

Appendix 1: Questionnaire Sheet

(1) Questionnaire for Japanese, Chinese, and Korean Companies

Questionnaire Sheet On the determinants of establishing affiliations in ASEAN countries

Company Name: _____
 Name/Division (1): _____
 Name/Division (2): _____
 Name/Division (3): _____

1. Profile of local subsidiaries and Plan to establish a new subsidiary in ASEAN countries

(1) Profile of local subsidiaries in ASEAN
 ※ Please choose two countries with the largest amount of investment if you have expanded into two or more countries in ASEAN and answer for those two countries respectively. Please choose the largest subsidiary in terms of the amount of investment if you have multiple subsidiaries in the same country.

	Country 1	Country 2
Operating country (city/country)	() ()	() ()
Year of establishment	()	()
Type of business (e.g. automobile parts)	()	()
Type of activities (Production, Sales, R&D, or Mfg)	()	()
→ Please enter the largest activity in terms of the amount of investment if your activity is "Mfg".	()	()
→ Please enter the largest activity in terms of the amount of investment if your activity is "Mfg".	()	()
Method of establishment (e.g. Self-establishment, M&A, Joint venture, or Capital investment)	()	()
Investment ratio of parent company (%)	()	()
Sales and Profit rate (in ¥2012)	() ()	() ()
Sales () Profit rate ()	() ()	() ()
Number of employees and ratio of local employees	() ()	() ()
Num. of employees () Ratio of local employees ()	() ()	() ()
Sales () Profit rate ()	() ()	() ()
Num. of employees () Ratio of local employees ()	() ()	() ()

(2) Plan to establish a new subsidiary in ASEAN
 ※ Please answer the following questions if you are planning to establish a new subsidiary in ASEAN countries. Please choose the largest country in terms of the expected amount of investment if you are planning to establish new subsidiaries in multiple countries.

	Yes	No
Do you have a plan to establish a new subsidiary in ASEAN countries within 5 years?	()	()
Country where you are planning to establish a new subsidiary (Country)	()	()
Type of business (e.g. automobile parts)	()	()
Type of activities (Production, Sales, R&D, or Mfg)	()	()
→ Please enter the largest activity in terms of the amount of investment if your activity is "Mfg".	()	()
→ Please enter the largest activity in terms of the amount of investment if your activity is "Mfg".	()	()

2. Determinants of establishing a new subsidiary in ASEAN countries and Issues facing

※ If you are unfamiliar with the details at the time of decision on establishment, please answer assuming that you are establishing a new subsidiary at this moment. Please check the number (1) or (2) so that we can identify which of the time you are answering.

	A: Country 1 (already established)		B: Country 2 (already established)		C: Country 3 (planning)	
	Please check (✓) the considering factors before establishment (1. at the time of decision on establishment 2. at this moment)	Please check (✓) for the issues facing after establishment	Please check (✓) the considering factors before establishment (1. at the time of decision on establishment 2. at this moment)	Please check (✓) for the issues facing after establishment	Please check (✓) the considering factors before establishment (1. at the time of decision on establishment 2. at this moment)	Please check (✓) for the issues facing after establishment
(1) General matters						
Size and growth rate of GDP						
Stability of exchange rate of the relevant market						
Wage level (labor cost)						
Quantity of human capital						
Ease of recruiting raw materials, components, etc.						
Responsiveness to foreign products by local customers						
Number of existing competitors in the relevant market						
Level of legal development concerning intellectual property rights						
Level of implementation and enforcement of intellectual property law						
Country risk (political stability, corruption, etc.)						
Country risk (taxation, exchange rate, etc.)						
Size and growth of the relevant market in neighboring countries						
Number of prior establishments of local subsidiaries from home country and/or other advanced countries						
Trade barriers or trade friction						
Infrastructure for exporting/import (regarding procurement of raw materials, investment ratio, etc.)						
Distance from neighboring country with large market						
Corporate tax rate						
Real estate price (rental cost, etc.)						
Real estate price (purchase cost, etc.)						
Real estate price (operating cost, etc.)						
Real estate price (maintenance cost, etc.)						
Real estate price (depreciation and exchange rate)						
Other (please specify)						
(2) Your perception of intellectual property system						
Scope of Patent rights (patentability)						
Development of legal system on patent rights enforcement						
Operation of legal system on patent rights enforcement						
Development of legal system on trademark rights enforcement						
Operation of legal system on trademark rights enforcement						
Scope of design patent rights						
Development of legal system on design patent rights enforcement						
Operation of legal system on design patent rights enforcement						
Scope of utility model patent rights						
Development of legal system on utility model patent rights enforcement						
Operation of legal system on utility model patent rights enforcement						
Scope of copyright						
Development of legal system on copyright enforcement						
Operation of legal system on copyright enforcement						
Technology know-how protection system and the level of protection						
Technology know-how protection system and the level of protection (including technology know-how)						

