

Articles 56 and 57 outline the dispute resolution procedure. To begin with, Article 57 states that disputes must first be settled by direct negotiation in the spirit of reconciliation. Article 56 refers both sides to Chapter 11 of a Circular Letter on Implementing Labour Regulation in Enterprises with Foreign Invested Capital. Chapter 11 outlines a 4 step procedure.

1. Complaints must be taken to the local office of the Ministry of Labour.
2. If the parties are not satisfied with the results, the matter is transferred to a higher level in the Ministry.
3. If the parties are still unsatisfied, they may choose one of three forms of resolution:
 - mediation, with the local labour office as mediator;
 - arbitration, with an arbitrator satisfactory to both sides; or
 - arbitration, with an arbitrator appointed by the Minister of Labour.
4. If all efforts fail, the parties may bring the dispute before the People's Court.

1.8.4 Intellectual Property

Name: Ordinance on the Protection of Industrial Property Rights.

Agency: Standing Committee of the National Assembly.

Date: February 11, 1989.

Details:

Disputes that involve intellectual property usually arise when a party uses a registered trademark or one similar to it without the consent of the owner. Owners who suffer infringement must follow the dispute resolution measures in the Ordinance.

First, owners must attempt to settle the matter by negotiation. If this fails, the owner can bring the dispute before the People's Court in Hanoi or Ho Chi Minh City. It should be noted, however, that the Courts are not viewed as adept at handling intellectual property infringements.

To avoid the Courts, the owner can approach the Inventions Office, which, under Article 18 of the Ordinance, is the office responsible for protecting trademarks. The Office cannot award damages, but can deal with the infringement effectively through administrative pressures.

1.8.5 Land Use Disputes

Name: Law on Land.

Agency: National Assembly.

Date: July 14, 1993

Details:

Article 38 of the Law on Land creates two categories of land disputes and outlines how these are handled. The first category includes disputes over the right to use land for which land users have no land use certificate. These disputes are heard and decided by the local People's Committee. The decisions can be appealed to the next highest State administrative agency, which could be a Provincial People's Committee, or the central Government. The decision of the higher agency is final.

The second category of disputes includes disputes over land for which land users do have a land use certificate, and disputes over properties (equipment, buildings, etc.) that are closely attached to the use of that land. These disputes are heard by the Courts.