

Issues and Requests Relating to Foreign Trade and Investment - China

Category	No	Issue	Issue Details	Requests	References
1 Restrictions on Entry of Foreign Capitals	(1)	Areas Foreign Investment is prohibited or restricted	<p><b>- In the area of encouraged, restricted, prohibited categories in the catalogue of industries for guiding foreign investment (as Revised 2015), restricted, and prohibited categories that require deregulation, continue to exist.</b></p> <p><b>(Actions)</b></p> <p><b>- On 28 June 1995, SDC/SETC/Ministry of Foreign Trade &amp; Economic Cooperation promulgated, for the first time, Category of Industries Guiding Foreign Investments (CIGFI). Since then, CIGFI has gone through several amendments, the latest in 2015. CIGFI classifies foreign investors industry into three categories, Encouraged, Restricted and Prohibited. Industries excluded from CIGFI are deemed to be permitted unless specifically prohibited in laws and regulations. Foreign investors' enterprises investing in the Encouraged Category are authorised to invest subject to approval of the local authority at departmental level and certain restrictions. Foreign investors' enterprises may not invest into the Prohibited Category.</b></p>	<p>- It is requested that the Government of China deregulates rare earth from the restricted category.</p>	<p>- Catalogue of Industries for Guiding Foreign Investment, as Revised 2015 CIGFI (issued on 1 December 2007)</p> <p>- Prohibited Category (2. Mining) and Restricted Category (3. Manufacture) and (9. Refining and Rolling of Non-Ferrous Metal Category) of Catalogue of Industries for Guiding Foreign Investment</p> <p>- Provisions of the State Council on the Standard for Declaration of Concentration of Business Operators</p> <p>- Provisions of MOC on the Implementation of the Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors</p>

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				<p>"Foreign Capital Utilization Work Policy" promulgated in 2007 incorporates, among others, the following objectives:</p> <ol style="list-style-type: none"> <li>1) Upgrading of foreign capital utilization both in quality and level,</li> <li>2) Maintaining continuity and stability in foreign capital investment policy,</li> <li>3) Introduction of advanced technology, experienced high-level human resources and upgraded industrial structures,</li> <li>4) Promotion on cooperative development of local economy through transfer of foreign investment policy in stages, and</li> <li>5) Development of service industry through acceptance of outsourcing work.</li> </ol> <p>State Development and Reform Commission promulgated CIGF on 1 December 2007, which was amended from the viewpoint of achieving the higher industrial structure, energy conservation and environmental protection for foreign investment. The List of CIGF promulgated in 2004 was repealed on the same date.</p> <p>The new CIGF, or the amended List, is characterized among others by the followings:</p> <ol style="list-style-type: none"> <li>1) External liberalisation has been further expanded. Out of the 478 products listed in Encouraged Category (E-Cat), Encouraged Category (R-Cat) and Prohibited Category (P-Cat), 351 items are in E-Cat, up by 94 items from the previous list representing 73% of the total items listed up from 69%, while 87 items are in R-Cat down from 21% to 18%, and 40 items in P-Cat down from 9% to 8%.</li> <li>2) PRC has incorporated in CIGF liberalisation of the specified categories and the equity ratio by FFEs in pursuance of its commitment made upon accession to WTO.</li> <li>3) In order to promote autonomous reform and to materialise its target for optimising and advancing industrial structure, PRC has incorporated in E-Cat under CIGF up-to-date agriculture, high tech industry, up-to-date service industry, manufacturing foothold for high-end products, infrastructure, etc.</li> <li>4) In order to encourage development of industries related to energy saving and environmental protection, E-Cat includes industries engaged in recycling-oriented economic system, clean pollution free operation, reusable energy, eco-balancing, and comprehensive and systematic use of resources.</li> <li>5) Promotion of trade policy that materialises a balanced development. Removal of the article in the previous list of E-Cat that provides "Foreign Affiliated Investment Project that permits direct export of all products".</li> </ol> <p>On 30 December 2009, Executive Meeting of the State Council announced 2010 Policy for attracting foreign investment, which envisages amendment of CIGFI in 2010. As regards the amendment, Foreign investors will seek expansion of the scope of permitted categories for foreign investors industry and to repeal foreign investment restriction on certain categories.</p> <p>CIGFI 2011 amended on 24 December 2011 comprises of 473 items in total, and 354 items of them in E-Cat, 80 items in R-Cat and 39 items in P-Cat. In general, the number of items in E-Cat has increased, while those in R-Cat and P-Cat have decreased. The amendment prompts investment into strategic industries, namely, energy saving, environment, next-generation information technology, bio-technology, high-end equipment manufacture, new energy, new materials, and new energy motor vehicles, while curtailing investment into mature industrial sectors or sectors with surplus manufacturing capacity.</p> <p>The major amendments include:</p> <ol style="list-style-type: none"> <li>(1) Repeal of the conditional terms for joint venture on manufacture of natural food additives, food additives, new energy power generation plant or main equipment under E-Cat.</li> <li>(2) Manufacture of motor vehicles (completely finished) is moved from E-Cat to Licence Category (L-Cat).</li> <li>(3) Addition into E-Cat of manufacture of equipment for collection/disposal of wastes/used spun goods, manufacture of refurbishing equipment for wastes/used mechanical and electrical equipment, collection/disposal of waste/used electronic products, motor vehicles,</li> </ol>		

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			<p>mechanical electrical equipment, rubber, metal, and battery, construction and operation of electric vehicle charging station, and battery exchange station, logistic information consultation service, founded investing enterprise, IPR service, housekeeping service, and vocational technical training.</p> <p>(4) Change into L-Cat from R-Cat, of franchise, finance lease operation and medical institutions.</p> <p>(5) Sale of audio-visual products (excluding movies) in R-Cat is deregulated to exclude the PRC partner's control requirement, provided, however, that joint venture requirement continues.</p> <p>(6) Deletion from P-Cat, of books, newspapers, periodicals, audio-visual products and import of electronic publications.</p> <p>- On 17 May 2014, "The China-Japan-Republic of Korea Agreement for Promotion, Facilitation and Protection of Investment" came into force.</p> <p>- On 10 March 2015, <u>Catalogue of Industries for Guiding Foreign Investment (as revised 2015), the 6th Amendment (National Development and Reform Commission/Ministry of Commerce No.22) was promulgated and has been enforced since 1 April 2015.</u></p> <p><b>(Improvement)</b></p> <p>- On 1 April 2011, prior to the amendment of 2011 CIGFI, GOC released its invitation for public comment on proposed amendment.</p> <p>- GOC provided for transition measures for the grant of import duty exemption on enterprises that have been excluded from the E-Cat by the amended 2011 CIGFI, and have been authorised as E-Cat prior to 29 January 2012. Enterprises in concern must complete by not later than 29 January 2013 filing of the application for tax reduction, attaching the project confirmation letter, etc. issued by the presiding authority for the investment. (Announcement No. 4 [2012] of the General Administration of Customs).</p> <p>- In September 2013, Shanghai Municipal People's Government (SMPG) released, "Announcement of the Shanghai Municipal People's Government on Issuing the Special Management Measures on Foreign-invested Companies Entry into Pilot Free Trade Zone (2013 Shanghai Negative List)". The Negative List included 190-items.</p> <p>In addition, on 30 June 2014, SMPG released "Announcement of the Shanghai Municipal People's Government on Issuing the Special Management Measures on Foreign-invested Companies Entry into Pilot Free Trade Zone (2014 Shanghai Negative List)". The items included in 2014 Shanghai Negative List were reduced to 139-items in 16-business sectors, as the State Council granted SMPG's petition that had sought deregulation on the prohibited or restricted 31-business sectors. On the 27-business sectors out of the 31- prohibited or restricted business sectors, State Council, in order to temporality suspend implementation of these provisions, listed up the relative provisions of the departmental rules and regulatory documents, and promulgated on 28 September 2014, "Decision on Implementing Temporary Adjustment concerning Announcement of the Shanghai Municipal People's Government on Issuing the Special Management Measures Pilot Free Trade Zone" (Guofa [2014] No.38).</p> <p>- On 23 June 2014, "Measures for Management of Foreign-invested Companies in Modern Service Industries in Qianhai Shenzhen Modern Service Industry Cooperation Zone", prescribing the administrative method concerning establishment or change of foreign-invested companies, and 59-items in 11-business sectors are listed in "the Special Management Measures Pilot Free Trade Zone, Foreign-invested Companies entry into Qianhai Shenzhen Modern Service Industry Cooperation Zone" (2014 Qianhai Shenzhen Negative List).</p> <p>- <u>On 10 March 2015, CIGF (the 6th Amendment, National Development and Reform Commission/Ministry of Commerce No.22) was promulgated. It reduced the restricted items from 79-items to 38-items. It reduced also the items subject to investment ratio restriction from 79-items to 38-items, deregulating foreign investment restrictions into servicing and manufacturing sectors.</u></p> <p>- <u>On 20 April 2015, the State Council promulgated new Negative List in 4-Free Trade Zones (in Shanghai Municipality, Guangdong Province, Tianjin Municipality, and Fujian Province), No. 23 [2015] of the General Office of the State Council. The Items subject to Negative List have been reduced radically to 190 (items) –2013 (Shanghai only), 139 (items) –2014(Shanghai only), and 122 (items) –2015.</u></p>		

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	(2)	Restricted Foreign Capital Entry into Service Sectors	<p><u>It is not authorised for fully or majority foreign funded enterprises to engage in commonly called ICP (Internet Content Provider) business.</u></p> <p><u>Projects open for fully foreign-funded construction enterprises are restricted to construction work, etc., contracted by PRC-foreign joint construction work, etc.</u></p> <p><u>A Member Firm considering to offer cloud service to prospective purchasers in PRC finds that entry into such business sector is per se closed to a fully foreign funded enterprise to enter by itself, unless by formation of a joint-venture with a LICENSED local partner enterprise at the risk and expense of additional substantial time and cost, relative to preparation for business commencement, and for business decision, etc. after finally starting the business.</u></p> <p><b>(Actions)</b></p> <p><u>In September 2002, Ministry of Construction and Ministry of Foreign Trade and Economic Cooperation jointly promulgated No.113 "Rules for the Administration of Foreign-funded Construction Enterprises " and No.114 "Rules for the Administration of Foreign-funded Construction Engineering Design Enterprises", with which to promote the opening of the construction market in line with the WTO commitment by China.</u></p> <p><u>Effective 1 December 2002, Rules No.113 authorises establishment of an independent foreign construction enterprise in China, while it prohibits such foreign entity to contract domestically in the China construction work, unless it is locally incorporated in China. Rules No.113 authorises establishment of construction companies wholly owned by FFEs (CCW), provided however that, it requires such foreign funded construction companies to be locally incorporated in China before they can engage in construction work domestically in China. The same rules has repealed the restrictions concerning the registered capital of China-foreign joint venture in the construction work and the restrictions concerning the equity ratio of foreign enterprises for contract construction, under the same conditions as the domestic industry. This same rules further restricts the scope of the construction project contracts granted to CCW to the case where the following applies:</u></p> <ol style="list-style-type: none"> <li>1) Construction project based on the foreign investment for the full amount of the project, or construction project supplied at free of charge;</li> <li>2) Construction project executed by an international tender on the basis of financial aids from an international financial institution or on a foreign loan;</li> <li>3) A China-foreign joint construction project in which the foreign capital ratio is more than 50%; and</li> <li>4) Those construction projects which cannot be contracted solely by the domestic construction industry for reasons of technical difficulties, etc. and which are contracted by primary agencies of the construction administration.</li> </ol>	<p><u>It is requested that GOC authorises fully or majority foreign owned enterprises to obtain ICP licence in PRC.</u></p> <p><u>It is requested that GOC expands the scope of the construction work to include fully foreign owned enterprises in construction Business.</u></p> <p><u>It is requested that GOC deregulates the entry requirements for foreign funded enterprises.</u></p>	<p><u>Regulation on Internet Information Service</u></p> <p><u>Regulation on Telecommunications of PRC</u></p> <p><u>Provisions on the Administration of Foreign-funded Telecommunications Enterprises</u></p> <p><u>Rules for the Administration of Foreign-funded Construction Enterprises</u></p> <p><u>CIGF List of Restricted Industries to Foreign Investors, No. 13.5.7</u></p>

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				<p>Furthermore, effective 1 April 2004, in line with the repeal of "Interim Procedures for Credit Quality Control of Foreign Businesses that Contract for Projects Inside China" that provides for the quality certification for foreign industry operating under contract, issuance of such quality certification has since been discontinued. Thus, it has become no longer possible for foreign construction industry to contract domestically in China, unless its operation is incorporated in China. The obligation to establish the local corporation is accompanied by a set of stringent mandatory requirements, such as the size of capital fund, and performance requirement for each grade of technical engineers (such as the number of the locally employed personnel, etc.)</p> <ul style="list-style-type: none"> <li>- While discrimination in qualifications for the principal contractor has been removed in the context of foreign vs. domestic contractors in plant construction, the qualification as principal contractor is confined to the domestic corporation/joint venture.</li> </ul> <p>Furthermore, additional severe conditions remain, such as the limit in the amount of business by the domestic corporation/joint venture to five times of the capital fund, and the existence of the past business performance results, as requisite conditions.</p> <ul style="list-style-type: none"> <li>- In June 2004, "The Measures for the Administration of Foreign Investment in the Commercial Sector" came into force, enabling, in principle, 100% FFEs investment in retail business and franchise management with the caveat, that foreign capital contribution is restricted to less than 49% in the case where the same foreign investor (1) establishes more than 30 stores, handling special items such as foods, vegetable oil, drugs, tobacco, agrichemical, auto-vehicles, and (2) or operates filling station.</li> <li>- MOFCOM on 11 August 2004 issued and enforced from 1 October "Circular of Ministry of Commerce on National Standard for Classification of Retail Business Category" that stipulates the basis for classification of retail business category. The New Trade Classification has further segmented the trade into 17 categories (12 categories with shop, namely, variety shop, convenience store, discount store, supermarket, large scale supermarket, warehouse type supermarket, department store, specialized shop, home-centre, shopping centre, and factory outlet; and 5 categories without shop, namely, TV shopping, mail order, web sales, auto-vending shop, and telephone shopping) compared to the previous 9 categories, based upon the elements, among others, location of the retail shop, customers, scale of business, merchandise mix, sales method, service function, and information control system.</li> <li>- MOFCOM promulgated and enforced on 2 April 2005 "Circular of the Ministry of Commerce on Expanding the Business Scope of Non-commercial Foreign-funded Enterprises to Include Commodities Distribution" that stipulates the basis for classification of retail business category. This Notice provides for the practical basis in which the license is granted to non-commercial enterprises (inclusive of manufacturing enterprises) as commercial enterprises to expand their scope of business.</li> </ul> <p>For example, it provides that the sales of purchased commodities should be less than 30% of the total sales revenue if such enterprises desires to enjoy the tax benefit after the expansion of the scope of business, provided however that, in the event the 30% threshold is exceeded, such enterprises no longer enjoy the tax benefit granted to manufacturing enterprises.</p> <p>On 16 August 2005, GOC promulgated "Provisions Related To Processing for Establishment of Foreign-funded Commercial Enterprises", which prescribes, among others, the processing period of examination (one month at local authority and three months at MOFCOM) and the requisite application materials. By virtue of "MOFCOM's Notice on Entrusting Local Departments to Check Foreign-funded Commercial Enterprises " issued on 9 December 2005 and enforced on 1 March 2006", the approval of the local authority now suffices to establish stores not reaching certain level in terms of the operation scale.</p> <ul style="list-style-type: none"> <li>- At "The Third U.S. - China Strategic Economic Dialogue" held in Beijing on 13 December 2007, both governments agreed on a number of issues concerning liberalisation of financial services.</li> </ul>		

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			<p>- On 3 March 2008, the U.S. filed complaint with WTO's Dispute Settlement Board in regard to certain PRC's restrictive measures pertaining to the activities of foreign financial information service suppliers (joined by EU on 14 March 2008). EU, et al contend that since September 2006, PRC has not authorised Reuter UK and others to distribute information direct to their clients, but that GOC has made it a mandatory requirement for them to route such information through an agent designated by the "Xinhua News Agency", the State news agency in PRC.</p> <p>Furthermore, GOC prohibits foreign financial service providers from establishing their business footholds in the local areas in PRC. Hereafter, EU and the U.S. will enter consultation with GOC, failing which they will seek setting up of a dispute settlement panel.</p> <p>- In 2007, the U.S. filed complaint with WTO's Dispute Settlement Board alleging that GOC's restriction amounts to violation of the WTO Agreement as regards import and domestic distribution of publications such as books and newspapers, music CDs and various DVD software, limiting such activities only to certain state-owned enterprises.</p> <p>WTO Panel ruled that the regime such as this amounts to violation not only of the WTO Agreement that provides for repeal of discrimination between the domestic vis-a-vis foreign enterprises but also of the PRC's WTO accession commitment, namely, external liberalisation of the domestic sales and distribution within 3-years of its WTO accession.</p> <p>- PRC represented at the forum for the Transitional Review Mechanism that it granted licence to 49-foreign funded advertising enterprises during January through October 2008, without, however, providing any elucidation on advertising business of an enterprise, whose advertising business does not constitute its primary business.</p> <p>- In October 2009, General Administration of Press and Publication (GAPP) prohibited wholly owned, joint venture or cooperative foreign enterprises (Foreign Entities) from engaging in service operation for on-line games. Furthermore, it prohibited such Foreign Entities from effective control or effective participation in the operation of the domestic enterprises.</p> <p>- In September 2010, MOC promulgated rules on the foreign affiliated enterprises sales by internet, automatic vending machines, etc. subject to the following obligations:</p> <ol style="list-style-type: none"> <li>(1) To obtain permit of the authority in concern at Departmental Level,</li> <li>(2) To file application at the Industrial Information Department for Business Licence for Value Added Network operation, in the case where Network Service is provided to other dealers,</li> <li>(3) To file application at the Industrial Information Department for Business Licence for Value Added Network operation, in the case where goods are sold directly via the applicant's own internet pages,</li> <li>(4) To file application in the case where goods are sold directly via the applicant's own internet pages.</li> </ol> <p>- On 9 August 2012, the Association for Relations Across the Taiwan Strait ("ARATS") of PRC and the Strait Exchange Foundation ("SEF") of Taiwan signed Cross-strait Investment Protection and Promotion Agreement (CIPPA) and Cross-strait Customs Cooperation Agreement (CCCA). Protected investment includes provisions concerning investment into tax-haven third countries such as Hong Kong, Cayman Islands, etc. and restrictions on expropriation and arbitration by governmental departments and institutions.</p> <p>- On 14 August 2012, Ministry of Commerce announced its approval of American Wal-Mart's acquisition of 51.3% interest in the online supermarket in PRC under conditions that Wal-Mart refrains from selling commodities through the online supermarket.</p> <p>- On 17 May 2014, "The China-Japan-Republic of Korea Agreement for Promotion, Facilitation and Protection of Investment" came into force.</p>		

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				<p>- On 17 May 2014, Notice of the National Development and Reform Commission on Matters concerning the Implementation of the Measures for the Administration of the Confirmation and Recordation of Overseas Investment Projects (came into force on 17 June 2014).</p> <p>(1) Addition of the notification scheme to confirmation,</p> <p>(2) Partial transfer to local government of confirmation authority,</p> <p>(3) Provision of specific items requiring inclusion into "the Project Application Report", namely, Investors' state of affairs, Deployment of natural resources, analysis of ecological impact, economic/social analysis (In the case of the Project involving acquisition of PRC domestic enterprises, purchaser's state of affairs, purchase plan, financing method, acquired party's state of affairs, managerial method after purchase, operational scope, status of the shares owned, deployment of income revenue, etc.</p> <p>(4) Examining and confirming agency's explicit across-the-board correction notification, as well as explicit deadline for producing examiners' opinion, and the examination result.</p> <p>- <u>"CIGFI, revised in April 2015 has classified Internet Publication Service" in the "Prohibited Industries". "Provisions on the Administration of Online Publishing Services promulgated on 4 February 2016" also prohibits provision of "Online Publishing Services" by foreign funded enterprises. Furthermore, formation of joint venture with foreign funded enterprises, etc. requires prior approval of the General Office of the State Administration of Press, Publication, Radio, Film and Television.</u></p> <p><b>(Improvement)</b></p> <p>- Measures for the Administration on Foreign Investment in Commercial Fields (MAFICF) were issued on 16 April 2004 and enforced on 1 June 2004. The minimum amount of the registered capital FFEs is established as RMB 500 thousand for wholesale and RMB 300 thousand for retail business in pursuance of Company Law (compared to RMB 80 million for wholesale and RMB 50 million for retail businesses required under the old law).</p> <p>Furthermore, the stringent requirements imposed on FFEs investing in foreign-funded commercial enterprises are repealed (namely, the average annual sales in three years preceding the filing of application and the annual assets in one year prior to the filing of application of more than 2.5 billion U.S. dollars and 300 million U.S. dollars, respectively, for wholesale business, and more than 2 billion U.S. dollars and 200 million U.S. dollars, respectively for retail business).</p> <p>These requirements are replaced by the only provision, "Foreign investors must have a sound credit standing and must have no record of conducts violating the laws, administrative legislative provisions and the related regulations. "In addition, wholesalers are expressly made eligible to export/import of commodities, while the cap on the annual total import of commodities is repealed (no more than 30% of the total annual sales of the commodities for the year in concern). The provision, "Other related incidental business", can be interpreted as inclusive of after sale service business that provides the legal basis to enhance efficiency in providing the after sale service.</p> <p>- Since March 2005, GOC has started liberalizing its distribution market in pursuance of its WTO commitment. A member firm has obtained licenses in 25 cases.</p> <p>- Since 2005, it has been made possible for manufacturing oriented enterprises to sell purchased goods from others up to 30% of its total purchases. Such purchase was not authorized till then.</p> <p>- On 3 February 2005, DOC issued and made effective on 5 March 2005 "Measures for the Administration of Foreign-funded Lease Industry" to execute its WTO commitment, namely, to liberalise establishment of wholly foreign invested lease enterprises (WFILE) within 3 years of its WTO accession. Among others, the main revisions include GOC's:</p> <p>(1) authorising FFEs to establish fully foreign funded enterprises engaged in lease business and finance lease business;</p> <p>(2) stipulating the amount of not less than 5 million U.S. dollars the total assets of the foreign investors in the foreign lease business and</p>		

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				<p>foreign finance lease business and reducing from 20 million to 10 million U.S. dollars the minimum capital of foreign invested finance lease enterprises while repealing the previous minimum capital requirement for 5 million U.S. dollars of foreign invested lease enterprises; and</p> <p>(3) transferring to regional authority the right of examination and approval for establishment of leasing enterprises in the form of limited liability companies.</p> <p>- State Council's "Regulation on the Administration of Commercial Franchises" issued on 6 February 2007 and enforced on 1 May 2007 clarifies the scope of the requisite documentation (copy of franchising business license, sample copy of contract, work manual, marketing plan, certificate showing the ownership of more than 2 directly operated stores, which are directly operated, etc.), while as regards those already engaged in franchising business prior to 1 May 2007, it expressly states that the filing may be submitted within one year from the effective date of the Regulation (instead of the regular mandate of within 15 days), and exempts the requirement that the applicant must have operated more than 2 directly operated stores for one year minimum.</p> <p>- On 13 November 2008, GOC notified EU and the U.S. that it would authorise foreign news agencies to provide directly financial information to financial institutions, namely, their customers, allowing free business activities to foreign news agencies. Up till then, it was a mandatory requirement for foreign press agencies to provide financial information service only through the state owned Xinhua News Agency. To this measure, EU and the U.S. had jointly filed complaint with the WTO Dispute Settlement Board.</p> <p>- The amended 2011 CIGFI has:</p> <p>(1) excluded from P-Cat, Commodity Auction Service, Financial Lease Service, and Medical Service, and enabled 100% foreign investment;</p> <p>(2) added to the E-Cat List, Logistic Information Consultation Service, Founded Investing Enterprises, Intellectual Property Right Service House Keeping Service and Vocational Technical Training;</p> <p>(3) moved from R-Cat to L-Cat franchise and financial lease operation and medical institution;</p> <p>(4) removed PRC partner's control requirement in sales of audio-visual products (excluding movies), so that joint venture requirement serves as the only condition that must be satisfied; and</p> <p>(5) removed from P-Cat import business of books, newspapers, periodicals, audio-visual products, and electronic publications.</p> <p>- Under "Regulation on the Administration of Domestic Waterway Transportation", effective 1 January 2013, operation of domestic waterway transportation business is prohibited to Foreign Funded Enterprises, other foreign economic organisations, and foreign individuals.</p> <p>- On 24 December 2011, National Development and Reform Commission (NDRC)/Ministry of Commerce (MOC) promulgated and enforced since 30 January 2012, CIGFI (2011 Amendment) which has excluded from the Prohibited Category general publication/import business of books, newspapers, magazines, import business of audio/video products and electronic publication, and electronic distribution music all of which are not included in the Restricted Category, either. Presumably all these businesses are turned into Permitted Category. (2013 Report on Compliance by Major Trading Partners with Trade Agreements).</p> <p>- From September 2013, People's Government of Shanghai City deregulated restricted capital contribution or business in the service business sector, such as banks, game machines, traveling service, amusement facilities, and hospitals.</p> <p>- On 28 September 2014, State Council published "Catalogue for Special Management Measures for Entry" comprising of 27-items additionally deregulating FFEs entry into China (Shanghai) Pilot Free Trade Zone, authorising fully (100%) foreign funded enterprises' entry into international ocean cargo' loading and unloading business, manufacture of cranes over 400 tons, R&amp;D, design, and manufacture of the passenger service facilities for express railways, passenger railways, etc.</p>		



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	(3)	Restricted Foreign Capital Majority Investment	<p><u>The 2011 Revision of CIGFI restricts foreign capital interest equity interest ratio so that it must not exceed 50% on production of car mounted batteries in Encouraged Category (E-Cat), while no restrictions on foreign capital interest equity interest apply to lithium ion batteries in E-Cat. While both products share the common technology and production engineering/facilities, wholly foreign owned FFEs manufacturing lithium ion batteries are no longer allowed to manufacture car mounted batteries.</u></p> <p>- Development policies for the iron and steel industry only allow foreign capital investment ratio of up to 50% of the equity interest.</p> <p><b>(Actions)</b></p> <p>- In May 2004, National Development and Reform Commission (NDRC) promulgated "policy on development of automotive industry", the policy provides the requirement for the PRC shareholdings of more than 50%, while a single foreign investor may establish no more than 2-joint venture firms.</p> <p>- In July 2005, NDRC promulgated "development policies for the iron and steel industry". As regards foreign investment into iron and steel industry in PRC, foreign investors, in principle, are not authorised to own the controlling share interests.</p> <p>- On 17 June 2014, MOFCOM promulgated "Notice of NDRC on Matters concerning Improvement for the Implementation of the Measures for the Administration of the Confirmation and Recordation of Overseas Investment Projects. (Notice)" Excepting the enterprises in the business sectors under the minimum registered capital requirement, The Notice has lifted the restrictions or regulations for startup foreign capital ratio, monetary capital subscription ratio, and investing financial institution.</p>	<p>- <u>It is requested that GOC repeals restrictions on foreign capital interest equity interest ratio.</u></p> <p>- It is requested that GOC repeals the restrictions.</p>	<p>- Catalogue of Industries for Guiding Foreign Investment</p> <p>- Policy on Development of Automotive Industry, Articles 48 and 50</p> <p>- Development Policies for the Iron and Steel Industry, Article 23</p>
	(4)	Restricted Minimum Capital Contribution Ratio	<p><u>The legislative provision requires minimum capital ratio of 33.33% against the total invested capital (TIC) (in the case where TIC exceeds USD30 million). It heavily burdens the parent company by way of investment and financing.</u></p>	<p>- <u>It is requested that GOC repeals restrictions on the minimum capital ratio.</u></p>	<p>- Implementing Regulations for Law on Individual Proprietorship Enterprises</p> <p>- Measures for the Administration on Foreign Investment in Commercial Fields</p> <p>- Provisional Regulations for the Proportion of Registered Capital to Total Amount of Investment of Joint Ventures Using Chinese and Foreign Investment</p> <p>- The Interim Provisions on the Management of Foreign Debts, etc.</p>

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					- Rules for the Administration of Foreign-funded Construction Enterprises (09-27-2002)
			<p><b>(Actions)</b></p> <p>- In December 2013, by amendment of the Company Law, the registered capital fund system has been repealed, in principle.</p> <p><b>(Improvement)</b></p> <p>- On 24 June 2014, MOFCOM promulgated "Notice of NDRC on Matters concerning Improvement for the Implementation of the Measures for the Administration of the Confirmation and Recordation of Overseas Investment Projects". Excepting the enterprises in the business sectors under the minimum registered capital requirement, the Notice has lifted the restrictions or regulations as regards foreign funded enterprises (FFE):(1) Repeal of the minimum registered capital amount requirement for the company, excepting where the minimum registered capital amount is specifically set forth in the specific business sector,(2) Repeal of the restrictions on the initial capital ratio and investing institution, upon company incorporation,(3) Liberalisation in the amount of capital of the investor's subscription, etc.</p>		
	(5)	Restrictions on the Business Scope of Foreign Funded Investment Companies	- <u>Any investment company, established under the Provisions MOC No.22 (2004) on the Establishment of Investment Companies by Foreign Investors (ICFI), may not engage in manufacturing activities directly by itself under its Article 28. For this reason, manufacturing company's operational efficiency is aggravated, having to establish at all times a separate investment company.</u>	- <u>It is requested that GOC amends the Provisions so that ICFI may engage directly in manufacturing activities in the investment company to assure an efficient and effective business operation.</u>	Provisions on the Establishment of Investment Companies by Foreign Investors Article 28, (Shangwubu Ling 2004, No.22)
	(6)	<u>Restricted Reinvestment of Capital Fund after Conversion into RMB</u>	<p>- <u>While some deregulation has taken place in part, such as approval on overseas' capital fund into PRC in RMB, reinvestment in the domestic PRC remains prohibited. Although it is understandable that inflation prevention is the purpose, this restriction is excessive for FFEs so that reinvestments made in RBM from the capital fund originally compel to face extremely high hurdle.</u></p> <p>- <u>Since August 2008, GOC prohibits general business enterprise's (other than Investment Company's) investment into business purposes by conversion of the Capital Fund in foreign currency, allowing investment from only own funds (operational profit).</u></p>	<p>- <u>It is requested that GOC lower the hurdle for foreign investment by further deregulation.</u></p> <p>- <u>It is requested that GOC takes step to include an exception clause for non-speculative investment.</u></p>	<p>- Paragraph No. 3 of "Notice of the General Affairs Department of SAFE on FFEs' Payment of Capital Fund in Foreign Currency and Overhaul in Handling of RMB Conversion"</p>
	(7)	Nebulous and Delayed Investment Procedures in RMB from Overseas	- <u>Our member firm investing in a Chinese enterprise, attempted remittance by RMB in hand, in response to the request for capital increase by the Chinese enterprise. However, due to the complex and time consuming procedures, timely remittance was not possible. In the end, remittance in RMB missed the deadline. The firm had to remit in foreign currency.</u>	- <u>It is requested that GOC streamlines and expedites the remittance procedures in RMB from overseas.</u>	- Catalogue of Industries for Guiding Foreign Investment

Category	No	Issue	Issue Details	Requests	References
	(8)	<u>Mandatory Establishment of Branch/Subsidiary for Building Licence</u>	- <u>Establishment of Branch/Subsidiary is a mandatory requirement for acquisition of the building licence in certain domestic regions in PRC.</u> - <u>This requirement materially impacts builders in cost/time necessary for the licence acquisition, including the total project schedule to the extent some builders are compelled to give up the construction work.</u>	- <u>It is requested that the central authority harmonises the legislation uniformly to annihilate the regional gaps.</u>	
2 Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	(1)	<u>Requirement to meet Prescribed Local Content (LC) Requirement</u>	- <u>Entry into the PRC market is effectively barred by the requirement for technology transfer and satisfaction of the prescribed local content requirement both of which serve as de facto expulsion of foreign funded enterprises.</u> - <u>On the part of the FFEs, this requirement is the source of concern for technology drain and competition in the third market against products manufactured in PRC.</u>	- <u>It is requested that GOC repeals the local content and technology transfer requirements.</u>  - <u>It is requested that GOC causes the recipients of technology transfer to observe to the letter, the terms of the technology licence agreement.</u>	
	(2)	<u>Exclusion of Majority Foreign Owned FFEs from LC Requirement</u>	- <u>Products manufactured by the majority foreign owned joint venture operation, in general terms, are not regarded as if they satisfy the LC Requirement.</u>	- <u>It is requested that GOC accepts products manufactured by joint venture or fully foreign funded enterprises as satisfying the LC requirement.</u>	
	(3)	<u>Nebulous Priority Policy on Domestically Manufactured Vessels</u>	- <u>Vessels locally manufactured in PRC enjoy the priority for transporting important (strategic) cargoes, such as natural resources imported by state enterprises. (It is especially so in a project to build ships for carrying the cargoes that involve state shipping enterprises, where the local manufacturer enjoys the top priority, regardless of the level of its ship building technology, which, in future, determines the salvage value of the ship. Informal intervention of NDRC, etc. excludes bidders (who are outsiders) from the bidders' list.)</u>	- <u>The preferential policy being endowed upon state owned enterprises, there can be no effective solution as it stands.</u>	- <u>No written policy is made public, the Measures being based on State Policy</u>
	(4)	<u>Nebulous Preferential Policy on State Owned Shipping Enterprises</u>	- <u>Adding together The Preferential Policy (1)/(2) below, PRC enterprises' aggressive investment into shipbuilding will become a factor that disrupts the maritime transport market world over. For example, should a Chinese enterprise build in PRC a bulk carrier of DWT8000 with market price of USD 30Mil, by dismantling an aged bulk carrier of 7600 DWT, it should be possible to re-build it at the cost of USD 20Mil. In the common world maritime traffic market, only PRC state enterprises enjoy the benefit of the full and complete protective policy. Moreover, PRC enterprises' aggressive investment into ship-building and maritime traffic is bound to disrupt the maritime traffic market worldwide;</u>  (1)"Guolun Guochai (State of China)": Where state maritime traffic	- <u>The preferential policy being endowed upon state owned enterprises, there can be no effective solution as it stands.</u>	- <u>No written policy is made public, the Measures being based on State Policy</u>

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			<p><u>enterprises (4-firms, "MTEs") dismantle over-age vessels and order new vessels to state shipbuilding enterprises. GOC makes subsidy payment of 750 RMB per long ton upon dismantling, and additional subsidy payment of 750 RMB to per long ton to MTEs upon placement of order for the new vessel. (However, in addition to dismantling of over-age vessels, with the view to hold down the over-tonnage, these payments do not apply, should DWT of the new vessel exceed that of the dismantled vessel. Over-age vessels may be placed in operation until the last minute of the delivery of the new vessel.)</u></p> <p><u>(2)"Grant of 20% subsidy on the vessel price at the time of building the new vessel", new policy having been implemented since 2015: Where state maritime traffic enterprises (4-firms, "MTEs"), at state ship building yard, place order and build new vessels, the state grants subsidy of 20% over the price of the new vessel under fabrication.</u></p> <p><b>(Actions)</b></p> <p>- On 16 October 2015, the United State Government (GOU) charged PRC for its failure to submit subsidy measures to WTO. WTO Document of 21 October 2015, G/SCM/Q2/CHN/53 "REQUEST FROM THE UNITED STATES TO CHINA PURSUANT TO ARTICLE 25.10 OF THE AGREEMENT".</p>		
4Restrictions on Withdrawal Of Operations	(1)	<u>Nebulous, Prolonged Procedures on Company Liquidation / Withdrawal</u>	<p>- It is practically difficult to withdraw by liquidating a locally incorporated subsidiary of the Japanese enterprises in PRC. While the law allows withdrawal by liquidation, in practice, the competent authority either refuses its approval or it takes years of negotiation with the taxation authority. As a result, foreign investors' withdrawal in many cases takes the form of equity transfer (and that is tantamount to no-cost transfer), which is approved easily by the competent authority or easy to withdraw actually.</p> <p>- <u>It probably differs among the types of withdrawal. Nevertheless, the schedule for withdrawal is nebulous. It takes too long at the Local and State Taxation Bureaus.</u></p>	<p>- Not a few enterprises think twice before entering PRC as withdrawal in practice is not assured. In light of attracting new investment and of shuffling of investment sectors, it is requested that GOC ensures a smooth withdrawal of foreign capital as needed.</p> <p>- <u>It is requested that GOC ensures transparency in the process of withdrawal.</u></p>	<p>- Law on Foreign Investment Company Detailed Rules For the Implementation of the Law on Wholly Foreign-Owned Enterprises in China, Articles 72.1,2, 72.2</p> <p>- Guiding Opinions of the General Office of MOC on Doing a Good Job in the Dissolution and Liquidation of Foreign-funded Enterprises Article 2.3</p> <p>- Company Law Articles 185, 187, 188, 189</p> <p>- Labour Contract Law Article 44.5</p>

Category	No	Issue	Issue Details	Requests	References
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Since the repeal of procedures for liquidation of foreign-funded enterprises on 15 January 2008, no new law has been promulgated. The provisions of Enterprise Law relative to liquidation apply to liquidation of FFEs. In addition, Circulars issued by MOC and the State Administration for industry and commerce apply on FFEs liquidation.</li> <li>- On 19 November 2008, General Office of Ministry of Commerce, General Office of Ministry of Foreign Affairs, General Office of Ministry of Public Security and General office of Ministry of Justice in their joint signatures promulgated "The Working Guidelines for the Chinese Interested Parties Related to the Abnormal Pullout of Foreign Investment to Conduct Transnational Investigation and Litigation".</li> </ul>		
	(2)	Difficulty in Capital Reduction Procedures	<ul style="list-style-type: none"> <li>- <u>While the Company Law does provide for capital reduction, GOC denies acceptance of application for capital reduction. (To this date, no precedence exists where application for capital reduction by Japanese affiliated enterprises got accepted.)</u></li> <li>- <u>A Member Firm's Subsidiary in PRC effected capital increase to resolve the accumulated past loss, and filed application for capital reduction. However, due to the demand for payment of corporate income tax on the capital reduction amount, the accumulated loss remains unresolved.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOC:</u> <ul style="list-style-type: none"> <li>-- <u>clearly defines the terms and conditions for capital reduction, and</u></li> <li>-- <u>accepts application for capital reduction within the scope of the terms and conditions so defined.</u></li> </ul> </li> <li>- <u>It is requested that GOC overhauls the capital reduction scheme.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>Circular of the Ministry of Foreign Trade and Economic Cooperation on Adjusting Total Investment Amount and Recording the Capital, Relative Provisions and Procedures (wai-jing-mao-fa 1995/366)</u></li> </ul>
6 Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Repeal of FFEs Preferential Tax Incentive Measures	<ul style="list-style-type: none"> <li>- On 1 December 2010, GOC began the levy of "urban maintenance and construction tax", and "educational surcharges" on foreign funded investing enterprises, foreign funded enterprises and aliens. With this repeal of preferential taxation measures (PTMs), more favourable than the domestic enterprises made available to FFEs as part of the means to acquire foreign currency and to attract foreign enterprises, GOC has totally repealed PTMs to foreign funded enterprises, putting an end to provision of PTMs (after repealing PTMs on land use tax in 2006, on enterprise income tax in 2008, and on real estate tax in 2009).</li> <li>- <u>While the annual spiraling wages heavily burden operation cost, GOC has removed in part tax incentive measures as regards FFEs, reducing the incentives granted to FFEs.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOC refrains from affording unjustifiable preferential treatment on domestic enterprises (on Government Procurement, provision of subsidies, etc.), while repealing preferential measures on FFEs.</u></li> <li>- <u>It is requested that GOC resurrects the incentive measures on FFEs.</u></li> </ul>	<ul style="list-style-type: none"> <li>- Notice on Extending the Urban Maintenance and Construction Tax and Educational Surcharges from Chinese to FFEs and Citizens Guofa[2010]No.35</li> <li>- Notice of SAT on Further Clarifying the Standards for the Implementation of Preferential Policies Regarding Enterprise Income Tax during the Transition Period, Article 1 (Letter [2010] No. 157 of SAT of 21 April 2010</li> </ul>