<p>Ⓜ Specific matters on IPBs</p>	<p>A: Country 1 (already established)</p> <p>Please check (✓) the considering factors before establishment (1. at the time of decision on establishment 2. at this moment)</p>	<p>B: Country (planning)</p> <p>Please check (✓) the considering factors for establishment</p>
<p>Patent prosecution timeline</p> <p>The related costs for obtaining patents (including patent attorney fee and translation costs)</p> <p>Have country application system</p> <p>Employers' duty to employees invention</p> <p>Correction of patents</p> <p>Priority rights</p> <p>Secret of commercial/technology rights</p> <p>Ownership of patent rights</p> <p>Patent assignment system</p> <p>Patent licensing system</p> <p>Patent litigation</p> <p>Patent damages</p> <p>Membership of international patent law treaties</p> <p>Secret patent system (data application including national security)</p> <p>Patent rights (patent right, licensed IPR)</p> <p>Type of trademark</p> <p>Trademark prosecution timeline</p> <p>The related costs for obtaining trademark (including patent attorney fee and translation costs)</p> <p>Trademark maintenance fee</p> <p>Trademark assignment system</p> <p>Trademark invalidation proceedings</p> <p>Trademark revocation based on non-use</p> <p>Ownership of trademark rights</p> <p>Trademark assignment system</p> <p>Trademark licensing</p> <p>Trademark litigation</p> <p>Trademark damages</p> <p>Membership of international trademark law treaties</p> <p>Have other rights on trademark right (licensed IPR)</p>	<p>Patent prosecution timeline</p> <p>The related costs for obtaining patents (including patent attorney fee and translation costs)</p> <p>Have country application system</p> <p>Employers' duty to employees invention</p> <p>Correction of patents</p> <p>Priority rights</p> <p>Secret of commercial/technology rights</p> <p>Ownership of patent rights</p> <p>Patent assignment system</p> <p>Patent licensing system</p> <p>Patent litigation</p> <p>Patent damages</p> <p>Membership of international patent law treaties</p> <p>Secret patent system (data application including national security)</p> <p>Patent rights (patent right, licensed IPR)</p> <p>Type of trademark</p> <p>Trademark prosecution timeline</p> <p>The related costs for obtaining trademark (including patent attorney fee and translation costs)</p> <p>Trademark maintenance fee</p> <p>Trademark assignment system</p> <p>Trademark invalidation proceedings</p> <p>Trademark revocation based on non-use</p> <p>Ownership of trademark rights</p> <p>Trademark assignment system</p> <p>Trademark licensing</p> <p>Trademark litigation</p> <p>Trademark damages</p> <p>Membership of international trademark law treaties</p> <p>Have other rights on trademark right (licensed IPR)</p>	<p>Patent prosecution timeline</p> <p>The related costs for obtaining patents (including patent attorney fee and translation costs)</p> <p>Have country application system</p> <p>Employers' duty to employees invention</p> <p>Correction of patents</p> <p>Priority rights</p> <p>Secret of commercial/technology rights</p> <p>Ownership of patent rights</p> <p>Patent assignment system</p> <p>Patent licensing system</p> <p>Patent litigation</p> <p>Patent damages</p> <p>Membership of international patent law treaties</p> <p>Secret patent system (data application including national security)</p> <p>Patent rights (patent right, licensed IPR)</p> <p>Type of trademark</p> <p>Trademark prosecution timeline</p> <p>The related costs for obtaining trademark (including patent attorney fee and translation costs)</p> <p>Trademark maintenance fee</p> <p>Trademark assignment system</p> <p>Trademark invalidation proceedings</p> <p>Trademark revocation based on non-use</p> <p>Ownership of trademark rights</p> <p>Trademark assignment system</p> <p>Trademark licensing</p> <p>Trademark litigation</p> <p>Trademark damages</p> <p>Membership of international trademark law treaties</p> <p>Have other rights on trademark right (licensed IPR)</p>
<p>Ⓜ Specific matters on IPBs (cont.)</p> <p>Design patent</p> <p>Design patent prosecution timeline</p> <p>The related costs for obtaining design patents (including patent attorney fee and translation costs)</p> <p>Design patent maintenance fee</p> <p>Design patent assignment system</p> <p>Ownership of design patents</p> <p>Design patent licensing</p> <p>Design patent litigation</p> <p>Design patent damages</p> <p>Membership of international trademark law treaties</p> <p>Have other matters on design patent rights (licensed IPR)</p> <p>Utility model</p> <p>Utility model prosecution timeline</p> <p>The related costs for obtaining utility model patents (including patent attorney fee and translation costs)</p> <p>Utility model maintenance fee</p> <p>Utility model assignment system</p> <p>Ownership of utility model patents</p> <p>Utility model licensing</p> <p>Utility model litigation</p> <p>Utility model patent damages</p> <p>Utility model technical opinion</p> <p>Scope of neighboring rights protection</p> <p>Copyright registration</p> <p>Copyright assignment system</p> <p>Copyright litigation</p> <p>Copyright terms</p> <p>Copyright exceptions</p> <p>Copyright damages</p> <p>Copyright enforcement mechanism for copyright infringement</p> <p>Membership of