

**SOCIALIST REPUBLIC OF VIETNAM
MINISTRY OF TRANSPORT
PROJECT MANAGEMENT UNIT No. 85 (PMU85)**



**CONSULTING SERVICES
FOR
HAI VAN PASS TUNNEL CONSTRUCTION PROJECT
CONTRACT No. 01/HVT/97
(OECF Loan Agreements No. VNIV-5, VNVI-5 and VNIX-4)**

**CLAIM EVALUATION REPORT
FOR
PACKAGE-1A: NORTH TUNNEL SECTION**

**REPORT 6: CLAIM EVALUATION
(Summary Report)**

**Part A: EOT Related Claims
Part B: Overbreak Related Claims**

MARCH 2006

**JOINT VENTURE OF
NIPPON KOEI CO., LTD. and LOUIS BERGER INTERNATIONAL INC.
in association with
TRANSPORT ENGINEERING DESIGN INCORPORATION**

HAI VAN PASS TUNNEL PROJECT

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

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Ref. No. PMU- 012- 06
Date March 14, 2006

To:

Mr. Nguyen Ngoc Canh, Project Manager, PMU85

Copy to (Over Only):

Mr. Nguyen Ngoc Tran, General Director, PMU85 038-841-253
(PK1A) Mr. Masashi Kuroda, Project Manager, Hazama - Cienco 6 Joint Venture 054-960-379
1) NK-TYO(KO), 2) File

SUBJECT: Submission of Summary Report of Claim Evaluation

Dear Mr. Canh,

We are pleased to submit our summary report of the claim evaluation for the Contract Package 1A: Tunnel Civil Works: North Tunnel Section as per attached hereto.

Our evaluation can be summarized in the table below:

	Engineer's Justification		Total in JPY	Total in VND
	JPY	VND		
Part A: EOT Related Claims	18,686,118	11,468,775,246	106,907,466	13,897,970,586
Part B: Overbreak Related Claims	57,144,675	1,324,893,010	67,336,160	8,753,700,784
Total in VND		12,793,668,256		22,651,671,370
Total in JPY	75,830,793		174,243,626	

Note: Exchange Rate 1JPY = 130 VND.

Thank you for your kind attention.

Sincerely yours,

Ichizuru Ishimoto
Project Manager

Encl.: Report 6: Claim Evaluation (Summary Report) as of March 2006.

CLAIM EVALUATION REPORT FOR PACKAGE-1A: NORTH TUNNEL SECTION
Report 6: Claim Evaluation (Summary Report)

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CLAIM EVALUATION REPORT FOR PACKAGE-1A: NORTH TUNNEL SECTION

1 Tow Types of Claims Submitted by the Contractor

Following two (2) types of claims were submitted by the Contractor:

Part A: EOT Related Claims

The Contractor of Package-1A: North Tunnel Section, J/V of Hazama and Cienco 6, issued the claim letter by his letter No. ENG-06-001 dated 4 March 2006.

Part B: Overbreak Related Claims

The Contractor of Package-1A: North Tunnel Section, J/V of Hazama and Cienco 6, issued the claim letter by his letter No. ENG-06-002 dated 4 March 2006.

2 Summary of Claim Evaluation (March 2006)

Following table summarizes the result of the claim evaluation by the Engineer.

	Engineer's Justification		Total in JPY	Total in VND
	JPY	VND		
Part A: EOT Related Claims	18,686,118	11,468,775,246	106,907,466	13,897,970,586
Part B: Overbreak Related Claims	57,144,675	1,324,893,010	67,336,160	8,753,700,784
Total in VND		12,793,668,256		22,651,671,370
Total in JPY	75,830,793		174,243,626	

Note: Exchange Rate 1JPY = 130 VND.

3 Summary of Claim Evaluation for EOT Related Claims

3.1 Claims Updated by the Contractor

The Contractor has submitted his updated claim by his letter No. ENG-06-001 dated 4 March 2006. The Engineer has carried out the claim evaluation for this submission.

3.2 Summary of Claim Evaluation for EOT Related Claims

As shown in the following chapter, the Engineer has carried out the detailed evaluation of claims for the updated claim document submitted by the Contractor with close consultation with the Employer. Result of the evaluation is summarized in Table 3-1.

