

AGREEMENT
between
the Taipei Economic and Cultural Office in Vietnam
and
the Vietnam Economic and Cultural Office in Taipei
On
Judicial Assistance in Civil Matters

The Taipei Economic and Cultural Office in Vietnam and The Vietnam Economic and Cultural Office in Taipei (Hereafter referred to as “the two Parties”),

For the purpose of strengthening co-operation in judicial assistance in civil-related matters, on the basis of equality and mutual benefit;

Have agreed as follows:

Chapter I
General Provisions

Article 1
Scope of Assistance

1. In accordance with the provisions of this Agreement, the two parties shall provide each other with judicial assistance in the following civil matters:
 - a) Service of documents;
 - b) Investigation, and taking of evidence;
 - c) Recognition and enforcement of judgments and decisions of the Courts in civil matters and arbitral awards;
 - d) Other matters stipulated by this Agreement.
2. “Civil matters” referred to in this Agreement shall include civil, commercial, marital, family and labor matters.
3. “Competent authorities” referred to in this Agreement means the Courts, the Prosecutor office and other authorities having jurisdiction over civil matters.

Article 2
Judicial Protection

1. Individuals of one Party shall enjoy in the territory of the other Party the same judicial protection for the personal and property rights as individuals of the other Party and shall have the right to contact and implement the proceedings before the courts and other authorities having jurisdiction over civil matters in the same conditions accorded to the individuals of the other Party.
2. The provisions in paragraph 1 of this Article shall also apply to legal persons and other organizations which may participate in legal proceedings as the interested parties established in the territory one of the two Parties under its law.

Article 3
Reduction or Exemption of Legal Fee and Legal Aid

1. Individuals of one Party shall be reduced or exempted from payment of legal fees and shall be afforded free legal aid in the territory of the other Party under the same conditions and level as those for the individuals of the other Party.
2. If the application for reduction or exemption of legal fees or for legal aid will be decided on the financial situation of the applicant, a certificate on such situation shall be issued by the competent authorities of the Party where the applicant has his or her domicile or residence. If the applicant has no domicile or residence in either of the two Parties, the certificate may be issued by the designated overseas competent authority of that Party.
3. An individual of one Party applying for reduction or exemption of legal fees or for legal aid in accordance with paragraph 1 of this Article, may submit an application to the competent authority of the Party where the applicant has his or her domicile or residence. This authority shall transmit the application together with the certificate issued under paragraph 2 of this Article to the competent authority of the other Party. The applicant shall also submit the application directly to the competent authority of the other Party.

Article 4
Mode of Communication

For the purpose of making and executing a request for judicial assistance, the two Parties shall, unless otherwise provided in this Agreement, communicate through their designated competent authorities.

Article 5
Language

A request for judicial assistance and any documents attached thereto drawn up under this Agreement shall be accompanied by a duly certified translation into the official language of the requested Party or English.

Article 6
Costs of Judicial Assistance

1. The two Parties shall provide each other with free of charge judicial assistance.
2. The expenses relating to the witness or expert of one Party shall be implemented as provisions in Article 12 of this Agreement.
3. If the execution of a request for judicial assistance requires extraordinary expenses, the two Parties shall consult their opinions to decide the condition for the execution of that request.

Article 7
Request for Judicial Assistance

1. A request for judicial assistance shall be made in writing and shall contain the following items:
 - a) Date of the request;
 - b) Name and address of the requesting authority;
 - c) Name and address of the requested authority;
 - d) Name, gender, occupation, place of birth and address of the person, or name and address of the agency or organization concerned;
 - e) A description of the case, requested matters and other information relating to the request for judicial assistance.

2. If the requested Party finds that the information in the request for judicial assistance is inadequate for the execution thereof, the requested Party shall require that further necessary information be provided.
3. The request for judicial assistance and accompanied documents must be signed and sealed by the requesting authority.

