INTERNATIONAL FINANCE CORPORATION

1. ~~Mr. Navarrete~~
2. ~~Mr. Lundberg~~
3. Legal Files

IFC/SecM67-19

FROM: The Secretary

April 13, 1967

MEMBERSHIP - VIET-NAM

There is attached for information a copy of the letter sent today to all members regarding the adoption by the Board of Governors of the resolution setting forth the terms and conditions upon which Viet-Nam shall be admitted to membership in the Corporation.

Distribution:

Directors and Alternates
President
Executive Vice President
Deputy Executive Vice President
Department Heads

INTERNATIONAL FINANCE CORPORATION

1818 H Street, N.W., Washington, D. C. 20433, U.S.A.

Area Code 202 · Telephone - EXecutive 3-6360 · Cable Address - CORINTFIN

April 13, 1967

(TO ALL MEMBERS)

AIRMAIL

Gentlemen:

With reference to my letter of February 23, 1967, the Board of Governors of the International Finance Corporation on March 27, 1967, has approved the resolution setting forth the terms and conditions upon which Viet-Nam shall be admitted to membership in the Corporation.

Sincerely yours,

M. M. Mendels

M. M. Mendels
Secretary

INTERNATIONAL FINANCE CORPORATION

CONFIDENTIAL

IFC/R67-8

FROM: The Secretary

March 29, 1967.

MEMBERSHIP - VIET-NAM

1. With reference to the report IFC/R67-2, dated February 7, 1967, a vote of the Board of Governors has been taken on the resolution setting forth the terms and conditions of the membership of Viet-Nam in the Corporation.

2. The resolution has been adopted by the Board of Governors as shown by the attached record of vote.

3. All members will be notified of the adoption of the resolution.

4. In the absence of objection by the close of business on Wednesday, April 12, 1967, this report will be deemed approved, to be so recorded in the minutes of the next meeting of the Directors of the Corporation.

Distribution:

Directors and Alternates
President
Executive Vice President
Deputy Executive Vice President
Department Heads

CONFIDENTIAL

Vote of Board of Governors on Application of Viet-Nam for Membership in the Corporation

RECORD OF VOTE

Affirmative Votes Cast By:			Members	Votes
Argentina	Honduras	Pakistan		
Australia	Iceland	Panama		
Austria	Ireland	Paraguay		
Belgium	Israel	Peru		
Bolivia	Italy	Portugal		
Brazil	Ivory Coast	Saudi Arabia		
Burma	Jamaica	Senegal		
Canada	Japan	South Africa		
Ceylon	Kuwait	Spain		
Colombia	Lebanon	Sudan		
Costa Rica	Liberia	Sweden		
Cyprus	Libya	Tanzania		
Denmark	Luxembourg	Thailand		
Dominican Republic	Malagasy Republic	Togo		
Ecuador	Malawi	Tunisia		
Ethiopia	Malaysia	Turkey		
France	Morocco	United Arab Republic		
Germany, Fed. Rep. of	Nepal	United Kingdom		
Greece	Netherlands	United States		
Guyana	Nigeria	Venezuela	62	106,549
Haiti	Norway			
Votes Against:				
Iraq	Syrian Arab Republic		2	639
Abstention:				
Zambia			1	545
Votes Not Received From:				
Afghanistan	India	New Zealand		
Chile	Iran	Nicaragua		
El Salvador	Jordan	Philippines		
Finland	Kenya	Sierra Leone		
Ghana	Korea*	Somalia		
Guatemala	Mexico	Uganda	18	12,946
		Totals	83	120,679

* Governor's affirmative vote received March 29, too late to count.

Secretary's Department
March 29, 1967

membership

REGISTERED
AIR MAIL

August 8, 1967

National Bank of Viet-Nam
17, Ben Chuong Duong
Saigon, Viet-Nam

Gentlemen:

Enclosed please find Capital Stock Certificate Number 96 certifying that Republic of Viet-Nam is the owner of 166 fully paid shares of the capital stock of the International Finance Corporation.

