

～国際研修 I～

2006年度 国際民商事法研修 報告

－非市場型コーポレート・ガバナンス－

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第1 国際民商事法研修の特徴

法務総合研究所国際協力部では、JICAの技術協力事業の多国間研修又は地域別研修として、1997年から毎年1回「国際民商事法研修」の実施に協力してきました。これは、アジア諸国から数名ずつの海外研修員を参加させ、英語で実施してきたものであり、2003年からはカンボジア、ラオス、ミャンマー及びベトナムのいわゆる CLMV 諸国から3名ずつ参加させる地域別研修として実施されています。

地域別研修の利点は、一定地域の国々の法律家を集め、相互の法制度・運用実態を比較検討させることにより、国別研修では気付きにくい自国の法制度の特徴や問題点を理解させやすいことです。

本研修が他の JICA 研修と異なる大きな特徴は、日本人の法律家が、財団法人国際民商事法センターの協力及び法務省独自予算により、「研修員」として参加している点です。

日本人研修員は、外国人研修員と5週間にわたり寝食を共にして協議を行うことにより、いつでも何でも気軽に質問できるいわばチューターとして外国人研修員が本研修の内容をより深く正確に理解することを助けてくれます。

また、日本人研修員側も、法曹三者及び民間企業の法務担当者が何の利害関係もなく一堂に会するというだけでも得難い機会である上、外国の法制度につき、外国人研修員から直接聞いて質疑・協議を行うことにより、法律の文面からは理解し難い独特の法解釈の仕方や思考様式に接し、我が国に居ながらにして異文化体験を味わうこととなります。

研修が終わるころには、日本と CLMV 諸国の各研修員との間に深い相互理解と友情が生まれているのが常であり、彼我の貴重な架け橋を築いてくれるのもうれしい成果であるといえましょう。

第2 2006年度国際民商事法研修の紹介

1 本研修のテーマを非市場型コーポレート・ガバナンスとした趣旨

近年、企業活動はますますグローバル化し、世界的に海外直接投資が拡大しつつあります。海外直接投資は、途上国にとって経済発展を遂げるために不可欠です。ASEAN 内

の後発開発途上国である CLMV 諸国も、外資誘致に努めています。

他方、外資側は、本社におけるコーポレート・ガバナンスが強化され、かつ、連結決算で子会社と会計上も一体化しつつある現在、途上国内に設置する子会社や合弁先においてもコーポレート・ガバナンスを度外視した企業運営をするわけにはいかないはずで、その意味で、開発途上国においても、外資誘致のためには、国際的投資基準に合う形でコーポレート・ガバナンスを構築する必要に迫られています。

ただし、ベトナム以外の CLM 諸国では、いまだ証券取引所が設置されていないことから、証券市場と関連しない場面におけるコーポレート・ガバナンス（非市場型）を中心に各国法制度を比較研究することとしました。

2 研修参加者

研修員名簿（別添 1）記載のとおり、本研修の外国人研修員は、CLMV 諸国の司法省・商業省等の職員、裁判官、弁護士等 12 名です。

日本人研修員は、裁判官、検事、弁護士、法務省民事局付（会社法立法担当者）、民間企業の法務部門の方の計 5 名です。

3 研修の目的

研修員らが、講義、見学、ファイナル・レポート作成過程における日本人研修員との密な協議等によって、コーポレート・ガバナンスに関して参照すべき外国法や国際ルールに関する知識を身につけ、経済効率的な会社法制度を構築し運用する能力を高めることを目的としました。

4 研修カリキュラムの概要

研修日程表（別添 2）記載のとおり、先進国と途上国とが共通に見直すべきコーポレート・ガバナンスの国際ルールとして、OECD コーポレート・ガバナンス原則の概要を紹介した上で、日本企業がベトナムに合弁企業を設立する場合を例に取り、合弁企業の設立・運営にまつわる会社の組織構成の在り方、監査、労務管理、税務、コンプライアンス体制の在り方、環境への配慮等、「非市場型」のコーポレート・ガバナンスに関する諸問題を講義・討議の形で採り上げました。

その上で、研修員らを上記各テーマごとに 6 グループに分けてファイナル・レポート（別添 3）を作成させ、最後に発表させました。その際、各研修員に「合弁元の日本企業の株主」、「合弁企業の債権者」、「労働組合の代表者」などの役割を振り当て、コメントさせることにより、ふだんの政府職員等の自己の立場と異なる視点で自国の法制度を見直すことにより、研修員の興味と理解を深めさせることとしました。

第 3 金沢セミナー

本研修のもう一つの特徴は、研修期間中の 2007 年 2 月 22 日に、石川県金沢市の北國新聞会館 20 階ホールにおいて、「第 11 回国際民商事法金沢セミナー」が日英同時通訳を使用して開催され、研修員がこれを聴講できることです（主催：石川国際民商事法

センター¹、北國新聞社。協力：法務省法務総合研究所，国際協力機構北陸支部，ジェトロ金沢貿易情報センター。後援：財団法人国際民商事法センター，テレビ金沢，エフエム石川，ラジオかなざわ・こまつ・ななお，金沢ケーブルテレビネット）。

今回のセミナーにおいては，新会社法が2006年に施行されたことから，「新会社法に関する諸問題」をテーマに，講演第1部として名古屋大学法学研究科教授の中東正文氏から，「よくわかる中小企業のための新会社法 33 問 33 答」（中小企業庁発行）に基づいて新会社法のポイントについて，第2部として法務省民事局付の細川充氏から「会社法の概要と組織再編行為」と題するパワーポイント資料に基づいて中小企業の視点による新会社法のポイント及び組織再編についてそれぞれ御講演を頂きました。

第4 本研修時の印象的な討議風景

1 株式譲渡絶対自由の原則（ベトナム会社法）

本研修では，CLMV 諸国の中で，外資誘致のための法的環境整備が最も進んでいるベトナムに日本企業がカメラ部品製造を業とする合弁会社を設立するという仮定の事例を想定し，研修員により具体的な共通イメージを持たせて議論をさせることにしました。

すると，たちまち，2005年ベトナム会社法の法解釈について日越の研修員の間に議論が沸騰し，日本人研修員にとっては，法文上からは想像しなかったベトナム会社法にカルチャー・ショックを受けることとなりました。

すなわち，仮定の合弁企業をベトナム会社法上の有限責任会社（38条）・株式会社（77条）のいずれにすべきか検討した際，当初，日本人研修員は，日本の感覚で株式会社にしようと提案しました。

しかし，日本人研修員の大澤加奈子弁護士が，「合弁契約書（サンプル）」に基づいていろいろ説明し始めた際，当然に，定款で株式の譲渡制限をかけるつもりで説明すると，ベトナム商工会議所法律顧問のチャンさんから，「ベトナム会社法では，株主は自己の株式を第三者に自由に譲渡する権利を有する（第77条1項d号）。定款で異なる定めは許されない。」との反論がありました。

ベトナム会社法22条「定款の内容」を見ますと，定款の絶対的記載事項，相対的記載事項，任意的記載事項を何ら区別せずに列挙してありますが，同条16項は「社員，株主が合意し，法律の規定に反しないその他の内容」とあるだけで，日本会社法29条のような定款自治は認められておらず，また，日本会社法のように定款で株式の譲渡制限を定めることを許す旨の規定がありません（107条1項1号，2号，108条1項4号）。

ベトナムの研修員によれば，「ベトナムでは法律はすべて強行規定であり，『任意規定』という概念はない」ので，株式譲渡自由の原則の例外は一切認められないとのことでした。旧ソ連の法学理論では，法律はすべて公法であり，私法は認められていません

¹ 石川国際民商事法センターは，1996年，北國新聞社が中心となり，石川県の企業・団体が集まって結成された団体であり，財団法人国際民商事法センターと連携し，毎年，本セミナー開催などのアジア諸国の民商事法整備支援に貢献する活動を行っておられます。

でしたから、公法は全て強行規定なので、市場経済化に伴う私法が立法されても、それが任意規定であるという概念が発達する余地はないのかもしれませんが。

結局、本研修における仮想合弁企業は有限責任会社にするほかなくなったのでした。

ベトナム人研修員から、「ある条文が強行規定か任意規定かが法文に明示されていないのであれば、日本では一体どう区別するのか」と質問された際、改めて、会社法が強行規定なのか任意規定なのかを考え直しました。私が学生時代に学習した商法の中には強行規定と任意規定が混在していたからです。一般的には、公法は強行規定、私法は任意規定であることが多いものの、法文に明記していないことが多く、法律及び当該規定の性質に基づいて考えなければならないというのは、CLMV 諸国の方々にはあいまいすぎて受け入れられないだろうと思われました。

日本会社法も、2006年の立法過程において、定款自治を拡大する一方、利用者に分かりやすい法制を目指し、基本的にすべての規定を強行規定とした上で、定款自治が認められるべき規律については、その旨が明らかになるように規定するという方策が採られています²。

また、我が国でも、1950年の商法大改正時には、株式譲渡の絶対自由の原則を定めていたのが、小規模同族会社であるのに「株式会社」化したがる会社が多いという実態に即して1966年に譲渡制限が認められるよう改正された経緯があり³、ベトナムの企業家が有限責任会社より株式会社という名称に固執する傾向がなければ何の問題もないのかもしれませんが。

自分の「常識」が揺さぶられるのがこの種の研修の醍醐味です。

2 CLV 諸国の担保取引法令

アジア開発銀行 (ADB) は、アジア諸国において、担保取引法 (Secured Transaction Law) の起草支援を実施し、ラオスでは契約履行担保に関する法律 (英訳は Secured Transaction Law 2005) を既に改正させ、カンボジアでは担保取引法案が国会審議中であり⁴、ベトナムでは担保取引登録法案 (Draft Law on Registration of Secured Transactions) が起草中です。

信州大学瀬々助教授の合弁会社の資金調達手段に関する御講義の中で、Securitisation (証券化) の説明の例として将来債権担保の話がされたとき、各研修員が余りにも理解不能な顔をして聞いていましたので、私が、カンボジアの商業省 (担保取引法案所管省) 職員である研修員3人に対し、「カンボジアの商業省が国会に提出中の担保取引法案はこういうものですよ。」と言うと、3人ともひどく驚いていました。全く理解していなかった様子でした。

ラオスでも、目に見える動産・不動産の担保すらまだまだ理解されにくいのに、2005年改正法には将来債権の担保規定が加えられているのですが、司法省職員の研修員はその法

² 相澤哲ほか「会社法制の現代化に伴う実質改正の概要と基本的な考え方」旬刊商事法務 No. 1737, 16 頁。

³ 河本一郎ほか共著「日本の会社法<新訂第6版>」商事法務 46 頁。

⁴ 研修終了後の2007年4月に国会で可決、成立。

改正の内容について全く知りませんでしたし、担保のシステムを聞いても理解が困難でした。

これらの担保取引法は、いずれも、米国統一商事法典（UCC）をモデルにしつつ、かなり簡略化した内容になっています。外資の投資環境整備のために有用なのかもしれませんが、相手国の役人がだれも知らず、理解しないまま法令だけが作られても、適切な運用がなされるとは思い難い一コマでした。

3 梶山喜訪問

梶山喜は、2006年にラオスに工場を設置した大阪市内に本店を置くシャツメーカーの会社（創業1953年）であり、珍しいと思いましたので、御訪問させていただきました。

同社がラオスに進出された動機は、タイ工場の人件費が上がってきたので、タイ語の通じる隣国ラオスの人件費がタイの3分の1と安いこと、ベトナムからラオスを通してタイに抜ける東西回廊が完成して輸出環境が整備されたこと、ラオスがいまだ最貧国であるためアメリカから最恵国待遇を受けていること（タイからアメリカに輸出すると関税が高い）などにあつたようです。

内陸国で投資環境がASEANの中でも最も悪いと思われているラオスにもこんなに良いところがあつたのだな、とラオス研修員らは驚いたり喜んだりしていました。

ただ、工場建設時の苦労話としては、道路と工場の建物との距離について、工業省と交通省の指示が異なっており、何度も設計変更をさせられたエピソードが披露され、途上国にありがちな問題として、ラオス以外の国の研修員らも他山の石という風情で聞いていました。

法制度は目に見えないものですから座学中心になりがちなのですが、身近な実例を見せていただき、研修員らには非常に良い刺激になりました。

また、訪問時の御説明で、シャツの縫製作業・検品作業のマニュアルや、工場の写真等を見せていただきましたが、その後、合弁企業における知的財産権をめぐる諸問題について立命館大学安藤教授から御講義を受けた際、知財権保護が重要である一方、工場見学で地域の住民や学生の理解を得ることも大切であるとして見せ方の留意点を説明されましたので、私から、研修員に対し、「山喜で見せていただいたマニュアル、妙にすかさず薄かったでしょう？」と、実は知財保護に留意した「見せ方の実例」も見学していたことを思い出してもらいました。

4 「コンプライアンス」は当たり前？

大江橋法律事務所の石川正先生から、合弁企業における「コンプライアンス」について御講義いただきました。

毎日、午前中の講師の講義の後、午後にCLMV諸国の研修員各1名にその日の講義テーマに関する短時間のプレゼンテーションをしてもらっていたのですが、研修員のプレゼンテーション・ペーパーを見ると、「コンプライアンス」という概念自体をだれも理解していないことが明らかでした。前日、翌日のプレゼン準備をしていたベトナム司法省のチランさんから、「法律は遵守しなければならないのは当然でしょう？ 当たり前のこと

で、法律に違反したら処罰されるか損害賠償の対象になるんだから、会社の中に『コンプライアンス・システム』が必要っていう意味が分からない。」と尋ねられました。

そのくらい分からない研修員に対し、石川先生は、多くの事例を挙げながら非常に具体的に御説明してくださいましたので、本研修の中でも最も研修員のアンケートで「分かりやすかった」と好評でした。

ベトナム・ラオスは現在も社会主義であり、カンボジアもヘン・サムリン政権時代にソ連やベトナムで法律を学んだ幹部も少なくなく、法律に関する発想はかなり社会主義的な（ベトナムによく似た）ところがまだまだあります。当部の元教官がインドシナ三国の法律家を評し、「法律を自動販売機のように思っている。条文を見れば答えは（一義的に）出てくると信じている」と言っていたとおりです。この感覚は彼らと直接話をしないと分かりにくいのですが、日本人研修員にこう説明するとすごく納得していました。したがって、海外の研修員には、会社の社員が、「自己の行動が何らかの法律に違反しているかないか判断し難く、だれかに報告・相談したいようなあいまいな状態」があり得るのが想像し難いようです。

担保取引法が分かっていないというのと矛盾していると思われませんか？

そうではありません。彼らは、法律がよく分からないのは自分が不勉強だからであって教えてもらえれば分かるはずであるか、又は、その法律が完ぺきではないので改正する必要があるかどうかだと考えているのです（割と簡単に改正しようとします。）。

そして、法律の解釈権限は社会主義圏では国会にしかないので、裁判官には「解釈」の余地はないものとされ、学者が注釈書を書くこともありませんでした。徐々に変わりつつあるものの、根元的なところで、会社におけるコンプライアンス体制構築の必要性を理解してもらうのは、かなり困難なのです。

これが端的に表れているのが、国家による損害賠償に関する考え方です。

近代司法の原則に過失責任の原則があります。無過失の行為には責任を負いません。公務員が職務行為により故意・過失によって国民に損害を与えた場合、国家は損害を賠償すべきであるというのは当然です。では、例えば、一審の裁判官が判決を書き、控訴されて控訴審で覆った場合、一審の裁判官に「過失」はあるのでしょうか？ベトナム人はあると考えています。これも、一審の裁判官が当該事件の解明に注力し、法律を正しく適用すれば「(神の目から見た) 真実のあるべき判決」は唯一であり、それに到達しなかったのはその裁判官の過失であるという考え方に基づいているようです。ベトナムでは現在国家賠償法案を起草中ですが⁵、上訴審判決が一審と異なるたびに賠償しては国の財政は破綻するでしょう。

こういう発想が根底にあると、公務員は自己の責任を回避するような行動を取りがち

5 JICA ベトナム法制度整備プロジェクトにおいて、当部から長期専門家として派遣されていた森永太郎検事（現東京地方検察庁検事）が、ベトナム司法省職員らに国家賠償法に関する基本的考え方について連続ワークショップを実施していました。しかし、この点は、何度様々に説明したり、質疑で相手方の矛盾を指摘したりしても十分には理解してもらえない様子が報告書から伺えました。

で、萎縮効果が強くなりすぎる恐れがあると懸念されます。例えば、裁判官が判決を書くのを怖がって当事者を無理に和解させようとする恐れも出てきかねません。

法令が相互に矛盾している場合も少なくなく、現実には余り遵守しているように思えない場合もあれば、妙なところできまじめだったり、外国人の思考パターンを理解するのは容易ではありません。

もし本当の日越合弁企業で企業内コンプライアンス体制の規定を定めた場合、その社員がどういう場合に責任を負うべきか、日本人とは異なる発想に直面する可能性も高いということです。

5 ファイナル・レポート

1人が2グループに入り、計6グループで同時並行的にレポート作成作業をしてもらいました。日本人研修員には、議論をリードしていただきましたが、レポート自体は必ず外国人研修員に作成させ、議論の過程から彼らに学習してもらうようお願いしておきました。

また、日越合弁企業を例に取りましたが、可能な範囲でCLMV諸国の比較検討作業を行ってもらいました。

最終の発表の場では、力作がそろったファイナル・レポートと、プレゼンテーション、活発な質疑応答と、担当教官みよりに尽きる思いでした。

興味深かったのは、ベトナム司法省のチランさんが、コンプライアンスに関するレポート発表担当者として発表した際、「ベトナムの企業は、今のままでは中国企業の進出に飲まれてしまう。しかし、ベトナムの企業が中国の企業に対し、真に競争力を付けるためには、コーポレート・ガバナンスを無視することの多い中国企業と差別化するため、ベトナムの企業がコーポレート・ガバナンスを高める必要がある」と発言したことでした。

石川先生が、講義の際に、「コンプライアンスは、企業が国際的競争の中で生き残るために必須であること」を様々な事例で説明してくれたことがいきていると感じましたし、また、アジア経済に占める中国の大きさ（私が訪問したことのあるインドシナ三国では漢字付き看板が多く、もうけているのは華僑系ばかりに見えました）をひしひしと感じました。

第5 本研修の評価

1 研修員による本研修への評価

各研修員に、最後に本研修に対するアンケートを実施し、更にそれを踏まえた評価会を行い、自由に意見を言ってもらいました。

例えば、本研修を自己の職務にどうかすかについて、ベトナム商業省のトゥ氏は、「商法及び関連法令起草担当者として、ベトナムの法制度に健全なコーポレート・ガバナンス原則を採り入れることが、投資家の信頼を築く基礎となることが理解できた」と研修の目的どおりの回答をしていました。

