>100.00%</i>	<i>100.00%</i>	<i>100.00%</i>				
HS 84 Machinery, mechanical appliances	18,318,589	20,687,776	16,680,799	11.4	11.3	10.7	-19.4
HS 30 Pharmaceutical products	15,419,232	16,327,434	16,521,997	9.6	8.9	10.6	1.2
HS 71 Precious stones and metals	9,815,670	13,022,775	12,959,529	6.1	7.1	8.3	-0.5
HS 85 Electrical machinery	12,942,778	14,438,188	11,854,666	8.0	7.9	7.6	-17.9
HS 27 Mineral fuels, oil	11,155,104	16,352,046	11,307,746	6.9	8.9	7.3	-30.9
HS 87 Vehicles (not railway)	10,838,524	12,570,648	10,839,512	6.7	6.9	7.0	-13.8
HS 29 Organic chemicals	10,809,583	10,523,818	8,547,345	6.7	5.7	5.5	-18.8
HS 90 Optical, medical, surgical instruments	5,448,489	6,406,951	5,742,859	3.4	3.5	3.7	-10.4
HS 39 Plastic, plastic articles	6,081,840	6,777,353	5,497,646	3.8	3.7	3.5	-18.9
HS 94 Furniture and bedding	3,727,667	4,076,023	3,609,824	2.3	2.2	2.3	-11.4
<b>EXPORTS</b>	<b>In thousand US dollars</b>			<b>In per cent</b>			<b>% Change</b>
<b>Iceland</b>							
Total exports to the World	4,769,615	5,356,052	4,028,021	100.0	100.0	100.0	-24.8
<i>In per cent of exports to the world:</i>	<i>100.00%</i>	<i>100.00%</i>	<i>100.00%</i>				
HS 03 Fish, crustaceans	1,683,135	1,730,566	1,474,805	35.3	32.3	36.6	-14.8
HS 76 Aluminium and articles thereof	1,260,195	2,086,437	1,393,820	26.4	39.0	34.6	-33.20
HS 88 Aircraft, spacecraft	700,669	364,915	190,026	14.7	6.8	4.7	-47.9
<b>Norway</b>							
Total exports to the World	136,468,090	164,145,745	119,057,561	100.0	100.0	100.0	-27.5
<i>In per cent of exports to the world:</i>	<i>100.00%</i>	<i>100.00%</i>	<i>100.00%</i>				
HS 27 Mineral fuels, oil	87,814,847	111,360,726	76,917,010	64.4	67.8	64.6	-30.9
HS 84 Machinery, mechanical appliances	5,991,305	7,939,177	7,553,339	4.4	4.8	6.3	-4.9
HS 03 Fish, crustaceans	5,978,809	6,486,767	6,915,568	4.4	4.0	5.8	6.6
HS 76 Aluminium and articles thereof	6,212,064	6,102,347	3,654,933	4.6	3.7	3.1	-40.1
HS 99 Other Special Import Provision	4,870,052	6,386,932	3,471,111	3.6	3.9	2.9	-45.7
HS 85 Electrical machinery	3,176,842	3,847,530	3,296,090	2.3	2.3	2.8	-14.3
HS 38 Misc. chemical products	1,372,882	1,497,331	1,618,753	1.0	0.9	1.4	8.1
HS 90 Optical, medical, surgical instruments	1,604,562	1,876,546	1,586,894	1.2	1.1	1.3	-15.4
<b>Switzerland</b>							
Total exports to the World	172,122,396	200,335,647	173,147,939	100.0	100.0	100.0	-13.6
<i>In per cent of exports to the world:</i>	<i>100.00%</i>	<i>100.00%</i>	<i>100.00%</i>				
HS 30 Pharmaceutical products	32,317,030	40,141,088	41,124,610	18.8	20.0	23.8	2.5
HS 84 Machinery, mechanical appliances	25,876,762	28,721,887	20,812,439	15.0	14.3	12.1	-27.5
HS 29 Organic chemicals	14,757,270	15,749,966	16,166,201	8.6	7.9	9.3	2.6
HS 90 Optical, medical, surgical instruments	11,870,925	14,036,051	12,936,670	6.9	7.0	7.5	-7.8
HS 91 Clocks and watches	13,363,720	15,761,845	12,267,620	7.8	7.9	7.1	-22.2
HS 85 Electrical machinery	12,220,547	14,129,979	11,819,868	7.1	7.1	6.8	-16.4
HS 71 Precious stones and metals	10,028,770	12,911,461	10,265,423	5.8	6.4	5.9	-20.5
HS 27 Mineral fuels, oil	4,150,814	6,057,981	4,913,066	2.4	3.0	2.7	-18.9
HS 39 Plastic, plastic articles	5,381,872	5,777,226	4,498,418	3.1	2.9	2.6	-22.1
HS 73 Iron and steel products	3,218,469	3,447,194	2,444,684	1.9	1.7	1.4	-29.1

Source: GTI, Global Trade Atlas (last update: September 2010)

