

# **Issues and Requests for Improvements on Trade and Investment Barriers in 2020 Features of the Survey Results**

Japan Business Council for Trade and Investment Facilitation (JBCTIF)  
Secretariat: Japan Machinery Center for Trade and Investment

From December 2019 to February 2020, the Japan Business Council for Trade and Investment Facilitation (JBCTIF) implemented a questionnaire survey regarding the trade and investment barriers faced by Japanese companies in each country and regional bloc of the world. The survey covered 127 JBCTIF members and the results have been compiled as the flash report Issues and Requests for Improvements on Trade and Investment Barriers in 2020. (The entire 2020 flash report can be viewed in Japanese on the JBCTIF official website:

<http://www.jmcti.org/mondai/sokuhou.html>)

An overview of the survey results is as follows.

## **1. Survey Results Overview**

### **(1) Key Points in the 2020 Survey Results**

- 1) Compared to the previous year, in which the most notable issue was movement toward protectionist policy, such as trade friction between the US and China and the UK's departure from the EU (Brexit), 2020 could truly be said to be a turning point in history due to the novel coronavirus (COVID-19) pandemic that started in China at the end of 2019.  
The pandemic has fragmented companies' global supply chains and forced restrictions on the movement of people. Coinciding demand shock and supply shock has stalled the global economy and this has greatly affected Japanese industry, which is heavily dependent on global business.
- 2) In the initial phase of the pandemic there were supply shortages, particularly for healthcare items, and countries all over the world adopted protectionist stances by prioritizing their own country's supply. Renewed expectations were placed on global bodies such as the WTO to secure frameworks for the global movement of goods, even under an emergency situation, to prevent certain countries falling into desperate situations.
- 3) While gradual progress was made on various issues, there are many trade and investment barriers that remain unresolved and require ongoing follow-up. A total of 1,461 issues were raised this year, a 10% decrease compared to the previous year (-162 issues). Within this, almost 80% of the issues concerned developing countries.

- 4) By country, China, India, Indonesia, and Brazil had the most issues, the same top four as last year. Out of these four, while the number of issues concerning India and Indonesia remained roughly level, there was a decrease in numbers for China and Brazil, which had been increasing up to the previous year. Some other countries saw significant increases, including the Philippines, Nigeria, and Algeria.
- 5) By region, although there was an overall decreasing trend globally, the Middle East and Africa region saw an increase in issues.
- 6) By category, “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” “Taxation Systems,” and “Implementation of Intellectual Property Rights” remained the four categories with the most issues. Following these four main categories, the categories of “Inefficient Administrative Procedures, Regimes and Practices” and “Industrial Standards, Approval of Safety Standards” also had a lot of issues, but these numbers had decreased, despite increasing up to the previous year.
- 7) In developed countries, the categories with the most issues were “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” “Taxation Systems,” and “Implementation of Intellectual Property Rights,” while there were few issues concerning regulations, such as foreign capital regulations. In developing countries, while there were also many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” “Taxation Systems,” and “Implementation of Intellectual Property Rights,” there were also more issues in other categories such as “Industrial Standards, Approval of Safety Standards,” “Inefficient Administrative Procedures, Regimes and Practices,” “Indigested Legislation, Abrupt Changes,” “Exchange Controls,” “Finance,” and “Restrictions on Entry of Foreign Capital.”

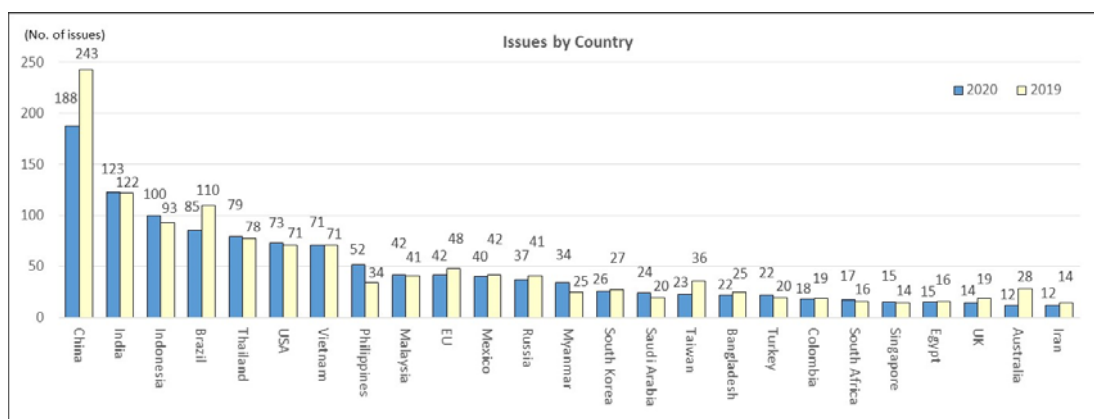
**(2) Characteristics by Region: Almost 80% of Total Issues Concerned Developing Countries, With Influential Countries Ranked at the Top**

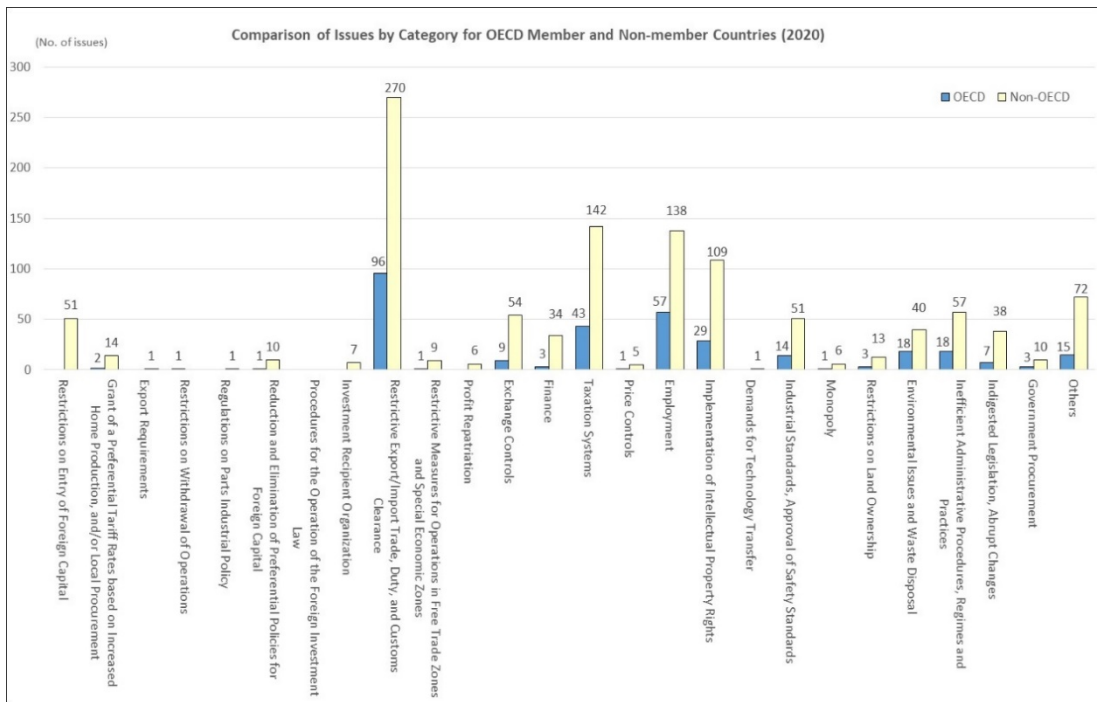
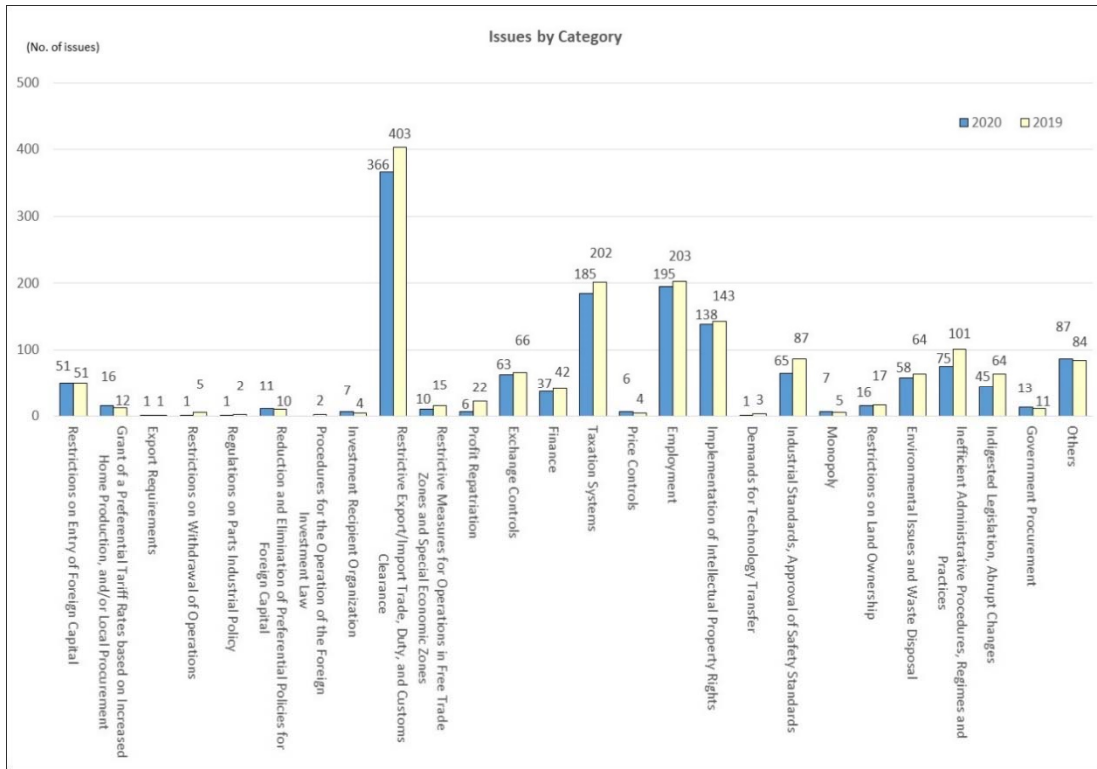
- 1) In the 2020 survey, issues were raised concerning 83 countries and four regional blocs (EU, ASEAN, GCC, and EAEU [Eurasian Economic Union]).
- 2) A total of 1,461 issues were raised, a decrease of 162 compared to 2019, and almost 80% of these concerned developing countries. Issues by country are as follows. China: 188, India: 123, Indonesia: 100, Brazil: 85, Thailand: 79, USA: 73, Vietnam: 71, Philippines: 52, Malaysia: 42, EU: 42, Mexico: 40, Russia: 37, Myanmar: 34.
- 3) Countries that saw a significant rise in issues compared to the previous year were the Philippines (+18), Myanmar (+9), and Nigeria (+6). Countries that saw a significant decrease were China (-55), Brazil (-25), Australia (-16), and Venezuela and Taiwan (both -13).

**(3) By Category: Top 5 Categories Overall Were “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” “Taxation Systems,” “Implementation of Intellectual Property Rights,” and “Inefficient Administrative Procedures, Regimes and Practices”**

- 1) By category, the percentage of total issues for each category was 25.1% for “Restrictive Export/Import Trade, Duty, and Customs Clearance,” 13.3% for “Employment,” 12.7% for “Taxation Systems,” 9.4% for “Implementation of Intellectual Property Rights,” and 5.1% for “Inefficient Administrative Procedures, Regimes and Practices.” In additions to these, the following categories saw an increase in issues. “Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurement” (+4), “Investment Recipient Organization” (+3), “Price Controls” (+2), “Monopoly” (+2), and “Government Procurement” (+2).
- 2) Compared to developing countries, in developed countries there was a heavy weighting of issues in the categories of “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” and “Environmental Issues and Waste Disposal.” However, in developing countries there was a heavy weighting of issues in the categories of “Restrictions on Entry of Foreign Capital,” “Exchange Controls,” “Finance,” and “Indigested Legislation, Abrupt Changes.”

**Statistics from the 2020 Flash Report Issues and Requests for Improvements on Trade and Investment Barriers**





## **2. Specific Issues by Major Country and Region**

**(1) China had a broad range of issues and the highest number, but this had decreased about 20% compared to 2019. The categories with the most issues were “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Implementation of Intellectual Property Rights,” “Taxation Systems,” and “Employment.”**

### **1) Issues raised concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance” included the following.**

- i. Application of HS codes and decisions on place of origin by local officials were inconsistent.
- ii. High import duties on clocks and projectors, import controls on steel, and the like are making it difficult to advance business.
- iii. Import controls on used machinery and equipment are a barrier to establishing new business locations.
- iv. Costs such as handling the labelling of hazardous chemicals for export from China to overseas are high.
- v. The operation of the “Two-Step Declaration” customs system introduced in October 2018 to manage processing trade is unstable. System failures and other problems are causing issues such as shipping delays.
- vi. The customs clearance integration scheme introduced in 2017 has increased workloads concerning inspections. As products with different HS codes have to be placed on the same pallets, it increases the frequency of inspections which has a huge effect on logistics lead times.
- vii. Hikes in duties on goods related to Section 301 of the Trade Act of 1974 resulting from the trade friction between the US and China has increased the cost of imports from the US.
- viii. China’s Export Control Law aims to ensure benefit and national security for China, and it has content that conflicts with the legal systems of various other countries, leading to concerns about violations of WTO rules.
- ix. Although there were expectations regarding the Regional Comprehensive Economic Partnership (RCEP), which includes China, the signing by 15 countries on November 15, 2020 excluded India.

### **2) Issues raised concerning “Implementation of Intellectual Property Rights” included the following.**

- i. Weak punishments from officials for trademark infringements and repeated infringements have been ongoing issues.
- ii. Money transfers of technology royalty payments from China to overseas require many approvals from the Ministry of Commerce, National Copyright Administration,

and the National Intellectual Property Administration, which poses an excessive administrative burden compared to other countries.

