

(Japanese Note)

Tokyo, April 17, 2012

Excellency,

I have the honour to refer to the recent consultations held between the representatives of the Governments of Japan and the Socialist Republic of Viet Nam (hereinafter referred to as "Viet Nam") pursuant to Article 79 and Part 1 B of Annex 7 of the Agreement between Japan and the Socialist Republic of Viet Nam for an Economic Partnership (hereinafter referred to as "JVEPA"), which was signed on December 25, 2008 and entered into force on October 1, 2009. I have further the honour to propose on behalf of the Government of Japan the following arrangements:

I Entry and Temporary Stay of the Natural Persons of Viet Nam Who Engage in Supplying Services as Nurses or Certified Careworkers or Related Activities in Japan

1. Entry and temporary stay for a period set out in paragraph 2 shall be granted to a natural person of Viet Nam who satisfies the requirements set out in Annex 1 and who will engage in one of the following activities during his or her temporary stay in Japan:

(a) for the purposes of obtaining a qualification as a nurse under the laws and regulations of Japan (hereinafter referred to as "Kangoshi") by passing the national examination:

(i) activities pursuing the course of preparation for the activities referred to in subparagraph (ii) below; and

(ii) activities acquiring necessary knowledge and skills through the training under the supervision of a "Kangoshi" at a hospital, provided that such activities are conducted on the basis of an employment contract with a public or private organization in Japan which establishes the hospital mentioned above under the laws and regulations of Japan and which is referred by the Japanese coordinating organization provided for in subparagraph 11(a) (i);

His Excellency  
Mr. Vu Huy Hoang  
Minister of Industry and Trade  
of the Socialist Republic of Viet Nam

- (b) for the purposes of obtaining a qualification as a certified careworker under the laws and regulations of Japan (hereinafter referred to as "Kaigofukushishi") by passing the national examination:
  - (i) activities pursuing the course of preparation for the activities referred to in subparagraph (ii) below; and
  - (ii) activities acquiring necessary knowledge and skills through the training under the supervision of a "Kaigofukushishi" at a caregiving facility, provided that such activities are conducted on the basis of an employment contract with a public or private organization in Japan which establishes the caregiving facility mentioned above under the laws and regulations of Japan and which is referred by the Japanese coordinating organization provided for in subparagraph 11(a) (i); or
- (c) for the purposes of obtaining a qualification as a "Kaigofukushishi" by passing the national examination:
  - (i) activities pursuing the course of preparation for the activities referred to in subparagraph (ii) below; and
  - (ii) activities acquiring necessary knowledge and skills through the training at a training facility for "Kaigofukushishi" which is established under the laws and regulations of Japan by a public or private organization in Japan which is referred by the Japanese coordinating organization provided for in subparagraph 11(a) (i), provided that such activities are conducted on the basis of an admission to the training facility mentioned above and that duration of the course of the training at the training facility shall not exceed four (4) years.

Note: The Government of Japan shall notify the modalities and other related information on the activities set out in subparagraphs (a) through (c) above to the Government of Viet Nam.

2. For the purposes of entry and temporary stay as set out in paragraph 1, the Government of Japan shall grant a stay of one (1) year, which may be extended:

- (a) in the case of subparagraph 1(a), for the same period each time and not exceeding twice (two (2) times);
- (b) in the case of subparagraph 1(b), for the same period each time and not exceeding three (3) times; and
- (c) in the case of subparagraph 1(c), up to the period necessary for the completion of the course of the training at the training facility referred to in subparagraph 1(c) (ii).

3. (a) To a natural person of Viet Nam who has been qualified as a "Kangoshi" by passing the national examination:

- (i) during his or her temporary stay under subparagraph 1(a); or
- (ii) after he or she was unable to be qualified as such during his or her temporary stay under subparagraph 1(a),

entry and temporary stay for a period of up to three (3) years, which may be extended, shall be granted, so that the natural person will engage as a "Kangoshi" during his or her temporary stay in Japan on the basis of an employment contract with a public or private organization in Japan.

(b) To a natural person of Viet Nam who has been qualified as a "Kaigofukushishi" by passing the national examination:

- (i) during his or her temporary stay under subparagraph 1(b) or 1(c); or
- (ii) after he or she was unable to be qualified as such during his or her temporary stay under subparagraph 1(b) or 1(c),

entry and temporary stay for a period of up to three (3) years, which may be extended, shall be granted, so that the natural person will engage as a "Kaigofukushishi" during his or her temporary stay in Japan on the basis of an employment contract with a public or private organization in Japan.