	Category	No	Issue	Issue Details	Requests	References
						<p>- Enterprises Income Tax Law</p>
				<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- According to the USTR announcement of 29 November 2007, agreement was reached between the U.S. and PRC on elimination by 1 January 2008 of all 12 subsidies granted to Chinese exporting industries, including exemption or lowering of corporate/value added tax and low interest loans granted by GOC. The United States and Mexico had earlier requested the establishment of a dispute settlement panel in July 2007.</li> <li>- Since 1 December 2007, Catalogue of Industries for Guiding Foreign Investment (CIGF) has been enforced. It encourages high technology industry, energy saving industry, environmental protection industry and high added value industries.</li> <li>- On 6 December 2007, Enterprise Income Tax Law (President Order No.63) (EITL) was promulgated and enforced from 1 January 2008, together with Regulation on the Implementation of the Income Tax Law of PRC (State Council Order No. 512). While the enterprise income tax rate is 33% in principle, FFEs in manufacturing business and certain foreign funded trading firms have enjoyed the preferential rate of 16% in average. It is said that enterprise income tax rates were reduced to: 15% in the 50-odd Economic Development Zones designated by the central government and to 24% in the 200-300 Economic Development Zones designated by the local governments, or 25% in total average. The new EITL unifies such varied tax rates between the domestic and FFEs into the single rate, and eliminates inequality under the tax law between the two. "The industrial preferential treatment supersedes the regional preferential treatment" being the basis of tax reform, the preferential treatment on FFEs will be repealed in stages. The 25% tax rate applies uniformly and various preferential policies will be phased out one after another. The C tax rate applies from 2008 to new FFEs entering PRC. The enterprise income tax rates for the existing FFEs will be raised in stages to 25% in five years.</li> <li>- Since 1 January 2008, new Labour Contract Law (LCL) has been enforced, whereby cost increase is expected in labour cost.</li> <li>- Since 1 January 2008, Enterprise Income Tax Law has been enforced, whereby the preferential tax treatment such as "enterprise income tax, which is free for 2 years and half the tax amount for 3 years" and the lower tax rates have been repealed as to FFEs. However, the 5-year transitional period of gradual increase applies to the existing enterprises in the 5-Large Economic Zones and the New Pudong Zone. By this measure, the Tax incentive is lost to FFEs, especially to those engaged in a simple manufacture for export.</li> <li>- On 20 August 2009, Ministry of Finance (MOF) and 5 other Government Institutions promulgated "Notice on Adjustment of Tax Revenue Policy on Import of Equipment with Major Technological Importance", based on which tariff and value added tax (VAT) are exempted on import of parts and raw materials for enterprises satisfying the requisite conditions, (previously, refunded.) The Notice has repealed the exemption measures for tariff and VAT exemption on complete set of equipment. The Notice is enforced retroactive to 1 July 2009 and is valid until the end of 2009.</li> <li>- On 30 December 2009, State Yuan Standing Committee released 5-major policies to promote more effective use of foreign capitals, including: <ul style="list-style-type: none"> <li>(1) Encouragement of foreign investment into high-end manufacturing sector, high technology industry, modernistic service industry, new energy, energy saving environmental protection industry, etc., by revising "Catalogue of Industries for Guiding Foreign Investment",</li> <li>(2) Support to foreign capital's shift to and increased investment in the mid-western region, and</li> <li>(3) Encouragement to business reorganisation of the domestic industry by M&amp;A, promoting the diversified utilisation of foreign capitals.</li> </ul> </li> </ul>		

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			<ul style="list-style-type: none"> <li>- On 16 January 2010, Guangzhou Municipal Government promulgated "The Opinions on the Implementation to Accelerate the Development of a Headquarters Economy" (enforced on the same date). The Opinions provide a set of preferential measures on land utility, financing, technological innovation, human resources service, etc. to attract the location of Enterprises' Headquarters (EHQs) in Guangzhou City. They also provide for various subsidies and bounty for use of office space in Guangzhou City to compensate for establishment of EHQs and tax payments. Enforcement of the Opinions has repealed Notice on Regulations to encourage establishment of EHQs and local EHQs (promulgated on 16 October 2006). The Opinions are valid for 5-years.</li> <li>- On 14 May 2010, Ministry of Commerce (MOC) promulgated "Foreign Investment Promotion Plan in the Central Region (2009-2014)" (FIPPCR) and "Foreign Investment Promotion Plan" for the 6-Central Provinces (Jiangxi, Anhui, Henan, Hebei, Hunan, and Shanxi)(Provincial Plan). Provincial Plan sets forth the basic guideline and investment preferential measures concerning the major industries, investment mode, the subject areas, and originating country/area of investment. The 6-Central Provinces will: (1) improve the environment for infrastructure, transportation, administration, market, legislation system, culture, etc, (2) expedite structuring of a stable and transparent system for foreign investment management, (3) improve preferential measures related to administrative fees on land utility, taxation system, electric power and water, and financing, (4) expand its support to the Central Trade Development Fund focused on the investment promotion measures in the Central Region, and strengthen human resources development, and (5) streamline the examination and consultation mechanism and sound system for evaluating the investment environment/and for checking the accountability. The details are stipulated on the "Provincial Plan" for preferential measures, special treatment on foreign investment, etc. The 6-Central Provinces will give priority to multi-national enterprises in Western Europe, North America and Asian Pacific Regions in attracting foreign investments. The 6-Central Provinces also focus on attracting investment from small-to-medium-enterprises (SMEs) in Taiwan, Hong Kong, Macao, Japan, and Republic of Korea having a solid foundation equipped with their specialised expertise.</li> <li>- On 1 December 2010, the State Council promulgated "Notice of the State Council on Extending the Urban Maintenance and Construction Tax and Educational Surcharges (UMCT/ES) from Chinese to Foreign-funded Enterprises and Citizens" (Guowuyuan No.35 [2010]), <u>which expanded the scope of tax payers to include FFEs and foreign individuals that had been exempted from such tax liability till then.</u></li> <li>- On 28 January 2011, State Council promulgated "Notice of the State Council on Issuing Several Policies on Further Encouraging the Development of the Software and Integrated Circuit Industries". This Notice sets forth the new preferential measures to optimise the environment for industrial development, in order to beef up the Chinese scientific and technological creative power and to further the industrial development in the software and integrated circuit industries. The concerned offices of the central and regional governments will set about laying down the concrete implementing measures.</li> <li>- On 28 February 2014, GOC promulgated "Notice of MOF, NDRC, MIIT, et al on Adjusting the Import Tax Policies for Key Technological Equipment (CaiGuanShui Notice [2014] No.2)". (<a href="http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201402/t20140227_1048002.html">http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201402/t20140227_1048002.html</a>)</li> <li>- On 24 September 2014, at the executive meeting of the state council called and presided by Premier Li Ke Qiang, decision was reached to overhaul accelerated depreciation policy in order to promote import of high-tech products.</li> </ul>		
7 Procedures for the operation of the Foreign Investment Law	(1)	Disallowed Capital Increase/Reduction	<ul style="list-style-type: none"> <li>- <u>A member firm subsidiary (MFS) increased its capital by contribution of its parent company. It wiped out the accumulated loss, and the borrowings. Despite the MFS's desire to effect simultaneous capital reduction that should have corrected the corporate financial position, and enabled dividend payments, GOC disallowed MFS's request, due to the absence of precedent.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOC acts flexibly in company's acceptance of capital contribution.</u></li> </ul>	

Category	No	Issue	Issue Details	Requests	References
	(2)	<u>Delayed approval on Fund Withdrawal after Capital Increase</u>	- <u>Even if a FFE increases capital to a subsidiary (Member Firm's subsidiary (MFS)) in China, it takes about one month before funds are actually available. . In emergency, MFS has no alternative but rely on borrowing from outside sources.</u>	- <u>It is requested that GOC takes steps to expedite the process for the fund withdrawal approval.</u>	
	(3)	<u>Mandatory Establishment of Act (Organ) under the Companies Act</u>	- <u>Dispersion in the operation of companies act places FFEs and MFSs in difficult position. Since enforcement in January 2006, establishment of act (establishment of shareholders meeting/auditor) has become a mandate, while this mandate does not apply to FFEs established prior to implementation of the company act. Relative to the procedures on capital increase, or change in bylaws, requirements are increasing from the local municipality administration for industry and commerce that assumes the position the approval shall not be give on the capital increase or change in bylaws unless the applicants meet the requirements. There is no other choice for the applicants.</u>	- <u>It is requested that GOC thoroughly ensures that requirement for establishment of act (shareholders meeting/auditor) does not apply to foreign funded investment enterprises, established prior to 1 January 2006.</u>	<u>Notice of the State Administration for Industry and Commerce on Implementing the Implementation Opinions on Some Issues concerning Law Application for the Administration of Examination and Approval and Registration of Foreign-funded Investment Companies (No.102 [2006] of the State Administration for Industry and Commerce), Para. 2</u>
8Investment Recipient Organization	(1)	<u>Unjustified Control and Meddling over China-Foreign JVC Acquisition of Business License</u>	- <u>In the process of acquiring Certificate of Approval (COA) for establishment of Chinese-Foreign Contractual Joint Ventures (CFCJV), subsequent to the scrutiny of the submitted documents, including articles of association, etc. by Municipal Bureau of Commerce (MBC), and after the applicant's (member firm) formal acquisition of certificate of approval, state administration of industry and commerce required the applicant to amend the articles of association of CFCJV as a condition for issuing COA that required the applicant's renewed negotiation with MBC.</u>	- <u>It is requested that GOC refrains from interfering with the contents of the agreement between the parties, without showing express legislative provisions. This is tantamount to abuse of power, and should be prohibited.</u> - <u>It is requested that GOC unifies the window for issuing business licence, either Ministry of Commerce or Administration for Industry and Commerce.</u>	- <u>Chinese-Foreign Equity Joint Ventures Law</u>



Category	No	Issue	Issue Details	Requests	References
	(2)	<u>Exorbitant Delays in Licences and Approvals on Investment Issues</u>	- <u>A Member Firm, having made capital contribution in a Joint Venture Chinese Enterprise, desiring to expand its business scope by entering into a new business, is faced with difficulties to obtain licenses and approvals. Already, several years have lapsed.</u>	- <u>It is requested that GOC:</u> -- <u>cuts down in volume administrative licences and approvals</u> -- <u>streamlines and expedites the process. While recognizing the importance of the process for licences and approvals, as it stands, it is excessively complex, and time consuming.</u> <u>Improvement is mandatory.</u>	- <u>Interim Measures for Examining and Approving Enterprises' Investment Projects</u>
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	- <b>In light of protecting the domestic industry, etc. high tariff rates continue on certain products, depriving cost competitiveness of products exported to PRC vis-à-vis the domestic manufacturers. Furthermore, high tariff rates imposed on raw materials and parts make it difficult for FFEs to fully reflect the cost merit of their local production in PRC to product prices. Moreover, tariff amount finally collected remains uncertain despite the fact that tariff rates are established.</b> <b>Example:</b> -- 3%-30% on VTRs, 3-35% on VTR parts -- 20% on DVD Players -- 3-35% on camcorder parts -- 15-20% on radio-cassette recorders -- 30% on CTV -- 5-25% on camera, 3-15% on camera parts, -- 12-21% on sewing machine -- 3-15% on moving crane -- 8.4-10.5% on battery operated forklift -- 20-25% on textile equipment -- 9.7-15% on machine tool -- 10% on auto parts -- 25% on auto parts (automatic transmission) -- 30-45% on Motorcycles -- 11-23% (2007) on finished watches, 10-16% on watch movements -- 16-23% (2007) on finished clocks, 16% on clock movements -- 30-40% on equipment -- 30% liquid crystal display panel (for TV), and 0% (for PC)	- It is requested that the tariff rates are reduced and tariffs are repealed.	- Customs Rules and Regulations - Customs Act - Notice on Tariff Execution Plan 2011 - Customs Import/Export Tariff Regulations

Category	No	Issue	Issue Details	Requests	References
			<p>-- <b>10-18% on Textile products</b>                      -- <b>Air cylinder: 14%</b>                      -- <b>Valve: 5%</b>                      -- <b>Air filter: 10%</b>                      -- <b>6.5% on polypropylene copolymer</b>                      - <u>Import Duty of 10% levied on imported products (auto-vehicle-parts) from Japan deprives the competitive edge of the imports. Importers are unable to meet the market competition and secure profit.</u>                      - While the rapid growth in the market demand for large motorcycles is expected hand in hand with the rising standard of living in PRC, GOC imposes high tariffs (45% for less than 500cc, 40% on 500~800cc, 30% on over 800cc motorcycles), that serve as barriers for export of large motorcycles from Japan.                      - Our member firm (MF) faces severe difficulty in boosting its share in PRC for its solenoid valve, a machine part, which attracts 5% duty and 17% tax. Products with the same function are available from domestic manufacturers and Japanese affiliated manufacturers in PRC. MF is compelled to lower its prices to meet the competition.                      - GOC levies different duties rates on copolymer of polypropylene (CPP) between imports and exports:                      -- Duty rate on CPP exported from Japan to PRC:                      --- 6.5% 3902.3010.00 ethylene propylene copolymer                      --- 6.5% 3902.3010.00 Other                      -- Duty rate on CPP imported from PRC to Japan:                      (WTO Agreement)                      --- 2.8% 3902.30.10.2 In blocks of irregular shapes, lumps, powders (including molding powders), granules, flakes and similar bulk forms                      --- 2.8% 3902.30.090.5 Other</p>	<p><u>It is requested that GOC reduces import tariff on imports from Japan.</u>                      - It is requested that GOC reduces tariffs on large motorcycles from Japan.                      - It is requested that GOC reduces or repeals import duty on this product.                      - It is requested that GOC applies the duty rate identical to Japan (by reduction of its duty rate).</p>	
			<p><b>(Actions)</b>                      - In November 2001, upon its accession to WTO, PRC committed to reduce the average tariff rate down to 8.9% by 2010.                      - GOC decided to impose 25% tariff on CKD and SKD with its "Policy on Development of Automotive Industry" enforced in June 2004 and "Measures for the Administration of Import of Automobile Components and parts Featuring Complete Vehicles" (issued on 28 February 2005 and enforced on 1 April 2005) contrary to its commitment that it would be no more than 10%, possibly in violation of GATT Article II (Concession List).                      In addition, the concept of applying the tariff rate for complete vehicles where imported components exceed 60% of complete vehicles coincides with the method employed for imported components for elevators, and excavators (Notice on Strengthening Import of Major Components For Elevators, and Excavators, issued on 20 September 1999).</p>		

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			<ul style="list-style-type: none"> <li>- On 30 March 2006, USTR requested WTO dispute settlement consultations with PRC due to its unfair treatment of U.S. auto parts pursuant to the WTO dispute settlement procedure. USTR asserted that in its WTO accession agreement China expressly committed to eliminate all local content requirements and to lower and bind its tariffs on auto parts, whereas PRC imposes the same tariff rates as finished automobiles on imported auto parts not reaching certain levels of local contents in contravention of its commitment. Later USTR filed complaint with the WTO Dispute Settlement Panel (WTO Panel). On 18 July 2008, WTO Panel concluded, effectively upholding the complaints of the U.S. that PRC treats imported auto parts less favourably than its WTO accession agreement.</li> <li>- The new import/export duty rates have been applied since 1 January 2008. In substance, adjustments are made in the context of the most favoured nation tariff rates, annual temporary tariff rates, treaty tariff rates, and GSP tariff rates. The average tariff rate after adjustment is 9.8%: 15.2% in average for agricultural products, and 8.9% in average for industrial products. Temporary import tariff rates are applied on approx. 600 items, including: <ul style="list-style-type: none"> <li>(1) resources and energy category such as coals, stones, and fuels;</li> <li>(2) poly-silicon, important materials for diesel engines, and equipment and parts; and</li> <li>(3) public insurance related products such as X-ray photos, artificial plasma materials, and home electric appliances.</li> </ul> </li> <li>PRC continues to impose selective tariffs on imported natural rubber, while it continues to impose temporary rates of export duty on coal, crude oil, gold dust, iron sand, etc. PRC has raised export duty rates on pulps, coke, etc. which substantially consumes resources, impacting on environment.</li> <li>- On 15 December 2008, GOC released The Implementation Scheme for the Tariff Schedule 2009 (ISTS 2009). However, there are no practical changes from ISTS of 2008 with the average tariff rate at 9.8%, the same as 2008. The average tariff rates of agricultural and mining products also remain the same at 15.2% and 8.9%, respectively. ISTS 2009 covers 7,868 items (compared to 7,758 items in ISTS 2008). ISTS 2009 has been effective since 1 January 2009.</li> <li>- On 20 August 2009, Ministry of Finance (MOF) and 5 other government institutions promulgated "Notice on Adjustment of Tax Revenue Policy on Import of Equipment with Major Technological Importance", based on which tariff and value added tax (VAT) are exempted on import of parts and raw materials for enterprises satisfying the requisite conditions, (previously, refunded.) The Notice has repealed the exemption measures for tariff and VAT exemption on complete set of equipment. The Notice is enforced retroactive to 1 July 2009 and is valid until the end of 2009. (Ref: Notice on Adjustment of Tax Revenue Policy on Import of Equipment with Major Technological Importance.</li> <li>- On 29 June 2010, GOC and GOT signed ECFA (Cross-Strait Economic Cooperation Framework Agreement), corresponding to FTA, agreeing to reduce import tariffs on 539-items as to PRC and on 267-items as to Taiwan after enforcement under the early harvest scheme. In service trade, GOT liberalised 9-items (1-item on financial service and 8-items on non-financial services) while GOC liberalised 11-items (3-items on financial service and 8-items on non-financial services) under the early harvest scheme. The 9-items liberalised by GOT are: R&amp;D, conference service, exhibition service, special design service, motion picture, broker service, sports and recreation service, computerised air transport service and banking.</li> <li>- In May 2011, at the 5th Japan, China, South Korea Summit, it was decided to complete during the year 2011 the Japan-China-South Korea industries/government/academic FTA joint study and to accelerate the joint study thereafter to follow it up.</li> <li>- The Customs Tariff Commission of the State Council imposes provisional import tariffs on 637-tariff lines (mostly for the first time), comprising of resource products, raw materials, and certain major components for electronic equipment (such as propane, butane, fatty acids, polyamide films, titanic strip, high definition camera, light polariser for LCD projector, electronic brake, etc.). In light of the fact</li> </ul>		

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			<p>that the provisional import tariff rates are lower than the MFN tariff rates, this measure reveals the GOC's intent of encouraging imports of the items designated in 2011. In addition, on certain items, such as carbon fiber threads, ion exchange membrane, and car super-charger, provisional import tariffs are repealed or raised as well, in response to the advancement of industrial technology and the change in the demand and supply patterns.</p> <ul style="list-style-type: none"> <li>- At the 4th Japan/China/ROK FTA negotiation held during 4-7 March 2014, no agreement was reached as there was a gap between the Japan/China proposals, while ROK opposed to the proposal. At the 5th negotiation held during 1-5 of September, no agreement was reached on the focal issue of the repeal of tariffs, which had to be postponed pending next negotiation planned in November in Japan.</li> <li>- On 20 December 2015, both PRC-Australia FTA and PRC-ROK (South Korea) FTA came into force.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- In accordance with the WTO approval on April 24, of 2003 of the PRC's accession to ITA, PRC repealed tariffs on all 256-tariff lines of the ITA products on January 1, 2005.</li> <li>- The issue on PRC's non-performance of its commitment under WTO accession agreement for which improvement was sought in the WTO Market Access for Goods Committee and in 2006 Japan-PRC economic partnership talk for photographic films, etc. was resolved by the PRC's revision of tariff rates in January 2007, which reduced the tariff rates corresponding to the WTO concession rates.</li> <li>- After 1 July 2010, GOC will apply zero import tariff on 4,762-items imported from 33-developing countries.</li> <li>- On 15 July 2010, MOF repealed import tariff and VAT on equipment, technology and materials used for the State Level Development Project. (Notice on Import Tariff/Tax Policy on Major Scientific Technology Project (MOC/GCA[2010] No.28))</li> <li>- In January 2010, ACFTA with ASEAN entered into force in its entirety, while CPFTA with Peru and ECFTA with Taiwan became effective in March and September 2010, respectively.</li> </ul>		
	(2)	High Import Duty levied on ITA Products	<p><b>Despite the fact that PRC is a signatory to WTO, GOC levies high import duty of 35% on surveillance cameras (including those once shipped back to Japan and re-imported into PRC), regarding them as (the excluded) sensitive items, de facto, foreclosing export of this product to PRC. It is incumbent upon GOC to review the import duty rate applicable to this product.</b></p> <p><b>Reference: apart from PRC, high duty rates in Brazil (20%), Argentina (20%), India (10%), Indonesia (10%), FR Russia (20%), and Turkey (4.9%) serve as high tariff barriers.</b></p> <ul style="list-style-type: none"> <li>- <u>Some countries levy no duty on single function projectors, while high duty applies to multiple function projectors.</u></li> </ul>	<p>It is requested that GOC, as a WTO Member State, reviews the import duty rate applicable to surveillance camera at the same rate as other WTO Member States.</p> <p>It is requested that GOJ approaches GOC for the problem solution.</p> <ul style="list-style-type: none"> <li>- <u>It is requested that GOJ confirms and provides the latest information on the ITA expansion</u></li> <li>- <u>It is requested that GOJ continually supplies the latest information on a continual basis.</u></li> </ul>	

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	(3)	Import Duty Levied on Samples for Sales Meetings	- While PRC accedes to ATA Carnet (Customs Convention on the ATA Carnet for the Temporary Admission of Goods), GOC restricts its use only to samples brought in for large scale exhibitions. Upon each sample imported for business negotiation purposes, GOC imposes a high amount of Import Duty.	- It is requested that GOC expands the scope of business samples to the extent of ATA Carnet.	
	(4)	Repeal of Provisional Rates of Import Duty	- Since 1 January 2010, GOC has repealed the provisional tariff rates (PTRs) on 3-tariff lines, (1) cold rolled steel (HS Code 7209.1810), (2) directional electromagnetic steel sheet, and (3) seamless stainless steel pipe for boilers (7304.4110 & 4910), while PTRs lower than the MFN rates were previously applied on materials, etc. which are not capable of local production in PRC, or whose production capacity is too small to meet the domestic needs. This is an effective tariff raise, resulting in a cost increase factor by a large margin as regards the imported raw materials for Japanese affiliated enterprises (tinplate manufacturers, etc.) locally operating in PRC. In 2010, State Tariff Commission (STC) issued STC Notice on Implementing 2011 Tariffs Bill (ShuiWeiHui [2010] No.26), without, however, resurrecting the PTRs on the 3-tariff lines mentioned in the foregoing on which MFN rates will continue to apply.  <b>(Improvement)</b> - On 1 January 2013, GOC reduced provisional import duty of ferro-alloy from 2% to 1% (7202.7000, 7202.8010, 7202.9100).	- It is requested that GOC resurrects the PTRs.	- Customs Import and Export Tariff 2010 - NTC Notice on Implementing 2011 Tariffs Bill (ShuiWeiHui [2010] No.26)
	(5)	<b>Import Restriction</b>	- In April 1999, GOC implemented the import quota (I/L) system on steels as a relief for the ailing steel industry that suffers from the radically waning profits caused by the aggravated market conditions, excessive competition and inflow of low priced imports. To this end, it has shifted away from "Automatic Registration for the Import of Goods", whereby application for registration is automatically approved to "Controlled Volume Registration for the Import of Goods", whereby import volume is controlled on all steels excluding semi-finished products. Importers must present to the Customs Authority "Registration Certificate for Important Import Industrial Products" (generally called "Siliandan") issued and directed by State Economic Committee or "Special Products Import Registration Certificate" issued and directed by Foreign Trade Department, both of which serve as de facto import restrictions. While these restrictions are repealed in the majority of steel products, GOC introduced "Detailed Rules for the Administration of Issuance of Automatic import licenses for Important Industrial Goods" of February 1, 2002, whereby import license certificate is automatically issued to		- Administrative Measures for Software Products (2009) - Measures for the Inspection and Supervision Administration of Imported Old Mechanical and Electrical Products (2002) - "Catalogue of Goods Subject to Import License Administration in 2015", MOC, GAC, GAQSIQ - "Catalogue for the

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			<p>importers filing advance application that provides specific details, such as the contents of the import contract, and the expected time of arrival of the imported goods.</p> <ul style="list-style-type: none"> <li>- <u>GOC enforces quota (quantitative restrictions) on import of books.</u></li> <li>- <u>GOC restricts foods import into PRC.</u></li> <li>- <u>Mercury Lamp incorporated into photolithography equipment contains thorium, which is a radioactive material, at the level exceeding the allowable limit for import into PRC. Therefore, our member firm ships photolithography equipment to PRC without incorporating mercury lamp, which is procured locally in PRC after import. Export to PRC of mercury lamp itself is made possible by virtue of the mercury lamp manufacturer's pending application for exemption filed to the PRC competent authority via China Association of Lighting Industry (CALI). Until the outcome of the application is notified, next acceptance of application does not begin. Member firm continues to await the receipt of the outcome of its application. (The notification of outcome of the application due in September 2012 remains pending to this date.)</u></li> <li>- <b>Import control in the PRC makes import procedures complex, when a member firm exports to its local subsidiary in PRC, CD-ROM (inclusive of the data contents).</b></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- GOC has embargoed export of processed foods destined to PRC after the 11 March 2011 East Japan Great Earthquake, By the end of November, it would appear that the embargo will be relaxed by the end of November in exchange for submission of documents prepared in certain format.</li> <li>- Since 1 October 2012, General Administration of Quality Supervision, Inspection and Quarantine (GAQSIQ) has implemented "Announcement for Administration of the food importing enterprises' filing notice (AQSIQ No.148 [2012])" that mandates overseas enterprises exporting to PRC foodstuff, agents, and domestic consignees of imported foodstuff to file notification via internet under the notification control system.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- "Detailed Rules for the Administration of Issuance of Automatic Import Licenses for Automobile Products" based on "Measures for the Administration of Issuance of Automatic Import Licenses for Automobile Products" (enforced since 1 January 2005) has eliminated cars and important parts thereof from the target items that require I/L.</li> <li>- On 29 August 2014, Dispute Settlement Body (DSB) of World Trade Organisation (WTO) adopted the report of its panel (Dispute Settlement Sub-Committee) and dispute settlement appellate body, finding China's restrictive measures on the exportation of rare earths; tungsten and molybdenum are in violation of its obligations under WTO, incapable of being recognised as exceptional measures under GATT.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC repeals the <u>quota system on books.</u></li> <li>- It is requested that GOC repeals <u>import restrictions on foods.</u></li> <li>- It is requested that GOJ induces GOC to expedite the 2nd GOC solicitation of application for <u>mercury lamp.</u></li> <li>- It is requested that GOC <b>deregulates import restrictions on software products.</b></li> </ul>	<p><u>Administration of the Issuance of Import Licenses by Classification of Goods in 2015", MOC</u></p>

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			- <u>On 23 April 2015, Ministry of Finance announced repeal of export duty on rare earths, tungsten and molybdenum, which had been levied for promoting export of these products.</u>		
	(6)	Restricted Domestic Resale of Steel Products Imported under Incentive Measures	- To curb resale of steel imported under tax incentive measures, etc., GOC has removed incentive measures on barter trade, and trade with the frontier. GOC also prohibits resale of imported steel material originally intended for in-house consumption by FFEs for manufacture of re-export product. Furthermore, GOC prohibits transfer outside the zones of imported steel materials originally intended for construction work within special economic zones, developed zones, and bonded zones.	- It is requested that GOC deregulates or repeals the restrictions.	
	(7)	Customs Clearance made difficult due to the Aggravated Japan-PRC Relationship	- Since November 2012, certain Customs in Shenzhen has disallowed import of goods for free of charge (excepting for processing materials). Import customs clearance lags behind in cases where declared prices are outside the price range GOC assesses.  - <u>Customs clearance operation has become more complex due to the Senkaku issues.</u> <u>Decline in sales and aggravation in cash flow have resulted from the Senkaku issues.</u>  - <u>Backlogs of customs clearance and cargo delivery delays resulted from the diplomatic conflicts between PRC and Japan. In fact, the cargo shipped in September 2010 to Shanghai by boat delayed. In effect the delay did not stretch over a longer period and the problems subsided before getting too serious. However, what happens next is a matter of great concern.</u> <u>Likelihood of a similar issue arising hereafter with Taiwan and ROK is another matter of concern also.</u>  - <u>Customs clearance procedures have been made more complex, resulting from the Senkaku islands issues.</u>	- <b>It is requested that GOJ considers approaching GOC for resolving the problems:</b> -- <b>Especially, the assessed prices tend to disregard the decline in the market price,</b> -- <b>Renewal of the market price assessment, (which does not seem to reflect the declining market price average).</b>  - <u>It is requested that GOJ:</u> -- <u>improves the method to develop relations with GOC,</u> -- <u>considers trade with PRC in its maintenance of relations.</u>  - <u>It is requested that GOJ and GOC normalises the diplomatic relations between the two countries.</u>  - <u>It is requested that GOJ takes actions that take account of the international trade issues.</u>	- Announcement No. 33 [2010] of GACA on Regulating the Import and Export Trade Order and Strengthening the Administration of Samples and Advertising Articles of Import and Export Goods (05-25-2010)

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	(8)	Import Restrictions on Used Machinery and Equipment	<p><u>Imports are restricted on used machinery and equipment.</u></p> <p><b>GOC effects import restrictions on used machineries and equipment. It takes a few months for completing the procedures for obtaining prior approval of Administration of Quality, Supervision, Inspection and Quarantine (AQSIQ), necessary for import into PRC of old mechanical and electrical products. From time to time, it impacts production schedule.</b></p> <p><u>It takes much time for processing pre-shipment inspection, etc. relative to import of used machinery and equipment in conjunction with the transfer of the manufacturing depot from one region to another in PRC.</u></p> <p><u>GOC exercises import control on used machineries and equipment.</u></p> <p><b>(Improvement)</b></p> <p>On 10 April 2009, MOC, General Administration of Customs and General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) in their joint signatures issued and implemented "Circular on simplifying import procedures for used electric machineries and equipment" (No.166 [2009]), with the view to streamline the import procedure for used electric machineries and equipment (Used EME) as follows:</p> <ol style="list-style-type: none"> <li>(1) Where Automatic Import Licence is required but Pre-shipment Inspection is not required, importers may file import applications direct to Import Administration of Electric Machineries and Equipment. Such applications are processed within 5-business days.</li> <li>(2) Where import licence is required but the Used EME is less than 5-years old from the production date, the on-going procedure continues to apply, provided, however, that, the application is processed within 10-business days.</li> <li>(3) Enterprises classified under AA and A Classes enjoy a more favorable customs procedure than the others.</li> <li>(4) Pre-shipment inspection is exempted, where judging from the application materials, the authority determines that the conditions of the machineries and equipment are in good order, and the risk is minimal in terms of safety, hygiene and environment.</li> </ol>	<p><u>It is requested that GOC treats used machinery and equipment as if they are new, since transfer of the existing production facility in Japan to PRC is an inevitable process for an enterprise desiring to expand its business in PRC.</u></p> <p>It is requested that GOC:</p> <ul style="list-style-type: none"> <li>-- streamlines the import PC disorders and</li> <li>-- shortens the time required for completion of import procedures.</li> </ul> <p><u>It is requested that GOC deregulates the complications in import control and procedures.</u></p> <p><u>It is requested that GOC repeals or clearly sets forth the applicable rules.</u></p>	<p>Measures for the Inspection and Supervision Administration of Imported Old Mechanical and Electrical Products (12-31-2002)</p> <p>Provisions on the Inspection and Supervision Procedures for Import of Used Mechanical and Electric Products [2003] No.53 of 18 August 2003, and enforced on 1 October 2003</p> <p>Measures for the Inspection and Supervision Administration of Imported Old Mechanical and Electrical Products (12-31-2002), AQSIQ Order No. 37</p>



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			<p><u>- On 17 June 2015, "Notice on Issues on Import Administration of Used Machine and Electrical Products (UMEPs)" was promulgated. Excluding the specific UMEPs, clarification notice of "Used Machinery and Equipment Product" on Import Customs Clearance Certificate now suffices the formalities, provided, however, that submission of pre-shipment inspection report is necessary upon import on the 15-items relative to health, safety, hygiene, environmental protection, and the 4-items specifically embargoed by the State, and the items used in the industries on which investment or import is restricted. In addition, on the 18-items of electrical products, an AQSIQ agent's on site inspection is necessary upon import.</u></p>		
	(9)	<p><b>Nebulous Import Duty Exemption Basis and delays in approval on the Imported Equipment</b></p>	<p>- GOC establishes the tariff exempted import cap for the equipment imported by an FFE for installation at its own factory. However, the basis remains ambiguous for decision and handling by the Customs Authority. The ambiguity leads to delay in authorisation, despite the timely submission of explanatory documents and price information. Such delays materially affect the schedule for production start or factory expansion and substantial person-hours are wasted.</p> <p><u>- In 2014, a Member Firm's Subsidiary (MFS) was qualified for grant of tax-exemption incentive on imported machineries and equipment. Despite the introduction of electronic processing on application formalities, etc., it took six-months to complete the application formality. Until then, the progress of which was hard to follow and simply wait was all that could be done...such state of affairs continued.</u></p> <p><b>(Improvement)</b></p> <p>- GOC granted the import right only to the designated trade firms which recognized to meet certain conditions and deal with limited number of raw materials (12 items including steel materials, having a monopolistic nature in the international market) of which prices fluctuate widely and relate closely to peoples' livelihood. However, effective 11 November 2004, in pursuance of its WTO commitment, GOC repealed the practice.</p>	<p>- It is requested that GOC clarifies and streamlines the basis of its determination and clearly identifies the requisite documents for submission to the authority.</p> <p><u>- It is requested that GOC improves the application process, by making it more visible, etc.</u></p>	
	(10)	<p><b>Irrational Employment of Customs Valuation Rules</b></p>	<p><u>- Customs in certain regions in their customs valuation of parts and materials imported from Japan frequently employ a method, which is different from the international norm as to a Japanese enterprise's subsidiary in PRC (a Japanese enterprise). GOA in calculating the taxable value of imported PAM adds royalty under the manufacturing know-how licencing agreement, despite the fact that the manufacturing know-how relates to finished products and not to individual parts and materials. Furthermore, GOC's relating the licencing fees to "machineries and equipment specifically designed or manufactured for executing the licenced patent or know-how" under Article 1.1(3) of "measures for evaluation of the royalties of imported goods" is unprecedented in the customs valuation regulations of various other countries.</u></p>	<p><u>- It is requested that GOC operates the customs clearance procedure in accordance with the international norm.</u></p>	<p>- "Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994," PART I Rules On Customs Valuation, Article 9</p> <p>1. Where the conversion of currency is necessary for the determination of the</p>

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			<p>- PRC Customs frequently unilaterally resort to the use of irrational methods in determination of the customs value.[Case Example]A certain machine parts manufacturing subsidiary incorporated and operating in PRC imports in USD from Japan seamless alloy steel pipe through intervention of an unrelated international trade firm (ITF), exporter, who periodically amends prices by reflecting the fluctuations in the rate of exchange between Japanese yen and USD. However, PRC Customs notified ITF that the price revisions in concern amounted to dumping and levied duty not on the new lower prices but on the old higher prices as bases for determination of the customs value. On the ground that (1) the price review in concern was nothing but reflection of the fluctuation in the rate of exchange between Japanese yen and USD, and (2) PRC Customs failed to show the basis of dumping finding on the seamless alloy steel pipe (the total quantities of which were in knock-down (KD) format for fabrication of wire net used exclusively for incorporation into machine parts in the PRC factory, with no distribution of the imported products per se in the PRC market, ITF considered filing protest to the Customs Authority. However, because of the impending due delivery date, ITF was compelled to enter the goods by payment of high import duty based on the old price. Moreover, PRC Customs has continued levy of deemed import duty. The consequent payment of excessive duty heavily burdens both MFS, a manufacturing subsidiary in PRC, and our member firm, its parent in Japan. [Please refer to 2013 version of this report, titled: "Issues and Requests for Improvements on Trade and Investment Barriers in 2013" at Page 63.]</p> <p>- <u>A Member Firm's Subsidiary (MFS) are at their wit's end on the methods employed by the customs for calculating tariff on imported materials. In numerous cases, the customs deviate from the internationally accepted general norm. What the customs do is to add to "the Price of the Imported Materials", "Royalty Fees for Manufacturing Know-How Licence and Trademark Licence Fees", all of which concern the finished products, NOT the imported materials. Furthermore, as regards, "In the case where the product is especially designed or manufactured to execute patent or know-how," under Article 13(1)3 of GAC No.213, recognition of its relationship with "licence fees" is considered to be unprecedented in the customs valuation regulation of other countries world over. Moreover, during the process of</u></p>	<p>- It is requested that GOC:  -- approves the price revisions based on WTO Agreement, and  -- refrains from levying unjustifiable import duty.</p> <p>- It is requested that GOC overhauls <u>the customs valuation rules in accordance with the international standard.</u>  - <u>In addition, it is further requested that GOC investigators will apply the fair employment of the current laws and regulations as well.</u></p>	<p>customs value, the rate of exchange to be used shall be that duly published by the competent authorities of the country of importation concerned and shall reflect as effectively as possible, in respect of the period covered by each such document of publication, the current value of such currency in commercial transactions in terms of the currency of the country of importation.</p> <p>2. The conversion rate to be used shall be that in effect at the time of exportation or the time of importation, as provided by each Member.</p> <p>- Measures of the Customs for the Assessment and Determination of Duty-paid Value of Import and Export Goods GAC [2006] No.148 (enforced on 1 May 2006)</p>