international copyright law treaties</p> <p>Have other matters on copyright (licensed IPR)</p> <p>The invalidity of grant-back clauses (assignment back, exclusive or non-exclusive grant-back, respectively grant-back)</p> <p>A. Unpatent and patentable tax system on transfer pricing</p> <p>Licensee's warranty obligation</p> <p>Patent control for license fee</p> <p>State of bargaining and an employee's duty to refrain from competition</p> <p>Objects of license contracts</p> <p>Control to license contracts</p> <p>Establishment and enforcement of a system similar to Bayh-Dole</p> <p>Import and export control for counterfeiting goods (functional technology, know-how protection system and the need of protection system)</p> <p>Have other matters on IP related issues (licensed IPR)</p>	<p>Design patent</p> <p>Design patent prosecution timeline</p> <p>The related costs for obtaining design patents (including patent attorney fee and translation costs)</p> <p>Design patent maintenance fee</p> <p>Design patent assignment system</p> <p>Ownership of design patents</p> <p>Design patent licensing</p> <p>Design patent litigation</p> <p>Design patent damages</p> <p>Membership of international trademark law treaties</p> <p>Have other matters on design patent rights (licensed IPR)</p> <p>Utility model</p> <p>Utility model prosecution timeline</p> <p>The related costs for obtaining utility model patents (including patent attorney fee and translation costs)</p> <p>Utility model maintenance fee</p> <p>Utility model assignment system</p> <p>Ownership of utility model patents</p> <p>Utility model licensing</p> <p>Utility model patent damages</p> <p>Utility model technical opinion</p> <p>Scope of neighboring rights protection</p> <p>Copyright registration</p> <p>Copyright assignment system</p> <p>Copyright litigation</p> <p>Copyright terms</p> <p>Copyright exceptions</p> <p>Copyright damages</p> <p>Copyright enforcement mechanism for copyright infringement</p> <p>Membership of international copyright law treaties</p> <p>Have other matters on copyright (licensed IPR)</p> <p>The invalidity of grant-back clauses (assignment back, exclusive or non-exclusive grant-back, respectively grant-back)</p> <p>A. Unpatent and patentable tax system on transfer pricing</p> <p>Licensee's warranty obligation</p> <p>Patent control for license fee</p> <p>State of bargaining and an employee's duty to refrain from competition</p> <p>Objects of license contracts</p> <p>Control to license contracts</p> <p>Establishment and enforcement of a system similar to Bayh-Dole</p> <p>Import and export control for counterfeiting goods (functional technology, know-how protection system and the need of protection system)</p> <p>Have other matters on IP related issues (licensed IPR)</p>	<p>Design patent</p> <p>Design patent prosecution timeline</p> <p>The related costs for obtaining design patents (including patent attorney fee and translation costs)</p> <p>Design patent maintenance fee</p> <p>Design patent assignment system</p> <p>Ownership of design patents</p> <p>Design patent licensing</p> <p>Design patent litigation</p> <p>Design patent damages</p> <p>Membership of international trademark law treaties</p> <p>Have other matters on design patent rights (licensed IPR)</p> <p>Utility model</p> <p>Utility model prosecution timeline</p> <p>The related costs for obtaining utility model patents (including patent attorney fee and translation costs)</p> <p>Utility model maintenance fee</p> <p>Utility model assignment system</p> <p>Ownership of utility model patents</p> <p>Utility model licensing</p> <p>Utility model patent damages</p> <p>Utility model technical opinion</p> <p>Scope of neighboring rights protection</p> <p>Copyright registration</p> <p>Copyright assignment system</p> <p>Copyright litigation</p> <p>Copyright terms</p> <p>Copyright exceptions</p> <p>Copyright damages</p> <p>Copyright enforcement mechanism for copyright infringement</p> <p>Membership of international copyright law treaties</p> <p>Have other matters on copyright (licensed IPR)</p> <p>The invalidity of grant-back clauses (assignment back, exclusive or non-exclusive grant-back, respectively grant-back)</p> <p>A. Unpatent and patentable tax system on transfer pricing</p> <p>Licensee's warranty obligation</p> <p>Patent control for license fee</p> <p>State of bargaining and an employee's duty to refrain from competition</p> <p>Objects of license contracts</p> <p>Control to license contracts</p> <p>Establishment and enforcement of a system similar to Bayh-Dole</p> <p>Import and export control for counterfeiting goods (functional technology, know-how protection system and the need of protection system)</p> <p>Have other matters on IP related issues (licensed IPR)</p>
<p>Ⓜ To what extent do IP vectors in your parent company involve in the decision-making of overseas expansion?</p> <p>1. Highly involve</p> <p>2. Slightly involve</p> <p>3. Not involve</p>	<p>Ⓜ Phase describe specifically the problems concerning intellectual properties which you are facing after overseas expansion, including the name of the country.</p>	<p>Ⓜ Phase describe specifically the problems concerning intellectual properties which you are facing after overseas expansion, including the name of the country.</p>