Table 3-1 Summary of Claim Evaluation for EOT Related Claims (As of March 2006)

Item No.	Claim Code No.	Description	Contractor's Claim Submitted March 2006 (B)		Engineer's Justification March 2006 (D)		Balance (E) = (B) - (D)	
			JPY	VND	JPY	VND	JPY	VND
Ventilation Adit								
01	CC.03	Adverse Water Conditions	8,911,432	139,889,670	-	-	8,911,432	139,889,670
Non-Contributing Production Resources								
02	CC.02, 09, 24	Non-Contributing Production Resources Affected by Delay	5,102,231	8,474,216,648	5,102,231	7,211,205,439	0	1,263,011,209
Main and Evacuation Tunnel								
03	CC.25	Consolidated EOT Request (including Time-Related Costs of Delay)	15,923,467	6,286,697,474	13,583,887	4,257,569,807	2,339,580	2,029,127,667
Acceleration of Works								
04	CC.43	Deployment of 2nd Advance from South End of Tunnel	14,859,665	581,233,315	-	-	14,859,665	581,233,315
Total			44,796,795	15,482,037,107	18,686,118	11,468,775,246	26,110,677	4,013,261,861
Total in VND		Total in VND	21,305,620,431		13,897,970,586		7,407,649,845	
Total in JPY		Total in JPY	163,889,388		106,907,466		56,981,922	

Note: Exchange Rate 1JPY = 130 VND.

4 Evaluation Results of Each Claimed Item

4.1 ITEM No. 01 Adverse Water Conditions in Ventilation Adit (CC03)

(A) The Engineer's Evaluation

The Technical Specification Section 02330: Tunnel Excavation, Rework and Water Hardship, sub-clause 2.2 and 8.3 indicates that "Tunnel Excavation under Water Hardship" is an additional payment as stipulated in the Specifications and inclusive of all related hardship and **hindrance** during excavation work.

After consultation with the Employer, it was agreed that "hindrance" includes the delay of works, therefore, this claim should be rejected.

(B) Claim Amount After Evaluated

CC No.	Item	Description	Contractor's Claimed Amount			Engineer's Judge	Engineer's Evaluated Amount		
			JPY	VND	VND Equivalent		JPY	VND	VND Equivalent
CC 03		Adverse Water Conditions	8,911,432	139,889,670	1,298,375,830		-	-	-
	1	Emergency Import of 4 units - 8" Submersible Pumps	5,488,000	39,445,400	752,885,400	0%	-	-	-
	2	Primary Water Control System at Adit Portal by means of "Gravity Flow"	3,423,432	100,444,270	545,490,430	0%	-	-	-

4.2 ITEM No. 02 Non-Contributing Production Resources Affected by Ventilation Adit Works Delay (CC02, 09, 24)

(A) The Engineer's Evaluation

Monthly Rate

Substantiative documents for monthly rate for both expatriate and Vietnamese are presented. Accordingly, the Engineer can accept 100% of the unit rate of monthly rate.

Number of Direct Manpower

Substantiative documents for the number of direct manpower for both expatriate and Vietnamese are presented. Accordingly, the Engineer can accept 100% of the number of the direct manpower.

Equipment Rate

Submitted unit rate is issued by Ministry of Construction (MOC) with his letter No. 1260/1988/QD-BXD, 38/2002/QD-BXD. 2276 BXD/VKT. This rate is not acceptable. Claimed extra cost should be justified by substantiative documents and substantiative documents means actual payment records for those equipment. Considering the actual situation although no persuasive evidence provided, the Engineer can accept 80% of the equipment rate.

Rate of Delay Extent

2.5 months of the extension of time for the open works was approved by MOT. 3.5 months of the extension of time for the Ventilation Adit works was approved by MOT. 3.23 months of the extension of Time for the main tunnel works and the evacuation tunnel works was agreed by PMU85.

Calculation method of delay extent is reasonable. Accordingly, the Engineer can accept 100% of the rate of the delay extent.

(B) Claim Amount After Evaluated

ITEM NO. 02 : COSTS OF NON-CONTRIBUTING PRODUCTION RESOURCES AFFECTED BY DELAYS

CC No.	Description	Delay (months)	Contractor's Claimed Amount			Engineer's Judge	Engineer's Evaluated Amount		
			JPY	VND	VND Equivalent		JPY	VND	VND Equivalent
CC 02, 09, 24	Non-Contributing production Resources Affected by Delay		5,102,231	8,474,216,648	9,137,506,678		5,102,231	7,211,205,439	7,874,495,469
	Manpower cost	3.80	5,102,231	2,159,160,602	2,822,450,632	100%	5,102,231	2,159,160,602	2,822,450,632
	Plants and Equipments cost	3.80	-	6,315,056,046	6,315,056,046	80%	-	5,052,044,837	5,052,044,837

4.3 ITEM No. 03 Time-Related Costs of Delay (1), Power Supply Cost

(A) The Engineer's Evaluation

Monthly Rate of Power Supply Cost (1), Public Power Receiving

The Contractor provided breakdown of the public power supply in page 79. Among seven (7) transformers, the Engineer can accept the following items as indirect cost during the time extended:

- 1) Workshop,
- 2) North Portal Plaza
- 3) Inside Tunnel (Ventilating Fans and Lighting Facility)

All the other plant operation cost is included in the cost of each work and paid in accordance with BOQ items.