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			<p><u>investigation/guidance, the customs investigators seemed to be merely turning their deaf ears and would not listen to the logical reasoning provided by MFS. In many cases, they merely assumed the stance of "tax levy must come first".</u></p>	<p><u>- It is requested that GOC overhauls the customs valuation rules in accordance with the international standard.</u>  <u>- In addition, it is further requested that GOC investigators will apply the fair employment of the current laws and regulations as well.</u></p>	<p><u>- Measures for Evaluation of the Royalties for Licence used on Imported Goods (enforced on 1 July 2003)</u>  <u>- Measures of the Customs of the People's Republic of China for the Determination of the Customs Value of Imported and Exported Goods GAC No. 213, enforced on 1 February 2014</u></p>
	(11)	Nebulous Nature of Determining Customs Value	<p><u>- PRC Customs occasionally notify pricing of imported goods are too low, and attempt to collect additional import duty, generally in an informal manner verbally, not in writing. It is therefore not possible for importers to lodge a formal complaint for inconsistency with the WTO customs valuation rules. Nevertheless, it heavily burdens importers.</u>  <u>- It seems customs investigators are levying additional tax on imported materials declared at prices lower than the book prices in hand with customs. MFS is concerned lest the same will extend to it.</u>  <u>- In customs price examination, a particular custom picks off a particular product item for comparison with its own data. Investigated firm's attempt at justifying the price with solid evidence, however, more often than not, would end up in compromise to a degree.</u>  <u>- There has been no disclosure of the price information in hand at customs, including without limitation, the evidence, information, etc. that justify their price determination. It makes it difficult for the investigated parties to rebut their assertions.</u></p> <p><b>(Improvement)</b>  <u>- On 1 February 2014, General Administration of Customs (GAC) Order [2013] No.211 "Measures of the Customs for the Determination of the Customs Value of Non-bonded Import and Export Goods", as well as GAC Order [2013] No.213 "Measures of the Customs for the Determination of the Customs Value of Domestic Sales of Bonded Goods" came into effect.</u></p>	<p><u>- It is requested that GOC ensures transparency in application of its rules.</u>  <u>- It is requested that GOC makes its employment transparent.</u></p>	<p><u>- Measures of the Customs for Assessing and Determining the Duty-paid Value of Bonded Goods Sold in the Domestic Market GAC Order [2013] No. 211</u></p>

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	(12)	Inconsistency and Arbitrariness in HS Code Classifications	<p>- While the majority of the non-directional electromagnetic steel plate is of general-purpose grade of less than 0.6% silicon content, determination of HS Code for this product is not harmonised in each District Customs Office. Various problems arise from this disharmony, such as regional inequality of import duty, delays in customs clearance procedures, requiring hurried correction of shipment documents from Japan. Troubles due to disharmony in the HS Code classification sporadically arise at Customs in relation to the verifying and writing off of the Processing Trade Manual (Bonded Processing Manual) upon re-export of finished products after processing of materials in EPZ, etc.</p> <p>- <u>GOC levies 3% duty on printers, including ink-jet printers, having the printing speed of 60ppm, and using the A4 size paper with less than 297mm in printing width, and 5% (although reduced from 8%) on A3 size or larger. The basis is undisclosed for imposition of higher duty (5%) on A3 size or larger. To begin with, GOC continues to impose these duty rates, despite GOC's accession to WTO Information Technology Agreement under which 0% duty applies to these products.</u></p> <p>- <u>Interpretation of HS Code various by officers in charge in each jurisdiction of regional Customs. Where our member firm in the same line of business operates plural depots, it must run the risk of problems arising from inconsistency for import/export procedures, import duty applied, etc.</u></p> <p>- <u>At customs clearance, the trouble arises frequently over the interpretation and applicability of HS code. Interpretation of the list of customs tariff varies by each customs personnel in charge who demands explanation and renewed filing of application, halting the physical distribution of imported goods. The HS code approved by the customs at the factory location can be rejected at the customs of the destination country. The fragmented supply chain mushrooms into the industry-wide supply problems, finally resulting in the hiatus of the industries-wide production activities.</u></p> <p>- <u>An MFS has experienced a number of cases in which HS code on a product varies by the customs personnel in charge so that in some cases the customs tariff goes up on the identical product, (for example, from 8% to 10%). These cases seem to occur frequently when it is concerned about the shortage of tax revenues in the port.</u></p>	<p>- It is requested that GOC harmonises determination of HS Code for this product.</p> <p>- <u>It is requested that GOC ensures transparency in determining duty rates, provides justifiable explanation and reduces the duty rate to zero.</u></p> <p>- <u>It is requested that GOC expedites unification of HS Code interpretation all across Customs in PRC.</u></p> <p>- <u>It is requested that GOC establishes the uniform official authentication of HS code by each product. (While the states of affairs appear to be on the way toward improvement, it remains a long way to solution.)</u></p> <p>- <u>Due to the numerosity of the cargoes being handled, application of varying HS code is understandable. However, it is requested that the customs refrain from retroactive application by several years of the</u></p>	<p><u>Customs Law</u></p>

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			<p><u>- Application of a different tax code by custom drives exporters to select port of export, because VAT refund is dependent upon the tax code determined by the custom. It drives exporters to select a different port of export, despite the fact that the products are procured from the same supplier.</u></p> <p><u>- The results of advance examination have been valid only within the jurisdiction of the customs in concern, and not in other customs jurisdictions. Recently, 5-customs in the vicinity of Shanghai and the customs in Guandong province decided to mutually recognise the validity of the HS code. It shows the spread of the mutual recognition of the HS code determined in other jurisdictions.</u></p> <p><u>- HS code used and authorised upon import customs clearance gets later disapproved from time to time. In so far as the product description remains as declared, it is requested that the HS code at customs declaration is accepted as final.</u></p> <p><u>- The customs authority, after rejecting the declared price of imported the importer's own product samples for being too low, has apparently levied import duty based on the price deemed to represent the average of the products within the applicable HS code. The product in concern, being manufactured from raw materials different from those used in the high priced products within the HS code, should attract no extra duty. However, the importer has no alternative but pay the higher duty, as preparation of evidential documents requires both much workload and time.</u></p>	<p><u>newly determined HS code. Namely, the retroactive application period, at most, should be limited within the same fiscal year. Otherwise, it makes difficult for the MFS to keep its profitability.</u></p> <p><u>- It is requested that GOC rectifies the varying discretionary decisions by the customs.</u></p> <p><u>- There is no change in the status quo. to wit: Examination is not by customs itself, but by a designated customs agent, the result of advance examination is valid only within the area of the customs jurisdiction, not in any other outside jurisdiction. It is continually requested that GOC implements the advance examination by customs service itself (not customs agent) valid throughout PRC.</u></p> <p><u>- In so far as the product description is as declared, it is requested that GOC ensures that the HS code used upon import declaration and accepted remains final.</u></p> <p><u>- It is requested that GOC:</u></p> <p><u>-- breaks down the HS code into finer details, and</u></p> <p><u>-- levies import duty on proper price.</u></p>	

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			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- GOC employs two official methods to rule on the tariff classification, namely, the advance ruling, and the administrative ruling by the General Administration of Customs (GAC), the latter of which is stipulated after the PRC's accession to WTO. While the advance ruling is valid only for one year limited in the customs area in concern, the administrative ruling is published nation-wide and is permanently valid for all importers. There has been no case where the administrative ruling is issued.</li> <li>- Since January 2012, GOC has been amending the 2007 version of the 10-digit HS Classification Numbers.</li> <li>- On 22 February 2016, GAC promulgated "<u>Announcement No. 11 [2016] Announcement on Issuing the Decisions on Commodity Classification for 2016</u>" (enforced from 1 March 2016) (New Additions in part, and Modifications in part). With the view to facilitate classification of imported items and customs declaration process, it revises the product item notation on 11-tariff lines.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- GAC promulgated in March 2007 as basis of customs classification "Provisions of GAC on the Administration of the Commodity Classification of Import and Export Goods" in response to request for improvement by GOJ, etc. This makes permanent the validity period of the decision made under the Preliminary Commodity Classification. The new provision ensures transparency by expressly stating the validity under the preliminary commodity classification and the necessity of administrative classification decision.</li> </ul>		
	(13)	Rigorous Customs Control	<p><u>Customs control is rigorous compared to other countries:</u></p> <ul style="list-style-type: none"> <li>-- <u>Import right, international trade right</u></li> <li>-- <u>Export/import licence</u></li> <li>-- <u>Gap in response at Customs</u></li> <li>-- <u>Prior notification to importers, etc.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 12 December 2014, Ministry of Commerce promulgated "<u>Announcement on Issuing the Implementation Measures for the Regulatory Compliance of Trade Policies (for Trial Implementation)</u>", aimed at ensuring compliance of China trade policy and compliance of its responsibility with the WTO rules.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC deregulates <u>its customs control paralleling the EU/U.S. practices.</u></li> </ul>	
	(14)	Complex, Delayed and Nebulous Import Customs Clearance Procedures	<ul style="list-style-type: none"> <li>- In certain regions, it takes much time to receive the cargoes as simplified <u>customs clearance procedure is inapplicable.</u></li> <li>- It takes much time to take delivery of the goods, as <u>duty free customs clearance begins after acquisition of residence certificate.</u></li> <li>- While Bonded Zone Customs now administer customs clearance work by <u>central processing in bonded zone, it takes 1 to 2-months for new products registration. The delay affects the delivery lead-time.</u></li> <li>- <u>On general cargoes, the lead-time is one day at Shenzhen Customs from filing import customs declaration to completion of customs clearance. However, as regards pre-production samples (pre-pro samples) and equipment, it takes one week to complete the customs clearance.</u></li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC applies <u>Simplified Customs Clearance Procedure at all airports in PRC.</u></li> <li>- It is requested that GOC expedites <u>customs clearance.</u></li> <li>- It is requested that GOC reduces the <u>examination period on pharmaceutical products.</u></li> <li>- It is requested that GOC overhauls <u>export/import customs declaration scheme so that the lead-time is minimised for pre-pro samples, the same as general cargoes.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>Announcement of the MOF and GAC (No. 16 [2006]) The List of Goods Prohibited from Export (the Fourth Batch)</u></li> </ul>

Category	No	Issue	Issue Details	Requests	References
			<p>- <u>Compared to the delivery lead-time of one-day on generation cargo destined to Shenzhen, one-week is necessary for pre-production prototype (PPP) and equipment, because it takes time from filing import application to grant of import licence.</u></p> <p>- <u>Customs regulations vary from district to district. While airports in eastern (Huadong) district allow import customs clearance by HAWB, airports in mid western district accept only MAWB.</u></p> <p>- <u>It is time consuming to complete import/export procedures that require examination of tools and commodities necessary for product repair, inspection and trade shows (now taking 18-days).</u></p> <p>- <u>Delays in customs clearance, demand for additional production of export documents, etc.</u></p> <p>- <u>At an interval of a few times a year, customs clearance procedures get stuck for various reasons. However, in the absence of information from the authority as to "what responsive measures applicants should take?", "if then, how soon customs clearance can be completed", etc., applicants are unable to determine actions to take and the manner of taking such actions.</u></p> <p><b>(Actions)</b></p> <p>- In a series of measures to facilitate trade, the authority has expedited the work surrounding the customs clearance. For this purpose, the "2R &amp; 2H Project" has been introduced to all Customs throughout the country.</p> <p>- The Shanghai Customs, Customs General Administration, started from 12 April 2004, a new system which applies a different treatment according to the list classifying enterprises into good and bad categories, based upon the legality and the volume of import and export business of each enterprise, in order to enhance its efficiency in customs clearance and observance by enterprises of rules and regulations. Enterprises classified in the good category enjoy the following benefits:</p> <ol style="list-style-type: none"> <li>(1) Priority in getting the customs documents accepted and examined, and exemption of physical inspection of export/import cargoes in normal cases;</li> <li>(2) Post customs clearance payment of customs tariff;</li> <li>(3) Exemption of random inspection of imported cargoes requiring inspection.</li> <li>(4) Exemption of the requirement for Bank Guarantee Ledger System or bond deposit.</li> </ol> <p>On the other hand, enterprises listed in the bad category are subjected to the 8 items of supervisory measures, such as 100% inspection of export/import cargoes, auditing of the accounting records concerning the export and import cargoes, and tightening of collection of bond</p>	<p>- <u>It is requested that Shenzhen customs authority will modify the import licence application scheme to cut down the lead-time for filing the import licence application on PPP, the same as general cargoes.</u></p> <p>- <u>It is requested that GOC harmonises customs regulations regardless of districts. Requiring MAWB on customs clearance of each shipment lot is costly.</u></p> <p>- <u>It is requested that GOC deregulates customs clearance procedures for business entities of good standing and reputation.</u></p> <p>- <u>Observance of international trade practices.</u></p> <p>- <u>In the event delays in customs clearance procedures arise, it is requested that GOC promptly discloses the causes and prospect for resumption of customs clearance formalities.</u></p>	

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			<p>deposit.</p> <p>Incidentally, enterprises are required to meet the following to be classified into the good category:</p> <p>(1) Creditability Rank A (A through D ranks classified by Customs),</p> <p>(2) No record of smuggling in three years from January 1, 2001 and for 3 years thereafter, and</p> <p>(3) No record of illegal act at Ministry of Commerce, State Administration for Industry and Commerce, SAT, State Administration of Foreign Exchange, etc.</p> <p>- General Administration of Customs ("GAC") on 5 July 2004, pursuant to Foreign Trade Law (enforced on 1 July 2004), issued and enforced on July 7, 2004, "GAC Series On Matters Concerning Foreign Trader's Customs Registration (GAC Series No.25, 2004)" that provides for the requisite documents to be submitted and procedures to be followed by a foreign trader to obtain the registered documents as a foreign trader (a recipient of import and export cargoes or a shipper). The Customs Clearance Registration Certificate is issued to a foreign trader submitting the 10 kinds of exhibits and materials and meeting the requisite conditions.</p> <p>- GAC on July 7, 2004 issued and enforced on the same day, "GAC Series On Matters Concerning Foreign Trader's Customs Registration (GAC Series No.26, 2004)". Under this publication, enterprises filing Customs Registration are required to satisfy conditions such as the minimum capital of RMB 1.5 million, adequate location of sales office, and deployment of personnel in charge of customs clearance, and to submit the 9 kinds of the designated materials to the Customs authority, before the Customs Registration Certificate is issued. Customs are unable to process customs clearance by foreign trade operators, who have not completed the Customs Registration Certification Procedures.</p> <p>- In January 2009, GAC declared that it would promote paperless customs clearance, with a comment that the paperless customs clearance experimentally authorised to law abiding enterprises at Customs in Shanghai, Nanjing, Shenzhen, etc. had brought forth a significant achievement such as expedited customs clearance.</p> <p>- On 24 June 2009, MOFCOM released draft "Measures for Foreign Trade Operators' Registration Certificate", inviting public comment. (It was closed on 8 July.) The draft Measures (18 Articles in all) stipulates the procedures and requirements for application, change, and renewal of "Foreign Trade Operators' Registration Certificate."</p> <p>- In 2009, General Administrative of Customs (GAC) made a trial run for Electronic Customs Declaration on-line on export cargoes at 15 Customs including Shanghai and Shenzhen restricted to the firms classified under Category A and Category AA based on the compliance history with the view to simplify and expedite the procedure.</p> <p>- After the seizure of a fishing boat at sea near Senkaku (or Diaoyu) Islands in September 2010, GOC has delayed, since 25 September or thereafter, the customs clearance by raising the sampling rate for export cargo inspection, etc.</p> <p>- On 8 August 2014, GAC and MOC jointly promulgated "Announcement No. 58 [2014] of GAC/MOC on the Pilot Program of Paperless Customs Clearance for the Goods Subject to Automatic Import License Administration that Are Imported from the China (Shanghai) Pilot Free Trade Zone".</p> <p>- <u>On 3 February 2015 General Office of the State Council (GOSC) announced publication of a circular on realizing the policy of "SanHu" (Mutual Information exchange, supervision control and support on enforcement) which is aiming at achieving general improvement of PRC customs clearance regime (security in goods, smoothening of international trade, and modernization of port administration, etc.) by unifying custom clearance and promoting "Grand Scheme for Customs Integration".</u></p> <p>- <u>On 4 February 2015, GOC ratified "WTO Trade Facilitation Agreement", excluding however, certain provisions concerning Category A (the items, coming into effect upon enforcement of the Agreement).</u></p>		



Category	No	Issue	Issue Details	Requests	References
			<p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- The overhaul of the infrastructure is much appreciated, such as electronic customs clearance that leads to enhancement of efficient customs handling and processing. Foreign Trade Operators' Filing Registration Application.</li> <li>- It has not been possible in some cases to get the goods cleared through the Customs by submission of Authorisation Letter required upon customs clearance. However, since switching to Customs Web Site filing, Member Firm's subsidiary has no longer experienced such problems. The introduction of Customs Net System has eliminated problems concerning clearance procedures.</li> <li>- Since the change to Customs Website Registration from Letter of Certification, certifying that the applicant is an authorised party the trouble at the customs has disappeared.</li> <li>- In April 2014, against the eligible enterprises with B or higher grade of GAC's creditability rating, GAC implemented change in the customs clearance procedures to "First Carry in Goods, and then notify Customs (on Entry of Goods into the Zone) in China (Shanghai) Pilot Free Trade Zone" Scheme. The change is beneficial to importers, in reducing the delivery time from port to warehouse in the Zone, achieving the cost of container yard utility charge, enabling importers to correct entry errors in the documents before customs clearance, and minimising errors in customs declaration.</li> <li>- In April 2014, in China (Shanghai) Pilot Free Trade Zone, GAC introduced "consolidated customs declaration" against the eligible enterprises with B or higher grade of GAC's creditability rating (or A grade or higher for enterprises that file "collective tax return" in the Pilot Free Trade Zone), and "consolidated customs clearance", such as declaring export/import customs clearance in and out of the Pilot Free Trade Zone collectively for each month, payment of export/import taxes (customs tariffs, VAT, excise tax) in lump sum (consolidated tax payment). These expediciencies mean much saving in time and cost to enterprises that frequently transport (import) goods out of the Pilot Free Trade Zone from the reduced time required for customs declaration and customs clearance.</li> <li>- In April 2014, in China (Shanghai) Pilot Free Trade Zone, GAC changed, from manual to real-time electronic handling, the system for confirming by crosscheck the imported raw materials in bond and the finished exported products against the eligible enterprises/ warehouse enterprises with B or higher grade of GAC's creditability rating. As a result, Customs and private enterprises have gotten hooked up to the on-line network, enabling enterprises to transmit data online to customs for customs processing of the received data. The change has cut down by large margin the time required for customs approval of the differences between the book and the actual stock.</li> <li>- <u>On 27 July 2015, GAC promulgated " Announcement on diffusion on nationwide the en bloc tax levy model on custom duty for improving trade efficiency and reducing the cost of custom clearance( executed on the same date); it makes it enable to enterprises satisfying certain requirements.</u></li> <li>- <u>On 19 August 2015, Guangzhou Customs started the Pilot Programme of Paperless Customs Clearance for Customs Declaration.</u></li> <li>- <u>On 29 September 2015, GAC promulgated "(No. 47 [2015]) Announcement on implementing the Regional Customs Clearance Integration Reform (RCCIR) in areas under the special customs supervision and supervised bonded places," in order to achieve the expansion of the regions subject to RCCIR, aimed at maximizing the total Chinese customs-wide efficiency and results in the national scale.</u></li> <li>- <u>On January 25 2016, GAC and MOF jointly promulgated "Announcement on implementing the paperless customs clearance for goods (as of 1 February 2016) with automatic import licenses" that implements state-wide paperless customs clearance for goods subject to automatic import licences.</u></li> </ul>		

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	(15)	Delays in Export/Import Procedures during Spring Festival	- <u>Due delivery dates become unpredictable around the Spring Festival (Chunjie) for cargoes to and from PRC/Taiwan (especially PRC). It becomes particularly worrisome for emergency shipments.</u>	- <u>It is requested that GOC/Freight Forwarder will establish a scheme unaffected by holidays.</u>	
	(16)	<u>Difficulty in Customs Clearance at Inland State Borders</u>	- <u>Customs clearance at inland state borders with Russian federation and Mongolia continue to disapprove paperless customs clearance and customs clearance at the customs of the applicant's residence. It remains difficult for an enterprises residing in the eastern coastal area to conduct export/import business as a direct party.</u>	- <u>It is requested that GOC introduces enhancement measures of customs clearance, which customs promote statewide.</u>	
	(17)	Abuse of Antidumping Measures	<p>- On 8 September 2011, in response to the Petition filed by the domestic stainless steel pipe enterprises, MOC initiated antidumping investigation on high performance seamless stainless steel pipe used for superheater and reheater of supercritical and extra supercritical power generation boiler imported from Japan and EU.8 May 2012: Provisional affirmative finding.8 November 2012: Final affirmative finding.20 December 2012: GOJ requested consultations with China on plural issues found to be inconsistent with WTO Antidumping Agreement with regard to the antidumping investigation GOC instituted.11 April 2013: GOJ filed request for WTO panel examination (first instance).24 May 2013: WTO Panel (DS545) was established at the GOJ's second request. EU filed WTO for bilateral consultations.13 June 2013: EU requested establishment of WTO Panel as to PRC (DS460).30 August 2013, DSB at the 1st examination approved establishment of panel as to EU.</p> <p>- 22 March 2013: Northern Heavy Industries Group Co. Ltd. filed antidumping petition on certain alloy-steel seamless tubes and pipes for high temperature and pressure service from EU, U.S. and Japan. 24 April 2013: MOFCOM announced in Gazette initiation of an antidumping investigation.</p> <p>13 December 2013: MOFCOM announced preliminary affirmative dumping finding on certain alloy-steel seamless tubes and pipes for high temperature and pressure service from EU, the U.S. and Japan.</p> <p>- GOC levies antidumping duty on coated paper (more than 70 g/sq.m.) exported from Japan. (Its review due in August 2015 remains unconfirmed.)</p>	<p>- It is requested that GOC implements Antidumping Investigation coherently with the WTO Antidumping Agreement.</p> <p>- It is requested that GOC revokes the antidumping measures.</p>	<p>- MOC Announcement [2011] No.57 (Revocation of AD Measures)</p> <p>- MOC Announcement [2012] No.72</p>
			<p><b>(Actions)</b></p> <p>- On 17 April 2007, GOC made the final determination to impose antidumping duty in the range of 15-40.83% on paper for electrolytic capacitor originating from Japan.</p>		

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			<ul style="list-style-type: none"> <li>- On 30 August 2007, GOC made the final affirmative finding of dumping on Bis Phenol A originating from Japan, South Korea, Singapore and Taiwan.</li> <li>- On 21 November 2007, GOC made the final affirmative finding of dumping on Methyl Ethyl Ketone originating from Japan, Taiwan and Singapore.</li> <li>- On 22 November 2007, GOC made the affirmative preliminary finding of dumping on Acetone originating from Japan Singapore, South Korea and Taiwan.</li> <li>- During the first half of 2009, PRC has received a rapidly spiraling number of 60 cases of initiation of investigation, amounting to 8.76 billion U.S. dollars, on issues concerning antidumping and countervailing duties.</li> <li>- On 14 December 2011, Ministry of Commerce published its decision to impose Antidumping Duty and Countervailing Duty on passenger vehicles and off-road vehicles with engine displacement of 2.5 litre or more originating from the U.S.</li> <li>- On 6 September 2012, European Commission initiated Antidumping Investigation against imported solar panel and parts thereof originating from PRC.</li> <li>- On 17 September 2012, the U.S. Government (GOU) requested WTO Dispute Settlement Body to set up a panel (WTO Dispute Settlement Subcommittee) concerning the GOC's measures to impose Antidumping Duty and Countervailing Duty on motor vehicles originating in the U.S.</li> <li>- During the period of autumn 2011 through autumn 2012, before WTO-AD Committee, GOJ urged a fair decision be made in favour of the Japanese parties in concern, as literally almost all subject products exported from Japan are high value added products for use by coal fired power plant at its Advanced Extra-Ultra-Supercritical Boilers, not competing against Chinese products, hence not injurious to the domestic industries in PRC. Japanese side further emphasized for GOC to consider listening to the voices of the Chinese users of the Japanese products in concern. However, it failed to reach an equitable solution. (2013 Report on Compliance by Major Trading Partners with Trade Agreements - WTO, FTA/EPAs, BITs -, METI, April 2013).</li> <li>- In December 2012, GOJ filed request for consultation under the WTO Agreement on the GOC's Antidumping Measures on Seamless Stainless Steel Pipe from Japan.</li> <li>- On 20 January 2014, MOFCOM promulgated the final determination on its investigation on antidumping/countervailing duty (only antidumping investigation on the ROK products) against polly-crystal silicon manufactured in ROK and USA: affirmative finding of dumping on products from both ROC and USA and affirmative countervailing duty finding on certain U.S. enterprises.</li> <li>- On 30 April 2014, MOFCOM made final affirmative finding in its antidumping / countervailing duty investigations against polycrystal silicon manufactured in EU.</li> <li>- On 9 May 2014, MOFCOM announced final determination on its antidumping investigation against high heat high pressure seamless steel pipe imported from EU, Japan and USA, finding 13.0 - 14.1% dumping duty against USA and EU. No dumping duty is payable on products from Japan, as the import volume was less than 3% as to the products originating from Japan during the investigation period.</li> <li>- On 9 May 2014, MOFCOM released Announcement No. 34 [2014] on Final Ruling on the Anti-dumping of the Imported Alloy-steel Seamless Tubes and Pipes for High Temperature and Pressure Service Originated in the EU, Japan and United States, (PRC Import Tariff Code Nos. 73045110, 73045190, 73045910, 73045990), while finding no dumping duty as to the subject products from Japan. (MOFCOM Announcement [2014]No.34).  <a href="http://english.mofcom.gov.cn/article/policyrelease/buwei/201405/20140500591737.shtml">http://english.mofcom.gov.cn/article/policyrelease/buwei/201405/20140500591737.shtml</a> </li> </ul>		

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			<ul style="list-style-type: none"> <li>- On 23 May 2014, WTO Panel released its Report holding imposing anti-dumping and countervailing duties (DS440) on certain automobiles from the United States are not in conformity with its obligations under the WTO Agreements (the Anti-Dumping and SCM Agreements.) (<a href="http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds440_e.htm">http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds440_e.htm</a>)</li> <li>- On 23 July 2015, PRC Ministry of Commerce (MOC) initiated anti-dumping investigation against imports of grain oriented flat-rolled electrical steel originating in Japan, South Korea and EU.</li> <li>- On 24 July 2015, MOC announced the preliminary anti-dumping investigation ruling on the imports of methyl-methacrylate originated in Singapore, Thailand and Japan. MOC will start collecting preliminary anti-dumping duty from each respondent (maximum 34.6% among the Japanese) payable from 19 August 2015).</li> <li>- On 19 August 2015, MOC announced the final ruling of the anti-dumping investigation against imported optical fiber preforms originating in Japan and the United States, finding anti-dumping duty of 8%~9.1% on imports from Japan, and 17.4~41.17%. (payable from 19 August 2015.)</li> <li>- On 18 November 2015, MOC announced initiation of anti-dumping investigation against imports of iron-based amorphous alloy ribbon (strip) originated in Japan and the USA.</li> <li>- On 1 April 2016, MOC announced final determination of anti-dumping duty on grain oriented flat-rolled electrical steel originating in Japan, South Korea and EU, collecting anti-dumping duty security deposit (DDSD) from 2 April 2016 (.Maximum DDSD as to Japan, 45.7%).</li> </ul>		
	(18)	Irrational Continuation of Antidumping Duty Levy	<p>- On 18 December 2000, GOC found antidumping duty on cold-rolled stainless steel from Japan and Republic of Korea, excluding the 4-items destined to home electric appliances and car industry. GOC imposes antidumping duty in the range of 17-58% on 8-Japanese manufacturers, and 4-57% on Korean manufacturers, excluding the parties that separately signed the minimum price undertaking with Department of Economy and Foreign Trade.</p> <p>On 8 April 2006, Ministry of Commerce (MOC) determined to continue imposition of antidumping duty.</p> <p>On 18 October 2010, MOC announced the termination of the antidumping duty levy by 8 April 2011, and began accepting petition from the domestic industries desiring to continue the antidumping duty levy. (If no petition is received by 7 February 2011, MOC will terminate the antidumping measures, provided, however, that if the petition is accepted, and continuation of antidumping measures is affirmatively determined, the period of antidumping duty levy will be further extended.)</p> <p><b>(Actions)</b></p> <p>- MOFCOM that levied antidumping duty on coated papers exported from Japan during 2003 through 2008 took measures to extend the antidumping duty levy for 5-years, during which period, PRC's own manufacturing facilities have grown stronger by large margin. The surplus is now exported to neighbouring countries.</p>		<ul style="list-style-type: none"> <li>- Anti-Dumping Regulation of PRC as amended on 31 March 2004</li> <li>- MOC Announcement [2010] No.68 (Acceptance of Domestic Industries Petition)</li> <li>- MOC Announcement [2011] No.11 (Revocation of AD Measures)</li> </ul>

Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- On 31 August 2009, MOC released Announcement No. 56 (2009) on continuation of antidumping measures for 5-years on phthalic anhydride from Japan, Republic of Korea and India.</li> <li>- On 4 August 2014, MOFCOM by its Announcement No.48, published termination of its antidumping duty levy that had continued since 2003 on coated papers from Japan and ROC, in the absence of the domestic manufacturers request for sunset review, and in the absence of investigation at its own initiative. No further dumping duty will be collected beginning 6 August 2014.</li> <li>- On 7 September 2014, MOFCOM announced its discontinuation of antidumping measures on styrene-butadiene rubber originating from Japan, Russia and ROK as it decided against the second sunset review. MOFCOM had continued for 5-years from 2009 antidumping measures after the initial 5-years of antidumping measures since 2003.</li> <li>- On October 8, 2015, MOC promulgated announcement, "<u>Ruling on expiry review of anti-dumping measures against imports of polyvinyl chloride originated in the U.S., South Korea, Japan, Russia and Taiwan region</u>", extending by 3-years the period of anti-dumping Duty Levy as to Japan, South Korea, Taiwan, and the U.S., while terminating the AD measures as to Russia, in each case, with effect from 28 September 2009).</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- On 8 April 2011, MOC promulgated Announcement in Gazette revoking the Antidumping Measures. MOC formally revoked this measure without instituting the 2nd sunset review, in the absence of request within the prescribed deadline for sunset review from neither individuals nor corporations, and by its own decision not to review the proceedings subjectively.</li> </ul>		
	(19)	Levy and Raise of High Export Tax	<ul style="list-style-type: none"> <li>- GOC imposes export duty and provisional export duty rates on export of raw materials from PRC. This has been a factor for pushing up the market prices of these raw materials:[Examples]Coal (coking coal/steam coal) 10%, earthy graphite 20%, cokes 40%, pig iron 25%, ferro silicon 25%, silicon manganese, ferro manganese, metallic manganese 20%, ferro chrome 20%, etc.On 2 December 2010, the Customs Tariff Commission of the State Council announced "2011 Notice on Customs Tariff Implementation Policy", raising the provisional tariff rate from the previous 20% to 25% on ferro alloy with high rare earth product contents, while fragmentalising the H.S. Codes.On 14 December 2011, NTC announced "2011 Notice on Customs Tariff Implementation Policy", raising tariff rate on a part of neodymium ferro boron (7202.99.11) from 0% to 20%.</li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- In June 2007, EU and USA filed request for WTO consultation on GOC's quantitative export restrictions and export tax levy on 9-items including bauxite, cokes, etc., alleging the GOC's measures are inconsistent with GATT Article 11 and Protocol on the Accession of The People's Republic Of China to WTO.</li> <li>- Effective 20 August 2008, GOC has raised export duty from 25% to 40% on coal cokes, coking coal from 5% to 10% and steam coal from 0% to 10%.</li> <li>- On 31 August 2009, National Development and Reform Commission (NDRC) released "2009 Product Catalogue for Import of Encouraged Technology and Products" (NDRC [2009] No. 1926), in which GOC encourages, by import interest subsidy, etc., import of 370-items or more of high-end technology and major equipment and 12-items of important natural resources and raw materials.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC deregulates the export suppression measures on raw materials.</li> </ul>	<ul style="list-style-type: none"> <li>- NTC Notice on Implementing 2011 Tariffs Bill (ShuiWeiHui [2010] No.26)</li> <li>- <u>Protocol on the Accession of the People's Republic of China, Article 11.3</u></li> </ul>

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			<ul style="list-style-type: none"> <li>- Since 1 January 2010, MOF has revised export/import duties, continuing the levy of provisional export duty on resource related items such as rare earth, petroleum, and pulps, while imposing special export duty on chemical fertiliser.</li> <li>- On January 2011, GOC reduced provisional import tariff rates on 600-odd items including resources and basic raw materials.</li> <li>- The Customs Tariff Commission of the State Council (CTC) levies on 340-tariff lines provisional or special export tariff, while continuing to collect provisional export tariff on high energy/resources consuming, high polluting products (such as coal, oil, and chemical fertiliser), and non-ferro metals. GOC has raised provisional export tariff on some rare earth products (HS72029991)(ferro alloy of more than 10% rare earth contents) to ensure export restrictions on rare earth element. CTC has also taken measures to adjust the base/seasonal prices through the levy of the export tariff on chemical fertiliser.</li> <li>- In July 2011, WTO Panel Report was published, holding the GOC's quantitative reservations on export of 9-items are inconsistent with the WTO Agreement.</li> <li>- In March 2012, together with EU and USA, Japan filed request for WTO consultation on GOC's export restrictive measures (export quantitative restriction, export tax levy, and minimum export price). In June 2012, request was filed for WTO Panel setup.</li> <li>- On 26 March 2014, WTO Panel Report was published, stating China's export measures cases (DS431/DS432/DS433) on the exportation of rare earths, etc. are not in conformity with the protocol of accession to WTO. In April 2014, China appealed the case to WTO Appellate Body.</li> <li>-- The total texts of this case: (<a href="http://www.wto.org/english/news_e/news14_e/431_432_433abr_e.htm">http://www.wto.org/english/news_e/news14_e/431_432_433abr_e.htm</a>) (<a href="http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds431_e.htm">http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds431_e.htm</a>)</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- Ministry of Finance (MOF) (1) repealed temporary export duty over 31 items such as steel cable, sulfuric acid, wheat and rice, (2) repealed special export duty on 27 items, including yellow white phosphorus, phosphoric mineral ore, and synthetic ammonium, (3) reduced the temporary export duty on 29 items of non-ferrous metals and their intermediary products, including steel in medium and light shapes, fluorinated chemical products, tungsten, and indium, and (4) made seasonal adjustments of export duty on urea, and phosphoric ammonium.</li> <li>- 26 May 2009: Repeal of provisional export duty rates on cokes (2704.0010: 40%=&gt;0%) Effective January 2013, repeal of duty on some items (cokes 40%=&gt;0%, metal manganese 20%=&gt;0%, etc.)</li> <li>- In response to WTO Panel Report, GOC repealed export levy on six items, namely, bauxite, cokes, fluorite, magnesium, manganese, and silicon metal from January 2013. As to yellow white phosphorus, and zinc, tax rates were reduced within the range prescribed in the WTO Accession Protocol. GOC has repealed export quantitative restrictions on bauxite, cokes, fluorite, silicon carbide, and zinc.</li> <li>- <u>On 7 August 2014, in the dispute instituted by Japan, USA, and EU against China, Report(s) adopted, with recommendation to bring measure(s) into conformity, in support of the Panel Report, stating "China's measures on levy of export tax, export quantitative restrictions, minimum export price, related to the exportation of rare earths, tungsten and molybdenum are not in conformity with the protocol of accession to WTO".</u></li> <li>- <u>MOC repealed export quota on rare earth export with effect from 1 January 2015, in observance of the WTO ruling.</u></li> <li>- <u>On 14 April 2015, the customs tariff commission of the state council (CTC/SC) promulgated "Notice CTC/SC on adjusting the export tariffs on certain products", repealing the export duty levy on rare earth, tungsten and molybdenum in compliance with the WTO ruling.</u> Reference: CTC/SC (No. 3 [2015])(in Chinese) at (<a href="http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201504/t20150423_1221830.html">http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201504/t20150423_1221830.html</a>).</li> </ul>		

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	(20)	Frequent changes in export taxation system	- Due to the sudden decline in the export, GOC either repealed or reduced in stages the provisional tax rates (PTRs) on cokes and general iron and steel products in December 2008 and July 2009, while beginning June 2007, GOC had raised PTRs on 1 December 2008 and 1 July 2009. To curb exports. On 1 January 2010, GOC repealed the 5% PTRs levied on 8-tariff lines of section (shape) steel (HS).	- It is requested that GOC avoids driving exporting enterprises into confusion by maintaining a stable export policy.	- Customs Import and Export Tariff 2010
	(21)	Difficulty in the Customs Clearance Procedures for Return of Defective Products	- <u>It is difficult to settle the costs incurred on the Defective Products manufactured in PRC after they are exported from PRC (on account of returns, disposal at customers, the lot inspection to separate good from defective products).</u>	- <u>It is requested that GOC streamlines the procedures.</u>	
	(22)	<b>Suspended Export/Import Customs Clearance Permit</b>	- <u>In September 2013, Shanghai Customs refused to discharge customs clearance to our member firm on a product sample for explanation and demonstration purposes. Member firm attempted to ship back to Japan the sample in question. However, this time, Shanghai Customs refused to permit export customs clearance on that sample product. Repeated attempt at export customs clearance is now pending. Already 3-months have lapsed after filing application. Member firm's product is for use with industrial products, which are not the subject goods under regulation on the administration of the import and export of goods and yet customs clearance permit is unobtainable. The member firm has continued products shipment every month for more than 10-years. This is the first time the customs clearance is suspended at Shanghai Customs.</u>	- <u>It is requested that Shanghai Customs discharge customs clearance adequately with transparency.</u>	
	(23)	Customs Clearance Work Disallowed for Branch Operation	- <u>Branch office, being without juridical personality, is neither authorised to submit external trade notification to MOC, nor is able to engage in customs clearance service by its own name, nor is it empowered to register its exclusive customs clearance seal. They can only act on behalf of the general headquarters, requiring complex work for each customs clearance.</u>	- <u>It is requested that GOC overhauls its legislation system by allowing branch office's filing of notification to MOC of external trade, etc. so that it can subjectively discharge the customs clearance operation.</u>	- Company Law of the People's Republic of China, Article 192 - Provisions for the Administration of Registration of Declaration Entities (03-31-2005), Articles Nos. 6, 8, 49, etc.