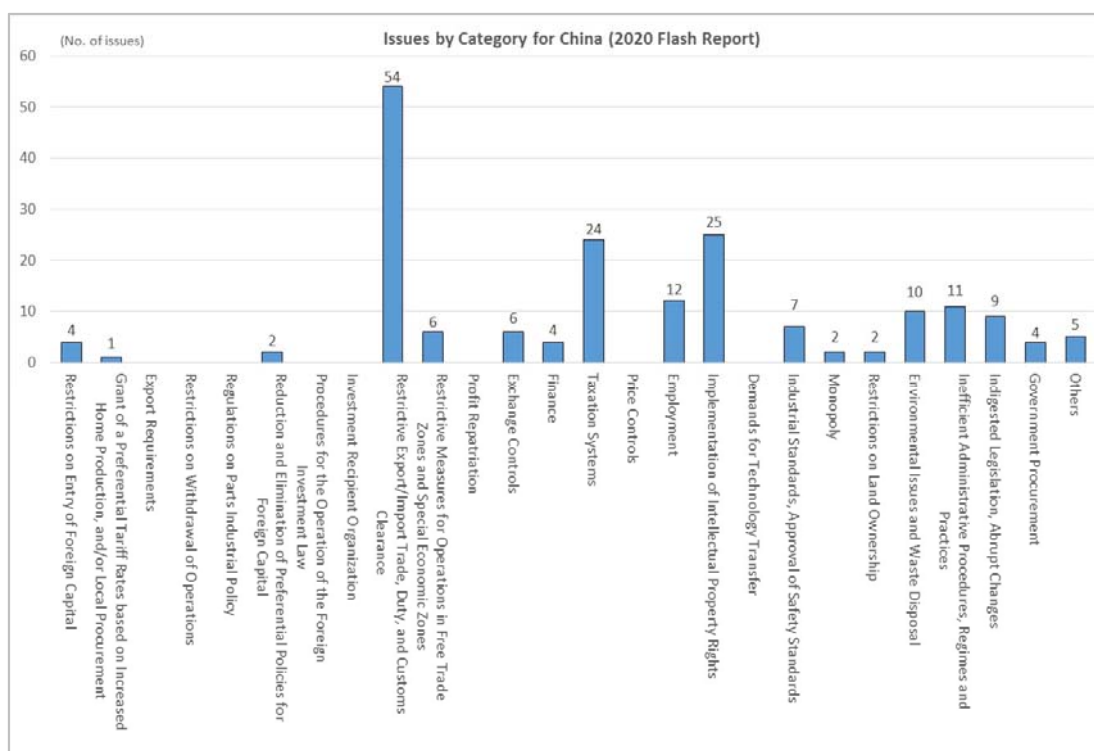
- iii. The foreign first-filing requirement is out of touch with the actual situation regarding global corporate research and development activities.

**3) Issues raised concerning “Taxation Systems” included the following.**

- i. Ongoing issues include cumbersome procedures for claiming back value added tax, and cases where this tax was not paid back or payments were delayed.
- ii. The setting of transfer prices and handling of royalties in the transfer pricing system is vague and opaque, and uniformity between authorities in Japan and China is requested. Additionally, as the payment of transfer price adjustments is rarely authorized, it is difficult to appropriately control prices. There are also regional disparities in how the system is interpreted.

Regarding advanced pricing agreements, a long period of adjustment and substantive screening are required before an official application can be made.

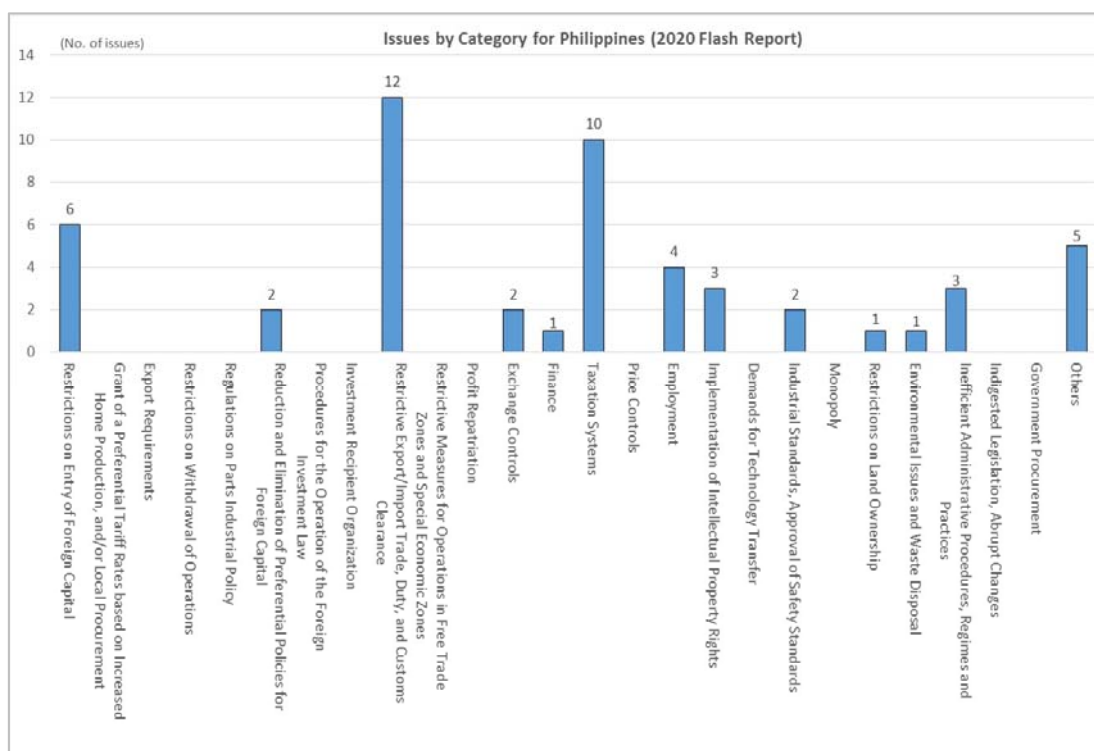
- iii. There are a wide range of interpretations regarding PE taxation and it is easy to end up receiving PE status. It is hoped that Japan and China can revise tax conventions and improve their application.



**(2) In Southeast Asia, issues concerning the Philippines and Myanmar increased while Indonesia, Thailand, Vietnam, and Malaysia stayed roughly level.**

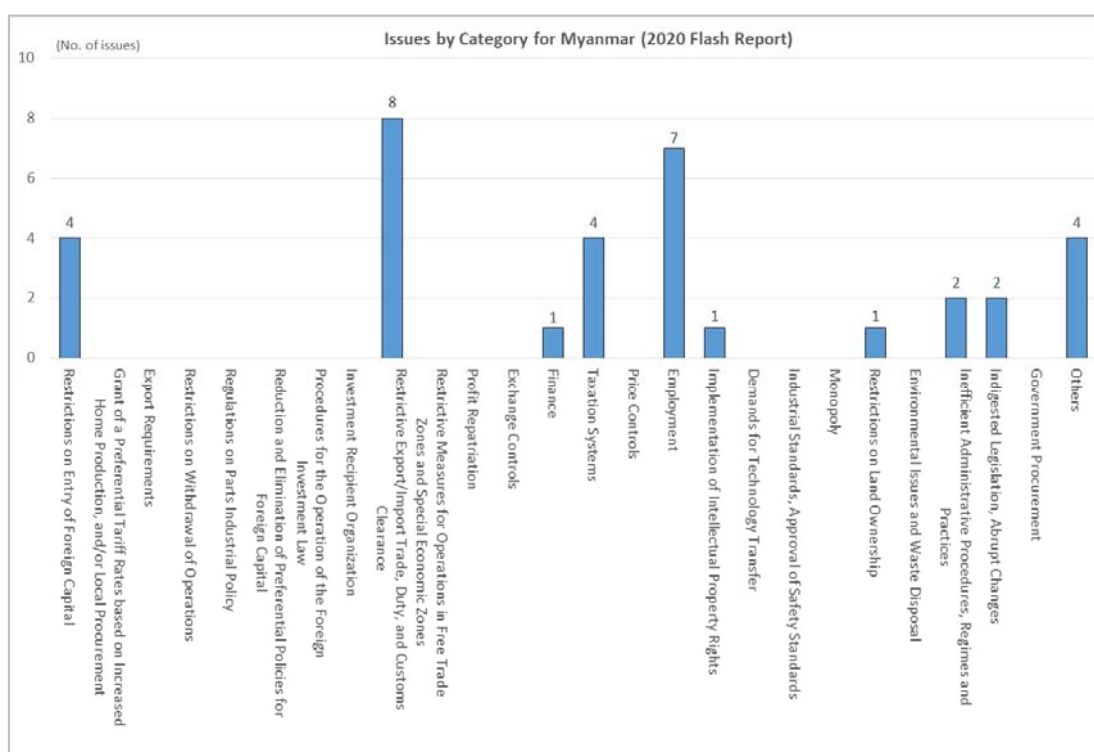
**1) Philippines: “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Taxation Systems,” “Restrictions on Entry of Foreign Capital,” and “Employment” made up the top four.**

- i. Regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance,” paying the value added tax collected at time of import was cumbersome and this, combined with customs duties, resulted in an excessive burden. The pre-shipment inspection requirement was also a big burden.
- ii. Regarding “Taxation Systems,” issues included delays to value added tax rebates, a heavy burden from taxes such as withholding (corporate) tax and profits remittance tax, and an opaque system.
- iii. Regarding “Restrictions on Entry of Foreign Capital,” hurdles to progress included controls on the receipt of securities, laws controlling working capital, and paid-up capital controls for the retail sector.
- iv. Regarding “Employment,” issues included an excessively long process to get visas for foreign employees posted to the country, difficulties securing technical staff due to insufficient workplace training and the like, and social security costs due to the lack of a social security agreement.



**2) Myanmar: “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” “Restrictions on Entry of Foreign Capital,” and “Taxation Systems” made up the top four.**

- i. Regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance,” the procedures required for obtaining import licenses under each model are cumbersome, and while there has been some improvement since moving to the negative list system, further alleviation is desired. Border controls on the border with China are insufficient resulting in an influx of goods that have not passed customs clearance.
- ii. Regarding “Employment,” there were issues related to the obtaining of entry visas. While tourists are now exempt from visa requirements, business travelers still require a visa. Although the time taken to obtain these visas has shrunk, further improvement is desired. Foreign employees posted to the country are required to join the local insurance system which is neither beneficial nor reasonable.
- iii. Regarding “Restrictions on Entry of Foreign Capital,” the Companies Law enacted in 2018 has lowered some of the hurdles to foreign capital entry, but further progress is desired on alleviating restrictions until entry is possible using 100% foreign capital.
- iv. Regarding “Taxation Systems,” calls for Japan and Myanmar to conclude a tax treaty continued.

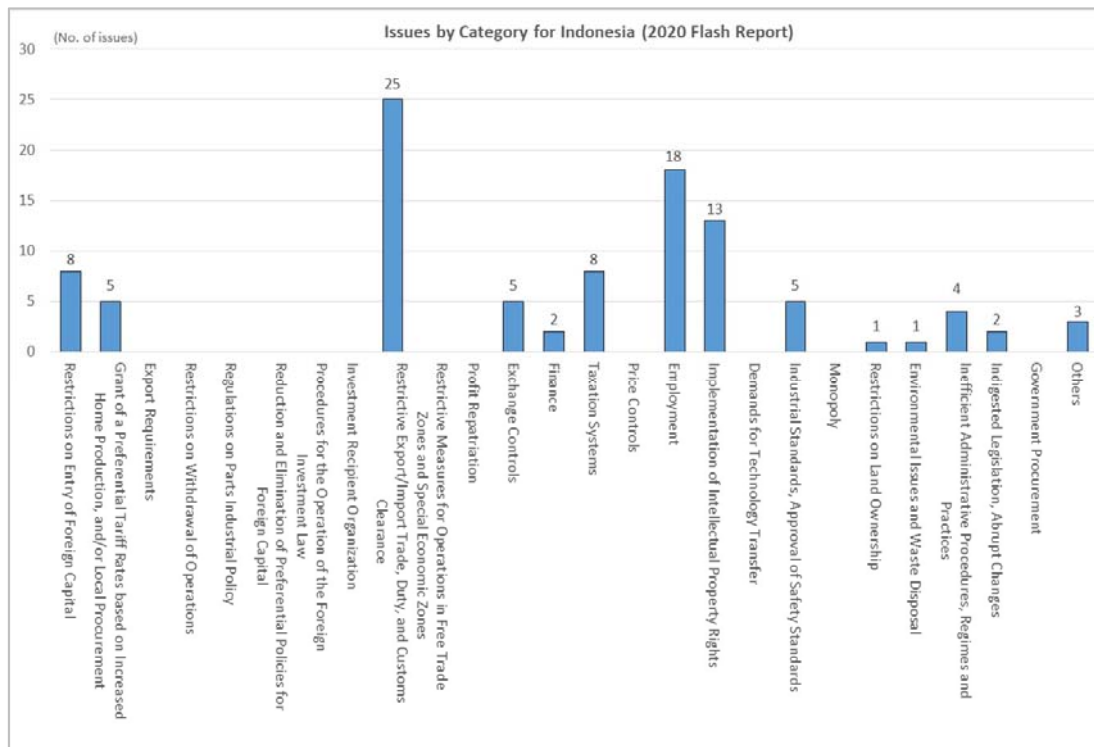




**3) Indonesia: “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” “Implementation of Intellectual Property Rights,” “Taxation Systems,” and “Restrictions on Entry of Foreign Capital” made up the top five.**

- i. The following issues were raised regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance.”
  - a) The import licensing system changes frequently.
  - b) The burden of pre-shipment inspections was heavy.
  - c) Import restrictions on service parts made customer response difficult.
- ii. The following issues were raised regarding “Employment.”
  - a) The calculation of minimum wage rises based on the previous year’s inflation rate and economic growth resulted in high increases which had a big impact on business.
  - b) The system for acquiring visas for foreign employees posted to the country is complex and a big administrative burden, and the time taken to acquire the visa is too long. Even using the emergency visa system takes around three weeks.
- iii. Regarding “Implementation of Intellectual Property Rights,” the process from patent application to examination takes six to seven years, which is too long. Restrictions that prevent a substantive examination until the laid-open period is completed are a problem.