2 研修運営者からみた本研修の感想

(1) 私が国際民商事法研修にかかわるのは、これが4回目です。1回目は、1999年度第3回国際民商事法研修に研修員として参加し、2回目・3回目は2001年・2002年度に当部教官として運営を担当しました。

4回目の今回、私が最も驚かされたのは、ベトナムの成長振りで、1999年当時は、CLMV 諸国とモンゴル・中国から研修員が参加していたのですが、皆余り差は感じませんでした。皆が基礎的なことが分かっておらず、私には不可思議な質問をしていたのです。ところが、今回は、明らかにベトナムが突出していました。

まず、法律自体の整備が進んでいました。

次に、参考文献が充実していました。それだけ、ベトナムに投資しようという企業が増え、需要があるということでしょう。

さらに、研修員の質が明らかに高かったのです。事前に提出するレポート、毎日のプレゼンテーション、起案能力、英語表現能力、質問の頻度と内容の全てにおいて、他を圧倒していたといっても過言ではありません。

わずか3人の研修員だけでその国を測るのは適切ではないかもしれませんが、まだ2001年ころは、ベトナムは派遣する研修員の推薦でもコネが優先して本当に優秀な人が来ないなどの問題もあったのですが、今回は違っていました。そういう面でも変化を感じましたし、他の国との差もありました。

地域別研修は、当該地域の比較研究ができるという利点があるものの、それには、当該地域の研修員のレベルに同質性があることを前提にしており、そろそろこの国際民商事法研修もその役目を終えつつあることを実感したのです。

(2) 省庁の立法担当者や法曹実務家は、どこの国でも自ら経済活動を行うことはまれであり、業務の性質上保守的で頭の切り替えも遅いのが普通です。市場経済化に伴い新規な経済活動に必要な法律概念が次々に入ってくるのを消化するのは一苦勞でしょう。民商事法に関する法整備は、経済実態の発展が伴ってこそその国の法律家にとっても現実味のあるものになります。物的なインフラに加え、法律と経済政策というソフトウェアが車の両輪となってその国の経済発展を支えるという実例を今のベトナムに見る思いがするとともに、他の3国の研修員らの熱心な参加振りを見ながら、周辺国にも頑張ってもらいたいと感じました。

(3) 本研修では、各講師、見学受入先、通訳・翻訳、財団法人国際民商事法センター、石川国際民商事法センター、日本人研修員と彼らを送り出してくださった職場の方々など、実に多くの方々に御協力いただきました。改めてここに深く御礼申し上げます。

第6 別添資料一覧

- 1 研修員名簿
- 2 研修日程表
- 3 研修員作成のファイナル・レポート6通

2006年度国際民事法研修日程表

月 日	曜			備考
2 / 5	月	部長あいさつ 国際協力部長	オリエンテーション, 研修員自己紹介 国際協力部教官	導入ワークショップ(W.S), グループ分け 各グループ ビジネス・ プランの発 表
2 / 6	火	JETRO大阪事務所見学 JETRO大阪事務所	国際協力部教官 田中嘉寿子	講義 OECDコーポレート・ガバナンス原則について 於:法総研(大阪)2FICR
2 / 7	水	講義(合弁企業の設立) 大江橋法律事務所弁護士 金井美智子	国別発表	GWS①(ヴァーチャル合弁企業の設立・認可) 於:法総研(大阪)2FICR
2 / 8	木	講義(合弁企業の土地取得・登記に関する諸問題) 信州大学大学院法曹法務研究科助教授 瀬々敦子	国別発表	GWS②(ヴァーチャル合弁企業による工場用地取得・登記, 工場(商業店舗でも可)設置計画の作成) 於:法総研(大阪)2FICR
2 / 9	金	講義(合弁企業の資金調達上の諸問題) 信州大学大学院法曹法務研究科助教授 瀬々敦子 於:2FICR	見学とブリーフィング(ラオスにシャツ工場を設置した経験から)	山喜(株)
2 / 10	土	休み		
2 / 11	日	休み(建国記念の日)		
2 / 12	月	休み		
2 / 13	火	講義(合弁企業の取締役の権限と義務, 取締役会に関する諸問題) 大阪大学大学院高等司法研究科教授・弁護士 末永敏和	国別発表	GWS③(ヴァーチャル合弁企業の取締役の権限・義務及び取締役会規程の作成) 於:法総研(大阪)2FICR
2 / 14	水	講義(アジアにおける合弁企業の海外合弁事業におけるコーポレート・ガバナンス) 新日本製鐵(株) 長谷川顕史(研修員発表) 於:2FICR	見学(大阪企業家ミュージアム等)	
2 / 15	木	講義(合弁企業の監査役に関する諸問題) 関西学院大学商学部助教授 木本圭一	国別発表	GWS④(ヴァーチャル合弁企業の監査役の権限・義務及び監査役会規程の作成) 於:法総研(大阪)2FICR
2 / 16	金	講義(合弁企業の労働者の雇用と労務管理に関する諸問題) 神戸大学大学院国際協力研究科教授 香川孝三	国別発表	GWS⑤(ヴァーチャル合弁企業の労働者の雇用契約書と労務管理に関する諸規則の作成) 於:法総研(大阪)2FICR
2 / 17	土	休み		
2 / 18	日	休み		
2 / 19	月	10:00~11:00 グループディスカッション (GD) 新潟大学大学院実務法学研究科教授 駒宮史博		於:法総研(大阪)2FICR
2 / 20	火	講義(合弁企業のコンプライアンスと職務倫理に関する諸問題) 大江橋法律事務所弁護士 石川正	国別発表	GWS⑥(ヴァーチャル合弁企業のコンプライアンス体制の設定と社員の職務倫理規定の作成) 於:法総研(大阪)2FICR
2 / 21	水	グループ・ワーク:ファイナル・レポートのための論点整理 於:JICA大阪国際センター(OSIC) 会議室1	金沢へ移動	
2 / 22	木	金沢セミナー(石川国際民事法センター/北国新聞社主催, 法総研/ICCLC後援) 新会社法に関する諸問題 法務省民事局付 細川充, 名古屋大学大学院法学研究科教授 中東正文		
2 / 23	金	東京へ移動	15:00ころ～ 法務大臣表敬 事務次官表敬 法総研所長表敬	
2 / 24	土	休み		
2 / 25	日	休み		

月 日	曜			備考
2 /月 26		講義(外国公務員への贈賄罪等の不正競争防止法違反について) 法務省刑事課局付 大原義宏	於:法総研(東京)第三教室	グループ別ディス カッション
2 /火 27		講義(日本の新会社法におけるコーポレート・ガバナンスについて) 法務省民事局付 細川 充	於:JICA東京国際センターSR4	グループ別ディス カッション
2 /水 28		ファイナル・レポートのための論点整理と起案 於:JICA東京国際センターSR11	大阪へ移動	
3 /木 1		ケース・メソッド①(ヴァーチャル合併企業の知的財産問題) 立命館大学経営学部教授 安藤哲生	国別発表	GWS⑦(ヴァーチャル合併企業の知財関連諸規則 の作成) 於:法総研(大阪)2FICR
3 /金 2		ケース・メソッド②(ヴァーチャル合併企業の環境問題) (株)NEC環境推進部統括マネージャー 三島通世	国別発表	GWS⑧(ヴァーチャル合併企業の環境対策に関する 諸規則の作成) 於:法総研(大阪)2FICR
3 /土 3		休み		
3 /日 4		休み		
3 /月 5		ファイナルレポート作成, 発表準備		脚注2参照 於:JICA大阪国際センターSR15&16
3 /火 6		ファイナルレポート作成, 発表準備		於:JICA大阪国際センターSR15&16
3 /水 7		ファイナルレポート作成, 発表, 講評準備		於:JICA大阪国際センターSR15&16
3 /木 8		ファイナルレポート発表①	ファイナルレポート発表②	全体講評 於:法総研(大阪)2FICR
3 /金 9		レポート修正	評価会(14:00~) 於:JICA大阪国際センターSR14	閉講式(15:00~) 於:JICA大阪国際センターSR13

注1:「講義」・「GWS(グループ別ワークショップ)」の内訳 ①午前:講師(学者, 弁護士, 企業実務家)の講義, ②午後2-3時:各国研修員(1人3回ずつ)が, 当日のテーマに関し, 自国の法制度・実情等につき, 10分間ずつ発表する。③午後3-5時30分:グループ別作業で, 当日のテーマに関するヴァーチャル企業の内規・ビジネスプランを作成する。講師は, チューターとしてGWSを指導する。

注2:ファイナル・レポート発表の内訳 ①各グループの持ち時間は2時間30分。その中で, 「対投資家向け」, 「対(設立する国の)政府向け」の2つの発表を計1時間行う。②発表者でないグループは, 「合併元の日本企業の株主」, 「投資家」, 「政府役人」, 「労働者」, 「環境/人権NGO」等所定の役割を割り振り, それぞれの役柄に応じて質問・コメントを行う(約1時間)。③最後に自由討論を行う(約30分)。④最後に当部部长・ゲストから全体講評を行う。

January 29th 2007 – March 10th 2007

グループ1 ファイナル・レポート

Settlement of Joint Venture

March 8, 2007

Presented by Group 1

Members

Ms. Tith Makthou(Cambodia)

Mr. Somphieng Keoviseth(Laos)

Ms. Kanako Osawa (Japan)

Ms. Nwe Nwe Yee (Myanmar)

Ms. Nguyen Chi Lan (Vietnam)

I Regulations for Investment in Vietnam and other countries

In order to establish a joint venture (“JV”) in Vietnam, foreign investors must consider not only the corporation law in Vietnam but also laws regarding investment; therefore below is the general reference that investors have to consider.

a. Vietnam- Source of Law

(1) Law on Investment (“LI”)

1. Art.21 & Art. 22 of LI allow foreign investors to establish joint venture economic reorganizations between domestic and foreign investors.

2. Decree 108- implementation of the LI

(2) Law on Enterprise (“LE”)

b. Laos- Source of Law

(1) Law on the Promotion of Foreign Investment

(2) Decree on Special economic zone

This law is regarding the foreign and domestic investment at the specified zone, where investors may obtain tax and other benefit.

(3) Law on Enterprise Law

c. Cambodia- Source of Law

(1) Law on Investment

(2) Law on commercial enterprise (applies to both domestic and foreign person)

d. Myanmar- Source of Law

(1) Union of Myanmar Foreign investment Law, Procedure:

(2) Myanmar Companies Act/ Procedure for company registration

(3) Special Companies Act

This act is for the JV.

II Form of the company

a. Comparison of LLC with Joint stock company

(1) Based on our assumption, Limited Liability Company should be established so that we address the procedure to formulate the LLC in this paragraph; however, before discussing procedure matters in details, advantages and disadvantages in LLC and Joint stock company would be useful.

(2) Comparison of LLC with Joint Stock Company

	Advantage	Disadvantage
LLC	- Flexibility in designing the internal structure (if members of LLC is below 11, no auditors are required) - Hard to transfer the shares so that members may control the company easily	- May not issue shares - May not use the variety of shares- preferred stork etc.
Joint stock company	- Suitable for many shareholders - May issue shares	- May not restrict the transfer of shares, generally

(3) Formation of Joint venture in other countries

1. In Laos, "Public company" needs 9 members at least; therefore it would not be suitable for our assumption, on the other hand, "Limited company" requires at least two members.(See Art. 104 & 105 of Enterprise Law) . But the problem is, members may transfer the shares between shareholders
2. In Myanmar, the law provides public limited company and private limited company as well. Private limited company is suitable for the

joint venture since the investors can set up the company with a few members and the transfer of the shares are restricted.

3. In Cambodia, “Public limited company” and “ private limited company” would be the possible legal forms; however Public limited company is not popular there, and it requires at least 7 shareholders, therefore, it doesn’t fit our assumption. Then, we should select private limited company.

b. Procedure for establishment of the LLC in Vietnam

(1) Overview for obtaining the investment certificate procedure

	Vietnam	Laos	Cambodia	Myanmar
1 st step	Entering into JV agreement	Submit an application & copy of the JV agreement to CMPI	Submit an application to the ministry of commerce	Draft contract (after the permission by the governmental agency, parties may enter into the final agreement)
2 nd step	①Capital \$20M or more LLC has to follow the evaluation procedure (Art.48 of LI applies, See below) ②Capital<\$20M LLC has to follow the registration procedure (Art. 46 of LI applies (See Below)	Evaluation by the committee or related organization if the business meets the negative list provided by CMPI	Evaluation by official registration department in ministry of commerce	Application & evaluation for the investment
3 rd Step	Obtaining investment certificate under Art. 50.1 of LI	Obtaining three certificates from the committee	Obtaining the certificate form the ministry of commerce	Application & evaluation for obtaining the business certificate
4 th Step				Registration procedure for the company

* In Vietnam, companies have to take business registration certificate to start its business; however, Art. 20 of LE and Art. 50.1 of LI provide that the investment certificate shall also be the business registration certificate. Therefore, the JV follow the procedure for obtaining the investment certificate only.

(2) Application documents for obtaining investment certificate in Vietnam (See Art. 45, 46 and 48 of LI)

	Amount of capital <\$ 20M: See Art. 46.2 (b)(c) & Art. 45.3	Amount of Capital \$20M or more : See Art.48
	<p>Registration¹</p> <ol style="list-style-type: none"> 1. Legal Status of the investor 2. Objectives, Sale and Location for implementation of the investment project 3. Invested Capital, project implementation schedule 4. Joint Venture contract or business cooperation contract and charter of the enterprise (if any) 5. Land use requirements and undertakings on environmental protection Proposal for investment incentives (if any) 6. Report on Financial ability² of the investor 	<p>Evaluation³</p> <ol style="list-style-type: none"> 1. Written request for issuance of an investment certificate 2. Document certifying the legal statutes of the investor 3. Report on financial ability of the investor 4. Economic-technical explanatory statement containing the items in relation to objectives and location of the investment, land use requirement⁴, investment scale, invested capital, project implementation, schedule, technological or environmental solutions 7. Joint venture agreement, charter of the JV (if any)
Duration in order to obtain the investment certificate	15 days from the receipt of the complete and valid registration	<p>① Can obtain evaluation report within 15 working days from the date of receipt of valid investment project file</p> <p>② Can obtain investment certificate within 20 working days from the receipt of the evaluation project</p>

III Contents of the Chartered documents

a. Art. 22 of Law on Enterprise (“LE”) provides the contents of the charter of the company. Since that article doesn’t require the members following the provision strictly, the member may freely add or skip some provisions to the extent that the law allows such discretion.

¹ Registration procedure means the agency reviews whether the documents are satisfied in view of formality.

² E.g. balance sheet of the company certified by the CPA, but it is still broad provision so that the officer of the agency has some discretion on this requirement

³ Evaluation procedure means the agency actually examine the contents of the prospective business and may refuse to issue the certificate in the case of finding this project is not suitable for the country, lack of capital ability or other substantial reasons.

⁴ Land use requirement means an applicant should show what scale is preferable for the business; therefore at the time of the application lease agreement is not required.

b. Contents of the Chartered document that the LE provides

(1) Name, Address, of the head office, branch, representative office.

(2) Lines of Business

(3) Charter Capital; method of increasing and reducing the charter capital

Art. 60 of LE provides increases and reduction of charter capital, which states that by resolution of the members' council, the company may increase and decrease the capital.

(4) Full names of the company owner or of members in case of LLC

(5) Share of capital contribution and its value of each member

1. Character of contribution

i. Cash

The founder may contribute cash by Dong, by US dollars (foreign currency); however, they have to convert to VND.

ii. In-kind contribution

Usually, when setting up the JV in Vietnam, Vietnamese party provides land use right, since it would be difficult for foreign investors to obtain it.

In addition that, technologies, Intellectual properties also can be a capital contribution but labor may not be a capital contribution since it might not be converted to cash.

2. Valuation of assets contributed as capital (see Art. 30 of LE)

At the time of the incorporation of the JV, the valuation has to be agreed by all members or founding shareholders. Assets contributed as capital during the course of operations, shall be valued on agreed basis between the JV and the person making the contribution or by a professional valuation organization.

However, if the person making the contribution does not agree the valuation, LE and LI don't provide the procedure for the dispute; therefore it would be preferable to stipulate how to calculate the amount of the in-kind contribution in the JV agreement or the Charter itself.

3. Liability of the member for contribution (See Art.39 of LE)

Art. 39.2 provides if one of the members fails to make a contribution in full, the unpaid amount shall be considered as a debt owed by that member to the company; such member must be liable for compensation for any damages arising from its failure to contribute capital in full and on time.

However, under that situation, it would be probable that such

member wouldn't pay anything any more and under our assumption, JV would work well based on the trust between members and such relationship would be lost already; therefore, in that situation, other members has to consider the say to force the member unpaid to get out the JV.

In this regard, Art. 39. 3 provides that if other members agree to contribute the unpaid amount in full, the member unpaid shall automatically cease to be a member of the company; however, if other members may not contribute in full, it would be possible the members would decrease the amount of capital itself to mach the actual amount of the contribution already paid in.

(6) Right and obligations of members (See Art. 41 and 42 of LE)

The Charter requires setting up the right and obligations of members and Art. 41.1(i) allows the company to set up other rights; therefore, members may add other rights suitable for the company. Followings are the major elements to be stipulated in the Charter.

1. Appointment of members of the members' council
2. Appointment of a director
3. Appointment of Inspector (if any)
4. Appointment of the chairman of the compliance committee
5. Setting up Operation structure
6. Obligation to contribute in full
7. Obligations to observe Members' Council's decisions

(7). Management and organizational structure (See Art. 46 and 47 of LE)

Followings are the major elements to be stipulated in the Charter.

1. Director
2. Inspector (if necessary)
3. Setting up compliance committees

(8) Legal representative (Art.46)

(9) Procedures for passing resolutions of the company; rules for resolution of internal disputes

1. Art 41.1(b) of LE the number of votes shall be in proportion to its share of capital contribution; therefore, members may not stipulate different voting ratio based on the negotiation among the members.
2. Art. 52.2 (a) of LE provides the approval ratio shall be at least 65%, therefore, under the Charter, members may increase the approval ratio, but may not decrease the ratio below 65%.

(10) Bases and method of calculating remuneration, wages, and bonuses of managers

Art. 58.1 of LE only provide the right of the company to pay remuneration; therefore, members should establish some formula how to calculate the amount of remuneration, wages and so on.

(11) Circumstances in which a member may require the company to redeem its share of capital contribution in LLC

Art. 43 of LE provides the procedure in what circumstance the members obtains the right of redemption and also that provision allows the company add the circumstances where the member may require the company to redeem its share of capital contribution in LLC.

Once a member obtains the right of redemption, Art. 43.2 provide the redemption procedure; however, to fix the price of the share would be a serious problem since LE only provides “ market price”, as the standard of the price, which would be hard to find because the LLC is not a listed company; therefore, the members have to stipulate the formula to fix the price of the share when redeemed.

