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## HAI VAN PASS TUNNEL PROJECT

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Joint Venture of  
NIPPON KOEI CO., LTD., JAPAN and  
LOUIS BERGER INTERNATIONAL INC., USA  
In association with  
TRANSPORT ENGINEERING DESIGN  
INCORPORATION (TEDI), VIETNAM

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Ref. No. PK1A-081 - 04

Date June 4, 2004

**To:**

Mr. Masashi Kuroda, Project Manager, J/V of Hazama and Cienco 6

**Copy to:**

Mr. Nguyen Ngoc Canh, Project Manager, PMU85

1) RT1, 2) File

**CONTRACT PACKAGE-IA: NORTH TUNNEL SECTION**

**SUBJECT: Comments on Claim Identification**

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Dear Sir,

Reference is made to your letter No.ENG-04-150 dated 3 June 2004.

Thank you for your submission of additional substantiation data for your claim. Our comments are as follows:

Sub-Clause 53.1: Notice of Claims

Notice by the Contractor shall be made AFTER the event; therefore, your indication of negative days in the above reference, which means the notice was informed in advance, can't be accepted.

Sub-Clause 53.1: Notice of Claims

The Sub-Clause stipulates "*he shall give notice of his intention to the Engineer, with a copy to the Employer, within 28 days after the event giving rise to the claim has first arisen*", we understand that "Notice and report is different", therefore, your report of the event can't be deemed as the notice of the claims.

For your information, "Guide to the Use of FIDIC" is attached hereto.

You are requested to reconfirm the claim identification according to the above.

Thank you for your cooperation.

Sincerely yours,

Ichizuru Ishimoto

Project Manager

Encl.: Clause 53 of "The Guide to the Use of FIDIC"