It is preferable that it be made possible to file divisional applications at the time of patent evaluation and the time of decision of refusal.
- iv. There were many issues raised regarding the opaque and arbitrary system for tax inspections, repudiations, and back taxes. (E.g., Under the repudiation and transfer pricing systems, exorbitant supplementary charges were decided regarding royalties, brand fees, and the like.)
- v. Regarding “Restrictions on Entry of Foreign Capital,” it is preferable that capital restrictions concerning the manufacturing sector, the obligation for local production to start within five years, and local content requirements be either abolished or alleviated.

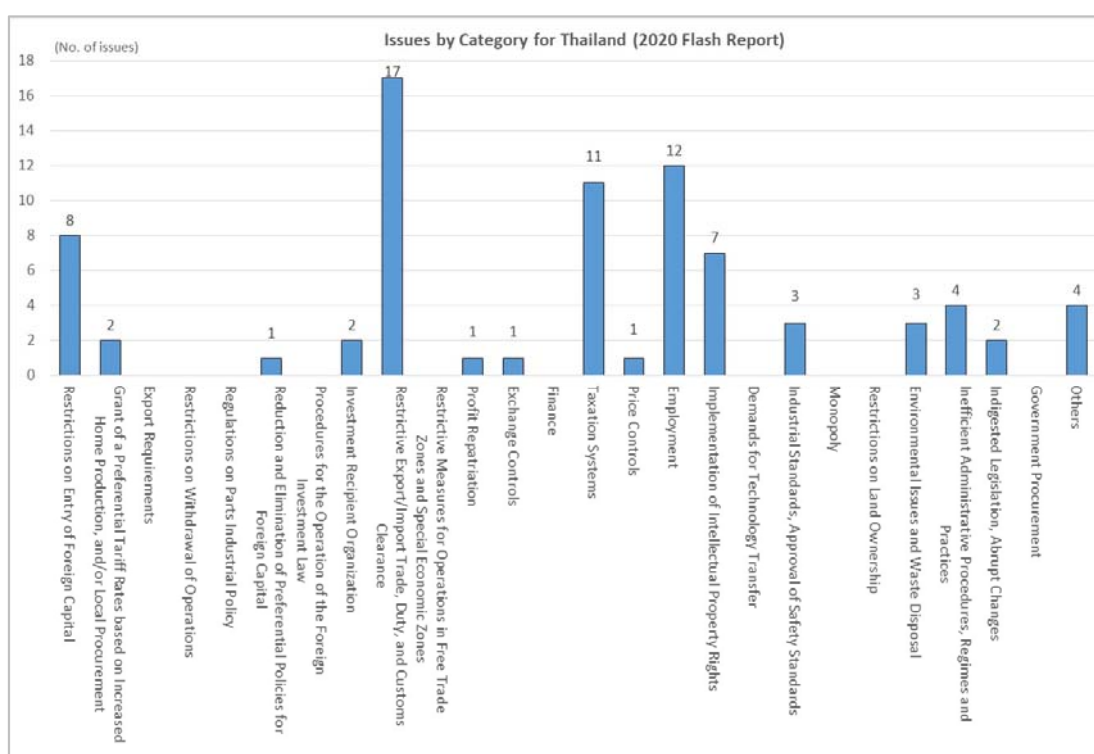


**4) Thailand: “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” “Taxation Systems,” “Restrictions on Entry of Foreign Capital,” and “Implementation of Intellectual Property Rights” made up the top five.**

- i. The following issues were raised regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance.”
  - a) There were cases where unjustifiably high duties were levied under the customs incentive distribution system.
  - b) The application of import tariff rates and the arbitrariness of which items they are applied to.
  - c) Obtaining certificates of specific origin is difficult.
- ii. Regarding “Employment,” there were many issues concerning the complexity and slowness of procedures for obtaining work visas for foreign employees.
- iii. Regarding “Taxation Systems,” issues concerning corporate taxes and the like included the arbitrariness of inspections and the long period required to claim back rebates.
- iv. Regarding “Restrictions on Entry of Foreign Capital,” new business is being impeded by the strictness of regulations concerning the service sector and restriction on acquiring land under the Land Code.
- v. The following issues were raised regarding “Implementation of Intellectual Property Rights.”
  - a) The condition of novelty for patents only applies to inventions that are neither public knowledge nor in common use within Thailand pre-application, meaning

that inventions that are public knowledge in other countries can be patented in Thailand. The principle of absolute novelty has become the global standard and it is requested that its application be included in proposed revisions to Thai patent laws.

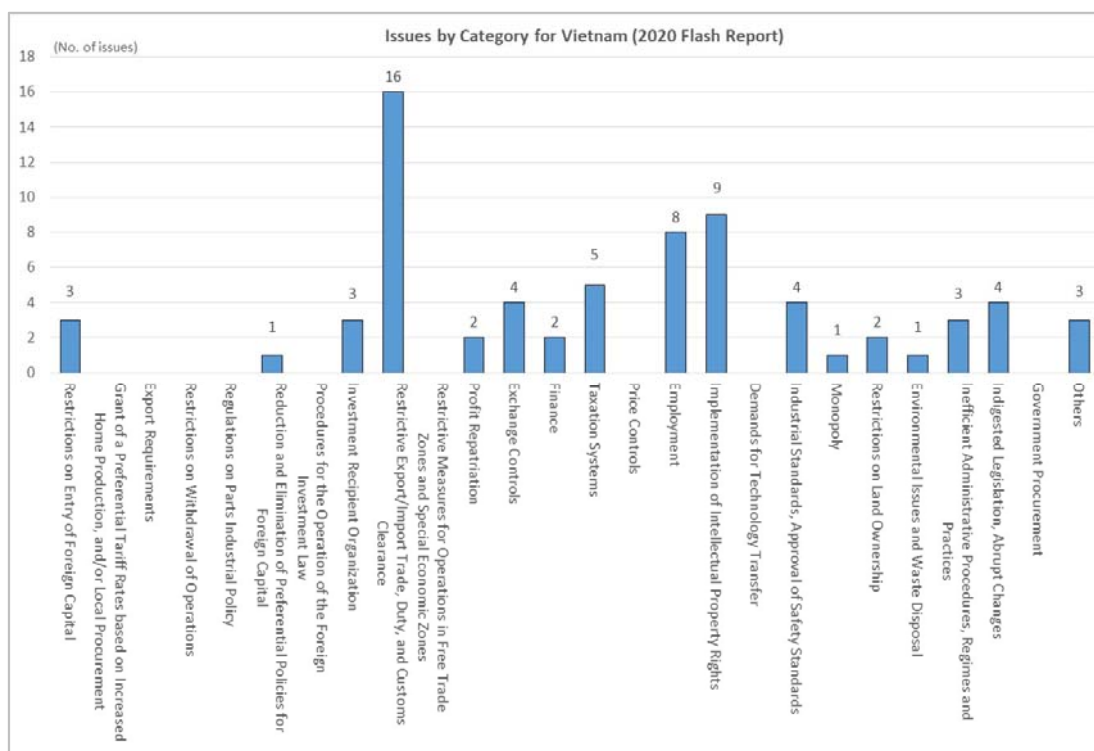
- b) The laid-open period has not been clearly defined. Additionally, although the request for examination period has been stipulated as ending within five years of the day that the laying open of the application is publicly announced, the time between the application day and the day that the laying open of the application is publicly announced varies, so it is impossible to work out the deadline for requests for examination. It is requested that length of the laid-open periods be newly and clearly defined, and revisions be made that set the application date as the start of the request for examination period.



**5) Vietnam: “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Implementation of Intellectual Property Rights,” “Employment,” and “Taxation Systems” made up the top four.**

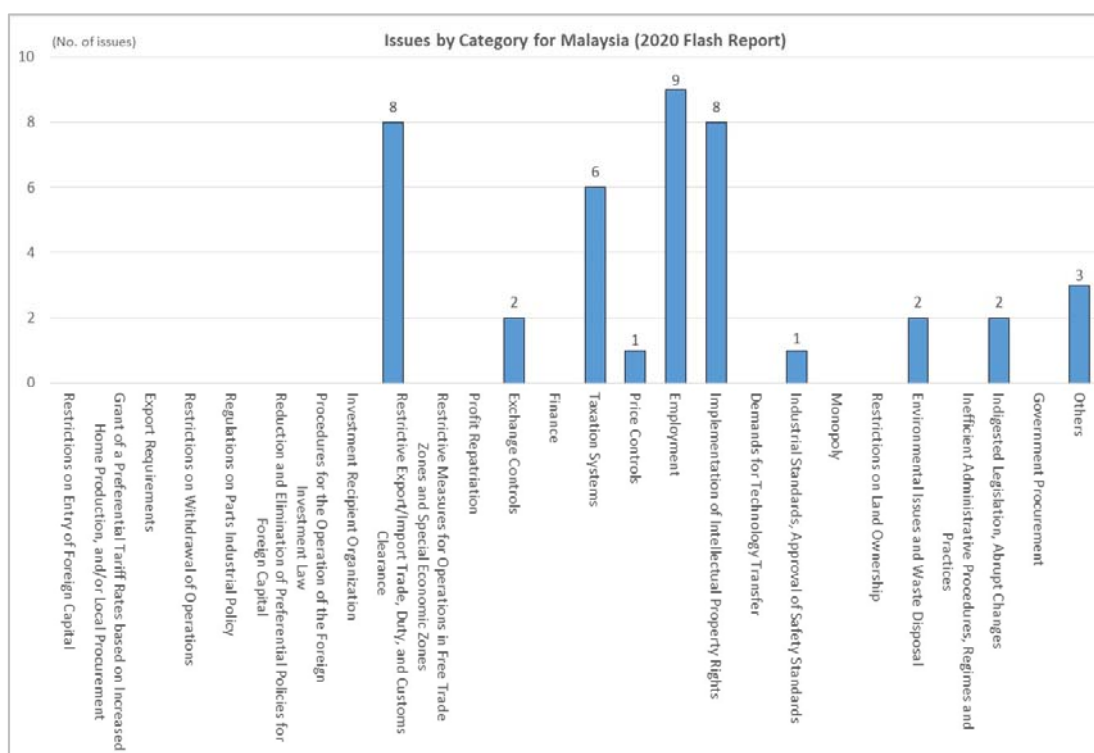
- i. The following issues were raised regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance.”
- A problem is that the 10-to-15-year staging period toward the abolition of duties, including for clocks, under the Japan-Vietnam EPA is long.
  - Export duty on coal is high and it takes time to obtain an export license.
  - The basis for import duties is unclear, which invites confusion.

- d) Revised restrictions to the importing of used machinery and equipment have been applied since June 15, 2019. Import conditions regarding used machinery and equipment and used production line technology are different but production line technology has not been clearly defined.
- ii. Regarding “Implementation of Intellectual Property Rights,” the foreign first-filing requirement is out of touch with the current situation of companies that carry out research and development between multiple countries.
- iii. The following issues were raised regarding “Employment.”
  - a) Obtaining a working visa in Vietnam requires an employment record of at least three years in Japan, which is a barrier to personnel rotations aimed at developing human resources.
  - b) Regarding the social insurance coverage obligation for foreign workers, in cases where workers move within the company, as it is not clearly defined that they fall outside of the coverage obligation, they are forced to join.
- iv. The following issues were raised regarding “Taxation Systems.”
  - a) Foreign employees posted to Vietnam are obligated to pay personal income tax, even if the posting is only for a short period.
  - b) Transfer pricing documentation requirements include the requirement to submit local files, master files, and Country-by-Country Reporting (CbCR) within 90 days of the end of the fiscal year, which is short compared to the year given in other countries. (Note: In the case of CbCR, afterwards this period is extended to 12 months.)



**6) Malaysia: “Employment,” “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Implementation of Intellectual Property Rights,” and “Taxation Systems” made up the top four.**

- i. Regarding “Employment,” there were labor shortages due to a large rise in the minimum wage, a doubling of employment levies, and a freeze on employing foreigners.
- ii. Issues raised regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance” included the tightening of procedures for steel imports due to the need for conformity assessment certification, opaque criteria for judging import license exemptions, and the imposition of safeguard duties.
- iii. The following issues were raised regarding “Implementation of Intellectual Property Rights.”
  - a) Once a regular substantive examination has been applied for, the application cannot be changed to a modified substantive examination. It would be preferable if an application could be changed to a modified substantive examination, even if a regular substantive examination has been applied for.
  - b) The MDTCA is exposing infringing products as a measure against counterfeit products but the effect of this measure on controlling infringements is insufficient, as there are many cases where a penalty for infringement has not been set, even several years after the infringement was exposed, and there is also evidence of chronic infringers who resume dealing counterfeit goods soon after being exposed and who have been exposed multiple times.
  - c) Efforts to control counterfeit products have been insufficient, as there are many cases where customs agents have been unable to use their authority to prevent goods entering at borders and where penalties have not been decided after counterfeit goods are detected.
- iv. Regarding the transfer pricing system, periodic assessments are not clearly stipulated in law and are not recognized at a working level. It is requested that it be clarified in law that total assessments of a minimum of at least three years are recognized in line with OECD principles.