Article 8

Execution of Request for Judicial Assistance

1. The requested Party shall execute the request for judicial assistance in accordance with its laws.
2. The requested Party may execute the request for judicial assistance in the manner requested by the requesting Party, unless this is contrary to its laws.

Article 9

Refusal or Postponement of Execution of Request for Judicial Assistance

1. A request for judicial assistance may be refused if the requested Party finds that the execution of the request is likely to prejudice its security, public order, fundamental legal principles or essential interests. The requested Party shall inform the requesting Party of the reasons of such refusal.
2. A request for judicial assistance may be postponed if the requested party finds that the immediate execution of the request is likely to impede its ongoing criminal investigation or prosecution. The requested Party shall inform the requesting Party of the reasons of postponement.

Article 10

Transfer of Money and Objects

Transfer of money and objects under this Agreement from the territory of one Party to the territory of the other Party shall be in accordance with the laws of the transferring Party concerning transfer of money and objects abroad.

Article 11

Summon of Witness and Expert

1. If appearance of a witness or an expert before its judicial authorities is

deemed necessary, the requesting Party shall mention in the request for service of summon expenses payable, conditions and time of payment to the witness and expert.

2. The summon shall be sent to the requested Party no later than 60 days prior to the date on which the person summoned must appear before the judicial authority of the requesting Party.
3. The requested Party shall serve the summon upon the person concerned and inform the requesting Party of the opinion of the summoned person.

Article 12

Protection of Witness and Expert

1. The witness or expert appearing before the judicial authority of the requesting Party under the provisions of this Agreement, shall not be criminally prosecuted, detained or subject to any other restriction of his personal liberty in the territory of that Party in respect of criminal acts or convictions anterior to his departure from the territory of the requested Party. Nor may such person be prosecuted, detained or punished in connection with his/her truthful testimony or expert evidence.
2. The protection under the paragraph 1 of this Article shall cease when the witness or expert having had, for a period of 7 days, from the date he was informed by the competent authority that his presence is no longer required, an opportunity of leaving, has nevertheless remained in or returned to the territory of the requesting Party. Such period shall not include the time during which the witness or expert was unable to leave the territory of the requesting Party for reasons beyond his control.
3. The witness or expert summoned by the judicial authorities under paragraph 1 of this Article shall be paid travel, meal and accommodation expenses as well as other allowance during his/her presence at the territory of the requesting Party. The expert shall also be paid for his/her expert conclusions. The summon must specify the amount to be paid to the expert. If the person summoned requests for advance money to cover his/her expenses, the judicial authority of the requesting Party shall give the person a sum of the money to be paid for the person's expenses.
4. The witness or expert who has received a summon may refuse to comply

with it. The requested Party shall not have the right to take any compulsory measure to force the person summoned to comply with the summon.

Article 13

Service of Documents to Own Individuals

1. The judicial authorities of one Party may, through its Economic and Cultural Office, serve documents upon its own individuals who are residing in the territory of the other Party.
2. In serving documents under paragraph 1 of this Article, the Economic and Cultural Office shall not have the right to take any compulsory measures in relation to the person receiving the documents.

Article 14

Exchange of Legal Information

1. The two Parties shall, upon request, provide each other with information of the current laws, disclosed authority documents and law enforcement practices in their territories.
2. A request for information shall state the name of requesting authority as well as the purpose of the request.

Article 15

Exemption from Legalization

In implementation of this Agreement, documents and translations shall not subject to legalization in any form, provided that they are officially signed and sealed.

Article 16

Judicial Assistance at Concurrent Requests

1. Where the requested Party receives more than one requests for judicial assistance in the same matter, one of which is from one Party, the requested Party shall decide which request it shall execute.
2. In deciding which request it shall execute, the requested Party shall take into account all relevant circumstances, particularly:

- a) The date on which the request was received;
 - b) Nature of the matter requested;
 - c) Effect of the execution of a request on the execution of another request;
 - and
 - d) The time required for the execution of the request.
3. The requested Party shall inform the requesting Party of the existence of concurrent requests relating to the same matter and its decision.

