



MUTRAP
EU - VIET NAM MUTRAP III
MULTILATERAL TRADE ASSISTANCE PROJECT

NEWSLETTER | FEBRUARY - 2010



MUTRAP IS FUNDED BY THE EUROPEAN UNION
JOINTLY IMPLEMENTED BY THE MINISTRY OF INDUSTRY AND TRADE OF VIET NAM



CONTENT

MAIN ACTIVITIES

- Meeting on the Rules of Origin Negotiations in East Asia FTAs **3**
- Introduction to Project Technical Reports **4**

CALENDAR OF EVENTS **14**

EU - VIET NAM MUTRAP III AT A GLANCE **15**



The MUTRAP newsletter is published with financial assistance from the European Union.

The views herein in no way reflect an official opinion of neither the Union nor the Ministry of Industry and Trade.

CONTACT DETAILS

The 9th Floor, Minexport Building,
28 Ba Trieu Str., Ha Noi, Viet Nam
Tel: (+844) 6270 2158;
Fax: (+844) 6270 2138
Email: mutrap@mutrap.org.vn;
Website: www.mutrap.org.vn





Meeting on the Rules of Origin Negotiations in East Asia FTAs

Within the framework of activity FTA-8 that aims to improve the capacity of MOIT to effectively negotiate, coordinate regional trade-related arrangements, EU - Viet Nam MUTRAP III sponsored a delegation of officials to attend the Meeting on the Rules of Origin Negotiation in East Asia FTAs held in Tokyo, Japan, from 2-6 February 2010.

Rule of Origin (ROO) is a key instrument to promote economic integration based on existing free trade arrangement in East Asian region. However, the existence of varying ROO and procedures related to them in the region could potentially lead to the spaghetti bowl effect, which could become a factor to diminish the benefits from trade liberalization and could slow down the progress of economic integration. In the context of East Asia where more than thirty RTAs are in force, among which fourteen RTAs are intra-regional FTAs, there is a need to obtain a common criteria for ROO to increase international transaction under the FTA scheme.

With the participation of 17 delegations from 10 ASEAN member countries, ASEAN Secretariat and 6 East Asian countries such as Japan, China, Republic of Korea, India, Australia and New Zealand, the meeting was a good opportunity to share common understandings among relevant government official from business and government views.

Discussion during the meeting focused on a number of issues such as the use of the

Certificate of Origin (C/O) and the policy response. At present, it is indicated that the use of C/O to enjoy Preferential Treatment is very rare. In this regard, the government should disseminate knowledge about the FTAs, rules of origins and the operational certification procedures to private sector and above all, an agreed ROO should be applied to all FTAs in East Asia since ROO is a trade policy instrument.

“ *In the context of East Asia where more than thirty RTAs are in force, among which fourteen RTAs are intra-regional FTAs, there is a need to obtain a common criteria for ROO to increase international transaction under the FTA scheme.*



Introduction to Technical Reports

This issue introduces the technical reports completed in 2009 in the framework of EU - Viet Nam MUTRAP III Project activities. Readers can visit the “Library” topic of the MUTRAP Website (<http://www.mutrap.org.vn>) to download the full text of reports.

Activity WTO-4: Supporting Viet Nam’s participation in the Doha development round

The developments in the Doha Development Agenda negotiations which started in most subjects in 2002 had already been described in detail by a MUTRAP II study which was completed in March 2007. Negotiations under the Doha work programme in a large number of topics have been guided by the principle that negotiations are not taking place in isolation. A main principle of the negotiations is that “nothing is agreed until everything is agreed”: i.e. the DDA negotiations are considered as a “single undertaking”. In practice that means that the successful conclusion of the negotiations cannot be foreseen in one or even several areas if in the remaining subjects the consensus is missing. In that sense, all subjects under negotiations are important, because lack of agreement in any of them might prevent the successful conclusion of the Round. However, some sectors (agricultural and industrial tariff negotiations and non-agricultural market access negotiations - NAMA), are considered having a particular importance in the Doha package. Therefore, views concur that a lack of agreement in one of these two issues would block progress in other areas of the DDA negotiations. The importance of these two subjects explain why the negotiations in these areas have been difficult and slow until present and why the lack of progress slowed down negotiations in other areas.