Very truly yours,

(SIGNED) ROBERT W CAVANAUGH

Robert W. Cavanaugh
Treasurer

Enclosure: 1

cc: Embassy of Viet-Nam
2251 R Street, N.W.
Washington, D.C., 20008

cc: Dr. R. C. Chen
Mr. Rosen
Mr. Richards
Mr. von Hoffmann
Mr. Cargill
Mr. Mendels
Mr. Cirillo
IFC Circulation (2)

cc: Mr. Cavanaugh
Mr. Poore
Mr. Y.L. Chang
Mr. Prins
Mr. Rutland
Mrs. Manion

RWCavanaugh:emk

Membership - Vietnam

13143

RÉPUBLIQUE DU VIETNAM

MINISTÈRE DES AFFAIRES ÉTRANGÈRES

JUN 2 [illegible] SI

FULL POWERS

Pursuant to the Decree No 4-SL/TC of January 6,1967 deciding the membership of the Republic of Vietnam to the International Finance Corporation, and the Resolution No.62 of March 27, 1967 of the Board of Governors of the International Finance Corporation.

Mr. BUI-DIEM, Ambassador of the Republic of Vietnam in the United States of America is hereby authorized on behalf of the Government of Vietnam:

(a) to sign the original copy of the Articles of Agreement of the International Finance Corporation deposited in the archives of the International Bank for Reconstruction and Development, and

(b) to deposit with the International Bank for Reconstruction and Development an instrument of acceptance of the Articles of Agreement of the International Finance Corporation stating that the Government of Vietnam has accepted without reservation in accordance with its law the said Articles and has taken all steps necessary to enable it to carry out all of its obligations under said Articles and under the resolution of the Board of Governors of the Corporation setting forth the terms and conditions under which Vietnam may accept membership.

Saigon, May 18 ,1967

REPUBLIC OF VIETNAM MINISTRY OF FOREIGN AFFAIRS

Trần-Văn-Đỗ
Minister of Foreign Affairs

membership

FORM NO. 75
(7-73)

WORLD BANK GROUP

ROUTING SLIP

DATE: September 23, 1976

NAME	ROOM NO.
Mr Camacho	
MR Richards	
I have discussed with Ghoshal and Eckrich. Camacho	

APPROPRIATE DISPOSITION	NOTE AND RETURN
APPROVAL	NOTE AND SEND ON
COMMENT	PER OUR CONVERSATION
FOR ACTION	PER YOUR REQUEST
INFORMATION	PREPARE REPLY
INITIAL	RECOMMENDATION
NOTE AND FILE	SIGNATURE

REMARKS

Please tell Eckrich to amend records accordingly.

Logged

(Sent by mail)

FROM	ROOM NO.	EXTENSION
L. von Hoffmann		

CONFIDENTIAL

International Bank for Reconstruction and Development
International Finance Corporation

FOR OFFICIAL USE ONLY

Ms. Camacho
Pl. hold Ed Mish to amend records accordingly

CONFIDENTIAL

XM76-16/1
IFC/XM76-4/1

FROM: The Secretary

September 22, 1976

Executive Session Minutes of September 21, 1976

Attached are the minutes of the Executive Session of the meeting held on September 21, 1976. In the absence of objection (to be communicated to the Secretary or Deputy Secretary by the close of business on October 4, 1976), these minutes will be deemed approved and so recorded in the minutes of a subsequent meeting.

Distribution (Bank):

Executive Directors and Alternates
President
Senior Vice President, Operations
Vice President, Finance
Vice President and General Counsel

Distribution (IFC):

Executive Vice President and Vice President
General Counsel
Director, Finance and Management Department

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International Bank for Reconstruction and Development
International Finance Corporation

FOR OFFICIAL USE ONLY

CONFIDENTIAL

XM76-16
IFC/XM76-4

FROM: The Secretary

September 22, 1976

Minutes of the Joint Executive Session of the Executive Directors of the Bank and IDA and the Board of Directors of IFC held in the Board Room on September 21, 1976 at 12:45 p.m.

