

LEGAL FORMS OF BUSINESS ORGANIZATION

The following are the principal forms of business organization in Vietnam available to a foreign enterprise:

- Business Cooperation Contract
- Joint Venture Company
- 100% Foreign-Owned Company
- Representative Office

Business Cooperation Contract

A business cooperation contract is an agreement between two or more parties to conduct joint business operations without incorporating a company in Vietnam. The contract will include the rights, obligations, and responsibilities of the parties. A new company is not created; therefore, the foreign company can withdraw with little inconvenience, and the parties can agree on their own conditions.

The nature and scope of the contract will be examined by the SCCI. The contract will become effective once the SCCI has approved it.

The SCCI will examine the following aspects of the contract before approval:

- The economic and technical underpinnings of the contract explained through a feasibility study.
- The nature of the business activities to be conducted
- Inputs required by each contractor
- Products or services and their markets
- Foreign exchange considerations
- Conformity to the law
- Rights of parties, duration of contract, modification and termination of the contract and the means of settling disputes.

Prospective partners are advised to ensure that future business responsibilities, risks and rewards will be equal between them.

A business cooperation contract will allow the parties flexibility. The parties can agree on an array of matters such as the duration of the contract and the management of operations, which are regulated under a corporate structure. A foreign company can also withdraw and repatriate its capital more easily than under a corporate structure, provided the contract is properly concluded.

A foreign company involved in a business cooperation contract has no separate legal existence in Vietnam and cannot employ Vietnamese nationals. It is not entitled to the same tax holidays and concessions available to joint ventures and wholly-owned companies.

Joint Venture Company

A joint venture company must be incorporated according to Vietnamese laws. The liability of each party is limited to its share of the capital. The total foreign contribution must be no less than 30 percent, but no limit is set for the maximum contribution. The capital contributions of the foreign party may include: foreign exchange; infrastructure; equipment and machinery; patents; technology transfer; technical services; technical and management training; and marketing and distribution.