(12) Rules for dividend distribution

1. The question is whether the allocation ratio to be distributed from the company can be different from that of the contribution ratio. Art. 41.1 (d) of LE provides the distribution of shares, which requires the profits in proportion to its share; therefore, the company has to follow the contribution ratio when distributing the dividend.
2. As for the frequency of the dividend distribution in a fiscal year, twice a year is the general trend in Vietnam

(13) Cases of dissolution procedures for dissolution and procedures for liquidation of the company (Art. 157 and 158)

Art. 157 and 158 provides the conditions of dissolution. In case of LLC, resolution would be decided by Members Council or the company owner. .

(14) Procedures for amendments of or additions to the charter of the company

Since the Charter is the general principle for the company, LLC may put our own procedure into the charter for amendment of the Charter, e.g. LLC may adopt higher ratio for approval of the amendment (75% or so

(15) Full names of the legal representative, of the company owner, or members

(16) Other matters as agreed by the members BUT MAY NOT INCONSISTENT WITH PROVISIONS OF THE LAW

1. Restriction of the transfer of the contribution

According to Art. 44 of LE, members of LLC shall have the right to assign a part of or all of its shares of capital contribution to other persons; however, the conditions of the assignment are provided as well.

According to the provision above, the other members has an first refusal right against the shares to be sold in proportion to their shares of capital contribution; therefore, the member who wants to sell his/ her share has to make an offer to the other members first; however, the problem is members may not agree with the price of the share to be sold. Since the law doesn't provide any procedure on this point directly, members should stipulate the formula how to calculate the price of the share when transferred.

* Restriction of the transfer of the share in joint stock company
According to Art. 77.1 (d) of LE provides share holders may freely assign their shares, generally.

IV JV agreement

a. Contents of JV contract

Art. 54 of Decree 108 requires the company stipulating following items at least.

1. Name and address
2. Form of the enterprise
3. Sector, Line and scope of business
4. Legal capital, capital contribution share of each party, method and schedule for charter capital contribution
5. Project implementation
6. Duration of operation of the project
7. Location where the project is to be implemented
8. Rights and obligations of the joint venture parties
9. Principles of financial management; principles of distribution of profits and dealing with loss during business
10. Procedures of amendment and termination of the contract, conditions for assignment, conditions for termination of operation and dissolution of the enterprise
11. Liability for breach of contract and method of dispute resolution

	1 st Step	2 nd step	3 rd step	4 th Step
Vietnam	Negotiation and/ or conciliation	Options ① Vietnamese Court ② Vietnamese Arbitration ③ Foreign Arbitration ④ Trade arbitration center ⑤ International arbitration ⑥ Arbitration body set up the parties		
Laos	Negotiation	Mediation held by CMPI	Options ① Court proceeding ② Economic Arbitration Organization (final and conclusive proceeding but not the compulsory proceeding so if parties don't agree to use this proceeding, parties have to move the court)	
Cambodia	Negotiation through consultation between Council for Development of Cambodia	Options ① Conciliation before the council; or ② Arbitration in or outside of Cambodia ③ Trial by the tribunal of the Kingdom of Cambodia		
Myanmar	Negotiation	Step by Step 1 st : Mediation by MIC (Myanmar's investment Commission), 2 nd : Mediation by TC (Trade Council), 3 rd Mediation by Higher authority (cabinet)	Arbitration	Court Proceeding

b. Function of the JV agreement- relationship between JV agreement and the Charter document.

On investors side, investors would like to fix as much as possible in the corporate structure before establishing LLC. Therefore, investors tend to think that parties should fix provisions which would be stipulated in the Charter document later (discussed in III above).

End

January 29th 2007 – March 10th 2007

グループ2 ファイナル・レポート

FINAL REPORT

LAND FOR A JOINT VENTURE

Group2

Im Koy (Cambodia)

Sysavong Vithasay (Laos)

Thwin Pa Pa (Myanmar)

Phan Hoang Tu (Vietnam)

Satoshi Machida (Japan)

Land for a Joint venture

I. General comparison

Based on the data provided by Laos, Cambodia, Myanmar participants, we would like to take some comparison among them in connection with land issue.

Table 1: Land Ownership

Cambodia	Laos	Myanmar	Vietnam
Foreign natural person or legal entity may not own land in the Kingdom of Cambodia but they can use the land in various forms, including concession (15 years and more), land use rights, lease of state land and sub lease	Valuable sources of the country, JV must rent a plot of land or a concession of developed land from the State, and land owner	Foreign organization and persons are not allowed to own land in Myanmar. However, land may be acquired on long renewable lease (up to 30 years) and extendible or individual case basis, generally every 10 years.	All land in Vietnam is belonged to the whole people of Vietnam. Foreign investors in Vietnam only can be a holder of certificate on land use right, not be a ownership of land in Vietnam

Table 2: Land registration

Cambodia	Laos	Myanmar	Vietnam
The investor shall complete all forms or formalities for registration with the cadastral office under the jurisdiction of which the immovable property is located	Application for land to managing office of the province, prefecture of special zone by sending through village administration and land managing team of district	A lease agreement approved by the Myanmar Investment Commission (MIC) or with a State-owned enterprise is not, per se, exempt from mandatory registration. All registerable interests in land is recorded in a Register. This Register is maintained at the Land Records Office of the district in which the land is situated.	3 cases: Site has been cleared or site does not require clearing Site has not yet been cleared Re-allocation or lease of land in high-tech zones and economic zones

II. Land for a JV in Da Nang, Vietnam

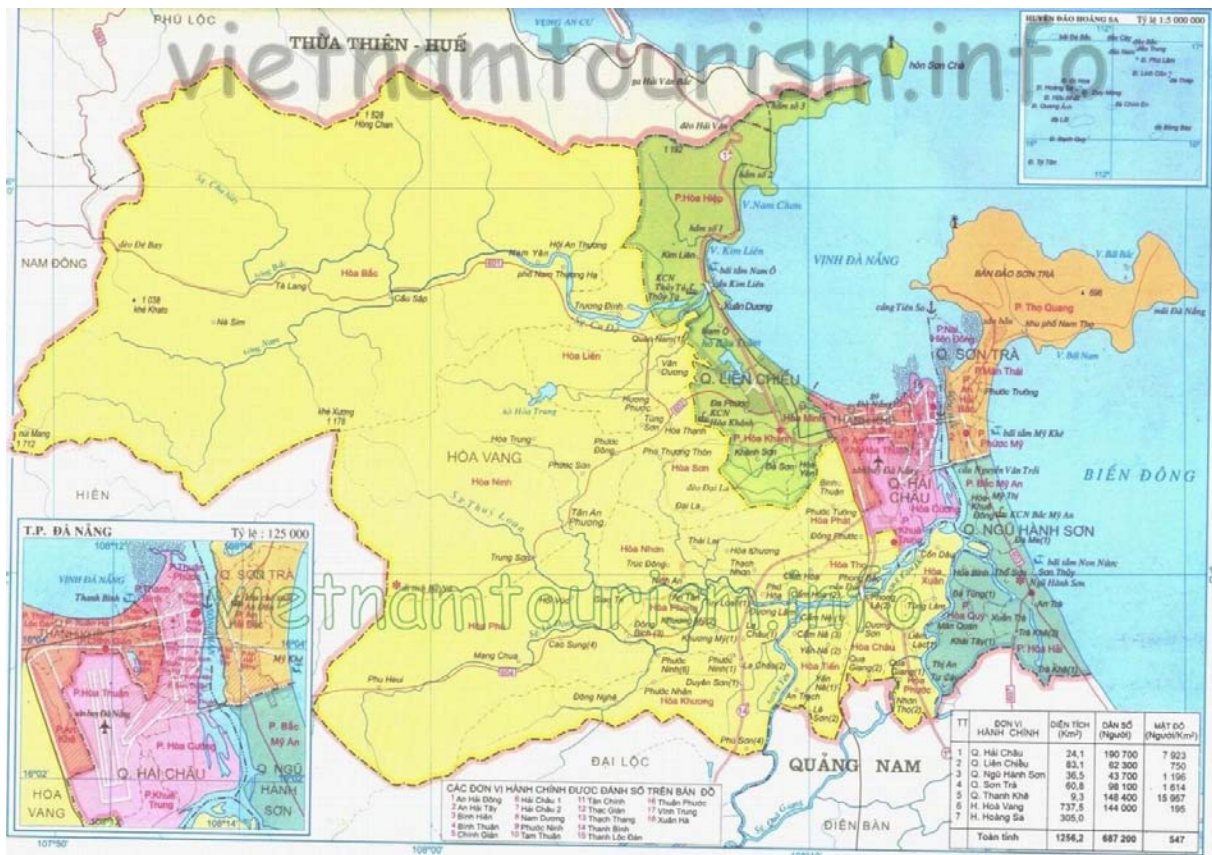
1. Da Nang overview

1.1 Strategic location:

Situated in the middle of the country, on the transport hub of the north - south highway, rail, sea and air routes, Danang is 764km south of Ha Noi and 964km north of Ho Chi Minh City. Danang is at the centre of three World Cultural Heritages, including Hue Citadel, Hoi An Old Town and My Son Sanctuary.



Danang is one of the main gateways to the sea of the Central Highlands of Vietnam, Laos, Cambodia, Thailand and Myanmar, and the Northeastern Asian region via the East-West Economic Corridor ending at the Tien Sa Seaport. Situated on the international sea and air routes, Danang has advantages to develop quickly and sustainably.



1.2 Completed Infrastructure:

Danang has a developed network of roads, railways, sea and air routes. The main roads are sealed. Danang train station is one of the biggest in Vietnam. Danang has shipping routes to most of the big domestic and international ports. Danang International Airport can handle B747, B767 and A320 aircrafts. There are 84 domestic flights, and 6 international ones to Hong Kong and Thailand, weekly. In the coming period, when the projects to upgrade seaports, railway stations, roads and the Danang International Airport are finished, Danang will have a completed infrastructure system. In addition, the city's water and electricity supply and communication system have been quickly developed and modernised, ranking third after Hanoi and Ho Chi Minh City.

1.3 Industrial Zones with preferential policies:

With five IZZ with good infrastructure and ready to hand over sites, Danang has many preferential policies that can satisfy every demand of investors. Compared with neighbouring localities, Danang IZs have an advantageous location, simple procedures and competitive land lease and services prices.

1.4 A large market:

With its population of nearly 800,000 and a relatively high living standard,

Danang is at the center of a large potential market for manufacturers and service suppliers. Advantageous transport facilitates goods transfer from Danang through central Vietnam and the Highlands, a new potential market. When the East-West Economic Corridor is completed in late 2005, the market will be expanded to Myanmar, Thailand and Laos, opening great opportunities for investors. From Danang, the starting point of the East-West Economic Corridor (EWEC), goods will easily access domestic and regional markets.

1.5 Abundant and qualified human resources:

With 6 universities and colleges, 13 junior colleges and technical secondary schools, and many vocational and informatics and foreign language training centers, every year, tens of thousands of personnel are well trained. The city's human resources are the highest quality in central Vietnam and the Highlands. They have an industrial working style and are enthusiastic, hard working and highly responsible.

1.6 Preferential policies and one-door mechanism:

Danang has many preferential policies to attract investment. Investment licenses are granted to appraised projects in 10 days and registered projects in 5 days. All procedures are carried out at the Danang Investment Promotion Center. In addition, the city has issued many incentives regarding land lease, income tax and support for infrastructure investment. The city authorities are determined to carry out radical reforms in administrative procedures to create a favorable investment environment.

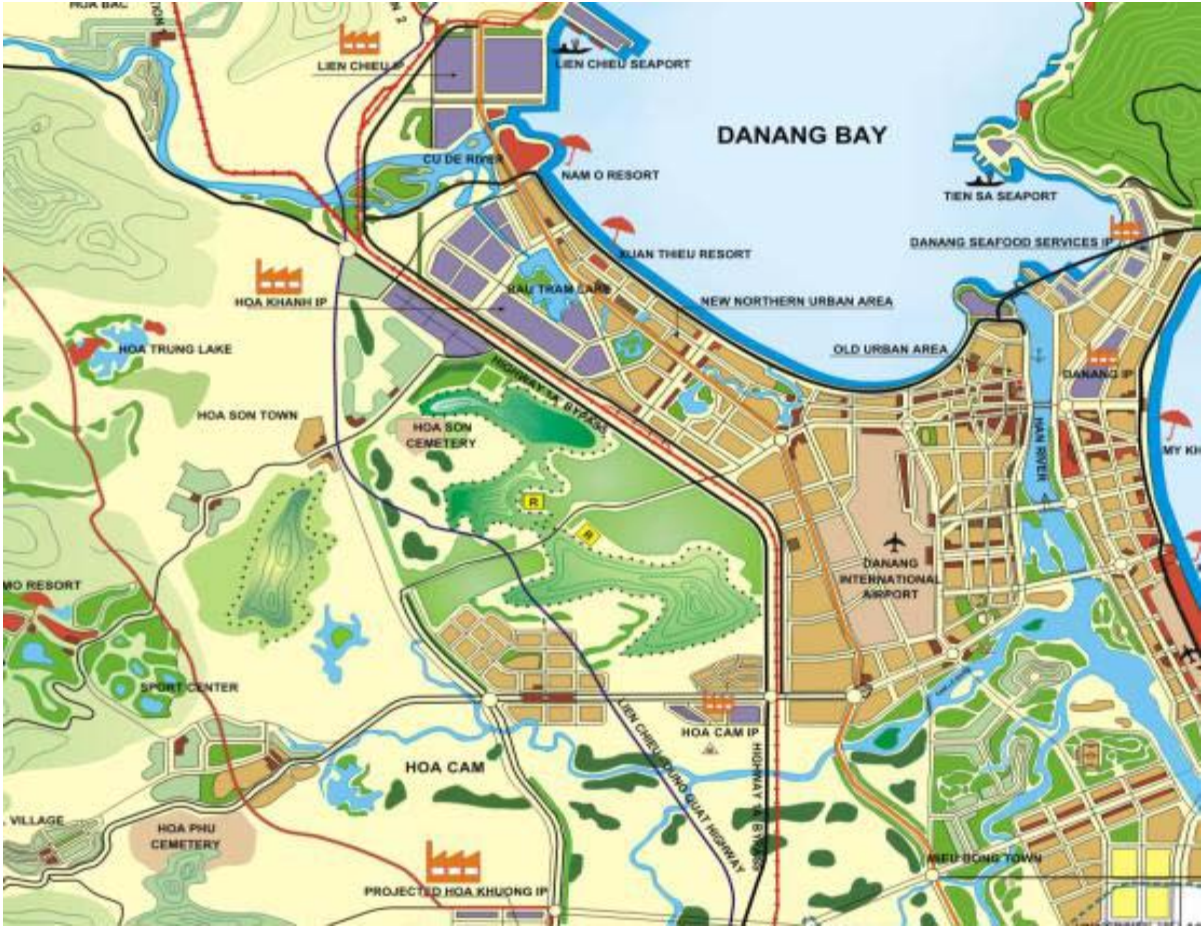
1.7 A developed financial and credit system:

There are 15 banks and loan companies in the city. They can meet enterprises' demand for short and medium-term capital. In addition, enterprises can make full use of long-term capital from ODA fund at low interest rates. Domestic and international payment is done quickly and conveniently. Other good services can help enterprises overcome difficulties in their business.

2. Da Nang industrial zones

In Danang there are **five** main industrial zones: Danang, Hoa Khanh, Lien Chieu, Hoa Cam and Danang Seafood Services zone with a total land area of more than 1,300 hectares. The infrastructure in the Danang industrial parks has been improved to provide basic conditions for local and foreign investors.

In addition, the city of Danang is now encouraging foreign investors to develop the infrastructure of a new industrial zone at Hoa Khuong commune with a land area of 300 hectares



3. Da nang industrial zone

We suppose that joint venture C will be located in Da Nang industrial zone (in Son Tra District)

3.1 General information

The Danang Industrial Zone is implemented by MASSDA Joint Venture Corporation (Malaysia) in 50 years of operation.

62.99 ha, 6 km south of Tien Sa seaport, 5 km east of Danang international airport, and 2 km from the center of Danang city.

- Leather shoes, handbags, other leather and imitation leather products (except for tanning)
- Manufacturing and assembling electronic, electrical devices

3.3 Land policy in Da Nang

According to Decision 92/2005/QĐ-UB of Da Nang People Committee dated 29 July 2005,

Article 3: Use of Land

1. The City authorities are responsible for organization of the site clearance and compensation and completion of land leasing procedures. Costs for the site clearance and compensation will be covered by the Danang People's Committee.
2. In case the land leased by the City authorities to implement investment projects is not used within the time limit of 12 (twelve) months or the use of such land is delayed over 24 months compared to the schedule anticipated in the investment application files from the date of land taking over without the approval of the City authorities, the Danang People's Committee will issue a decision to recover the land.

3. Land rental

3.1. Land rent applied to projects invested outside industrial zones:

3.1.1. Land areas belonging to Hai Chau and Thanh Khe districts: US\$4.8/m²/year.

For the investments in the fields of trade, tourism and services: US\$6.7/m²/year.

3.1.2. **Land areas belonging to the districts of Son Tra**, Ngu Hanh Son, Lien Chieu and the communes of Hoa Tho, Hoa Phat and Hoa Xuan of Hoa Vang district: **US\$0.7/m²/year.**

For the investments in the fields of trade, tourism and services: US\$1/m²/year.

3.1.3. Land used for seaside resorts from Hai Van Pass to the border of Quang Nam province: US\$0.6/m²/year.

3.1.4. Land areas belonging to the rest communes of Hoa Vang district excluding the mountainous communes: US\$0.18/m²/year.

3.1.5. Mountainous communes (consisting of the communes of Hoa Son, Hoa Phu, Hoa Bac and Hoa Ninh of Hoa Vang district): US\$0.02/m²/year.

The above-mentioned land rental rates are standard ones and shall be adjusted by K coefficient from 0.3 to 1.2 depending on specific investment locations.

For Ba Na Resort and some particular projects, the land rental for each project shall be considered and decided by the Danang People's Committee.

For projects invested outside IZs, if the investors make full payment for the entire land rent duration after signing the land leasing contract and land taking over, they will enjoy a 30% reduction of the total rental.

3.2. Land rent (including fees for development and maintenance of infrastructure) applied to projects invested in industrial zones under the management of the City:

Payment term	Price (US\$/m ² /year)
- Payment every 10 year	0.54
- Payment every 20 year	0.41
- Payment every 30 year	0.35
- Full payment for the entire land rent duration (over 40 years)	0.30

4. Time of exemption from and reduction of land rental

Projects invested in industrial zones under the management of the City and outside industrial zones shall be entitled to the exemption from and reduction of land rental stipulated at the Article 8 of the Decision No. 189/2000/QD-BTC dated 24 November 2000 of Ministry of Finance regulating the rental of land, water and sea surface applied to foreign direct investment forms.