Table A2: EFTA States trade with Viet Nam by selected commodities 2006-2008

	2006	2007	2008	2006	2007	2008	2008/07
<b>IMPORTS</b>	<b>In thousand US dollars</b>			<b>In per cent</b>			<b>% Change</b>
<b>Iceland</b>							
Total imports from Vietnam	5,219	7,117	7,658	100.0	100.0	100.0	7.61
<i>In per cent of imports from the world</i>	<i>0.09%</i>	<i>0.11%</i>	<i>0.13%</i>				
HS 64 Footwear	1274	1671	2534	24.4	23.5	33.1	51.62
HS 62 Woven apparel or clothing accessories	993	1336	1555	19.0	18.8	20.3	16.42
HS 94 Furniture and bedding	880	1048	1154	16.9	14.7	15.1	10.12
<b>Norway</b>							
Total imports from Vietnam	116,308	141,678	180,504	100.0	100.0	100.0	27.40
<i>In per cent of imports from the world</i>	<i>0.18%</i>	<i>0.18%</i>	<i>0.21%</i>				
HS 64 Footwear	48405	53387	64399	41.6	37.7	35.7	20.63
HS 94 Furniture and bedding	11670	13955	21331	10.0	9.9	11.8	52.86
HS 62 Woven apparel or clothing accessories	11861	16983	20614	10.2	12.0	11.4	21.38
HS 08 Fruit and nuts	3874	5522	9654	3.3	3.9	5.4	74.84
HS 42 Leather articles, saddlery and harness	6232	6502	8045	5.4	4.6	4.5	23.73
HS 61 Knitted apparel or clothing accessories	4289	6055	7053	3.7	4.3	3.9	16.49
HS 73 Iron and steel products	2051	2974	6608	1.8	2.1	3.7	122.23
HS 87 Vehicles (not railway)	5027	6920	6048	4.3	4.9	3.4	-12.60
<b>Switzerland</b>							
Total imports from Vietnam	179,185	215,672	322,592	100.0	100.0	100.0	49.58
<i>In per cent of imports from the world</i>	<i>0.13%</i>	<i>0.13%</i>	<i>0.18%</i>				
HS 71 Precious stones and metals	2483	2300	66868	1.4	1.1	20.7	2807.41
HS 64 Footwear	42544	47666	53992	23.7	22.1	16.7	13.27
HS 03 Fish, crustaceans	36229	43176	45771	20.2	20.0	14.2	6.01
HS 09 Coffee, tea, maté and spices	9857	18140	24736	5.5	8.4	7.7	36.36
HS 91 Clocks and watches	8940	11017	14295	5.0	5.1	4.4	29.76
HS 42 Leather articles, saddlery and harness	15629	14534	14104	8.7	6.7	4.4	-2.96
HS 90 Optical, medical, surgical instruments	1846	6838	12393	1.0	3.2	3.8	81.24
HS 62 Woven apparel or clothing accessories	10446	11131	12328	5.8	5.2	3.8	10.75
HS 16 Preparations of meat, fish	6131	8436	11891	3.4	3.9	3.7	40.96
HS 94 Furniture and bedding	5311	7781	11559	3.0	3.6	3.6	48.56
<b>EXPORTS</b>	<b>In thousand US dollars</b>			<b>In per cent</b>			<b>% Change</b>
<b>Iceland</b>							
Total exports to Vietnam	184	405	337	100.0	100.0	100.0	-16.69
<i>In per cent of exports to the world:</i>	<i>0.01%</i>	<i>0.01%</i>	<i>0.01%</i>				
HS 03 Fish, crustaceans	87	332	163	47.5	81.9	48.4	-50.75
<b>Norway</b>							
Total exports to Vietnam	26,458	35,974	59,150	100.0	100.0	100.0	64.43
<i>In per cent of exports to the world:</i>	<i>0.02%</i>	<i>0.03%</i>	<i>0.04%</i>				
HS 99 Other Special Import Provision	5057	4990	15854	19.1	13.9	26.8	217.69
HS 03 Fish, crustaceans	10845	12597	12755	41.0	35.0	21.6	1.26
HS 84 Machinery, mechanical appliances	1175	10555	9176	4.4	29.3	15.5	-13.07
HS 73 Iron and steel products	2447	297	6690	9.3	0.8	11.3	2151.88
HS 39 Plastic, plastic articles	281	769	3045	1.1	2.1	5.2	296.22
HS 90 Optical, medical, surgical instruments	573	1809	2546	2.2	5.0	4.3	40.74
HS 85 Electrical machinery	2079	459	1685	7.9	1.3	2.9	266.88
HS 25 Salt, sulphur, earths and stone	1101	954	912	4.2	2.7	1.5	-4.33
<b>Switzerland</b>							
Total exports to Vietnam	112532	202437	232249	100	100	100	14.73
<i>In per cent of exports to the world:</i>	<i>0.08%</i>	<i>0.12%</i>	<i>0.12%</i>				
HS 30 Pharmaceutical products	27579	34514	60619	24.5	17.1	26.1	75.64
HS 84 Machinery, mechanical appliances	39148	78913	39657	34.8	39.0	17.1	-49.75
HS 38 Misc. chemical products	464	23604	37285	0.4	11.7	16.1	57.96
HS 85 Electrical machinery	8398	19244	31488	7.5	9.5	13.6	63.63
HS 90 Optical, medical, surgical instruments	6520	8929	12293	5.8	4.4	5.3	37.68
HS 32 Tanning, dye, paints, putty, inks	7816	5246	10191	7.0	2.6	4.4	94.26
HS 88 Aircraft, spacecraft	35	2313	5737	0.0	1.1	2.5	148.02
HS 91 Clocks and watches	1527	2805	3833	1.4	1.4	1.7	36.68
HS 21 Misc. edible preparations	1431	2369	3624	1.3	1.2	1.6	52.97
HS 96 Misc. manufactured articles	2959	3192	3029	2.6	1.6	1.3	-5.09

Source: GTI, Global Trade Atlas (last update: September 2009)