The Report gives an overview of the Doha Agenda negotiations starting from March 2007, which basically is coinciding Viet Nam’s WTO accession date (11 January 2007). The subjects covered include negotiations on agriculture, NAMA, trade in services, institutional and developmental issues, rules, trade facilitation and trade-related intellectual property. The individual studies present the state-of-play in the negotiations and underline the subjects which are of particular importance for Viet Nam. As the country is a very recently acceded member of the WTO, and as such it has a special status, the papers analyze the implications of that particular situation in each of the areas covered.

All studies make recommendations to Viet Nam in order to make the country’s participation in the remaining part of the negotiations more efficient. On 7 September 2009 a workshop was organized where DMI and PTF consultants made presentations on the state-of-play of the negotiations in agriculture, NAMA and trade in services. The presentations highlighted Viet Nam’s special interests in the subjects concerned and made recommendations for the continuation of the negotiations. The presentations were followed by an active exchange of views in the subjects. Earlier, a similar gathering discussed the developments in the negotiations on trade facilitations.





The study concluded emphasizing the importance of negotiations which will take place in the the rest of 2009 and 2010 for the success of the Round and also for Viet Nam. For this reason suggestion was made to intensify capacity building measures related to trade negotiations, and assist the government in its final efforts to optimize the results of the Doha Negotiations for Viet Nam.

The Report contains the following main parts:

- WTO Doha round negotiation on agriculture – recent development
- Developments in the negotiations on market-access for non-agricultural products (NAMA) since March 2007 and the interests of Viet Nam
- Trade in services and the institutional and developmental aspects of negotiations
- State-of-Play of the DDA negotiations on rules
- State-of-Play of the DDA negotiations on trade facilitation
- WTO Doha round negotiation on intellectual property rights – recent development

Activity WTO-5: Support to MOIT to improve the quality of Vietnamese trade related laws and making them fully compatible with international obligations

At the time of Vietnam's accession to the WTO, the Government of Vietnam pledged to fully respect its WTO commitments. Vietnam, furthermore, is a Member of ASEAN and a party to several bilateral trade agreements with third countries, whether together with its ASEAN partners, or alone.

The Ministry of Industry of Vietnam expressed a keen interest in ensuring that certain key laws of Vietnam are fully compatible with the WTO Agreements as well as with the ASEAN Treaty and all other trade agreements to which Vietnam is a party.

The WTO-5 technical report, therefore, addresses the inconsistencies existing in three key pieces of legislation, namely the Commercial law, the Competition Law and the Trade Remedies Ordinances, in relation to Vietnam's international obligations. It also provides recommendations in order to improve the interface between these domestic laws and their implementing Decrees and the WTO rules and all other relevant international trade treaties.

Overall, the laws themselves do not present many inconsistencies with the WTO Agreements and the relevant international treaties. However, most of the laws analyzed contain framework provisions which still require implementing decrees in order to become operational. This is particularly the case of competition law and of the trade remedies ordinances. It would be in the interest of Vietnamese companies themselves, in addition to the need to attract and retain foreign investments, to see the missing decrees adopted soon, consistently with international trade commitments.





The same can be said in relation to jurisprudence throughout the country. Court decisions should be published and, to the extent possible, a clear institutional mechanism should be implemented to ensure that the Courts' interpretation of Vietnam's laws and regulations is as consistent as possible and compatible with Vietnam's international trade commitments. One should note, in this context, the scarcity of judgments in Vietnam in areas relevant to international trade.

The legal analysis in this report is made taking into account Vietnam's position in the world trade scene and the realities and constraints that its administration is facing. The international experts met with the locals experts for an initial exchange of ideas and confrontation of their preliminary findings. The same was done with the representatives of key ministries, the private sector and the legal community. The Team, however, cannot guarantee that the analysis provided is exhaustive, considering the uncertainty regarding the administrative and judicial practice in Vietnam.