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	(24)	<u>Custom's Complex Import Cargo Inspection</u>	<p>- While the <u>paperless customs clearance introduced in 2013 has streamlined the customs clearance procedures, the cargo inspection rate has gone up (by 10% on air cargo and 20% on ocean cargo). As a result, it takes additional 2-days for completing the import customs formalities, while the appertaining additional costs for Inspection have gone up.</u></p> <p>- <u>Not much difference is noticeable in the inspection rate and the time for completing the inspection.</u></p> <p>- While appreciating the customs policy for the shift from "By Clearance" to "By Company" control in administering the customs clearance by adoption of the company shading (grading) scheme, a Member Firm graded with the previous AA, or now Authorized Economic Operator (AEO) finds <u>customs exercise of excessively frequent inspections or shipment by shipment inspection in PRC, vis-à-vis the customs of other countries, almost defeating the purpose of the highest corporate rating.</u></p>	<p>- It is requested that GOC: -- <u>reduces the cargo inspection rate,</u> -- <u>streamlines the import procedures.</u></p> <p>- It is requested that GOC: -- <u>clearly identifies the incentive measures enjoyed by Authorized Economic Operator (AEO), and</u> -- <u>brings home to all the customs personnel at the window.</u></p>	<p>- <u>Announcement No.19 of GAC - Announcement on Matters concerning Deepening the Pilot Program of Paperless Customs Clearance</u></p>
	(25)	<u>Delayed Import Customs Clearance</u>	<p>- It takes too many days from the date of CIQ's random inspection to the day the inspection report becomes available. Because of this, Member Firm's Subsidiary (MFS) is unable to meet the Chinese (domestic) customers' emergency needs. <u>Furthermore, in regard to food import, "No domestic sales are allowable without sanitary certificate," which scheme is unique to PRC. In the worst case, it takes 2-months to obtain the sanitary certificate. Pending the acquisition of sanitary certificate, the imported goods just sleep in the warehouse, incurring long term warehousing fees, and resulting in the loss of sales opportunities</u></p> <p>- <u>Products bearing China compulsory certificate, nevertheless, if selected as the goods being subject to CIQ inspection, other cargoes shipped together are also held at customs, pending completion of the CIQ inspection, which takes several weeks before completion. The review of the inspection system is necessary.</u></p>	<p>- It is requested that GOC reviews the <u>CIQ Inspection system, expedites its internal workflow, and deregulates the requirements.</u></p> <p>- It is requested that on <u>Products bearing CCC label, GOC applies the import procedures under the same terms and conditions as the product inspected.</u></p>	
	(26)	<u>Uniform weight description requirement on customs clearance documents</u>	<p>- <u>Customs requires weight description on electronic parts that are capable of being described in quantities, so that customs invoice must include description of the products not only in quantities but also in (gross and net) weight. Any discrepancies both in quantities and in weight from the invoice description form the basis for suspension of customs clearance.</u></p>	<p>- It is requested that GOC determines <u>quantitative or weight description per HS Code and product and administer accordingly either by quantity or weight.</u></p>	



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	(27)	Disallowed Correction of Export Import Declared Prices after Customs Clearance	- <b>PRC customs takes an extremely rigid position on post-customs clearance change of contract prices, despite the fact that the post export/import change in contract prices or entry under provisional prices is a form of circumstances that could arise in international trade.</b> <b>Moreover, customs clearance certificate is necessary for payment in foreign currency. Thus, there is no adequate means to effect payment in the circumstances where price changes in contract prices are inevitable.</b>	It is requested that GOC modifies the system that flexibly allows amended declaration so that Hygiene Certificate is issued within one-month.	- Customs Law - Regulation on Foreign Exchange Settlement, etc.
	(28)	<b>Insufficient Confirmation in Issuance of ASEAN/China FTA Preferential Certificate Of Origin</b>	- <u>On the Rules of Origin (ROO) certificate issued by Local Bureaux of Quality Supervision, Inspection and Quarantine (LBQSIQ) established by AQSIQ in each location, a party, purchasing the products for resale to ASEAN member states is apprehensive, if the ROO certificate LBQSIQ issues can withstand the scrutiny of the destination member state. Should LBQSIQ issues ROO certificate without sufficiently ascertaining the full satisfaction of the local contents requirement to facilitate the PRC export enterprises, such party would end up by having disputes with the local customs authority. Consequently, such party is unable to file application at ease for preferential tariff treatment on such product for resale to the ASEAN member states.</u>  <b>(Actions)</b> - In PRC, General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) and China Council for the Promotion of International Trade (CCPIT) issue preferential/non-preferential certificate of origin. In addition, AQSIQ and CCPIT jointly promulgated "Notice on Exempting the Certificate of Origin Issuing Fees (COIF)" (CaiZong No.24 [2014] for export promotion, whereby COIF is exempted temporarily during 1 May to 31 December 2014. Since 2012, AQSIQ has discontinued collecting COIF.	- It is requested that the ASEAN ROO certificate issuing authorities and GOC harmonise the level of the confirmation points at the time of ROO certificate issuance.	- ASEAN-PRC FTA (Revised Operational Certification Procedures (OCP) for the Rules of Origin of the ASEAN-China Free Trade Area)
	(29)	<b>Complex, delayed import procedures under ASEAN/China FTA</b>	- <b>The procedures are complex and time consuming to import goods into PRC under ASEAN-PRC FTA:</b> <b>Example) About additional one day is necessary for customs' confirmation and approval of certificate of origin.</b>  <b>(Improvement)</b> - <u>On 28 February 2015, Thai custom department promulgated notification, approving the interpretation of the "Third Country Invoice" as provided in ASEAN-China FTA (ACFTA) for enforcement from 1 March 2015. It has become possible to apply the third country invoices in plural intermediaries/countries.</u>	It is requested that GOC streamlines and abridges the time required for import customs clearance procedures.	
	(30)	Information Leakage at Customs	- <u>There was a case of leakage on non-public information concerning export trade, whereby details of product, destination, model, price of each exporter, etc. have become obtainable (some offering such information for a price). It means a great risk to the business operation.</u>	It is requested that GOC ensures prevention of leakage concerning confidential information of private entities.	

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	(31)	<b>Undefined Period required for Customs Clearance of Pilot Production Sample</b>	<p>- <u>A member firm's subsidiary (MFS) in PRC faces the problem of uncertainty from time to time in clearing through the customs pre-production samples. It affects the product development schedule, despite the fact that MFS prepared the documents, using the form specified by the Customs.</u></p>	<p>- <u>It is requested that GOC clearly defines the work related to customs clearance.</u></p>	
	(32)	Restricted Triangular Trade	<p>- GOC restricts triangular trade only to business entities residing in the Bonded Zones.</p> <p>- Shanghai is unable to operate as the hub for settlement of commerce destined to Southeast Asian countries, as the triangular trade is not authorised unless the enterprise is registered in bonded zone.</p>	<p>- It is requested that GOC deregulates the restriction on triangular trade.</p> <p>- It is requested that GOC further liberalises its national policy.</p>	Regulations relative to FFEs Investment.
	(33)	Cumbersome and Delayed Temporary Import Procedures	<p>- <u>Material impact on production schedule from time to time ensues due to the 100% cargo inspection requirement for temporary import of samples and equipment, which takes about 2-weeks to complete.</u></p> <p>- GAC has suspended import customs clearance on the products returned to a manufacturer in PRC for correction of defects after import into Japan, the reason for suspension being the change in the name of the manufacturer before and after the company's reorganisation into a wholly owned entity that has accompanied the change in the company name. Import licence into PRC is unavailable under the law due to the change in the company name of the applicant before and after the reorganisation.</p> <p><b>(Actions)</b></p> <p>- On 14 July 2014, the Shanghai Entry-Exit Inspection and Quarantine Bureau promulgated "China (Shanghai) Pilot Free Trade Zone (CSPFTZ) Administrative Provisions on the Sanitation and Quarantine of Entry/Exit Special Articles (Trial)", initiating the new quarantine and inspection scheme in CSPFTZ for medicinal special materials (described in Chinese as "Entry/Exit Special Articles"). Shanghai Customs announced the 7-new customs clearance schemes, including selectable duty rate to further simplification of customs clearance procedures in CSPFTZ, for enforcement from 30 June, 2014. Shanghai Customs, following the announcement and implementation during 22 April through 1 May of the 7-new customs clearance schemes, announced and implemented the additional 7- new customs clearance schemes: ((1) Reduction in submission documents during cargo carry in/out, (2) Harmonised application form of registration during cargo carry in/out, (3) Warehouse's information processing and management, (4) En block processing of procedures for customs clearance/reporting on plural shipments, (5) En bloc collection of customs duty, (6) Customs duty rates made selectable, (7) Electronically automated entry/exit), implemented from 30 June)electronic.</p>	<p>- It is requested that GOC:</p> <p>-- <u>streamlines the import procedures, and</u></p> <p>-- <u>cuts down the time required for completion of customs clearance.</u></p> <p>- It is requested that GAC flexibly process the application for the import licence, where no practical change has taken place in substantive business, address of the applicant, etc., even where the applicant bears a different company name, due to the reorganisation into a wholly owned company.</p>	

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	(34)	Complex and Delayed Export Inspection	<p>- <u>A member firm subsidiary (MFS) files application for inspection under Law on Import and Export Commodity Inspection on Export Commodity only after completion of the total production lot, followed by containerisation and shipment. The whole procedures are quite burdensome for MFS that ships a large volume of products.</u></p> <p>- <u>The Law of the People's Republic of China on import and export commodity inspection is ambiguous in regard to the purpose, contents, and the number of days required completing the inspection. It is difficult for the concerned parties to manage delivery dates.</u></p> <p>- <u>Concerning export of spinach seeds, China Plant Quarantine (CPQ) carries out quarantine inspection of Sobane Mosaic Virus (SoMV). In the case of positive finding, CPQ directs disposition the total lot by scrapping. This is not the general disease, infection of which gives no material economic damage. If not scrapped, the spinach seeds found with SoMV can be sold in other countries without problems.</u></p>	<p>- <u>It is requested that GAC introduces administration system based on creditability of the applicant, so that it allows filing of application for commodity inspection after shipment.</u></p> <p>- <u>It is requested that GOC introduces a scheme whereby companies authorised by the commodity inspection bureau may file commodity inspection after shipment.</u></p> <p>- <u>It is requested that GOC removes SoMV from the list of plant disease subject to quarantine inspection.</u></p>	<p>- Law on Import and Export Commodity Inspection</p>
	(35)	Increased Burden to Trade Firms by the Change in Export Invoices Issuance System	<p>- <u>Since January 2013, Taxation Bureau has changed the export invoice system in such a way that the workload has increased to exporters that issue a large volume of export invoices.</u></p>	<p>- <u>It is requested that Taxation Bureau issues export invoice in accordance with the international norm.</u></p>	
	(36)	Vexatiously complex AFR scheme, delaying the procedures	<p>- <u>Advance Filing Rules (AFR) applied to cargoes destined to Japan prolongs the lead-time from 2 to 5 days maximum for the cargo arrival in Japan, and increases the cost of completing the governmental procedures, and advancing the production schedule, etc.</u></p>	<p>- <u>It is requested that GOC reviews the Advance Filing Rules (AFR).</u></p>	
	(37)	Delayed Issuing of Export Customs Clearance Completion Notice	<p>- <u>Delays are frequent in issuing Notice of Customs Clearance Completion (NCCC), which is necessary for filing VAT refund application. Such delays consequently prolong the receipt of the VAT refund.</u></p>	<p>- <u>It is requested that GOC issues NCCC immediately upon completion of the NCCC formalities.</u></p>	
	(38)	Air Cargo Export Control	<p>- <u>Shanghai Pudong Airport exercises its own unique control on export procedures for airfreight cargoes.</u></p>	<p>- It is requested that GOC:</p> <ul style="list-style-type: none"> <li>-- repeals the requirement for issuance of non-dangerous goods certificate on liquid (valve oil, grease), and</li> <li>-- replaces it with MSDS, which is</li> </ul>	

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				<p>the International Standard.</p> <p>- It is requested that GOC:</p> <p>-- repeals the requirement for issuance of non-dangerous goods certificate on goods, in which lithium battery is built in, and</p> <p>-- replaces it with IATA certification for shipping dangerous goods by air.</p>	
	(39)	Restricted Change in Customs Declaration and Its Nebulous System	<p>Practical procedures are nebulous and restricted upon occurrence of changes in the vessel name and flight name, due to suspension of service by air/sea-carrier or logistics, after the grant of customs' permission of export customs declaration. Such changes are by right legitimate. However, frequent occurrence of such changes is susceptible of prompting customs summons and cautions.</p>	<p>- It is requested that GAC:</p> <p>-- permits changes without fail, and</p> <p>-- repeals penalty provisions.</p>	<p>- Provisions related to changes in the Customs Declaration contents.</p>
	(40)	<b>Irrational Country of Origin Decision / Its Marking Requirement on Products Manufactured in and Exported from PRC</b>	<p>In regard to country of origin on products and parts exported from PRC to other countries, General AQSIQ and General Administration of Customs (GAC) compel their own requirements, which are different from the legislative provisions, frustrating import customs clearance in third countries on products and parts exported from PRC.</p> <p>[Example]Where the final production process takes place in PRC on products and parts, whose production processes are performed in more than 2-countries, GAQSIQ and GAC from time to time disapprove origin marks put on such products and parts in accordance with the governing laws and regulations of respective countries and filed by a member firm, unless declaration and marking show they originate from PRC. The declaration and marking as directed by GAQSIQ/GAC could amount to false declaration/marketing under the customs legislation in importing countries. The member firm is compelled to show an exceptional description, such as "Made in XX, Further Processed in China"). As a result, the member firm must put much time and effort for negotiation with PRC GAQSIQ/GAC as well as the Customs in importing countries. From time to time, it causes much delay to start the import.</p>	<p>- It is requested that the PRC Central Government will thoroughly ensure that local AQSIQ and Customs Administration refrain from demanding markings inconsistent with or not written in the Treaty.</p>	<p>- Provisions on the Substantial Transformation of Criteria in Non-Preferential Rules of Origin (GAC [2011] No.122) (promulgated on 6 December 2004 and enforced on 1 January 2006.)</p>
	(41)	Complex Product Registration Procedures	<p><b>The procedures are complex for product registration of medical equipment for import / sales in PRC.</b></p>	<p>- It is requested that GOS obviates the need for renewal of registration once the product is registered, as it is done in Japan.</p>	

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			<p>- <u>The product registration procedure is complex, relative to import and domestic sales of medical equipment.</u></p> <p>- <u>The prolonged period of new product registration delays the shipment lead time.</u></p>	<p>- <u>It is requested that GOC repeals the renewal requirement for Product Registration, obviating the need for further renewal, the same as Japan.</u></p> <p>- <u>It is requested that GOC expedites e customs clearance procedures.</u></p>	
	(42)	<u>Disunity of Customs Unit Rules</u>	<p>- <u>Customs in the comprehensive bonded zone of Suzhou industrial park seeks the use of the same "commodity unit" both ways, namely, "out of the bonded zone warehouse" and "in to the customer's warehouse." Otherwise in bond delivery application online gets rejected for manual handling that delays the process by 1-2 days. Due to the absence of a clear cut GAC official guideline, each local custom has a free hand to decide its own unit. Consequently, different units are used at points of despatch and receipt of the cargoes, prolonging the lead-time from the warehouse.</u></p>	<p>- <u>It is requested that GOC holds its demand for harmonisation of the commodity unit in and out of the warehouse, pending completion of the statewide harmonisation of the commodity unit in-and-out of warehouse.</u></p>	
	(43)	<u>Insufficient Lead Time from GAC Notice Publication to Implementation</u>	<p>- <u>Occasionally, the lead-time is too short from GAC notice publication to its implementation so that delivery problems arise in practical business. (E.g. Beijing airport customs notice of 20 November 2014 disallowed description of plural invoices on a single B/L or a single airway bill, while it used to be possible to include plural invoices on either of them.) After the change, at the beginning, due to the problems of adjusting the system operation and co-ordination, export of goods had to be suspended, recording on the book the goods in concern as returned goods.</u></p> <p>- <u>More often than not, new customs rules come into force with extremely short notice after announcement. On an extreme case, new rules come into force on the very day of the announcement. It compels preparation of the requisite process change, etc., at an extremely short notice.</u></p>	<p>- <u>It is requested that GOC allows a reasonable period for preparation on the part of affected enterprises (including the degree of difficulty in preparation).</u></p>	- <u>GAC Notice</u>
10	Restrictive Measures for Operations in Free Trade Zones ("FTZs") and Special Economic Zones ("SEZs")	(1) <b>Uniform Application of the Bank Deposit Account System</b>	<p>- On 1 October 1999, GOC classified enterprises engaged in process trade into A, B, C and D categories, in order to enhance the autonomous law abiding spirit and to eliminate smuggling of bonded cargoes, compelling Shizhuan (actual deposit) under the bank security bond ledger system (BSBLS) upon 11 R-Cat items, inclusive of steel (excluding electromagnetic sheet steel) on enterprises classified in B and C, excepting A categories.</p> <p>Hot, cold and surface coated sheet steels are subject to the BSBLS, forcing a severely onerous burden of BSBLS on enterprises classified in B, or C</p>		- Notice of MOC/GAC on Issuing the List of Restricted Commodities in Processing Trade MOC/GAC [2007]No.44 promulgated on 23 July 2007

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				<p>category. After filing petition, petitioners attained some relief such as halving the security bond amount, or excluding electro galvanised sheet steel, implemented in May 2000 as to halving the bond amount, and July 2000 onward as to exclusion of galvanized sheet steel. The same measure was continued in 2004.</p> <p>On 23 August 2007, with the objective of promoting Mid-Western Regions, GOC made a distinction on BSBLs between the Eastern Region (Beijing City, Tianjin City, Liaoning Province, Hebei Province, Shandong Province, Shandong Province, Jiangsu Province, Zhejiang Province, Fujian Province, and Guangdong Province) and Mid-Western Regions to promote Process Trade in the latter Regions. More precisely, Shizhuan, or Actual Security Deposit for 50% of the BSBLs applies in the Eastern Region as to enterprises classified in A category, and nominal BSBLs (Kongzhuan, or without actual deposit) applies to enterprises classified in B category in Mid-Western Region.</p> <p>From 1 December 2008, GOC has shifted to BSBLs (Kongzhuan or transfer without cash deposit) as regards Restricted products handled by A category enterprises, with the view to support the processing trade through cash flow improvement to enable them to combat the aggravating economic conditions.</p> <p><u>- Beginning August 2007, GOC has imposed BSBLs on all watch manufacturers regardless of the operational scale, whereas BSBLs had applied only to relatively small-scale manufacturers, exempting large-scale manufacturers.</u></p> <p><b>(Actions)</b></p> <p>- Since 1 January 2000, the basic deregulation for Group A Industry (GAI) and limited scope deregulation for Group C Industry (GCI) have been enforced. As a result, the GAI status is granted to any enterprise with an annual export of more than US\$1 million, while the bond deposit requirement on Bank Guarantee Ledger is excused for such GAI. The scope of the GCI status record, on the other hand, is expressly exclusive of the following: any illegal business conduct resulting in penalty of less than RMB 10,000, any enterprise (with 2 or more violations per year which represented less than 1/1,000th of the number of the customs clearance for the preceding year), and any violation committed prior to 1 June 1998. All of these will be disregarded for the purpose of the GCI evaluation record.</p> <p>- General Administration of Customs (GAC) and Bank Of China together issued on 1 January 2000, "Detailed Rule of PRC on Implementing Various Types of Bond Security for Enterprises in the Processing Trade" enforced from 1 April 2000. This Detailed Rule made it possible for enterprises to file reporting to customs authority a bank guarantee issued by a designated Chinese bank payable to the customs, in the event payment of the deposit itself is not workable. However, Chinese Bank will assess the assets and credibility of the enterprise applying for the bank guarantee to hedge its own risk management.</p>	<p><u>- It is requested that GOC repeals the BSBLs.</u></p>	

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				<p>- CAC issued on 26 February 2004 "Measures of the Customs of PRC on the Control of Processing Trade Goods", enforced from 1 April. The same measures have integrated into one legislation, provisions for both domestic and FFEs, with the purpose to shift its administration from contract based control to enterprise based one, and from handwritten to electronic notes, and the scope of its application is directed to control of the Processing Trade Commodities, and involves the administration of the registration notes. The new Measures expressly provide that the Processing Trade Commodities include wastes thereof, while for the first time the new Measures stipulate the practical details of the contract notification, such as the definition for the issuing period of the Process Trade Notes as "within the 5 business days from the date of accepting the filing of notification", the express provision of 5 reasons for refusal of contract notification, and the stipulation of the 6 reasons requiring the bond security. Furthermore, it requires the Customs to provide a written notification in the event of its refusal of contract notification, and its collection of the security bond.</p> <p>- On 21 November 2008, MOFCOMGAC promulgated Notice to provisionally suspend from 1 December actual payment of BGBLS for Process Trade on 1,853 of export goods and 2,125 items import goods. (Notice No.97 [2008])</p> <p>- On 2 July 2014, MOF, GAC, and SAT promulgated Notice No.37 [2014] on canceling the bonded policies for steels imported under processing trade for 78-items of steel products, levying customs duty, etc.</p>		
		(2)	Delays in the Deliveries in and out of Bonded Zone	<p><b>- Depending upon regions, FFEs must put up with approx. one-week cargo retention: 2-3 days for INTO the bonded zone, and additional 2-3 days for out of the bonded zone. Upon filing application for the customs declaration, it is necessary for the applicant to type HS code, product description (in Chinese), and quantity, in addition to typing the entire details into the customs computer. It takes further full 1-2 days for the applicant to receive the licence. The prolonged delay in cargo movement compels hiatus in the economic activity.</b></p> <p><b>Substantive issues (individual case examples)</b></p> <p>-- <b>Weekend customs clearance at central-western airports:</b> While the customs clearance operation is open during the weekend (Saturdays and Sundays) at the Eastern China airports, offices are open only for half a day for customs clearance. Although overtime application is accepted, in effect, it prolongs the lead-time for movement of the imported goods.</p> <p>-- <b>Numerous customs:</b> Numerous customs are located in the same region. (Example) As a result, in-bond cargo movement becomes necessary between the 2-warehouses in the same area, which is a factor that necessitates a longer lead-time.</p> <p>-- <b>Dilly-dallying customs clearance procedures:</b> Customs inspection impacts the most among the factors that prolongs the customs clearance procedures. When customs inspection takes place, normally, imported cargoes must tarry for 1-2 days at minimum.</p>	<p><b>- It is requested that GOC streamlines and expedites the customs clearance procedures.</b></p>	

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			<p>-- <b>Delayed data processing at customs procedures (Waigaoqiao):</b>  <b>In the Waigaoqiao free trade pilot zone, data processing for cargo acceptance lags behind the physical cargo arrival. It interferes with the immediate shipment of the arrived cargoes.</b></p> <p>- <u>Emergency parts imported from Japan cannot be shipped out to customers that operate on 24-hours basis at once, as it takes much time for stock registration. While some improvement has been achieved in some areas such as Shanghai Comprehensive Free Trade Zone, the big gap remains in each bonded zone. It is felt that a wide room remains for further improvement, hand in hand with the expanding business regions.</u></p>	<p>- It is requested that the Customs will <u>permit stock registration in the bonded zone after the goods are delivered out of the bonded zone.</u></p>	
	(3)	Excessively Low Allowable Rate of Loss on the Subject Materials	<p>- <u>Allowable rate of loss for resin material in bond (of less than 3%) is unrealistically low. In actual process, about 10% is the realistic rate. The loss during processing is now taxable.</u></p>	<p>- It is requested that GOC raises the <u>allowable rate of loss.</u></p>	
	(4)	Restrictions on Lease/Rental of Machinery and Equipment in EPZ	<p>- <u>GOC restricts lease/rental of machinery and equipment in EPZ so that machinery and equipment cannot be transported into EPZ in the name of lease or rental. (Customs clearance must be made as purchase of commodities.)</u></p>	<p>- It is requested that GOC authorises <u>lease or rental of machinery and equipment also in EPZ, the same as the other Zones.</u></p>	Provisional Measures for Administration of Export Process Zones
	(5)	Complex Procedures for Carry Out of Waste Assets from Export Processing Zones	<p>- <u>For disposal of waste assets, pursuant to customs formalities, Customs requires receipt ("Fapiao") of the past purchase of the assets in concern. Applicant must expend much work time to retrieve Fapiao for the old assets. In some cases, they are unable to dispose of the waste assets in a timely manner.</u></p>	<p>- It is requested that GOC facilitates <u>the procedures by accepting data from account ledger/or electronic accounting data in lieu of Fapiao.</u></p>	
	(6)	Nebulous Procedures for Cargo Transfer in Bond	<p>- Nebulous Scheme applicable to bonded zone. By right, transfer of products in bond from one city to another domestically that is authorised to GOC/GAC, as it stands, is not allowed in private sectors. Denial of cargo transfer in bond from one city to another domestically substantially hampers private sectors' rationalization effort by mixed cargo loading, etc., while certain transport routes and transport vehicles are unavailable for in bond cargoes.</p>	<p>- It is requested that GAC expands the customs scheme to cover the regional cities by assuring the total uniformity and thoroughness.</p>	Domestic In-Bond Transfer Scheme for Bonded Cargoes in PRC
	(7)	Shanghai Pilot Free Trade Zone	<p>- <b>A Member Firm has established a joint venture overseas tourist company in the Shanghai pilot free trade zone (in October 2013). While the JVC so established has filed application for the licence for overseas travelling service departing from PRC, no guideline on the permit standard and the requisite period for the licence issuance is available as yet. The JVC so established remains unable to organise its business plan.</b></p>	<p>- It is requested that GOJ builds up a <b>domestic organisation with the ability to transmit the unified information.</b></p> <p>- It is requested that GOC clearly identifies the various standards.</p>	Notice of the State Council on Issuing the Framework Plan for China (Shanghai) Pilot Free Trade Zone



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			<p><b>(Actions)</b></p> <p>- "Notice of the State Council on Issuing the Framework Plan for China (Shanghai) Pilot Free Trade Zone (CSPFZ)" promulgated by the end of September 2013, sets forth the specific purposes for transformation of government functions: formation of new economic management system, facilitation of foreign trade/investment, and search of directionality for further reform and liberalisation. Reform measures including the Foreign Investment Negative List administered in CSPFZ, streamlining of customs clearance procedures, etc. have gradually spread into Central and Local Governments, such as National Development and Reform Commission, Chengdu City, Sichuan Province, Wenzhou City, Zhejiang Province.</p>		
	(8)	Changes in Personnel Related Application / Examination in SEZ	- <u>A member firm's subsidiary (MFS) is located in Tianjin Economic Development Area (TEDA). To this date, MFS's personnel related scheme and examination have been made under the rules in TEDA. The change in the scheme, effective since 2011, has empowered Tianjin City to administer the scheme uniformly, enabling the processing of all filings and examinations in Tianjin City. Some changes have taken place in the degree of applying the system, requiring MFS to take responsive actions.</u>	- <u>It is requested that GOC makes it possible to conduct various registrations and application work also in Tianjin Economic Development Area (TEDA).</u>	
	(9)	<u>Complex Procedures to add Items in the Scope of Business.</u>	- <u>While Negative List in the Shanghai Pilot Free Trade Zone (Shanghai PFTZ) is available, the procedures are complex for an enterprise in Shanghai PFTZ to add an item in the scope of its business.</u>	- <u>It is requested that GOC simplifies the application procedures.</u>	
	(10)	<u>VAT in the Bonded Zone</u>	- <u>GOC passes over to FFEs, VAT relative to Bonded Warehouse/Transport Service (Warehousing 6%, Domestic Transport 10%).</u>		
11	Restriction on Profits Remittance Abroad	(1) Restricted Remittance Overseas for the Non-Trade Consideration, Service Fees, Royalty, Etc.	<p>- <b>External remittance procedure for non-trade transactions on royalty for technical licencing at its centre is quite complex. It involves licences of plural ministries and agencies, including bureau of commerce, national administration of copyright, trademark office, and state intellectual property office, in addition to the bank's external remittance licence. Compared to leading countries, these GOC's requirements on registration are excessively burdensome.</b></p> <p>- <u>From time to time, taxation bureau disapproves MFS's remittance to Japan for royalties under technical licencing agreement provided by its parent in Japan. In PRC, where the amount of such remittance exceeds 5 million USD, the applicant needs to visit Administration of Taxation (AOT) to obtain stamps in acknowledgement of the receipt of the payments for withholding tax, royalty fees, etc. In addition, another visit to administration of foreign exchange is necessary to obtain the remittance permit. Despite the completion of tax payment, in one case,</u></p>	<p>- It is requested that GOC:</p> <p>-- streamlines the remittance procedures for non-trade transactions (especially, royalty fees under technical licence agreement), and</p> <p>-- clearly identifies the relations by and among the various schemes.</p> <p>- <u>This is the case that should be raised in a formal investigation for transfer pricing taxation. It is requested that AOT refrains from halting the individual remittance.</u></p>	<p>- Trademark Law, Article 40(3)</p> <p>- Regulations on Administration of Import and Export of Technologies</p> <p>- Measures for the Administration of Registration for Patent Licence Agreement</p> <p>- Measures for the Administration of Registration for Technical Agreement</p>

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			<p><u>due to the tax authority's refusal of the stamp on remittance application, there was a case in which remittance had been suspended for two years in the amount of 1.7 billion approx. AOT took the position that the Member Firm's Subsidiary having operated in negative profit is not qualified for remittance in huge amount as royalty payment (in Wuxi).</u></p> <p><u>- A Member Firm experienced time consuming, complex payment procedures in the case where technical service was provided to a Member Firm's Subsidiary (MFS) without transferring Intellectual Property Right (IPRs).</u></p> <p><u>- From time to time, Administration of Foreign Exchange (AOFE) suspends MFS's payment to member firm made in foreign currency in an arbitrary, nebulous manner in total absence of clarity.</u></p> <p><u>- Administration of Foreign Exchange (AOFE) strictly controls remittance abroad so that AOFE's approval is hard to obtain. It results in collection delay in Japan.</u></p>	<p><u>- For the benefit of business development on mutual parties, it is requested that GOC clearly identifies the taxation and overseas remittance procedures.</u></p> <p><u>It is requested that GOC:</u></p> <p><u>--repeals the restrictions to the extent possible, if not,</u></p> <p><u>--enhances transparency.</u></p> <p><u>It is requested that GOC deregulates the regulation on foreign remittance.</u></p>	
			<p><b>(Actions)</b></p> <p>- In PRC, foreign exchange current transactions items are subject to examination by designated foreign exchange banks. On-line examination is made on foreign trade items under the export/import current transactions collation system (husuo-zhidu), while non-trade items are subject to examination by submitting the examination materials to designated foreign exchange banks. Furthermore, foreign remittance made on account of non-trade items of current transactions could be subject to supervisory inspection by State Administration of Foreign Exchange (SAFE).</p> <p>Where single payment exceeds the amount equivalent to USD30,000 on non-trade items for provision of service by foreign enterprises or foreign individuals on account of service trade revenues, dividends, share-outs, profits, finance lease fees, revenue from transfer of fixed assets, revenue from transfer of equity interest, remuneration for labour by individuals residing abroad, etc., SAFE and State Administrations of Taxation require submission of "certificate of taxation", which may be obtained by first filing application to the competent taxation bureau for final submission to the presiding local taxation authority.</p> <p>"Application form for taxation certificate required for payment of foreign exchange on service trade, etc." must accompany copy of contract or the minutes of consultation, receipt or invoice, tax payment certificate, etc. In the event where the presiding taxation authority denies rationality of payment for royalty, service fees, and interest, external remittance is not possible.</p> <p>- Under Circular of the State Administration of Foreign Exchange (SAFE) and the State Administration of Taxation (SAT) on relevant issues concerning the pilot implementation of archival filing of taxation on external payments for trade in services (No.8 [2008] of SAFE), SAFE and SAT decide to practice pilot implementation in such six regions as Tianjin, Shanghai, Jiangsu, Sichuan, Fujian and Hunan (Pilot Regions) from April 1st, 2008, to implement the administrative measures of archival filing of taxation prior to the external payment for trade in services. When a domestic institution registered in a pilot region handles an external payment for trade in services which is equivalent to the amount of more than USD 50,000 (not including USD 50,000) at a designated foreign exchange bank in a pilot region</p>		

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			<p>(bank), it shall, in advance, file for archival purpose with the competent state taxation authority within the jurisdiction with the photocopies of relevant contracts, fill out and submit the table of archival filing of taxation on external payment for trade in services for domestic institutions.</p> <ul style="list-style-type: none"> <li>- Remittance abroad of royalty requires firstly registration of the technical licence agreement with the Commercial Department of the local government, receipt of proof of payment for business tax from the taxation authority, and finally, the receipt of the licence for remittance abroad issued by SAFE. In this fashion, layer after layer of administrative check up is involved for bringing out foreign currency abroad.</li> <li>- Since unification in 2008 of the enterprises income tax rate at 25% for both foreign funded enterprises and domestic enterprises in 2008 under the PRC Enterprises Income Tax Law, by the merger of the two laws, the taxation authority tends to deny royalty payments to related parties.</li> <li>- "Agreement among GOJ,GOK and GOC for the Promotion, Facilitation and Protection Of Investment" has signed on 13 May 2012 and in Article 13 Thereof provides for obligation to secure the freedom of remittance and establishment of the approval deadline for remittance procedures.</li> <li>- Technical import agreement requires registration of contract at Ministry of Commerce (MOC). Unless accompanied by the Contract Registration Certificate, remittance abroad of the consideration for the technical licence fee, etc. is disallowed, provided, however, that, after 1 September 2013, the remittance abroad of the consideration for the technical licence fee is made possible without presentation of the contract registration certificate. (Article 6 of "Detailed Rules for Guiding Foreign Exchange Control on Trade in Service." Promulgated on 18 July 2013).</li> <li>- On 17 May 2014, Japan/China/ROK Investment Treaty entered into force. Article 13 specifies the obligations to secure freedom of remittance and the deadline for approval of remittance approval.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- On 1 September 2013, GOC deregulated the requisite procedures (submission of contract to the State/Local Administration of Taxation (SLAT), Declaration for payment to banks before remittance, certification of tax payment, remittance from the banks authorised for foreign exchange) concerning external remittance on technical instructions fees, service fees, etc. As a result, (1) The maximum amount requiring prior notification to SLAT has been reduced from USD 50,000 to USD 30,000, and (2) submission to bank of certification of tax payment upon external remittance has become no longer necessary, (excepting Notification, which must be submitted).</li> </ul>		
	(2)	GOC's Demand for Reduction in Royalty Rates	<p><u>The subsidiary of our member firm was summoned by MOC for reduction in the royalty rate without any justifiable reason (as far as the party to the licencing agreement was concerned), despite the fact that examination of technical licence agreement has been shifted to a mere registration. In effect there has not been a single case where the rate has been changed. However, it has wasted much time, resulting in delays in payment.</u></p> <ul style="list-style-type: none"> <li>- GOC intervenes on the royalty rate under the technical licence agreement. It makes it practically impossible to raise the royalty rates to the level comparable to other countries.</li> </ul>	<p><u>It is requested that GOC refrains from executing de facto examination of technical licence agreement for which no examination is legally required.</u></p> <ul style="list-style-type: none"> <li>- It is requested that GOC improves the state of affairs to allow the licensors' retrieval of the proper consideration for the technical assistance.</li> </ul>	<p>Regulations of the People's Republic of China on Administration of Import and Export of Technologies SC[2011]No.331 Issued on 10 December 2001 &amp; amended on 8 January 2011, Article 17</p>

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			<p><b>(Actions)</b></p> <p>- On 28 April 1993, "Guideline for Signing Technology Import Agreement and its Examination and Approval Principles" was repealed. The Guideline provided that the running royalty must not be higher than 5% on net sales amount, and not higher than 20% of the net profit generated by the contract goods. Nevertheless, it is said that these requirements persist to certain extent to this day even after the repeal of the guideline.</p>		
	(3)	<u>Additional Tax Collection, Penalty on Royalty Fees for Use of Trademark</u>	<p>- AOT directs Member Firm's Subsidiary (MFS) to add to the price of parts and materials imported from its parent (member firm) the amount of royalties for the manufacturing know-how that MFS pays to member firm. Extension of tax consequences to the parent is a matter of concern. <u>"Royalty fees for manufacturing know-how" should concern only the finished products, NOT the imported materials.</u></p> <p>- <u>Customs duty levied on materials and parts, royalty on imported machinery and equipment, royalty on trademark usage, and imposition of fines... Regional differences exist in these matters.</u></p>	<p>It is requested that GOC conducts its customs duty valuation in accordance with the international standard.</p>	<p>- <u>GAC Order (No. 213) Articles 11, 12, 13</u></p> <p>- <u>Measures for Assessment and Determination of Taxable Price On Import/Export Commodity (2006)</u></p> <p>- <u>Customs Regulation on Evaluating Licence Fees for Imported Cargoes (2003)</u></p>
12 Exchange Controls	(1)	<b>Stringent Control on External Remittance and its Complex Procedures</b>	<p>- State Administration of Foreign Exchange (SAFE) requires completion of <u>the system registration procedures for external remittance from the account pending examination before the capital move to the current account. It takes one day for capital move, with a possibility of payment delay.</u></p> <p>- <u>While the taxation bureau allows external remittance of non-trade payment (consultant-fee) more than 50,000USD after filing application. However required documents for the audit remained uncertain, it makes difficult to accept the audit on normal business days</u></p> <p>- <u>While State Administration of Foreign Exchange (SAFE) has been deregulating restrictions on receipt and payment in RMB, and in foreign exchange, the fact remains that SAFE continues to compel inconveniences in various ways, by way of conversion into RMB, remittance in foreign currency for advance made, relative to the procedural matters, etc. and in many circumstances.</u></p> <p>- <u>Since 1 August 2012, GOC has deregulated international trade transactions, provided, however, that procedures such as verification of truthfulness, and crosscheck at customs clearance remain vexatiously complex and severe.</u></p>	<p>- It is requested that SAFE:</p> <p>-- <u>cuts down the time required for capital movement (previously 30 minutes), and</u></p> <p>-- <u>simplifies the procedures.</u></p> <p>- It is requested that GOC deregulates the restrictions and streamlines the procedures.</p> <p>- It is strongly requested that GOC:</p> <p>-- <u>liberalises in principle remittance in foreign currency to foreign funded enterprise, and</u></p> <p>-- <u>simplifies the procedures.</u></p> <p>- It is requested that GOC:</p> <p>-- <u>deregulates restrictions and</u></p> <p>-- <u>streamlines the procedures.</u></p>	<p>- Regulation on Foreign Exchange Settlement Administration, etc.</p> <p>- Foreign Exchange Control Act</p> <p>- Notice of SAFE on Matters concerning the Issuance of Foreign Exchange Administration Rules for Trade in Goods (HuiFa [2012] No.38)</p> <p>- <u>SAFE "Detailed Rules for Advancing the Implementation of Pilot Administrative Guidelines on Foreign Exchange Control for Trade in Goods"</u></p> <p>- <u>Notice of SAFE on</u></p>

