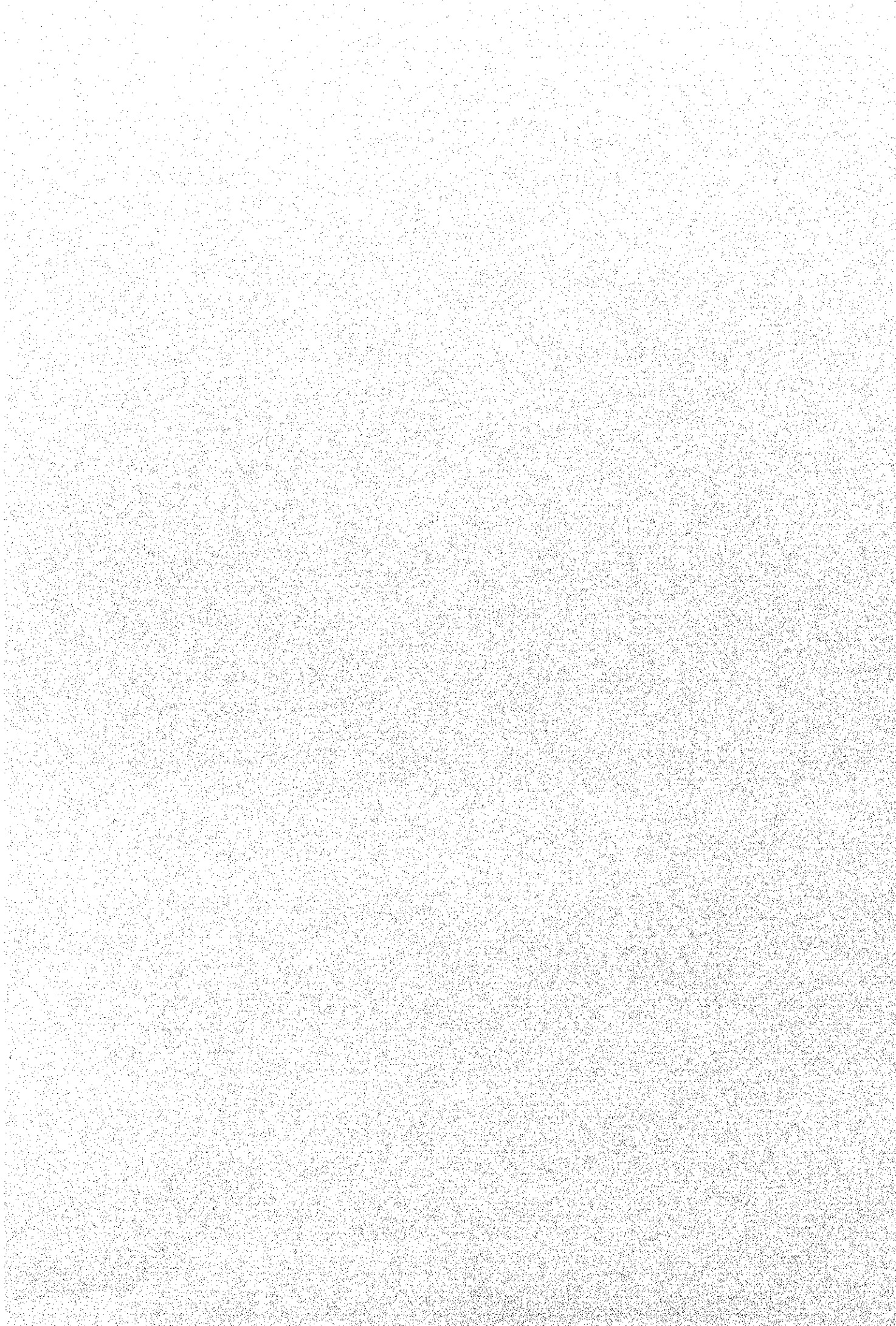


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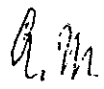
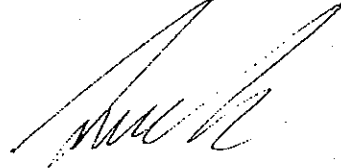
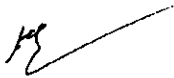


MEMORANDUM OF UNDERSTANDING ON THE RESULTS OF THE MEETING AMONG THE JAPANESE ANNUAL CONSULTATION TEAM, THE MINISTRY OF JUSTICE, THE SUPREME PEOPLE'S COURT AND THE SUPREME PEOPLE'S PROCURACY OF THE SOCIALIST REPUBLIC OF VIETNAM ON THE JAPANESE COOPERATION IN THE LEGAL FIELD

On the basis of the Record of Discussions on the Cooperation in the legal field signed on 18 November 1999 by Dr. Nguyen Dinh Loc, the Minister of Justice of the Socialist Republic of Vietnam and Professor Akio Morishima, the head of the Japanese Annual Consultation Team, and following on the Memorandum of Understanding of 22 November 1999, the Japanese Annual Consultation Team (hereinafter referred to as the "Team") headed by Professor Morishima visited Vietnam during 26-28 February 2001 (Annex I - List of the members of the Team).

During its stay in Vietnam, the Team was warmly received by the Ministry of Justice of the Socialist Republic of Vietnam (hereinafter referred to as "MOJ"), the Supreme People's Court (hereinafter referred to as "SPC") and the Supreme People's Procuracy (hereinafter referred to as "SPP"). The Team visited a number of Vietnamese agencies and conducted a series of discussions as to the first year of implementation of the Cooperation Program (hereinafter referred to as the "Program") and the Tentative Cooperation Program for the second year. The agencies visited were the Ministry of Planning and Investment, and the Central Committee of Internal Affairs (Annex II - the work schedule of the Team).

The Team had meetings with the Vietnam's Delegation headed by Dr. Ha Hung Cuong, Vice-Minister of Justice, and the representatives from the other Project partners, Mr. Hoang Khang, Deputy Chief Justice of SPC and Dr. Khuat Van Nga, Deputy Procurator-General of SPP (Annex III - the List of members of the Vietnamese Delegation). The purpose of the meeting was to evaluate the first year of the Program's implementation (Annex IV), to agree on the Tentative Implementation Plan for the 2001 Japanese fiscal year (hereinafter referred to as "JFY") shown in Annex V. In addition to those issues, Vietnamese side proposed the outline of the research for "Assessment and Analyses of Actual Situation of the Systems of Commercial and Civil Laws" (Annex VI). Both sides basically agreed on the contents and decided to further discuss and finalize the detailed contents and implementation



plans after this series of meetings. Vietnamese side also proposed the amendment of ANNEX 2 of the Minutes of Meeting on "THE JOINT RESEARCH OF THE AMENDMENT OF THE CIVIL CODE" signed on 17 August 2000 as Annex VII. Both sides agreed this amendment.

The Annexes are constituent parts of this Memorandum of Understanding.