The Report includes main contents:

- Commercial Law
- The Competition Law
- The Ordinances on Trade Remedies
- Conclusions and Recommendations

Activity WTO-7: Assistance to the implementation of WTO commitments relating to SPS and TBT, implementing awareness-raising and capacity-building activities and assistance to Vietnamese exporters to comply with EU's TBT and SPS requirements

Compliance with TBT and SPS requirements of the WTO and those of the EU and other major markets is a precondition for Vietnamese exporters to be successful. Raising awareness of the sophisticated requirements of the EU in the field of TBT and SPS rules needs systematic engagement on the side of Viet Nam's TBT and SPS Offices, other central and local authorities, and industries. Experts of Activity WTO-7 under the EU-Vietnam MUTRAP III had a survey on the EU's TBT and SPS rules which concern exports of interest to Viet Nam, identification of the difficulties faced by Vietnamese exporters in complying with these requirements, analysis of the impacts of these measures on Viet Nam's affected export sectors, examination of the contacts between the SPS and TBT Offices and exporters, and appropriate recommendations.

The Report consists two parts: Part 1 for SPS and Part 2 for TBT.

As indicated in the Part 1, technical problems that are experienced by Vietnamese enterprises in exporting agricultural products to the EU are not usually attributable to excessively strict





SPS barriers to trade, or to a lack of information about what the technical requirements are for products to enter the EU market. Rather the problem appears to lie in conducting the production and processing activities in the proper way in Viet Nam. After examining the situation concerning SPS barriers to Vietnam's exports into the European Union, the report lists twelve possible actions by government, in cooperation with the private sector, to enhance export success.

According to the Part 2, Vietnamese exporters must comply with EU TBT requirements allowable under WTO rules for access to EU markets. Exporters should therefore be fully cognizant with EU TBT requirements for their products if they intend to export to the EU. Therefore, the report focuses on identifying ways in which the capacity of Viet Nam TBT Office can be strengthened and its resources are utilized to support Vietnamese exporters develop the necessary competences to meet EU TBT requirements and at the same time makes recommendations to strengthen the capability of the industry associations in supporting their members manage the process of meeting changes of EU TBT requirements in the future.

The Report includes main contents:

PART 1: SPS

- SPS measures and export market access
- The SPS office
- The value of bilateral agreements
- Conclusions and recommendations for action

PART 2: TBT

- EU TBT Requirements applicable to Key Export sectors
- Difficulties of exporters meeting EU TBT requirements
- Impact of EU TBT requirements on the export sectors
- Viet Nam TBT office
- Benefits of bilateral agreements with the EU
- Conclusions and recommendations

In addition, there are annexes enclosed: EU legislation relevant to fishery and aquaculture products, EU Rapid Alert System for Food and Feed stuffs, RAPEX notifications 2005 to June 2009 and WTO TBT Notifications December 2008.





Activity WTO-8: Analyzing Vietnam's trade deficit and the balance-of-payments provisions of the WTO

Since 2002, Viet Nam has recorded a systematic and increasing trade deficit, which has now reached historical levels. The structural trade deficit has been a serious burden on the country's balance of payments (BOP), and as a result its current account has been in deficit in recent years. Though the country's BOP situation cannot be qualified as alarming, it certainly calls for a deep economic and trade policy analysis of the underlying causes and the eventual steps which could alleviate the problems. The report study takes into account the transformation which has been made in the structure and functioning of the Vietnamese economy since the start of the market economy reform process in the 1990's and then period of negotiation of WTO accession and increasing participation in regional and bilateral free trade agreements. The accelerating integration of the country in the world economy has also reshaped Viet Nam's trade policy environment and its international commitments in the area of trade which determine the responses which can be given to the challenges affecting the BOP.