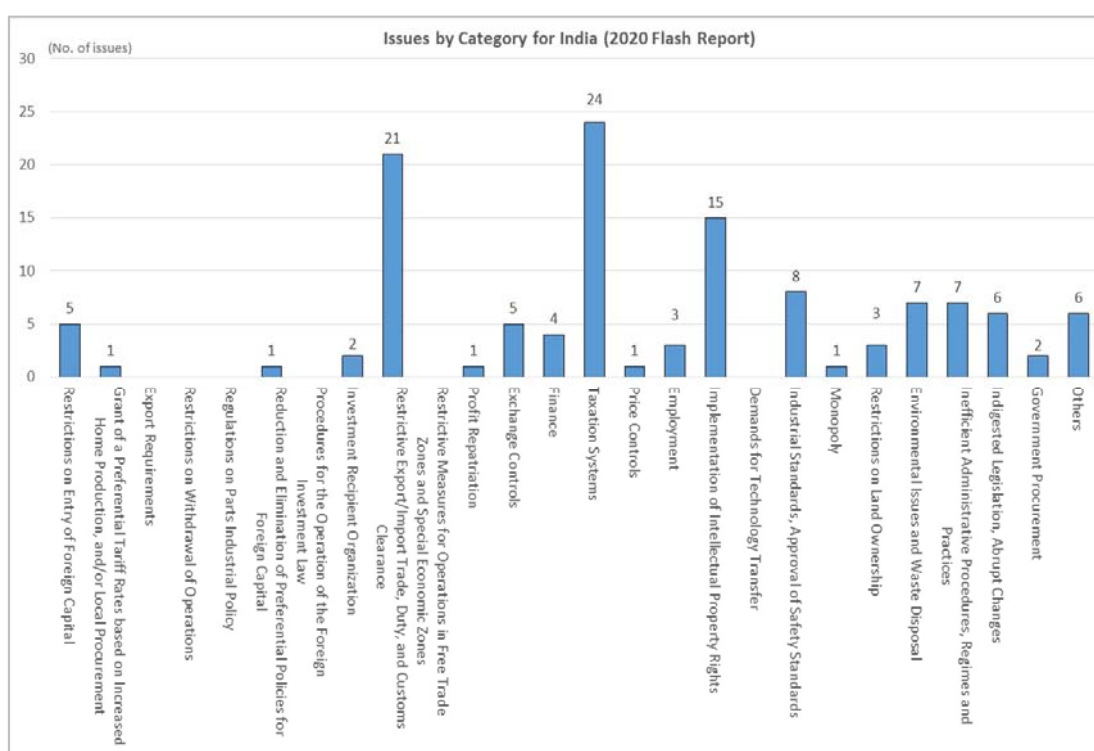
**(3) In Southwest Asia, the large number of issues concerning India and Bangladesh continued from the previous year. The number of issues remained roughly the same.**

**1) India: “Taxation Systems,” “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Implementation of Intellectual Property Rights,” and “Industrial Standards, Approval of Safety Standards” made up the top four.**

- i. The following issues were raised regarding “Taxation Systems.”
  - a) Regarding the problem of various additions to basic taxes, there was improvement in the abolishment of value added tax (VAT) and the introduction of a Goods and Services Tax (GST). However, further improvements are being sought for issues regarding GST, such as cumbersome electronic procedures and differing tax rates for different item classes.
  - b) Usage fees and technical services incur withholding taxes under the India-Japan tax treaty, and the definition of these services is unclear.
  - c) Methods of applying the 183-day rule for long-term business travelers (such as how the days are calculated) are unclear and it is preferable that the 183-day rule in the OECD Model Tax Convention is applied.
  - d) Issues such as transfer pricing examinations being implemented inconsistently for each local subsidiary are a large barrier against expanding into India.
- ii. Issues raised regarding “Restrictive Export/Import Trade, Duty, and Customs

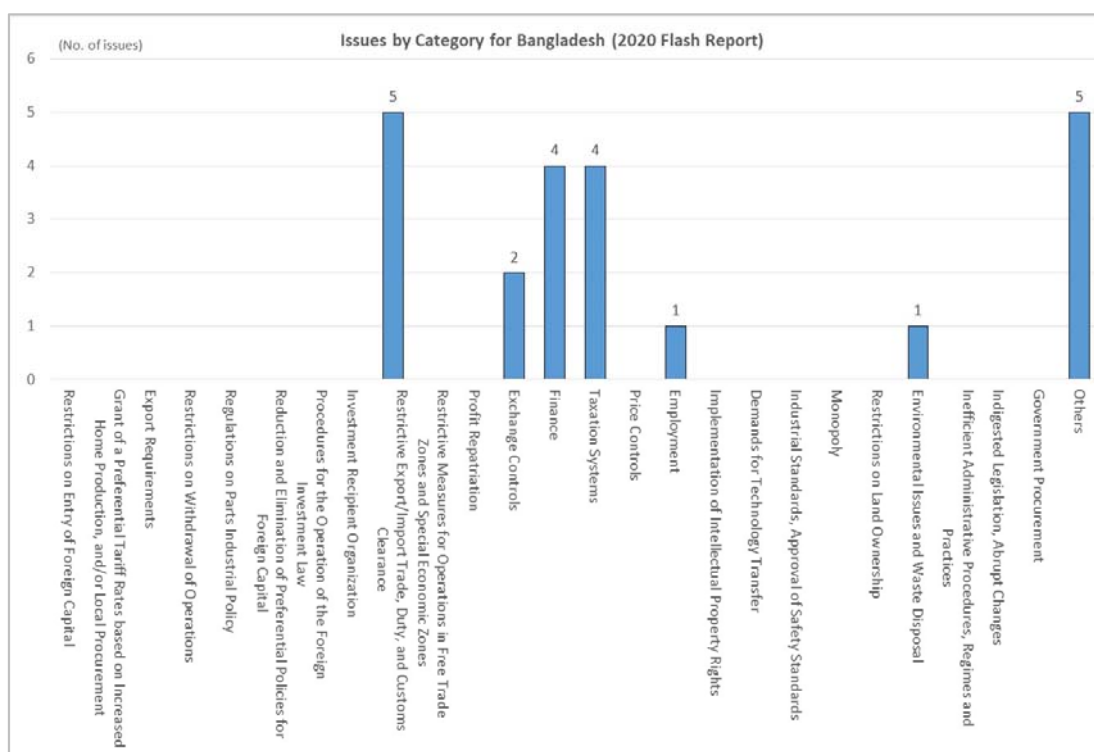
Clearance” included the arbitrary application of customs classifications, the levying of duties on ITA-specified products, and the requirement that maximum retail prices be declared during customs clearance, which reduces the flexibility of sales activities. Regarding the FTA rule of origin regulations, it is requested that these regulations be mitigated, such as changing it so that only one of RVC (Regional Value Content) or CTC (Change in Tariff Classification) needs to be cleared.

- iii. The following issues were raised regarding “Implementation of Intellectual Property Rights.”
  - a) Information provision requirements regarding foreign filings are irrational and unclear.
  - b) The obligation to provide information by submitting a patent working statement (a report of the working status of the patented invention in India) results in an administrative burden and it is requested that the statement be abolished or that the entry items be simplified. It would also be preferable to not disclose items pertaining to confidential information.
  - c) The foreign first-filing requirement is out of touch with the current situation regarding global research and development.
  - d) Measures to police counterfeit goods are insufficient.
- iv. Issues raised regarding “Industrial Standards, Approval of Safety Standards” included the requirement to obtain Indian standards, the non-acceptance of CB (Certification Body) reports issued overseas regardless of whether the country of issuance is a member of the CB scheme (an electrical products safety standard) or not, and the burden of frequent changes to BIS (Bureau of Indian Standards).



**2) Bangladesh: “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Taxation Systems,” “Finance,” “Exchange Controls,” and “Others” made up the top five.**

- i. Issues raised regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance” included high import duties and the arbitrary application of tax rates. An import tax labelled as a supplementary duty has a strong overtone of protectionism and is hindering entry into new industries through free trade and increases to FDI.
- ii. Regarding “Taxation Systems,” there have been cases where some transactions have incurred tax burdens for Japanese companies despite being subject to exemptions under exchanges of notes.
- iii. Regarding e some transactions have incurred tax burdens for Japanese companies de
- iv. Regarding “Exchange Controls,” there have been delays to L/C settlements.
- v. Issues other than those listed above included a lack of logistics infrastructure, instability in the political situation and national security, and unreasonable demands for payment.



**(4) In Central and South America, Brazil once again had the most issues, followed by Mexico, Colombia, Venezuela, and Argentina**

**1) Brazil: “Employment,” “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Taxation Systems,” “Implementation of Intellectual Property**

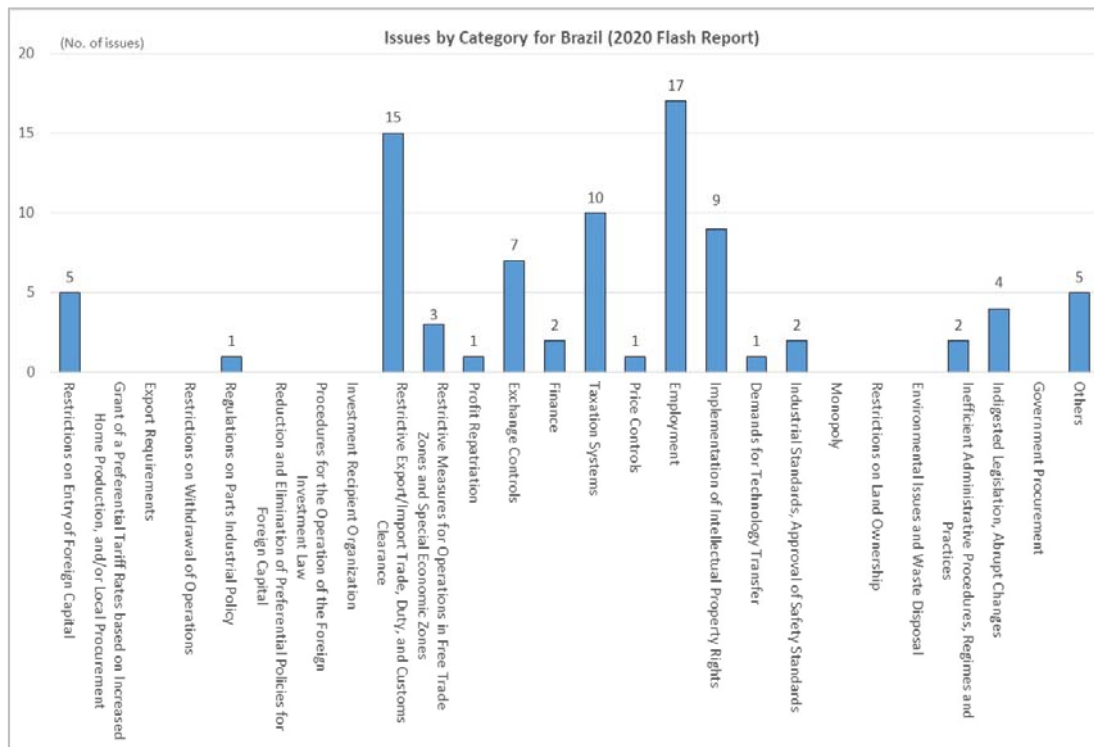


**Rights,” and “Exchange Controls” made up the top five.**

- i. The following issues were raised regarding “Employment.”
  - a) It takes time to obtain visas for business trips and employee relocations, which hinders responses to sudden situations. The three-month visa period is short and as it has to be valid not only at the time of entry into Brazil but also at the time of departure, which is inconvenient.
  - b) Labor legislation that is over-protective of workers makes it difficult to ensure competitiveness. Labor protections are strong resulting in high labor-related costs compared to other countries. Businesses are unable to implement demotions, pay cuts, workforce rearrangements, or revisions to employee conditions in response to changes in business performance or social conditions.
  - c) Over two thirds of personnel have to be Brazilian and over two thirds of wages have to go to Brazilians, which makes it difficult to operate small business operations.
- ii. The following issues were raised regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance.”
  - a) It is not possible to carry out intermediary (trilateral) trade in which customers receive imported goods that are shipped to them directly while the financial settlement is conducted through a subsidiary in Brazil.
  - b) High duties are levied on imported goods when items in the same category are produced within the Mercosur bloc. (E.g. Import duties of 14% on nylon and PBT resins.)

It is desirable that negotiations are advanced for a Japan-Mercosur economic partnership agreement.
  - c) While various taxes are being levied, such as a value-added tax in addition to import duties, the application of these taxes is opaque, and rates are high. It is preferable that the tax systems concerning customs are simplified.
- iii. The following issues were raised regarding “Taxation Systems.”
  - a) The taxation system is complicated as there are many types of taxes, such as federal taxes, state taxes, and city taxes, and revisions to these are frequent.
  - b) The transfer pricing system does not conform to the OECD model and the scope of application is broad, creating an excessive administrative burden.
  - c) While the ICMS tax, an indirect tax, has a refund system, it includes restrictions such as a portion of funds not being refunded if sales are made in different state.
- iv. Regarding “Implementation of Intellectual Property Rights,” an issue is the difficulty in protecting intellectual property in practice, as the examination period lasts eight to nine years on average and in some cases, can even exceed 10 years.

Border controls by customs only stipulate the blocking of products that violate trademarks and do not stipulate blocking products that violate patents. It is reported that cases in which customs block the import of products that violate patents are extremely rare.