Investors shall be also entitled to the exemption from land rent in the period of capital construction that should be mentioned specifically in the project application files and approved by the investment licence issuing bodies.

4. Re-allocation or lease of land

According to Article 128 Decree guiding implementation of Law on land No. 181-2004-ND-CP Dated 29 October 2004

- Article 128: Order and procedures for re-allocation or lease of land in high-tech zones and economic zones

1. An applicant shall submit a file in two sets, comprising:

(a) Application for re-allocation or lease of land;

(b) In the case of an organization, the investment project in accordance with the law on investment;

(c) In the case of a Vietnamese residing overseas, a foreign organization or a foreign individual, the investment decision or investment project in accordance with the law on investment.

2. Re-allocation or lease of land shall be regulated as follows:

(a) Within a time-limit of nine working days from the date of receipt of a file, the management committee of a high-tech zone or economic zone shall be responsible for consideration of it; where all conditions are satisfied, it shall make an extract of the cadastral map or an extract of the cadastral measurements of the area of land if there is no cadastral map; it shall issue a decision on re-allocation of land or sign a land lease contract; and it shall give notification to the land user to pay land use fees or land rent in accordance with law; and it shall send the decision on land re-allocation or the land lease contract together with the extract of the cadastral map or extract of the cadastral measurements to the natural resources and environment body under the people's committee authorized to issue certificates of land use right;

(b) Within a time-limit of five working days from the date of receipt of the decision on land re-allocation or land lease contract, the Department of Natural Resources and Environment shall be responsible for signing a certificate of land use right or the Division of Natural Resources and Environment shall be responsible for forwarding a submission to the people's committee at the same level to sign a certificate of land use right; and shall send the certificate of land use right to the management

committee of the high-tech zone or economic zone;

(c) Within a time-limit of three working days from the date on which the land user discharges its financial obligations, the management committee of the high-tech zone or economic zone shall be responsible for on-site hand-over of the land and delivery of the certificate of land use right.

PROCEDURES COMPANY C MUST EXERCISE TO USE LAND IN DA NANG INDUSTRIAL ZONE (IN SON TRA DISTRICT)

The Danang Industrial Zone is **implemented** by MASSDA Joint Venture Corporation (Malaysia) in 50 years of operation.

That means MASSDA Joint Venture now has the right to re-allocate or lease land.

NINE STEPS AS FOLLOWS:

1. Submit application for Land Reservation to MASSDA by representative of company C according to joint venture agreement (may be the director in draft charter of Join Venture Agreement)
2. Enter into Land Reservation Agreement with MASSDA (All land in Da Nang Industrial zone does not require clear, about 10% occupied). Submit deposit to MASSDA (Address: Son Tra District, Da Nang, Manager: Mr Lee Yai Sin).
3. Submit Application for investment Licence to Da Nang Industrial and Export Processing Zones Authority (DIEPZA, Address: 58 Nguyen Chi Thanh St., Thach Thang Ward, Hai Chau Dist, Danang City). In this application, investor raises their need for land re-allocation ;
4. DIEPZA reviews and issues Investment Licence to the investor;
5. Receive Investment Licence;
6. Enter into Sublease Agreement with MASSDA (after that, MASSDA and company C will come to DIEPZA to register land use right about cadastral location. DIEPZA will amend the master land use right certificate of MASSDA and grant land use right certificate to Company C);
7. Apply for Construction Permit to DIEPZA (if any) (for house, building, factory facilities and other immovable properties, Company C can rent from MASSDA or they construct themselves. If they construct themselves, they can register this building to DIEPZA to prove their ownership of this

bulding.);

8. Construct factory facilities;

9. Commence operations.

According to sub-paragraph 2.c of Article 128 Decree guiding implementation of Law on land No. 181-2004-ND-CP Dated 29 October 2004.

Within a time-limit of three working days from the date on which the land user discharges its financial obligations, the management committee of the high-tech zone or economic zone shall be responsible for on-site hand-over of the land and **delivery of the certificate of land use right**.

From the day company C has received the Certificate of Land use right, it can run the business and construct factory facilities.

Industrial zone, economic zone, special economic zone

Table 3 Target of Industrial zone, economic zone, special economic zone

Cambodia	Laos	Myanmar	Vietnam
To improve an investment climate conducive to the enhancement of productivity Competitiveness, national economic growth, export promotion, employment generation	Laos government`s policy is to promote and attract foreign investment in a special economic zone with a view adapting good management, administration of business with a new technology and international best practice in order to export products such as agro-forestry, processing industry, trade, services and others	To promote the industries	To attract investment and promote economic growth

Table 4 Quantity and location of IZs

Cambodia	Laos	Myanmar	Vietnam
<p>Government sub-degree No.73 of 05 October 1995 and sub-degree No. 02 of 05 January 1996 foresaw the creation of an industrial zone in Stung Hav-Sihanouk Ville, but the project remained to be implemented. Some other areas have been evaluated as potential sites for further export processing zone. A draft law on Industrial Zones had been approved by the council of Ministers in March 2003 and was currently under consideration by Parliament.</p>	<p>There is a plan to establish a primary industrial area in the Lao PDR in Vientiane capital in the vicinity of km-21, route 15, south as first site. A special economic zone has been established in central region of Lao PDR, at Seno, Savannakhet province.</p>	<p>In the early stage 18 local industrial zone across the country with a total of 9,574 industrial enterprises in operation. The Thilawa SEZ zone, about 25 kilometers south of Yangon and covers an area of 12.8 square-km, will become the first export concentration zone of its kind in Myanmar.</p>	<p>At least 61 industrial zones (increasing rapidly), locate mainly in Vung Tau, Binh Duong, HCMC, Hanoi</p>

January 29th 2007 – March 10th 2007

グループ3 ファイナル・レポート

FINAL REPORT

MEMBERS COUNCIL AND DIRECTOR

Group3

TUY Sarin (Cambodia)
TITH Makthou (Cambodia)
IM Koy (Cambodia)
Latsamy SYSAMOUTH (Laos)
Somphieng KEOVIETH (Laos)
THWIN PA PA (Myanmar)
NGUYEN Thi Thu Trang (Vietnam)
Mitsuru HOSOKAWA (Japan)

[Table]

MEMBERS' COUNCIL – DIRECTOR ISSUE IN THE VIRTUAL JOINT
VENTURE 4

EXPLANATORY NOTES

I. Basis of choices

- | | |
|-------------------|----|
| 1. Legal basis: | 10 |
| 2. Factual basis: | 11 |

II. Explanation to choices

(MEMBERS COUNCIL)

- | | |
|----------------------|----|
| 1. Number of members | 12 |
| 2. Chairman of MC | 12 |
| 3. Meeting | 12 |
| 4. Powers | 12 |
| 5. Meeting | 13 |

(DIRECTOR)

- | | |
|-------------------|----|
| 1. Status | 13 |
| 2. Powers | 13 |
| 3. Appointment | 14 |
| 4. Qualification | 14 |
| 5. Term of office | 14 |
| 6. Dismissal | 15 |
| 7. Remuneration | 15 |

Introduction

The present Report finalizes the discussions to design an appropriate structure of the two most important governing bodies in the virtual joint-venture: The Members' Council and the Director.

The virtual joint-venture is to set up in Vietnam, by two parties, a Japanese company and a Vietnamese company, each contributes 50% of the capital for the business in camera parts production.

According to the current Vietnamese laws and regulations, the joint-venture shall be in form of the Limited liability Company of two or more members. Accordingly, the corporate governance structure in the joint-venture has to comply with the concerned legal and regulatory provisions, including compulsory stipulations on the power, duties, rights of the Members' Council and Director and also on the other procedural matters.

Thus, the margin of choice is rather limited. In fact, almost all the choices, if any, are made upon the assumption that the small joint-venture needs simple structure, with clear division of powers and responsibility, which enables the parties to control effectively the business of the joint-venture. Consequently, all designed provisions tend to make the Members' Council, body comprising of representatives of both Parties, more powerful and effective as well as to limit to a certain extent the discretion of the Director.

The first part of the Report is edited in form of articles of the finalized Joint-venture Agreement and of the Articles of Incorporation dealing with Members' Council and Director. The second part of the Report provides explanations to the choices that have been made and converted into articles in the first part.

MEMBERS' COUNCIL – DIRECTOR ISSUE IN THE VIRTUAL JOINT VENTURE

ISSUE	JV AGREEMENT	ARTICLES OF INCORPORATION
MEMBERS COUNCIL		
Number of Member	The Members' Council shall be composed of 2 members, each acts as representative of the Japanese and Vietnamese Party respectively	<ol style="list-style-type: none"> 1. The Members' Council shall be composed of 2 members. Each Party to the JC shall appoint one representative to act as member of Members' Council 2. Each member of the Members' Council shall have 50% of the voting rights in every decision-making procedure of the Members' Council.
Chairman of Members' Council	<ol style="list-style-type: none"> (i) The member dispatched by Vietnamese Party shall act as Chairman of the Members' Council (ii) The Chairman shall have rights and duties as provided by the current laws and regulations 	<ol style="list-style-type: none"> 1. One member of the Members' Council shall be elected by the Members' Council as Chairman of the Members' Council; 2. The term of office of the Chairman of the Members' Council shall be 5 years 3. The Chairman of the Members' Council shall have the following rights and duties <ol style="list-style-type: none"> (i) Prepare and organize the preparation of working programs and plans of the Members' Council (ii) Prepare and organize the preparation of programs, agenda and documents for the meetings of the Members' Council or for collecting opinion of members; (iii) To convene and preside over meetings of the Members' Council or organize the collection of opinion of members according to the Members' Council Meeting program or on his own initiative or upon the request of the Director or of the Auditor; (iv) To supervise or to organize the supervision of the implementation of decisions of the Members' Council (v) To sign decision of the Members' Council on behalf of the Members' Council 4. In his/her absence, the Chairman of the Members' Council shall authorize the other member of the Members' Council to perform the rights and duties of the Chairman.

		<p>5. Remuneration: The Chairman shall receive monthly salary and annual bonus as decided by the Members' Council and be reimbursed of any cost incurred within his fulfilment of Chairman's task.</p>
<p>Powers of the Members' Council</p>	<p>The Members' Council shall have the powers as compulsorily imposed in the Article 47 of the Vietnam Enterprise Law 2005 except for the followings:</p> <ul style="list-style-type: none"> - The Members' Council shall make decisions on form of investment or investment projects value at more than 5% of the total value of assets recorded in the most recently publicized financial reports of the JV; - The Members' Council shall make decisions on solution for market development, marketing, technology transfer, approve loan agreement and contracts for sale of assets value at more than 5% of the total value of assets recorded in the most recently publicized financial reports of the JV <p><i>(It is important to note that the exact percentage in this provision shall be determined in full light of actual figure on production and capital of the JV as long as all contracts relating the day-to-day purchase of material and sell of products of the JV be excluded from the scope of decision of the MC but within that of the Director)</i></p>	<p>The Members' Council shall have the following powers:</p> <ol style="list-style-type: none"> 1. Make decisions on annual business plans and development strategies of the JV; 2. Make decision of the increase or reduction of the registered capital and on the timing and method of raising additional capital; 3. Make decisions on form of investment or investment projects value at more than 5% of the total value of assets recorded in the most recently publicized financial reports of the JV; 4. Make decisions on solution for market development, marketing, technology transfer, approve loan agreement and contracts for sale of assets value at more than 5% of the total value of assets recorded in the most recently publicized financial reports of the JV; 5. Elect, discharge the Chairman of the Members' Council; appoint, dismiss, sign or terminate labour contract with the Director and Chief Accountant; 6. Make decision on salary, bonus of the Chairman of the Members' Council 7. Approve annual Financial Reports, plans for use or distribution of profits or plans dealing with losses of the JV; 8. Make final decision on any violation/misconduct of the Director and of the Auditor 9. Make decision of the organizational and management structure of the JV; 10. Make decision on the establishment of subsidiary, branch, representative office; 11. Revise the Articles of Incorporation; 12. Make decision on the re-organization, dissolution or bankruptcy of the JV
<p>Meeting of the Members' Council</p>	<p>The Members' Council shall meet as provided for in the applicable laws and regulations except for the followings:</p> <ol style="list-style-type: none"> (i) At least once a quarter (ii) Ad hoc meetings whenever deemed 	<p>1. Frequency of Meetings</p> <p>The Members' Council shall meet at least once every quarter (hereafter mentioned as periodical meetings). It can meet on ad-hoc basis upon the request of one of its member of by the request of the Director or of the Auditors in cases as provided for in the present Articles of Incorporation (hereafter mentioned as ad-hoc meetings).</p>

	<p>necessary by any member of the Members' Council, or by the Director or by the Auditor;</p> <p>(iii) Meeting closing financial year shall be held no later than the end of the 2 month period following the closing time of the statutory financial year;</p> <p>(iv) Meetings are held in the headquarter of the JV, by any reliable means of communication</p> <p>(v) Documents for meetings shall be sent to members at least 14 days before the convening (except for auditing reports which shall be sent at least 5 working days before the convening);</p> <p>(vi) Quorum for meetings shall be 100% for 1st and 2nd convening and none for 3rd meeting</p> <p>(vii) Quorum for decisions/resolutions shall be consensus of attending members</p> <p>(viii) The Chairman decide the procedure for conducting and voting method</p>	<p>ad-hoc meetings).</p> <p>2. Time to convening Meeting closing financial year</p> <p>The Members' Council Meeting closing financial year shall be held no later than the end of the 2-month period following the closing time of the financial year as provided for in applicable laws and regulations.</p> <p>3. Lieu of Meeting</p> <p>All meetings of the Members' Council shall be held in the headquarter of the JV</p> <p>4. Means of Meeting</p> <p>The meetings of the Members' Council can be held by any means of communication as long as it enables the members to discuss and exercise their powers in full understanding and clarity.</p> <p>5. Convening, preparing and conducting the meeting</p> <p>The convening, preparing and conducting the meeting of the Members' Council shall follow the concerned stipulations of applicable laws and regulations except for the followings:</p> <p>(i) The invitation notice shall be made in reliable and recordable form;</p> <p>(ii) The documents for the discussion in the meeting shall be sent to the members of the Members' Council no later than 14 days before the convening of the meeting;</p> <p>(iii) Notwithstanding the above provision, the auditing reports prepared by the auditor and documents considered as urgent by the Chairman shall be sent no later than 5 working days before the convening of the meeting;</p> <p>(iv) The meetings shall be valid only if all members of the Members' Council be present (for the 1st and 2nd convening) or at least one member be present (for the 3rd convening);</p> <p>(v) The Chairman of the Members' Council shall decide the procedure for conducting and voting method for each meeting in accordance with the applicable laws and regulations, to be informed to all attending members before the beginning of the meeting;</p> <p>6. Decision or Resolution</p> <p>(i) All decisions or resolutions of the Members' Council shall be adopted if having received the consensus votes of all attending members.</p>
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		(ii) Other matters shall comply with the applicable laws and regulations.
DIRECTOR		
Status	The Director shall be the legal representative of the JV	1. The Director shall be the legal representative of the JV
Powers	<p>The Director of the JV shall have the powers as provided for in applicable laws and regulations and the followings:</p> <p>(i) Duty to ask the Auditor to stop violation/misconduct, if any, and inform the MC on the violation for its final decision or convene the MC Meeting if the violation is serious or if the Auditor refuse to stop the violation</p> <p>(ii) Duty to notify the members of any decision that the Director judges having important impact on the business of the JV and of any special/anomalous event</p> <p>(iii) Duty to participate and make report about business management in the periodical Meeting of MC;</p>	<p>The Director shall have the following rights and duties:</p> <ol style="list-style-type: none"> 1. Duty of care 2. Duty of loyalty 3. Organize the implementation of the decisions/resolutions of the Members' Council; 4. Make decisions on all matters except for those within the scope of powers of the Members' Council; 5. Organize the implementation of the business plan and investment plan of the JV; 6. Issue the regulations on internal management of the JV; 7. Decide number and function of management positions of the JV in accordance with the organizational structure determined by the Members' Council; Appoint, dismiss management personnel in the JV except for the Chief Accountant, Auditors; 8. Sign contracts in the name of the JV; 9. Make recommendation with respect to the organizational structure of the JV; 10. Submit the annual financial reports, business reports to the Members' Council; 11. Recommend the plan for use of profits or for dealing with losses of the JV; 12. Recruit employees; 13. Request the convening of the Members' Council Meeting in case deemed necessary; 14. Ask the Auditor to stop violation/misconduct, if any, and inform the MC on the violation for its final decision or convene the MC Meeting if the violation is serious or if the Auditor refuse to stop the violation;

		<p>15. Notify the members and the auditor of any decision that the Director judges having important impact on the business of the JV and of any special/anormalous event;</p> <p>16. Participate and make report about business management in the periodical Meeting of MC;</p> <p>17. Notify the Members' Council timely and completely of the enterprise where he/she and his/her related person is the owner or controlling shareholders.</p>
<p>Appointment and Dismissal</p>	<p>Appointment of the Director</p> <p>(i) Japanese party has the right to propose candidate to the Director position; Japanese party shall provide the Japanese party the necessary identification information about the candidate that it proposes (name, age, academic background, career, qualification, concurrent job...);</p> <p>(ii) In any case, each party has the veto power to the candidate proposed by the other party</p> <p>Dismissal of the Director</p> <ul style="list-style-type: none"> - No longer satisfying the qualification set - Not acting as Director in 3 consecutive months - Written resignation notice 	<p>1. The Director shall be appointed by the Members' Council</p> <p>2. The Director shall be dismissed in the following cases:</p> <p>(i) No longer satisfying the qualification set</p> <p>(ii) Not acting as Director in 3 consecutive months</p> <p>(iii) Written resignation notice</p>
<p>Qualification</p>	<p>The Director shall satisfy at the same time all following conditions:</p> <ul style="list-style-type: none"> - 21 years old or more - Having experience in camera business or in corporate management - Not being Director or in managerial position in any company operating in the same business line except for companies in the same corporate - group with Japanese or Vietnamese party 	<p>The Director shall satisfy at the same time all following conditions:</p> <ul style="list-style-type: none"> - 21 years old or more - Having experience in camera business or in corporate management - Not being Director or in managerial position in any company operating in the same business line except for companies in the same corporate - group with Japanese or Vietnamese party

	same business line	<p>The term of office of the Director shall be as follows:</p> <ol style="list-style-type: none"> 1. 1 year 2. No limitation on re-appointment 3. The appointment of the Director shall be done in the MC Meeting in which the annual financial reports are approved; the current Director shall continue his work and responsibility as Director until the appointment of new Director or until his reappointment 4. Replacement in case of vacancy: If the Director cannot continue his work for any reason or if he is dismissed, the Members' Council shall be convened to appoint a replacement who will continue the work until the end of term of the Director that he replaces
<p>Term of Office</p>	<ul style="list-style-type: none"> - 1 year - No limitation on re-appointment - The appointment of the Director shall be done in the MC Meeting in which the annual financial reports are approved; the current Director shall continue his work and responsibility as Director until the appointment of new Director or until his reappointment - Replacement in case of vacancy: If the Director cannot continue his work for any reason or if he is dismissed, the Members' Council shall be convened to appoint a replacement who will continue the work until the end of term of the Director that he replaces 	<p>The Director shall receive the following compensation:</p> <ol style="list-style-type: none"> (i) Monthly salary (fixed, decided by the Members' Council) (ii) Annual bonus (decided by the Members' Council at the end of Director's term, based on the results and efficiency of the Director's work) (iii) Contingent fee (decided in Members' Council, in form of a certain percentage of annual profit) <p>The Director can request to JV to pay (in advance or in form of refund/reimbursement) costs incurred during and (for the purpose to fulfil his tasks as provided for in the Articles of Incorporation and in the related laws and regulations</p>
<p>Remuneration</p>	<p>The Director shall receive the following compensation:</p> <ul style="list-style-type: none"> - Monthly salary (fixed, decided by the Members' Council) - Annual bonus (decided by the Members' Council at the end of Director's term, based on the results and efficiency of the Director's work) - Contingent fee (decided in Members' Council, in form of a certain percentage of annual profit) <p>The Director can request to JV to pay (in advance or in form of refund/reimbursement) costs incurred during and for the purpose to fulfil his tasks as provided for in the Articles of Incorporation and in the related laws and regulations</p>	<p>The Director shall receive the following compensation:</p> <ol style="list-style-type: none"> (i) Monthly salary (fixed, decided by the Members' Council) (ii) Annual bonus (decided by the Members' Council at the end of Director's term, based on the results and efficiency of the Director's work) (iii) Contingent fee (decided in Members' Council, in form of a certain percentage of annual profit) <p>The Director can request to JV to pay (in advance or in form of refund/reimbursement) costs incurred during and (for the purpose to fulfil his tasks as provided for in the Articles of Incorporation and in the related laws and regulations</p>