The objective of the report is to study the underlying causes of Viet Nam's large trade deficit, the contribution of the trade deficit to the development of the country's balance of payment situation and to clarify the impact of WTO accession and other trade liberalization measures implemented in the last couple of years on the increasing trade deficit. The study overviews the BOP-related WTO provisions (Articles XII, XV and XVIII:B of GATT 1994).

The practical purposes of this study were twofold (1) to assist the Ministry of Industry and Trade to explain the macroeconomic roots of the persistent large trade deficit and make suggestions for working out appropriate economic measures to remedy the situation and (2) to present the possible measures of trade policy nature which might be considered to introduce in order to soften the pressure caused by increasing imports resulting from trade liberalization. This study may help the Vietnamese Government to adopt measures which are considered consistent with the country's international obligations and will contribute to the alleviation of the problems without causing economic damage to the country and leading to protests from its trading partners.

The study analyses the available practice of GATT/WTO Member countries which in the last decades introduced import restrictions for balance-of-payments purposes. For Viet Nam it is of particular importance that since the 1970s, the invocation of the GATT/WTO balance-of-payments provisions shows a declining trend and the practice of the BOP Committee has become less tolerant towards the use of import restrictions for BOP purposes.





The Report includes main contents:

- Economic analysis of the balance of payments
- Trade policy framework
- Conclusions and recommendations

Activity FTA-1: Impact assessment of ASEAN-China FTA on Vietnam's economy

Trade relation between ASEAN and China dated back to 1991 and both trading blocs entered into negotiations to conclude an agreement that would allow them to form a free trade area. The Framework Agreement on Comprehensive Economic Co-operation between ASEAN and China signed in 2002 has laid the basis for a free trade area between ASEAN and China (ACFTA). It also serves as an umbrella to four agreements, constituting, together with the Framework Agreement, the main instruments of the ACFTA, including: the Agreement on Trade in Goods; the Agreement on Dispute Settlement Mechanism; the Agreement on Trade in Services; and the Agreement on Investment.

Activity FTA-1 conducted under MUTRAP III that assesses the impact of the ACFTA on Viet Nam's economy includes qualitative and quantitative analyses. It aims at providing Viet Nam's Government officials, trade negotiators, businesses and relevant stakeholders with a set of ideas, legal arguments, possible interpretations and available instruments which may inform their current or future activities and actions (both in relation to ACFTA and other FTAs). The report is therefore aimed at evaluating both the legal framework of the ACFTA as well as its impacts on the economy of Viet Nam.

The qualitative impact assessment provided in this report is prepared on the basis of a critical review of both the overall structure of the ACFTA and relevant agreements and instruments on which the ACFTA is based: the Trade in Goods (TIG) Agreement, the Dispute Settlement Mechanism (DSM) Agreement and the ACFTA Agreement on Investment.

A close examination of the economic impact that the ACFTA has on Viet Nam reveals that Viet Nam trade in manufactures with China grows faster than corresponding trade flows with third countries. The impact assessment is divided into ex-post and ax-ante analysis. The sensitivity analysis ex-post illustrated three sectors (metal production, machinery equipment and textiles) are very sensitive. Regarding the ex-ante analysis, this illustrates the effects of trade liberalization with China on the Government revenue, GDP and on trade.





In the case of negative effect arising from the ACFTA, the report indicates two immediate available contingency measures that may be triggered against a surge of imports causing serious injury to Viet Nam's domestic industry. One is available under the WTO provisions and the other is an ACFTA specific safeguard measure. The report then provides a couple of additional scenarios that may be considered for purposes of future FTA negotiations, either within the context of the existing ACFTA or in light of the on-going or upcoming FTA negotiations that Viet Nam is conducting individually or as an ASEAN Member State with third parties.