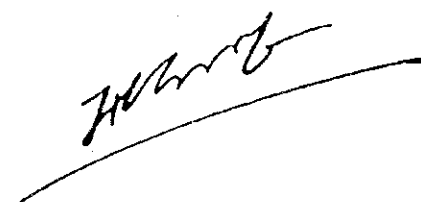
Hanoi, 28 February 2001

**For the Japanese Annual
Consultation Team
Head**



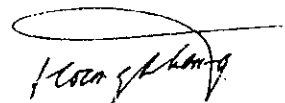
Professor Akio Morishima

**For the Vietnamese Ministry of Justice
Vice-Minister**



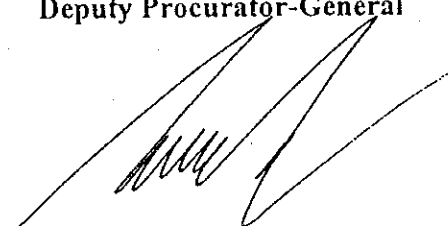
Dr. Ha Hung Cuong

**For the Vietnamese Supreme People's Court
Deputy Chief Justice**



Mr. Hoang Khang

**For the Vietnamese Supreme People's
Procuracy
Deputy Procurator-General**

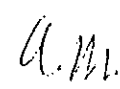


Mr. Khuat Van Nga

MEMBERS OF THE JAPANESE ANNUAL COUSULTATION TEAM

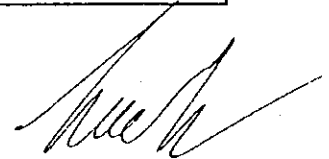
Name	Title
MORISHIMA AKIO	Head Chairman, Japanese steering committee
ONUKEI YOSHINOBU	Attorney, Director, General Affairs and Planning Department, Research and Training Institute, Ministry of Justice
YAMASHITA TERUTOSHI	Attorney, General Affairs and Planning Department, Research and Training Institute, Ministry of Justice
HORI TSUGUAKI	Secretary Division, General Secretariat, Ministry of Justice
UETA RENTARO	Section Manager, General Affairs and Planning Department, Research and Training Institute of Ministry of Justice
HIRAKAWA SHIGEYUKI	Deputy Director, Technical Cooperation Division, the Economic Cooperation Bureau, Ministry of Foreign Affairs
SUZUKI KENYA	Judge, Chief of the Liaison Office, Secretary Division, General Secretariat, Supreme Court
YOSHINO TADASHI	Attorney, Japan Federations of Bar Association
SHIMA RYUICHIRO	Associate Professor, Coordinator for International Academic Exchange, Graduate School of Law & School of Law, NAGOYA University
KOBAYASHI YUKIHARU	Country Officer, Indo-china Division, Regional Department I, JICA
NARAHARA MIKIO	Director, Planing Division, General Affairs and Planning Department, Research and Training Institute, Ministry of Justice
NISHIMOTO AKIRA	Deputy Director, Program Division, Osaka International Centre, (OSIC), JICA
ITO KIYOKO	Program Officer, Program Division, OSIC, JICA



SCHEDULE FOR THE JAPANESE ANNUAL CONSULTATION TEAM

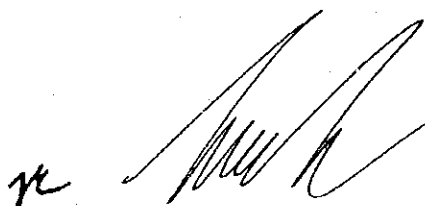
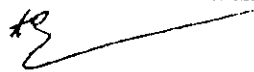
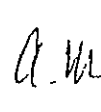
date	time	activities
Feb 25 Sun	15:55	Arrival from Japan
Feb 26 Mon	8:30	Courtesy Call to MOJ
	11:00	Courtesy Call to EOJ and JICA at EOJ
	14:00	Courtesy Call to MPI
	15:00	Party Central Committee of Internal Affairs
	18:30	Dinner hosted by MOJ
Feb 27 Tue	9:00	Joint Steering Committee at MOJ
	18:30	Reception Party hosted by Prof. Morishima at Horison Hotel
Feb 28 Wed	9:00	Joint Steering Committee at MOJ
	11:00	Signing M/U
Mar 1 Thu	AM	Departure for Japan



MEMBERS OF THE VIETNAMESE TEAM

HA HUNG CUONG	Vice Minister, MOJ
KHUAT VAN NGA	Deputy Procurator General, SPP
NGUYEN HUY NGAT	Director Department for International Law and Cooperation, MOJ
DINH TRUNG TUNG	Director, Department for Civil and Economic Law, MOJ
HOANG THE LIEN	Director, Institute for Law Research, MOJ
TRAN THAT	Director Department of Public Notary, Legal Expertise, Civil Registration, Nationality and Criminal Record, MOJ
PHAN HUU THU	Acting Director Legal Professional Training School, MOJ
NGO CUONG	Deputy Director, Judicial Science Institute, SPC
NGUYEN THUY HIEN	Deputy Director, Department for Civil and Economic Law, MOJ
LE VAN HOP	Director of the International Relation Division, Hanoi Law University, MOJ
DINH THI BICH NGOC	Senior expert, Department for International Law and Cooperation, MOJ
DINH THI MAI PHUONG	Expert, Institute of Law Research, MOJ
NGUYEN THI THUY	Expert, Procuratorial Science Institute, SPP
HOANG THUY HOA	Expert, Procuratorial Science Institute, SPP

**EVALUATION OF THE FIRST YEAR
(Japanese Fiscal Year 2000)
OF THE PROGRAM'S IMPLEMENTATION**

A. Completed activities

In Japanese Fiscal Year 2000 (hereinafter referred to as "JFY 2000"), on the basis of the Memorandum of Understanding (hereinafter referred to as "MOU") signed on 22 November 1999, the following activities were carried out within the Cooperation Program:

1. Six out of nine planned workshops on the following topics were conducted in Vietnam:

- 1.1 Business Bankruptcy Law (18-28 June 2000);
- 1.2 Dispute Settlement Mechanism In WTO (7-11 August 2000);
- 1.3 Legislative Facts On Civil Code (15-16 August 2000);
- 1.4 Intellectual Property (28 August – 2 September 2000);
- 1.5 Civil Judgment Execution, (1- 8 November 2000);
- 1.6 Criminal Justice System Of Japan, (19 November – 1 December, 2000).

* Other than the above workshops as scheduled in MOU, one mini-workshop on "Law on Lawyers of Japan" was held on 22 December 2000 by long-term experts.

2. Four short term legal training courses were organized in Japan. 39 participants attended these courses (Annex IV.1):

- 2.1 Training course on Civil Registration and Criminal Record (28 May - 1 July 2000), 10 participants;
- 2.2 Training course on Economic Integration and Lawyers (10 September - 14 October 2000), 10 participants;
- 2.3 Training course on Exercising Public Prosecution (9 October- 11 November 2000), 10 participants;
- 2.4 Training course on Business Bankruptcy Law (13 November - 16 December 2000), 9 participants.

3. Long-term legal training in Japan:

Two officials in the Ministry of Justice (hereinafter referred to as "MOJ") in Vietnam started studying in the graduate program at Nagoya University from October 2000, in order to participate in LL.M. program at the University.

Handwritten signatures and initials:
7c, KB, [Signature], [Signature], A.M.

4. Joint Research on the Amendment of Civil Code in Vietnam:

In August 2000, the Minutes of Meeting to implement the joint research was signed and exchanged between the heads of working groups in both sides. Under this framework, one workshop on the "Legislative Facts on Civil Code" was held in August 2000. Currently, both working groups are studying to identify the main issues related to the amendment of Civil Code, through documents, research papers and the Code.