Note: To be granted entry and temporary stay under this paragraph, a natural person of Viet Nam who falls under subparagraph (a)(i) or (b)(i) above and has left Japan without obtaining re-entry permit, or who falls under subparagraph (a)(ii) or (b)(ii) above, shall, upon the entry into Japan:

- (a) have undergone the recruitment process undertaken by the Vietnamese coordinating organization provided for in subparagraph 11(b)(i); and
- (b) have entered into an employment contract with a public or private organization in Japan which is referred by the Japanese coordinating organization provided for in subparagraph 11(a)(i).

4. The hospital, the training, the public or private organization in Japan and the employment contract referred to in subparagraph 1(a)(ii), the caregiving facility, the training, the public or private organization in Japan and the employment contract referred to in subparagraph 1(b)(ii), the training facility, the training and the public or private organization in Japan referred to in subparagraph 1(c)(ii) as well as the public or private organization in Japan and the employment contract referred to in paragraph 3 shall satisfy the conditions notified by the Government of Japan to the Government of Viet Nam.

5. Upon the entry into Japan of the natural persons of Viet Nam to whom entry and temporary stay shall be granted in accordance with paragraph 1 or 3, the Government of Viet Nam shall notify in writing, through the diplomatic channel, the Government of Japan of such natural persons of Viet Nam, the names and addresses of the public or private organizations in Japan referred to in subparagraph 1(a)(ii), 1(b)(ii), 3(a) or 3(b) or of the training facilities referred to in subparagraph 1(c)(ii) as well as other necessary information required by the Government of Japan.

II Entry and Temporary Stay of the Natural Persons of Japan Who Engage in Supplying Services as Nurses or Certified Careworkers or Related Activities in Viet Nam

6. Entry and temporary stay for a period of one (1) year, which, where necessary, may be extended once (one (1) time) for the same period, shall be granted to a natural person of Japan who satisfies the requirements set out in Annex 2 and who will engage during his or her temporary stay in Viet Nam in activities acquiring necessary knowledge and skills through the training under the supervision of a certified nurse under the laws and regulations of Viet Nam at a hospital in Viet Nam which is referred by the Vietnamese coordinating organization provided for in subparagraph 11(b) (ii) for the purposes of obtaining a certification as a nurse under the laws and regulations of Viet Nam, provided that such activities are conducted on the basis of an employment contract, under the laws and regulations of Viet Nam, with the hospital mentioned above.

7. To a natural person of Japan who has been certified as a nurse under the laws and regulations of Viet Nam during his or her temporary stay under paragraph 6, entry and temporary stay for a period of three (3) years, which may be extended, shall be granted, so that the natural person will engage as a nurse under the laws and regulations of Viet Nam during his or her temporary stay in Viet Nam on the basis of an employment contract, under the laws and regulations of Viet Nam, with a medical examination and treatment establishment in Viet Nam.

Note: To be granted entry and temporary stay under this paragraph, a natural person of Japan who falls under this paragraph and has left Viet Nam without obtaining re-entry permit, shall, upon the entry into Viet Nam:

- (a) have undergone the recruitment process undertaken by the Japanese coordinating organization provided for in subparagraph 11(a) (ii); and
- (b) have entered into an employment contract, under the laws and regulations of Viet Nam, with a medical examination and treatment establishment in Viet Nam which is referred by the Vietnamese coordinating organization provided for in subparagraph 11(b) (ii).

8. The hospital in Viet Nam, the training and the employment contract referred to in paragraph 6 as well as the medical examination and treatment establishment in Viet Nam and the employment contract referred to in paragraph 7 shall satisfy the conditions notified by the Government of Viet Nam to the Government of Japan.

9. Upon the entry into Viet Nam of the natural persons of Japan to whom entry and temporary stay shall be granted in accordance with paragraph 6 or 7, the Government of Japan shall notify in writing, through the diplomatic channel, the Government of Viet Nam of such natural persons of Japan, the names and addresses of the hospitals in Viet Nam referred to in paragraph 6 or of the medical examination and treatment establishments in Viet Nam referred to in paragraph 7 as well as other necessary information required by the Government of Viet Nam.

10. The Government of Viet Nam shall have consultations with the Government of Japan in case a qualification equivalent to "Kaigofukushishi" is established in Viet Nam.

### III General Provisions

11. (a) The Government of Japan shall notify to the Government of Viet Nam:

- (i) one (1) coordinating organization for accepting the natural persons of Viet Nam to whom entry into and temporary stay in Japan is granted pursuant to paragraph 1 or 3; and
- (ii) one (1) coordinating organization for sending the natural persons of Japan to whom entry into and temporary stay in Viet Nam is granted pursuant to paragraph 6 or 7.

Note: The Government of Japan may notify to the Government of Viet Nam a single organization both as the coordinating organization referred to in subparagraph (i) above and as the coordinating organization referred to in subparagraph (ii) above.