No.	Plant	Category	Engineer's Judgment
T1	Main Office	Temporary Facility	NOT Acceptable
T2	Crushing Plant -01	Temporary Facility	NOT Acceptable
T3	Work-shop Motor-pool, Warehouse, Laboratory	Temporary Facility	Acceptable
T4	Batching Plant	Temporary Facility	NOT Acceptable

	Concrete, Shotcrete production		
T5	North Portal Area Motor-pool, Site-office, Lighting, Exhaust Fan	Temporary Facility	Acceptable
T6	Inside Tunnel Tunnel equipments	Tunnel equipments	NOT Acceptable
	Ventilating Fan, Lighting Facility	Temporary Facility	Acceptable
T7	Crushing Plant -02	Temporary Facility	NOT Acceptable

Transformer and counter-meter		Category	Consumption kw*h	Duration months	Consumption kw*h/ month	Rate VND/ kw*h	Amount VND/ month
T3	Work-shop Motor-pool, Warehouse, Laboratory	Tempo. Facility	320,000	34	9,412	1,122	10,560,264
T5	North Portal Area Motor-pool, Site-office, Lighting, Exhaust Fan	Tempo. Facility	1,741,660	28	62,202	1,122	69,790,644
T6	Inside Tunnel Ventilaing Fan, Lighting Facility	Tempo. Facility	1,162,269	32	36,321	1,045	37,955,445
Average Monthly Public Power Receiving							118,306,353

Monthly Rate of Power Supply Cost (2), Diesel Generator

The Contractor provided breakdown of the diesel generator power supply in page 87. Among four (4) work items, the Engineer can accept the following items as indirect cost during the time extended: Costs of the tunnel excavation and dewatering system were paid in accordance with BOQ items.

- 1) Ventilation System
- 2) Lighting, Site-office and Motor-pool

No.	Type of Works	Category	Engineer's Judgment
1	Tunnel Excavation	Equipments	NOT Acceptable
2	Ventilation system	Contra Fan	Acceptable
3	Dewatering system	Submersible pump	NOT Acceptable
4	Lighting, Site-office and Motor-pool		Acceptable

A. Generating Volume at Ventilation Adit Works		3,293,792 kw*h
Ventilation system (Contra Fan), 21 months		3,093,792 kw*h
Lighting, Site-office and Motor-pool, 26 months		200,000 kw*h
B. Fuel Consumption Rate for Generator	1,373,262 ltr. / 6,625,448 kw*h =	0.20727 ltr./ kw*h
C. Diesel Consumption		
Ventilation system (Contra Fan), 21 months	3,093,792 x 0.20727 =	641,250 ltr.
Lighting, Site-office and Motor-pool, 26 months	200,000 x 0.20727 =	41,454 ltr.
D. Diesel Unit Rate		
	5,732,39,000 VND / 1,373,262 ltr. =	4,174 VND/ltr
	ltr. months	VND / month
Ventilation system (Contra Fan), 21 months	641,250 21	127,456,071
Lighting, Site-office and Motor-pool, 26 months	41,454 26	6,654,961
E. Average Monthly Diesel Consumption Cost		134,111,033 VND

(B) Monthly Rate After Evaluated

The Engineer's evaluated monthly rate is tabulated as follows:

Average Monthly Public Power Receiving	118,306,353
Average Monthly Diesel Consumption Cost	134,111,033
Total	252,417,386

4.4 ITEM No. 03 Time-Related Costs of Delay (2), Plants and Equipment Depreciation Cost

(A) The Engineer's Evaluation

This claim was rejected after consultation with the Employer.

4.5 ITEM No. 03 Time-Related Costs of Delay (3), Indirect Cost

(A) The Engineer's Evaluation

Monthly Rate

Substantiative documents for monthly rate for both expatriate and Vietnamese are presented. Accordingly, the Engineer can accept 90% of the unit rate of monthly rate.

Number of Direct Manpower

Substantiative documents for the number of direct manpower for both expatriate and Vietnamese are presented. Accordingly, the Engineer can accept 90% of the number of the direct manpower.

(B) Further Clarification Needed by the Contractor

Following documents to be provided by the Contractor:

Calculation sheets of monthly rate of each plant.

(C) Claim Amount After Evaluated

In case, the above clarification would satisfy the requirements in the contract, the Engineer can accept 90% of the claimed amount.

Evaluation will be finalized after receiving the above clarifications.

4.6 ITEM No. 03 Time-Related Costs of Delay (5), Price Escalation

(A) The Engineer's Evaluation

This claim was rejected after consultation with the Employer.