5. General assessment on the present situation of the legal system in Vietnam:

Both sides are considering as to contents of the above assessment, taking account of the work conducted in Vietnam's government under the Decision 355/TTg of the Prime Minister as well as the research by the UNDP Project and the current situation of the National Legal Database System.

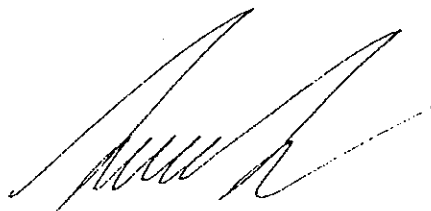
6. Cooperation to train Judicial Professionals:

One short-term expert was dispatched from October 2000, in order to extend Japanese experiences in upgrading the training curricula of judicial professionals. This cooperation has mainly been conducted in the Legal Professional Training School of MOJ

7. Long-term experts:

The long-term experts have significantly contributed to the success of the implementation of the Cooperation Plan for JFY 2000. As a bridge between both sides, the long-term experts efficiently communicated the requests from Vietnamese side to Japanese side, and thanks to that, resourceful lecturers of Japan invited to the workshops made them highly successful. However, more attention should be paid to keeping the time schedule agreed between both sides in the future in order to carry out the activities in a timely manner. While the long-term experts were expected to implement daily consultation upon the request from Vietnamese side, this function has not been carried out to the maximum extent. The daily consultation function should be strengthened in the second year.

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8. Provision of office facilities and equipment:

- During JFY 2000, the Program provided 4 computers for 4 provinces, Ha Tinh, Thanh Hoa, Lao Cai and Phu Tho, under the framework of the National Legal Database System for facilitating legislative drafting work.
- During JFY 2000, the Program compiled and published 500 copies of a collection of materials entitled "Japanese Laws", most contents of which were materials for the workshops held in the past Program. These copies have been already handed over to MOJ and are planned to be distributed to relevant organizations and persons. "Japanese Laws" was highly appreciated by MOJ as basic reference materials for Vietnamese legislation.

B. Planned activities not yet carried out up to February 2001:

1. Workshop on Civil Registration in Japan: This workshop is going to be held in March 2001 (within JFY 2000);
2. Workshop on Law on Issuance of Normative Legal Documents by Local Government: This workshop was planned to be held in the third quarter of JFY 2000. However, the Constitution of Vietnam may be amended in 2001 or 2002. The basic idea of the amendment should be taken into consideration in the legislative work of the above law. Therefore, it was now agreed that it be held in the early period of JFY 2001;
3. Workshop on Four-year Implementation of Current Civil Code: This workshop was planned to be held in the third quarter of JFY 2000. It was now agreed that it be held in March 2001 (within the Japanese fiscal year 2000);
4. Workshop on Japanese Judicial System and Judges by the short-term expert in Vietnam: This workshop was now agreed that it be held in March 8, 2001;
5. Mini-workshop as to the introduction to training curriculum of the Legal Training and Research Institute of the Supreme Court of Japan: This workshop was now agreed that it be held in March 2001; and
6. Mini-workshop on some specific issues in the US-Vietnam Trade Agreement presented by long-term experts: This mini-workshop was now agreed that it be held in March 2001.

C. Evaluation

The workshops and training courses in Vietnam and Japan were conducted with effective coordination of the Vietnamese and Japanese

counterparts. Thanks to the extended cooperation scope to SPC and SPP, the number of Program's activities increased in comparison with that of JFY 1999 and most of the planned activities of JFY 2000 successfully implemented. The Vietnamese side raised relevant issues and described the backgrounds and needs for the workshops and training courses. The Japanese side was able to well prepare to transfer appropriate information to the Vietnamese side by way of giving lecture papers and references in time. The Vietnamese side chose and nominated appropriate participants in workshops and training courses. The both sides were able to share common issues and deeply discuss the issues during the workshops and training courses. Especially, the workshop on Bankruptcy Law held by SPC gained remarkable results, and was highly appreciated by the Japanese side for its well-prepared contents and appropriate participants of Vietnam.

The following table exemplifies the effectiveness of the workshops and training courses. (The table is the overall summary of questionnaires conducted to the workshop participants after each workshop.)

The Summary of the answers:

Total number of the answers: 339

	Above 90%	70%-90%	60%-70%	50%-60%	Below 50%
The seminar got appropriate points on the subjects	213 (62.8%)	104 (30.7%)	11 (3.2%)	6 (1.8%)	0
The present need of participants was fulfilled	140 (41.3%)	141 (41.6%)	46 (13.6%)	11 (3.2%)	0
The future need of participants was fulfilled	123 (36.3%)	148 (43.7%)	45 (13.3%)	14 (4.1%)	0
The knowledge of the experts on the subject was sufficient	255 (75.2%)	71 (21.9%)	6 (1.8%)	1 (0.3%)	0
The presentation was logical and understandable	160 (47.2%)	151 (44.5%)	25 (7.4%)	3 (0.9%)	0
Provision of enough explanation to the subject	166 (48.9%)	142 (41.9%)	24 (7.1%)	3 (0.9%)	0

As shown in the above summary table, Vietnamese participants highly appreciated the contents of the workshops as well as the quality of Japanese short-term experts dispatched to the workshops. Over 80% of the participants fulfilled their current and future needs as to the subjects. The effect of the workshops would be sustained and utilized even in the future. For example, comments by the short-term experts, were of much usefulness to completing the draft of the Business Bankruptcy Law (amendment). However, due to the fact that the language used in the

workshops was the third language (English), sometimes it was difficult to fully respond to some issues raised at the workshops.

In addition, on the occasion of meetings with Japanese legal officials as well as with other donors, the Vietnamese side expressed the significance of the Japanese technical cooperation in legal field and reiterated its continuation and further strengthening. The Program in JFY 2000 has facilitated to improve and strengthen the legal system of Vietnam with a view to moving to a socialist oriented market economy.

The topics for workshops and training courses during JFY 2000 were carefully chosen based on the Legislative Program of the Vietnam's National Assembly for the year 2000. They were suitable and expedient for the need of improving the legal system capable of serving a socialist oriented market economy in Vietnam. These *inter alia* have included business bankruptcy law, dispute settlement under the WTO, intellectual property, and civil judgments execution. Besides, not limited to this area, the Program provided Japanese experiences to the criminal justice field, thanks to the expansion of the cooperation scope in phase 2 of the Program.

Moreover, long-term experts held a mini-workshop with persons in charge as to the law on lawyers. Thanks to the small number of the participants, the long-term experts and participants were able to closely and deeply discuss and exchange their opinions on the topic. Since this type of the mini-workshop was effective, the long-term experts will be encouraged to occasionally organize mini-workshops in cooperation with the Vietnamese side.

While the overall results of the program are encouraging, there is still room for further improvement. For example, short-term experts for some workshops should have been selected earlier and should have distributed the workshop papers and other references well in advance to the workshops so as to further deeply discuss related issues within a limitation of time.

As for training courses in Japan, continuous attention should be given to selecting the appropriate participants specialized in the subject. Also, the same will do in the course of inviting participants for workshops held in Vietnam. The two sides agreed to continue such kind of effort in the future.