Part II

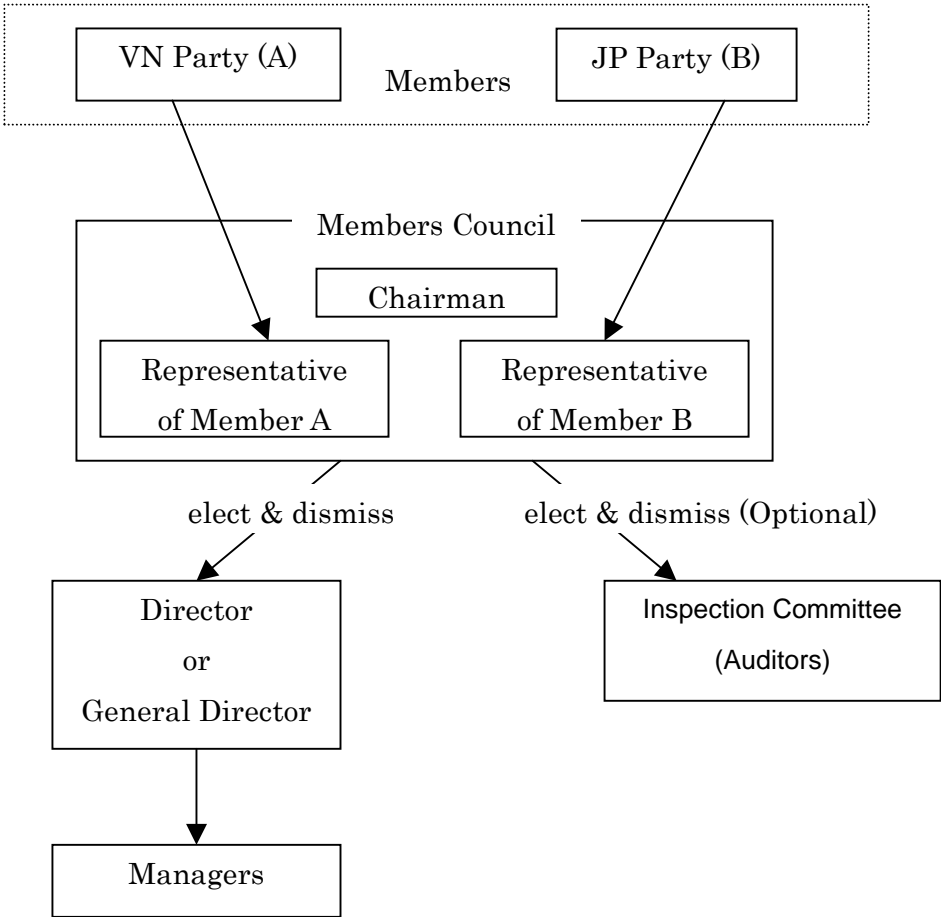
EXPLANATORY NOTES

I. Basis of choices

1. Legal basis:

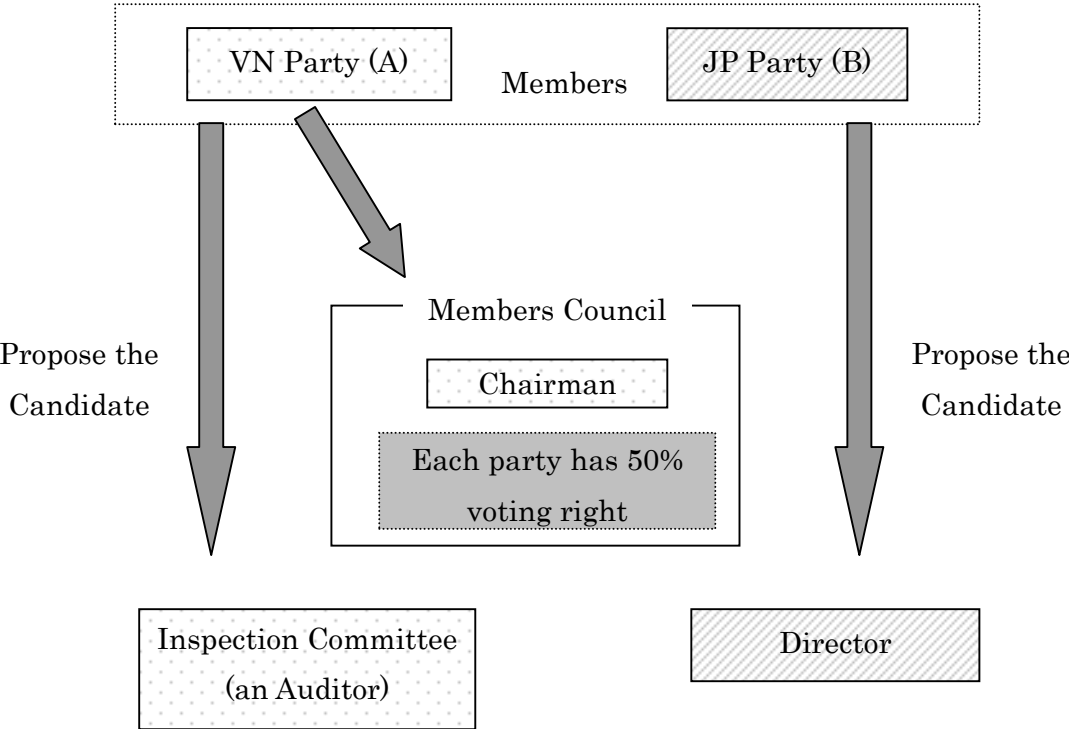
Vietnamese Enterprise Law

A lot compulsory provisions on Members' Council and Director in the LLC



2. Factual basis:

Estimated corporate governance structure in the JV



II. Explanation to choices

(as translated into JV Agreement and Articles of Incorporation in the Final Report)

MEMBERS COUNCIL

1. Number of members

- 2 members, each is dispatched as representative of each Party to the JV *(a small JV as ours needs to be simple in all managing bodies, including Members' Council)*
- Each member has a vote of 50% *(according to their contribution to the JV capital)*

2. Chairman of MC

- Appointment: The member dispatched by Vietnamese party shall be chosen as Chairman of the MC (JV Agreement) *(a kind of power balance between the Party: the Vietnamese party shall appoint the Chairman of Members' Council and the Auditor; the Japanese party shall appoint the Director)*
- Term of office: Five year *(in principal, for our JV, the Chairman term can be forever, 5 year is the limit imposed by the law)*

3. Meeting

- Periodical meeting: once every quarter, including one Meeting closing the financial year and 3 normal periodical meeting *(the MC should meet frequently enough to supervise the activities of the Director and of the JV as a whole);*
 - + In those periodical meetings, the Director shall report the MC with business management matters taking place during the precedent quarter *(so that the MC can exercise effective supervision over Director's activities and over the business as a whole);*
 - + Time to convene Meeting closing the financial year: No later than 2 months from the closing of the financial year *(the EL stipulates for a period of 4 months for JSC; for our case of simple JV, it seems that 2 month period is enough, both for the report-making and the report-auditing)*
- Ad hoc meeting whenever deemed necessary by any member of MC or by the Director or by the Auditor *(to enable the JV to act quickly and resolve any issue)*

4. Powers

- Article 47 EL (*a lot of compulsory rights and duties that the JV can do nothing but follow*)
- 47.2c: New investment or enlargement investment of at least 5% asset value shall be approved by the Members' Council (*it is desirable that the parties shall have final word on any investment of the JV*)
- 47.2d: Sale contract of at least 5% asset value shall be approved by the Members' Council (*the exact percentage should be considered carefully with due regard to the JV capital and the price of production to enable the Director decide on purchase of materials and product selling in the normal course of trade, while the Members' Council has right to approve any important question*)

5. Meeting

- Lieu: Head Office (*because the JV consents to electronic means of communication, the place of meeting become less important*)
- Means: Electronic communication (TV conference, Conference call...) possible (*to facilitate the works of Members' Council of which the members usually reside in different countries*)
- Invitation: written (*data message satisfying some conditions is considered as equivalent to the writing in Vietnam Electronic Transaction Law*)
- Time to send documents: 2 weeks before the convening of the Meeting for all kinds of documents except for auditing reports (5 days) unless otherwise agreed by all members of the MC (*it is estimated that 2-week period is need for the members to read, analyse and have opinion*)
- Quorum of meeting: 1st and 2nd convocation: 100% (*because the Council comprise of only 2 members, it is desirable that both members be present at the meeting*)
- Procedure of conducting and voting method: As decided by the Chairman of the MC (*this question is rather minor due to the simple structure of the Members' Council, so let the Chairman decides it*)
- Quorum for decision making: Article 52.2 (*compulsory provision*)

DIRECTOR

1. Status

- Legal representative of the JV (*It is a custom that the Director act as legal representative of the company; moreover, it wouldn't be very convenient for the Director, who has the right to decide day-to-day issues, including purchase and sale contract, to ask for the signature of other who is legal representative of the Company for everything he does*)

2. Powers

- Main idea: The power of the Director should be limited
(in order to escape from deadlock, only one party, the Japanese party, has the right to appoint the Director > there is a certain possibility that the Director shall act for the benefit of the party that appoint him > thus it is desirable to limit the power of this Director to a certain extent; moreover, it is estimated that the Council, representative of the Parties, should be vested with important powers as much as possible)
- Article 55 EL (*a lot of compulsory rights and duties that the JV can do nothing but follow*)
- Duty to ask the Auditor to stop violation/misconduct, if any, and inform the MC on the violation for its final decision or convene the MC Meeting if the violation is serious or if the Auditor refuse to stop the violation (*to ensure that the violation, if any, be stopped in time*)
- Duty to notify the members and auditor of any decision that the Director judges having important impact on the business of the JV and of any special/anormalous event (*it is better that the members and auditor know about important/anormalous events happening during the operation of the JV*)
- Duty to participate and make report about business management in the periodical Meeting of MC; duty to prepare and send annual report to the MC Meeting closing the financial year (*normal duty*)

Items to be mentioned in the Annual Business Report:

- (i) Overview of all business factors in the past year (production, employment, compliance, benefits...)
- (ii) Results of implementation of Business Plan and Strategy decided by the Council
- (iii) Explanation about the reasons, disadvantages and advantages in business

(iv) Suggestions for the business plan and revision to long-term strategy, if any

3. Appointment

- It is better that one member (the member who has technology and biz management experience) appoint the Director and the other member (local member) appoint the auditor.

Why it is desirable that the Director should be proposed by Japanese party:

- The director' main task is to run the business, to assure the efficiency of the JV > his experience and management knowledge and capacity is needed; it is presumed that the Japanese party has/know suitable personnel for this position (while Vietnamese people may not keen on those issues)
- The foreign director, if any, can always assisted by one or two Vietnamese assistant (in position of Assistant or Vice Director), and by interpreter and also by Vietnamese auditor
- It is fact that Vietnam is now trying to attract as much as possible the foreign investment, so a foreign director can have certain advantage than Vietnamese one in the relation with the competent authorities in some cases

Why it is desirable that the Auditor be appointed by Vietnamese party:

- Because the Vietnamese knows more about the legal system of Vietnam, he/she speaks Vietnamese (that would make his/her work easier)
- Because the Director is estimated to be Japanese/proposed by Japanese party

4. Qualification

- 21 years old
- Having experience in camera business or in corporate management
- Not being Director or in managerial position in any company operating in the same business line except for companies in the corporate-group of Japanese or Vietnamese party.

The qualification as set out here is a kind of guarantee for the Vietnamese party who has no right to appoint the Director

5. Term of office

- 1 year
- No limitation on re-appointment
- The appointment of the Director shall be done in the MC Meeting in which the annual financial reports are approved; the current Director shall continue his work and responsibility as Director until the appointment of new Director or until his reappointment
- Replacement in case of vacancy: If the auditor cannot continue his work for any reason or if he is dismissed, the MC shall be convened to appoint a replacement who will continue the work until the end of term of the Director that he replaces

6. Dismissal

The Director shall be dismissed in the following cases:

- No longer satisfying the qualification set
- Not acting as Director in 3 consecutive months
- Written resignation notice

Automatic dismissal is a kind of guarantee for the Vietnamese Party

7. Remuneration

The Director shall receive the following compensation:

- Monthly salary (fixed, decided by the MC)
- Annual bonus (decided by the MC at the end of Director's term, based on the results and efficiency of the Director's work)
- Contingent fee (decided in MC, in form of a certain percentage of annual profit)

The Director can request to JV to pay (in advance or in form of refund/reimbursement) costs incurred during and for the purpose to fulfil his tasks as provided for in the Articles of Incorporation and in the related laws and regulations

January 29th 2007 – March 10th 2007

グループ4 ファイナル・レポート

Final Report

(Auditing)

Group 4

Latsamy SYSAMOUTH (Laos)
NWE NWE YEE (Myanmar)
Mitsuru HOSOKAWA (Japan)
NGUYEN Thi Thu Trang (Vietnam)

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Introduction

The present Report finalizes the discussions to design an appropriate structure of the auditing system in the virtual joint-venture.

The virtual joint-venture is to set up in Vietnam, by two parties, a Japanese company and a Vietnamese company, each contributes 50% of the capital for the business in camera parts production.

According to the current Vietnamese laws and regulations, the joint-venture shall be in form of the Limited liability Company of two or more members. As the laws and regulations actually give the company a full freedom on this matter, the choice is up totally to the parties to the joint-venture.

Thus, the margin of choice is quite huge. In fact, the choices are made based on the provisions applied compulsorily to the auditing works of the Joint-stock company with the appropriate adjustments to the joint-venture, a small company with simple governing structure. Moreover, special attention is made to the harmonization among the governing bodies of the joint-venture: the Members' Council, the Director and the Auditor; and also to the effectiveness of the auditing works.

The first part of the Report is edited in form of articles of the finalized Joint-venture Agreement and of the Articles of Incorporation dealing with Auditor and auditing system. The second part of the Report provides explanations to the choices that have been made and converted into articles in the first part

AUDITING ISSUE IN THE VIRTUAL JOINT VENTURE

ISSUE	JV AGREEMENT	ARTICLES OF INCORPORATION
<p>Powers of Auditor</p>	<p>The JV shall have Statutory Auditor who will responsible for:</p> <p>(i) Auditing the performance of Director of his/her management task and duty of care and of loyalty as provided for in the Articles of Incorporation and in current applicable laws and regulations of Vietnam;</p> <p>(ii) Auditing the performance of the Chief Accountant of his/her accounting tasks and duty of care and of loyalty as provided for in the Articles of Incorporation and in current applicable laws and regulations of Vietnam;</p> <p>(iii) Auditing the compliance with the accounting procedure and principles as provided for in Articles of Incorporation and in current applicable laws and regulations of Vietnam;</p>	<p>The Auditor shall have the following powers:</p> <ol style="list-style-type: none"> 1. Supervise the Director and managers in the administration and management of the JV and in their execution of duty of care and duty of loyalty as provided for in the present Articles of Incorporation and related laws and regulations; 2. Supervise the Chief Accountant in the accounting works and in his/her execution of duty of care and duty of loyalty as provided for in the present Articles of Incorporation and related laws and regulations; make evaluation reports on those matters annually; 3. Supervise the accounting procedures (including arrangement of statistic, accounting work and preparation of financial documents) as provided for in Articles of Incorporation and in current applicable laws and regulations; 4. Auditing the reasonableness, truthfulness and diligence in management and operation of business activities in general; 5. Upon request of any Member of the JV or of the Members' Council, take inspection on any matter relating to the management and administration works of the Director, managers, Chief Accountant or any business activity; 6. Recommend the Members' Council changes and improvements, if any, to the organization, structure and management of the JV
<p>Duties of Auditor</p>	<p>The Auditor shall fulfil the following duties:</p> <p>(i) Duty of care and duty of loyalty</p> <p>(ii) Duty to make report on any auditing work taken and explanation thereto in</p>	<p>The Auditor shall exercise the following duties and bear responsibility before the Members' Council for any negligence or violation thereto:</p> <ol style="list-style-type: none"> 1. Duty of care 2. Duty of loyalty