CHAPTER II

Judicial Assistance in Civil Matters

Article 17

Service of Documents

1. The requested Party shall, upon request, serve judicial documents and relevant attachments.
2. The documents to be served shall be made in two sets and translated into the language of the requested Party or English and shall be sent together with the request for service.
3. The requested Party shall, after serving the documents, send to the requesting Party a certificate of the service, which specifies the date, place and method of servicing with the signature and seal of the serving authority which has served the documents. If the service of the documents is impossible, the requested Party shall notify the requesting Party of the reasons thereof.

Article 18

Investigation and Taking of Evidence

1. Upon request, the two Parties shall assist each other in investigation, custody-evaluation, taking of evidence and implementation of necessary proceedings in order to conduct the investigation and taking of evidence.
2. In addition to the provisions of Article 7 of this Agreement, request investigation and taking of evidence shall also include the following particulars:
 - a) The questions to be put to the persons to be examined or a statement of

- the subject matters about which they are to be examined; and
- b) The documents or property to be inspected.

- 3. The requested Party shall notify in writing the requesting Party of the results of the execution of the request for investigation and taking of evidence accompanied with documentary evidence.

CHAPTER III

Recognition and Enforcement of Judgments, Decisions and Arbitral Awards

Article 19

Recognition and Enforcement of Judgments and Decisions

Under the conditions stipulated in this Agreement, one Party shall in its territory recognize and enforce the following judgments and decisions rendered by the other Party:

- a) Civil judgments and decisions, including but not limited to court's judgments and decisions in commercial, labor, marital, family matters and other judgments and decisions stipulated in this Agreement;
- b) Decisions relating to property in criminal judgments.

Article 20

Conditions for Recognition and Enforcement

The judgments and decisions stipulated in Article 19 of this Agreement shall be recognized and enforced if the following conditions are met:

- a) The judgment or decision is legally effective and final according to the laws of the requesting Party and enforceable under the laws of the Party that rendered the judgment or decision;
- b) The judgment or decision is given by the competent authorities stipulated in this Agreement and the laws of the requesting Party;
- c) The civil judgment or decision of the requesting Party has come into force and is not contrary to the laws of the requested Party; or a court of the requested Party has not recognized and enforced the effective decision rendered by a third state on the same litigation; or the same case has not been brought to a court of the requested Party;
- d) The judgment or decision has been rendered by the court where the procedural rights of litigants or their legal representatives have been

- properly secured;
- e) The requested Party is satisfied that the recognition and enforcement of the judgment or decision shall not prejudice its security, public policy or contradict fundamental principles of its laws.

Article 21

Submission of Request

1. Request for recognition and enforcement of judgments or decisions given by the courts may be submitted by parties directly to the courts having the competence to recognize and enforce the judgments or decisions.
2. In addition to the provisions of Article 7 of this Agreement, the request for recognition and enforcement of a decision given by a court must be accompanied with:
 - a) A complete and authenticated copy of the decision and documents certifying that the decision has come into force and is final;
 - b) Documents to certify that the defaulting party has been legally summoned, in the case the decision rendered by default;
 - c) Documents or descriptions to certify that the party without capacity for action has been properly represented.
3. A request for recognition and enforcement of judgment or decision and attached documents shall be made in duplicate.

Article 22

Procedures for Recognition and Enforcement

1. One Party shall apply its laws to the recognition and enforcement of decisions rendered by the courts of the other Party.
2. The courts of the requested Party shall confine themselves to examining whether the conditions stipulated in this Agreement are met, and shall not examine the substance of the decisions.

Article 23

Effect of Recognition and Enforcement

The judgments or decisions rendered by the courts of one Party which have been recognized and enforced by the courts of the other Party shall have the

same effect as those rendered by the courts of the other Party.