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						<p><u>Issuing Service Trading Foreign Exchange Pilot Administration Rules (Huifa [2013]No.40)</u></p> <p>- Regulation on Foreign Exchange Control, PBC Shanghai Branch Office "Response to Shanghai Banking Industry issued on 12 June)", etc.</p> <p>- Notice of SAFE on Further Improving and Adjusting Foreign Exchange Administration Policies for Direct Investment (19 November 2012)</p>
				<p><b>(Actions)</b></p> <p>- Since July 2005, People's Bank of China (PBC) has introduced managed float system in its foreign exchange. However, to be ready for the world financial crisis, since September 2008, it has reverted to the fixed rate pegged at USD1.00 = RMB6.8.</p> <p>- On 5 August 2008, GOC amended and enforced "Regulation on Foreign Exchange Control (RFEC)", tightening its control and supervision on foreign exchange over the enterprises making settlement of accounts in foreign exchange and the foreign exchange banks. On the other hand GOC deregulated its control on outflow of foreign currency. The Amended RFEC permits holding of foreign currency revenue offshore under certain conditions, repealing the requirements for conversion into RMB the total foreign currency gained, while enabling the holding of foreign currency gained in the normal course of business.</p> <p>- On 19 June 2010, PBC released its policy of further promoting the reform of RMB foreign exchange rates and enhancing resiliency of RMB foreign exchange rates, switching from the fixed foreign exchange rate system (against U.S.\$) to the floating exchange system with reference to the currency basket.</p> <p>- Since August 2012, the pilot reform of the foreign exchange administration system for trade in goods has been implemented nationwide, introducing the system that includes: (1) move of monitoring system for foreign exchange relative to trade in goods, (2) move to total volume supervision through the system for settlement of foreign exchange, (3) classified control of export/import enterprises into A, B, and C, corresponding to compliance rule in provisions of foreign exchange administration, (4) off-site and on-site inspections by collation of export/import customs clearance data against non-trade income and expenditure in total volume, and (5) on site inspection.</p> <p>- On 6 December 2013, State Administration of Foreign Exchange (SAFE) promulgated "Notice on Issues concerning Improving the Foreign Exchange Administration of Trade Financing Business of Banks" (WaiHuiFa No. 44[2013]), in order to guard against inflow of "hot-money", holding banks responsible for ensuring the veracity and legality of receipts and payments under trade of enterprises (foreign trade financing), especially with usance in excess of 90-days.</p>		

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				<p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- On 5 August 2007, Regulation of PRC on Foreign Exchange Administration (2008) was amended to expressly provide: "International payments in foreign exchange and the transfer of foreign exchange under the current items shall not be subject to any state control or restriction" (Article 5). Thus "the current items concentration system" was repealed.</li> <li>- Effective 6 July 2009, GOC has started settlement of trade in goods in Renminbi between Hong Kong and PRC. The settlement of account in Renminbi is possible for only the trade between the enterprises authorised by GOC located in Shanghai, Guangzhou, Shenzhen, Dongguan and Zhuhai and Hong Kong, Macao and ASEAN countries.</li> <li>- On 17 June 2010, PBC and 5-other governmental organisations promulgated their policy titled, "Notice on the Relevant Issues Concerning the Expansion of Pilot RMB Settlement in Cross-border Trade" [PBC [2010] No. 186]. This Notice has expanded the settlement in RMB, which were permitted only on transactions between certain regions/countries, to all regions and countries, adding 18 Provinces (Autonomous regions and municipalities directly under the government control) in the pilot test programme for this measure. This expansion plan GOC has introduced as the internationalisation strategy of RMB is a significant measure after the pilot plan (from December 2008 through July 2009) that covered the limited municipalities.</li> <li>- Implementation on 1 December, 2010 of "Notice on Issues Concerning the Reform of the Verification of Foreign Exchange Payments in Import Trade" has dispensed with the need for case by case collation of import cargoes.</li> <li>- Since 1 January 2011, exporters satisfying certain conditions are permitted to hold in their overseas banks' accounts foreign currency revenue gained as cost of goods exported in the original currency, without requiring conversion into RMB.</li> <li>- As an improvement, it can be cited that settlement in RMB has now become possible between the parties in PRC and Japan.</li> <li>- On 24 August 2011, by "Notice on Expanding the Regions Supporting RMB Settlement in Cross-border Trade" (Yinfa[2011]No.203), the applicable regions for RMB settlement have been expanded nationwide in PRC. Furthermore, since 3rd February 2012, all enterprises have enabled to settle in RMB the consideration of export goods ("Notice on the Relevant Issues Pertaining to Administration over enterprises engaged in RMB Settlement of Export of Goods" was promulgated (Yinfa[2012]No.23)). This Notice has enabled foreign funded enterprises incorporated in PRC with import/export settlement of accounts to conduct the exchange in RMB in cross border transactions.</li> <li>- On 1 December 2011, pursuant to Announcement No. 2 [2011] of SAFE, SAT and GAC on "the Pilot Reform of the Foreign Exchange Administration System for Trade in Goods", its guidelines, and implementing rules, GOC implemented discontinuation of the collation system for proceeds from export trade in goods in the pilot regions.</li> <li>- Since 1 August 2012, GOC has discontinued the collation system nationwide on the export revenue and import payment, in each case in foreign currency, shifting into classified administration by enterprises (A, B and C classes). The simplified procedures for receipt and payment of foreign currency will apply to A class enterprises (found to be observing the compliance programmes with the record of orderly export/import procedures), where more rigorous procedures will apply to enterprises in B/C classes. GOC has shifted its administrative method from inspecting all applications to monitoring, whereby GOC inspects only the cases where abnormal numbers are detected for the record. ("Announcement of the SAFE, GAC and SAT on Reforming the Foreign Exchange Administration System for Trade in Goods", Huifa No. 1 [2012])</li> </ul>		

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				<p>- On 1 August 2012, GOC discontinued the procedural collation requirement under the credit control registration system on the credit balance arising from the deferred import payment exceeding 90-days, and the advance payment received on export. GOC, alternatively introduced reporting requirement as regards external non-trade payments, including advance over 30-days, prepayment, collection of usance over 90-days, deferred payment, L/C payment with usance of more than 90-days, accompanied by establishment of certain threshold, such as the balance ratio of pre-payment received, advance payment made, collection with usance, and deferred payment, so that on-site verification takes place in cases where such threshold is exceeded. "Notice on Matters concerning the Issuance of Foreign Exchange Administration Rules for Trade in Goods (Huifa[2012]No.38)".</p> <p>- On 24 July 2013, State Administration of Foreign Exchange (SAFE) promulgated Notice on Simplifying the Exchange Control relative to Trade in Service. (Huifa[2013]No.30).</p> <p>(1) In lieu of the Competent Authority, Financial Institution shall directly examine exchange control on trade in service.</p> <p>(2) Examination on Transaction Certificate is not required on small Trade in Service in the amount not exceeding USD50,000.</p> <p>(3) The existing examination regulations amounting to a few dozens in kind on other transactions shall be streamlined and integrated, while the names of the presiding institutions, and the examination requirement shall be repealed for the majority of the submitted documents. Tax Certificate requirement for the receipt and payment in Foreign Currency shall be discontinued.</p> <p>(4) "Exchange Control Guidelines for Trade in Service" and its "Detailed Rules for Implementation" shall be stipulated. These shall replace and repeal the existing relative laws, regulations and documents, counting more than 50 in number. Systematic, clear-cut and transparent legal basis shall be provided for exchange procedures focused on external operations on account of trade in service.</p> <p>(5) Restrictive terms for depositing foreign currency revenue from trade in service by the domestic financial institutions shall be deregulated, permitting groups of an enterprise to concentrate externally outside PRC their deposit in foreign currency gained from trade in service.</p> <p>(6) Two-way monitoring shall be reinforced for inflow and outflow of foreign currency fund by trade in service for effecting macro analysis (analyzing the system as a whole), while relative to the mid area monitor, establishing a non-field supervisory system closely tied to micro analysis (analyzing each individual part of a system), and beefing-up the risk control by secondarily providing on-site check and inspection as necessary.</p> <p>- On 11 June 2014, with the view to support stable development of External Trade, The People's Bank of China announced its polity to implement measures to expand enterprises' fund procurement roots, approval of settlement of account in RMB for personal foreign trade, improvement in the formation mechanism of the RMB foreign exchange rate, etc.</p> <p>- Under the steering of SAFE, the DATA sharing has made a fair progress, streamlining procedures, such as remittance, money receipt, and VAT refund.</p> <p>- State Administration of Foreign Exchange (SAFE), which had run a pilot programme against selected multi-national enterprises in China Pilot Free Trade Zones in Beijing and Shanghai to concentrate the group foreign currency fund management through the designated foreign and domestic banks, promulgated on 8 April 2014 "SAFE Notice on issuing the provisions on the centralized operation and management of foreign exchange funds of multinational companies" (for Trial Implementation) No. 23 [2014], and has expanded the Pilot Programme nation-wide since 1 June 2014.</p>		

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	(2)	Restricted Conversion of the Capital Fund in Foreign Currency into RMB	<p>- <u>In various situations, such as conversion of RMB into other currency, foreign currency external remittance for expenses paid by MFS on behalf of MFS's parent in Japan, it takes time and cost for observance of due payment date, applicable regulation, etc., a factor that reduces the operational efficiency.</u>  <u>Example: External remittance is not allowable, pending completion of the tax payment in full.</u></p> <p>- <u>In regard to conversion of the capital fund in foreign currency, such conversion has become possible in pilot free trade zone by Shanghai Huifa [2014] No.26 and in certain specified zone by Huifa [2014] No.36.</u></p> <p>- <u>As regards FFEs' free conversion into RMB of the capital fund in foreign currency for reinvestment in PRC, which was prohibited to FFEs, Shanghai Huifa No. 26 [2014] has enabled such reinvestment within the China (Shanghai) pilot free trade zone. Furthermore, Huifa No. 36 [2014] expanded the zones under the SAFE branches (to include Liaoning, Jiangsu, Hebei, Jiangsu, Sichuan, Beijing, Chongqing, Guangdong, Zhejiang, Heilongjiang, Fujian, Sizhou, Shenzhen, Guangxi, Qingdao, and Guizhou), limited only, however, to foreign funded enterprises investment companies in the specified regions.</u></p> <p>- <u>An enterprise operating in PRC is unable to collect in foreign currency the expenses advanced in RMB on behalf of FFEs. If such advance payment is collected on account of service fee, etc. under contract, the amount so collected will attract business tax levy.</u></p>	<p>- <u>It is requested that GOC deregulates and simplifies restrictions.</u></p> <p>- <u>It is requested that GOC deregulates the restrictions further to enable such conversion throughout the entire PRC States.</u></p> <p>- <u>It is requested that GOC effects further deregulation as follows:</u>  <u>(1) FFEs (both investment enterprises and general foreign investment enterprises alike) are allowed to enjoy the deregulation throughout PRC.</u>  <u>(2) FFEs (both investment enterprises and general foreign investment enterprises alike) may invest out of the RMB fund procured domestically in PRC.</u></p> <p>- <u>It is requested that GOC approves expenses advanced in RMB reimbursed in foreign currency.</u></p>	<p>- <u>Supplementary Notice of the General Affairs Department of the State Administration of Foreign Exchange on the Relevant Operating Issues concerning the Improvement of the Administration of Payment and Settlement of Foreign Currency Capital of Foreign-funded Enterprises (07-18-2011)</u>  <u>WaiHuiFa (SAFE) No. 88 [2011]</u>  <u>SAFE No. 142 [2008]</u>  <u>SAFE No. 88 [2011]</u>  <u>Regulation on Foreign Exchange Administration "Reply to Shanghai Banking Association"</u>  <u>Notice of SAFE on Further Improving and Adjusting Foreign Exchange Administration Policies for Direct Investment (SAFE [2012])</u>  <u>Regulation on Foreign Exchange Administration, etc.</u></p>



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			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- By repeal on 13 May 2013 under "Notice of SAFE on Reform of the Administration of Foreign Exchange Capital Surrender under Foreign Investment" No.59 [2002], the SAFE approval has been no longer required for the capital fund conversion into RMB, provided, however, that examination and approval as required by SAFE must be obtained from the authorised foreign exchange bank used for conversion of the capital fund into RMB.</li> <li>- In recent years, under the PRC SAFE Scheme, a substantial deregulation has taken place on the current account items (relative to mainly foreign trade in goods and services). However, on capital account items (capital transfer, direct investment, securities investment, financial derivatives, loans, etc.), the most severe controls remain, excepting enterprises in the China Pilot Free Trade Zones, such as Tianjin Haibin New Zone, Shenyang Economic Zone, Suzhou Industrial Park, etc., where the pilot programme applies. Furthermore, even within the Pilot Programme Zones, The funds secured by free conversion of the capital fund into RMB remain being subject to severe restrictions, such as the deposit method, and the scope of the expenditure. Utmost care should be exercised, as any violation on foreign capital fund into RMB is subject to the most severe penalties.</li> <li>- <u>On 8 April 2015, SAFE promulgated "Notice on Reforming Administrative Measures on FFEs' Conversion of Capital Fund into RMB" (Huifa[2015]No.19), which allows, from 1 June 2015, foreign funded investment enterprises' "free conversion of capital exchange into RMB" (Free conversion of the total amount into RMB obviating the need for evidence submission). Furthermore "Notice No. 19" has enabled previously denied conversion into /payment in RMB for equity investment, payment of guarantee funds, cross border settlement in RMB, repayment in RMB of foreign debts.</u></li> </ul>		
	(3)	Difficult Remittance of Expatriates' Wages Paid in Japan	<ul style="list-style-type: none"> <li>- <u>By enforcement from 1 September 2013 of "Notice of SAFE on Matters concerning the Issuance of Foreign Exchange Administration Rules for Trade in Services (Huifa [2013] No.30)" and "Announcement of SAT/SAFE on Issues concerning Taxation Recordation for Foreign Payments under Trade in Services and Other Items (Announcement No. 40 [2013])", our member firm experiences much difficulty in remitting PRC of wages paid in Japan to its expatriates, as the competent authority would not accept the member firm's preliminary draft plan.</u></li> <li>- <u>Parent company (Member Firm) in Japan is obligated to pay social insurance premium (as to the portion payable by individual employees) on behalf of its expatriates to Member Firm's Subsidiary (MFS) in PRC. Should the expatriate choose to work in PRC alone, without any accompanying family members, payment of a portion of salaries, etc. to the left family members by way of advance money also becomes necessary. However, such remittance for advance (by way of repayment) by MFS, a local corporation, to its parent (Member Firm) is not necessarily allowed throughout PRC. It is possible in some, but not in other districts. Announcement of the SAT Notice (commonly named "Notice No.19") clearly authorises MFS' remittance (a portion of salaries etc.) to its parent</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>Overhaul of the implementing rules is necessary prior to issuance of legislation.</u></li> <li>- <u>It is requested that SAFE authorises remittance from PRC of the advance of salaries, etc. made by parent company in exchange for presentation of some evidential documents.</u></li> </ul>	<ul style="list-style-type: none"> <li>- Notice of SAFE on Matters concerning the Issuance of Foreign Exchange Administration Rules for Trade in Services (Huifa[2013]No.30)</li> <li>- Announcement of SAT/SAFE on Issues concerning Taxation Recordation for Foreign Payments under Trade in Services and Other Items (No.40 [2013])</li> <li>- Announcement of the STA on Relevant Issues concerning Levying Enterprise Income Tax on the Services Provided</li> </ul>

Category	No	Issue	Issue Details	Requests	References
			<p><u>(Member Firm), in apparent contradiction to the going practices on foreign exchange.</u></p>		<p>within China by the Personnel Dispatched by Non-resident Enterprises [2013] Notice No.19</p>
	(4)	<p>Difficulty in Debtors and Creditors Offset</p>	<p>- <u>Our member firm, the Head office in Japan, pays service fees to its subsidiary in PRC (MFS), while MFS pays guarantee fees on bank loan to its parent (member firm). From time to time, bank charge for remittance exceeds the guarantee fees. Because settlement by offset of debtors and creditors account is disallowed, member firm incurs irrational cost in PRC.</u></p> <p>- <u>Settlement of debtors/creditors account by offset is disapproved, with the resultant accrual of irrational costs and expenses.</u></p> <p>- <u>As it stands, a Member Firm is able to book and execute exchange contract only for payment, as it is unable to book and execute exchange contract for receipt commensurate with the expected fund received in the currency noted on the book.</u></p> <p>- <u>State Administration of Foreign Exchange (SAFE) effectively halted acceptance of applications for cross border foreign currency pooling against the state wide multi-national enterprises.</u></p>	<p>- <u>It is requested that SAFE liberalises restrictions on reasonable settlement of debtors and creditors account by offset.</u></p> <p>- <u>It is requested that GOC allows debtors/creditors offset account between parent and subsidiary.</u></p> <p>- <u>It is requested that GOC broadens the scope for foreign exchange contract as stated in the left column.</u></p> <p>- <u>It is requested that GOC resumes acceptance of new applications.</u></p>	
	(5)	<p><u>90-Days Rule on Remittance from Abroad</u></p>	<p><b>(Improvement)</b></p> <p>- <u>On 18 April 2014, SAFE promulgated "SAFE Notice on Issuing the Provisions on the Centralized Operation and Management of Foreign Exchange Funds of Multinational Companies (for Trial Implementation)" (WaiHui No. 23 [2014]), as from 1 June 2014, expanding nationwide the application of the pilot program for an intensive operation and management of the foreign currency fund within each group through accounts at the designated foreign and domestic banks. By virtue of this SAFE Notice, it has become possible for the multinational companies, both domestic in PRC and abroad, to setoff inter-member enterprises debtors and creditors accounts, dispensing with the commissions for cross-border settlement of accounts, as well as the commissions relative to foreign exchange.</u></p> <p>- <u>Failures to receive remittance as considerations for the goods exported within 90-days after the date of export, the subsequent remittance from overseas becomes extremely difficult. Certain Japanese firms outside the Member Firm's group (whose payment terms are 90-days or more) face severe difficulty in running its business.</u></p>	<p>- <u>It is requested that GOC (GAD/SAFE) deregulates or repeals the 90-days rule.</u></p>	<p>- <u>Notice of GAD/SAFE on Distributing the Operating Guidelines for the Trade Credit Registration Management System (Deferred Payment Section)</u></p>

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	(6)	<u>Restricted Foreign Currency Remittance upon Local Sub-Contractors' Overseas Procurement</u>	- A Member Firm subcontracting Chinese enterprises (including its own JVC company) faces restrictions on foreign currency remittance. It is unable to procure foreign currency for the goods domestically produced in PRC. A Member Firm faces inconveniences out of the Consortium, formed by compulsion, with a PRC enterprise, with off/on portion provisions, which do not reflect the actual state of affairs, with ambiguous definition of the responsible party, inconvenient to customers, as well.	- It is requested that GOC repeals restrictions on foreign currency remittance as regards transactions with foreign funded enterprises.	
	(7)	<u>Restricted Actual Demand Based Forward Exchange Contract</u>	- Due to the rigorous principle of the actual demand principle of the Forward Exchange Contract (FEC), contracting foreign exchange in excess of the actual demand position is disallowed. Upon execution of the FEC and its settlement in foreign currency, the use of plural banks in parallel is difficult in substance as it takes a complex operation including the document preparations. The receipt of the marginal profits gained from unwinding FEC involves a complex paperwork, requiring much work-time.	- It is requested that SAFE deregulates the restrictions on forward exchange contract that allows flexible forward booking of foreign exchange.	- State Administration of Foreign Exchange
	(8)	<u>Vexatiously Complex Procedures on Purposes of Usage for the Borrowed Foreign Currency</u>	- GOC strictly controls purposes of usage on the borrowed foreign currency employed for payment, and its procedures are extremely complex. The fund procured for short-term borrowing cannot be deployed for payment of machineries and equipment. Furthermore, upon execution of the borrowed fund, a thorough preparation is necessary, complete with payment invoice, customs clearance documents, and contract, tax payment certificate, preparation of which requires a lot of person/hours.	- It is requested that GOC simplifies the procedural requirement, when executing the borrowing.	
	(9)	<u>Radical Fluctuations in Foreign Exchange</u>	- As it stands, Member Firm's Subsidiary (MFS) benefits from exchange gain on a direct export transaction in yen. Nevertheless, negotiation for raise in price is difficult. In a transaction between related parties, the prevailing yen depreciation enables MFS to offer special prices to its customers. However, MFS runs on a thin margin, so that if the exchange rate swings toward appreciation of yen, it will instantly show operational loss: such is the severity of the fluctuation band.	- It is requested that SAFE will use its best efforts to maintain stability in foreign exchange, by holding the fluctuation band within the swing of a few percents in 6-months.	
	(10)	<u>Regional Gaps in Interpretation, etc. of Legislation on Foreign Exchange</u>	- Regional gaps are significant on interpretation of legislation relative to foreign exchange control.	- It is requested that SAFE will use its best efforts to narrow the regional gaps.	

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13 Finance	(1)	Nebulous Execution of Tight Monetary Policy	- <u>GOC implements control on the total loan amount by oral or written notices, guidance to the financial institutions, etc.</u>	- <u>It is requested that GOC liberalises financing business.</u>	- Various Notices
	(2)	PRC Financial Institutions' Domestic Loan Restrictions	- <u>Credit limit is enforced per bank per group of companies and per company.</u> - <u>Tightened credit/loan ratio control.</u> - <u>Reduced limit on short term foreign bond.</u>  - <u>Due to problems facing domestic banks in PRC (namely, the tightened control by the governmental authority), the severe environment prevails in PRC over borrowing in foreign currency.</u>	- <u>While the need is recognised for restricting investment into real estate and speculative investment, it is requested that GOC deregulates restrictions on business enterprises.</u> - <u>It is requested that GOC improves the environment for bank borrowing in PRC.</u>	- General Rules for Loans (issued on 27 July 1995) - GOC's Administrative Guidance to Banks - <u>Law on Commercial Banks, etc.</u>
			<b>(Actions)</b> - Foreign-funded Investment Companies (FFICs) upon borrowing from PRC domestic banks must be governed by General Rules of Loan issued on 27 July 1995, whereby such loans are restricted to financing from financial institutions such as authorised banks. Direct loans from general enterprises are prohibited. Nevertheless, FFICs may obtain loan indirectly under the form of "consigned loan", where consigners such as individuals and governmental department provide loans to such financial institution under certain specified terms and conditions. Where an FFIC obtains loan from its parent, related companies, other enterprises and/or financial institutions, GOC regards such borrowing as external loan, requiring the observance of the limit amount and completion of the external loan registration procedures. The loan amount limit for the FFICs must be within the amount, which is the difference [amount ordered] between [the total of the accrued mid-long term external bond loan in aggregate plus the accrued short-term external bond], and [the total investment amount plus the registered capital amount]. Furthermore, the total limit of external bond in the case of FFICs is determined separately commensurate with the amount of the registered capital amount. <b>(Improvement)</b> - <u>On 24 June 2015, the executive meeting of the state council approved proposed amendment of The commercial bank law, i.e., "No. 45 [2011] of SAFE on issues concerning further clarifying and regulating the foreign exchange administration under some capital accounts" that replaces "the provision limiting the lending balance/deposit balance ratio within 75%" with "the flexible monitoring index".</u>		
	(3)	Demerit from Deferment/Roll Over of Short-Term External Debt	- <u>On external debt, in the case where, due to deferment or advent of rollover position, the loan period exceeds one-year on a short-term loan of less than one-year, GOC exercises its control on the accrued amount basis, the same as the mid/long-term debt. Because of this, it becomes no longer possible to reuse the limit for the external foreign debt after completing the loan repayment.</u> - <u>In regard to the short-term operational fund, under the ruling of China banking regulatory commission (CBRC), the roll-over position is prohibited.</u>	- <u>It is requested that GOC:</u> -- <u>authorises reuse of the registered foreign exchange limit for short-term external debt, and</u> -- <u>implements rollover on short term external debt.</u> - <u>It is requested that CBRC further reviews its ruling described in the left column.</u>	- No. 45 [2011] of SAFE on Issues concerning Further Clarifying and Regulating the Foreign Exchange Administration under Some Capital Accounts

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	(4)	Stringent Requirement for Borrowing Operation Fund	<p>- <u>The existing scheme does not allow rollover, unless the prospective borrower submits documented proof of payment to the bank in regard to short-term borrowing from financial institutions of operational fund.</u></p> <p>- <u>However, in PRC, where chronic delays persist in collection of accounts receivable, it is difficult to circulate funds.</u></p>	<p>- <u>It is requested that GOC deregulates the scheme to level with other foreign countries.</u></p>	<p>Interim Measures for the Administration of Working Capital Loans</p>
	(5)	Restricted External Borrowing by FFEs	<p>- In many cases, foreign funded enterprises (FFE) confront a great hardship in fund procurement, as GOC severely controls FFEs' external borrowing.</p> <p>- Foreign funded enterprises (FFE) face the risk of inability to procure requisite fund for operation due to the "Touzhucha" cap and financial authority's control.</p> <p>- Where a foreign funded enterprise (FFE) borrows externally from its parent company, etc., the amount of the borrowing must be no more than Touzhucha (the difference between total amount invested and authorised capital).</p> <p>- If the external borrowing exceeds one year, the Touzhucha remains after completion of repayment.</p> <p>- Notwithstanding the fact that PRC is an IMF Member Country Accepting the Article VIII Obligations, SAFE restricts even lawful external payments.</p> <p>- So called "Touzhucha" that restricts the loan amount proportionate to the invested amount not only impedes FFEs' flexible investment, but tightens day to day cash flow of their operations.</p> <p><b>(Actions)</b></p> <p>- Restrictions by "Touchuzha" persist even now. However, entering into force on 13 May 2013 of "Notice concerning Promulgation of Measures on Foreign Debt Registration" (HuiFa [2013]No.19) has obviated the need for prior SAFE's examination for conversion into RMB of the foreign debt borrowed within Touchuzha, allowing direct dealing with banks to complete the procedures.</p> <p><b>(Improvement)</b></p> <p>- <u>On 25 January 2016, the People's Bank of China implemented the system that permits cross-border financing in the four pilot free trade zones, in Shanghai, Guandong, Tianjin and Fujian up to the Ceiling (RMB, Foreign Currency) based on the net total assets amount ("Notice of the People's Bank of China on Expanding All Pilot Programs of Macro Prudential Administration of Cross-Border Financing").</u></p>	<p>- It is requested that GOC deregulates the restrictions.</p> <p>- <b>It is requested that GOC:</b></p> <p>-- <b>deregulates foreign exchange control, and</b></p> <p>-- <b>repeals "Touzhucha (the difference between investment and registered investment)"</b></p> <p>- It is requested that GOC liberalises the external borrowing.</p> <p>- It is requested that SAFE controls speculative funds by a special legislation apart from the normal economic activities.</p>	<p>The Interim Provisions on the Management of Foreign Debts [2003] No.28</p> <p>- SAFE Directives/Notices Regulation on Foreign Exchange Administration and Other Rules on Foreign Exchange Control in General</p>

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	(6)	<u>Inflexible Limit of Foreign Financing</u>	- <u>The Limit of foreign financing in RMB does not revive after completion of repayment, short or long-term borrowing, regardless.</u> - <u>Rollover financing eats up the new limit of cross-border financing (CBF) after the second rollover financing.</u> - <u>To avoid reducing the limit of CBF, MFS must choose foreign currency other than RMB in lending, however, at the risk of exposure to fluctuations in foreign exchange, surfacing outright.</u>	- <u>It is requested that GOC permits reuse of the limit of foreign financing on external borrowing in RMB, after repayment.</u>		
	(7)	<u>Interest Control for Direct Group Loans</u>	- <u>Group finance company is unable to set the optimum interest rate on its direct loan to group companies.</u> - <u>The prohibition on direct lending within the group enterprises (GES) interferes with efficient financing within GES. Parent company's financing to its subsidiary in PRC is only possible with prior approval of SAFE, which requirement restricts a maneuverable financing operation.</u> - <u>As it stands, borrowing is prohibited, whereby one of the group companies acting as manager for subletting to other companies in the group.</u>	- <u>It is requested that GOC liberalises the interest rate cap (on deposit).</u> - <u>It is requested that that GOC liberalises financing by and among GES.</u> - <u>It is requested that GOC allows such subletting, limited only to companies within the group.</u>	- <u>Notice on Issuing the Administrative Provisions on RMB Interest Rates</u> - <u>State Administration of Foreign Exchange</u>	
	(8)	<u>Frustrated Fund Procurement from Bank Loan and Stock Market</u>	- <u>Up to this date our member firm's subsidiary (MFS) has procured fund from its group finance company. However, prospectively, it is likely that such fund procurement becomes no longer possible. Bank loan and fund procurement in stock market are both under tight control. Moreover, they are institutionally less than perfect.</u>	- <u>It is requested that GOC:</u> - <u>improves the FFEs' business environment (by deregulating controls), and</u> - <u>organises the Stock Market that allows FFEs' listing.</u>		
	(9)	<u>Survival of Restricted Deposit Lending Interest Rate</u>	- <u>While restriction on deposit lending interest rate by financial institutions has been deregulated in stages, transactions remain governed by the regulated interest rates of the people's bank of China (PBC). Due to the differences in interest rates vis-à-vis overseas financial institutions, the risk of tax consequences arises in the cross border transactions.</u>	- <u>It is requested that PBS further liberalises interest rates.</u>	- <u>The People's Bank of China</u>	
	(10)	<u>Administrative Scheme for RMB Foreign Loan</u>	- <u>RMB foreign loan, even for a short-term loan, is subject to control by accrued amount, which defies practical employment.</u>	- <u>It is requested that GOC repeals this requirement.</u>		
14		<u>Taxation Systems</u>	(1) <u>Unique Taxation System</u>	- <u>There are numerous special taxation systems applicable to foreign legal entities. Transfer price taxation system, loss carried forward system, etc. are different from the general taxation systems used in EU and the United States.</u>	- <u>It is requested that GOC:</u> - <u>takes step to overhaul the legislation and carries out a fair and square tax investigation, and</u> - <u>carries out tax investigation based on the taxation standard as close as possible to the global standard.</u>	- <u>Enterprise Income Tax Law</u>

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	(2)	Unjustified Share Transfer Tax	- <u>Transfer in Japan of shares in PRC enterprises is taxable in PRC (direct transfer). Transfer in Japan of shares in an enterprise that holds shares in a PRC enterprise is also taxable in PRC. (indirect transfer)</u>	- <u>It is requested that GOJ and GOC specify in the Japan-PRC Tax Treaty in such a way that the tax levy on the transfer yield between Japanese corporations accrues only on the Japanese side.</u>	
	(3)	Difficult Deduction in PRC of Withholding Tax Levied Overseas	- <u>Withholding tax of 15% levied upon consignor on revenue from development consignment in Thailand and India is not refundable in PRC so that either consignor or consignee must the tax burden.</u>	- <u>It is requested that GOC resolves the problems through International Consultation on Tax Payment.</u>	
	(4)	The competitive edge has been reduced due to imposition of high rates of VAT	- <u>Since April 2006, GOC has started to impose 20% of excise tax on goods priced at more than RMB10,000, CIF.</u> - <u>Operational profitability has declined on import of clocks, due to the heavy burdens of import duty and VAT.</u>  - <u>GOC levies 17% VAT on export of corrugated cardboard sheet (provided, however, that 13% is refunded (net 4% levy) when shipped as corrugated cardboard package).</u> - <u>On normal import goods, importers incur VAT 17% on top of custom duty (Average 10%), which together deprives competitive edge of imported goods.</u>  <b>(Actions)</b> - <u>The PRC taxation system is characterised by the indirect tax of 60%. In her 2008 national tax revenue, the domestic VAT occupied 22.4% of the total tax revenue, or 23.3% up against the same period of the previous year. This percentage corresponds to the increase in added values for the domestic consumption.</u> - <u>Import VAT is levied on the taxable amount plus import duty (or excise tax in some cases).                  Import VAT = (taxable amount + import duty amount + excise tax amount) x 17% (or 13% in some cases).</u> - <u>On 24 March 2016, MOF and State Administration of Taxation (SAT) promulgated notice on implementing the pilot programme of replacing business tax with value-added tax in an all-round manner (No. 36 [2016] of MOF). Pilot programme for reform, replacing business/service category subject to business tax with value-added tax, began from January 2012 in Shanghai city, from August 2013, implemented statewide, and finally since 1 May 2016, all business categories/services have become subject to value-added tax.</u>	- <u>It is requested that GOC reduces the excise tax.</u> - <u>It is requested that GOC further reduces various taxes and dues on imported goods, to liberalise the market for foreign enterprises.</u> - <u>It is requested that GOC reduces VAT rate on export (as it debilitates the international competitive edge).</u> - <u>It is requested that GOC either reduces or repeals the import tariffs.</u>	- <u>Customs Regulations and Provisions</u> - <u>Customs Tariff of PRC,</u> etc.
	(5)	VAT not Refunded or Delayed	- <u>In the case of enterprises operating at low margin from stock, etc., "inequality" persists between "advance payment of VAT" and "advance receipt of VAT", whereby the former is larger than the latter all the time. On the Balance Sheet, a firm enters excessive VAT payment as</u>	- <u>It is URGED that GOC considers and establishes the system for dealing with the unrefunded VAT.</u>	- <u>Notice of MOF and the SAT on VAT and Consumption Tax Policies for Exported</u>

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			<p><u>unrefunded VAT, which gets adjusted in the following months. However, the fact is that the cash remains in the Taxation Bureau's vault for a certain period all the time. Depending upon the enterprises' formation, advance receipt of VAT does not result. Its disposal on the cost and tax accounting remains uncertain, and undefined.</u></p> <p><u>- MFS exported products through a Chinese domestic trading company (a Shanghai free trade pilot zone enterprise). After completing the export customs clearance in the Chinese supplier's name, MFS directly exported the products overseas. However, foreign currency being payable by a Chinese enterprise, the Chinese supplier is unable to receive VAT refund (at Kunsan, Wuxi, Dalian, etc.)</u></p> <p><u>While the foreign currency scheme has been deregulated, its linkage to the taxation system has not yet been completed. Enterprises remain unable to enjoy the benefit of the new system.</u></p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- GOC issued on 14 September 2006 "Notice on Adjusting the Tax Refund Rates of Certain Commodities and Supplementing the Catalogue of Prohibited Commodities in Processing Trade, MOF, SAT [2006] No.139" that repealed or reduced the VAT refund rates.</li> <li>- GOC repealed tax refund on 83 items of steel products, while reducing the refund rate to 5% on 76 items. ("Notice of SAT on Adjusting the Export Tax Refund Rates Library" (Letter No. 862 [2007] of SAT) and "Handling of Tax Refund on Steel" (SAT [2007] No.64)).</li> <li>- GOC repealed in July 2007 Tax Refund on 37% over 533 items of export products and reduced the refund rate on 2,268 items.</li> <li>- In 2008, after Lehman Brothers shock, GOC has turned to stimulate economy by sporadically raising the VAT refund rate to support export from PRC.</li> <li>- On 13 April, MOF, GAC and GAT jointly promulgated "Notice on Provisional Measures on Import Duty Revenue relating to Adjustment of Catalogue for Major Technological Equipment" to revise the Catalogue for Major Technological Equipment and Parts (enforced from 25 April 2010) (GOF/GAC/GAT [2010] No. 17).</li> </ul> <p>The Amended Catalogue comprises of: (1) "Catalogue of State Supported Development of Major Technological Equipment and Products (2010 Amendment)" ("Technology Equipment Catalogue"), (2) "Catalogue for Main Parts and Raw Materials for Major Technological Equipment and Products (2010 Amendment)" ("Main Parts and Raw Materials Catalogue") and (3) "Non-Tax Exempted Import of Major Technological Equipment and Products (2010 Amendment)" ("Non-Tax Exempted Catalogue").</p> <p>Main Parts and Raw Materials for Major Technological Equipment and Products listed in "Non-Tax Exempted Catalogue" are not entitled to exemption of Import Duty and VAT. Each Catalogue will be revised in each year, and Each Catalogue of 2010 Version will replace Each Catalogue of 2009 Version.</p> <ul style="list-style-type: none"> <li>- Since 15 July 2010, GOC has repealed refund of 5-17% on 406 items in 6-sectors, including processed materials of iron and steel and non-ferrous metals, plastics, agrochemicals, etc. These measures are noteworthy as an indicator of GOC's policy change toward removal of its policy for supporting export.</li> </ul>	<p><u>- It is requested that GOC clarifies the new VAT refund scheme.</u></p>	<p><u>Goods and Labour Services (No. 39 [2012] MOF)</u></p>



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			<p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- MOF and SAT issued on December 10, 2004 "Notice on Raising Refund Rates of VAT for Certain IT Products". The practical date of implementing this Notice enforced on November 1, 2004 is based on the export date filled in by Customs on the Export VAT Refund Bill. This Notice also raised the VAT refund rate from the previous 13% to 17% on the high-technology related 40 products (including IC, mobile communication equipment, LCD display, hard disk drive, cell-phone, numerically controlled machine, etc.).</li> <li>- SAT on 29 March 2005 issued "The Reply of SAT on Issues Regarding Tax Refund (Exemption) for Export Claims via Bonded Zone (Letter No.255 [2005] of SAT)", which enables applicants to file applications based on the date noted by Customs on the cargo list from the last Bonded Zone from which goods are exported. This agreement provides that date of issuing customs clearance certificate (CCC) shall be the date on which the goods are first delivered to the bonded zone. Previously, applications for refund filed by enterprises outside the bonded zone could not be timely made, because the Customs in the bonded zone issued CCC devoted exclusively for export tax refund after all goods were exported.</li> <li>- SAT issued on July 12, 2006 "Notice about the Refund (Exemption) of Tax on Exported Goods" enforced retroactively from July 1, 2006, to resolve the issues arising from differences in VAT refunds by Provinces. This Notice expressly states: consumption tax is not subject to tax refund besides; the statement of the requisite documents; and the deadline for the refund process. It also states failure to timely file the refund applications and/or submission of incorrect request for refund documents deprives the applicants of the VAT refund. In such event, export sales are treated as domestic sales.</li> <li>- "Notice of MOF, National Development and Reform Commission, MOFCOM, GAC, and SAT on Adjusting the Tax Refund Rates of Certain Commodities and Supplementing the Catalogue of Prohibited Commodities in Processing Trade", issued on 14 September and enforced on 15 September 2006, adjusts tax refund rates in a wide range of export products. This adjustment is said to divert trade frictions, to secure resources and to adjust industrial construction. The majority of products subject to adjustments include raw materials, and industrial products with relatively small amount of processing, and consequent low added values. The 255 items subject to tax refund rescission include coal, non-ferrous minerals such as silicon, mercury battery, charcoal, and cross tie, and 1,130 items subject to reduction in refund rates include steel (from 11% to 8%), and cement (from 13% to 11%), and 191 items subject to increase in refund rates include important equipment such as generating equipment, certain IT products such as computer parts, bio medical goods, high-tech products encouraged for export (from 11% to 13%), and certain processed goods made of agricultural products (from 11% to 13%).</li> <li>- On 12 November 2008, the Executive Meeting of the State Councilors decided to raise the export VAT refund rates over 3,770 items as a means to expand the domestic demand.</li> <li>- Thanks to the amendment of VAT since January 2009, deduction from the purchase cost has been made possible on VAT, which had to be as Fixed Property Cost till then.</li> <li>- After the Lehman Brothers shock, GOC reversed its gear toward stimulation of economy, raising the VAT refund rates over 8,000 items in total for 7-times up to June 2009.</li> <li>- According to the News Flash, PRC's Tax Revenue continued to grow, up by 18.8% or RMB5.4 trillion in FY2008, and up by 9.1% or RMB6.3 in FY2009. While the total amount of the domestic VAT of RMB1,830 billion or 5.8% in FY 2009, the total amount of export VAT refund was RMB586 billion or up by 10.6% against FY2008. Previously, the VAT refund was procrastinated. However, the VAT refund has been fairly expedited in a better timely manner.</li> </ul>		