	<p>the Meeting of Members' Council</p> <p>(iii) Duty to ask the related personnel to stop the violation/misconduct and inform the Members' Council for their final decision on the issue</p>	<ol style="list-style-type: none"> 3. Make annual report(s) on the performance of the Director and of the Chief Accountant; 4. Make annual reports on auditing work or ad-hoc report on the issue upon request of Members' Council; 5. Make report on inspection result; 6. Make evaluation report on reports on business, financial matters or other important matters to be submitted by the Director to the Members' Council Meeting; 7. Submit annual reports to the Members' Council Meeting closing the financial year; other reports to be submitted to the concerned requester and to the nearest Members' Council Meeting; 8. Request the Director and/or manager to stop the violation, if any, and inform the members of the Members' Council of any violation by the Director and/or managers of his/her duties and obligations as provided for in the Articles of Incorporation and in the current laws and regulations; convening the Members' Council Meeting in case of serious violation or in case where related personnel refuses to stop the violation as requested by the Auditor; 9. Pay the company for the damages caused to the JV due to violation/negligence of the auditor of his obligations and duties; benefits gained by the auditor as the result of violation to loyalty duty shall be returned JV.
<p>Rights of Auditor</p>	<p>In order to fulfill his powers and duties, the Auditor shall have the following rights:</p> <ol style="list-style-type: none"> (i) Request consultation/report/explanation from the Director, Chief Accountant and/or managers; (ii) Have access to information necessary for the auditing works, including books of account and other financial documents if necessary; (iii) Request assistance from a professional (inside or outside the JV), if necessary 	<p>The Auditors shall be entitled to the following rights and facilities:</p> <ol style="list-style-type: none"> 1. Request consultation/report/explanation from the Director, Chief Accountant and/or managers on any matter related to auditing works; 2. Have access to information necessary for the auditing works, including books of account and other financial documents if necessary; the concerned personnel of JV shall provide in full, accurately and on time all information and documents under his/her possession required by the auditor; 3. Request assistance from a professional (inside or outside the JV), if necessary, to improve the auditing function at the expense of the company; upon notice of this intention by the Auditor, the Director shall take necessary acts correspondently;

	<p>(iv) Receive the reports to be submitted to the Members' Council at the same time and in the same manner as the members of the Members' Council;</p> <p>(v) Receive the annual reports at least 30 days before the convening of the Members' Council Meeting closing the financial year;</p> <p>(vi) Deliberate on the appointment of auditor as well as his remuneration and bonus</p>	<p>4. Receive reports to be submitted to the Meeting of the Members' Council other than annual reports sent to the auditor at the same time and in the same manner as to the members of Members' Council by the Director;</p> <p>5. Request the convening of the Members' Council Meeting in case deemed necessary;</p> <p>6. Receive annual reports to be submitted to the Meeting of the Members' Council closing the financial year sent by the Director at least 30 days before the convening of the concerned Meeting</p> <p>7. Deliberate on the appointment of auditor as well as his remuneration and bonus</p>
<p>Working procedure</p>	<p>The Auditor shall follow the procedure as below described:</p> <p>Reports made by the auditors shall be sent to the members of the Members' Council at least 5 working days before the convening of the MC Meeting</p>	<p>The Auditor shall comply with the following procedure:</p> <ol style="list-style-type: none"> 1. Reports other than emergency ones made by the auditor shall be sent to the members of the Members' Council at least 5 working days before the convening of the MC Meeting; 2. Notwithstanding the above provision, emergency reports (made by the auditor upon ad-hoc demand of Members, Members' Council or upon the discovery of serious violation/misconduct of the Director, Chief Accountant and/or managers) can be submitted to the Members' Council at any time before its meeting. 3. Reports on inspection results shall be sent as soon as possible after the achievement of the inspection to the requester.
<p>Election, Dismissal, Term of office and Qualification</p>	<ol style="list-style-type: none"> 1. <u>Number of auditor.</u> The JV shall have a sole Auditor 2. <u>Appointment</u> <ol style="list-style-type: none"> (i) Vietnamese party has the right to propose candidate to the Auditor position. Vietnamese party shall provide Japanese party the necessary identification information about the candidate that it proposes (name, age, academic background, career, qualification, concurrent job...). 	<ol style="list-style-type: none"> 1. <u>Status of auditor</u> The JV shall have a sole, full-time Auditor who take charge of all prescribed powers and duties in the present Articles of Incorporation; 2. <u>The term of office</u> <ol style="list-style-type: none"> (i) A year ; (ii) No limitation on re-appointment (iii) Replacement in case of vacancy: If the auditor cannot continue his work for any reason, the MC shall be convened to appoint a replacement who will continue the auditing work until the end of term of the auditor that he replaces

	<p>(ii) In any case, each party has the veto power to the candidate proposed by the other party</p> <p>3. <u>Dismissal</u> The Auditor shall be dismissed in the following cases:</p> <ul style="list-style-type: none"> (i) No longer meet criterion to be auditor in the JV; (ii) Not exercising his/her duties and rights in 6 consecutive months, except for force majeure; (iii) Written resignation notice <p>The Auditor may be dismissed at any time by the Members' Council in accordance with Labour Law and regulations.</p> <p>Where the Auditor seriously breaches his/her duties, the Director shall convene Members' Council Meeting to consider the dismissal of the Auditor.</p> <p>4. <u>Term of office:</u> One year</p> <p>5. <u>Qualification</u></p> <ul style="list-style-type: none"> (i) Being at least 21 year-old, full civil capacity and not falling within the scope of subjects not permitted to establish and manage companies in accordance with the Enterprise Law 2005; (ii) Not being wife, husband, father/mother, adoptive father/mother, children, adoptive children, siblings of any member of Members' Council, the director or any manager (iii) Not holding managerial positions of the JV; not being employee of the JV; 	<p>3. <u>Appointment:</u></p> <ul style="list-style-type: none"> (i) The auditor shall be appointed by a Members' Council decision; (ii) The appointment of the auditor shall be done in the Members' Council Meeting closing the financial year; the current auditor shall continue his work and responsibility as auditor until the appointment of new auditor or until his reappointment <p>4. <u>Dismissal</u> The Auditor shall be dismissed in the following cases:</p> <ul style="list-style-type: none"> (iv) No longer meet criterion to be auditor in the JV; (v) Not exercising his/her duties and rights in 6 consecutive months, except for force majeure; (vi) Written resignation notice <p>The Auditor may be dismissed at any time by the Members' Council in accordance with Labour Law and regulations.</p> <p>Where the Auditor seriously breaches his/her duties, the Director shall convene Members' Council Meeting to consider the dismissal of the Auditor.</p> <p>5. <u>Qualification of Auditor</u> The auditor shall satisfy all the below-mentioned conditions:</p> <ul style="list-style-type: none"> (i) Being at least 21 year-old, full civil capacity and not falling within the scope of subjects not permitted to establish and manage companies in accordance with the Enterprise Law 2005; (ii) Not being wife, husband, father/mother, adoptive father/mother, children, adoptive children, siblings of any member of Members' Council, the director or any manager; (iii) Not holding managerial positions of the JV; not being employee of the JV; (iv) Graduated from law school; (v) Having at least 3 years of experience in auditing, legal or business domain
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	<p>(iv) Graduated from law school;</p> <p>(v) Having at least 3 years of experience in auditing, legal or business domain</p>	<p>1. Compensation</p> <p>The auditor shall receive the following compensation:</p> <p>(i) Fixed monthly salary, decided by the Members' Council upon the appointment of the auditor or upon the conclusion of the working contract between the JV and the auditor;</p> <p>(ii) Annually bonus, decided by the Members' Council at the end of auditor's term, based on the results and efficiency of the auditor's work.</p> <p>2. Reimbursement</p> <p>The auditor can request to JV to pay (in advance or in form of refund/reimbursement) costs incurred during and for the purpose to fulfill his tasks as provided for in the Articles of Incorporation and in the related laws and regulations.</p>
<p>Remuneration</p>	<p>The auditor shall receive the following compensation:</p> <p>(i) Monthly salary</p> <p>(ii) Annual bonus</p> <p>The auditor can request to JV to pay costs incurred during and for the purpose to fulfill his tasks</p>	

EXPLANATORY NOTES

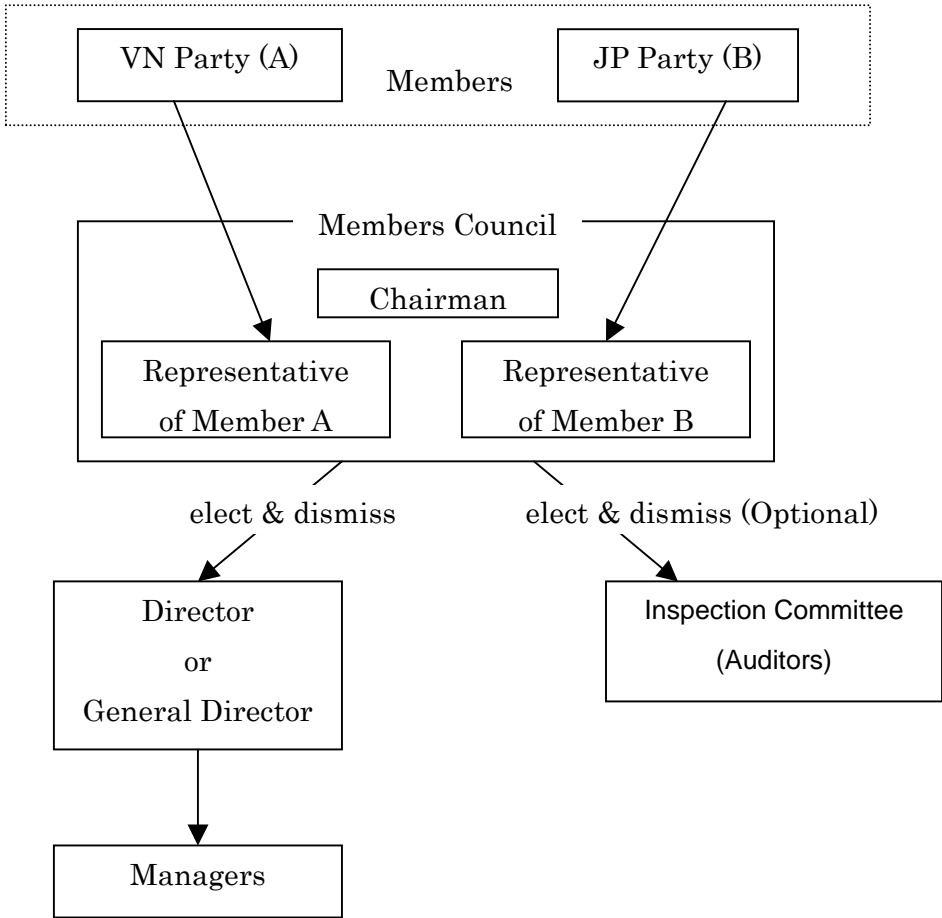
(attached to the Final Report Group 4)

I. Basis of choices

1. Legal basis:

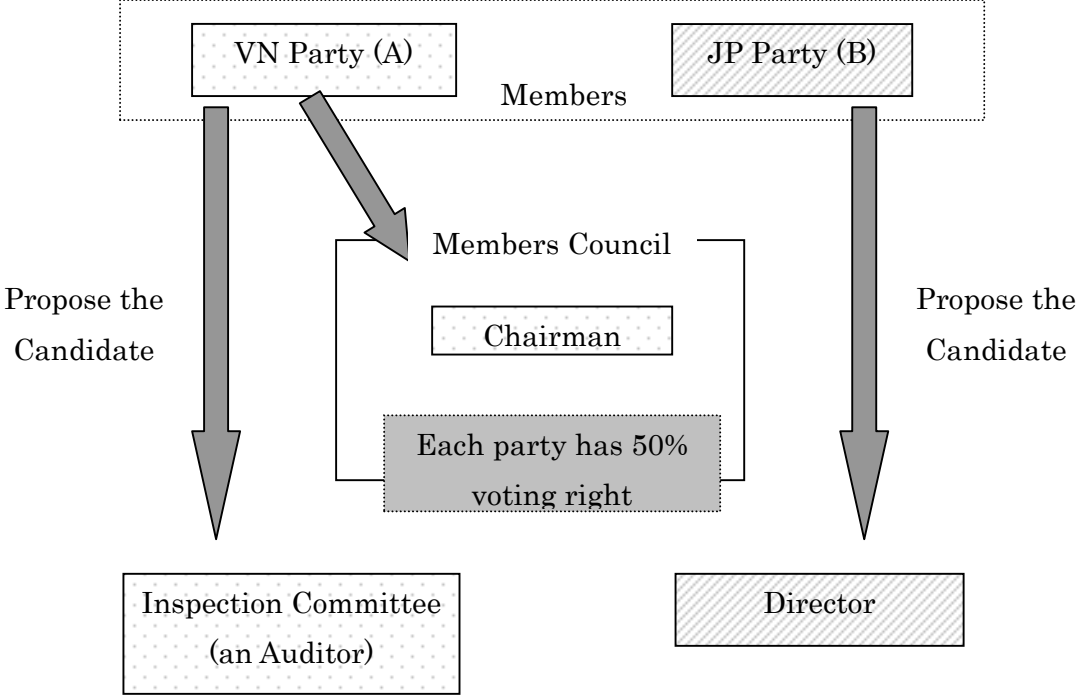
Vietnamese Enterprise Law

- No compulsory provision on the auditing work in LLC
- Reference to Inspection Committee in the JSC and make adjustments necessary for the virtual JV (small JV of equal capital contribution between Japanese company and Vietnamese company, operating in camera production)



2. Factual basis:

Estimated corporate governance structure of the JV



There are 3 “mechanisms” of control

- Auditing works of Auditor
- Supervision of the Chairman of Members’ Council
- Compliance System

II. Explanation to choices

(as translated into JV Agreement and Articles of Incorporation in the Final Report)

1. Why the auditor in the JV?

(i) Why the MC cannot do the supervision on its own?:

The Members' Council, representatives of the parties, is not a permanent unit but functions on meeting-by-meeting basis, and thus cannot supervise the day-to-day activities of the Director;

(ii) Why don't the parties use its own expert/employee to investigate the financial issue of the JV?

The foreign party usually has no expert on the local issues (legal and financial issues) to take effectively the investigation on the JV' activities. Moreover, the audits/investigations made by each party are on the ad hoc (case-by-case) basis and for the interest of each party while, for its safe and stable performance, the JV needs a permanent audit and for the interest of the whole JV;

(iii) Is the auditor too complex for our simple JV?

Auditor, with its task of performance audit as discussed below, can take also contribute to the compliance system inside the JV, so it helps to make the structure of the JV easier

2. What are the powers of the auditor

(i) Performance audit

Reason:

- The MC is not a permanent body so it cannot supervise the day-to-day activities of the Director and other officers
- The Japanese member may not be aware of the legal system and regulatory requirement of Vietnam

Details:

- Auditing the activities of the Director and managers against the duty of care, duty of loyalty and current applicable regulations
- Taking inspection on issues/problems required by a Member

- Making auditing reports and submitting the reports to the MC meeting

(ii) Accounting audit

Reason

- The auditing issue in the Company is held totally by the Chief Accountant (without any Accounting Advisor nor Accounting Auditor), so it is necessary to have someone (statutory auditor for ex) to supervise the accounting procedure
- The accounting audit should limited to the audit on accounting procedure (including procedures to prepare and conclude the financial reports), without auditing the content of financial reports because:
 - + The Chief Accountant (a CPA or licensed professional accountant) that the company is to employ is already qualified enough to take responsibility of the content and substantial questions of the financial reports
 - + The company has already pay for a permanent Chief Accountant, then it would cause too much expense for the company to pay for an auditor exclusively on accounting matters (in Vietnam, it is difficult to find a person who has expertise in both legal and accounting issues, so if the auditor audits the content of financial reports, the company has to employ 2 auditors one for performance audit and the other for accounting audit)

Details:

- Supervising the activities of the Chief Accountant
- Reviewing the financial report making procedures

3. The election, qualification and dismissal of the auditor

(i) Number of auditor

It is better that the company has only one auditor who is in charge of performance audit and also accounting audit (limited to procedural audit) to save money for the company. Moreover, 2 auditors in a small and simple JV like ours would be unnecessary and costly.

(ii) Who appoints the auditor?

- It is better that one member (the member who has technology and biz management experience) appoint the Director and the other member (local member) appoint the auditor.

Why it is desirable that the Director should be proposed by Japanese party:

- The director' main task is to run the business, to assure the efficiency of the JV > his experience and management knowledge and capacity is needed; it is presumed that the Japanese party has/know suitable personnel for this position (while Vietnamese people may not keen on those issues)
- The foreign director, if any, can always assisted by one or two Vietnamese assistant (in position of Assistant or Vice Director), and by interpreter and also by Vietnamese auditor
- It is fact that Vietnam is now trying to attract as much as possible the foreign investment, so a foreign director can have certain advantage than Vietnamese one in the relation with the competent authorities in some cases

Why it is desirable that the Auditor be appointed by Vietnamese party:

- Because the Vietnamese knows more about the legal system of Vietnam, he/she speaks Vietnamese (that would make his/her work easier)
- Because the Director is estimated to be Japanese/proposed by Japanese party

(iii) Qualification of the Auditor

- Qualifications as stipulated in Article 122 EL
- Graduated from the law school (because the tasks of the auditor dealing a lot with legal problems)
- Having at least 3 year experience in auditing, legal or business sector (with the said experience, the auditor is expected to be reliable enough to conduct his work on his own with less risk, especially when he is the sole auditor in the JV)

(iv) Term of office

- 1 year (*so the JV can easily replace the auditor if he/she shows unsatisfactory capacity*)
- No limitation on re-appointment
- The appointment of the auditor shall be done in the MC Meeting in which the annual financial reports are approved; the current auditor shall continue his work and responsibility as auditor until the appointment of new auditor or until his reappointment (*to ensure that the term of auditor coincides with the financial year so that he can audit annual financial reports*)
- Replacement in case of vacancy: If the auditor cannot continue his work for any

reason, the MC shall be convened to appoint a replacement who will continue the auditing work until the end of term of the auditor that he replaces

(v) Dismissal of the Auditor

Article 127 EL

4. Duties and rights of auditor

- (i) Duty of care and duty of loyalty
- (ii) Duty to make report and explanation thereto in the Meeting of Members' Council
- (iii) Duty to review any documents submitted by the Director to the MC Meeting
- (iv) Duty to pay the company for the damages caused to the company due to violation/negligence of the auditor of his obligations and duties; benefits gained by the auditor as the result of violation to loyalty duty shall be returned to the company
- (v) Upon discovery of the auditor's violation to his duties and obligations, the Director shall ask the auditor to stop the violation and inform the MC for their final decision on the concerned violation (*a kind of guarantee for the JV against any misconduct of the auditor*)
- (vi) Reports made by the Director to be submitted to the MC Meeting shall be sent to the auditor at the same time and in the same manner as to the members of MC
- (vii) Request consultation/report/explanation from the Director and manager under his direction
- (viii) Right to access to information necessary for the auditing works (including inspection), including books of account and other financial documents if necessary; the concerned personnel of JV shall provide in full, accurately and on time all information and documents under their possession required by the auditor;
- (ix) Ask the Director, Chief Accountant and/or any manager, employee to stop violation/misconduct or suspend the related acts and Request the convening of the MC Meeting if necessary (ex the Director doesn't stop the violation or serious violation), the MC shall be the one who has the final decision on the issue