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Furthermore, the Vietnamese side will present detailed contents to be covered in workshops held in Vietnam within two months after this MOU is concluded. These contents will include a clear description of rationale for choosing a specific topic, existing problems, present laws and regulations, and timing for organization of the workshop. The Vietnamese side should inform the relevant agencies of the workshop, and promote their participation. The Japanese long-term experts visit these agencies in order to prepare for the workshop. In case that the objective of the workshop is to support drafting legal documents, the Vietnamese side should inform the Japanese side of the legislative schedule, the responsible agencies and related information on other donors. The Japanese side will then timely select appropriate short-term experts, prepare for and present materials to the Vietnamese side well in advance to the workshop. If necessary, the Vietnamese side should keep MPI informed of the progress of the Program.

With regard to the Joint Research on the Amendment of the Civil Code, the working groups of both sides have conducted preparatory works so far, such as identifying the main issues and collecting relevant laws and regulations. Both sides found that these activities took more time than expected. Accordingly, the original schedule set forth in the Minutes of Meeting signed on 17 August 2000 was required to be changed. Both sides agreed to make their best efforts to accelerate the remaining activities.

In order to more effectively implement the Program, both sides agreed to make possible efforts in the followings,

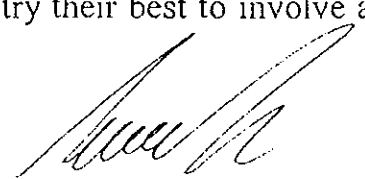
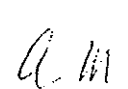
** The Japanese side:*

- a) to hold mini-workshops regularly
- b) to provide daily legal consultation upon the request

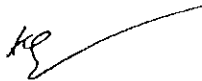
** The Vietnamese side:*

- a) to choose the suitable participants for workshops and training courses. (The attendance of main members of drafting group of relevant laws and regulations is recommended.)
- b) to invite officials and/or experts of the other agencies, who are working in relevant fields

The Vietnamese side reaffirmed that the Program was a cooperation program between the Governments of Vietnam and Japan, and that MOJ, SPC, SPP and JICA were program's executing agencies. With that in mind, MOJ, SPC and SPP should try their best to involve as

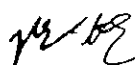
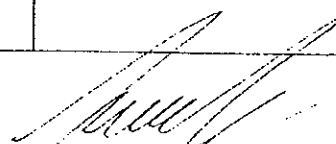
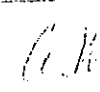
many Vietnamese agencies concerned as possible in the Program activities. This can be clearly seen in the participation of a number of participants from various agencies in the program's activities. The Japanese side proposed that the Program involve more in number and appropriate participants from the outside of the organizations in charge. The Vietnamese side took note of this proposal and will endeavor to do so. The Vietnamese side will also follow the principle of avoiding duplication in the use of ODA provided for in Decree 103 of the Government (effective as from 10 January 1999).





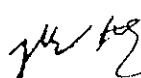
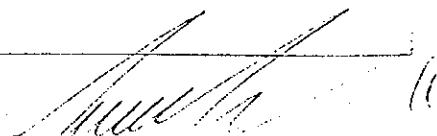
Participants list of four short-term legal training courses

NAME OF PARTICIPANTS	DATE OF BIRTH	AGE	NATIONALITY	PRESENT POST
Mr. TRAN That D-00-03960	1953.01.05	48	VIET NAM	Acting Director @ Dept of Public Notary Civil Registration Judicial Expertise Nationality & Criminal record Ministry of Justice (2000-)
Ms. DO Thi Thuy Lan D-00-03962	1973.09.21	27	VIET NAM	Legal Expert @ Dept of Public Notary Civil Registration Judicial Expertise Nationality & Criminal Record Ministry of Justice (1996-)
Ms. PHAM Thi Hoa D-00-03971	1960.04.10	40	VIET NAM	Legal Expert @ Ministry of Justice (1985-)
Ms. TRUONG Thi Hoa D-00-03972	1959.07.09	41	VIET NAM	Legal Expert @ Dept of General Affairs Ministry of Justice (1988-)
Mr. NGUYEN Van Thanh D-00-03973	1951.05.20	49	VIET NAM	Vice Director @ dept of Administrative & Criminal Laws Ministry of Justice (1997-)
Mr. NGUYEN Thanh Binh D-00-03974	1956.05.19	44	VIET NAM	Deputy Head @ Dept of Personnel Training Judge & Legal Professional Training School (1999-)
Mr. LE Dinh Minh D-00-03975	1956.03.11	44	VIET NAM	Expert @ Division of State Employees Personnel Organization Committee of the Gov. (1993-)
Mr. DO Minh Tam D-00-03977	1959.11.06	41	VIET NAM	Legal Expert @ Ministry of Justice Div. of General Affairs Dept. of Administration (1999-)
Mr. NGUYEN Van Hung D-00-03981	1944.01.28	57	VIET NAM	Director @ Department of Justice Of Vinh Hoa Province (1996-)
Mr. DO Tuan Nha D-00-03985	1940.05.19	60	VIET NAM	Director @ Department of Justice of Vinh Long Province (1998-)

Participants list of four short-term legal training courses

NAME OF PARTICIPANTS	DATE OF BIRTH	AGE	NATIONALITY	PRESENT POST
Mr. HOANG Phuoc Hiep D-00-07637	1952.06.10	48	VIET NAM	Vice Director, Department of Int'l Law and Cooperation, Ministry of Justice. ('95-)
Mr. NGUYEN Am Hieu D-00-07638	1953.06.10	47	VIET NAM	Vice Director, Department of Civil and Economic Law, Ministry of Justice. ('99-)
Mr. NGUYEN Kim Son D-00-07639	1951.08.01	49	VIET NAM	Chief Justice, People's Court of Hai Duong Province. ('97-)
Mr. TRAN Van Quang D-00-07640	1954.01.10	47	VIET NAM	Vice Director, Department of Personnel and Training, Ministry of Justice. ('91-)
Mr. PHAN Huu Thu D-00-07641	1955.10.25	45	VIET NAM	Acting Director, Legal Professional Training School. ('99-)
Mr. LE Manh Luan D-00-07643	1953.09.20	47	VIET NAM	Director, Office of the Committee, Central Committee of Home Affairs. ('98-)
Mr. NGUYEN Huu Chi D-00-07644	1951.10.18	49	VIET NAM	Vice Director, Legal Department, Ministry of Trade. ('88-)
Ms. DO Thi Ngoc D-00-07645	1974.04.26	36	VIET NAM	Legal Researcher, Institute of Law Research, Ministry of Justice. ('91-)
Ms. DUONG Thi Ngoc Chien D-00-07646	1973.06.11	34	VIET NAM	Legal Expert, Department of Int'l Law and Cooperation, Ministry of Justice. ('91-)
Mr. HOANG Minh Chien D-00-07648	1965.05.01	35	VIET NAM	Lecturer, Faculty of Economic Law, Hanoi Law University. ('90-)