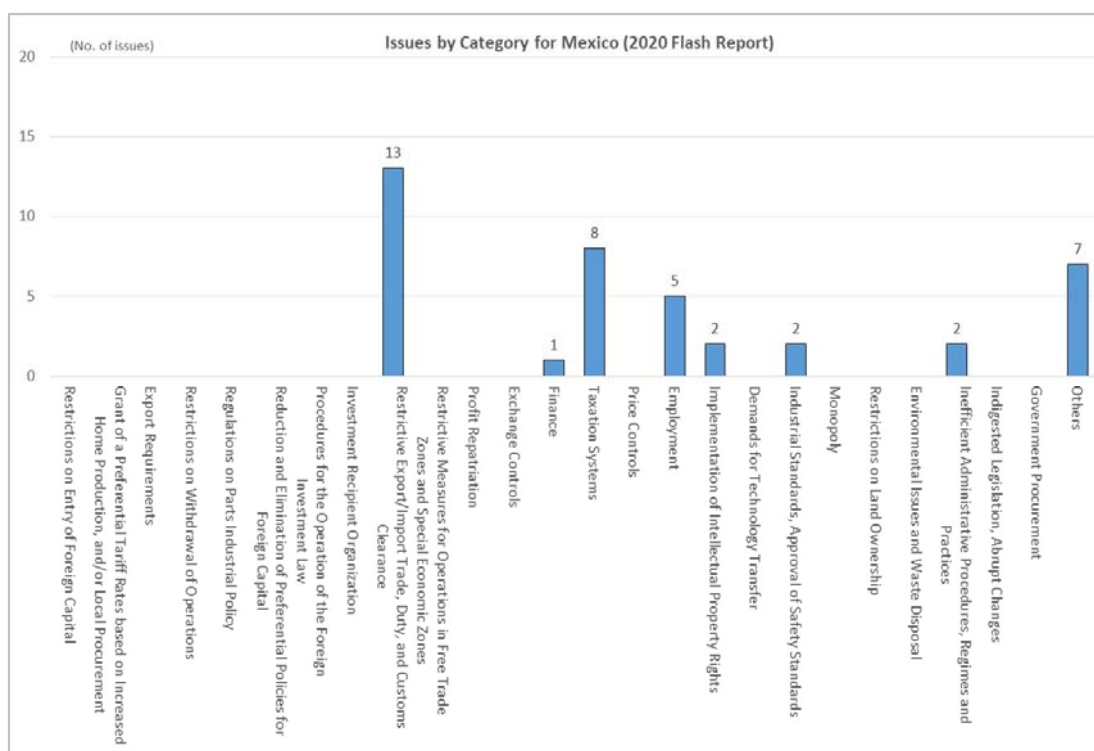
**2) Mexico: “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Taxation Systems,” “Employment,” and “Others” made up the top four.**

- i. The following issues were raised regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance.”
  - a) Customs classification standards regarding the import of solar panels (finished product) have been revised and the HS code has been changed from “85.41 Solar Panel” (duty free) to “85.01 Power Generation Equipment” (15%). The authorities are explaining that the reason for the change is that these items “contain diodes” and they refuse to consider the assertion that “the bypass diodes in these products are different from the diodes found in power generators.” Also, the levying of this duty in order to encourage domestic production is irrational as solar panels are only produced on an extremely limited scale in Mexico.
  - b) Regarding certificates of origin under the Japan-Mexico EPA, certificates of origin created in Japan at the time of export are based on HS2002, but as the Mexican customs system has switched to HS2012, there are cases when exemptions are not accepted. The certificate of origin and application procedures for special customs exemptions are too cumbersome.
- ii. Regarding “Taxation Systems,” in principle periodic assessments are not recognized under local transfer pricing systems. Local gains and losses are also affected by external factors, so in practice it is extremely difficult to set transfer prices that can

secure a firm profit in a single fiscal year. Additionally, penalties for corrections are extremely high.

- iii. Regarding “Employment,” the Employee Participation in Profit Sharing Payments (PTU) scheme does not correspond to the principle of market mechanism and puts stress on businesses.
- iv. The number of cases of cargo theft in 2019 increased by 20% compared to the previous year, and the damage to Japanese companies doubled. In particular, there was a dramatic increase in theft of goods being transported by rail, with cases tripling compared to the previous year. Cargo theft also resulted in losses due to the loss of sales opportunities and production line stoppages, and the cost of strengthening transport security is a growing burden.

A year since the new government took office, a pilot program of countermeasures against cargo theft on main roads and cargo rail lines is finally being implemented in some states, and it is having a certain amount of success.



### 3) Venezuela: The most issues were in “Exchange Controls,” “Employment,” and “Others”

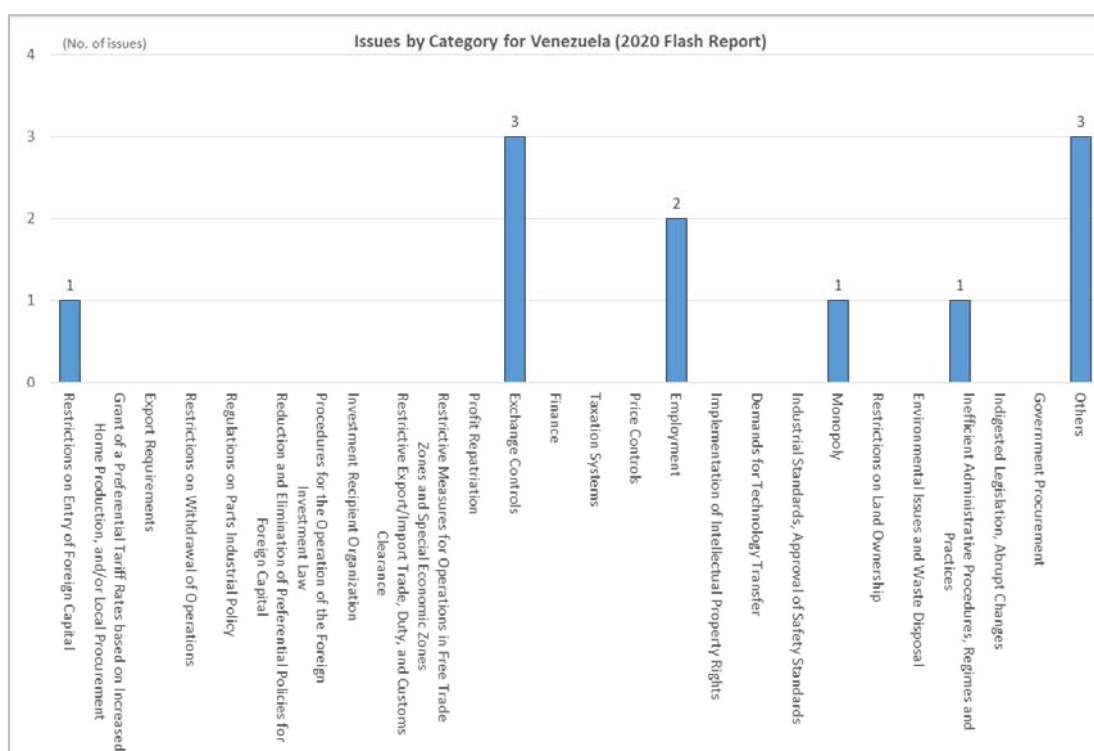
- i. There is a perpetual risk of the devaluation of the Venezuelan Bolivar (VEF).
- ii. Regarding “Employment,” minimum wage hikes five times a year, labor legislation that excessively protects workers, and a presidential decree forbidding employment termination are putting a burden on business.

Protections for low-income workers has resulted in an extremely inflexible labor market. Excessive labor protection means it is not easy to revise employment

conditions. Workers earning less than three times the minimum wage cannot be terminated without a valid reason. Giving such a valid reason is very difficult in practice.

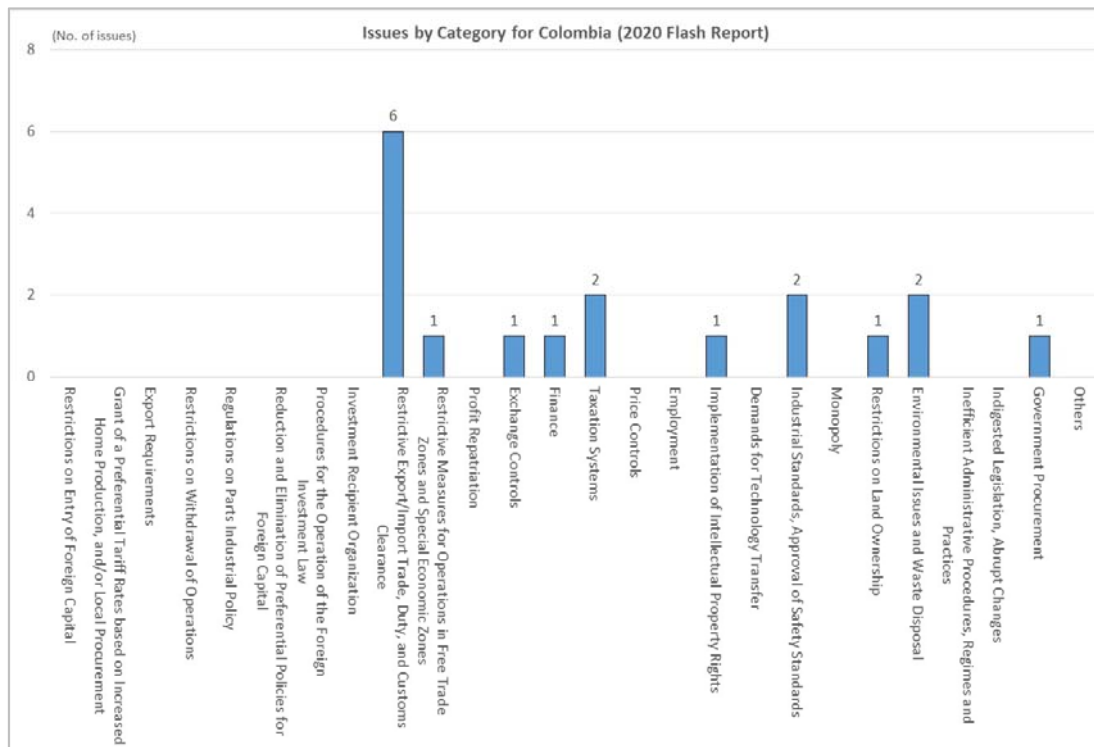
The Presidential Decree on Bar Against Dismissal (valid to December 2020) required the fulfillment of extremely strict labor and safety standards, resulting in huge costs in money and man hours.

- iii. The situation in which Nicolás Maduro and Juan Guaidó have both been declared president has resulted in continuing political instability. Although hyperinflation has eased a bit, local livelihoods are still uncertain.



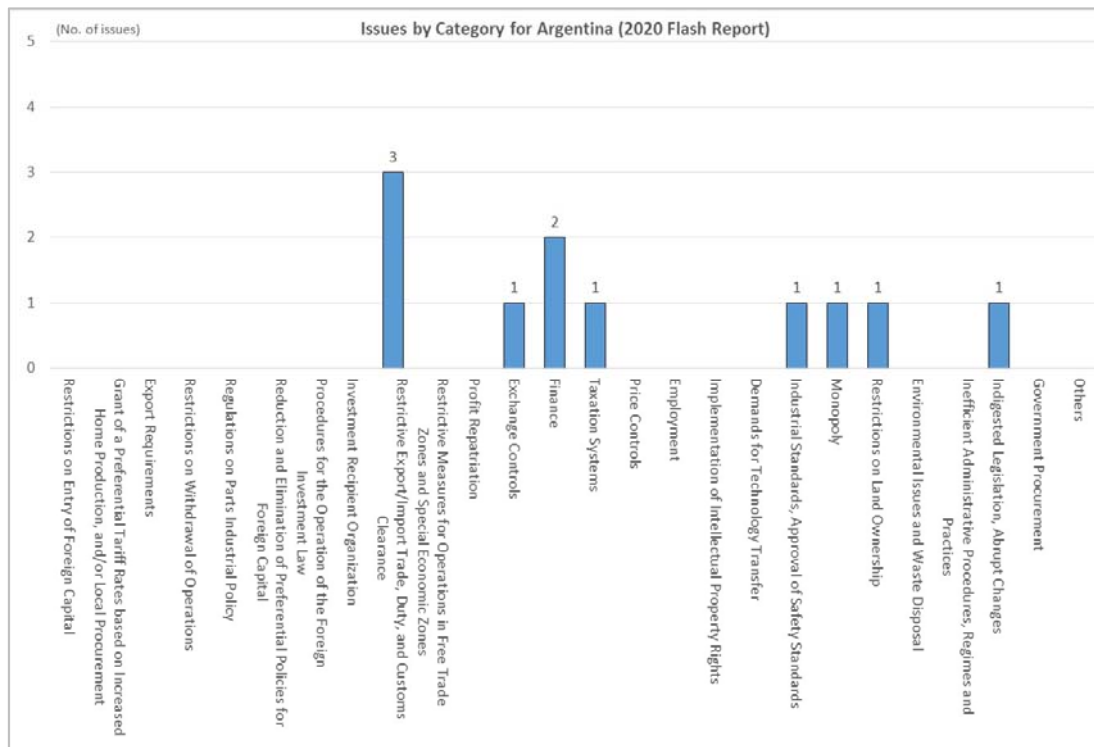
**4) Colombia: There were many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Taxation Systems,” and “Industrial Standards, Approval of Safety Standards.”**

- i. Regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance,” items not covered by an FTA/EPA incur duties of 5 to 15%, so the swift conclusion of a Japan-Colombia EPA is desired.
- ii. Improvements are sought regarding cumbersome tax procedures and frequent tax system revisions.
- iii. Regarding issues concerning “Industrial Standards, Approval of Safety Standards,” RETIQ energy efficiency certification for refrigerators has been required since FY2016. As test data has to be obtained from labs within Colombia, there is concern that Japanese companies will fall behind local manufacturers in terms of competitiveness.



**5) Argentina: There were many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance” and “Finance.”**

- i. Issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance” included that the process to obtain non-automatic import licenses was slow and opaque, and that the 35% duty on electrical goods was high.
- ii. Regarding “Finance,” improvements were sought regarding new financing for the purpose of importing overseas goods. Currently, the full amount has to be deposited within Argentina and converted into pesos. Then, at the time of importing goods, the import fee has to be paid to the supplier after getting prior approval from the central bank, which creates great foreign exchange risk for the importer.