Article 24
Recognition and Enforcement of Arbitral Awards

One Party shall recognize and enforce arbitral awards rendered in the territory of the other Party in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards concluded in New York on June 10, 1958 and the Arbitration laws of the two parties.

CHAPTER IV
Other Provisions

Article 25
Settlement of Disagreement

Any disagreement arising from the interpretation or implementation of this Agreement shall be settled through consultation of the two Parties.

Article 26
Entry into Force

This Agreement shall enter into force on the thirtieth day after the date of the last notification on the fulfillment by the Parties of their internal procedures necessary for its entry into force.

Article 27
Amendments

Any amendment to this Agreement must be agreed by the two Parties.

Article 28
Effect of Agreement

1. This Agreement shall remain in force until termination by either Party giving a six month prior written notice of its intention to the other Party through their Economic and Cultural Offices.

2. Request before termination shall be completely executed according to this Agreement.

Article 29
Supplementary Provision


Judicial assistance which is not provided in this Agreement shall be performed by laws on judicial assistance of the requested Party.

Done in duplicate in the English language.

For the Taipei Economic and
Cultural Office in Vietnam

梁英斌

For the Vietnam Economic and
Cultural Office in Taipei



DATE: April 12, 2010 DATE: April 12, 2010

駐越南臺北經濟文化辦事處與駐臺北越南經濟文化辦事處

關於民事司法互助協定

(中譯本)

駐越南臺北經濟文化辦事處與駐臺北越南經濟文化辦事處
(以下簡稱雙方)，為加強雙方民事司法互助之合作，在平等互惠的基礎上，達成共識如下：

第一章 總則

第一條 協助之範圍

一、締約雙方應根據本協定，在民事事項相互提供下列司法互助：

(一)文書送達

(二)調查取證

(三)承認與執行民事裁判和仲裁判斷

(四)本協定所規定之其他互助事項

二、本協定所稱之「民事」，係指民事、商事、婚姻、家庭及勞工等事件。

三、本協定所稱「權責機關」，係指法院、檢察署及主管民事事項之其他機關。

第二條 司法保護

一、締約一方之人民在他方境內，於人身及財產權利享有與他方人民相同之司法保護，並得在與他方人民相同條件下，就民事事項，向法院或其他權責機關提出主張。

二、本條第一項之規定亦適用於依締約一方法律在該方境內

成立之法人及在法律程序上有利害關係之其他組織。

第三條 訴訟費用之減免及法律扶助

- 一、締約一方人民在他方境內，在與他方人民相同之條件及範圍內，享有訴訟費用減免及接受免費法律援助之權利。
- 二、倘申請訴訟費用減免或法律扶助須依其經濟狀況決定者，申請人之住所或居所地之締約一方權責機關應出具證明書。倘申請人在締約雙方境內均無住所或居所者，得由經指定之駐外權責機構出具之。
- 三、締約一方人民依本條第一項申請訴訟費用減免或法律援助時，得向其居所或住所地之締約一方權責機關提出申請。該機關應將該申請及本條第二項之證明書一併轉交他方之主管機關；締約一方人民亦得直接向他方權責機關提出申請。

第四條 聯繫途徑

除本協定另有規定外，締約雙方請求及提供司法互助，應通過雙方指定之權責機關進行聯繫。

第五條 語文

依本協定提出之司法互助請求書及其輔助文件，應檢附經認證之受請求方官方文字或英文譯文。

第六條 司法互助的費用

- 一、締約雙方應相互無償提供司法互助。
- 二、締約一方之證人與鑑定人之相關費用應適用本協定第十二條之規定。
- 三、如提供司法互助須支出超乎尋常之費用，締約雙方應協商執行該項請求之條件。