4.7 ITEM No. 03 Time-Related Costs of Delay (6), Overhead and Profit

(A) The Engineer's Evaluation

The Engineer can accept 10% of Indirect Cost.

(B) Claim Amount After Evaluated

Evaluation will be finalized after receiving the "Total Indirect Cost" through the process above.

4.8 ITEM No. 03 Time-Related Costs of Delay (7), Summary of Amount Evaluated

ITEM NO. 03 : TIME-RELATED COSTS OF DELAYS

CC No.	Description	Delay (months)	Contractor's Claimed Amount			Engineer's Judge	Engineer's Evaluated Amount		
			JPY	VND	VND Equivalent		JPY	VND	VND Equivalent
CC 25	Consolidated Extension of Time Related Cost		15,923,465	6,286,697,474	8,356,747,961		13,583,888	4,257,569,806	6,023,475,262
	Power-supply cost	3.80	-	2,087,674,590	2,087,674,590	46%	-	959,186,067	959,186,067
	Plants and Equipments Depreciation cost	3.80	2,335,723	151,019,600	454,663,616	0%	-	-	-
	Indirect cost	3.80	12,352,493	3,497,686,820	5,103,510,884	90%	12,348,989	2,998,530,672	4,603,899,268
	Price Escalation for Indirect Cost	3.80	-	200,547,782	200,547,782	0%	-	-	-
	Overhead and Profit = Indirect cost x 10%	3.80	1,235,249	349,768,682	510,351,088	90%	1,234,899	299,853,067	460,389,927
TOTAL			15,923,465	6,286,697,474	8,356,747,961		13,583,888	4,257,569,806	6,023,475,262

4.9 ITEM No. 04 Deployment of 2nd Advance from South End of Tunnel

(A) The Engineer's Evaluation

In accordance with Mot letter No.4996/CGD-TD2 dated 26 December 2005, the claim was rejected.

(B) Claim Amount After Evaluated

ITEM NO. 04 : NECESSARY ACCELERATION FOR PROJECT

CC No.	Description	Delay (months)	Contractor's Claimed Amount			Engineer's Judge	Engineer's Evaluated Amount		
			JPY	VND	VND Equivalent		JPY	VND	VND Equivalent
CC 43	Deployment of 2nd Advance from South End of Tunnel		14,859,665	581,233,315	2,512,989,765		-	-	-
	Acceleration order for Main Tunnel Excavation		14,859,665	581,233,315	2,512,989,765	0%	-	-	-
TOTAL			14,859,665	581,233,315	2,512,989,765		-	-	-

5 Summary of Claim Evaluation for Overbreak Related Claims

5.1 Claims Updated by the Contractor

The Contractor has submitted his updated claim by his letter No. ENG-06-002 dated 4 March 2006. The Engineer has carried out the claim evaluation for this submission.

5.2 Summary of Claim Evaluation for Overbreak Related Claims

After the above submission, the followings were confirmed during the Project Claim Evaluation Committee (PCEC):

- Unit rate for hauling should be 25% of the Pay Item of each type of excavation:
- Price Escalation should not be accepted.

Applying the above conditions, the claim was evaluated as summarized in Table 5-1.

Table 5-1 Summary of Claim Evaluation for Overbreak Related Claims (As of March 2006)

Pay Item	Description	Unit	Unit Price		Quantity	Amount		Price Escalation
			Yen	VND		Yen	VND	
02330-1	Excavation - MT (Type I)	m ³	496	20,387	4,163.16	2,064,927	84,874,343	-
02330-7	Excavation - VA (Type I)	m ³	494	23,751	1,663.25	821,646	39,503,851	-
02330-14	Excavation - ET (Type I)	m ³	495	21,578	2,832.84	1,402,256	61,127,022	-
02330-1	Excavation - EP (Type I)	m ³	496	20,387	298.90	148,254	6,093,674	-
03200-1	Concrete Lining - MT	m ³	8,143	133,503	3,726.01	30,340,899	497,433,513	-
03200-3	Concrete Lining - MT Layby	m ³	10,785	322,435	437.15	4,714,663	140,952,460	-
03200-4	Concrete Lining - VA	m ³	7,921	228,407	1,663.25	13,174,603	379,897,943	-
03200-5	Concrete Lining - EP	m ³	11,303	329,778	298.90	3,378,467	98,570,644	-
03300-1	Shotcrete - 5cm - ET	m ²	1,446	21,631	760.00	1,098,960	16,439,560	-
Total						57,144,675	1,324,893,010	-
Note:						Total in JPY	67,336,160	
Unit rate of hauling is 25% of excavation unit rate.						Total in VND	8,753,700,784	