(b) The Government of Viet Nam shall notify to the Government of Japan:

- (i) one (1) coordinating organization for sending the natural persons of Viet Nam referred to in subparagraph (a) (i) above; and

- (ii) one (1) coordinating organization for accepting the natural persons of Japan referred to in subparagraph (a) (ii) above.

Note: The Government of Viet Nam may notify to the Government of Japan a single organization both as the coordinating organization referred to in subparagraph (i) above and as the coordinating organization referred to in subparagraph (ii) above.

- (c) The two Governments shall ensure that:

- (i) the Japanese coordinating organization referred to in subparagraph (a) (i) above and the Vietnamese coordinating organization referred to in subparagraph (b) (i) above enter into a contract with each other in regard to the referral by the said Japanese coordinating organization to the natural person of Viet Nam referred to in subparagraph (a) (i) above of the public or private organization in Japan referred to in subparagraph 1(a) (ii), 1(b) (ii), 1(c) (ii), 3(a) or 3(b); and

- (ii) the Japanese coordinating organization referred to in subparagraph (a) (ii) above and the Vietnamese coordinating organization referred to in subparagraph (b) (ii) above enter into a contract with each other in regard to the referral by the said Vietnamese coordinating organization to the natural person of Japan referred to in subparagraph (a) (ii) above of the hospital in Viet Nam referred to in paragraph 6 or of the medical examination and treatment establishment in Viet Nam referred to in paragraph 7.

- (d) The Government of each Country shall ensure that the coordinating organization(s) of the Country referred to in subparagraph (a) or (b) above will conduct its or their respective activities in accordance with the requirements of the laws and regulations in force in the Country, such as the approval by the relevant governmental authority of the Country.

12. (a) The Government of a Country may decide the maximum number of natural persons of the other Country to whom entry into and temporary stay in the former Country is granted annually under the following provisions:
    - (i) in the case of the Government of Japan, paragraph 1; and
    - (ii) in the case of the Government of Viet Nam, paragraph 6.
  - (b) The Government of a Country may decide the maximum number of natural persons of the other Country who stay in the former Country based on the grant of entry and temporary stay under the present arrangements.
  - (c) The Government of a Country, in case of serious damage, or threat thereof, to the society or labor market of the Country, may make other decisions that it considers necessary in relation to the number referred to in subparagraph (a) or (b) above, including but not limited to, temporary suspension of implementation of its commitment under the present arrangements.
  - (d) The Government of a Country shall notify the Government of the other Country of any decision taken pursuant to subparagraph (a), (b) or (c) above, prior to the implementation of such decision. In the case of decision taken pursuant to subparagraph (c) above, the Government of the former Country shall endeavor to provide an interval of ninety (90) days between the time of such notification and the time when the decision mentioned above is implemented, and to enter into consultations, without delay after such notification, with the Government of the other Country with a view to reaching a prompt and mutually satisfactory resolution.
13. (a) The Government of a Country may require a natural person of the other Country seeking entry and temporary stay under the terms and conditions set out in the present arrangements to obtain an appropriate visa or its equivalent and, where necessary, to obtain a relevant work permit granted by the competent authority of the former Country and other necessary documents required by the Government of the former Country, prior to the entry.

- (b) The Government of a Country reserves the right to refuse entry and temporary stay of a natural person of the other Country who does not comply with the laws and regulations of the former Country related to movement of natural persons applicable to entry and temporary stay.

14. The two Governments shall cooperate and consult with each other for the implementation of the present arrangements. Such cooperation and consultation may be undertaken on the occasions of the meetings of the Sub-Committee on Movement of Natural Persons under JVEPA by mutual consent of the two Governments.

15. The two Governments shall undertake a general review five (5) years after the date on which the first natural person of Viet Nam enters Japan in accordance with the present arrangements and every five (5) years thereafter, with a view to addressing issues raised by either Government and improving the effectiveness of the implementation of the present arrangements.

16. The present arrangements may be amended by written agreement between the two Governments.

17. The present arrangements shall be implemented in accordance with the laws and regulations in force in each Country.

18. Annexes 1 and 2 are integral parts of the present arrangements.

19. For the purposes of the present arrangements:

- (a) the term "Country" means Japan or the Socialist Republic of Viet Nam; and
- (b) the term "natural person of a Country" means a natural person who resides in a Country or elsewhere and who under the law of the Country is a national of the Country.