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	(6)	Instability / Changes in VAT Refund Rates	<p>- Since September 2006, GOC reduced the VAT refund rate on steel products in stages to avoid foreign trade frictions with overseas countries due to the rapid increase in export. However, since the latter half of 2008, the export suddenly nose-dived. In light of promoting export, GOC made an about turn on its policy and raised the VAT refund rates in stages. On 22 June 2010, MOF released repeal of refund (previously 9%) on 48-tariff lines (HS) of steel products effective from 15 July 2010, as part of its policy to curb export of high resource/energy consuming products. On 1 January 2013, GOC affected a partial expansion of VAT from 9% to 13% for 7227.9010 and 7227.9090, subdivided from the old Code 722790.</p> <p><b>(Actions)</b></p> <p>- GOC has shifted its policy from suppressing export to promoting it. Beginning 1 August 2008, it has raised the export VAT refund rates.</p> <p>- Effective 1 December 2008, GOC has raised the export VAT refund rates on 3,770 items including labour intensive products, and electrical products.</p> <p>- In January 2009, GOC raised the export VAT refund rate on hi-tech hi-added value electrical products.</p> <p>- On 27 March 2009, Ministry of Finance (MOF) and State Administration of Taxation (SAT) promulgated SAT Notice [2009] No. 43 that raised the export VAT refund rates on 3,802 items, including light industrial products, textiles, and IT products.</p> <p>- Effective 1 June 2009, SAT raised the export VAT refund rates in order to maintain stable export on various items, including processed agricultural products (15%), electrical products including broadcasting machineries and equipment for television (17%), and steel products (9%).</p> <p>- On 1 July 2012, MOF and SAT promulgated and implemented "Notice on VAT and Consumption Tax Policies for Exported Goods and Labour Services" (CaiShui[2012]No.39) and "Administrative Measures for Value-added Tax and Consumption Tax on Export Goods and Labour Services" (CaiShui[2012]No.24) with the view to organise the multiple rules, measures and notices concerning VAT and VAT policy on export goods and labor services.</p> <p><b>(Improvement)</b></p> <p>- <u>On 1 January 2015 the VAT refund scheme on boron added alloy steel has been repealed. (However, VAT refund scheme on alloy steel plate continues to exist.)</u></p>	<p>- It is requested that GOC maintains a stable export policy to eliminate confusions on the part of exporting enterprises.</p>	<p>- MOF Notice on VAT Refund on the Canceled Portion of Goods (CaiShui [2010] No. 57)</p>
	(7)	Additional Tax Levied due to the Revision in Import VAT Calculation Method	<p>- GOC changed import VAT calculation method from "actual amount of import" to "export amount x rate (calculated from the past results (from August 2013 and thereafter)". <u>The thrust of the change in the calculation method and the resulting sytemisation is understandably a needed step to attain the optimum efficiency at SAT. However, it has forced application of the uniform average, which has resulted in a vastly increased amount of tax payable.</u></p>	<p>- <u>It is requested that GOC applies the system more flexibly in application of the uniform sytemisation, by reflecting the economic circumstances of each company, although across-the-board sytemisation has been inevitable.</u></p>	<p>- VAT and Consumption Tax Policies for Exported Goods and Labour Services</p> <p>- Administrative Measures for Value-added Tax and Consumption Tax on Export Goods and Labour Services</p>

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	(8)	Irrational VAT Refund Procedures on Imported Equipment	- <u>While VAT on imported equipment is basically refundable, it is refunded only within the scope of the value added to the sales amount. However, where investment is made into equipment in the front process, no immediate increase in sales (in the form of finished products) results, so that the VAT refund period by necessity is stretched to a long period of 5-years.</u>	- It is requested that GOC: -- separates export/import of normal commodities and imported equipment, and -- makes VAT refund basically in lump sum.	
	(9)	Vexatiously Complex VAT Refund Procedures on Export Trade	- The procedures on tax refund have become quite cumbersome recently, a heavy burden. Furthermore, the process is quite time consuming, forcing enterprises to absorb the burden of the cost of accrued interest caused by the delay.	- It is requested that GOC: --clarifies its legislative system, and --improves responsive handling of the tax refund procedures.	
	(10)	Limited Purchase Tax Deduction From VAT on Enterprises in the Bonded Zones	- Enterprises in bonded zones may receive VAT deductions from materials and parts procured in RMB and other expenses paid in RMB only to the extent of the amount, corresponding to the amount of sales in RMB. While the majority of enterprises generate sales mainly from sales in bond, non-deductible VAT willy-nilly ends up as cost of operation. It leaves no merit for FFEs entering the bonded zones.	- It is requested that SAT enables the receipt of unrealised VAT refund by filing the final tax return, as it is done in Japan.	
	(11)	The Risk of Double Tax Levy due to Differences in TPTS Rules	- Especially as regards Transfer Price Taxation System (TPTS), its interpretative rules vary from one country to another - Member Firm no exception. It is faced with a potential risk of double taxation levy.	- It is requested that GOC ensures: -- alignment of its legislation with the world standard TPTS guidelines, and -- enrichment of the advance confirmation system.	
	(12)	Thorough Overhaul of Legislation for Removal of Double Taxation Levy	- The legislative overhaul took place for resolving double taxation. (e.g., Announcement No. 49 [2014] of State Administration of Taxation (SAT). "Reissuing the measures for the exemption of value-added tax on cross-border taxable services in the collection of value-added tax in lieu of business tax (for trial implementation)".	- It is requested that SAT continues its efforts for further legislative overhaul for resolution of double taxation.	
	(13)	Arbitrary TPTS Investigation	- GOC carries out investigation on the transfer pricing taxation, should profitability of FFEs declines, and levies taxes based on unilateral reasons under the transfer pricing taxation.  - In light of the statewide and the local governments' tax revenue shortage, there appears an apparent tendency for beefing up tax collection efforts based on their own unique interpretation of TPTS. This poses a serious grave risk for enterprises to maintain the unperfected operation in the PRC regions.	- It is requested that GOC: -- overhauls legislation on transfer pricing taxation system, and -- carries out a fair tax investigation. - It is requested that GOC implements the taxation system by the objective observation of enterprises' business status.	- Income Tax Law - Detailed Rules for the Implementation of the Income Tax Law - Notice of SAT of Taxation on Issuing the Measures for the Implementation of Special Tax Adjustments, etc.

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	(14)	Irrational Selection of Comparable Enterprises under the Transfer Pricing Taxation System (TPTS)	- In implementing the transfer pricing taxation, PRC Taxation Authority, being anxious to secure additional tax amount, fails to consider the corporate functional similarity in selecting a comparable enterprise to determine the "adequacy of the profit rate under the transactional unit net margin method" of member firm's foothold in PRC. The member firm's subsidiary (MFS), being a manufacturing foothold of member firm (MF) in Japan, is responsible for a commissioned manufacturing function, based on the materials and parts supplied by MF and resells the products so manufactured back to MF. Comparable enterprises selected by GOC include those with R&D function with higher rates of profit. It fails to reflect the actual state of affairs, whereby MFS is compelled to operate under the lower profit rate to meet the most severe competition.	- It is requested that GOC: -- turns its thought to the functional similarities of enterprises, not just the product similarity, and -- reflects the actual state of affairs in the market in determining the profit rate.	- Enterprise Income Tax Law
	(15)	Application of Deemed Tax	- SAT exercises tax levy based on deemed profit, which does not reflect reality of enterprises investigated. Furthermore, no remedy is available for correcting the double taxation.  - In transfer pricing investigation, SAT seeks certain profit level (tax levy based on deemed profit).  <b>(Actions)</b> - Provisions on Assessment and Collection of Non-Resident Enterprises Income Tax (GuoShuiFa[2010]No.19) lays down the basis for determining "deemed profit" on non-resident enterprises: (1) 15%-30% profit rate on enterprises engaged in contract construction, design and consultation, (2) 30%-50% profit rate on enterprises engaged in administrative service, and (3) 15% on more profit rate on enterprises engaged in provision of other services, or operational activities other than services. Notwithstanding the foregoing provisions, the taxation authority may determine tax rates, which are higher than the foregoing, in the case where the authority holds the evidence that the effective profit rates of the non-resident enterprises apparently exceed the foregoing rates, it may assess the enterprise income tax, by applying the rates higher than the above-mentioned rates.	- It is requested that SAT revises its tax levy under TPTS that truly reflects reality of the enterprise investigated.  - It is requested that both GOJ and GOC get together to harmonise mutually the TPTS investigation.	- Enterprise Income Tax Law
	(16)	Disunity of the Customs Valuation Price between SAT and GAC	- Since 1 January 2009, SAT investigators have attempted to verify the justification for consideration for consulting fee/royalty payments excess a certain level, and legitimacy of consideration, while GAC gives another look from the stand point of legitimacy of consideration. Concerning the transactions between related parties, between SAT and GAC, respective viewpoints, and opinions differ in numerous points.	- It is requested that the authorities consider use of the documents considered in TPTS investigation for valuation of the price at the customs clearance.	
	(17)	Follow-up investigation of TPTS	- After tax levy under transfer price taxation system (CTPTS), GOC carries out follow-up investigation for 5-years.	- It is requested that GOC repeals the 5-year follow up investigation after TPTS investigation.	

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	(18)	<b>Expanded Interpretation of PE Tax Levy for the Service Provisions and Expatriates</b>	<p>- A Japanese enterprise provides various services to locally incorporated enterprises in PRC. While these services include a variety of operations not necessarily related to "provision of technical service", the Taxation Authority (TA) lumps together all of them as a project concerned with provision of technical service. It holds that "provision of consulting service for more than 6-months" forms accreditation of PE (Permanent Establishment), and orders Japanese expatriates to pay personal income tax. (Guangzhou). Under the Japan-PRC Tax Treaty, "provision of consulting service in excess of 6-months" establishes PE. However, such provision is not found in tax treaties with other major developed countries. In implementing this provision, TA interprets the term, "single project", too broadly. TA lumps together different kinds of services as single project, while adding up the period of stay on various projects for the engineers on business trip, in order to facilitate its reaching the conclusion that the operation is PE.</p> <p>- An employee stationed in Hong Kong must file tax return, if his stay in PRC exceeds 183-days.</p> <p>- A Japanese expatriate in the payroll of a Business Division in Japan provides technical assistance to a consigned manufacturing factory in Shenzhen (CMF) to set up and complete its mass production line. Under the expatriate agreement, Firm in Japan assumes the wage for the expatriate. While the firm by right should conclude the consignment agreement with CMF and invoice a member firm in Japan for the wage of the expatriate, it is difficult for the firm to do so in the absence of work about which to conclude "consignment agreement" with CMF.</p>	<p><b>It is requested that:</b></p> <ul style="list-style-type: none"> <li>-- GOC/GOJ amends the tax treaty, and for the time being,</li> <li>-- TA improves its implementation based on tax treaty.</li> </ul> <p><b>Upon introduction of new taxation system, or changes in taxation system or tax rates, it is requested that GOC affords FFEs opportunities for exchange of dialogues and secures transparency, such as provision of sufficient and proper explanation.</b></p> <ul style="list-style-type: none"> <li>- It is requested that GOC overhauls the taxation system and assures its transparency.</li> <li>- It is requested that GOC overhauls the Taxation System and assures its transparency.</li> <li>- It is requested that GOC discontinues irrational finding of PE.</li> </ul> <p><b>It is requested that:</b></p> <ul style="list-style-type: none"> <li>-- GOC/GOJ amends the tax treaty, and for the time being,</li> <li>-- TA improves its implementation based on tax treaty.</li> </ul> <p><b>It is requested that GOC:</b></p> <ul style="list-style-type: none"> <li>-- affords FFEs opportunities for exchange of dialogues and secures transparency, such as provision of sufficient and proper explanation.,</li> <li>-- overhauls the taxation system and assures its transparency, and</li> <li>-- discontinues its irrational PE approval.</li> </ul>	<ul style="list-style-type: none"> <li>- Japan-PRC Tax Treaty</li> <li>- Japan-PRC Tax Treaty, Article 5(5)</li> <li>- Enterprise Income Tax Law</li> <li>- Notice of SAT about the Issues Relevant to the Execution of the Royalty Clauses of Tax Treaties GuoShuiHan [2009] No.507</li> <li>- Article 5(3), (5) of Japan/China Tax Treaty</li> <li>-- Notice on printing and publishing "Several Practical Measures for further strengthening the Taxation Administration"</li> <li>-- SAT Letter on "Research for the Status of Income Tax Collection of Enterprises concerned with Provision of Service to Domestic Enterprises through dispatch of Personnel from Overseas Institutions."</li> <li>- Article 3 of GuoShuiHan[2006] No.694</li> </ul>

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			<p>- Where service fees accrue in the context of technical support that a parent company provides to its subsidiary in PRC, by dispatch of a technical staff for a short term, the determination basis of tax treatment is not clearly laid down for example, by the attributes of services provided (activities related to technological introduction, general activities, etc.) Foreign investors are unable to prepare contracts correctly so that chances are that the taxation authority may determine the enterprise as PE.</p> <p>- Without any particular amendment in taxation system, in 2010, Guangzhou Taxation Authority suddenly tightened its collection of PE tax levy, so that the stay period of the employees on business trip is made not individually but lumped into the total of the project unit.</p> <p>- In some cases, invoicing for provision of service, etc. is susceptible of GOC's PE determination, leading to GOC's income tax levy.</p> <p>- <u>By the abrupt change in implementation of the PE tax levy, GOC has begun levying the new tax burden upon engineers/enterprises that support business activities in PRC. GOC's interpretation of Japan-PRC tax treaty, used as the basis for tax levy, is obscure to the Japanese side. It requires propulsion of a speedy consultation between Japan and PRC toward clarification of implementation changes, increased transparency in interpretation, and rationalised implementation. Furthermore, upon occurrence of the double taxation levy, it is requested that both GOC and GOJ ensure propulsion of mutual consultation in the quest for its rational solution.</u></p> <p>- <u>A Member Firm files tax returns and pays locally in PRC, income tax, in lieu of withholding tax, relative to technical support provided to its subsidiary (MFS) in Guangzhou city. Under the Japan-PRC tax treaty, the trigger point of the PE determination is 6-months (183-days). Nevertheless, GOC regards a single day stay as 1-month stay in calculating the stay period for the technical support.</u></p> <p><b>(Actions)</b></p> <p>- On 1 March 2009, "Provisional administrative measures governing tax collection on contracted projects and provision of services by non-resident enterprises", SAT [2009] No.19, was enforced. Non-resident enterprises contracting construction, installation, assembly, repair, etc., or providing service such as processing, repair, design, technical and instructions, regardless of the requirements for industrial /commercial registration, must register as taxpayer with the tax bureau where the project is located within 30 days of concluding the contract for the project or reaching agreement, and then file the final tax returns at the year end. PRC enterprises / individuals that benefit from the contract or the service subject to withholding tax must register as taxpayer with the tax bureau where the project is located within 30 days of from the date on which payment obligation for the withholding tax has arisen.</p>	<p>- It is requested that GOC and GOJ <u>advance mutual consultation toward amending and ratifying tax treaty that includes provisions for withholding tax exemption upon dividends from overseas' subsidiaries, utility, charges, interests, etc. and expand the tax treaty network.</u></p> <p>- It is requested that GOJ includes PE <u>tax levy and its concept in the agenda for the coming Japan-PRC mutual consultation table.</u></p>	<p>- Provisions on Assessment and Collection of Non-Resident Enterprises Income Tax (GuoShuiFa [2010]No.19) promulgated on 20 Feb. 2010</p>

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			<p>- Since 2009, SAT has tightened its withholding tax levy on non-resident individuals and enterprises. Under the PRC tax legislation, a Japanese enterprise sending to PRC its staff, who will engage in sales, administration or consultation activities for a certain period (6-months under the JCTT), or even longer, will form the basis of the PE recognition. Where the expatriate practically maintains the employee/employer relationship with the head office while on business trip, the recognition of the PE status takes place. Operational income vested in PE could be taxable with corporate income tax, operational tax, and individual income tax.</p> <p>- Announcement promulgated in April 2013 on "Relevant Issues concerning Levying Enterprise Income Tax on the Services Provided within China by the Personnel Dispatched by Non-resident Enterprises Announcement No. 19 [2013] SAT" expressly elaborates the judgement basis for determining the circumstances in which FFEs (dispatching resident representatives to an enterprise incorporated in PRC) are found subject to PE Tax Levy.</p>		
	(19)	<b>Tax levied upon Remittance of Expatriates' Wages to Headquarters</b>	- If member firm in Japan pays expatriate's wage payable in Japan and then invoices the amount to our member firm's subsidiary (MFS), a locally incorporated subsidiary in PRC, then, such payment is deemed to be revenue from provision of service as consultant PE under Article 5(4) of Japan/China Tax Treaty, attracting income tax levy. (expatriates' PE)	- It is requested that GOC/GOJ clearly defines the provision of consultant service specified under Article 5(4) of Japan/China Tax Treaty for mutual agreement.	- Article 5(4) of Japan/China Tax Treaty - China Company Income Tax Law - Indian Company Income Tax Law
	(20)	<u>Cut off of Remittance to Headquarters by Expanded Interpretation of PE Tax Levy</u>	- <u>Remittance to Japan headquarters of expatriates' salaries used to be frequently suspended, under the suspicion that such remittance attracts PE tax levy. The issue was on the way to resolution by SAT's promulgation of Detailed Implementing Regulation (DIR). As it is, the DIR remains unpublished. It suggests revival of the unresolved issues.</u>	- <u>It is requested that GOC strictly administers the tax legislation, by curving the expanded interpretation of permanent establishment.</u>	
	(21)	Business Tax Levied on Interest received from External Related Parties	- Since 2013, GOC has deregulated cross border capital deposit or (borrowing), which had been previously restricted. GOC now authorises direct capital deposit or (borrowing), restricted, however, to the parent company outside PRC under the direct capital relationship. On the other hand, it has become apparent that GOC levies business tax on interest received by the subsidiary from its external related parties. (Note: No business tax is payable on interest received by a legal entity incorporated within PRC for the fund deposited at a bank, as it represents the transactions between enterprise and bank.	- It is requested that: -- GOC expands the scope of the parties not only from the parent company under the direct capital relations, but also to indirect parent or brethren companies. -- GOC repeals the business tax levied on interest, and -- GOC makes fund deposit possible not only in foreign currency but in RMB also.	
	(22)	Inactive Usage of Bilateral Japan-PRC APA Scheme	- <u>While the system exists for advance pricing agreement (APA) under the transfer pricing taxation, it has not made any progress in substance.</u>	- <u>It is requested that GOC internationalises its taxation system by introduction of international financial reporting standards.</u>	- Japan-PRC Tax Treaty

Category	No	Issue	Issue Details	Requests	References
			<p>- In PRC, it is stipulated that Municipal or Autonomous Body Taxation Authority or higher authority accepts application for Japan/PRC Bilateral APA. Where plural legal entities subject to APA are included, State Administration of Taxation (SAT) will support and take the initiative in investigation. However, in practice, it takes a long time before the issues are ironed out and the uniform understanding is reached. During the pendency of this period, filing of APA itself is not accepted.</p> <p><b>(Actions)</b></p> <p>- According to Annual Advance Pricing Agreement Report [2010] released by SAT, 4-bilateral and 4-unilateral APAs were signed during the Fiscal Year 2010. Incidentally, the number of cases for bilateral APA examination/consultation shows accelerated increment from 13 cases in 2009 to 21 cases in 2010.</p>	<p>- In light of the fact that the bilateral APA is the negotiation between the authoritative organs of both countries, it is requested that SAT integrates the APA window or takes the initiative for the coordination.</p> <p>- During the pendency of the APA application period, it is requested that the local taxation authority prioritises the APA examination and suspends the TPTS investigation.</p>	<p>- Enterprise Income Tax Law, Article 42, Regulation on the Implementation of the Enterprise Income Tax Law, Article 113</p> <p>- Rules for the Implementation of the Law on the Administration of Tax Collection, Article 53</p>
	(23)	Arbitrariness in Interpretation and Implementation of Taxation Laws	<p>- Interpretation of tax laws is unstable. Judgement varies by officers in charge of the taxation authority. Many taxes are not included in tax laws, but are levied and collected frequently by individual Notices. Even taxation officers are not kept abreast of the latest Notices.</p> <p>- <u>Despite the articulate definition of the special tax treatment under the law, where an investment company (controlling company) purchases the shares of a subsidiary of existing company, it remains possible that the local taxation authority in charge would not approve carryover of capital gain tax. This state of affairs continues.</u></p> <p><b>(Actions)</b></p> <p>- Since 1 January 2008, Enterprise Income Tax Law of PRC has been enforced, and has been applied equally to both domestic and foreign enterprises in common. The FFE preferential tax treatment has been repealed and enterprise income tax of 35% applies across the board to both domestic and foreign enterprises.</p>	<p>- It is requested that GOC harmonises its implementation of tax laws nationwide.</p> <p>- It is requested that GOC implements such state-wide measures as the competent taxation authority promptly completes the approval procedures for special tax treatment.</p>	<p>- <u>Notice of MOF and SAT on Several Issues Concerning the Enterprise Income Tax Treatment on Enterprise Reorganization (No.59 [2009] MOF)</u></p> <p>- <u>Announcement of SAT of Taxation on Issues concerning the Application of Special Tax Treatment in the Equity Transfer of Non-Resident Enterprises (Announcement of SAT No. 72 [2013].</u></p>



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			<p>- MST, MOF and SAT promulgated on 24 April 2008 Notice on Printing and Distributing the Administrative Measures for Determination of High and New Tech Enterprises that sets forth the requisite conditions and application procedure for enterprises to acquire the qualifications, The Measures has been implemented retroactively from 1 January 2008.</p> <p>- On 7 July 2014, SAT promulgated "Notice in Support of Tax Service Innovation in the China (Shanghai) Pilot Free Trade Zone". In addition, Shanghai Municipal Government at Press Conference announced its policy to develop the taxation online system called "Ban Shui Yi Wang Tong (A Single Net Gets Across All Tax Matters)".</p> <p><b>(Improvement)</b></p> <p>- Until now, laws concerning enterprise income tax have taken the dual system under provisional regulations of PRC on enterprises income tax and income tax law of the People's Republic of China for enterprises with foreign investment and foreign enterprises. While the former has been applied to domestically capitalised enterprises such as State owned enterprises, group enterprises and joint-stock companies, the latter has been applied to foreign investment enterprises and foreign enterprises such as China-foreign joint venture enterprises and solely foreign funded enterprises.</p> <p>On 16 March 2007, enterprise income tax law of PRC (President Order No.63) was promulgated and has been enforced since 1 January 2008, together with new regulation on the implementation of the income tax law of PRC (State Council Order No.512). The regulation comprises of 8 chapters, namely, general provisions, taxable amount, tax amount, tax revenue preferential treatment, withholding tax, special adjustment of payable tax, tax collection administration and annex in total of 133 Articles.</p> <p>Along with the enforcement of new regulation on the implementation of the income tax law of PRC and regulation on the implementation of the income tax law of PRC, provisional regulations of PRC on enterprises income tax and income tax law of the PRC for enterprises with foreign investment and foreign enterprises promulgated by the State council were repealed.</p> <p>- On 17 September 2007, SAT released "Notice on Adjustment of Enterprise Income Tax Rates", reducing the enterprise income tax rates over 8 business sectors, such as manufacturing, entertainment, etc.</p> <p>According to SAT's "Notice of SAT on Printing and Distributing the Measures for Verification Collection of Enterprise Income Tax (for Trial Implementation)", the new tax rates are: agriculture, forestry, stock-farming, fishery 3-10%; manufacturing 5-15%; wholesale, retail and trade 4-15%; traffic and transportation 7-15%; construction 8-20%; restaurant business 8-25%; entertainment 15-30% and others 10-30%. Prior enterprise income tax rates were among others manufacturing 7-20% and entertainment 20-40%. Enterprise income tax rate on real-estate developers remains unchanged.</p> <p>- GOC has introduced "tax compliance agreement" system that allows taxpayers an opportunity to consult with the taxation authority concerning the provisions in tax legislation, and interpretation of which is ambiguous. For the time being, the system will be implemented on certain specified enterprises as a pilot programme.</p>		
	(24)	<b>Shortage of the Grace Period for Implementing Tax Policy</b>	<p><b>In general, in the taxation and foreign exchange administration fields, the number of cases has not diminished, whereby detailed implementing rules become available immediately after or only after the promulgation of their laws.</b></p> <p><b>For example , while VAT reform in Shanghai area has been enforced since 1 January 2012, it was only by the end of November 2011 right before the law promulgation that the notice reached MFS. Furthermore, detailed implementing rules remained indefinite so that even after 1 January</b></p>	<p>It is requested that GOC executes the reform in accordance with the precisely laid down systematic plans and promulgates Detailed Implementation Rules before the reform enforcement.</p>	<p>Notice MOF and SAT on the Tax Policies for Implementing across the Country the Pilot Program of Levying Value-Added Tax in Lieu of Business Tax on the Transportation Industry</p>

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				<p><b>2012, MFS remained unable to issue some invoices to its purchasers. Furthermore, in 2004, when the monetary base of the real estate was established, the details had not been nailed down in the broad outline released in the 4th quarter of the same year, so that practical work had to be affixed only by the yearend. Moreover, its enforcement was extremely cumbersome, as its enforcement date was not from 2015 but retroactive to the beginning of 2014.</b></p> <p>- By Notice MOF No. 37 [2013] Ministry of Finance and the State Administration of Taxation, beginning 1 August 2013, VAT 6% and additional tax 0.83% have become payable. Precisely, in the member firm's case, GOC additionally charges terminal handling charge (THC), container imbalance charge (CIC), and emergency bunker surcharge (EBS), relative to shipping companies for export cargoes destined to Japan. It is said that the collection of additional duty is not universal in practical implementation. It seems collection does not take place in certain cases.</p> <p>The group representative on behalf of shipping companies, forwarders, and shippers have submitted their views stating: (1) The absence of the detailed implementing rules on MOF No. 37 [2013], and (2) The abnormal nature of PRC measures under the tax treaties.</p> <p>PRC's action on international ocean/marine freight, etc. is extremely unusual in light of the conventional practice of avoiding tax levy on international marine/ocean freight, etc. by any specified country. We are given to understand that some amendment is due on 1 January 2014. However, nothing has changed to this date.</p> <p>- Abrupt and frequent amendments in taxation system and tax rates affect the amounts of remittance to Japan of royalty and expenses of expatriates dispatched to PRC.</p>	<p>- It is requested that Business Group Representative or GOJ will submit proposal to GOC on its unreasonable tax levy, in light of the SAT's methodology:</p> <p>(1) Promulgate law on tax levy,  (2) Wait and see reactions. Should there be strong resistance, review the law or let the Notice stand without enforcement.</p> <p>- It is requested that GOC:</p> <p>-- gives advance notice on taxation system and tax rate changes, and  -- thoroughly publicises the full details.</p>	<p>and Some Modern Service Industries, MOF No. 37 [2013]</p> <p>- Law on Taxation System of PRC.</p>
		(25)	Paucity of Deductible Foreign Taxes in Japan-PRC Tax Treaty	<p>- <u>Business Tax is not included in the deductible foreign tax under Japan-PRC Tax Treaty, compelling enterprises to bear the tax burden.</u></p>	<p>- <u>It is requested that business tax is included in the Japan-PRC Tax Treaty.</u></p>	<p>- Japan-PRC Tax Treaty</p>

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	(26)	Insufficient Coordination Between SAT and Local Tax Authority	- <u>While local taxes including urban construction tax are concerned with VAT, SAT's approval and licence are required for VAT application, payment, refund, etc. Where approval or licence is delayed due to SAT, ups and downs in local tax payment result (particularly, new or revisions), the amount of local taxes payable increases or decreases. In such an event, coordination is poor between SAT and the local taxation authority.</u>	- <u>It is requested that SAT and local authorities improve their collaborative working relationship.</u>	
	(27)	Tax Administration differs by regions	- <u>Depending upon the location, the administration method and the requisite documents vary by each local taxation bureau. On transactions between the parties located in different jurisdiction of tax offices, it takes a quite involving preparation in order to submit the relative documents and unification of understandings, impacting on submission of the tax refund application.</u> - <u>Tax Authority's views vary in certain cases by each district within the same Shanghai area. Furthermore, transfer price taxation system and loss carried forward accounting system differ from the General accounting practices prevailing in EU and USA.</u> - <u>There has been no significant improvement on the tax administration issues, in regard to enterprises within the bonded zones.</u>	- <u>It is requested that the taxation authority integrates the implementation of the tax law.</u>  - <u>It is requested that GOC administers its taxation system closely in line with the globally standard taxation system.</u> - <u>It is requested that the administration will continue its best effort for inter-departmental coordination, mutual information sharing, etc.</u>	- General Tax Scheme - Law on Taxation System of PRC.
	(28)	Rather Expensive Residual Value of Depreciation	- <u>In principle, the residual value of depreciation is at 10% high, so that it inflates the burden upon the company after the deduction of expense and taxes and other public duties required for the sale.</u>	- <u>It is requested that GOC allows depreciation down to memorandum value (In Japan 1 yen, now).</u>	
	(29)	Discriminatory Consolidated Tax Payment	- Consolidated tax payment reportedly available to state enterprises is not authorised to FFEs. It inflates the effective burden upon enterprises as a group so that foreign investors must think twice before making a full-scale investment into PRC.	- <b>It is requested that GOC introduces consolidated tax payment for FFEs to enable a Member Firm's further expansion as a group of enterprises.</b>	
	(30)	SAT Personnel's Failure to Distinguish between F/S and Tax Collection Accounting	- Our member film's subsidiary (MFS) executes its book keeping by delivery and inspection of delivered goods and recording on the book of account (Journal Entry) the sales and cost of sales (financial statement (F/S) accounting), separate from the tax accounting. In many cases, Tax Authority strongly urges to have the invoice issued and have it in hand. Many tax officers fail to understand the differences between the accounting kept on accrual basis and tax accounting and demand the same kind of explanation each time. Some officers fail to see the points explained.	- It is requested that SAT provides proper training to its tax inspectors including the F/S Accounting, separating it from the tax accounting.	- PRC Enterprises Accounting System

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	(31)	<u>Personal Income Tax levied upon the portion of the Social Insurance Premium payable by the Employer in Japan</u>	- There have been cases in various provinces in PRC, whereby the taxation authority levies personal income tax on the portion of the social insurance premium payable by employers. It is difficult to accept the alleged authority's assertion that the notification in concern has been repealed.	- It is requested that the taxation authorities show the clear-cut legislative provisions that justify the tax levy. - It is requested that SAT repeals the tax levy, as it means a vast unbearable additional cost, heavily oppressive to business operation.	
	(32)	<u>VAT and Consumption Tax levied on Imported Wooden Flooring Materials</u>	- Imported wooden floor materials attract 5% consumption tax, apart from 17% VAT. Manufacturers of wooden floor materials abound in PRC and they are protected by the effective non-tariff barriers in the name of consumption tax.	- It is requested that GOC repeals the consumption tax levy on imported wooden floor materials.	
	(33)	<u>Quasi Local Tax</u>	- While taxes are clearly defined in the tax law, expenses tantamount to local taxes tend to grow in abundance in Liaoning and Dalian provinces. (For example): -- Liaoning province river/road repair/maintenance fees (RRRMF): (0.1% on sales amount) -- Dalian municipal employment security bond for physically handicapped (total number of employees x 1.7% x average wage of workers)	- Liaoning province suspended RRRMF for the year 2014, while 2015 remains uncertain. It is requested that the local taxation authority repeals RRRMF for 2015, which remains nebulous.	- Liaoning Province Peoples Government Order No. 263 - Dacalianfa [2014] No.24
	(34)	<u>Disunity of Legal Interpretation at Company Tax Window</u>	- Due to the differences in competency of personnel at the company tax window, confusion arises on interpretation of legal issues.	- It is requested that GOC uses its best efforts for the upbringing of personnel competency to resolve confusion that arises at the window on interpretation of legal issues.	
16	Employment	(1) <b>Rapid Spiraling Wages</b>	- State council (central government) at its twelfth 5-year national economic/social development plan published its policy that raises "the minimum wage for workers by more than 13% per annum", or doubles it at least once every two years so that the minimum wage doubles during the period of 2010 through 2015. Also at its 18th national people's congress, state council announced: "by 2020, it would double the 2010 minimum wage and per capita gross domestic production (GDP)." The margin of wage increase would be: -- In 2012: Average of 25-provinces/cities in average + 20.2%, -- In 2013 Jan-Sept: 27 provinces/cities in average+17.0% -- In 2014 Jan-Sept: 17 provinces/cities in average+14.1%	- It is requested that GOC arranges a Forum to exchange views not only on wages, but including other issues such as taxation and insurance, as well.	- 2012 Shanghai Region Enterprises Wage Guideline (Up by 11.1-11.7% in Average) (Shanghai Bureau of Human Resources and Social Security) - The 12th 5-Year National Economic/ Social Development Plan (2011-2015,

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			<p><b>(Ministry of human resources and social security).</b>  <b>The monthly maximum: Shanghai: RMB1,820.</b></p> <ul style="list-style-type: none"> <li>- <u>Shortage of workers has pushed up the minimum wages. In Zhejiang Province, the Minimum Wage increased by about 15% in 2010, and 19% in 2011. Hike by large margin in labour costs has made it difficult year after year for enterprises to secure profitable operation.</u></li> <li>- <u>In almost every year, the minimum wage has increased (in Beijing, Tianjing, Shanghai, Shenzhen, Guangzhou, Dalian, Hangzhou, etc.)</u></li> <li>- <u>GOC published "Double Income by 2020 Policy", while Guangzhou City studies further raise in minimum wages.</u></li> </ul> <p><b>- In a recent few years, labour cost has increased by 10% or so each year, forming a factor that burdens heavily the profitability of MFS operation.</b></p> <p><b>- In each year, the labour cost keeps going up as the regional authority across PRC keeps raising the minimum wage, which is a factor that heavily burdens enterprises, forcing them to review the location of the production foothold.</b></p> <p><b>- Under GOC's direction, the minimum wage in double digits will take place during this year, again.</b></p> <ul style="list-style-type: none"> <li>- <u>In each year, the hike in minimum wage at a rate higher than the commodity price hike (RMB 160 in 2014) takes place. It pushes up the production cost.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- People's Government of Province, Autonomous Region and Municipalities under the Central Government each determines the substantive minimum wage in PRC.</li> <li>- Since 1 April 2008, the minimum wage in Guangdong Province has gone up by 12% in average. The minimum wage/month for the 1st category at RMB860 has surpassed that of RMB850 in SSEZ, and RMB840 in Shanghai.</li> <li>- In 2009, State Government froze the minimum wage to cope with the financial crisis. In 2010, it has raised it at high levels, ranging between 10 to 20% in each region. For example, for regular employees, Shanghai City raised the Statutory Minimum Wage to RMB1,120 or up by 16.7%, Guangdong City, up by 21.1% in average, Guangzhou City, up by 19.8% to RMB1,030, Jiangsu Province, up by 12.95 in average, and Tianjin up by 12% to RMB920.</li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOC:</u></li> <li>- <u>takes measures to suppress surge in commodity prices, and</u></li> <li>- <u>holds down minimum wages to assure industrial competitiveness.</u></li> </ul> <p><b>- It is requested that GOC considers revisions that allow:</b></p> <ul style="list-style-type: none"> <li>- <u>maintenance of production cost,</u></li> <li>- <u>fostering of skilled workers in volume, and</u></li> <li>- <u>assurance of workforce.</u></li> </ul> <p><b>-It is requested that GOC curbs a large-scale wage hike.</b></p> <p>- The radical surge of minimum wages discourages investor's desire for investing into PRC.</p> <p><b>- It is requested that GOC devises policy to hold down the labour cost hike.</b></p> <ul style="list-style-type: none"> <li>- <u>It is requested that GOC curbs the minimum wage increase at a rate higher than the hike in commodity price.</u></li> </ul>	<p>published on 14 March 2011.)</p> <ul style="list-style-type: none"> <li>- Provisions on Minimum Wages</li> </ul>

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			<ul style="list-style-type: none"> <li>- Since May 2010, epidemics of industrial dispute involving strikes have spread nationwide at high frequency. In many cases, such disputes have been settled by wage increase at high percentages. To resolve strikes, it has been customary for the local Labour Union (Gonghui) to act as intermediary, who demands wage increase by a large margin. It is said that the high level wage increase has been caused by the wage level gap between the middle management in FFEs and the itinerant workers.</li> <li>- JETRO World Business News of 11 April 2011 reported on the comparative increase rates of minimum wage in two years (2009-March 2011) in each municipality: Beijing 45.0%, Shanghai 33.3%, Suzhou/Wuxi/Nanjing 34.1%, Hangzhou/Ningbo 36.5%, Shenzhen 46.7%, and Guangzhou 51.2%.</li> <li>- In June 2011 GOC released the following target in "Human Resources/Social Security Development 12th 5-Year Plan (2011-2015) ", prescribing:               <ul style="list-style-type: none"> <li>(1) GOC will raise the minimum wage by 13% in annual average by 2015, and</li> <li>(2) GOC will raise the minimum wage in a greater part of the regions to 40% of the urban area workers' wage in average.</li> </ul> </li> <li>- The average rates of wage increase continues to remain high, although tracing the downward curb in each year, 22%-2011 (24-regions) 20.2%-2012 (25-regions), 17%-2013 (27-regions), 2014 (up to July) about 14% (16-regions) in Trans-Province, Autonomous Region, and Municipality Directly under the Central Government.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- On 17 November 2008, Ministry of Human Resources and Social Security promulgated notice to local authorities to temporarily relax the burden on the enterprises for the raise in the basic wage rate.</li> </ul>		
	(2)	Difficulty in Securing Human Resources and Have Them Stay	<ul style="list-style-type: none"> <li>- <u>While on one hand, PRC's economic growth and double income project are underway, employers face severe difficulties in securing the needed workforce and employing new workers. Prompted by the State policy to develop Mid-Western regions, emigrant from inland PRC continent has dropped. Wages have lost their edge, while chronic shortage of workers prevails. Moreover their turnover rate is high.</u></li> <li>- <u>Workers' turnover is high, with increasing difficulty in securing them.</u></li> <li>- <u>Labour cost of workers has gone up year after year.</u></li> <li>- <u>Member firm, in coping with the production increase and the difficulty in adoption of regular workers, manages workforce shortage by increased employment of dispatched workers, however, with a high turnover. Year after year, it becomes increasingly difficult to secure the workforce.</u></li> <li>- <u>Because many development companies with high pay locate in Beijing abutting Tianjin, human resources for development and design tend to flow into Beijing. It takes much time in Tianjin to secure human resources for career development and design engineering.</u></li> <li>- <u>There has been a radical exodus of workforce to the inland areas. It makes it more and more difficult to secure workforce in the coastal areas.</u></li> </ul>		Labour Contract Law of PRC, etc.