The Report includes main contents:

- Trade in goods liberalization under the ACFTA
- Impact of the ACFTA on selected industries
- The investment implications of the ACFTA
- Impact of trade liberalization on labour, environment and economic growth: an overview
- Coping with the negative effects of trade liberalization: the available remedies
- Conclusion and recommendations

Activity SERV-2A: Supporting Ministry of Planning and Investment on Formulating the Draft Comprehensive Strategy for Services Sector Development to the year 2020 and a vision to 2025

Since implementing Doi Moi policy, Viet Nam has gained achievement in economic development but services sector is still in under developing stage. Services sector now contributes approximately 38.5% of GDP and uses 24% of labor force of the country. Those percentages are far distant compared with those of other middle-income developing countries (around 55%), as well as with those in developed countries where service sector takes 70% of GDP.

Currently, Viet Nam is short of an overall comprehensive development strategy for all service sectors to support for long term coordination among agencies within a sector and across other sectors. Without relevant data and reliable information of services activities, for policy makers as well as for government agencies, at both national and local level, is impossible to set out suitable development policy. The capability of policy planning and analysis on service development is still limited. Human resource as well as coordination mechanism in organizing and implementing action plan for service and trade in service at all levels of governments is insufficient.

The Comprehensive Strategy for Service Sector Development up to the year 2020 and a vision to the year 2025 is built up for service development on the ground of objectives and development priorities of the country, while considering opportunities and challenges to the



overall service sector as a result of international economic integration. This Strategy is valued as development orientation for the whole service sector and some service-natured sub-industries critical to the country development. It also takes into account multi and bilateral commitment to door opening roadmap, being a solid base for next rounds of development. Therefore, the technical report of activity SERV-2A under EU-Vietnam MUTRAP III, “Supporting Ministry of Planning and Investment on Formulating the Draft Comprehensive Strategy for Services Sector Development to the year 2020 and a vision to 2025” is built on as supplement to the report of “General Framework for a National Strategy for the Services Sector in Viet Nam up to 2020” (GFSS) released in 2006, which itself was part of a larger three-year project funded by the United Nations Development Programme (UNDP) on “Capacity Strengthening to Manage and Promote Trade in Services in Viet Nam in the Context of Integration” (or “Trade in Services” Project VIE/02/009). The authors of the report have refrained from duplicating the GFSS, and rather they preferred to focus – as agreed with the beneficiary of the SERV-2A activity, the Ministry of Planning and Investment - on complementing the GFSS and recommendations for the main directions for preparation of the CSSSD.

The Report includes main contents:

- Framework for building a vision and strategy for service sector development in Viet Nam
- The rationale and foundations for a Vietnamese services sector strategy
- The prerequisites for stimulating the services sector growth
- The strategic development of competitiveness within the services sector - competitiveness and effectiveness of services in Viet Nam
- Trade in services: what strategy for Viet Nam?
- Services sector capacity assessment: consultation, coordination and capacity to implement services sector policies, plans and international commitments
- Strategic recommendations

and some additional reports for key service sectors: business and professional, insurance and security, banking, telecommunication, transport and public services.

Activity SERV-4: Regulatory review of Vietnam’s distribution services and recommendations for WTO-compatible sector regulations

An open and competitive distribution market is vital to the functioning of a free-enterprise based market economy. However, governmental regulations have been identified in many countries, developed and developing countries alike, as important restraints on competition in distribution markets and trade in distribution services. For example, regulations that restrict shop opening





hours and hinder access by imposing special requirements for outlet registration, sitting and/or size thresholds curb the efficiency of the distribution industry, and the competitive pressures, thus leading to lower employment growth and higher consumer prices.

In Viet Nam, the distribution sector appears to be ill regulated. The existing regulations are partly outdated and do not fit the regulatory requirements of the post-WTO accession market opening. While in some respect, recent regulations adopted in the context of WTO membership showed a tendency of over-regulation, Vietnamese trade and distribution sector regulators found that in the context of increased foreign competition resulting from the WTO/GATS commitments, more regulations are needed. The Government of Viet Nam is now trying to amend the existing regulations and to draft new regulations on distribution service to make them increasingly WTO compliant and to strengthen the distribution sector, and to protect small and super-small distributors.