1. There were present:

CHAIRMAN

Robert S. McNamara, President

EXECUTIVE DIRECTORS AND ALTERNATES ACTING AS EXECUTIVE DIRECTORS

M. Al-Atrash
C. Calvillo (Alternate)
Bruce M. Cheek (Alternate)
A. El Mubarak (Temp.Alternate)
T. Hori
Y. Khelif
F. T. Krieger (Alternate)
T. Nkodo (Temp. Alternate)
W. S. Ryrie
Thavil Khutrakul
L. Barrios Tassano
C. A. Cooper
E. G. Drake
E. Franco-Holguin
M. Islam (Alternate)
C. Knetschke (Alternate)
E. A. McCullough (Alternate)
R-P Rigaud (Alternate)
J. Sigurdsson
P. C. Witte

ALTERNATES NOT ACTING AS EXECUTIVE DIRECTORS

J. Aase
T. Kiribuchi
E. Conesa
H. F. Reynolds

OFFICERS AND STAFF PARTICIPATING

J. Burke Knapp, Senior Vice President, Operations
M.A. Qureshi, Vice President, IFC
J. F. Camacho, Associate General Counsel, IFC
A. Broches, Vice President and General Counsel
P. N. Damry, Secretary
U. K. Ghoshal, Secretary's Department

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VIETNAM, PARAGRAPH 2

2. The Executive Directors of the Bank and IDA and the Board of Directors of IFC considered the President's memorandum of September 7, 1976 (R76-221 [IFC/R76-59]), and with Mr. Cooper dissenting, approved the recommendation that, in the light of the letter dated August 9, 1976 from Mr. Hoang Anh, Minister - Director General, State Bank of Vietnam, the records of the Bank and its affiliates be amended to show the Socialist Republic of Vietnam as the member holding the shares of capital or, in the case of IDA, the subscription heretofore recorded in the name of the Republic of South Vietnam.

ADJOURNMENT

3. The meeting adjourned at 12:50 p.m.

Distribution:

Executive Directors and Alternates
President
Senior Vice President, Operations
Executive Vice President and Vice President, IFC
President's Council

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International Bank for Reconstruction and Development
International Finance Corporation

L.F. Membership

FOR OFFICIAL USE ONLY

FOR EXECUTIVE DIRECTORS' MEETING

For consideration on September 21, 1976

R76-221
IFC/R76-59 ✓

FROM: The President

September 7, 1976

VIET NAM

1. Attached is a copy of a communication, dated August 9, 1976 and received on September 2, from Mr. Hoang Anh, Minister-Director General of the State Bank of Viet Nam, in which he notifies the Bank and its affiliates that the unification of Viet Nam has been completed on July 2, 1976, that the Socialist Republic of Viet Nam is a member of the Bank and its affiliates and that the Articles of Agreement of the Bank and those of its affiliates are legally binding on the Socialist Republic of Viet Nam.

2. In his communication, Mr. Hoang Anh requests that this notification be brought to the attention of the Executive Directors of the Bank.

3. A similar communication was received by the IMF and has been brought to the attention of its Executive Directors; the Management of the Fund has recommended to its Executive Directors the adoption of a decision that the Socialist Republic of Viet Nam is a member of the Fund and that the records of the Fund be amended accordingly (IMF document EBS/76/373 of August 23, 1976). This recommendation is scheduled for consideration by the Fund's Executive Board on September 15, 1976.

4. The Republic of Viet Nam became a member of the Bank in 1956, a member of IFC in 1967, and was an original Part II member of IDA. It will be recalled that at the time it became a member of each organization, its government's territorial control was limited to the southern part of Viet Nam, while the Government of the Democratic Republic of Viet Nam exercised control over the northern part of the country. Both governments claimed sovereignty over the whole territory of Viet Nam.

5. Following the assumption of control over the southern part of the country by the Provisional Revolutionary Government of South Viet Nam in

Distribution:

Executive Directors and Alternates
President
Senior Vice President, Operations
Executive Vice President and Vice President, IFC
President's Council
Director, East Asia and Pacific, Country Programs
Director, Asia Department, IFC

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April 1975, the Bank and its affiliates amended their records to show South Viet Nam as their member. The government of the Republic of South Viet Nam appointed a Governor and Alternate Governor of the Bank and its affiliates.