I have further the honour to propose that this Note and Your Excellency's Note in reply confirming the foregoing arrangements on behalf of the Government of the Socialist Republic of Viet Nam shall constitute an agreement between the two Governments, which will enter into force on the sixtieth day after the date of Your Excellency's Note in reply and will remain in force until six (6) months after the date of the receipt of written notice of termination by either Government.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

Koichiro Gemba  
Minister for Foreign Affairs  
of Japan

Annex 1

(1) The natural person of Viet Nam to whom entry and temporary stay for the purposes of obtaining a qualification as a "Kangoshi" by passing the national examination shall be granted in accordance with subparagraph 1(a) shall:

- (a) be a qualified nurse registered under the laws and regulations of Viet Nam, having obtained a certificate of "General Nurse" (certificate of "Điều dưỡng" in Vietnamese) and having completed a three (3)-year or four (4)-year nursing program in Viet Nam;
- (b) have working experience as a "General Nurse" ("Điều dưỡng" in Vietnamese) for at least two (2) years (including practice duration experience of nine (9) months after completing the nursing program referred to in (a) above);
- (c) satisfy either of the following requirements with regard to the proficiency of the Japanese language:
  - (i) have obtained N1 or N2 of the Japanese Language Proficiency Test (hereinafter referred to as "JLPT"); or
  - (ii) have obtained N3 of JLPT and have completed the course of the Japanese language training which is managed by the Government of Viet Nam;

Note: This requirement will be reviewed, and modified if necessary, by the Government of Japan after consultation with the Government of Viet Nam five (5) years after the date on which the first natural person of Viet Nam enters Japan in accordance with the present arrangements.

- (d) have undergone the recruitment process undertaken by the Vietnamese coordinating organization provided for in subparagraph 1(b) (i); and
- (e) enter Japan on the date specified by the Government of Japan.

(2) The natural person of Viet Nam to whom entry and temporary stay for the purposes of obtaining a qualification as a "Kaigofukushishi" by passing the national examination shall be granted in accordance with subparagraph 1(b) or 1(c) shall:

- (a) have completed a three (3)-year or four (4)-year nursing program in Viet Nam;
- (b) satisfy either of the following requirements with regard to the proficiency of the Japanese language:
  - (i) have obtained N1 or N2 of JLPT; or
  - (ii) have obtained N3 of JLPT and have completed the course of the Japanese language training which is managed by the Government of Viet Nam;

Note: This requirement will be reviewed, and modified if necessary, by the Government of Japan after consultation with the Government of Viet Nam five (5) years after the date on which the first natural person of Viet Nam enters Japan in accordance with the present arrangements.

- (c) have undergone the recruitment process undertaken by the Vietnamese coordinating organization provided for in subparagraph 11(b)(i); and
- (d) enter Japan on the date specified by the Government of Japan.

Note: The Government of Japan will consider the possibility of granting entry and temporary stay to a natural person of Viet Nam who has completed a two (2)-year nursing program in Viet Nam, provided that the Government of Viet Nam would introduce an additional training course related to caregiving and that the Government of Japan would recognize that completing such an additional training course is equivalent to completing the normal training course which is required to take the national examination for the qualification as a "Kaigofukushishi" in Japan. The two Governments will continue to conduct discussion on this matter in the Sub-Committee on Movement of Natural Persons under JVEPA with a view to reaching early conclusion.

## Annex 2

The natural person of Japan to whom entry and temporary stay for the purposes of obtaining a certification as a nurse under the laws and regulations of Viet Nam shall be granted in accordance with paragraph 6 shall:

- (a) be a "Kangoshi" and have obtained a graduation diploma of a three (3)-year or four (4)-year intensive nursing course in Japan;
- (b) have working experience as a "Kangoshi" for at least two (2) years;
- (c) have obtained a certificate of the Vietnamese language proficiency issued by a medical training institution designated and recognized by the Minister of Health of Viet Nam, or have passed a Vietnamese language test equivalent to the Japanese language test referred to in (1)(c) of Annex 1;
- (d) have undergone the recruitment process undertaken by the Japanese coordinating organization provided for in subparagraph 11(a)(ii); and
- (e) enter Viet Nam on the date specified by the Government of Viet Nam.

(Vietnamese Note)

Hanoi, April 18, 2012

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note of April 17, 2012, which reads as follows:

“(Japanese Note)”

I have further the honour to confirm on behalf of the Government of the Socialist Republic of Viet Nam the foregoing arrangements and to agree that Your Excellency's Note and this Note in reply shall constitute an agreement between the two Governments, which will enter into force on the sixtieth day after the date of this Note in reply and will remain in force until six (6) months after the date of the receipt of written notice of termination by either Government.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

Vu Huy Hoang  
Minister of Industry and Trade of  
the Socialist Republic of Viet Nam

His Excellency  
Mr. Koichiro Gemba  
Minister for Foreign Affairs  
of Japan