Participants list of four short-term legal training courses

NAME OF PARTICIPANTS	DATE OF BIRTH	AGE	NATIONALITY	PRESENT POST
Mr. KHUAT Van Nga D-00-08834	1950.05.30	50	VIET NAM	Deputy Procurator General & Supreme People's Procuracy (2000-)
Mr. MAI Anh Thong D-00-08835	1954.01.20	47	VIET NAM	Deputy Director, Supreme People's Procuracy (SPP), ('00-)
Mr. AU Van Tu D-00-08836	1953.05.07	47	VIET NAM	Deputy Director, Supreme People's Procuracy, ('00-)
Mr. NGUYEN Ngoc Xuyen D-00-08837	1952.10.10	48	VIET NAM	Procurator & Supreme People's Procuracy (1988-)
Mr. VAN Duc Duat D-00-08838	1950.02.23	51	VIET NAM	Deputy Chief Procurator, Supreme People's Procuracy (SPP), ('94-)
Mr. TRINH Khac Trieu D-00-08839	1953.02.20	48	VIET NAM	Deputy Chief Procurator, People's Procuracy in Hai Phong City, ('93-)
Mr. TRAN Dinh Khanh D-00-08840	1954.09.19	46	VIET NAM	Deputy Director & Supreme People's Procuracy (2000-)
Mr. NGUYEN Huy Trung D-00-08841	1955.11.15	45	VIET NAM	Procurator & Supreme People's Procuracy (1998-)
Mr. TRUONG Quang Phuc D-00-08842	1958.01.10	43	VIET NAM	Deputy Director, People's Procuracy of Long An Prov., ('88-)
Ms. LE Thi Cam D-00-08844	1950.09.20	50	VIET NAM	Deputy Chief Procurators, People's Procuracy of Soc Trang Prov., ('92-)

Participants list of four short-term legal training courses

NAME OF PARTICIPANTS	DATE OF BIRTH	AGE	NATIONALITY	PRESENT POST
Mr. CHU Hai Thanh D-00-09433	1953.08.20	47	VIET NAM	Justice, Appellate Division of the Supreme People's Court in Ho Chi Minh City. ('99-)
Mr. MAI Anh Giap D-00-09436	1950.09.01	50	VIET NAM	Chief Judges, People's Court of Cao Bang Province.
Ms. TRAN Thi Hoa D-00-09437	1957.02.16	44	VIET NAM	Senior Legal Expert, Civil Division of the Supreme People's Court. ('96-)
Mr. NGUYEN Than D-00-09440	1943.01.15	58	VIET NAM	Senior Legal Expert, Criminal Division of the Supreme People's Court. ('94-)
Mr. NGUYEN Doan Mui D-00-09441	1945.06.20	55	VIET NAM	Senior Legal Expert, Labor Division of the Supreme People's Court. ('92-)
Mr. DO Cao Thang D-00-09442	1948.02.02	53	VIET NAM	Chief Judges of the Economic Division of the Supreme People's Court. ('99-)
Mr. NGO Cuong D-00-09443	1957.10.26	43	VIET NAM	Deputy Director of the Institute for Judicial Science, Institute for Judicial Science of the Supreme People's Court. ('98-)
Mr. CHU Thanh Quang D-00-09444	1972.08.08	28	VIET NAM	Legal Expert of the Institute for Judicial Science, Institute for Judicial Science of the Supreme People's Court. ('93)
Mr. TO Dung D-00-09445	1945.12.09	55	VIET NAM	Senior Legal Expert, Economic Division of the Supreme People's Court. ('94-)

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Tentative cooperation plan for 2001

(In accordance with the Japanese Fiscal Year [1/4/2001 - 31/3/2002])

I/ Dispatch of Long-term Experts:

- Coordination work for all the activities conducted under this Program
- Daily consulting on legal issues upon the request of Vietnamese side
- Other than the above mentioned works, the following work is allocated mainly to each long-term expert;
 - 1) Joint research on the amendment of Civil Code;
 - 2) General assessment on the present situation of legal system in Vietnam;
 - 3) Criminal justice field; and
 - 4) Capacity building of judicial professionals.

II/ Organization of seminars/workshops to be held in Vietnam: 07

1. Commercial arbitration laws in Japan (in April) (*coordinated by MOJ*);
2. Business Bankruptcy Law (in July) (*coordinated by SPC*);
3. Japanese law on auction of property (in August) (*coordinated by MOJ*);
4. Judicial reform in criminal law area (in August) (*coordinated by SPP*);
5. Expert opinion in judicial procedures (to be decided) (*coordinated by MOJ*);
6. International judicial assistance (in November) (*coordinated by MOJ*); and
7. Issuance of normative legal documents by local government (to be decided) (*coordinated by MOJ*).

Note: Workshops shall be conducted by Japanese short-term experts.

III/ Short-term training courses to be held in Japan (01 month): 04

1. Role of public prosecutors in civil and criminal matters and capacity building of public prosecutors (May 2001) (SPP);
2. Capacity building of legal professionals and Lawyer System (June 2001) (MOJ);
3. Civil Procedure Code (October 2001) (SPC); and
4. Joint research on amendment of the Civil Code (February 2002) (MOJ).

IV/ Long-term training courses to be held in Japan (to pursue LL.M. and LL.D.)

V/ The Joint Research on the amendment of the Civil Code of Vietnam.

Although detailed contents are described as Annex VII, the followings are main activities for JFY 2001,

- 04 hearing meetings as to property and ownership, civil contract, torts, inheritance and intellectual property;
- Workshop on property ownership and/or inheritance in the civil laws of Vietnam and Japan;
- Workshop on contract and civil liability;
- Short-term training course in Japan as mentioned in III. 4. above;

- Carrying out the research on special subjects as described in Annex VII;
- Timely advices from Japanese Working Group; and
- Coordination and daily consultation by long-term experts.

VII/ General Assessment on the present situation of legal system in Vietnam:

- Activities as agreed in Annex VI of this MOU; and
- Coordination and consultation by long-term experts.

VIII/ Capacity building of legal professionals:

- Support for upgrading the training curricula of judicial professionals;
- Short-term training course in Japan as mentioned in III.2. above; and
- Coordination and daily consultation by long-term experts.

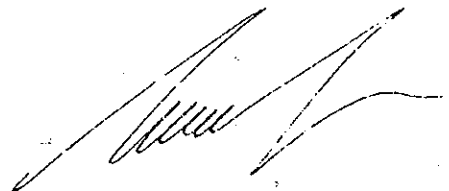
IX/ Provision of equipment:

- Provision of equipment for the National Law Database System; and
- Provision of equipment for the Project offices.

X/ Support for Printing and Publishing reference documents/materials:

- Project's documents; and
- Manuals and curriculum books for the Legal Professional Training School.





FROM: INSTITUTE OF LAW RESEARCH
TO: JICA PROJECT'S OFFICE

PLAN FOR CONDUCTING THE ASSESSMENT AND ANALYSES OF ACTUAL SITUATION OF THE
SYSTEMS OF COMMERCIAL AND CIVIL LAWS (ITEM 1, SUBJECT 2, JICA PROJECT)

1. Objectives

To assess and analyze the existing legal system in the area of commercial and civil laws as a whole for the purpose of identifying shortcomings, the causes thereof and making recommendations on solutions, which should be implemented for improvement of the effectiveness of the legal system.