6. A special Fund mission recently visited Viet Nam. On the basis of the information made available to the Bank by that mission, it is understood that a National Assembly elected in both the southern and northern parts of Viet Nam decided on July 2, 1976 that "Viet Nam is an independent, unified and socialist country bearing the name of the Socialist Republic of Viet Nam" and that "pending a new constitution, the State of the Socialist Republic of Viet Nam will take the 1959 Constitution as a basis for its activities and organization". The 1959 Constitution is that of the former democratic Republic of Viet Nam. The National Assembly also decided that "with regard to the laws in force ... of the Democratic Republic of Viet Nam and the Republic of South Viet Nam, the Governmental Council of the Socialist Republic will provide guidance for their implementation in order to conform with the practical situation". It is to be noted that the communication of Mr. Hoang Anh explicitly states that the Articles of Agreement of the Bank and those of its affiliates are legally binding on the Socialist Republic of Viet Nam.

7. The re-unification of Viet Nam in the circumstances outlined above presents the Bank and its affiliates with a situation analogous to the cases of the union of Tanganyika (a Bank member) and Zanzibar (a non-member into the United Republics of Tanganyika and Zanzibar (now Tanzania) and of the union of Egypt (an IFC member) and Syria (a non-member) into the United Arab Republic. In both cases, the State resulting from the union continued the membership of the constituent State which had been a member.

8. The Vice-President and General Counsel advises that, while general international law on these matters is not fully developed, partly because cases have occurred infrequently, it is well established that each international organization makes its own determinations, and that the practice of world-wide organizations suggests a preference for maintaining membership if the State concerned wishes to retain membership and recognizes the obligations that derive from it.

9. Accordingly, I recommend that the Executive Directors approve the necessary amendment in the records of the Bank and its affiliates to show the Socialist Republic of Viet Nam as the member holding the shares of capital or, in the case of IDA, the subscription heretofore recorded in the name of the Republic of South Viet Nam.

Robert S. McNamara

This document has a restricted distribution and may be used by recipients only in the performance of their official duties. Its contents may not otherwise be disclosed without World Bank authorization.

CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
SOCIALIST REPUBLIC OF VIET NAM

NGÂN HÀNG NHÀ NƯỚC VIỆT NAM
STATE BANK OF VIETNAM

Trụ sở Trung ương (Head Office) : HANOI
Văn phòng Miền Nam (Southern Office) : Ho Chi Minh City

Cable address : VIETBANK

August 9th, 1976

Mr. Robert McNAMARA
President
International Bank for Reconstruction
and Development and Affiliates
WASHINGTON DC 20433

Dear Sir :

I have been instructed by the Government of the Socialist Republic of Viet-Nam to notify the International Bank for Reconstruction and Development and its affiliates that the reunification of Vietnam has been completed on July 2, 1976, and that, accordingly, with effect from that date the Socialist Republic of Viet-Nam is a member of the International Bank for Reconstruction and Development and its affiliates and the Articles of Agreement of the International Bank for Reconstruction and Development and those of its affiliates are legally binding on the Socialist Republic of Viet-Nam.

I shall be grateful if you will bring this notification to the attention of the Executive Directors of the International Bank for Reconstruction and Development.

Sincerely yours,
STATE BANK OF VIET-NAM

HOANG ANH
Minister - Director General

E/5b.

Tax Rulings
Tax Immunity

1850 I (EYE) STREET, NW • WASHINGTON, DC 20433, USA
TELEPHONE (202) 477-1234 • FACSIMILE (202) 477-6391

January 10, 1994

Honorable Minister of Finance
Socialist Republic of Viet Nam
c/o Mr. Le Van Chau
Vice Minister, Deputy Governor
State Bank of Viet Nam
Hanoi, Viet Nam

Your Excellency:

I am enclosing herewith for your attention a memorandum on Immunity from Taxation in respect of participations in IFC loans in Viet Nam, together with a draft letter for signature on behalf of the Government of Viet Nam indicating acceptance of the position outlined in the attached memorandum.