Thank you for your cooperation!

Appendix 2:

Methods for Constructing the Survey Questionnaire

To specify the detailed aspects of intellectual property rights (IPR) as factors companies take into account when deciding to establish a foreign subsidiary, we use the well-known indexes of patent rights, such as Ginarte-Park index (1997), Park-Wagh index (2002), and Park-Lippoldt index (2005) (the Park Indices). The Park Indices, however, are meant to evaluate the protection of patent rights. In this survey, we used other indices to account for the relationship between foreign direct investment (FDI) and the intellectual property (IP) system.

The Park Indices reveal the level of patent protection. The indices comprise five criteria: (i) coverage, (ii) duration of protection, (iii) enforcement, (iv) membership of international treaties, and (v) restrictions on patent rights. Compared with the Park Indices, the characteristics of our survey's indices are mainly as follows:

- (1) To capture the influence of IPR systems on the decision to expand, we took account of several indices to determine expansion by multinational companies (MNCs) to ASEAN countries.
- (2) Our survey is not restricted to patent; we include other IPR, e.g., trademark, design right, utility model, and copyright.
- (3) To capture the detailed problems regarding IPR in ASEAN countries, our survey used the more detailed indices in the questionnaire survey sheet.

Compared with the Park Indices, ours are arranged by IP categories as follows:

1. Indices related to the creation, modification, and allocation of IPR (patent, trademark, design patent, utility model, copyright)

- (1) General matters: (i) IPR prosecution timeline, (ii) the related costs for obtaining IPR, (iii) IPR maintenance fee, (iv) correction of IPR, (v) IPR invalidation proceedings, and (vi) co-ownership of IPR
- (2) Specified index of patent: (i) home country application system, (ii) secret patent system, (iii) exercises on compulsory licensing rights
- (3) Specified index of trademark: types of trademark, rescission of trademark

registration based on non-use

- (4) Specified index of design patent: partial design system ('design patent protection for a part of products' in the survey sheet)
- (5) Specified index of utility model: utility model technical opinion
- (6) Specified index of copyright: (i) employee works, (ii) copyright registration, (iii) scope of neighbouring rights protection
- (7) IP-related area: establishment and enforcement of a system similar to Bayh-Dole

2. Indexes related to the protection of IPR

- (1) General matters: (i) IPR term, (ii) IPR injunctions, (iii) IPR damage, (iv) level of criminal punishment for copyright infringement;
- (2) Specified index of IP-related area: (i) import and export control on counterfeit goods (injunctions), (ii) technology know-how protection system and the level of protection, (iii) trade secret protection system and the level of protection (not including technology know-how).

3. Indexes related to effective utilisation of IPR

- (1) General matters: (i) IPR assignment system, (ii) IPR licensing system, (iii) co-ownership of IPR
- (2) Specified index of IP-related area: (i) IPR licensing condition: licensor's warranty obligation, rates control for license fee, objects of license contracts, control of license contracts, contractor registration system, the invalidity of grant-back clauses (assignment-back, exclusive or non-exclusive grant-backs, reciprocity), invalidity of NAP clauses; (ii) a transparent and predictable tax system on transfer pricing; (iii) export controls on technology transfer.

4. Others

- (1) State of headhunting and an employee's duty to refrain from competition
- (2) Membership of international IPR law treaties

Table A.1 shows a simple comparison between the Park Indices and the index used in this survey. It simply proves that there is no related index related to effective utilisation of IPR in the Park Indices.

Table A. 1: Comparison between Ginarte-Park Index and Index of this Survey

Park Indices	This Survey's Index
i) Coverage	1. The creation, modification, and allocation of IPR
ii) Duration of protection	2. The protection of IPR
iii) Enforcement	2. The protection of IPR
iv) Membership of international treaties	4. Others
v) Restrictions on patent rights	