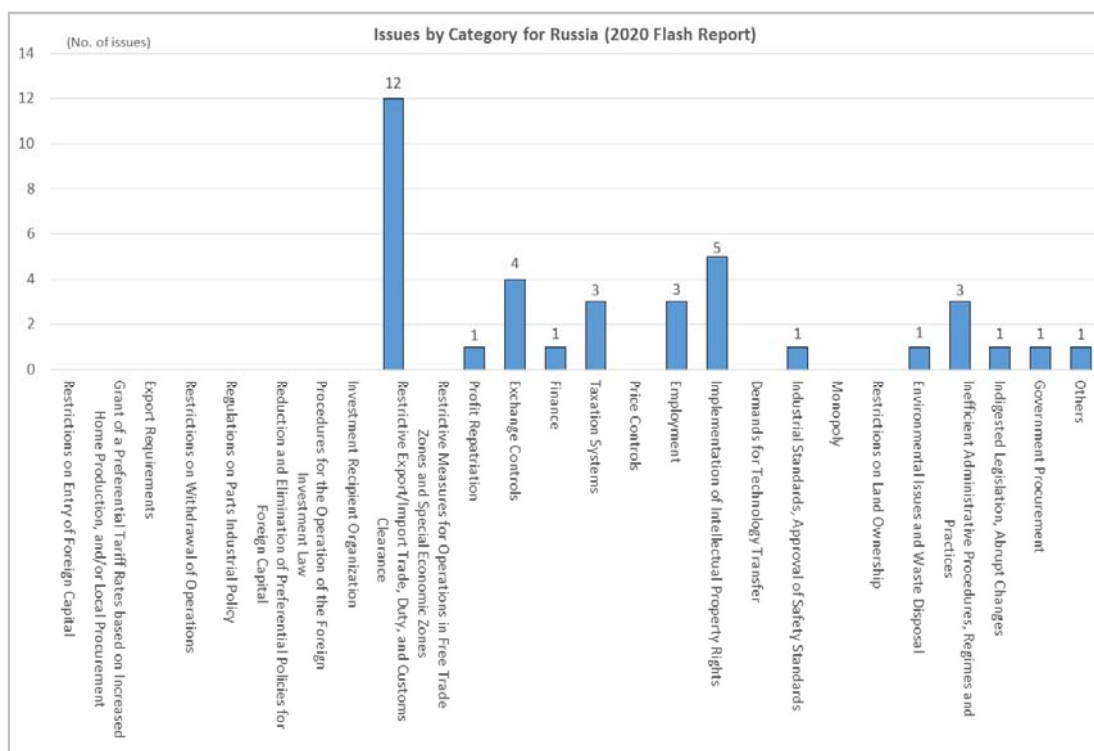


**(5) In Russia, CIS, and Other, Russia still had the most issues**

**1) Russia: The number of issues fell slightly, with “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Implementation of Intellectual Property Rights,” and “Exchange Controls,” making up the top three.**

- i. Issues regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance” included statements being considered to be an undervalued price, particularly regarding import procedures, and requests that goods be reclassified into high duty classifications due to HS code discrepancies.
- ii. Issues regarding “Implementation of Intellectual Property Rights” included insufficient penalties and claims for damages being levied against producers of counterfeit goods, and that the cost of storing and disposing of counterfeit goods seized by customs is born by the rights holder. Stronger legislation regarding intellectual property and firmer measures by customs were requested.
- iii. Regarding “Exchange Controls,” under the trade contract registration system, companies are required to submit documentation as proof of transactions concerning registered contracts, which in practice is just as cumbersome as the former Passport of Deal system. Transactions can only be carried out with the bank registered in the contract. As approval is obtained through this bank, the bank for the transaction is fixed which narrows freedom of choice for the user and puts them at a disadvantage when negotiating lower transaction fees.

Another issue was that business was hindered by regulations that require prior notice to be given of foreign currency remittance and the obligation that payment for exports be invested within Russia.



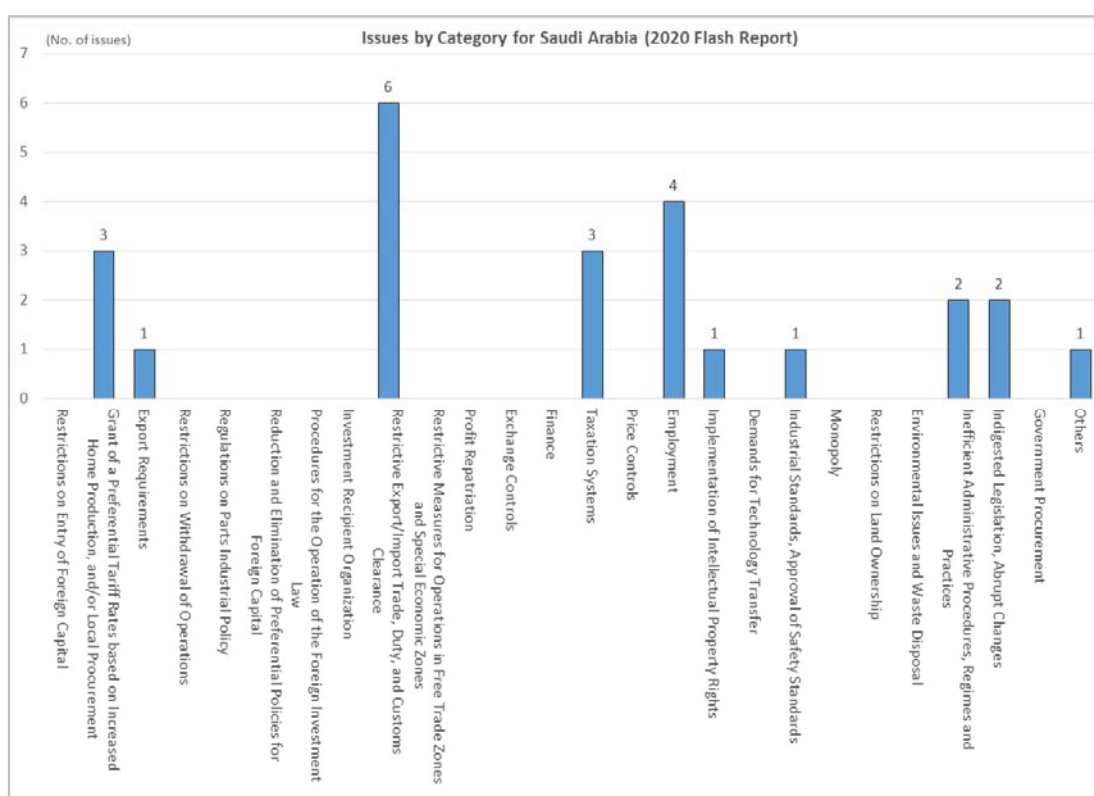
**(6) Middle East and Africa: Issues concerning Saudi Arabia and Nigeria increased while Egypt, Iran, and South Africa remained roughly level**

**1) Saudi Arabia: “Restrictive Export/Import Trade, Duty, and Customs Clearance” remained the category with the most issues and there were still many issues concerning “Employment,” “Grant of Preferential Tariff Rates based on Increased Home Production, and/or Local Procurement,” and “Taxation Systems.”**

- i. The following issues were raised regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance.”
  - a) Ongoing issues included the burden of responding to local Saudi-spec standards prior to shipping and during customs examinations, and that the high cost of responding to the country’s exclusive SASO standards had a big effect on lead times.
  - b) There were cases where customs controls were exercised without prior warning.
- ii. Regarding “Employment,” there is a requirement to have a certain percentage of workforces comprised of Saudi nationals, known as Saudization.
- iii. Regarding “Grant of Preferential Tariff Rates based on Increased Home Production, and/or Local Procurement,” Saudi Aramco’s localization promotion program, known

as the In-Kingdom Total Value Add (IKTVA) Program, strongly promotes nationalizing suppliers and increasing the ratio of local procurement, but its assessment standards are opaque and there is no indication that preferential treatment is being given to companies that are making an effort to comply.

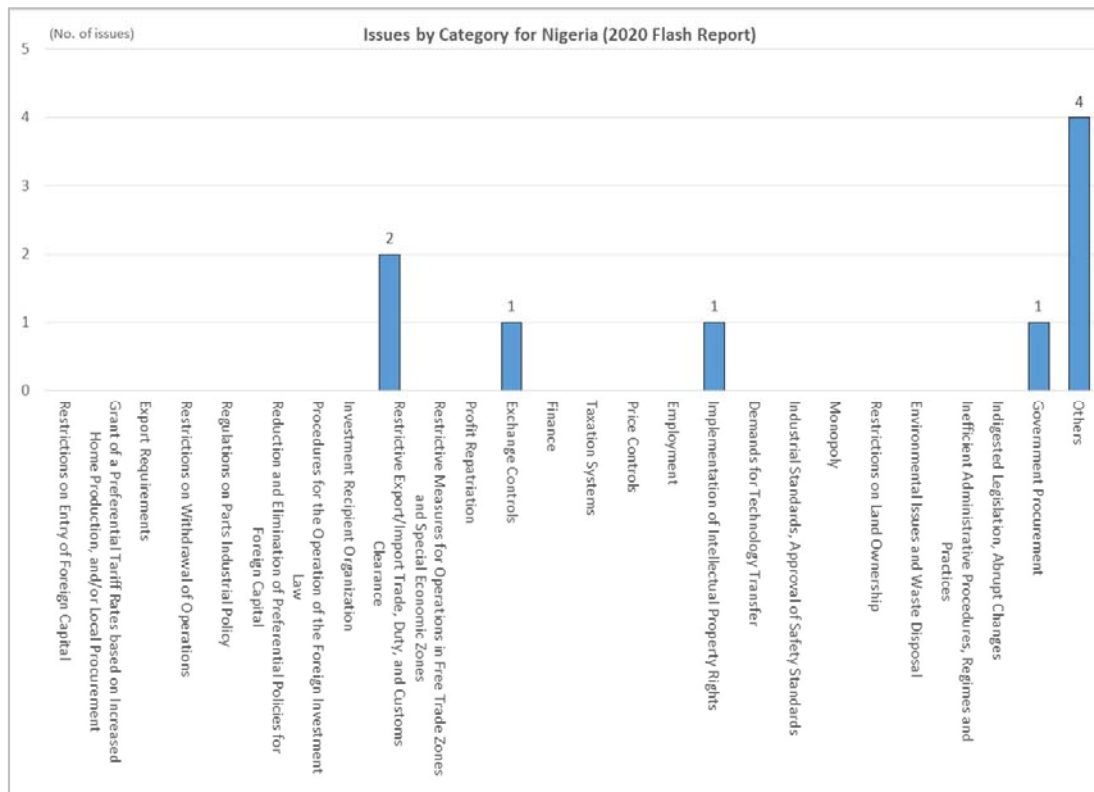
- iv. Regarding “Taxation Systems,” fair competition is being hindered by issues such as a 20% corporate tax rate for foreign-owned companies and investment projects being participated in by state companies as well as foreign-owned companies (IPP, IWP) compared to a zakat tax of just 2.5% for local companies.



**2) Nigeria: The number of issues rose sharply. There were various issues, including a lack of infrastructure and political instability.**

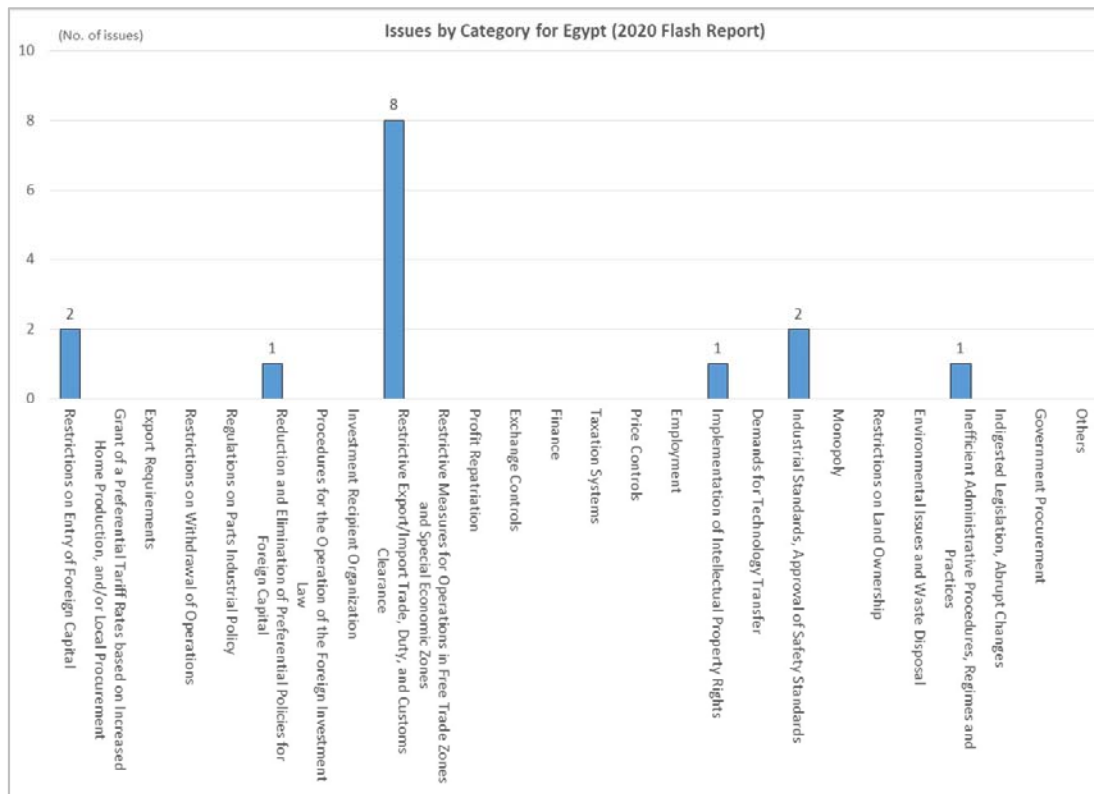
- i. There is a lack of infrastructure, such as electricity and transport networks. Power cuts are frequent, and companies need to install their own generators in residences, manufacturing facilities, etc. Also, as transport networks are undeveloped, congestion in Lagos is severe and it takes a long time to move around. These issues are hindering economic activity.
- ii. As ports are congested, delays to clearance procedures are a burden. Also, the overall process is extremely bureaucratic and organizational corruption remains a problem.
- iii. Regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance,” there is protectionism of national industry with both duties and import restrictions hindering the entry of highly competitive products from overseas.





