

# EPA based ADR for Business Dispute b/n Japan and Vietnam

日越EPA付属商事紛争処理ADR

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## Points 要点

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1. Comparative Study of Japan & Vietnam in ADR  
ADRの日越比較法
2. Case Study of Comm. Disputes b/n Japan & Vietnam  
日越商事紛争事例研究
3. J-V EPA based ADR for Comm. Disputes b/n J&V  
日越経済連携協定に基づく日越商事紛争ADR

□ Commercial Arbitration Law 2010, 2010年商事仲裁法  
Arbitration Law 2003, re.2017 2003年仲裁法

based on UNCITRAL Model of Arbitration (2006?), New  
York Convention country

□ VIAC1993, JCAA1953/2003, JIDRC2018, JIMC2018

□ Civil Procedure Code 2005 r. 2015民事訴訟法 JICA  
CPC 1890 re. 1998 旧民事訴訟法、新民事訴訟法

Civil Conciliation Law 民事調停法1951、弁護士会ADR

## ベトナムにおける仲裁と司法の実情

- Independence of Judiciary 司法の独立
  - Corruption of Judiciary? 司法汚職
  - Refuse of Recognition of Foreign Arbitral Award and Setting Aside 外国仲裁判断の不承認、仲裁判断取消
  - Specific Issues 課題
    - Damage compensation regarding Interim Relief 保全措置
    - Cooperation by Court: SPC's Guidelines – Fundamental Principle of Vietnamese law – Socialistic Market Economy
- 裁判所の協力：最高裁規則、ベトナム法の基本原則  
社会主義的市場経済

## Testing Law and Judiciary through Dispute Processing

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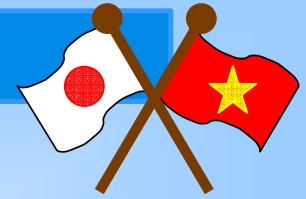
- Fair and Effective Judiciary is a key for sustainable business and market – proper implementation of law  
公正有効な司法による法執行は持続可能なビジネスの鍵
- Arbitration will bridge the gap between global standard and Vietnam’s local practice – Vietnamese law applied / interpreted by foreign arbitrators  
外国人仲裁人の越法適用による仲裁は国際標準と現地実務の溝を埋める
- Japanese experiences would be useful to harmonize such gap: conciliatory culture v. adversarial culture – combination of arbitration and mediation/conciliation
- 調停文化／調停と対抗的文化／仲裁の溝を埋め調和させる日本の経験