- (x) Request assistance from a professional (inside or outside), if necessary, to improve the auditing function at the expense of the company (by informing the Director of his intention, the Director shall follow the request of the auditor)
- (xi) Deliberate on the appointment of auditor as well as his remuneration and bonus

5. Remuneration

The auditor shall receive the following compensation:

- (i) Monthly salary (fixed, decided by the MC) (*the auditor is a full-time employee of the company*)
- (ii) Annually bonus (decided by the MC at the end of auditor's term, based on the results and efficiency of the auditor's work) (*to encourage the auditor*)

The auditor can request to JV to pay (in advance or in form of refund/reimbursement) costs incurred during and for the purpose to fulfill his tasks as provided for in the Articles of Incorporation and in the related laws and regulations

6. Procedure

- The reports on business and financial matters prepared by the Director and Chief Accountant and submitted to the MC Meeting shall be sent to the auditor at least 30 days before the convening of the MC Meeting (*so that the auditor has enough time to audit those important reports of the JV*)
- Reports made by the auditors (evaluation reports and auditing reports) shall be sent to the members of the MC at least 5 working-day before the convening of the MC Meeting (*so that the members have enough time to read them*)

For your information

Summary on the Corporate Governance Structure in Japanese Law

(1) Type of Equivalent Corporation for Vietnamese LLC

JSC (Non-Public JSC)

(2) Number of Directors (Non-Public JSC)

1 or more

(3) Number of Auditors (Non-Public JSC)

0 or more

(4) Class Shares (Non-Public JSC)

Corporate Code allows joint stock corporations to issue two or more classes of shares with different rights and obligations regarding the following matters:

a: matters for which voting rights are exercised in a shareholders' meeting

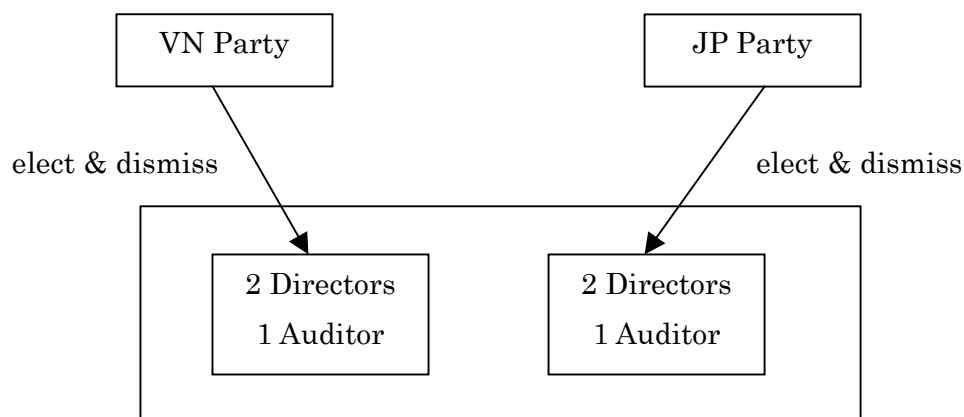
b: matters which require a resolution of a "shareholders' meeting of certain class shares" in addition to a resolution of a shareholders' meeting

c: election of director(s) or statutory auditor(s) by a resolution of a "shareholders' meeting of certain class shares"

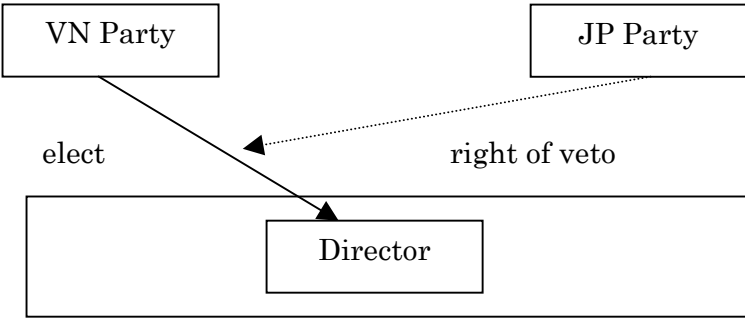
(5) It is possible to stipulate different conditions of voting rights in the Article of incorporation (Non-Public JSC). The condition don't have to be allotted in accordance with the amount of investment.

→ The following action can be taken

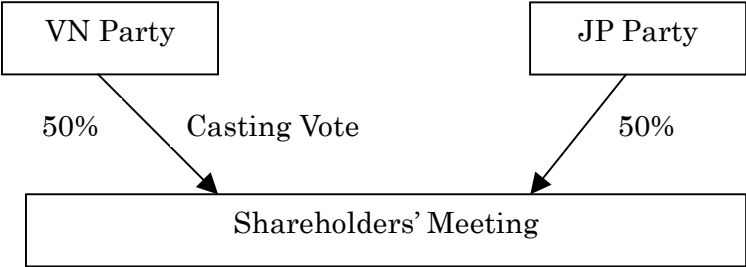
(1) VN partner and JP partner can elect the same number of Director/Auditor



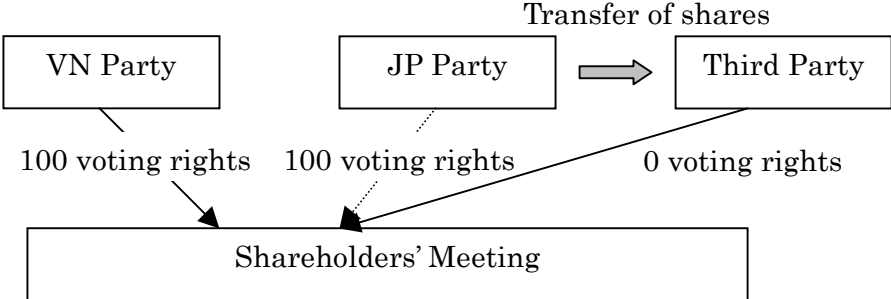
(2) One partner appoint a director, other partner have right of veto



(3) Give casting vote about the specific resolution to one partner



(4) Dispose of the vote except the specific person.



January 29th 2007 – March 10th 2007

グループ5 ファイナル・レポート

FINAL REPORT

WORKING RULE

Group5

Tuy Sarin (Cambodia)
Somphieng Keoviseth (Laos)
Thida San (Myanmar)
Phan Hoang Tu (Vietnam)
Yoshiki Tanaka (Japan)

WORKING RULE

TITLE 1. GENERAL PROVISIONS

ART. 1. -Purpose-

This Rule shall stipulate working conditions, discipline and other matters pertaining to the work of employees.

Matters which are not stipulated in this Rule and its Annexes shall be governed by the Labour Code and collective labour agreement.

ART. 2. -Applicability-

This Rule shall apply to all the regular employees.

Rule for Casual and Part-time employees shall be established otherwise. Notwithstanding this Rule shall apply to the casual and part-time employees in case of matters which are not stipulated in the Rule for casual and part-time employees.

ART. 3. -Duties to observe the Rule-

Both Company and employees shall abide this Rule and other regulations, perform their duties, cooperate with each other, and endeavor to develop the performance of the business.

ART. 4. -Discipline-

All the employees shall sincerely follow the instructions given by their supervisors, perform their duties in cooperation with each other and endeavor to maintain order of the workplace.

Supervisors shall endeavor to guide their subordinates and take initiative in performing their duties.

ART. 5.

All the employees shall observe the following in order to maintain the order of the workplace and secure the normal operation of the business:

- a) Not to bring discredit on the Company;
- b) Not to act arbitrary beyond their competence;
- c) Not to disclose secrets of the Company;
- d) Not to abuse their duties to benefit themselves;
- e) Not to abuse their duties to perform unlawful acts such as to unjustly borrow or receive money or articles; and

- f) Not to be employed by any body external to the Company nor to be appointed to the officer of other Company, or not to own their business which is disadvantageous to the Company or may disturb the order of the Company without permission.

TITLE II. PERSONNEL PROVISIONS

CHAPTER 1. RECRUITMENT

ART. 6. ~~-Recruitment-~~

Employees shall be recruited among applicants through certain procedures for selection.

ART. 7.

Employees, once recruited, shall submit the following documents within two (2) weeks after recruitment:

- a) Personnel data and a guarantee letter;
- b) Claim for commutation and dependants; and
- c) Age certificate for who are below eighteen (18) years of age.

In case there are changes in the facts appeared in the documents mentioned in a) and b) above, employees shall report to the Company as soon as possible.

ART. 8. ~~-Probationary Employment-~~

For those who are newly recruited 30 days probationary employment period from the date they start to work shall be applied.

Employment of probationers shall be terminated when the Company judges them disqualified as employees in terms of performance, attitude, efficiency, health etc., or judges them insincere for non submission of the necessary documents or false statement in the documents.

Once a probationer is made a regular employee, his/her probationary period shall be included in his/her duration of service.

ART. 9. ~~-Education at Recruitment-~~

For those who are newly recruited, the Company shall give them necessary education or training for their jobs.

ART. 10.

At the recruitment, the Company shall clearly present the Rule to employees and shall inform them in written form of the ways to determine, calculate and pay compensation, as well as of the dates of payroll close and payment.

CHAPTER 2. PERSONNEL TRANSFER

ART. 11.

The Company may give an employee an order to transfer of duty station or assignment.

An employee shall report to the new duty station or take new assignment within two (2) weeks from the date an order is issued.

CHAPTER 3. LEAVE OF ABSENCE

ART. 12.

The Company may order an employee to take leave of absence when one of the following applies:

- a) Absence due to an injury or a disease not resulting from employment has exceeded continuous three (3) months;
- b) Absence ART. due to personal reason has exceeded continuous one (1) month;
- c) An employee is recognized necessary to take leave of absence due to the appointment to a public office;
- d) An employee is transferred to a related Company or organization of the Company; and
- e) Other causes recognized analogous to the foregoing.

ART. 13 -Duration of Leave of Absence-

Duration of Leave of Absence mentioned in the ART. 12 shall be the following:

- a) Six (6) months in case of the Sub-paragraph a) of the ART. 12;
- b) Three (3) months in case of Sub-paragraph b) of the ART. 12; and c) As long as necessary in case of the Sub-paragraph c), d), and e) of the ART. 12.

ART. 14.

An employee may return to the original job when the cause for the leave of Absence has diminished during the said Leave of Absence. He/she, however, may be assigned to a different job if it is difficult or inappropriate to return to the original job.

ART. 15.

Compensation shall not be paid during the Leave of Absence.

Duration of the Leave of Absence shall not be included in the duration of service and the basis for retirement benefit except the case of Sub-paragraph (d) of the ART. 12.

TITLE III. COMPULSORY RETIREMENT AND DISMISSAL

CHAPTER 1. COMPULSORY RETIREMENT

ART. 16. -Compulsory retirement-

The Compulsory retirement age shall be sixty(60) years in age, and an employee

shall retire on the date when he/she has become sixty (60) years old. He/she may, however, be re-employed as a fixed term part time employee when the Company judges it necessary.

CHAPTER 2. TERMINATION OF EMPLOYMENT

ART. 17. -Termination of Employment-

In case on of the following applies, employment of an employee shall be terminated:

- a) When an employee has deceased;
- b) When fixed term employment contract has expired; and
- c) When request for voluntary resignation has bee approved by the Company or when employee takes the procedures provided by section 37 of the Labour Code.

CHAPTER 3. DISSMISSAL

ART. 18. -Dismissal-

An employee may be dismissed when one of the following applies:

- a) When an employee is judged unable to perform his/her duties due to physical or mental disorder;
- b) When a probationer mentioned in the ART. 8 is judged inappropriate to be a regular employee;
- c) When the cause for Leave of Absence does not disappear on the date the Duration of Leave of Absence mentioned in ART. 13 has expired;
- d) When an employee is made redundant due o reduction of business operation, change in production facilities etc.; and
- e) When there are unavoidable reasons analogous to the foregoing.

ART. 19. -Advance Notice for Dismissal-

When the Company dismissed an employee, the Company shall take the procedures provided by Section 38 of Labour Code.

ART. 20. -Restriction for Dismissal-

An employee shall not be dismissed during the leave of absence necessary for the treatment of injury or disease arising out of duty and thirty (30) days afterward, or during maternity leave of before and after delivery mentioned in the First and Second Paragraphs of ART. 30 and thirty (30) days afterward.

TITLE IV. SERVICE

CHAPTER 1. WORKING HOURS AND RECESS

ART. 21. -Working Hours and Recess-

Working hours shall be eight (8) hours excluding recess time.

ART. 22.

The hours at which work begins and end and recess time are as follows:

Beginning hour: eight (8) o'clock a.m.;

Ending hour: five (5) o'clock p.m.; and

Recess time: between noon and one (1) o'clock p.m.

Business operation may necessitate to change the time mentioned in the foregoing paragraph. In this case, working hours shall not exceed eight (8) hours, and may take as follows

-REFERENCE: Sample of Shift Work System-

ART. A. The hours at which work begins and ends, recess time, and rotation of shifts are as follows:

3 shift system	Continuous 3 shift system	First shift	07:30	16:15	11:30-12:15 (45 minutes) or 12:15-13:00 (45 minutes)	First, second and third shifts are rotated every week
		Second shift	14:00	22:45	17:15-18:00 (45 minutes) or 18:00-18:45 (45 minutes)	
		Third shift	22:45	07:30	00:45-01:30 (45 minutes) 01:30-02:15 (45 minutes)	

ART. 23: -Computation of Working Hours-

In case it is difficult to compute the hours worked due to a trip on business or other analogous reasons for which an employee has to work outside his/her workplace, the employee may be considered he/she has worked the regular working hours stipulated in the ART. 21. Nevertheless, it does not apply in case a supervisor of the employee judges otherwise.

ART. 24: -Free Use of Recess Time-

An employee may use a recess time at his/her own disposal. In case, however, employees hold an assembly at the place other than a resting room, they shall obtain a permission from the Company in advance.

CHAPTER 2. HOLIDAYS

ART. 25: -Holiday- Holidays shall as follows-

- a- Saturday and Sunday;
- b- National public holiday; and

In case holidays mentioned in sub-paragraph (b) of the first paragraph of this ART. coincide with Saturday and Sunday, next days shall be holidays.

ART. 26:

Notwithstanding the foregoing ART., the Company may designate in advance other days as holidays instead of the original holidays for the operation of the business.

CHAPTER 3: OVERTIME AND WORK ON HOLIDAYS

ART. 27: -Overtime and Work on Holidays-

The employees may have to work beyond regular working hours stipulated in the ART. 22 or may have to work on holiday stipulated in the ART. 26 for the operation of business.

ART. 28: -Restriction for the Minor and Women-

The Company shall not order overtime to the minor employees of less than eighteen (18) years old. In case of women, despite the provision of the second paragraph of the ART. 28, female employees may be ordered to work overtime maximum two(2) hours in one(1) day, six(6) hours for one(1) week (in case women employees engage preparation of balance sheet when accounts are settled, twelve(12) hours for one(1) week) and one hundred fifty(150) hours for one(1) year, and shall not be order to work on holidays.

CHAPTER 4: LEAVE

ART. 29: -Annual Leave-

For employees who have worked more than eighty(80) percent of regular working days in one(1) year, the Company shall give annual leave listed in the following table for the next one year taking into consideration the length of service:

Annual Leave (days)	12	13	14	15	16	17	18	19	20
Length of Service (year)	1	2	3	4	5	6	7	8	9 and more

The Company shall, in the effort to encourage employees to consume annual leave, hear each employee his/her schedule on annual leave at the end of December, March, June and September.

An employee who wishes to take annual leave shall report to the Company in advance by following a certain procedure. The Company, however, may order the employees his/her designated date for annual leave in case the Company judges allowing annual leave as demanded disturbs the normal operation of the business.

In case an employee has not consume all or part of annual leave in a certain year, unconsumed days of annual leave may be carried over to the following year only.

ART. 30: -Maternity Leave-

A women employee may be given totally four(04) months prenatal and post natal leave.

A women employee who cares a child of less than one(1) year of age may be given child care time twice a day and thirty(30) minutes each during working hour in addition to the rest time.

The Company may, upon request, give menstruation leave to the women employees who have extreme difficulty to work during menstruation period or who engage in hazardous work for menstruation.

ART. 31: -Exercise of Civil Rights-

In case it is necessary for an employee to exercise rights of citizen such as a right to vote etc., the Company may give, upon request, necessary time to exercise such rights.

ART. 32: -Special Leave-

The Company may give special leave when employees request it for one of the following reasons:

- | | |
|-------------------------------------|---------|
| a- Marriage of an employee | 03 days |
| b- Delivery of spouse | 01 days |
| c- Death of parent, spouse or child | 03 days |

CHAPTER 5: TIME MANAGEMENT

ART. 33: -Procedure for Reporting and leaving-

An employee shall observe beginning and ending hours of the Company and he/she shall record reporting time and leaving time on his/her own time card at the assigned place.

In case an employee delays to report for unavoidable reason, he/she shall obtain prior permission from his/her supervisor. If it is unable to obtain prior permission, an employee shall obtain an ex post facto approval without delay.

ART. 34: -Absence-

In case an employee wants to be absent himself/herself from duties for diseases or other unavoidable reasons, he/she shall report to his/her supervisor.

In case the absence for disease becomes more than seven(7) days, the employee

shall submit a medical certificate.

ART. 35: -Leaving Early or Going out-

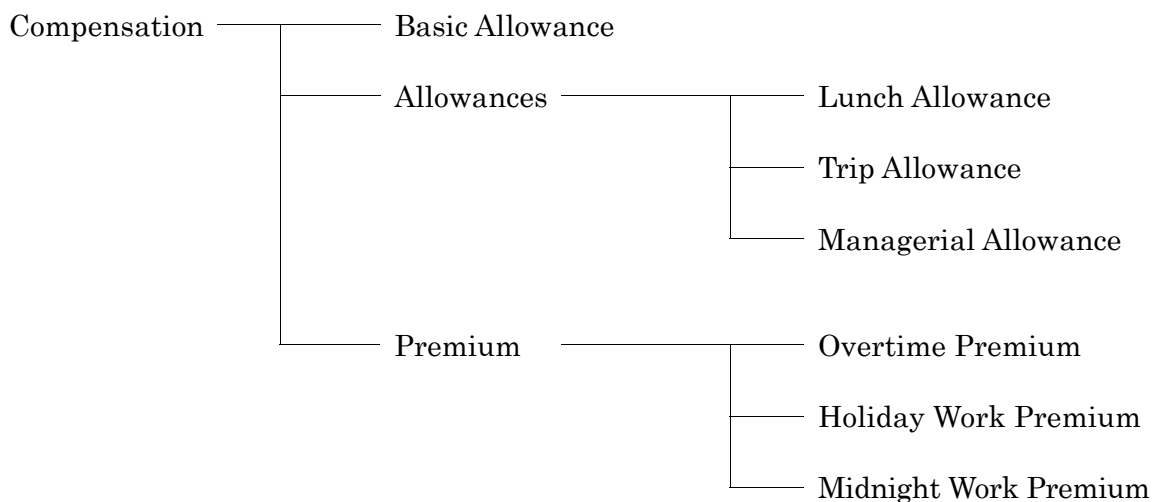
 In case an employee wishes to leave early or going out during hour, he/she shall obtain permission from his/her supervisor.