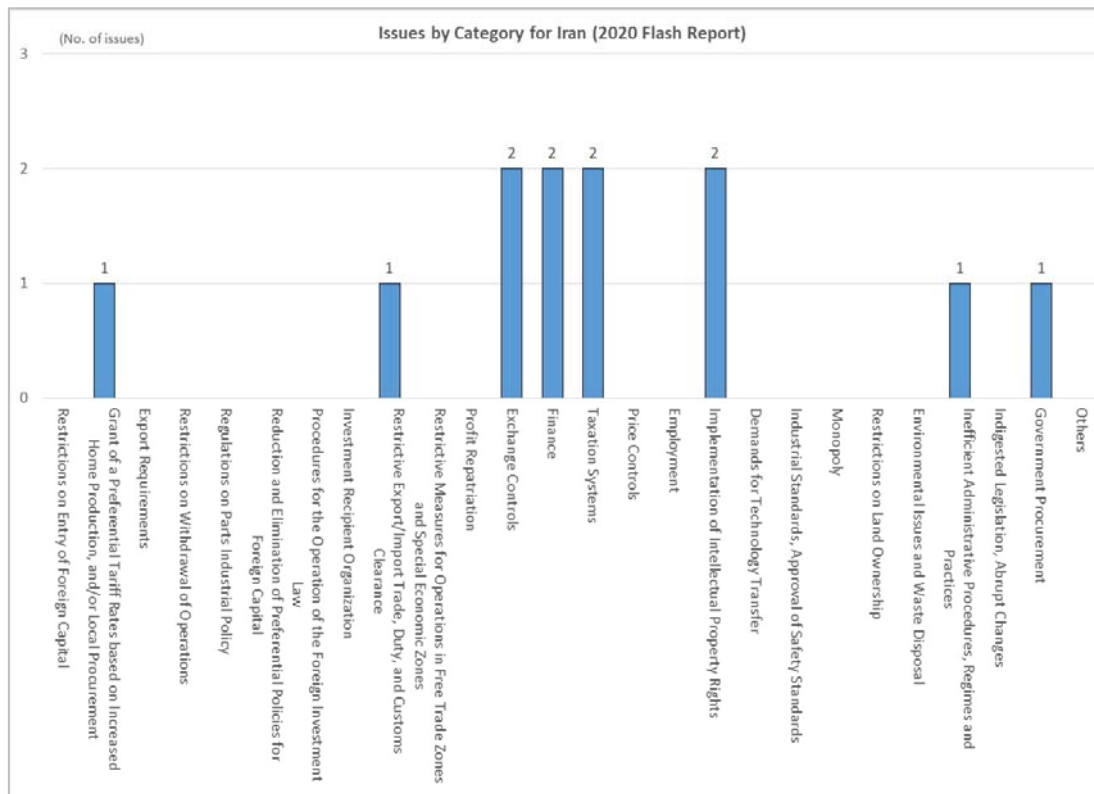
**3) Egypt: The number of issues remained level with most issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance,” followed by issues concerning “Industrial Standards, Approval of Safety Standards” and “Restrictions on Entry of Foreign Capital.”**

- i. Regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance,” new plants need to be registered with the General Organization for Export and Import Control (GOEIC) and imports are restricted until registration is completed. Registration involves waiting around two months from the submission of documents to receiving approval from Ministry of Trade and Industry. As duty rates are changed with no transition period, companies have to respond to new duty rates and negotiate with the authorities each time this occurs.
- ii. Regarding “Industrial Standards, Approval of Safety Standards,” new Egyptian standards do not correspond with global standards, meaning that even if an item meets global standards, companies also have to handle inspections under Egyptian standards each time.
- iii. Regarding “Restrictions on Entry of Foreign Capital,” the Import-Export Law requires companies importing into Egypt to be at least 51% owned by Egyptian companies, creating a barrier to establishing local subsidiaries in the country.



**4) Iran: The number of issues remained level and there were many issues related to “Exchange Controls,” “Finance,” “Taxation Systems,” and intellectual property rights**

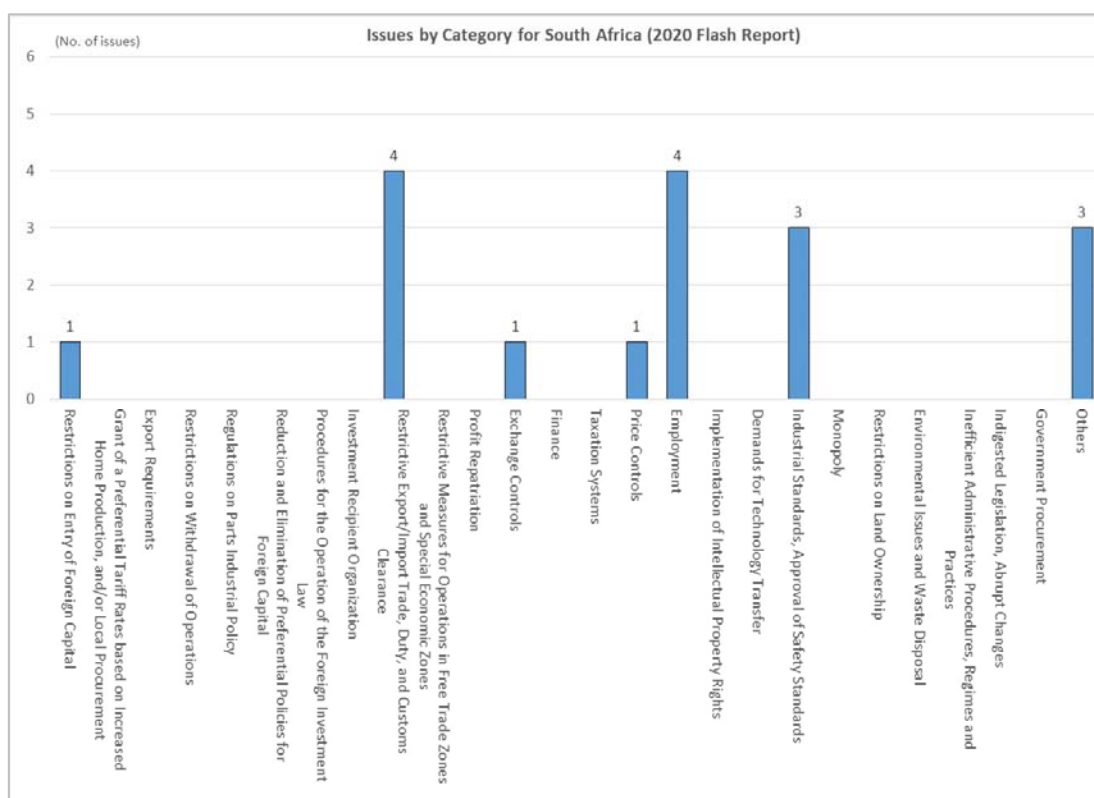
- i. Regarding “Exchange Controls,” government intervention has meant that rates other than the official rate (subsidized rate) and market rate are gradually moving closer together. As for administrative costs, etc., there are still commercial banks that will refuse to carry out exchange transactions at rates other than the official rate or even to carry out exchange transactions at all, which hinders administrative operations.
- ii. Regarding “Finance,” Iranian commercial banks have posed their own restrictions following sanctions by the US, so collecting money owed from existing agreements requires a lot of time and additional fees (personnel costs, legal fees, etc.).
- iii. For issues regarding intellectual property, there is no customs registration system so getting customs to block an item requires a court injunction, and it is difficult to get an injunction for specific goods. It is preferable that customs be given the authority to block goods that violate intellectual property rights or that a customs registration system is put in place.
- iv. Regarding “Taxation Systems,” there have been frequent cases where costs that are necessary for business activities, such as outsourcing fees, rental expenses, and employee benefits have been blanket rejected during tax inspections. These rejections, which have no reasonable basis or reason and are designed to bring in tax revenues, are widespread.



**5) South Africa: The number of issues remained level and there were many issues related to “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” and “Industrial Standards, Approval of Safety Standards”**

- i. Regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance,” there are high duties for imported goods including 25% for televisions, 15% for air conditioners, and 25% for refrigerators (there are some exemptions for items assembled domestically and items manufactured in the EU). Excise duty is an added burden, but there are also products free from taxation, such as washing machines (single tub type) and beauty care products.  
A road map toward clear standards and corrections to high duties is desired.
- ii. Regarding “Employment,” hiring foreign employees who are not permanent residents of South Africa is a burdensome process that involves proving that said foreign employee is necessary to the business, employing them, and then applying for a visa.
- iii. Regarding “Industrial Standards, Approval of Safety Standards,” an LOA certifying safety standards must be submitted before an item can get import clearance. To receive this LOA, the following must be submitted: 1) a CB Report, 2) proof of EMC compliance, and 3) an Energy Efficiency Report. Some products also have to meet 4) South Africa’s unique plug specifications. Also, two to three months after the necessary materials have been submitted, additional materials and corrections may be requested, and after these have been resubmitted, it can take six months before the certification is received. Up until last year, it took three months to acquired

certification, but now local products can get approval in about one to two months, while over six months are required for imported goods. This means that in industries where product replacement cycles are usually a year, it is impossible to introduce new products in a timely manner.

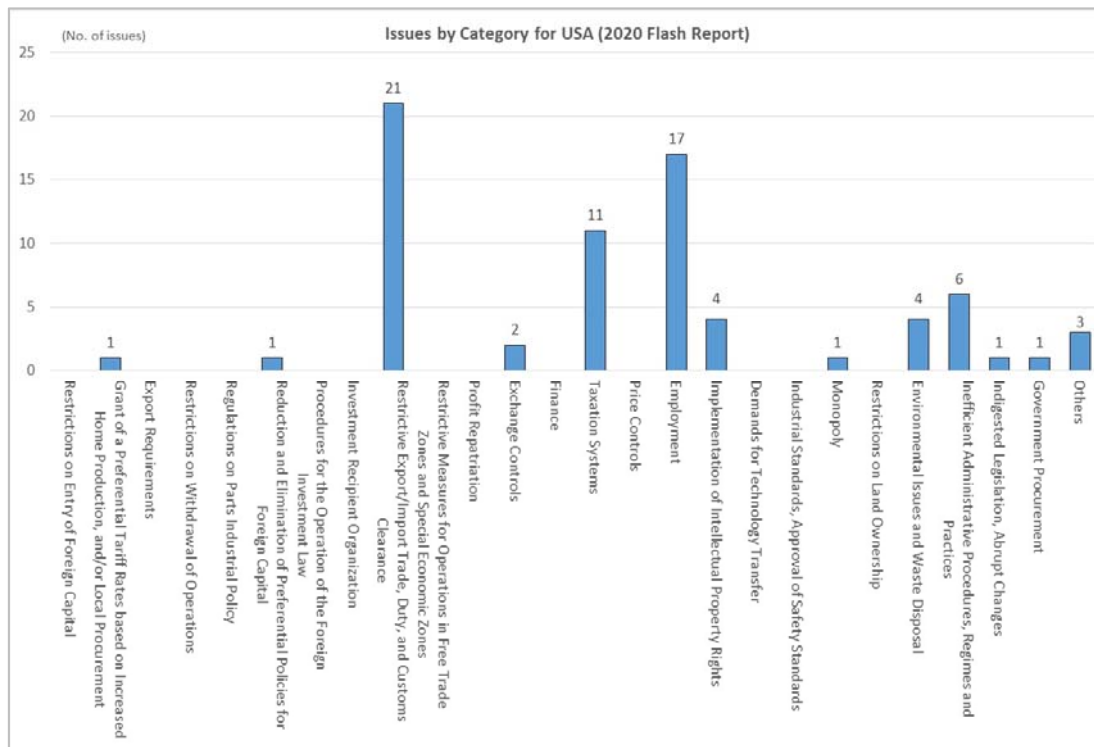


**(7) In regard to issues in developed countries, while there were many issues concerning the US, UK, EU, and South Korea, the number of issues for the UK and EU declined**

- 1) **US:** There were still many issues raised regarding protectionist trade policy, and there was also a number of issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” “Taxation Systems,” “Inefficient Administrative Procedures, Regimes and Practices,” “Environmental Issues and Waste Disposal,” and “Implementation of Intellectual Property Rights”
  - i. The following issues were raised regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance.”
    - a) The U.S.-Japan Trade Agreement entered into force on January 1, 2020, enabling customs exemptions for eligible items provided they fulfill stipulated rule of origin requirements. However, rule of origin is just a standard for HS Code (duty code) changes. Therefore, for products where the same HS Code is applied to both the final product and its constituent parts (such as

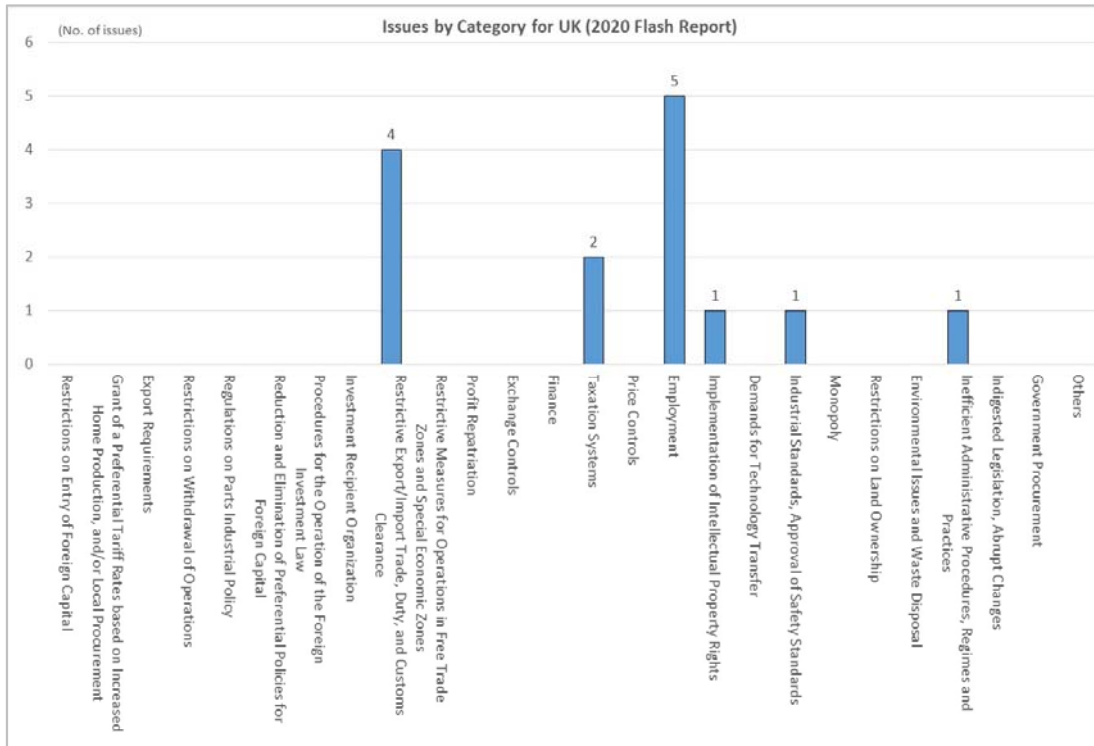
interchangeable lenses [9002.11]), it is not easy to meet this requirement. Increased costs for products manufactured in China due to Section 301 of the Trade Act of 1974 is creating a burden through change negotiations with customers and the like.