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			<ul style="list-style-type: none"> <li>- <u>Labour cost has spiraled for both school-leaver and mid-career recruiting. Moreover, it has become customary for employees to raise their annual revenue by increased experience from job-hopping. It makes it difficult to employ quality workforce on a long-term basis.</u></li> <li>- <u>Wage hike of 10-15% per annum has driven expert workers to other enterprises, while the revised wage scale to stop the expert workers' out flow has extremely aggravated profitability.</u></li> <li>- <u>Operational cost has gone up triggered by labour cost increase.</u></li> </ul>		
	(3)	Labour Contract Law Strongly Biased in favour of Protection of Labourers.	<p><b>-In case of term employment contract under the going labour contract law, upon reaching its 3rd renewal, or after continued service of 10-years, employers must conclude employment contract with indefinite term with its employees. It is difficult for employers to adjust the workforce flexibly, commensurate with the operational requirements. On the other hand, the going labour contract law does not allow restructuring, judging from evaluation of individual local employees' performance.</b></p> <ul style="list-style-type: none"> <li>- <u>Job Rotation or Generation Change at Workplace (JRGCW) is under strict control of labour contract law and is difficult to achieve JRGCW in order to protect workers (employment agreement includes even the job title of each worker.). As generation change is simply not possible to achieve, young workers' quitting job is another emerging problem for employers.</u></li> <li>- <u>MFS, having had a substitute fill the job of a Worker on Long Term Sick Leave (WLTSL), could end up by becoming a defendant in a court case, unless such substitution was done with the consent of WLTSL, even when there was a reasonable ground for MFS's such substitution. Chances are high for the Court's handing down decisions in favour of the worker. Employers must shoulder increased economical burdens, such as monetary compensation, etc.</u></li> <li>- <u>The Shanghai labour bureau regulation includes a provision that makes available paid-leave on non-work related sick leave.</u></li> <li>- <u>The persistent downward rigidity of wages makes employers' planning difficult for their employees' remuneration, by reflecting business performance. It willy-nilly drives Employers into taking a defensive stance.</u></li> <li>- <u>Labour Contract Law (LLC) includes numerous provisions disfavouring employers (enterprises) that frustrate flexible adjustments of workers' deployment.</u></li> </ul>	<p>It is requested that GOC eliminates employment contract with indefinite terms.</p> <p>It is requested that GOC takes steps to amend the labour contract law that fairly reflect the interests of both workers and employers.</p> <p>It is requested that GOC takes steps to amend the labour contract law, as production of detailed evidential documents takes up much time and substantial efforts.</p> <p>It is requested that GOC reviews the Scheme for paid-leave on non-work related sick leave.</p> <p>It is requested that GOC takes steps to amend the law, fair to both employees and employers.</p> <p>It is requested that GOC takes steps to rectify LLC fair to both employees and employers.</p>	<p>Labour Contract Law (2012 Amendment)</p> <p>Article 17. Resolution of Uncertainties in Labour Contract:</p> <p>Remunerations, and Work Conditions:</p> <p>3. The time limit for the Labor Contract;4. The Job Descriptions and Work Locations;</p> <p>5. The Work Hours, Break Time, and Vacations</p> <p>Article 42 (Non-cancelable) If any of the following circumstances apply to a Worker, the Employer may not terminate Labour Contract on reliance of Articles 40 and 41 of this Labour Contract Law:</p> <p>(1) If a worker engaged in a Hazardous Work susceptible of Occupational Disease fails to get Health</p>

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						<p><u>Check before leaving the work, or a worker diagnosed for a suspected occupational disease is within the diagnosis period or in the medical observation period;</u>  <u>(2) If in the Unit (Workplace), a worker has gotten injury or lost ability to work in part or in whole;</u>  <u>(3) If a patient or a person is in the medical treatment period;</u>  <u>(4) If a female worker is in the period of pregnancy, child birth leave, or suckling;</u>  <u>(5) If a worker, having worked continually for 15-years in this Unit has less than 5-years before reaching the legal retirement age;</u>  <u>(6) If other circumstances exist, by law or by administrative legislation.</u></p>
				<p><b>(Actions)</b>                      - On 1 January 2008, the President of PRC has enforced LCL intended to strengthen the rights and interests of the workers. On the same day, Employment Promotion Law, and Measures for Paid Annual Leave were enforced.</p>		



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			<ul style="list-style-type: none"> <li>- Article 87 of LCL, enforced since January 2008, stipulates a penalty double the amount upon termination of economic compensation payable by the employer, who dismisses or terminates employment in violation of LCL.</li> <li>- LCL entitles workers with more than 10 service years to request conclusion of a labour contract for an unfixed term, while it also mandates any employer who has concluded a fixed term labour contract in two consecutive years with the same worker to conclude a labour contract for an unfixed term.</li> <li>- In the event where any employer sets forth or amends rules of employment closely related to the rights and interests of workers, it must be concluded through consultation with workers on an equal footing.</li> <li>- Law of PRC on Labour Dispute Mediation and Arbitration has been enforced since 1 May 2008.</li> <li>- On 18 September 2008, Implementing Measures of the LCL was promulgated and enforced.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- Article 19 of LCL expressly sets forth 14 reasons that enable employers to legally terminate the labour contract.</li> </ul>		
	(4)	More Radical Workers' Demands	<p><b>(All Across PRC):</b></p> <ul style="list-style-type: none"> <li>-- <u>Demonstration taking the form of sabotage and strike has come to jeopardise a stable business operation as the labour risk gets aggravated with the demand for exorbitant higher wages and better fringe benefits. Since April 2010, sabotage and strike have frequently taken place at foreign funded enterprises (FfEs) in other industrial sectors and within the group enterprises.</u></li> <li>-- <u>Legal base is ambiguous on the right to walk out, and the related restrictions.</u></li> <li>-- <u>GOC recommends strengthening the activities of All China Federation of Trade Unions (communist organization), which is administrative guidance not based on laws. As regards enterprises with least cohesive power with Trade Unions, employers tend to experience their weakening negotiation position.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- After enforcement of Law on Labor Dispute Mediation and Arbitration in 2008, the cases for individual industrial disputes doubled in 2008, climbing to 690,000 cases compared to 350,000 cases in 2007.</li> <li>- During May through June 2010, labour strikes occurred frequently demanding wage hike in plural cities, revolving around the coastal areas.</li> <li>- In regard to the PRC, in 2012, labour disputes received numbered 641,202 cases, of which 7,252 cases were group disputes (China Statistical Yearbook 2013).</li> </ul>		
	(5)	Inadequate Legislation on Labour Disputes	<ul style="list-style-type: none"> <li>- <u>The PRC legislation on strike and sabotage is imperfect, devoid of provision for "possession of the right to strike". More precisely, walkouts frequently arise without assurance of the right to strike, and without rules on exercising the right to strike. In the absence of the provision of the law that expressly prohibits strike, it is assumed that the strike goes</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOC overhauls the legislation concerning strike and sabotage.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>Regulations of Guang Dong Province on Collective Contracts for Enterprises (Enforced in January 2015)</u></li> </ul>

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			<p><u>about under the presumption that strike is in effect allowed by the law. Enterprises involved in strikes must deal with the task of resolving the disputes without an express set of rules, while confusions continue to expand.</u></p> <p><u>Strikes have occurred also, due to the aggravated relations between PRC and Japan.</u></p> <p>- <u>Legislative provisions on labour disputes are ambiguous and require overhaul. It takes much time and work for getting the labour disputes settled.</u></p> <p>- <u>Presumably strike is permissible. "Regulations of Guang Dong Province on Collective Contracts for Enterprises" (Enforced in January 2015) defines strike by law. On the other hand, it compels enterprises further hike in labour cost and richer fringe benefits.</u></p> <p>- <u>No definition of "strike" is set forth in the Labour Contract Law so that the legality of "strike" itself is unknown.</u></p> <p><b>(Actions)</b></p> <p>- <u>On 9 June 2014, Xiamen City Labour Disputes Arbitration Commission decided that employer's discharge of the employee that started the strike was in violation of the Labour Contract Law, for the first time in the domestic China. The strike was instituted by the employees who were dissatisfied with the wholly U.S. owned subsidiary's decision to move the factory. The arbitration was triggered by the employer's notification of employees' discharge on the ground of material violation in the company's rules of employment.</u></p>	<p>- <u>It is requested that GOC takes steps to overhaul legislative provisions on Strike/Sabotage.</u></p> <p>- <u>It is requested that GOC takes steps to overhaul legislative provisions on disputes.</u></p>	
	(6)	<p>Procedure to obtain Work Visa is complex and delayed</p>	<p>- <u>For acquisition of work visa in PRC, it takes much time (for more than 3-months). In addition to the documents concerning companies and application forms, applicants must complete numerous other documents and procedures, such as health insurance certificate, resident certificate, and notification to Public Security Bureau. It is even more difficult, if the applicant does not speak Chinese, as it requires the help of a Chinese consulting agency with much cost.</u></p> <p>- <u>Required documents for visa acquisition of new expatriates have grown needing substantial period for preparation. For example, criminal record certificate (attested) (a certificate showing the applicant has no criminal record) takes minimum one-month for acquisition. Furthermore, a substantial period is necessary for completing the visa application procedures in PRC. This requirement materially interferes with the smooth personnel rotation of a Member Firm.</u></p>	<p><b>- It is requested that GOC deregulates the system and procedures for acquisition of work visa in PRC.</b></p> <p><b>-It is requested that GOC accepts health examination obtained in Japan before departure of expatriates to PRC.</b></p> <p>- <u>It is requested that GOC:</u></p> <p><u>-- expedites the visa acquisition procedures in PRC, and</u></p> <p><u>-- simplifies the required documents.</u></p>	<p>- <u>Certificate of No Criminal Record (Attested) – Hangzhou City Labour Bureau Regulation</u></p> <p>- <u>Health Certificate.</u></p> <p>- <u>Z-Visa (Work Visa).</u></p> <p>- <u>Resident Permit, Border Exit/Entry Administration Regulation of Hanzhou &amp; SAFE/GAC</u></p> <p>- <u>Work Permit, Entry Invitation Letter, Hangzhou City Labour</u></p>

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				<p>- <u>It takes much time for acquisition of alien visas and Residence Formalities, while it has become more complex and the requisite documents have materially increased in volume. During the deposited time of the passport, the applicant is unable to exit PRC.</u></p> <p><b>(Actions)</b></p> <p>- The renewal procedural period for work visa (Z) appears to vary by regions. For example, as of September 2013, 15 business days in Beijing, 7-days in Shanghai, and 5-days in Tianjin (JETRO Business News, 27 September 2013).</p> <p>- <u>Beginning January 2016, Beijing city has introduced new application system for examining alien working visa application, whereby enterprises file documented application at the window, after first electronically filing application for examination.</u></p>	<p>- <u>It is requested that GOC cuts down and streamlines the application procedures, as applicant's business is materially affected from the delays.</u></p>	<p><u>Bureau/Japan Embassy Regulation, Embassy of PRC in Japan Regulation</u></p> <p>- <u>Family Register (Attested)</u></p> <p>-- <u>Exit and Entry Administration Law, Ministry of Public Security</u></p>
		(7)	Stringent Requirement for Acquisition of Expatriates' Work Permit	<p>- The requirement for a high level of education (university graduate or higher) excludes dispatch to PRC of highly qualified persons, however, with a lesser academic degree.</p> <p>- <u>Dispatch of engineers under work visa Z has been frustrated by introduction of new requirements that stipulate academic qualifications (university graduate or higher), and age limit (less than 60-years old).</u></p> <p><b>(Actions)</b></p> <p>- Foreign workers terms of employment relative to the academic history (Beijing):</p> <p>(1) Holder of bachelor's degree or above, with work history of more than 2-years in the field of work in concern.</p> <p>(2) High class engineers without bachelor's degree, but holding external technical qualification certificate, urgently required to perform important technical research, and to supplement the shortage of engineers in Beijing.</p> <p>- <u>In March 2015, GOC announced its policy to repeal work visa age limit for aliens satisfying certain conditions. In response to this announcement, since June 2015, Shanghai city has repealed the 60-years work visa age limit for specified overseas human resources, working in human resources administration headquarters, etc.</u></p>	<p>- <b>It is requested that GOC:</b></p> <p>-- <b>deregulates the academic minimum requirement to high school or higher, or repeals the work permit requirement by the academic record.</b></p> <p>-- <b>concritises the rules.</b></p> <p>- <u>It is requested that GOC deregulates the work visa requirements..</u></p>	

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	(8)	<b>Longer Period for Working Rules on Visas and Residence Permits for Foreigners (and Passport Deposit)</b>	<p>- <u>By amendment in July 2013 of Regulation of PRC on the Administration of the Entry and Exit of Foreign Nationals, it takes a longer period for examination of application for alien visas and residence formalities, from 5 to 15-business days. It is also said that it varies by municipalities: in Beijing, about 21-business days. The new amended regulation materially affects business activity for business trips and conferences during the time the passport is deposited with the competent authority.</u></p> <p>- <u>Amended Law enforced in September 2013 on the Amended Control of the Exit and Entry of Citizens has expanded by large margin the examination period for stay visa acquisition (from 5 to 15-business days). It seems the previous 5-business days scheme has been reinstated in certain districts. However, the arrangements are not harmonised among districts, including the requirement or non-requirement of "Certificate of No Criminal Record," so that confusions have arisen in practical business operation.</u></p> <p><u>Beijing is adamant on the 15-business day requirement, although it has introduced express application scheme, which, however, is restrictive, requiring extra fees, and is not realistic.</u></p> <p>- <u>Prolonged procedures for "new application or renewal of residence permits" by the 2013 amendments of "new law on the entry and exit of foreign nationals and regulation of PRC on the administration of the entry and exit of foreign nationals" restrict FFEs' staff's overseas business trips.</u></p> <p><b>(Actions)</b></p> <p>- <u>In July 2013, "Exit-Entry Administration Law" entered into force, requiring 15-business days for renewal of the Alien's Stay Visa.</u></p>	<p>- <u>It is requested that GOC cuts down the visa examination period.</u></p> <p>- <u>Continuation of the 15-business days requirement by Beijing at its centre, materially impacts business activity of FFEs, curving business trips, etc. It is requested that GOC reviews the amended law as soon as possible.</u></p> <p>- <u>It is requested that GOC expedites the procedures.</u></p>	<p>- <u>Law on the Control of the Exit and Entry of Citizens</u></p> <p>- <u>Regulation on the Administration of the Entry and Exit of Foreign Nationals</u></p> <p>- <u>Regulation of PRC on the Administration of the Entry and Exit of Foreign Nationals, Article 30</u></p> <p>- <u>New Law on the Entry and Exit of Foreign Nationals</u></p> <p>- <u>Regulation on the Administration of the Entry and Exit of Foreign Nationals</u></p>
	(9)	<b>Complex, Nebulous Procedures for Acquisition of Alien's Short-Term Business Trip Work Visa/ Residence Permit</b>	<p>- <u>According to "issuing the relevant handling procedures for a foreign national's entry into China to complete a short-term work assignment (for trial implementation) (RenSheBuFa [2014] No.78)", acquisition of work visa and residence permit has become a mandatory for an employee on a business trip to PRC, complicating the Procedures. Where an applicant is a Japanese citizen, entry without visa was normally possible under the exemption treaty for a stay within 15-days, regardless of the reason for the stay. However, where a short stay person enters PRC with a purpose to engage in work, work visa acquisition before entry has become necessary.</u></p>	<p>- <u>It is requested that GOC slims down the entry procedures for foreign nationals entering PRC from a country, contracting party to the exemption treaty.</u></p>	<p>- <u>Notice of MHRSS, MFA, MPS and MOC on Issuing the Relevant Handling Procedures for a Foreign National's Entry into China to Complete a Short-Term Work Assignment (for Trial Implementation) (RenSheBuFa [2014] No.78)</u></p>

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			- <u>Concerning "the Handling procedures for a foreign national's entry into China to complete a short term work assignment, enforced on 1 January 2015", this provides: "Acquisition of visa is mandated for those satisfying certain requirements." On the other hand, visa acquisition is exempted for entry into China for the purposes of sightseeing, business, visiting relatives and acquaintances, or in transit, provided, however, that, if such stay is within 15-days from the date of entry. Substantively, which case requires visa acquisition and which case doesn't are nebulous.</u>	- <u>It is requested that GOC provides more precisely the visa acquisition standard.</u>	
	(10)	Vexatious complexity and disunity of the visa system	- <u>The procedures and the requisite documents and time required for visa application vary by municipality (or even within a municipality at times). They could vary by the past history and the change of officer in charge.</u>	- <u>It is requested that GOC eliminates all differences by municipality, officer in charge, etc. and cuts down the room for discretionary judgement.</u>	- Regulations on the Management of Employment of Foreigners In China (May 1996) - Regulation of PRC on the Administration of the Entry and Exit of Foreign Nationals
	(11)	Increased Cost from Double Payment of Compulsory Take Out of Social Insurance System	- <b>"Social insurance law" enforced from 1 July 2011 mandates aliens working in PRC to subscribe to social insurance policy. Japanese expatriates are normally insured in Japan for social insurance policy and another subscription in PRC makes a double subscription, with an extra cost to employers.</b> - <b>By social insurance law amended in July 2011, GOC has mandated expatriates' subscription to social insurance policy, increasing the operational cost to MFS. Its implementation varies by local jurisdictions, in a manner difficult to understand.</b>  - <u>On 15 October 2011, GOC has implemented social insurance upon foreigners, including expatriates from Japan, triggering the double payment of social insurance premium to the increment of cost to employers.</u>	- It is requested that GOJ and GOC ratify as soon as possible the social security agreement to resolve the double payment problems.  - <b>It is requested that GOJ and GOC: -- ratify the social insurance agreement to resolve the double payment Problems, and -- accelerates negotiation toward early ratification of social insurance agreement.</b> - <u>It is requested that GOC and GOJ ratify the bilateral social insurance agreement.</u> - <u>It is requested that GOC makes its participation optional.</u>	- Social Insurance Law - Social Insurance Law: President Order [2010] No.35  - <u>Social Insurance Law of 2010, Article 97</u> - <u>Announcement No. 2</u> - <u>2011] of the State Administration of Taxation</u> - Interim Measures for the Participation in Social Insurance of Foreigners Employed in China [Order of the Ministry of Human Resources and Social Security (MHRSS)(No. 16) ] (09-06-2011)

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			<p><u>- Mandatory requirement of aliens' subscription to social insurance policy has resulted in double taxation payment and increased cost on account of social insurance policy. Legislative control varies by provinces and municipalities.</u></p> <p><b>- GOC compels subscription to social insurance policy and annuity not only upon Chinese nationals but foreign workers as well. Its implementation varies from city to city. There is no uniformity either to its collection standard.</b></p> <p><u>- A member firm having dispatched its employees to its subsidiary (MFS) in Beijing faces the double payment of social insurance premiums in Beijing, despite its payment in Japan under the Japanese social insurance system.</u></p> <p><u>- The benefit is thin to foreign contributors to social insurance policy. Under endowment insurance, it requires contribution of insurance fees for 15-years before the subscriber may receive payment of the insured amount. In effect, its receipt is practically impossible. As to medical insurance, in most hospitals and medication institutes that accept foreigners, they are excluded from the insurance coverage, etc.</u></p>	<p><u>- It is requested that GOC and GOJ ratify the bilateral Social Insurance Treaty as soon as possible.</u></p> <p><b>It is requested that GOC excludes aliens paying social insurance policy in the mother country from the scope of the Mandatory Participation in PRC.</b></p> <p><b>- It is requested that GOC:</b></p> <ul style="list-style-type: none"> <li><b>-- assures transparency in introduction of new taxation system, or change in taxation system or Tax Rates by providing opportunities for exchange dialogues and an ample and adequate explanation to FFEs, and</b></li> <li><b>-- avoids double payment as to Japan</b></li> </ul> <p><b>- It is requested that GOC and GOJ ratify the bilateral or multilateral agreement on social insurance.</b></p> <p><b>- It is requested that GOC and GOJ ratify as soon as possible Japan-PRC bilateral social insurance agreement</b></p> <p><b>- It is requested that GOC takes step to amend the social insurance law.</b></p> <p><u>- It is requested that GOJ and GOC wipe out the double tax burden by the Social Security Treaty between Japan and PRC.</u></p> <p><u>- It is requested that GOC takes steps to overhaul the social insurance scheme so that foreigners may receive the full benefit from their enrollment in the social insurance policy.</u></p>	<p><u>- Legislation relative to PRC Social Insurance</u></p>

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			<p>- <u>MFS, currently enrolled in medical insurance and endowment insurance policy, has received request for contribution to endowment insurance (corresponding to employee's pension insurance of Japan in the amount, totaling the contribution amounts in PRC and Japan).</u></p> <p>- <u>Double payment of social insurance contribution has arisen as regards foreign employees (expatriates from Japan) as their enrollment in PRC in social insurance policy has become compulsory. (Its employment differs by municipal jurisdictions. For example, Shanghai has not yet implemented the social insurance contribution.)</u></p> <p><b>(Actions)</b></p> <p>- "Social Insurance Law" enforced on 1 July 2011 compels coverage under Social Insurance (Employees Basic Old-age Insurance, Employees Basic Health Insurance, Industrial Injury Insurance, Unemployment Compensation Insurance, Maternity, and Child Rearing Insurance) of all aliens working in PRC (holding Alien Employment Certificate, Alien Expert Certificate, Employment Certificate for Permanent Foreign Reporters, Alien Resident Certificate, Alien Permanent Resident Certificate).</p> <p>- On 15 October 2011, "Interim Measures for the Participation in Social Insurance of Foreigners Employed in China (Order of the Ministry of Human Resources and Social Security (No. 16))" came into force, implementing the Social Insurance Law, Order of the President (No. 35). However, regional differences are emerging in practical application, as the Interim Measures do not specify the cardinal number, the burden rate, due payment date, etc.</p> <p>- Since October 2011, upon request of GOJ, a bilateral consultation has been under way, as the agreement was reached between GOC and GOJ for early conclusion of the Bilateral Social Security Treaty (BSST). The consultation continues as of now. Incidentally, BSST has been concluded and in force in 12 countries, including Germany and South Korea, while in 3-countries, BSST has been already concluded but not yet in force. Germans are exempted from subscription to endowment issuance and unemployment issuance, while South Koreans' exemption applies as to subscription to endowment issuance. As BSST entered into force before promulgation of Social Insurance Law (SIL), it remains unclear after the promulgation of SIL, how BSST is implemented in practice as to Germany and South Korea.</p> <p><b>(Improvement)</b></p> <p>- <u>On 22 March 2016, Shanghai municipal human resources and social security bureau reduced the contribution rates of social insurance (pension 21%=&gt;20%, medical insurance 11%=&gt;10%, unemployment 1.5%=&gt;1.0%), retroactive to 1 January 2016.</u></p>	<p>- It is requested that GOC and GOJ materialises as soon as possible the ratification of Japan-China bilateral social insurance agreement).</p>	
	(12)	<p><u>Increased Labour Cost to Enterprises by Introduction of Social Insurance</u></p>	<p>- <u>New social insurance law promulgated in 2010, the subsequent measures of Ministry of human resources and social security that compelled enrollment in China in the social insurance scheme, and the increase in personnel cost on aliens working in PRC, personal tax levy, etc. on the portion of the home country social insurance contribution borne by the employer under SAT announcement No.2 (2011), etc. have increased the operational cost. They serve as negative factors, being impediments to further development of FFEs' operation in PRC.</u></p>	<p>- It is requested that GOC and GOJ accelerate ratification of Japan-China Social Security Agreement.</p> <p>- It is requested that GOC: -- constructs integral measures on Personal Income Tax (PIT), such as write off of Corporate Income Tax against PIT (to maintain consistency).</p>	

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			<p>- <u>Employers' assumption of social insurance cost (pension, medication, workmen's compensation, maternity, and unemployment compensation) bears heavily upon employers' profit &amp; loss, a factor that causes the spiraling hike of the labour cost.</u></p> <p><u>Social insurance covered at the cost of employer's attaches to the local city, town and village, making it difficult for employers to move staff across the city, town and village borders.</u></p> <p><u>As ratification is pending on the bilateral social security agreement between Japan and China, Japanese expatriates must also pay social insurance premium, another factor that inflates the operational costs.</u></p> <p>- <u>With ratification of Japan/PRC social security agreement pending, such burden on social security insurance coverage materially aggravates profit &amp; loss of FFEs' business operation. All these factors prompt early review.</u></p>	<p>-- <u>adjusts the effects of impact from differences in geographical regions and regional time zones.</u></p> <p>-- <u>mitigates impact caused by regional or time differences.</u></p> <p>-- <u>secures ample preparatory period before enforcement begins, and</u></p> <p>-- <u>overhauls the detailed implementing regulations.</u></p> <p>- <u>It is requested that GOC &amp; GOJ give the top priority to ratification of the bilateral social security agreement.</u></p>	
	(13)	<b>Difficulty in Receiving Payment under Employees Basic Endowment Insurance</b>	<p>- <u>An alien employee under endowment policy is entitled to receive the endowment payment only after 15-years of paying insurance premium.</u></p> <p>- <u>Japanese expatriates working in PRC must pay premium for endowment insurance doubly in Japan and PRC.</u></p> <p><u>Endowment insurance takes more than 15-years to qualify for receiving payment. In effect, it ends up by turning into "insurance with no refund".</u></p>	<p>- <u>It is requested that GOJ and GOC ratify as soon as possible the Social Security Agreement to resolve the double payment problems.</u></p> <p>- <u>It is requested that GOC &amp; GOJ:</u></p> <p>-- <u>ratify agreement on exempting expatriates from payment of social insurance premium, as is done between PRC and F.R. Germany, and</u></p> <p>-- <u>conduct negotiation for that purpose.</u></p>	Social Insurance Law



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	(14)	Regional Disparity/Disunity in Implementation of Social Security System	<p>- <b>By virtue of amended social insurance law, it applies to enrollment of foreign workers in social insurance. However, its operation and thoroughness of operation await harmonisation. (It means cost increase to enterprises that correctly have taken responsive action.)</b></p> <p>- Independence of social insurance scheme in each autonomous body gets in the way of employing capable human resources. (Where an employer desires to employ a Shanghai citizen in Suzhou, transfer of social insurance policy is not possible. Employment of such person is only possible by the assistance of manpower supply company with an extra cost, with, possibly, a negative impact upon the sense of belonging of the person so adopted.)</p> <p><b>(Actions)</b></p> <p>- On 15 October 2011, "Interim Measures for the Participation in Social Insurance of Foreigners Employed in China (Order of the Ministry of Human Resources and Social Security (No. 16))" came into force, implementing the Social Insurance Law, Order of the President (No. 35). However, regional differences are emerging in practical application, as the Interim Measures do not specify the cardinal number, the burden rate, due payment date, etc.</p>	<p>- <b>It is requested that both GOJ and GOC:</b></p> <p>-- resolve double payment by ratification of social security treaty, and</p> <p>-- harmonies application of relevant laws.</p> <p>It is requested that GOC administers social insurance scheme uniformly statewide, or in a broader area (for example, Huadong District).</p>	<p>- Social Insurance Law</p>
	(15)	<b>Nebulous Interim Measures for the Participation in Social Insurance of Foreigners</b>	<p>- Shanghai city has not yet promulgated implementing rules on mandatory enrollment of foreign workers in social insurance, while it is already enforced in Beijing. Before long, other provinces and cities will follow suit. It means another cost increase factor, including double payment of social insurance premium, and insurance with no refund (on pension insurance).</p> <p>- No payment has been made yet on Social Insurance of Foreigners Employed in China (SIFEC). As of now, Shenyang Japanese Association (SJA) has filed a formal proposal, requesting Shenyang authority's public disclosure of the full details of the basis, timing, and substantive details of SIFEC, after which formal enrollment in SIFEC by SJA members will begin across the board.</p>	<p>It is requested that GOC and GOJ will ratify and enforce bilateral social insurance treaty, as soon as possible.</p>	<p>- Social Insurance Law</p> <p>- Article 97 of Social Insurance Law</p> <p>- Order MHRSS No. 16</p> <p>- The Interim Measures for the Participation in Social Insurance of Foreigners Employed in China, enforced on October 15, 2011.</p>
	(16)	<b>Tightened Provisions on Labour Dispatch</b>	<p>- "Interim provisions on labour dispatch", enforced on 1 March 2014, has tightened the control on deployment of dispatched workers (DWs), (such as holding down the DWs' ratio (against directly employed employees) within 10% until March 2016, frustrating employers' seasonal adjustment of production volume.</p>	<p>- It is requested that GOC takes steps to moderate legislative overhauls that allows smooth enterprises operation.</p>	<p>- Labor Contract Law</p> <p>- Several Provisions on Labour Dispatching (SPLD)</p> <p>- Article 4 of SPLD.</p>

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			<p>- <u>The 10% cap on DWs ratio, namely, [DWs/Total number of employees (Direct Employees + DWs)] tightens employer's ability to make seasonal adjustment of production volume.</u></p> <p>- <b>Tightened restrictions on the ratio of the dispatched workers over total workers, increased awareness of "Equal Pay for Equal Work", etc., have pushed up the labour cost.</b></p>	<p>- <u>It is requested that GOC raises the DWs' ratio to 30%, which is appropriate.</u></p> <p>- It is requested that GOC ensure that DRI fully provides the precise details of implementation, such as establishment of the most appropriate rate by reflecting the regional supply of labour force, GDP level, etc.</p>	
			<p><b>(Actions)</b></p> <p>- On 24 January 2014, Human Resources and Social Security Bureau promulgated "Interim Provisions on Labor Dispatch", which provides in substance as follows:</p> <p>(1) As regards the upper limit of the number of dispatched labour per enterprise, Interim Provisions provide: "An employer shall strictly control the number of despatched workers employed which shall not exceed 10% of the total number of its workers." (Article 4). The employer must formulate the adjustment plan based on the actual performance and reduce the number gradually until 29 February 2016. Any employer failing to achieve this limit shall be subject to penalty. Furthermore, no increase is permissible in this ratio during the grace period.</p> <p>(2) As regards Sanxing, Interim Provisions provide: "temporary" means work not lasting for more than 6-months, "supplemental" means work not providing service for the main work, and "substitutable" means work substituting respectively the worker on leave or for learning, etc.) In this regard, as to "substitutable", the employer must set up the public notice within the enterprise the draft plan for the applicable work after discussion with the employees representative general meeting or by discussion of the total employees, and then, for its discussion with its labour union or employees' representative.</p> <p>(3) Dispatched labor's right to "equal work equal pay", set forth in the Labour Contract Law must apply equally to fringe benefits as well. (Article 9).</p>		
	(17)	Increased Cost to Employers for Security Bond on Employment of Persons with Disabilities	<p>- <b>Security bond refund (the number of the enrolled persons x 1.5%) under interim measures for transfer on security bond for employment of persons with disabilities has terminated. Many on the payroll comprise of foreign workers, while the stipulated disabled persons do not reside in the neighbouring area. It simply amounts to additional taxes.</b></p>	<p>- <b>It is requested that GOC reviews:</b></p> <p>-- <b>the mathematical formula for calculating the number of the stipulated disabled persons and also</b></p> <p>-- <b>the going rate of 1.5%.</b></p>	Interim Measures on Security Bond for Employment of Persons with Disabilities
	(18)	Difficulty in Accounting for Expenses incurred by Japanese Visitors to MFS	<p>- <u>In the case where a Japanese staff of a Member Firm visits for business purposes the Member Firm's subsidiary (MFS ) in PRC, expenses incurred in Japan for the business trip to MFS cannot be entered as expenses in the book of MFS, for lack of the "fapiao (invoice)" issued only in PRC.</u></p>	<p>- <u>It is requested that GOC takes steps to enable MFS to enter such expenses on the book of MFS as MFS expenses, even without "fapiao".</u></p>	

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	(19)	<b>Transfer or Overseas Trip is Difficult for the Local Employees due to Permanent/Temporary Residence Scheme</b>	<p>- <u>The Firm transferring its local employees to other location finds that the local employee is unwilling to move his/her official family registry (OFR) to the new location. Problems arise upon his/her transfer to other location or dispatch on overseas business trip. The local staff children can receive education only at the place of OFR. Such staff must return to the place of OFR for acquisition of passport, visa, etc. when making overseas business trip.</u></p> <p>- <u>A local staff, working in a location other than his/her home country, does not move the permanent residence to the address of the workplace. For this reason, such staff needs to return to the place of permanent residence for acquisition of passport and visa, frustrating his or her overseas business trip.</u></p>	<p>- <u>It is requested that GOC revises the OFR system.</u></p> <p>- <u>It is requested that GOC takes steps to revise the OFR system.</u></p>	
	(20)	<b>Rigorous Control of Overtime Work</b>	<p>- <u>The current restrictions on overtime work do not come to grip with the rapidly expanding economy, making it difficult for enterprises to observe the legislative requirements.</u></p> <p>- <u>Due to the provisions of the current LL that restricts overtime-working hours, MFS is unable to cope with the change in production volume. It is difficult to observe the law to the latter(e.g. overtime per general worker per month is 36 hours maximum).</u></p>	<p>- <u>It is requested that GOC implements the law flexibly tailored to the prevailing needs and circumstances.</u></p> <p>- <u>It is requested that GOC takes steps to review the restrictions for making necessary adjustments.</u></p>	<p>- <u>Labour Contract Law</u></p> <p>- <u>Labour Law, Article 41</u></p>
	(21)	<b>Irrational Statutory Retirement Age</b>	<p>- <u>The retirement age of female worker is prescribed as 50-years old, which works contrary to employers' effort toward active deployment and upbringing of female employees as executive staff/officers.</u></p>	<p>- <u>It is requested that GOC takes steps to expand the age-limit retirement of female executive staff.</u></p>	<p>- <u>Decision of SCNPC on Authorizing the State Council to Make Partial Amendments and Supplements to the Measures Concerning the Retirement and Resignation of Staff Member and Workers, Article 1 (1).</u></p>
	(22)	<b>Inadequacy of Economic Compensation Scheme</b>	<p>- <u>In the absence of retirement allowance scheme, employers pay not even a penny for a leaving employee on his own accord. However, employers must pay economic compensations to employees in the event of change or cancellation of the labour contract at the company's request. Cases have arisen whereby a party demanded a huge amount of economic compensations for even a small case such as change of company name. It impedes move of personnel to another firm in the same group.</u></p>	<p>- <u>It is requested that GOC takes steps to get labour contract law amended.</u></p>	<p>- <u>Labour Contract Law</u></p>

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17 Implementation of Intellectual Property Rights ("IPRs")	(1)	IPRs Protection is Inadequate, and Its Enforcement is Insufficient	<p><u>Problems abound in implementation and execution of fines and penalties relative to criminal prosecution on IPR infringements, such as high barriers for criminal prosecution, and light fines and penalties. Infringements have become increasingly malicious, while criminal prosecution more difficult to file. Damages from infringements have snowballed not only domestically in PRC but also in the overseas' market.</u></p> <p><b>(Actions)</b></p> <p>- "The Regulation of PRC on the Customs Protection of Intellectual Property Rights" was enforced on 1 March 2004. Under the new Regulation, the rightful claimant is no longer required to file the prior notification to the Customs the relevant intellectual property rights, contrary to the old regulation, which required such notification. The claimant can seek protection by filing with the Customs an application accompanied by the evidence of infringement concerning the export and/or import goods suspected of infringement. However, the notification system itself has survived the change. The degree of protection can vary depending upon absence or presence of the notification, since the Customs notifies the claimant if it discovers any cargo suspected of infringement. The validity of notification is extended from 7 to 10 years, which equals the protection period for trademark right, utility model right and copyright in the registered design. Whereas the old regulation required the Customs to suspend the investigation of the seized goods if the shipper or the consignee filed objection, the new Regulation authorises the Customs to continue its investigation despite the objection. The requirements remaining in the new Regulation heavily burden the claimant for posting, within 3 business days, the bond in the amount no higher than the cost of the cargo, upon filing application for seizure, and upon submitting the evidence of infringement.</p> <p>- "Measures of GAC of PRC for the Implementation of the Regulation of PRC on the Customs Protection of Intellectual Property Rights" enforced on 1 July 2004 defines clearly the "bond" that the rightful claimant must post in seizing the goods upon discovery of infringing goods at the Customs. These Measures define the implementing details of "Regulation of the PRC on the Customs Protection of Intellectual Property Rights" (revised) enforced on 1 March 2004. For example, as to the amount of bond stipulated "no higher than the cost of the goods" is defined in the Measures as follows:</p> <p>(1) If the value of the goods is less than RMB20,000, the bond equals to the value of the goods;</p> <p>(2) If the value of the goods is more than RMB20,000 and less than RMB200,000, the bond equals to 50% of the value of the goods but is not less than 20,000 RMB;</p> <p>(3) If the value of the goods is more than RMB200,000, the bond in the amount of RMB100,000 must be posted. In addition, the posting of bond can now be made in cash or by guarantee by bank or non-bank financial institution.</p> <p>The "general bond" system also introduced allows claimants of intellectual property rights to post bond in advance in the fixed amount not less than RMB200,000, obviating the need for posting bond each time goods suspected of infringement is discovered.</p>	<p>It is requested that GOC:</p> <p>-- <u>beefs up administrative power.</u></p> <p>-- <u>reviews the thresholds for criminal prosecution.</u></p> <p>-- <u>enhances IPR administrative staff's professional skill.</u></p> <p>-- <u>imposes severer fines and penalties, etc., and</u></p> <p>-- <u>beefs up response to injuries experienced in the overseas' market.</u></p>	

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				<p>- From September 2004 through August 2005, a special action for protection of intellectual property rights is being conducted in 15 provinces, autonomous bodies and demesne cities in 3 stages. Intellectual Property Rights Department of each district establishes the action plan, sets up an organization for execution of the plan, and periodically reports the status of progress to the central competent authority that in turn reports the summary of inspection to State Council. Some have posed question as to its effectiveness. However, this action reveals the PRC authority's efforts to tighten control on infringements of intellectual property rights.</p> <p>- Supreme People's Court (SPC) and Supreme People's Procuratorate (SPP) enforced on 22 December 2004 "Interpretation of the SPC and the SPP Concerning Some Issues on the Specific Application of Law for Handling Criminal Cases of Infringement upon Intellectual Property Rights" which provides for application of laws to prosecute criminal infringement activities of intellectual property rights. This Interpretation is directed at tightening protection of intellectual property rights by lowering the threshold for prosecution and clarifying the definition of terms. For example,</p> <p>-- "False Representation Charge On The Registered Trademark Of Goods" which is applied on "unauthorised use of the registered trademark on goods of the same class, type or kind" provides for 3 years imprisonment with hard Labour with fine for (1) illegal business of more than RMB50,000 or illegal income of more than RMB30,000 and for (2) illegal business of more than RMB30,000 or illegal income of more than RMB20,000 involving unauthorised use of more than two types of the registered trademarks. In addition, more than 3 years and less than 7 years imprisonment with hard Labour with fine are imposed on (1) illegal business of more than RMB250,000 or illegal income of more than RMB150,000 and on (2) illegal business of more than RMB150,000 or illegal income of more than RMB100,000 involving unauthorised use of more than two types of registered trademarks.</p> <p>-- Illegal business means the value of infringing products manufactured, stored, transported and sold by the infringer during the course of infringing intellectual property rights.</p> <p>-- "False representation charge on patents" for falsely representing patents owned by others is fined by imprisonment with hard Labour of less than 3 years with fines, namely, (I) illegal business of more than RMB200,000 or illegal income of more than RMB100,000 or (ii) illegal business of more than RMB100,000 or illegal income of more than RMB50,000 involving misrepresentation of more than two types of patents owned by others.</p> <p>-- "Copyright Infringement Charge": In the case the amount of infringing income is more than RMB30,000, "the infringing income is relatively large" under Article 217 of Criminal Law applies if (I) the illegal income is more than RMB50,000 or (ii) more than 1,000 unauthorised copies in total of literary work, music, movie, etc. are made, the infringer shall be fined by imprisonment with hard Labour of less than 3 years with fines. If the amount of infringing income is more than RMB150,000, "the infringing income is extremely large" under Article 217 of Criminal Law applies and if (I) the illegal income is more than RMB250,000 or (ii) more than 5,000 unauthorised copies in total of literary work, music, movie, etc. are made, the infringer shall be fined by imprisonment with hard Labour of more than 3 years and less than 7 Years with fines.</p> <p>-- Under "Commercial Secrets Infringement Charge", the infringer shall be fined by imprisonment with hard Labour of less than 3 years with fines if the damage inflicted upon the rightful owner is more than RMB500,000, and by imprisonment with hard Labour of more than 3 years but less than 7 years with fines, if the damage is more than RMB2.5 million.</p>		