2. Main components and duration of implementation

No.	Subject	Main activities	Outputs	Implementing Institutions	Duration	Note
1	Systematizing and revising all commercial and civil legal documents.	1.1. To compile, review all legal documents regulating civil and commercial relations. 1.2. To classify all compiled legal documents into each	A Report of the result of reviewing and systematizing of civil and commercial legal documents with the following main contents: 1. List of civil and commercial legal	<ul style="list-style-type: none"> Institute of Law Research, MoJ. Department of Civil and Economic Laws, MoJ. 	From April, 2001 to September, 2001	Having inherit the results on review and systematizati

Date:02/28/01

		<p>legal institution of civil and commercial laws. Legal documents of each legal institution shall be listed by descending effect hierarchy (From Constitution to Codes, Laws, Ordinances and so on.)</p> <p>1.3. To review contents of each provision in all systematized legal documents to identify contrary, overlapping provisions in each legal institution, as well as in the entire system of civil and commercial laws and in international treaties in civil and commercial law that Vietnam signed or participated.</p> <p>1.4. To prepare a Report on results of research.</p>	<p>documents which are currently in force. The listed legal documents are classified into each legal institution of civil and commercial laws.</p> <p>2. List of civil and commercial legal documents that had been ceased their effectiveness.</p> <p>3. List of civil and commercial legal provisions which are contrary to each other.</p> <p>4. List of overlapping civil and commercial legal provisions.</p> <p>5. List of legal provisions, which are contrary to or insufficient with the provisions of civil and commercial international treaties that Vietnam has signed or participated.</p>	<ul style="list-style-type: none"> • Law Faculty of Hanoi National University. 	<p>on of legal documents pursuant to Decision No. 355/TTg by the Prime Minister on the procedures for review and systematization of legal documents of the Project VIE/98/001 between UNDP and MoJ of Vietnam.</p>
2	Assessment of actual	2.1. To organise workshops for soliciting assessments by	Report on results of research activities on assessment of actual enforcement of civil	<ul style="list-style-type: none"> • Institute of Law Research. 	From May, 2001 to Having inherit the

<p>enforcement of provisions of civil and commercial laws: actual situation and causes.</p>	<p>experts, law enforcement officers, lawyers on actual implementation of civil and commercial laws. 2.2. To collect, systematize and compile all discoveries, analyses and recommendations regarding shortcomings of civil and commercial laws in published newspaper and journal articles, research papers. 2.3. To conduct social surveys on actual enforcement of civil and commercial laws. 2.4. To prepare a Report on results of research activities.</p>	<p>and commercial laws, in which, the following contents shall be mentioned: 1. List of civil and commercial legal provisions which are contrary to the requirements of actual life (unfeasible provisions). 2. Interrelation between provisions of civil and commercial laws and Vietnamese customs and traditions as well as international practices. 3. List of civil an commercial relations which are not yet regulated by law. 4. List of causes that make the provisions of law do not take effect in reality. The following kind of main causes shall be mentioned: - Causes relating to the provisions of civil and commercial laws themselves (insufficient, and unclearness, etc.); - Causes generated from insufficient perceptions of law by officers of state agencies (law implementing side) and by the people (side affected by the law);</p>	<p>• Institute of Adjudication Science, Supreme People's Court. • Institute of Procuracy Science, Supreme People's Procuratorate. • Some judicial bodies and courts at local levels.</p>	<p>December, 2001.</p>	<p>results on compilation and assessment of proposals belonging to Content 2 of Subject 2. - Having conjunction with conducting social surveys under Content 2 of Subject 2.</p>
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3	<p>Researching and making recommendations on solutions for enhancing the effectiveness of civil and commercial laws</p>	<p>To do research, analyze and make recommendations on a set of comprehensive measures that should be implemented for improving the actual effectiveness of provisions of civil and commercial laws.</p>	<p>- Causes generated from insufficient mechanism of implementation of civil and commercial laws (this is based on analysis of current level of social development, conditions for operation of law protection agencies, assignment of responsibilities among law enforcement agencies, etc.).</p> <p>Report on measures to be implemented for improving the enforceability of civil and commercial laws. These include:</p> <ul style="list-style-type: none"> - Legislative measures, which emphasize the followings i) improve the law-making procedure in order to reduce the insufficiencies; accelerate the legal research and social surveys to create theoretical and practical basis for the making of a new legal provision; ii) reduce and clear out the overlaps, insufficiencies in legal provisions through amendment and supplement to existing legal documents, promulgation of new legal documents and through the codification activities. - Administrative measures to enhance the 	<ul style="list-style-type: none"> • Institute of Law Research, MoJ. • Department of Civil and Economic Laws, MoJ. • Institute of Adjudication Science, Supreme People's Court. • Institute of Procuracy Science, Supreme People's Procuratorate. 	<p>Form August 2001 to January, 2002.</p>	
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			<p>overall capacity and the capacity to handle civil and commercial matters of state management agencies; improve the public's capacity to access civil and commercial laws through propagation, dissemination and education of civil and commercial laws.</p> <ul style="list-style-type: none"> - Measures to improve the capacity and efficiency of the judiciary in practicing adjudication and enforcement of court judgments and arbitration awards on civil and commercial matters. - Measures to consolidate the adhesive judicial institutions such as lawyers, legal consultants, public notary, judicial expertise, civil registration, etc. for their efficient involvement in the enforcement of civil and commercial laws. 			
4.	Writing the final report on general results of the Project.	4.1. To prepare the final Report on results of all above mentioned Project activities. 4.2. To translate the final Report into English.	The Final Report on results of the Project (in Vietnamese and English with ... pages) will comprehensively reflect the results gained by activities of the Project. The main content of the Report includes: the actual enforcement of civil and commercial laws of	Institute of Law Research.	From February 2002 to April 2002.	

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			<p>Vietnam; causes; a set of comprehensive solutions to be taken to enhance the actual effect of civil and commercial laws of Vietnam.</p>			
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*** Issues that should be considered and agreed:**

1. Range of legal documents to be reviewed

Only legal documents passed, promulgated or issued by central state agencies (National Assembly; the Standing Committee of the National Assembly; the Government; the Supreme People's Court; the Supreme People's Procuratorate; ministries, ministerial level agencies, agencies under the Government) will be reviewed.

2. Meaning of the term civil law in the Project

In this Project, the term "civil law" includes legal provisions regulating the followings:

- a. Civil legal capacity and capacity to perform civil acts of subjects of civil relations (individuals, legal persons, households, cooperative groups).
- b. Property and ownership rights (definition and classification of property; grounds for establishment or termination of ownership rights; rights and obligations attached with ownership rights).
- c. Civil obligations and measures for securing the fulfillment of civil obligations.
- d. Civil contract.

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- e. Tort (covering also liability with respect to products and environment).
- f. Inheritance.
- g. Transfer of land use rights (by individuals, households and legal persons). These provisions are found also in the Law on Land and legal documents guiding the implementation of this Law.
- h. Intellectual property (copyrights, industrial property, transfer of technology).
- i. Civil relations involving foreign element(s).
- j. Marriage and family relations.

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3. *Meaning of the term* *commercial law* *in the Project*

Due to the limited resources, "commercial law" to be reviewed and assessed in the project will only consist of the legal provisions regulating the followings:

- Legal institutions as stipulated in the 1997 Commercial Law of Vietnam such as: definition of traders, contract of sale and purchase of goods, contracts to supply commercial services (services to promote or support sale and purchase of goods such as brokerage, agency, advertisement, auction, bid and so on), commercial papers, state management of commercial activities, etc.
- Legal institutions on trade in services such as banking, insurance, securities, accounting, auditing, consulting, legal services provisions
- Legal institutions with respect to legal status of the following kinds of enterprises:
 - + State-owned enterprise.
 - + Co-operative groups.
 - + Shareholding companies.
 - + Limited liability companies.
 - + Privately-held enterprises and business households.