- b) Section 889 of the National Defense Authorization Act forbids transactions involving products of certain Chinese companies. Rules of practice have not yet been issued, making it impossible to advance initiatives for future product development and to reduce investment risk. There is concern that this will impact future business.
  - c) The US Department of Commerce is considering the impact of national security measures currently in force on the export of emerging technologies. There is growing interest in whether the government will apply national security more broadly rather than cautiously, and the manufacturing industry is calling for export controls to be limited to specific products that threaten national security. At present, the list is limited to advanced technologies and products, but there is concern that it might be expanded.
- ii. Issues raised regarding “Employment” included the need to travel to a third country when renewing a visa, and the obligation to get a driving license within 10 days of taking up residence in California, which is difficult in practice considering the time required to find a place to live, acquire a social security number, and take a driving test.
  - iii. Regarding “Taxation Systems,” there were calls for the US Congress to quickly approve the protocol amending the income tax treaty between Japan and the US and this, eventually, entered into force on August 30, 2019.
  - iv. Negotiations between the US, Japan, and the EU seeking consensus on e-commerce regarding the transfer of technology, data flow, and other technological issues have been included in the WTO’s reform agenda. Although the EU has been slow to move, the US and Japan are working together toward introducing uniform rules.
  - v. Issues raised regarding “Environmental Issues and Waste Disposal” included the fact that there are over 1,000 substances subject to controls under the Proposition 65 environmental regulation being enacted in California, difficulties measuring assessment standards, and the large cost of responding to regulations prohibiting flame-retardant constituents. There are also discrepancies in content and definitions between corresponding California state regulations and federal law.
  - vi. Issues raised regarding “Implementation of Intellectual Property Rights” included the heavy burden of obligations to show prior art, disclose information on foreign filings and assessments, and to submit a declaration of the inventor and a letter of assignment, and the difficulty in securing valid intellectual property rights due to the opaqueness of first filing requirements.



**2) UK: There were many issues raised regarding “Employment,” “Restrictive Export/Import Trade, Duty, and Customs Clearance,” and “Taxation Systems.” While there were still concerns regarding Brexit, these had decreased.**

- i. Regarding procedures for renewing visas within the UK, since the introduction of a new visa renewal process in 2018, there have been cases where the time needed to renew a visa was longer than before.
- ii. The UK officially left the EU at the end of January 2020 and as interest concerning topics such as methods for establishing origin and managing the issuance of certificates of specific origin under a UK-Japan bilateral EPA grew, the Japan-UK Comprehensive Economic Partnership Agreement was agreed in principle in September 2020 and entered into force in January 2021.
- iii. While the introduction of new customs measures concerning the digital economy is being considered through international frameworks such as the OECD and G20, a consensus has not yet been reached. Within this environment, the UK has introduced its own digital services tax (DST: tax attributed to sales which does not exempt companies corporate income taxes) and there is concern that this might lead to a complicated tax situation where taxpayers operating cross-border businesses are taxed twice (or multiple times).



**3) EU: There were still issues regarding the inconsistent adoption of regulations between member countries. Many issues concerned “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Industrial Standards, Approval of Safety Standards,” “Environmental Issues and Waste Disposal,” “Implementation of Intellectual Property Rights,” and “Inefficient Administrative Procedures, Regimes and Practices.”**

i. Regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance,” customs authorities in each European country have differing views regarding customs classifications, meaning that content approved by one EU country might not be approved by another country. This creates confusion by making it difficult for companies respond consistently.

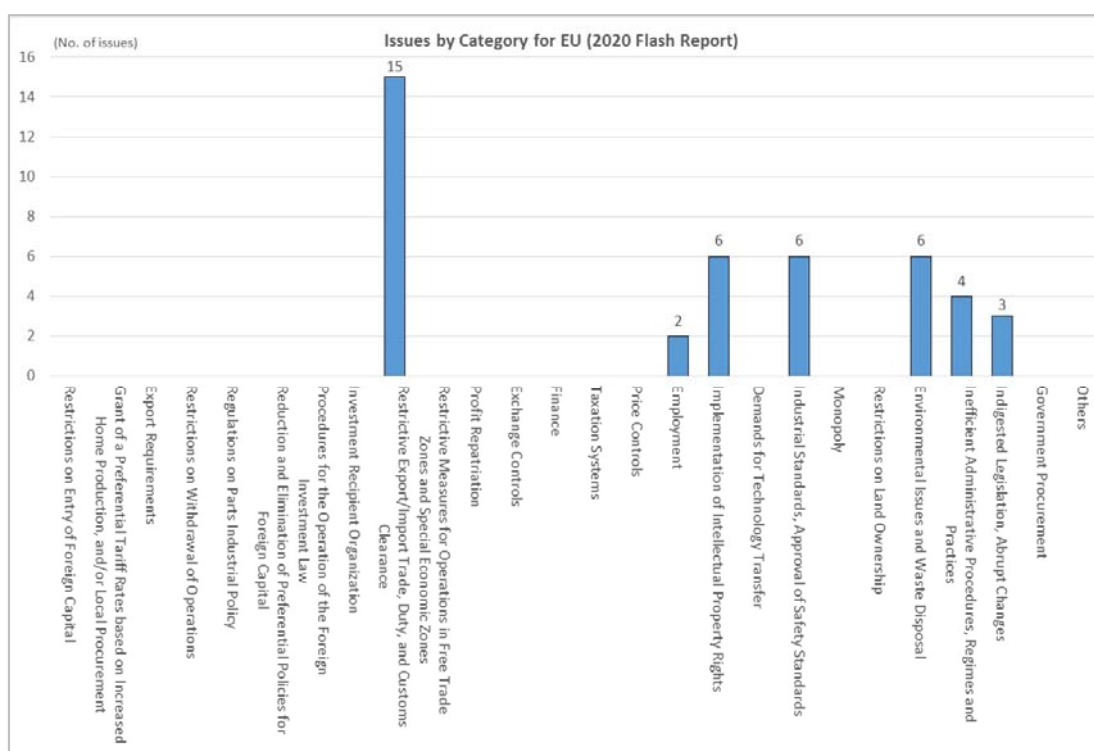
The Japan-EU EPA went into force on February 1, 2019, leading to the immediate abolishment and incremental abolishment and lowering of tariffs for many products, but it appears that there are many products for which the regulations regarding origin (calculation method, quotas) under this agreement are too strict in comparison with EPA/FTA agreed with other regions.

ii. The issue of the excessive burden of CE marks remains.

iii. Regarding “Environmental Issues and Waste Disposal,” the EU’s Waste Framework Directive was revised in June 2018 and from January 5, 2021, companies that do business in markets within the EU are required to register SVHC information in a database (SCIP) built by the European Chemicals Agency (ECHA). However, as of January 2020, what information should be entered into the database was still not

confirmed and the database itself was not completed. There is a concern that there will be a considerable workload placed on companies subject to the requirement and even if the situation is clarified directly before the day it comes into force, it is possible they will not be ready.

- iv. The following issues were raised regarding “Implementation of Intellectual Property Rights.”
  - a) There were issues raised concerning the private copying levy system, including the presence of businesses that were not paying their due levies, double taxation on cross-border transactions, and levies on products for business use.
  - b) Compensation charges under the copyright compensation system were inconsistent among member countries.
- v. Regarding “Inefficient Administrative Procedures, Regimes and Practices,” since the implementation of GDPR on May 25, 2018, it has been difficult to correctly assess how the GDPR, the EU Privacy and Electronic Communications Directive (2002/58/EC) currently in force, and the local applications of these regulations interact with each other. Consistency is lacking on an EU-wide level, and in places this leads to legal uncertainty.



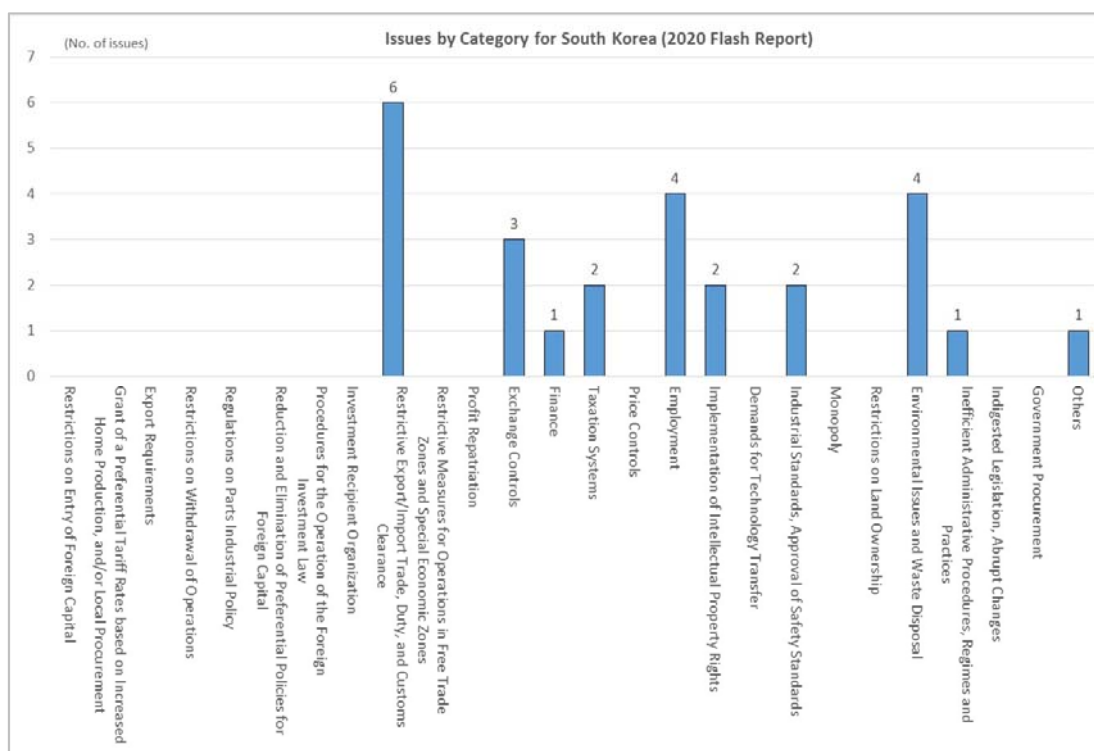
**4) South Korea: There were many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” “Environmental Issues and Waste Disposal,” and “Exchange Controls.”**

- i. Regarding “Restrictive Export/Import Trade, Duty, and Customs Clearance,” in addition to high duties on time pieces and longstanding anti-dumping tariffs on steel



products, high duties were being levied on data projectors that should be duty free as products subject to ITA Attachment B.

- ii. Regarding “Employment,” the Ministry of Employment and Labor (the South Korean equivalent of Japan’s Ministry of Health, Labour and Welfare) has tightened operating rules regarding outsourcing to subcontractors, such as the Subcontracting Act, which limit the work that the prime contractor can direct the subcontractor to do (previously there were no limits to the directives that could be given to subcontractors if they were given through said subcontractor’s management, but now this is not allowed). If the directives that can be given are limited, businesses become unable to use subcontractors making it impossible for them to respond to changes in operating situations at manufacturing facilities.
- iii. At the end of the previous year, laws were promulgated relating to resource saving, recycling promotion, and the like, and businesses became obligated to assess how easily their packaging can be recycled and disclose the results of these assessments. Enforcement of this obligation has started even though there are still no details regarding the application process, causing disruptions for companies. Assessment standards are vague, making it difficult to judge the scale of response needed.
- iv. An issue regarding “Exchange Controls” is that regulations regarding the offsetting of debts and credits and foreign currency remittances for non-residents are strict, and even when it is possible, procedures for gaining approval are complicated.



The Japan Business Council for Trade and Investment Facilitation (JBCTIF) is a business organization comprising around 130 trade-related organizations that was established in April 1997, with the objective of examining problems relating to international trade and foreign direct investment faced by Japanese companies doing business overseas, compiling their opinions, and making recommendations for improvements to Japanese and foreign governments. Its surveys currently cover countries around the world and four economic blocs (EU, ASEAN, GCC, and EAEU).