We look forward to receiving the acceptance, duly executed on behalf of the Government of Viet Nam, at your earliest convenience.

Sincerely,

Harold Rosen
Division Manager
Asia Department

L:\DOCS\NPROJ\VNM\P&I\LTR\MRA1060 (January 10, 1994 3:03pm)

MEMORANDUM

Immunity from Taxation — Participations

International Finance Corporation (IFC) is established by agreement among its member countries, with an authorized capital of US$2,450,000,000. The Socialist Republic of Viet Nam, upon becoming a member of IFC, accepted IFC's Articles of Agreement without reservation in accordance with its laws and regulations in force.

Section 9 (a) of Article VI of IFC's Articles of Agreement, to which Viet Nam has adhered, provides as follows:

> "The Corporation, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty."

IFC has, as one of its objectives, the financing, in association with private investors, of productive private enterprises in the territories of its members. A further objective of IFC is to seek to stimulate, and help create conditions conducive to, a flow of private capital into productive investments in member countries. Therefore, IFC hopes to obtain participations in its loan investments in Viet Nam by investment institutions outside Viet Nam.

The resources that IFC has to invest are limited, relative to the potential investment opportunities in its member countries. Therefore, the method which seems most likely to enable IFC to play its role most effectively, and to encourage private foreign investment, is that private investors should participate in investments which IFC has made and continues to hold. In this connection, IFC is enjoined (by Article III, Section 3 (vi) of its Articles) to seek to revolve and/or supplement its funds by selling and/or, as the case may be, offering participations in its investments to private investors whenever it can appropriately do so on satisfactory terms.

Such participations have generally been in the form of agreements between IFC and the participant concerned made outside the country in which the enterprise is located. In such a case involving a loan investment in Viet Nam, the enterprise in which the investment is made would not be a party to the participation agreement or the notes, or other evidence of debt, issued by the Vietnamese enterprise, all of which would continue to be held by IFC. All payments would be made directly to IFC and not to the participant, but IFC would account to the participant for its appropriate share.

Thus, the participation transaction would take place entirely outside Viet Nam between two non-residents of Viet Nam and the only payments made by Vietnamese enterprise would be those made to IFC.

We would appreciate confirmation that there will be no incidence of Vietnamese tax on payments made to IFC in respect of investments when IFC has granted participations.

[Date]

Mr. Harold Rosen
Division Manager
Asia Department
International Finance Corporation
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Dear Sir:

Reference is made to your letter dated January 10, 1994 and the Memorandum enclosed therewith concerning IFC's tax immunities and participations. This letter is in response to the question raised therein.

We hereby confirm that, under the circumstances described in such letter and the Memorandum, the presence of one or more participants in an investment held by IFC in a Vietnamese enterprise would not affect IFC's tax immunities in respect of such investment or otherwise result in a Vietnamese tax liability in respect of such investment.

THE GOVERNMENT OF THE SOCIALIST REPUBLIC
OF VIET NAM

By _____

1850 I (EYE) STREET, NW • WASHINGTON, DC 20433, USA
TELEPHONE (202) 477-1234 • FACSIMILE (202) 477-6391

LEGAL MEMORANDUM

VIET NAM
Legal Issues relating to IFC's Immunities and Privileges

1. IFC's Position in Law.

IFC is an international organization established by Articles of Agreement among its member countries. The Articles rank as an international treaty. All of IFC's 161 member countries are also members of the International Bank of Reconstruction and Development (the "World Bank"). While IFC and the World Bank are affiliated and the Articles of Agreement establishing each organization provide for substantially similar immunities (mainly concerned with status, judicial process and taxation), their purposes are different. The World Bank lends to the public sector and IFC invests exclusively in the private sector. Thus IFC has different needs from the World Bank when it comes to immunities. Since the World Bank lends directly to member states or with the guarantee of member states, it has few risks of being sued in the courts of those states. IFC, on the other hand, lends directly to and makes equity investments in private sector companies and is thus vulnerable to law suits in the courts of its member countries. For this reason, IFC has been sensitive about ensuring that its immunities and privileges - which are contained in Article VI of IFC's Articles of Agreement - have the force of domestic law in all of its member countries. IFC could of course enforce its tax immunities against the Government (by virtue of the relevant member country having signed the Articles of Agreement) but the Articles by themselves would afford IFC no protection against private persons unless the Articles have the force of law in the country concerned.