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+ Foreign - invested enterprises

4. *The inheritance of results of the Project VIE/98/001 between UNDP and the Ministry of Justice of Vietnam and inheritance of results of review and systemization of legal documents in accordance with Decision No. 355/TTg issued by the Prime Minister.*

It should be noted that the review and systemization of civil and commercial legal documents conducted within JICA Project (Item 1, Subject 2 of JICA Project) may inherit the results of VIE/98/001 Project and of the review and systemization conducted in accordance with Decision No. 355/TTg issued by the Prime Minister in the following ways:

Firstly, the procedures and experience for review of legal documents used in the Project VIE/98/001 will be referred and utilized in the conduct of review, systemization of legal documents of civil and commercial laws in this Project.

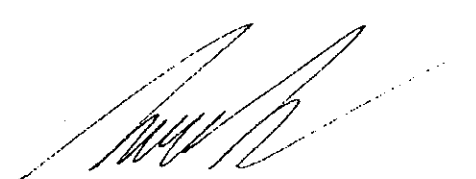
Secondly, the activity for review, systemization of legal documents of civil and commercial laws within JICA Project may use the results of the review and systemization of legal documents in accordance with the Decision No. 355/TTg when answering the question whether a civil or commercial legal document is still currently in force or not.

However, it is also to be understood that the output of the activities conducted in accordance with Decision No. 355/TTg is only the List of legal documents that ceased their legal effect. This List does not answer concretely the question which of them are civil, and which are the commercial legal documents. The List also not gives the assessment of actual implementation of civil and commercial legal provisions. Comparing to activities of reviewing and systemizing legal documents in accordance with Decision 355/TTg, the activities of Item 1, Subject 2 of JICA Project are different. In particular, Item 1, Subject 2 of JICA project shall conducts the following tasks:

- To classify and list civil and commercial legal documents into concrete legal institutions of civil and commercial laws.
- To assess the actual effect of civil and commercial legal provisions from the following aspects:
 - + Which of them are inconsistent.
 - + Which of them are overlapping.

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- + Which of them contradict the requirements of the society.
 - + The interaction between civil and commercial legal provisions and social customs, tradition.
 - + Which social civil and/or commercial relations should be regulated by the law but not yet regulated.
- To find the causes of why the civil and commercial legal provisions in general have low actual effectiveness, then propose recommendations to contribute to the building of a comprehensive and well-functioned system of civil and commercial law in Vietnam.



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Date: 02/28/01

ANNEX VII

IMPLEMENTATION PLAN FOR THE JOINT RESEARCH BETWEEN THE MINISTRY OF JUSTICE OF VIETNAM AND JICA (JAPAN) IN THE PROCESS OF MAKING THE LAW ON AMENDMENT OF AND ADDITION TO A NUMBER OF ARTICLE OF THE CIVIL CODE

Tentative timetable for the amendment of the Civil Code	Implementation program for the joint research done by Vietnamese side		Implementation program for the joint research done by Japanese side	Financial contribution by Japanese side
	Content	implementing body		
From 2000 to 2002 The 10 th Session of the National Assembly decided to amend the Civil Code (the Code), and this amendment was confirmed by the Legislative Program for the period from 1998 to 2002.	Preparing the Law on amendment of the Civil Code (hereinafter referred to the "Amendment Law")	Ministry of Justice (MOJ)		
March 2000 Established a preliminary studying group for preparation of the amendment of the Code (PSG) at the Civil and Economic Legislation Department, PSG will be joined by some members of the drafting group headed by Dr. Dinh Trung Tung. Each member of PSG is assigned to study one or two sections of the Code.	Assigning the implementation bodies in MOJ	The Civil and Economic Laws Department (CEL), the Law Research Institute (LRJ), the International Law and Cooperation Department (ILC)	Establishing Japanese Working Group (JWG) ^a	
April 2000 Commencing works for to identify	Identifying provisions at issue, which should be amended and/or supplemented in the Code	CEL		

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provisions at issue in the Code	(considering comments and advices from the JWG, if available)			
August 2000 Establishing the Drafting Committee and Drafting Group for the amendment of the Code	- as above - Establishing Vietnamese Working Group (VWG) - Completing list of provisions at issue needed to be amended and supplemented	VWG		
September 2000 Submitting a report on the provisions to be amended to the Minister of Justice	Confirming the research points and subjects based on the direction of the Minister	VWG	JWG and LTE give comments on the provisions to be amended and research subjects.	
From August 2000 to February 2001	Systematizing and reviewing guiding documents of the implementation of the Code and other concerned documents adopted since 1986	VWG		
	Collecting typical judgments, assessing and analyzing the application of the Code in the context of civil disputes, and making recommendation for solution.	VWG	JWG and LTE give comments on the systematization and evaluation by Vietnamese side of typical judgements	
	Systematizing, collecting, analyzing and assessing the comments and contents in the research works on the amendment of the Code	VWG		
August 2000 Confirming the scope of provisions to be amended based on the opinions of relevant agencies	A workshop on methodology for finding legislative facts for amendment of the Code (held in Hanoi)	VWG	Participating in the workshop	Costs for the workshop
December 2000	A workshop on four-year implementation of the Code based on the theoretical reports and the research result done by VWG (in Hanoi or in Ho Chi Minh city)	VWG	as above	Costs for the workshop
August 2000 to August	The following subjects will be researched:	VWG	JWG and LTE will	

<p>2001 Carrying out the research on special subjects</p>	<p>1. The role of the Code in the legal system of Vietnam</p> <p>2. Ownership and the protection of ownership rights in the market economy;</p> <p>3. Provisions at issue to be amended in the contract law. Invalid contracts and the protection of rights and legal interests of involved parties.</p> <p>4. Basic matters affecting the rights and obligations of the land users, who are individuals and/or organizations.</p> <p>5. Measures used to secure the performance of legal obligations.</p> <p>6. Copyrights and neighboring rights; protected objects under the industrial property regime.</p> <p>7. Civil relations having foreign elements.</p> <p>- These subjects are tentative, and will be finalized at the next joint steering committee meeting.</p>	<p>give assistance in the studying process</p>	<p>Costs for the hearing meetings Number of hearing meetings' = 4</p>
<p>Field survey on the practical implementation of some specific provisions of the Code</p> <p>From December 2000 April 2001 to February-July 2001, the field survey will be conducted at the provinces, cities, villages and districts (in each province, the survey will be done at its provincial court and 4 district courts) as follows: Ha Noi, Nam Dinh, Lang Son (in the North); Ho Chi Minh city, Dak Lac, Can Tho (in the South); Hue, Da Nang, Nghe An (in the Central)</p>	<p>VWG</p>	<p>JWG give comments and advice on the research method and subject.</p> <p>Japanese experts accompany with the survey team, participate the hearing meetings and give comments on the report.</p>	<p>JWG give comments and advice on the research method and subject.</p> <p>Japanese experts accompany with the survey team, participate the hearing meetings and give comments on the report.</p>
<p>Field survey on the practical implementation of some specific provisions of the Code</p> <p>From December 2000 April 2001 to February-July 2001, the field survey will be conducted at the provinces, cities, villages and districts (in each province, the survey will be done at its provincial court and 4 district courts) as follows: Ha Noi, Nam Dinh, Lang Son (in the North); Ho Chi Minh city, Dak Lac, Can Tho (in the South); Hue, Da Nang, Nghe An (in the Central)</p>	<p>The following topics will be covered in the survey:</p> <ul style="list-style-type: none"> + Property and ownership; + Civil contract; + Tort; + Inheritance; + Intellectual property <p>- The activities will include the followings:</p> <ul style="list-style-type: none"> + Direct interview with people who implement and apply regulations of the Code such as judges, people's jurors, prosecutors, barristers, notary officers, judicial officers, solicitors, representative of Commerce and Industry Chamber, Industrial Property Bureau, Copy Right Bureau, judgment executors (marshal). 	<p>JWG give comments and advice on the research method and subject.</p> <p>Japanese experts accompany with the survey team, participate the hearing meetings and give comments on the report.</p>	<p>Costs for the hearing meetings Number of hearing meetings' = 4</p>