TITLE V. COMPENSATION

CHAPTER 1. TYPES OF COMPENSATION AND CONDITIONS FOR PAYMENT

ART. 36: -Composition of compensation-

Composition of compensation shall be following



ART. 37: -Basic Allowance-

Basic allowance shall be decided taking into consideration age, skill, experience, education career etc. of an employee.

ART. 38: -Managerial Allowance-

Managerial allowance shall be paid in accordance with the following:

- a- General Manager 5,000,000.00 Dong
- b- Manager 3,000,000.00 Dong
- c- Chief 1,000,000.00 Dong

ART. 39: -Premium-

In case an employee is made work beyond regular working hours stipulated in the ART. 22 or made work on the holidays stipulated in the ART. 26 or in midnight, he/she is entitle to the premium computed in the formula listed in the following tables:

In case of monthly salary:

Premium	Formula
Overtime Premium	$(\text{Monthly Salary} + \text{Managerial Allowance}) \div \text{Monthly Regular Working Hours} \times 1.50 \times \text{Overtime Hours}$
Holiday Premium	$(\text{Monthly Salary} + \text{Managerial Allowance}) \div \text{Monthly Regular Working Hours} \times 2.00 \times \text{Holiday Working Hours}$
Midnight Premium	$(\text{Monthly Salary} + \text{Managerial Allowance}) \div \text{Monthly Regular Working Hours} \times 1.30 \times \text{Midnight Working Hours}$

ART. 40: -Computation of Compensation-

Compensation during the annual leave stipulated in the ART. 29 shall be same as normal compensation which is paid for regular working hours.

For the hours of absence, delay for reporting, leaving early and going out for private purposes, the amount to be calculated by multiplying the basic allowance per hour and total number of hours spent for absence, delay for reporting, leaving early and going out for private purpose shall be deducted.

In calculating the hours mentioned in the foregoing paragraph, fraction of less than thirty(30) minutes in the total number of hours shall not be counted.

CHAPTER 2. CLOSING DAY FOR PAYROLL PEIRIOD AND PAY DAY

ART. 41: -Payroll Period and Pay Day-

The closing day for compensation shall be twentieth(20th) and shall be paid on the 1st day of the next month. In case the pay day coincides with a holiday, the compensation shall be paid one(1) day earlier.

CHAPTER 3. WAY OF THE PAYMENT OF COMPENSATION

ART. 42:

Compensation shall be paid directly to employees in full and in cash. However, the following shall be deducted from the compensation:

- a) Income tax
- b) Premium for Health Insurance(1% of monthly salary of employee)
- c) Premium for Social Insurance(5% of monthly salary of employee)
- d) Other deductible expenses agreed upon in the written agreement between the Company and the representatives of the employees.

CHAPTER 4. INCREASE OF COMPENSATION

ART. 43: -Increase of Compensation-

Increase of Compensation shall be made with regard to the basic allowance once in a year.

The amount of increase shall be decided taking into consideration the performance of employees and evaluation of merit.

CHAPTER 5. BONUS

ART. 44: -Bonus-

Bonus shall be paid to the employees who are in principle in employment on 1 June and 1 December and have served more than six (6) months continuously until these dates on the twentieth of June and December taking into consideration the performance of the Company. However, the date of payment may be changed or the bonus may not be paid for unavoidable causes such as extreme deterioration of the performance of the Company etc.

Amount of the Bonus shall be decided individually for each employee taking into consideration his/her performance in the last six (6) months.

TITLE VI. SAFETY AND HEALTH

ART. 45: -Periodical Examination-

The Company shall implement medical examination at initial employment and regularly every year afterward.

In addition to the foregoing medical examination, the Company shall implement extra examination with special examination items for the employees who engage in hazardous work stipulated in the laws and regulations.

The medical examination stipulated in the foregoing two Paragraphs shall be done by the medical doctor designated by the Company. An employee who does not hope to be examined by the said medical doctor may be examined by another doctor. In this case, however, the employee shall submit a medical examination certificate to the Company without delay.

ART. 46: -Responsibility of the Company for the Expenses-

The medical examination mentioned in the foregoing ART. shall be implemented during the working hours with full pay, and the expenses for the examination shall be paid by the Company. Notwithstanding, it does not apply in case an employee chooses a different medical doctor from the medical doctor the Company designates.

ART. 47:

If the result of the medical examination necessitates, the Company may order to the employees to refrain from working for a certain period, to shorten working hours, to transfer workplace or to take other necessary measures for the maintenance of their health.

ART. 48: -Safety and Health Training-

The Company shall provide employees with necessary Safety and Health Training for their jobs when they are newly employed or given new jobs due to transfer.

TITLE VII. COMPENSATION FOR ACCIDENTS

ART. 49: -Compensation for Accidents-

In case an employee has suffered from injuries, diseases, or death out of employment, the Company shall provide following compensation in accordance with the laws and legislations related to compensation:

- a) Medical compensation;
- b) Compensation for temporary Company disability;
- c) Compensation for a physical handicap; and
- d) Death compensation.

TITLE VIII. HONOUR AND SANCTION

ART. 50: -Honour-

The Company shall honour an employee when he/she falls one of the following:

- a) Contribution to the development of the business, or invention or discovery which is beneficial to the operation of the Company;
- b) Excellent personality and skills to be a model of the others;
- c) Distinguished social services which raise the reputation and credibility of the Company;
- d) Prevention of accident or calamity, or distinguished services at accident or calamity;
- e) Long and honest service; and
- f) Other virtuous or meritorious deeds analogous to the foregoing sub-paragraphs.

ART. 51:

Honor shall be given by awarding a certificate and a reward or a prize.

ART. 52: -Disciplinary Punishment-

Kinds and degree of Disciplinary Punishment shall be as follows:

- a) Reprimand : Submission of a letter of apology and remonstrations on future;
- b) Reduction of pay: Submission of a letter of apology and reduction of pay by

half of average compensation per one punishment. However, total reduction shall not exceed ten(10) percent of the total compensation;

- c) Suspension : Submission of a letter of apology and suspension of work for maximum seven(7) days during that period compensation shall not be paid;
- d) Demotion : Submission of a letter of apology and deprivation of status in the Company or placement to a lower rank;
- e) Dismissal on suggestion : Submission of a letter of resignation by suggestion and dismissal in case of refusal; and
- f) Disciplinary dismissal : Immediate dismissal with approval of the Director.

ART. 53: -Suspension or Demotion-

In case an employee has committed one of the following, he/she shall be subject to the Suspension or Demotion. However, said sanctions may be mitigated to the Reprimand or Reduction of Pay by taking circumstances such as remarkable repentance, excellent performance in the past etc. into consideration:

- a) Disobedience of the order in connection with work without just cause;
- b) Negligence neglecting own duties;
- c) Selfish deeds which disturb order of the workplace such as frequent absence without permission, delay, leaving early, going out etc;
- d) Arbitrary deeds beyond own competence or its abuse ;
- e) Deeds which disturb order of the workplace such as quarrels etc;
- f) Insufficiency of supervision which has caused a damage to the Company by subordinates; and
- g) Other misconducts analogous to the foregoing

ART. 54: -Dismissal on Suggestion or Disciplinary Dismissal-

In case an employee has committed one of the following, he/she shall be subject to the Dismissal on Suggestion or Disciplinary Dismissal. However, said sanctions may be mitigated to those stipulated in the foregoing ART. by taking circumstances such as remarkable repentance, excellent performance in the past etc. into consideration

- a) employee who commits acts of theft, embezzlement, disclosure of technological and business secrets, or other acts causing severe loss to the property and interests of the Company
- b) employee transferred to another job as a disciplinary measure who again commits the same breach of labor discipline when the disciplinary measure is still in effect
- c) employee who has been absent for a total of seven days per month or 20 days

per year without legitimate reasons

ART. 55: -Committee on Sanction-

In case the Company intends to implement the sanctions stipulated in the foregoing ART., the Company shall hear the opinion of the Committee on Sanction.

The Committee on Sanction shall be composed of four⁽⁴⁾ members namely two⁽²⁾ members of managerial employees of the Company and two members who have been recommended by labor union.

The chairman of the Committee on Sanction shall be elected among the members.

ADDITIONAL CLAUSE

This Working Rule shall be effective from (date).

< MODEL LABOUR CONTRACT >
SOCIALIST REPUBLIC OF VIETNAM
Independence- Freedom- Happiness

- - -

Name of enterprises: **C LIMITED LIABILITY COMPANY**
No

Labour contract

We are, one party is Mr/Mrs: **Mr. TATA**
Nationality: **Japanese**

Job title: **Director**

Tel:

Address: **Da Nang, Viet Nam.**

And other party is Mr/Mrs: **Ms Mai**
Nationality: **Vietnamese**

Birth date: **01 Jan 1980**

Occupation: **BA, Hanoi, Law University**

ID, granted :**011 929 777 , granted 01 Jan 1999**

Conclude Labour Contract with following provisions:

Article 1: length of contract term

And job description

- Type of labour contract: 01 Year Contract (Fixed term)

From: 01 April 2007 to 31 March 2008

- Probation period: 30 day, 80% salary

From 01 April 2007 to 30 April 2007

- Work place: Da Nang Industrial Zone, Da Nang, Viet Nam

- Job title: Legal Consultant

- Job description

Article 2: Mode of work

Hours of work : 08 hours

From: 08:00 -12:00 and 13:00 – 17:00

Work equipment provided

Article 3: Obligations and rights of employee

1. Rights

Vehicles: 01 motor bike

Wage: 3,000,000.00 vnd

Mode of payment: monthly

Allowance: Lunch ticket allowance, and trip allowance

Wage paid on (1st day) monthly

Bonus: 01 month salary

Mode of wage review: annual review

Annual leave and holidays: 12 days/year, Saturday, Sunday, and 09 national holidays

Work safety: necessary material concerned with work

Social insurance and health insurance

Training

Other agreement

2. Obligations

- To complete activities concluded in labour contract
- To comply to working rules
- To compensate damages (if any)

Article 4: Rights and obligations of employer

1. Obligations:

- To comply to labour contract
- To pay in time

2. Rights

- To direct employee
- To suspend, terminate labour contract in accordance to collective labour agreement, working rules, and other provisions

Article 5 Effectiveness

- Issues which are not mentioned in this labour contract will be under the control of collective labour agreement or regulation of labour law (if collective labour agreement has not existed)

The contract is made in two copies equally valid, each party keeping one copy and come into force from...

Done in...

Employee (signed)

Employer (signed)

January 29th 2007 – March 10th 2007

グループ 6 ファイナル・レポート

Compliance system

Final Report, March 7, 2007

Prepared by Group 6:
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I Compliance system provided law

1 Backgrounds of “Compliance” - Necessity of Compliance

Recently, it comes to appear that some major corporations conducted illegal activities, or improper activities (e.g. Enron, WorldCom in the United States); and such scandals cause stockholders, customers, consumers and other stakeholders to distrust corporations’ activities. In order to recover the confidence of said stakeholders, corporations are required to establish some systems inside the corporations to comply with law or other social responsibilities.

2 Source of Law regarding “Compliance” under our current laws

(1) Vietnamese Law

Although Article 46 of Law on Enterprise (“the Law”) provides organizational and management structure of companies, that provision only provides the operational structure of the LLC, other than that provision, the Law doesn’t require companies to establish self-control systems inside the company.

(2) Other Countries’ Law regarding “Compliance”

Laws of other participants’ countries, other than Japan, don’t require the general principle of “compliance” in the meaning stated above 1; however, certain business such as credit institutions, pharmaceutical companies

Art. 362.6 of Company Code of Japan requires companies to establish a system to ensure directors’ activities complying with laws, regulations and articles of incorporation and other required systems prescribed in the regulation (“the Regulation”)

provided by the Ministry of Justice to ensure a company's operation being proper.

Based on the article above, Article 100 of the Regulation requires the following system to companies

- a. System of records and control of information regarding directors' activities
- b. System that includes a regulation regarding the risk management control
- c. System to ensure directors' activities being performed effectively.
- d. System to ensure employees' activities complying with laws, regulations and articles of incorporation.
- e. System to ensure activities of an enterprise group composed by a company, its parent and its subsidiary company being proper.

II Charter of our LLC's behavior

1 Purpose of this Charter

Now, it would be a common understanding that companies exists not only economic vehicles to pursue profits but also social entities. Based on that understanding, to establish the charter of the LLC is well consideration, which provides how a company should behave in the society, in principle. This is a kind of announcements or declarations to the public by the LLC.

2 Charter of the LLC

(1) (Relationship with customers)

The LLC shall produce its products in a sale and responsible manner and shall establish regulations in order to protect personal data and customer related information.

(2) (Fair Competition among competitors)

The LLC shall promote fair, transparent, free competition.

(3) (Relationship against governmental agency)

The LLC shall also ensure that their relationships and contacts with government agencies and political bodies are in proper manner. Member shall reject all contacts with organizations involved in activities in violation of the law or accepted standard of responsible behavior.

(4) (Social Responsibility)

The LLC shall engage in communication not only with members but also with society at large.

(5) (Labor)

The LLC shall strive to respect diversity, individuality and differences of their employees, to promote safe and comfortable work place, and to ensure the mental and physical well-being of its employees.

(6) (Environment)

The LLC shall recognize that a positive involvement in environmental issues is a priority

for all humanity and is an essential part of their activities and the LLC shall approach these issues more proactively.

(7) (Worldwide coordination)

The LLC shall observe laws and regulations applying to their overseas activities and respect the culture and customs of other nations and strive to manage their overseas activities in such a way as to promote and contribute to the development of local communities.

(8) (Implementation of this Charter)

The members of the LLC shall assume the responsibility for implementing this charter and for taking all necessary action.

(9) (Risk Management)

In the case of incidents contrary to the principles of this charter, management of the LLC must investigate the cause for the incident, develop reforms and make information publicly available regarding their activities. After the prompt public disclosure of information regarding the incident, responsibility for the event and its effect should be clarified and disciplinary action should be taken.

III Compliance System in the LLC

In order to implement the charter of our LLC, the LLC shall design the compliance system. But before establishing such system, we have to understand compliance system varies, depending on the line of the business, scale of the company and so on, therefore, in order to establish effective compliance system, a company has to analyze its typical routine of the operation and then, may figure out possible problems and establish the suitable compliance system in the company.

Under our assumption, the LLC produces camera parts through a factory located on Vietnam so the main concern for such LLC would be labor problems and quality of products; therefore, we focus on these two problems.

In addition to the two committees, Risk management committee should be established, since the company might face serious problems such as product liability issues, water pollution problems and strikes by its labor union; then, in that case, the committee would be in charge of such problem and deal them effectively (See Attachment).

1 Chart of the compliance system in the LLC

(1) Internal regulation to be set up by Members' council

a. Since these internal control systems are important elements for the LLC, they are to be established by the Members' council

b. Preferable regulations for the LLC

① Factory operation

- i. Regulation regarding quality control
 - ii. Regulation regarding treatments of industrial waste
- ② Labor
 - i. Regulation regarding employee's safety
- ③ General Administrative matters
 - i. Regulation regarding power and responsibilities of managements (i.g. responsibility of chief manager, deputy manager, and/ or chief)
 - ii. Regulation regarding customers' confidential information
- (2) Internal Checking System (See attachment)
 - a. Labor environmental Committee
 - b. Quality Control Committee
 - c. Risk Management Committee
 - d. Inspector Auditor
 - e. Hotline system
- (3) Function of each system
 - a. Labor environmental Committee
 - ① Purpose of the committee

The committee copes with any problems regarding the labor- discrimination, payment, safety and so on.
 - ② Qualification of Chairman & other members

Chairman should be appointed by the members' council, in view of monitoring the directors' activities.
 - ③ Power and responsibility of the committee

The committee has the right to receive the report stipulated in the regulation of safety.

The committee is responsible to make a report to members' council regarding the result of the committee directly.
 - b. Quality Control Committee
 - ① Purpose of the committee

The committee copes with any problems regarding the products problems, defective products etc.
 - ② Qualification of chairman & other members

As already discussed above, Chairman should be appointed by the members' council, in view of monitoring the directors' activities and members should be familiar with the products in the factory, at least to some extent.
 - ③ Power of the committee

The committee has the right to receive the report stipulated in the internal regulations regarding the products.

The committee is responsible to make a report to members' council regarding the result of the committee directly.

c. Risk Management Committee

① Purpose of the committee

The committee copes with any problems in case where serious problems such as product liability problems, pollution problems, or factory's damages suffered by natural disaster actually occurred.

② Qualification of chairman & other members

As already discussed above, chairman should be appointed by the members' council, in view of monitoring the directors' activities and members should be familiar with the products in the factory, at least to some extent.

③ Power of the committee

Once the serious problems occur, the committee control everything in this problem- announcement to the public, investigation inside the LLC, and negotiation to the governmental agency.

d. Inspector

① Role and Function Of Inspector

An inspector is appointed by Members' Council and its role is to monitor the committees' activities, attending the committees. Since committees are supervised by the director, the inspector should be an independent body in the LLC, especially free from the influence of a director.

In order to appoint suitable inspector, following elements would be considered.

	Advantage	Disadvantage
Outsider	Can expect to be objective	- Trade secret or other confidential information is to be disclosed - Might not be familiar with the operation of the LLC
Internal Employee	- Can keep trade secrets - familiar with the operation of the LLC	- Possibly influenced by a director - Self reluctance to dissolve problems when he/ she takes his/ her promotion seriously

② Other qualifications of an inspector

Although the Law doesn't require any qualification to this inspector, at least these qualifications below would be necessary.

- i 21 years old or more
- ii Not a director
- iii Not a relatives to the council members, a director, or other managers in the LLC,
- iv Not related to the management

e. Hot line- the last resort

The committees might not work well especially when a director or other highest management do the problematic conducts; therefore, as a last resort, the LLC set up Hotline for everyone inside the company. The line is directly connected to an inspector and inspector is responsible for receiving the line. If the problem would be suitable to discuss in other committees, an inspector can transfer the problem in labor or quality control committee and if an inspector consider that the problem should be treated by the inspector itself, then, the inspector review it. Then, the inspector will report the problems to members' council directly, if the problem would be true and serious.

2. How to set up the system under the Law

Article 22. 16 provides "Other matters as agreed by the members but may not be consistent with provisions of the law"; therefore, the LLC may incorporate these committee system into the Charter documents.

3 Cost of Compliance

It would be preferable for the LLC to set up the compliance system discussed above; however, it takes costs. So the LLC has to consider, as an important element, the cost of the compliance when setting up the system.

Chart for Group 6

