

The actual amount of rent payable is determined by the SCCI and the Ministry of Finance and is stated in each investment license. Every five years, the SCCI and Ministry of Finance may adjust the rental rates; however, adjustments shall not be greater than 15%.

If the investor pays the rent up-front for the project's entire term, the rent is reduced by:

- 15% if the project has a term of over fifteen years; and
- 10% if the project has a term of between five and fifteen years.

Finally, Decree 18 on Foreign Investment states that "in necessary cases" the Vietnamese partner to a JV may make its capital contribution in the form of land rights (article 26). Where such a contribution is approved, the calculation of the contribution's value is based on the applicable rental rate in this Circular, the total area and the contribution schedule.

1.8 Dispute Resolution

The legislative framework that deals with different types of dispute resolution can be confusing, despite recent attempts by government to rationalize the system. The important pieces of legislation are outlined here. Section 2 of the report highlights some of the gaps and deficiencies in the legislative framework that may cause confusion.

1.8.1 Law on Foreign Investment

Name: Decree No. 18: Regulating in Detail the Implementation of the Law on Foreign Investment in Vietnam.
Agency: Government.
Date: April 16, 1993.
Details:

Chapter 13 of Decree 18 sets out three programs of dispute resolution.

1. Article 100 deals with disputes between the partners of a JV or BCC. All disputes shall first be resolved "through negotiation and conciliation between the parties concerned". In the event that the parties fail to reach an agreement, the dispute may be referred to a Vietnamese arbitrator, an arbitrator of a third country, an international arbitrator⁴, or an arbitration panel chosen by the parties involved.
2. Article 101 states that disputes between Vietnamese organizations and foreign invested enterprises, or Vietnamese organizations and the foreign partner(s) of BCCs, must be settled in accordance to Vietnamese laws and by a Vietnamese arbitration body. It is believed that a "Vietnamese arbitration body" refers to the State Economic Arbitration body under the central Government, or the provincial/city bodies under the People's Committees.
3. Article 102 states that disputes between foreign interests and Government agencies shall be settled through conciliation. If such efforts fail, "the case shall be brought before a Government competent authority".