IFC has sought, and been granted, confirmation about the effectiveness of the immunities contained in Article VI of the Articles of Association as a part of the domestic law of all of its member countries, even when - as in the case of China - a change in the territorial composition of the country has occurred and all that was required was a confirmation that the "new" country's domestic law recognized those immunities.

It should be added that the Articles of Agreement expressly provide for such confirmation. Section 10 of Article VI reads as follows:

> "Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Corporation of the detailed action which it has taken."

How exactly the immunities are made effective as part of a country's domestic law varies from country to country depending on the system of law in the relevant country. Sometimes international treaties rank above ordinary domestic law and then the Articles would merely need publication to have effect as part of the country's law. More often, however, some legislative action is required in the relevant country to give effect to the immunities as part of that

country's domestic law. That legislative action can take many different forms but usually involves the passing of a new domestic law, e.g. an Act of Parliament or a Decree.

2. IFC's History in Viet Nam.

The brief history of the IFC membership of Viet Nam is as follows. The Republic of Viet Nam (South Viet Nam) became a member of IFC in 1967. The government of South Viet Nam published a Decree affirming the membership in accordance with IFC's Articles of Agreement. In 1976, the Socialist Republic of Viet Nam ("SRV") assumed from South Viet Nam the membership in the World Bank and its affiliates including IFC. The Deputy Governor of the National Bank of Viet Nam confirmed that the Articles of Agreement of the World Bank and its affiliates were legally binding on the SRV. However, we have received no evidence that any action has been taken to ensure that Article VI of IFC's Articles of Agreement has the force of domestic law in Viet Nam and we are advised that further legislative action is required to make certain of the position.

3. Mechanism for Implementation.

IFC has been advised that the simplest legislative method of confirming and ensuring that Article VI (Immunities and Privileges) of IFC's Articles of Agreement has the force of law in Viet Nam would be by way of a joint ministerial circular. The ministerial circular would be issued jointly by the State Bank of Viet Nam, the Ministry of Finance and the Ministry of Foreign Affairs, the three governmental agencies which are most closely associated with matters contained in the Articles of Agreement. A draft of a ministerial circular in English and an informal Vietnamese translation are attached.

4. Tax - Participations.

Article IV expressly states in Section 9(a) that:

> "The Corporation, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty".

One of the ways that IFC raises funding for projects in its member countries is by syndicating loans. IFC makes the loans in its name and sells participations in those loans to international commercial banks. In that way the banks feel that they have the protection of the so-called "IFC umbrella". When IFC started doing this many years ago, it was decided that it would be appropriate to request the Governments of the countries concerned to confirm that IFC's tax immunities would not be affected by the existence of these participations in IFC's loans.

Whenever IFC contemplates the sale of participations in loans to companies in its developing member countries IFC seeks confirmation to this effect from the Governments concerned. IFC has sought and obtained such a confirmation from all of its developing member countries to any of whose companies it has made a participated loan.

A letter to the Minister of Finance from Mr. Harold Rosen, Division Manager of the Asia Department, has attached to it a Memorandum entitled "Immunity from Taxation — Participations" which explains the situation in greater detail.