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	representatives of some domestic and foreign law firms and others. + Holding hearing meetings in order to identify the obstacles, constraints to the implementation of the Code. + Organizing the social research on inheritance situation by sending questionnaires.	VWG	Give comments and advice on the questionnaire on inheritance. Give comment on the report on the survey result.	If budget allows
From February 2001 to June 2001 <u>May 2001 to September 2001</u> Making 1 st Draft of the Amendment Law. Collecting the opinions of concerned ministries and relevant agencies.	- Making the outline of the draft of the Amendment Law - Allocating drafting works; - Completing the 1 st Draft; - Collecting opinions of relevant agencies, and ministries.	Drafting Group, VWG	Assisting the drafting work, giving advices	Costs for the discussion meetings between Japanese experts and members of the Drafting Group.
From June 2001 to September 2001 <u>February 2002</u> Continuation of making the draft	Continuing the drafting work based on the result of the research done by VWG	Drafting Group, VWG	as above	as above
March 2001 to April 2001 <u>June 2001</u>	Workshop on amendment of the Code (Tentative topic: property ownership in the civil laws of Vietnam and Japan) (held in Ho Chi Minh city)	VWG	- Assisting the workshop's organization activities - Working with the Drafting Group	Costs for the workshop
August 2001	<u>Workshop on amendment of the Code (Tentative topic: Contract and Civil Liability for tort)</u>	VWG	as above	Costs for the workshop
July 2001 to October 2001	Completing the final report on the study of the implementation of the Code, and organizing the workshop on this report	VWG VWG	The advice and comments on the report by JWG	Costs for the translation of the report and costs for

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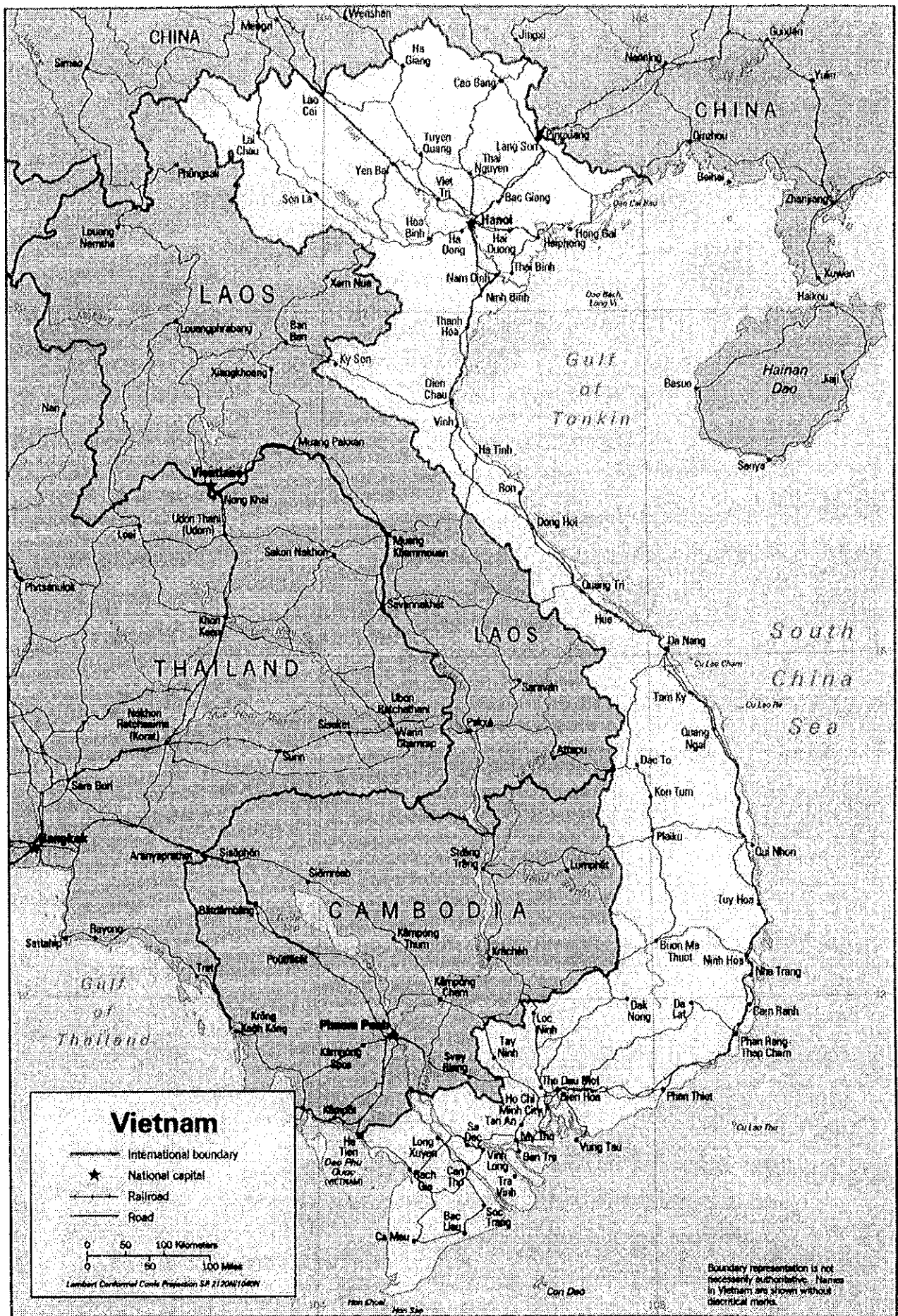
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					the workshop on the final report
<u>March 2002</u> <u>April 2002</u>	Workshop on the amendment code (first workshop) (held in Hanoi)	VWG	as above	Costs for the workshop	
<u>May 2002</u> <u>June 2002</u>	Workshop on the amendment code (second workshop) (held in Ho Chi Minh city)	VWG	as above	Costs for the workshop	
<u>July 2002</u> <u>August 2002</u>	Completing the Draft of the Amendment Law, and introduction paper on the draft to be submitted to the Government	VWG	Assisting the completion of the Draft by exchanging opinions, providing comments, and solution.		
<u>August 2002</u> <u>September 2002</u>	Continuing the completion of the Draft	Drafting Committee and Drafting Group	as above		
Submitting to the Standing Committee of the National Assembly					
<u>September 2002</u> <u>October 2002</u> <u>and</u> <u>November 2002</u>	as above	as above	as above		
Collecting opinions from ordinary people					
The end of 2002	Completing the Report on the Joint-research, and holding the workshop on the result of the joint-research		comments on the joint-research result by short-term experts	Costs for translation of the report, costs for the workshop on the joint-research report.	
Introducing the Amendment Law to the National Assembly					

hearing meeting: small workshop

A.M.





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