第七條 請求司法互助

- 一、司法互助請求應以書面提出，並應包括下列內容：
 - (一) 請求日期
 - (二) 請求機關之名稱和地址；
 - (三) 受請求機關之名稱和地址；
 - (四) 有關人員的姓名、性別、職業、出生地及住址，或相關機關或機構之名稱及地址；
 - (五) 請求之事件、請求協助事項及其他相關事項之說明；
- 二、如受請求方認為請求書中之內容不足，以致於不能執行時，應要求請求方提供必要之資料。
- 三、請求書及其所附文件應由請求機關署名及用印。

第八條 司法互助請求之執行

- 一、受請求方應根據己方法律執行司法互助請求。
- 二、受請求方得依請求方要求之方式執行司法互助請求。但該方式違反受請求方之法律者不在此限。

第九條 司法互助請求之拒絕或延緩執行

- 一、如受請求方認為執行司法互助請求可能損害其安全、公共秩序、法律基本原則或實質利益，得拒絕之，並應將拒絕理由通知請求方。
- 二、如受請求方認為執行該司法互助請求，將妨害正在受請求方進行之刑事偵查或追訴時，得延緩執行該請求，並應將理由通知請求方。

第十條 物品及金錢的轉移

因執行本協定而將物品及金錢由締約一方境內移轉至他方境內時，應遵守該轉移方關於輸出物品和金錢之法律。

第十一條 證人及鑑定人之傳喚

- 一、請求方認為證人或鑑定人有至其司法機關出庭之必要，應在其要求送達傳票之請求書中說明可向其支付之費用及支付之條件、期限。
- 二、送達傳票之請求書應在要求受傳喚人至請求方出庭之日前至少 60 日送交受請求方。
- 三、受請求方應向證人或鑑定人送達傳票，並將受傳喚人之答覆通知請求方。

第十二條 證人及鑑定人之保護

- 一、依本協定之請求方司法機關出庭之證人或鑑定人，不得因其在離開受請求方領土前之犯罪行為或有罪判決而在請求方境內受刑事訴追、拘禁或自由之限制。亦不得

因其真實之證言或鑑定意見而受刑事訴追、拘留或處罰。

- 二、自權責機關告知證人或鑑定人不需出庭之日起7日內，若該證人或鑑定人得離開請求方領土卻逾期未離開或返回者，不適用第一項之保護。但上述期間不包括非可歸責於證人或鑑定人之原因而未能離開請求方領土之期間。
- 三、司法機關依本條第一項規定傳喚證人或鑑定人時，應支付其因在請求方出庭所生之旅費、食宿費用以及其他雜費，並應支付鑑定人報酬。傳票上應載明支付之金額。倘受傳喚之人要求預支費用，請求方之司法機關應行預付。
- 四、經傳喚之證人或鑑定人得拒絕出庭。受請求方不得採取任何強制處分要求其出庭。

第十三條 向己方人民送達文書

- 一、締約一方之司法機關得透過其派駐他方之經濟文化辦事處向在該他方境內之己方人民送達文書。
- 二、執行前項文書送達之際，經濟文化辦事處不得對有關收受文書之人採取任何強制處分。