Legal Department

Chief Counsel

Dated 10 January 1994

Tax Participation
& IBRD

0405.fax

STATE BANK OF VIETNAM

49 Ly Thai To St., Hanoi
Fax :(84) 42.58365/(84)43.56619

Fax No: 202 - 676 - 0820

To: Mr. Harold Rosen,
Division Manager
Asia Department

Subject: Vietnam - IFC's immunities and previleges. ← laws

No. of pages: 3 (include this page)

Dear Mr. Harold Rosen,

Re. your fax dated Jan. 11, 1994 I would like to inform you that by the Decision No 2376/PC dated May 3, 1994 The Prime Minister has delegated the State Bank of Vietnam to sign the Joint Ministerial Circular to confirm the immunities and privileges of International Finance Cooperation as provided in Article VI of its Articles of Agreement and thereby the Prime Minister has also delegated Ministry of Finance to confirm the immunities from taxation - participations. Please find the attached copies of these letters. The originals will be sent to IFC by mail.

We wish the cooperation between Vietnam and IFC be further developed on mutual benefit basis.

Best regards,

Nguyen Cong Hai
Director
Foreign Department
State Bank of Vietnam

Country: VIETNAM	Project: GENERAL
cc:	
Director:	FREEMAN (P/F)
Manager:	ROSEN
Inv. Offr:	BOORSTIN
Lawyer:	
Engr:	
Res. Rep:	PATHAK (fax)
Others:	KASSUM
SIZAWA	NGUYEN
L'Ashemaa	DIWANCHAND (NG)
Baldini	
FARRELL	
Div. File ✓	IFC Filed ✓
Date:	5/9/94

ACC # 10371
LOC Member Vietnam

SOCIALIST REPUBLIC OF VIETNAM

Date: May 6, 1994
SI

Mr. Harold Rosen
Division Manager
Asia Department
International Finance Corporation
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Dear Sir:

Reference is made to your letter dated January 10, 1994 and the Memorandum enclosed therewith concerning IFC's tax immunities and participations. This letter is in response to the question raised therein.

We hereby confirm that, under the circumstances described in such letter and the Memorandum, the presence of one or more participants in an investment held by IFC in a Vietnamese enterprise would not affect IFC's tax immunities in respect of such investment or otherwise result in a Vietnamese tax liability in respect of such investment.

THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM

By:

Pham Van Trong
Vice Minister of Finance

SOCIALIST REPUBLIC OF VIETNAM

Date May 6, 1994

JOINT MINISTERIAL CIRCULAR

This circular confirms that all the immunities and privileges of International Finance Corporation, an international organization established under its Articles of Agreement, have the full force of law of the Socialist Republic of Vietnam. The relevant immunities and privileges are contained in Article VI of Said Articles of Agreement and reproduced in full in the Annex to this Circular.



LE VAN CHAU
DEPUTY GOVERNOR
STATE BANK OF VIETNAM

ARTICLE VI

Status, Immunities and Privileges

SECTION 1. Purposes of Articles

To enable the Corporation to fulfill the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Corporation in the territories of each member.

SECTION 2. Status of the Corporation

The Corporation shall possess full juridical personality and, in particular, the capacity:

(i) to contract;

(ii) to acquire and dispose of immovable and movable property;

(iii) to institute legal proceedings.

SECTION 3. Position of the Corporation with Regard to Judicial Process

Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Corporation.

SECTION 4. Immunity of Assets from Seizure

Property and assets of the Corporation, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

SECTION 5. Immunity of Archives

The archives of the Corporation shall be inviolable.

SECTION 6. Freedom of Assets from Restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of Article III, Section 5, and the other provisions of this Agreement, all property and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

SECTION 7. Privilege for Communications

The official communications of the Corporation shall be accorded by each member the same treatment that it accords to the official communications of other members.

SECTION 8. Immunities and Privileges of Officers and Employees

All Governors, Directors, Alternates, officers and employees of the Corporation:

(i) shall be immune from legal process with respect to acts performed by them in their official capacity;

(ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials and employees of comparable rank of other members;

(iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

SECTION 9. Immunities from Taxation

(a) The Corporation, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Corporation (including any dividend or interest thereon) by whomsoever held:

(i) which discriminates against such obligation or security solely because it is issued by the Corporation; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Corporation.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held:

(i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

SECTION 10. Application of Article

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Corporation of the detailed action which it has taken.

SECTION 11. Waiver

The Corporation in its discretion may waive any of the privileges and immunities conferred under this Article to such extent and upon such conditions as it may determine.