## Network Group for JVEPAADR

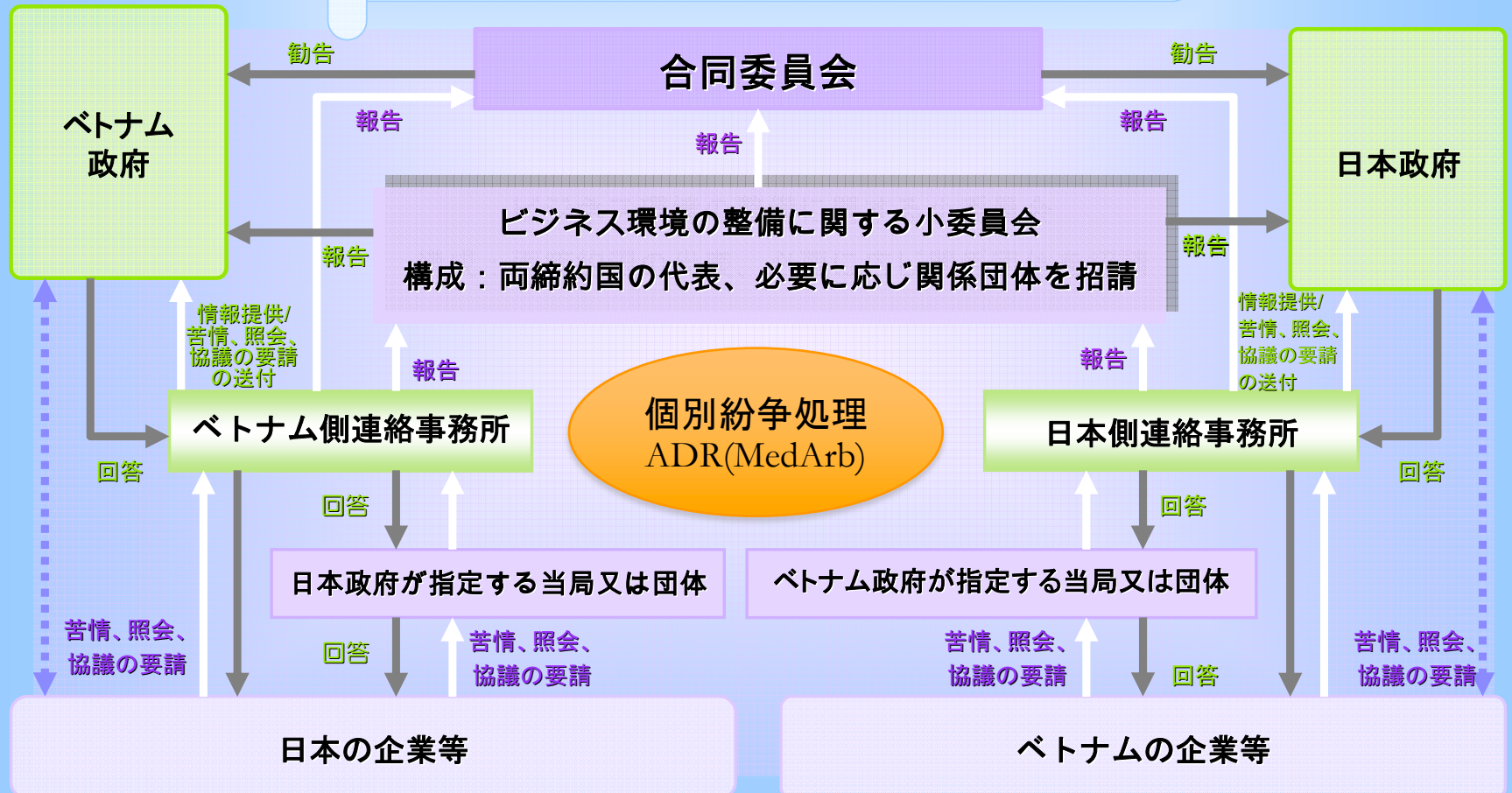
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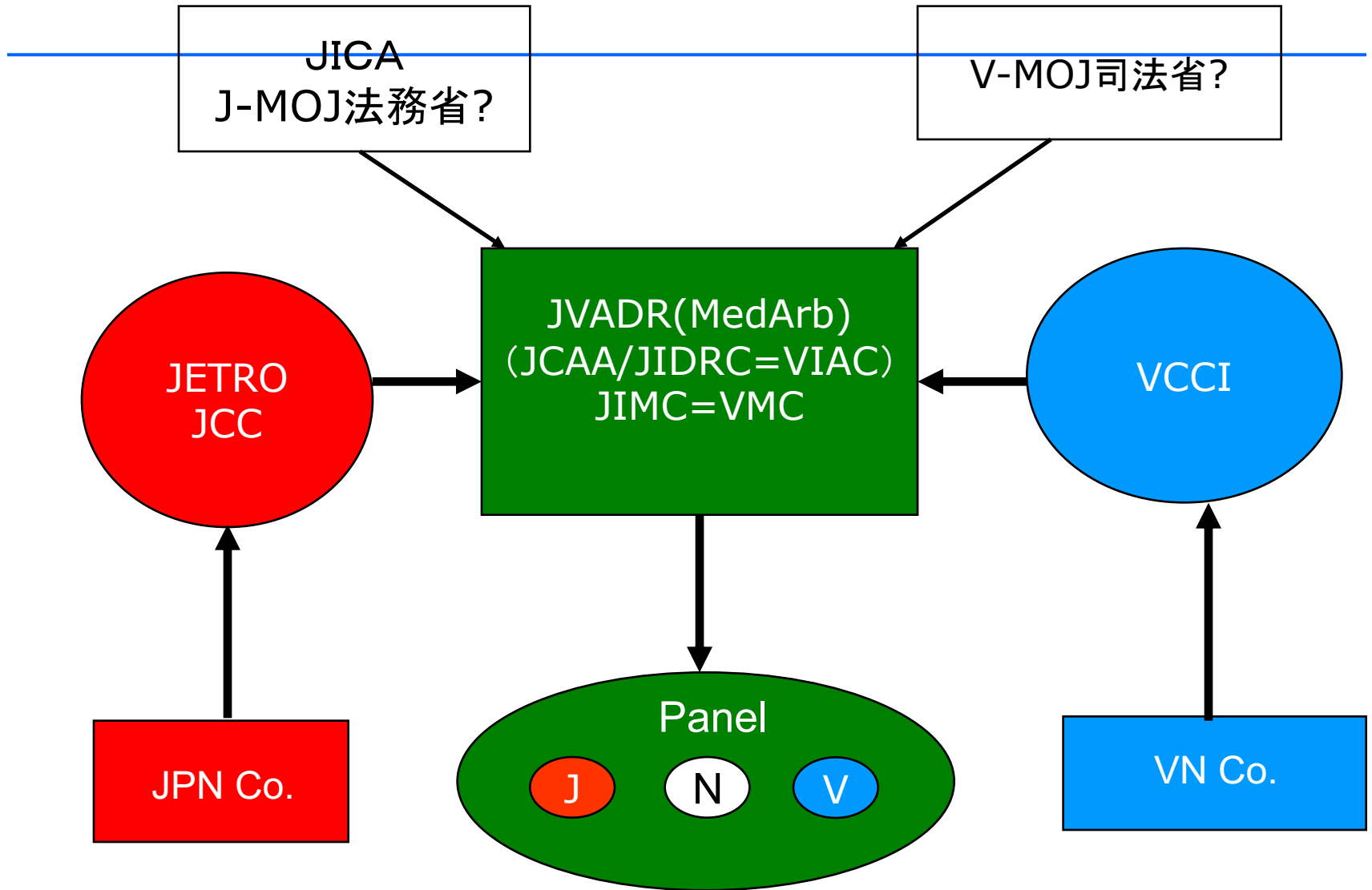
- Arbitration is a universal mechanism not only for commercial dispute, but also territorial ones b/n states as well as investment disputes (ICSID; ISDS in TPP)  
仲裁は商事紛争だけでなく、投資紛争や国境紛争など国際紛争にも有効
- Human Resource Development in arbitration and mediation is crucial in not only lawyers and arbitrators, but also judges, business managers and officials – international competition  
仲裁/調停の人材強化：法律家、仲裁人、裁判官、ビジネスマン、公務員
- VIAC-JCAA/JIDRC/JIMC-VJU network to set up JVEPAADR 設置のためのネットワークグループ形成

## ビジネス環境の整備



相手国に進出した企業が直面する様々な問題を協議し解決するための  
 仕組みを設けることにより、投資・ビジネス活動を円滑化







## Reference 参照

- 2017年8月4日日越大学で開催されたセミナー：  
持続可能な市場のための国際仲裁と「法の支配」
- Seminar on International Arbitration and Rule of Law for Sustainable Market at VJU on 4 August 2017
- 報告書／Report:
- <http://cdr.c.u-tokyo.ac.jp/RCSP/en/topics/460.html>