第十四條 交換法律資訊

- 一、締約雙方應根據請求而相互提供其境內現行法律、得公開之機關文件及相關執法實務。

二、請求提供資訊應說明該項請求之提出機關及目的。

第十五條 免除認證

執行本協定時，文件和譯本如經權責機關署名及用印，即無需任何形式之認證

第十六條 同時發生多數請求

一、受請求方同時收受至少其一來自締約一方對同一事項之多數請求時，受請求方應決定執行何請求。

二、受請求方於決定執行項目時，應特別考量下列情形：

- (一) 收受請求之日期
- (二) 請求之性質
- (三) 執行其一請求對其他請求之影響
- (四) 執行請求所需之時間

三、受請求方應將同時多數請求存在之事實及其決定通知請求方。

第二章 民事司法互助

第十七條 送達文書

一、受請求方應根據請求，送達司法文書和相關附件。

二、請求送達之文書需備一式2份，並翻譯為受請求方之語文或英文，連同請求書一併寄交。

三、受請求方在執行送達後，應向請求方出具送達證明。送達證明應包括送達日期、地點和執行方法的說明，並應由執行送達的機關署名並用印。如不能執行送達，則應

通知請求方，並說明理由。

第十八條 調查取證

- 一、締約雙方應根據請求，相互代為調查取證、訪視，以及進行與調查證據有關之必要程序。
- 二、調查取證之請求除應符合本協定第七條之規定之外，並應說明：
 - (一)需向被調查人提出之問題，或關於需詢問事項之說明；
 - (二)需調查之文書或財產。
- 三、受請求方應將調查取證之執行結果，以書面通知請求方，並附上所獲得之證據資料。

第三章 判決與仲裁之承認與執行

第十九條 裁判之承認與執行

締約一方應根據本協定所規定之條件，在其境內承認與執行在他方境內作出之下列裁判：

- (一)法院對民事事件所為之裁判，包括但不僅限於法院就勞工、婚姻、家庭、商事和其他本協定所規範之裁判；
- (二)法院在刑事判決中所作有關財產之決定。

第二十條 得承認與執行之情況

對於本協定第十九條所定之法院裁判，符合下列情形者，始得承認與執行：

- (一)該裁判根據請求方法律係終局且有效，且根據作出裁

判之一方之法律，該裁判係可執行；

- (二) 由本協定規定之權責機關根據請求方法律所為之裁判；
- (三) 請求方所為之裁判已生效，且並未違反受請求方之法律；或受請求之法院尚未承認和執行由第3國就相同訴訟所為之有效裁判；或同一案件尚未繫屬受請求方之法院者；
- (四) 在訴訟當事人或其法定代理人之程序權獲得合法保障下，法院所為之裁判；
- (五) 受請求方認為該裁判之承認與執行不致侵犯其安全、公共政策或與其基本法律原則產生衝突。

第二十一條 請求之提出

一、承認與執行法院裁判之請求，得由當事人直接向有權承認與執行該裁判之法院提出。

二、承認與執行法院裁決之請求書除應符合本協定第七條之規定外，還應檢附：

- (一) 完整及真正之裁判書副本及證明裁判已經生效之文書；
- (二) 如係一造辯論判決，可證明缺席的敗訴一方當事人已經合法傳喚之文書；
- (三) 如當事人係無訴訟行為能力人，可證明其已得到適當代理之文書或說明。

三、承認及執行裁判之請求及其附件，應製作繕本。

第二十二條 承認與執行之程序

- 一、締約一方承認與執行他方之法院裁判時，應適用其本國法律。
- 二、受請求方法院審查之範圍，僅限於該裁判是否符合本協定，不得為實質審查。

第二十三條 承認與執行之效力

締約一方法院之裁判一經他方法院承認或決定執行，即與該方法院之裁判具有同等效力。

第二十四條 仲裁判斷之承認與執行

締約一方應根據 1958 年 6 月 10 日訂於紐約之關於承認與執行外國仲裁判斷之公約及雙方仲裁法之規定，承認與執行在他方境內所為之仲裁判斷。

第二十五條 爭議之解決

因解釋或適用本協定所產生之爭議，應由締約雙方協商解決。

第二十六條 批准及生效

本協定於雙方完成使本協定生效之必要程序後，以書面通知對方，以最後通知之日起第 30 日生效。

第二十七條 修正

本協定之任何修正均應經締約雙方同意。

第二十八條 協定之效力

一、本協定自締約任何一方透過其經濟文化辦事處以書面提出終止之日起 6 個月後失效。

二、在終止前提出之請求應依本協定執行完畢。

第二十九條 其他協助

本協定未規範之其他司法互助，依受請求方有關司法互助之法律行之。

本協定以英文各繕二份。

駐越南臺北經濟文化辦事處

駐臺北越南經濟文化辦事處

梁英斌

阮伯炬

時間： 2010/04/12

時間： 2010/04/12