The Report focuses on regulatory review of Viet Nam's distribution services and recommendations for WTO compatible sector regulations such as policy making, law making and regulation, economic need test and licensing in general etc.,

The Report includes main contents:

- The Structure of the Global Distribution Industry
- The Regulatory Framework of the Distribution Sector
- Institutional and Regulatory Frameworks of the Distribution Sector in Viet Nam
- Assessment of Regulations of the Distribution Sector in Viet Nam
- Policy recommendations

Activity COMP-3: Upgrading Vietnamese Consumer Protection legislation

In the framework of activity COMP-3 of EU-Viet Nam MUTRAP III which focuses on “Upgrading Vietnamese consumer protection legislation”, international and local experts of the Project studied and prepared two technical reports on “Review, systematize current regulations on consumer protection” and “Recommendations on the Draft Law on Consumer Protection”.

The Report consists two parts:

- Part 1: “Review, systematize current regulations on consumer protection and
Part 2: “Recommendations on the Draft Law on Consumer Protection”





The Part 1 reviews all Viet Nam legislation system related to consumer protection, such as Civil Code, Penal Code, legal documents on enterprises, investment, commerce, competition, legal documents regulated specific sectors (health, medicine, banking, tourism...); and legal documents regulated only consumer protection issues - Ordinance on Consumer Protection 1999.

The Part 2 comprises detailed recommendations for both general issues - structure of the Law and for specific issues on consumer protection such as information, packaging and labeling requirements; health and safety; class action... (16 issues).





CALENDAR OF EVENTS – FEBRUARY 2010

Date	Activity Code	Event	Co-organiser
03 - 07 February (Japan)	FTA-8	Meeting on the Rules of Origin Negotiations in East Asia FTAs	

UP COMING EVENTS

Date	Activity Code	Event	Co-organiser
01 - 05 March (France, Luxembourg)	SERV-7	Study tour to EUROSTAT on International Trade Statistics	
02 - 11 March (Czech, Germany)	SERV-5	Study Tour on the Domestic Regulations of Distribution Services	
10 - 12 March (Ha Noi)	CB-7	Workshops "Capacity Building on Nucleus Group Counselling"	SEQUA and VINASME
15 - 17 March (HCMC)	CB-7	Workshops "Capacity Building on Nucleus Group Counselling"	SEQUA and VINASME
18 March (Ha Tinh)	COMP-3	Workshop "Comments on Draft Law on Consumers' Interests Protection"	VINASTAS
26 March (Da Nang)	CB-7	Workshops "Capacity Building on Nucleus Group Counselling"	EuroCham





EU-VIET NAM MUTRAP III AT A GLANCE

Foreign donor

European Community

Executing Authority and Implementing Agency

Ministry of Industry and Trade of Viet Nam

Budget

10,670,000 Euros (10,670,000 Euros from the EC, 670,000 Euros from the Vietnamese Government)

Project Duration

4 years, from August 2008 to June 2012

Overall Objective

To assist Viet Nam to implement the SEDP and the Post-WTO Accession Action Plan for sustained pro-poor economic growth through stronger integration into the global trading system

Project Purpose

The capacity of the Ministry of Industry and Trade (MOIT) to further implement and develop Viet Nam's trade and economic integration strategy is strengthened.

Main Results

- 1- Increased capacity of the MOIT to coordinate and implement WTO commitments;
- 2- Increased coordination of the MOIT with the private sector, training and research institutions to develop a coherent, social and environmental sustainable trade integration strategy;
- 3- Increased capacity of the MOIT to effectively negotiate and coordinate regional trade related arrangements such as AFTA, ASEAN plus dialogue partners and to engage in FTA negotiations with major trade partners;
- 4- Improved facilitation of trade in services through better coordination, statistics and better analytical capacity;
- 5- Strengthened capacity of the competition policy stakeholder to ensure consumer protection, a fair and level playing field for all businesses through the implementation of the new competition law.