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			<ul style="list-style-type: none"> <li>- On 22 December 2004, SPC and SPP enforced "Interpretation of the SPC and the SPP Concerning Some Issues on the Specific Application of Law for Handling Criminal Cases of Infringement upon Intellectual Property Rights" that serves as a guideline for application of laws, and on the same day, prosecuted offenders nationwide all at once. This guideline expressly provides that persons copying more than 5,000 copies of books, music, movie, TV and video products shall be imprisoned with hard labour for more than 3 years and less than 7 years with fine, on charge of copyright infringement. This guideline has clarified the basis of criminal penalty.</li> <li>- In October 2005, the U.S., Switzerland and Japan sought PRC that it provides information on its laws and regulations, final judicial and administrative decisions that are generally applied, possibility of acquiring intellectual property rights in PRC, its scope, execution and prevention for abuse of such rights, pursuant to Article 63.3 of TRIPs.</li> <li>- On 23 May 2007 China-the U.S. Strategic Economic Talk was convened and both governments agreed to intensify their execution of laws on intellectual property rights.</li> <li>- On 25 August 2008, draft amendment for Article 3 of Patent Law of PRC (as Amended 2008) was put on the agenda before the first session of the Standing Committee of the Ninth National People's Congress.</li> <li>- On 29 August 2008, GOC invited public comments on the third draft amendment of the Patent Law of PRC.</li> <li>- On 13 May 2012, Japan, China, South Korea Investment Treaty was signed. The Treaty in Article 9 provides for the Parties' obligation to protect intellectual property rights, and to establish and to maintain the intellectual property right system while ensuring its transparency.</li> <li>- On 17 May 2014 Agreement Among GOJ, GOK and GOC for the Promotion, Facilitation and Protection of Investment came into effect. Article 9 provides new provisions, namely, each contracting party shall, in accordance with its laws and regulations, protect intellectual property rights and establish and maintain transparent IPRs Regimes, etc. (The new provisions are not included in Japan/PRC and Japan/ROK Investment Treaties.)</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- Judgments in favor of FFEs have been handed down on alleged infringements by counterfeit motorcycles, trademark rights, and pirated CDs. Centering around urban areas, fair judgments can now be expected, being prompted by the PRC's accession to WTO.</li> <li>- With the view to eliminate duplication of work and unclear definition of job responsibility, to tighten Intellectual Property Right protection, to beef-up supervisory and managerial responsibility, and to provide one-stop-service, etc. the Shenzhen Municipal Authority established Administration of Market Supervision, by amalgamating IPR Bureau that protects intellectual property right, Administration of Industry and Commerce, and Quality and Technical Supervision Bureau that cracks down on product quality violation.</li> </ul>		
	(2)	Difficulty in filing Divisional Patent Applications	- <u>Unless parent application is pending, even if its divisional application is pending, it is disallowed to file further divisional application (sub-sub application).</u>	- <u>It is requested that the Patent Office of the State Intellectual Property Office permits filing of sub-sub application.</u>	Patent Examination Guidelines, Part 1, Chapter 1, 5.1.1
	(3)	Restricted Amendment in the Wording of the Patent Claim	- <u>Upon correction of patent claims, GOC accepts only the wordings used in the specification of the patent claim. In addition, Patent Office refused to accept our member firm's correction that added a claim at the time of response to the Office Action.</u>	- <u>It is requested that GOC: -- determines whether to accept the claim correction based on the details disclosed on the particulars of invention and the drawings, the same as other countries, and</u>	- Patent Law Article 33, Examination Guidance Part II, Chapter 8, 5.2 Correction, 5.2.1 Request for Correction

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			<p>- Unless correction of the claim is permissible under the Patent Prosecution Highway (PPH) Programme, it will defeat the objectives of the PPH Programme itself. For example, in a case where, based on the corrected claim, the First Office (in Japan or elsewhere) determines the invention is patentable, and then the applicant files its patent application under PPH Programme in PRC (Succeeding Office) based on the First Office examination, unless filing under PPH Programme is accepted with the corrected claim in PRC, examination will be based on the initial claim before the correction. If so, early patent registration cannot be hoped for.</p>	<p>-- <u>approves additional claim at the time of response to the Office Action.</u>                      - It is requested that GOC affords <u>opportunity for correction of patent claim upon filing application for PPH Programme.</u></p>	<p>- Detailed Rules for the Implementation of the Patent Law, Article 51(3)                      - Detailed Rules for the Implementation of the Patent Law, Article 51</p>
	(4)	Nebulous Legislative Definition of the Country of Origin Principle Obligations	<p>- There are cases where effective acquisition of IPRs is difficult to secure in emerging countries, where the needs are rising in many of them for the local development of IPRs, the legislation provides the country of origin obligations. However, due to ambiguity of such legislation, effective acquisition of IPRs is difficult to secure in certain cases. In addition, nowadays when R&amp;D activity takes place across the border in plural countries, there are emerging risks for conflict in regard to the country of origin obligations of individual countries.</p>	<p><b>It is requested that GOC:</b>                      -- <b>deregulates or repeals the country of origin obligations, or</b>                      -- <b>clearly defines the legislative provisions.</b>  <b>It is requested that GOC:</b>                      -- <b>pushes ahead by deregulation or repeal, the country of origin requirements.</b>                      -- <b>advances deregulation of the country of origin requirements, etc. by multi-national arrangements, etc. on cross-border research &amp; development.</b></p>	
	(5)	<u>Omitted Submission of Priority Documents relative to the Country of Origin</u>	<p>- <u>The procedures of submitting priority documents relative to the country of origin already introduced by and among Japan patent office, U.S. patent and trademark office, European patent office, Korean intellectual property office are conditionally omitted. The procedures of submitting priority documents relative to the country of origin already introduced by among state intellectual property office of the PRC., U.S. patent and trademark office, European patent office, and Korean intellectual property office are conditionally omitted. However, between Japan patent office and state intellectual property office of the PRC, this kind of arrangement has not yet been introduced.</u></p>	<p>- It is requested that between Japan patent office and state intellectual property office of the PRC, they will <u>introduce the scheme that conditionally omits the Procedures of the priority documents submission, relative to the country of origin.</u></p>	

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	(6)	Excessive Clerical Workload for Notification and Registration of Patent License	<p>- <u>Member firm's subsidiary (MFS) must submit the same Licence Agreement to various administrative departments and agencies. For example, filing of notification is cumbersome to Competent Authority of Foreign Trade Administration (for External Remittance), Patent Office of the State Intellectual Property Office, Office of the State Administration for Industry and Trademark (for acquisition of requirement to duly assert against third parties), furthermore, to Regional Bureau of Industry and Commerce (for Oversight).</u></p> <p><u>In addition, there is no uniformity between the State and Local legislation, while the administrative scheme is complex. It is extremely difficult for an applicant of notification to follow the correct administrative procedures.</u></p>	<p>- <u>It is requested that GOC:</u></p> <p>-- <u>streamlines administrative departments,</u></p> <p>-- <u>achieves compaction in administrative provisions, and</u></p> <p>-- <u>harmonises state and local administrative legislation.</u></p>	<p>- Regulations on Administration of Import and Export of Technologies</p> <p>- Measures for the Administration of Registration for Patent Licence Agreement</p> <p>- Measures for the Administration of Registration for Technical Licence Agreement</p>
	(7)	Compulsory Warranty on Performance and Patent for Transferred Technology under Licensing Agreement	<p>- <u>The party exporting technology to PRC owes by law warranty liability to the importing party, while there is no express provision in the PRC law concerning the joint ownership of technology that takes place in PRC. A member firm is concerned with the growing disparity that might have arisen between the foreign and domestic nationals.</u></p>	<p>- <u>It is requested that GOC causes the governing law to be amended to wipe out the disparity that might exist between the foreign and the domestic nationals.</u></p>	<p>- RAIET, Articles 24(2), (3) and 25</p> <p>- RAIET, Articles 2, 24 &amp; 25</p> <p>- Regulations on Administration of Import and Export of Technologies</p>
	(8)	Complex and Irrational Procedures for Patent Litigation	<p>- <u>FFEs are unable to activate the court system in PRC for instituting litigation, which requires complex procedures, being further aggravated by the time consuming public notary and validation requirements. Furthermore, due to the principle of protecting local industries and jurisdictional issues, judgements with extremely severe damages are sometimes handed down upon FFEs.</u></p> <p><b>(Actions)</b></p> <p>- On 31 August 2014, the 10th Standing Committee of the 12th National People's Congress decided on establishment of the Administration of Special IPRs Courts in Beijing, Shanghai, and Guangzhou Municipalities.</p> <p><b>(Improvement)</b></p> <p>- In October 2013, Shanghai City Pudong Xinqu People's Court was established in the China (Shanghai) Pilot Free Trade Zone (CS_PFTZ) to arbitrate civil/commercial disputes including IPRs cases within CS_PFTZ.</p> <p>- In November 2013, Shanghai City Pudong Xinqu People's Court (SCPX_PC) was established in CSPFTZ. It will examine all civil/commercial issues, including IPRs relative to CSP_FTZ. SCPX_PC will adjudicate, decide/render award, serving as the First Trial Court (the Court of First Instance).</p>	<p>- <u>It is requested that courts in PRC ensure that legal proceedings are carried out in all fairness and with high transparency for both PRC domestic enterprises and FFEs.</u></p>	<p>- Civil Procedure Law</p>



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	(9)	Invalidity Claim Made Difficult on Utility Model	- <u>Utility Model Right is mushrooming in PRC for its facility in issuance because of its less rigorous requirement on novelty from the existing technology. Judgement on inventiveness is readily established due to the scarcity of literature, while voiding it is difficult in practice. The potential risk grows.</u>	- <u>It is requested that GOC harmonises employment of its judgement base on inventiveness on PRC utility model right in line with other countries (Japan, Germany).</u>	- Examination and Employment
	(10)	Inadequate Handling of Assessment Report on Utility Model	- <u>In PRC it is possible to institute a civil proceeding without assessment report (AR) of the utility model right. AR can be obtained only by patent holder and interested parties (successor, exclusively licenced party, normally licenced party authorised by patent holder), not obtainable by any third parties (including defendant).</u>	- <u>It is requested that GOC:</u> -- <u>compels the AR requirement in instituting a civil proceeding, and</u> -- <u>authorises third parties (at least including defendant) request for AR.</u>	- Patent Law Article 61(2) - Detailed Rules for the Implementation of the Patent Law Article 56, and 57 of the same - Examination Guidance Part V, Chapter 10, Section 2.2 Qualification of Demandant
	(11)	Disparity between Plaintiff and Defendant on Execution of Utility Model and Design Right	- <u>In PRC, utility model and design right application may be registered without substantive examination, however, with lesser degree of certainty in the respective rights. However, the rightful claimant can readily exercise the respective uncertain rights, barely owing the onus of damage. The defendant on the other hand is denied with the right to request even "report of utility model technical opinion" to PRC Patent Office.</u>	- <u>It is requested that PRC Patent Office:</u> -- <u>prohibits rightful claimant's assertion of right without report of utility model technical opinion in hand,</u> -- <u>ensures rightful claimant bears the onus of damage in exercise of its right without report of utility model technical opinion, and</u> -- <u>upon request by any person, grants access to report of utility model technical opinion.</u>	- Patent Law - Measures, Regulations, etc. relative to Patent Law
	(12)	Insufficient Penalty upon Infringement of IPRs	- <u>As affairs stand, due to the lenient penalties imposed by the administrative agency, infringing activities on copyright is repeated.</u> 1) <u>The amount of damages and penalties are extremely low. While there is some sign of increase in the amount of penalties imposed depending upon the administrative agency in charge and upon cases, it is not infrequent that in many cases the court has handed down only minimal penalties. Frequently, damages comprise of confiscated infringing products. However, the damages are hardly sufficient, depending upon the efficiency of the attorney (research company). Also fines are</u>	- 1) <u>It is requested that GOC:</u> a. <u>imposes severe penalties to stop recurrence of infringing conducts, and applies criminal penalties on infringers with past infringing record, even in the case where the amount of infringing business is less than 50,000 RMB.</u> b. <u>confiscates the business licence for</u>	- <b>Trademark Law Article 63</b> - <b>Regulation on the Implementation of the Trademark Law (2014 Revision) Article 60</b> - <b>Anti-unfair Competition Law, Article 5</b>

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			<p><u>extremely low for infringement of accompanying items, such as tags, operating manuals, outer box, etc.</u></p> <p>2) <u>Lack of consistency is obvious, regarding administration of fines imposed on trademark infringements: The amount of fines varies from case to case and administrations in various jurisdictions.</u></p> <p>3) <u>Where penalties are not paid up, no further execution is sought, with the result that infringers go Scot-free. Local authority sends out demand letter to infringers to show up for payment of penalty in the face of summon and if this does not work, confiscates the business licence of the infringers. However, infringers manage to resume their business by changing their business location, corporate names, and names of legal authorised representatives.</u></p> <p><b>- As affairs stand, the too lenient penalty imposed by the administrative agency fails to serve as deterrent so that many parties repeat the copyright infringing activities. There are repeated infringements by the same infringer.</b></p>	<p><u>the second time infringers, transfers the second time infringers automatically to PSB cases.</u></p> <p>c. <u>determines the amount of fines commensurate with the market sales price of the original product, as to the tags, owner's manual, outer box and other accessories, and</u></p> <p>d. <u>after administrative charge, the clampdown agency pushes forward the case for voluntary transfer to criminal prosecution.</u></p> <p>2) <u>It is requested that GOC eliminates variances in the amount of fines among the local administrations in each region, and clearly establishes the calculation basis of the amount of fines.</u></p> <p>3) <u>It is requested that the authority switches to a criminal case against those who fail to show up by heavier fines, etc.</u></p> <p>- It is requested that administrative agency: -- makes penalty more stringent, and -- structures the nation-wide data base, that enables sharing of the records for individual infringing conducts, penalties, etc.</p>	
			<p><b>(Actions)</b></p> <p>- On 22 December 2004, the Supreme People's Court and the Supreme People's Procuratorate enforced "Interpretation of Concerning Some Issues on the Specific Application of Law for Handling Criminal Cases of Infringement upon Intellectual Property Rights" that deregulates the thresholds for applying the penalty on infringements of intellectual property rights.</p>		

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			<p>- In April 2007, "Interpretation II of the Supreme People's Court and the Supreme People's Procuratorate of the Issues concerning the Specific Application of Law in Handling Criminal Cases of Infringement of Intellectual Property Rights", reduced substantively to one-third of the previous level of the prosecution thresholds as to legal person, concerning Intellectual property rights inclusive of unlawful use of trademarks, and illegal copying of copyrighted products through removal of differences between Legal person and natural person.</p> <p>- The prosecution threshold point under Article 217 of Criminal Law of PRC for copying infringement has been reduced from 1000 to 500 as regards "penalty for copyright infringement".</p> <p>- In April 2007, the United States requested consultations under WTO Agreement with GOC, pursuant, among others, to Article 41 (that stipulates effective action against any act of infringement and remedies which constitute a deterrent to further infringements), and Article 61 (that provides for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale of the TRIPS Agreement with respect to certain measures pertaining to the protection and enforcement of intellectual property rights in China). In September 2007, DSB established a Panel. Japan has been participating in the Panel as third party.</p> <p>- On 26 January 2009, WTO Panel has handed down its Final Report, which is a dual decisions both pros and cons in DS362, in which the United States requested consultations with China concerning certain measures pertaining to the protection and enforcement of intellectual property rights in China.</p> <p>The U.S. alleged that certain copyright law, customs law and criminal law of PRC do not satisfy PRC's obligation under the WTO trade-related aspects of intellectual property rights (TRIPS).</p> <p>WTO Panel supported the U.S. allegation that the Copyright Law is inconsistent with TRIPS in that it does not recognise copyright depending upon the contents, and that it authorises entry into the market of the infringing product by removing the infringing trademark. However, the Panel set aside the other U.S. allegations, including the PRC's basis of prosecuting against counterfeiting conducts and piloting conducts.</p> <p><b>(Improvement)</b></p> <p>- On 27 December 2008, the Executive Meeting of the State Councilors released amended Patent Law of PRC (APL) for enforcement from 1 October 2009. APL raises the penalty on patent infringement from "3-times" to "4-times" of the unlawful income, and in the absence of unlawful income, from RMB50,000 to RMB.200,000.</p>		
	(13)	Insufficient border injunction on counterfeit goods	<p>- While the number of suspended export of counterfeit goods continues to increase, the Custom's enforcement is not enough, since a great number of counterfeit goods made in PRC are discovered in the overseas' market.</p> <p>- There have been cases where the result of disposal of the seized counterfeit goods is not notified to the IPR owner.</p>	<p>- It is requested that GOC tightens its border injunction on the counterfeit goods, by raising the inspection rates, etc.</p> <p>- It is requested that GOC develops a mechanism to notify all IPR owners, in concern, the result of disposal of the customs seizures.</p>	<p>Regulation on the Customs Protection of Intellectual Property Rights (IPRs Regulation) &amp; Measures for Implementation of the IPRs Regulation (IPRs Measures)</p> <p>- TRIPS Agreement</p> <p>- Patent Law</p> <p>- Trademark Law, etc.</p>

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			<p>- <u>1) Disclosure of information is insufficient to the rightful claimant as to the disposal of infringing goods.</u></p> <p><u>2) The sales volume has dropped down for counterfeit watches sold in the watch market at the West Gate of Guangzhou Station. However, there has been no substantial change in the absolute sales volume. Presumably, they have shifted the sales method from person-to-person selling at the shop counter to catalogue/internet sales. Numerous counterfeits are on placed on the web sales (at the common internet market place, or at independent individual sites).</u></p> <p><u>3) On actual crackdown, as matters now stand, excepting public security, administrative agencies such as AIC/TSB, etc. are precluded from joining the raid, since counterfeiters locate their stockroom/assembly factory in the residential area.</u></p> <p><u>4) Counterfeiters once charged with infringement are found repeating their infringing businesses. However, it is not clear how the regulatory agencies keep track of the "repeat offenders".</u></p>	<p>- <u>1) It is requested that the authority send to the rightful claimant the following documents at all times:</u>a. <u>Details of infringement (list of the seized goods),</u>b. <u>Written decision/certificate of penalty upon Infringing party(ies),</u>c. <u>Confirmation on disposal of infringing products (disposal certificate).</u></p> <p><u>2) It is requested that GOC:</u>  <u>-- clamps down on sales of counterfeit products via the internet and by catalogue, and</u>  <u>-- tightens its clampdown on the internet service providers for the common market place, causing them to delete the web pages that list counterfeit products.</u></p> <p><u>3) It is requested that GOC allows AIC/TSB's agencies to crack down also in the residential zones.</u></p> <p><u>4) It is requested that GOC establishes the ID Card based system that allows all investigating agencies to access the past record of infringers (if such system is unavailable) to keep repeat offenders under severe surveillance.</u></p>	
			<p><b>(Actions)</b></p> <p>- On 10 March 2010, GOC decided to extend by another 6-month, "The Special Project Activities to crack down on Manufacture/Sales of IPR Infringing Products, Counterfeit Goods, and Low Quality Products", which began from October 2010 until March 2011.</p>		

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	(14)	Counterfeit goods are ubiquitous, dispersing internationally	<p>- Counterfeit pharmaceutical drugs and medicines (Counterfeits) manufactured in PRC, etc. are distributed not only in their own countries but are exported widely to other countries. Counterfeits not only constitute infringement of IPRs (patent and trademark rights), but in many cases, they can be a cause for material health problems to patients. It is imperative, therefore, to keep the Counterfeits beyond the reach of the patients by clamping down.</p> <p>- <u>Counterfeit products of a Member Firm are distributed on internet and unofficial distribution channels.</u></p> <p>- <u>Counterfeits bearing the Trade mark of a Member Firm are distributed in the market as counterfeit products.</u></p> <p>- <u>Counterfeits of Member Firm's products manufactured in massive volume have been distributed both in the domestic and export markets, materially hurting the sales of the Member Firm's products.</u></p> <p>- <u>Rampant counterfeits have grown into a factor suppressing sales, and shortage of crack down has grown it into a rat race.</u></p> <p>- <u>Increasing volume of counterfeits manufactured in PRC are distributed internationally over the internet platform.</u></p> <p>- <u>Especially in the alloy steel (ferrosilicon, etc.) industry, due to the rampant smuggled products (exported from PRC), goods destined for export to Japan are, from time to time, unable to meet the price competition.</u></p> <p><b>(Actions)</b></p> <p>- The need for tightening control in PRC against infringing products by counterfeits and pirate editions has been pointed out at the forums of the TRIPS Council/China Transitional Review Mechanism (TRM) by Japan, the U.S. and EU, and the request for improvement has been made by GOJ to GOC at bilateral negotiation tables, such as Japan-China Economic Partnership Consultation.</p>	<p>- It is requested that GOC makes redoubled efforts in clamping down on manufacture and sales, distribution and export of Counterfeits.</p> <p>- It is requested that administration authority:</p> <p>-- <u>tightens clamp down on counterfeit products, and</u></p> <p>-- <u>beefs up control and crack down upon internet service platform providers, for the sake of protecting the rights and the benefits of the trademark holders and the consumers.</u></p> <p>- <u>Fines upon counterfeit factories exposed are too lenient. It is requested that GOC takes step to impose much heavier fines upon them to strengthen its deterrent force.</u></p> <p>- It is requested that GOC takes step to raise the fines by a large margin.</p> <p>- It is requested that GOC administers adequately, measures for the administration of internet transactions, enforced since 15 March 2014.</p> <p>- It is requested that GOC/GOJ tighten the clampdown on smuggled goods.</p>	<p>- Trademark Law (10-27-2001), Article 52(1) &amp; (5)</p> <p>- Patent Law</p> <p>- Trademark Law, etc.</p> <p>- <u>Customs Law</u></p> <p>- <u>Measures for the Administration of Internet Transactions</u></p>

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				<ul style="list-style-type: none"> <li>- On 23 May 2007, at the U.S.-China Strategic Economic Dialogue, it was mutually agreed to exchange information on clampdown of counterfeits and pirate editions between the U.S. and PRC.</li> <li>- On 25 April 2008, the U.S. released "2008 Special 301 Report" that continues to designate PRC in the categories of "Priority Watch List" as counterfeit manufacturing country.</li> <li>- On 19 and 20 November 2009, the First Meeting on Japan-PRC IPR Conference was convened. Japan side requested the PRC side to eliminate web sales of counterfeits, to prevent re-entry into the market of the confiscated goods, and to execute rigorous monitoring and disposition of counterfeit goods.</li> <li>- The OECD 2009 study concluded that international trade in counterfeit and pirated goods could have accounted for USD 250 billion (about 25 trillion yen), excluding the damage caused by the domestically distributed products, or from the internet distribution. (The Economic Impact of Counterfeiting and Piracy (2nd Period)).</li> <li>- <b>In 2014, the damages caused to Japanese enterprises by counterfeits originating from PRC climbed to 53.1% in North America, 52.8% in Western Europe, 55.0% in Russian Federation, 55.4% in Middle East, 49.8% in Mid-South America, more or less 50% in all. ("FY 2014 survey report on injury from counterfeiting" by the Japan patent office).</b></li> <li>- <b>In 2014, the number of cases for import suspension at Japanese customs by IPR infringing products climbed to 32,060 cases, of which 92.2% is represented by Imports from PRC (excluding Hong Kong).</b></li> </ul> <p><b>Export bases are mainly international harbours in Hong Kong/Guang Dong, Shanghai, etc. However, recently, overland transport of infringing products via Russia, and Middle Asia has been rising, in order to avoid the border enforcement. ("FY 2014 Survey Report on Injury from Counterfeiting" by the Japan patent office).</b></p>		
		(15)	The system concerning acquisition of design right is inadequate and insufficient	<p>Problems concerning design right acquisition in PRC:</p> <ol style="list-style-type: none"> <li>1) Introduction of Substantive Examination in Design Right Application: In the examination process for design right application, no substantive examination is made. Instead, GOC performs its examination in form only. In so far as the documents are complete in form, design applications void of novelty are accepted and registered. "Revision of Patent Law has made it possible to lump together to a single application up to 10 similar applications, provided, however, that due to the absence of substantive examination, instability in patent right remains. It forecloses the utility of this system."</li> <li>2) The Term of Design Right: The term of design right in PRC is 10-years from the filing date, while in Japan it has been changed from 15-years to 20-years by amendment of the Design Law. Compared to 25-years of EU, 14-years of the U.S., and 15-years of ROK, the validity of the design right in PRC is the shortest of all. The 10-year period is insufficient for protection of regular products.</li> <li>3) Introduction of Partial Design System: There is no effective means for protection against partial copying of the creative portion of the design for the whole product, as the design right is granted to a whole product.</li> </ol>	<p><b>It is requested that GOC ensures:</b></p> <ol style="list-style-type: none"> <li><b>1) Stability of the design right by shifting the system as soon as possible to the substantive examination, and enhancement of the stability of patent right on similar design,</b></li> <li><b>2) Synchronisation of the law in line with the international standards by introducing substantive examination and a longer period of the design right protection.</b></li> <li><b>3) Introduction of a system that allows protection of a part of the design right in line with the international trend,</b></li> <li><b>4) Expansion of the scope of application to include the case, where the disclosure is made at</b></li> </ol>	<ul style="list-style-type: none"> <li>- <a href="#">Patent Law</a></li> <li>- <a href="#">Patent Law Article 23</a></li> <li>- <a href="#">Patent Law Article 24</a></li> <li>- <a href="#">Patent Law Article 42</a></li> </ul>

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				<p>4) Introduction of Special Exemption provision on Loss of Novelty: While Patent Law contains special exemption, as it stands, the scope of its application is limited to the case, where the disclosure is made at government-sponsored or accredited trade show. In practice the possibility for application is extremely restricted.</p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Shanghai Industry and Commerce Administration Bureau has tightened its control on infringing activities of copyright through renewal of related legislation in a joint effort with People's Court, Municipal Procuratorate, Public Security Bureau, and Judicial Bureau, while issuing "Notice to focus control on counterfeiting of trademarks" that strictly controls the fake trademark activities.</li> <li>- Patent Law promulgated in December 2008 the requirements for the design right has been made more stringent compared to the original law by adding non-ease of creation.</li> </ul>	<p><b>individual exhibition, sales activity, etc. other than a government-sponsored or accredited trade show, where "the design has become the public domain, arising from the applicant's action".</b></p>	
		(16)	Legal protection is wanting in the Patent Law for counterfeits in form	<p><u>Anti-Unfair Competition Law (AUCL) is the only available legal means with which to combat counterfeits in form, provided, however, that, the AUCL, which continues to require if the product is well-known, is not an effective means to stop the counterfeiting activities.</u></p> <p><u>On the other hand, promulgation of Legal Interpretation [2007] No. 2 "Interpretation of the Supreme People's Court and the Supreme People's Procuratorate Concerning Some Issues on the Specific Application of Law for Handling Criminal Cases of Infringement upon Intellectual Property Rights (2)" is a welcome positive step forward. It has clarified the basic interpretation of the Law.</u></p>	<p><u>It is requested that GOC adds more applicable conditions to AUCL, specifically, the terms similar to Article 2. 1(3) (Dead copy provisions) of Japanese AUCL.</u></p>	Anti-Unfair Competition Law, Article 5(2)
		(17)	Nebulous Basis of Infringement Determination	<p><u>Wide gaps exist on the judgement among customs and other administrative agencies over the judgement, if the trademark infringement exists, concerning the OEM products ordered by overseas purchasers, manufactured in PRC, and exported abroad.</u></p>	<p><u>It is requested that GOC:</u></p> <ul style="list-style-type: none"> <li><u>-- reinforces its administrative competency, reviews the basis of criminal prosecution, enhances the professional skill of IPRs staff, tightens the penalty, etc.</u></li> <li><u>-- enhances its ability to meet the injury in the overseas market, and</u></li> <li><u>-- promulgates interpretative notes and guidelines based on the laws now in force.</u></li> </ul>	

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	(18)	Irrational Application Procedures for Seizure Guarantee by IPRs Holders	<p><u>- Security Deposit:</u></p> <p>1) <u>The existing security deposit rule applies where the patentee does not elect the TSD. The method to establish the amount of the security deposit remains nebulous. It seems it is left to the discretion of each Customs, rather than the amount described on the invoice.</u></p> <p>2) <u>TSD is valid for one-year maximum (from the date the application is accepted to 31 December of the same year). The applicant, choosing to obtain the full one-year coverage of TSD must file application and deposit the amount of TSD 2-3 months before 1st January. The amount of deposit will be refunded within 180 days from 30 June of the following year so that the patentee must, deposit TSD for two-years from the 2nd year and thereafter, in order to benefit from the continued coverage.</u></p> <p><b>(Actions)</b></p> <p>- On 3 March 2009, "Measures of GAC of PRC for the Implementation of the Regulation of PRC on the Customs Protection of Intellectual Property Rights" was promulgated and the provision under Article 24 authorises a guarantee issued by financial institutions in lieu of posting of the security bond deposit.</p>	<p><u>- It is requested that GOC:</u></p> <p>-- <u>promulgates expressly in writing the amount of the security deposit</u></p> <p>-- <u>allows carryover of TSD once deposited to the following year, where the applicant chooses to continue with TSD and</u></p> <p>-- <u>structures the system that obviates the needs for TSD to begin with (as it is done in Japan and EU/USA).</u></p>	<p>- IPRs Regulation, Article 14</p> <p>- IPRs Measures, Article 22</p> <p>- Announcement of GAC (No. 31 [2006]) on GAC's Receipt of General Guaranties of the IPR Holders</p>
	(19)	Disposal of the Products after Seizure is both Nebulous and Delayed	<p>- <u>Customs is to notify the patent holders about information on the 5-items including the consignee and the sender of the goods under Article 28 of DRCP. However, this notification requirement is not necessarily observed.</u></p> <p>- <u>Disclosure of information is insufficient as regards disposal of infringing goods.</u></p> <p>- <u>Patent holders are responsible to pay warehousing, disposal fees, etc. of the seized goods incurred during the seizure period.</u></p> <p>- <u>It takes too long for deciding the disposal of the seized goods, delaying the invoicing for the cost incurred on them, causing complications in bookkeeping. (There was a case in which it took 2-years from the date of Seizure to the date of invoicing.)</u></p> <p>- <u>PRC customs currently discloses only the destination of the seized goods.</u></p>	<p>- <u>It is requested that GOC ensures a thorough implementation of all issues set forth in the left column.</u></p> <p>- <u>It is requested that GOC discloses the details of disposal for the infringing goods.</u></p> <p>- <u>It is requested that GAC holds infringing parties liable to assume cost of warehousing and disposal fees incurred during the seizure period.</u></p> <p>- <u>It is requested that the customs expedites dispatch of invoice.</u></p> <p>- <u>It is requested that customs discloses the name of consignee not just the destination country.</u></p>	<p>- IPRs Measures, Article No. 35</p> <p>- IPRs Regulation, Article No.20-27</p> <p>- IPRs Measures, Article No. 28</p> <p>- IPRs Measures, Article No. 31</p> <p>- IPRs Regulation, Article No. 25</p>



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			<p>- <u>Substantial disparity exists on the storage cost of seized goods between the regional Customs. Detailed account of storage fee is neither nebulous nor supplied at all. In many cases, fees are calculated on the basis of the maximum legal period.</u></p> <p>- <u>While Customs Rules are expressly spelt out in writing, the rule for disposal of AIC/TSB/PSB is not clearly defined.</u></p> <p><b>(Actions)</b></p> <p>- On 3 March 2009, Measures of GAC of PRC for the Implementation of the Regulation of PRC on the Customs Protection of Intellectual Property Rights (Amended) was promulgated. Amended Measures due for enforcement from 1 July 2009 sets forth in Article (3): "Upon Customs seizure of infringing products, IPR owner, shipper and consignee of the cargo can hold consultations".</p>	<p>- <u>It is requested that GOC makes it a mandatory requirement for each local customs to provide the particulars for storage on seized goods.</u></p> <p>- <u>It is requested that the Administrative Agency clearly establishes the disposal rules for the confiscated goods.</u></p>	
	(20)	Requested Extension of the Seizure Application Period	<p>- <u>Applications for seizure within 3-business days: The patentee must file application for seizure of the infringing goods and pay security bond deposit within 3-business days of the receipt of notice from the Customs about the discovery of goods suspected of infringement. However, if the patentee resides in a distant, remote area from the Customs, it is extremely difficult for the patentee to complete the requisite procedure within 3-business days.</u></p>	<p>- <u>It is requested that GOC grants extension of the application deadline as necessary.- Certain Customs provide digital pictures of goods suspected of infringement. It is much appreciated if all Customs including regional Customs will follow suit, by providing dual enlarged pictures per product of the front area where letters are visible plus the rear lid area as well.</u></p>	<p>- IPRs Measures Article No. 21</p> <p>- IPRs Regulation, Article No. 16</p>
	(21)	Fraudulent Use or Registration of Trade Names such as Famous Trademarks	<p>- <u>Internationally famous trademarks are used as trademarks, etc. of third parties without authorisation, while numerous company names identical or similar to such famous trademarks are registered in PRC. A case has arisen in violation of the Anti-Unfair Competition Law, whereby products bearing these famous trademarks are manufactured and/or sold without authorisation in mainland China.</u></p>	<p>- <u>It is requested that PRC Patent Office tightens its examination of Registration Application based on Unauthorized Use of Famous Trademarks, etc.</u></p>	
	(22)	Nebulous and Delayed Trademark Registration Procedures	<p>- <u>While trademark protection on prior use has been explicitly written into law, its interpretation differs from case to case. Furthermore, it takes a long time for registration from the filing date of application.</u></p>	<p>- <u>It is requested that GOC promptly updates the website for searching the trademarks.</u></p>	<p>- <u>Amended Trademark Law (2013), Article 59(3)</u></p>

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	(23)	Issues concerning Proposed Amendment of Copyright Law	<p><b>On 6 June 2014, Legislative Affairs Office of State Council (LAOSC) solicited Public Opinions on PRC Copyright Law (Draft Revision) and its revision work continues even now. Should the draft revision be promulgated as is, the following issues are matters of concern:</b></p> <ul style="list-style-type: none"> <li>- <u>Article 13.1.3: "Right to maintain Integrity" Exemption Clause is not included.</u></li> <li>- <u>Articles 3, 31 and 32: Amply protect author's copyright, obviating the need for the grant of neighbouring right to publisher. Multiple right holders to a single book might likely damage the secondary use of the book.</u></li> <li>- <u>Article 15: Juridical person, administering or investing, creating things on behalf of corporation and bearing responsibility, will satisfy the conditions to be regarded as author.</u>  <u>Assuming arguendo "Announcement" here mentioned is interpreted as meaning only the matters "announced", exclusive of the matters, such as "those that are assumed to be made in the name of Juridical person in the announcement", then, despite the satisfaction of the requirements, such as investment made, the creative will, assumption of responsibility, etc., all unannounced materials would be incapable of recognition, resulting illogically in denial of copyright to the Juridical person. It is irrational.</u></li> <li>- <u>Article 17: The requirements for litigating on work of joint authorship are irrational, as regards: "either of the joint authors may litigate in his/her own name".</u>  <u>If it is provided that the litigation may be instituted in the name of either author on the issue that is agreed for joint execution, then it is no problem.</u>  <u>However, if the litigation is initiated singly without completing the process of mutual consultation as an exception to the joint institution in principle, such provision is improper.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that LAOSC expressly provides: "Right to maintain Integrity Exemptions" does not apply "in the case where in light of nature, purpose and mode of use, it is recognised that the changes made are inevitable."</u></li> <li>- <u>It is requested that SIPO refrains from granting neighbouring right to publishers.</u></li> <li>- <u>The authorship requirements are inadequate.</u></li> <li>- <u>It is requested that State Intellectual Property Office of PRC (SIPO) takes step to clarify the relations between the provision, "As regards Indivisible work of joint authorship, each joint author jointly owns copyright to the work of joint authorship, and jointly exercises it by consultation" and the draft act.</u></li> </ul>	<ul style="list-style-type: none"> <li>- Proposed Amendment of Copyright Law</li> </ul>

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				<p>- <b>Article 20: Treatment of work-for-hire is ambiguous..</b></p> <p>- Article 20, and Article 36: Clause that requires proper fosterage in regard to Work-for-Hire, and Live-Performance-for-Hire.</p>	<p>- <b>The relationship is ambiguous between Article 15 (Juridical Person's Work-for-Hire), and Article 20 (Employee's Authorship of Work). In principle, business unit should enjoy the benefit of work created by its employee in discharging his/her work assignment, inclusive of the case, where explicit agreement is absent between the parties, unless otherwise stipulated in the agreement. Departure from this principle fails to come to grip with the thought behind Article 15 (Juridical Person's Work for Hire).</b></p> <p>- <b>In addition, in regard to the copyrighted articles that business unit enjoys, it should not grant the right to display the name to its employee.</b></p> <p>- <b>Furthermore, it should be expressly provided that business unit is entitled to display for free of charge the name not only by itself but to the right to licensing the name to Third Party(ies) for free. Article 20 (3) "The Employee is entitled for free of charge the work of authorship created by the editing method" should be deleted, as it is likely to void the proviso 2. on "Vesting in the Business Unit".</b></p> <p>- <b>While the meaning of "incentive" is unclear, in regard to creation and performance of copyrighted materials in business, payment for the consideration is completed by</b></p>	

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				<p>- Article 43.1.1: The scope private free copying without approval and without remuneration” should not be narrowed down.</p> <p>- Article 43.1.2: The scope of the “Permissible Quotation” is inadequate.</p> <p>- Article 65: Where more than 2-organizations of group copyright administration collect royalty for usage from the same users, it is inadequate that the group administration must establish "the uniform utility collection base".</p>	<p>salary. Thus, grant of further incentive is internationally unprecedented, hence unnecessary.</p> <p>- In light of balancing between protection and usage, and reflection of the actual usage status in various countries abroad, GOC should reflect the reality of the permissible usage of work in various foreign countries. Free copying should be permitted for the entire work, not in part only, by adding “Objective Appreciation” the same as the existing law on top of:                      (1) "Private study and research", and                      (2) Copying of the entire literary work, instead of "partial" copying.</p> <p>- It is considered difficult to produce “introductory note”, “reviewal” or “explanation” on “literary work”, when quotation is permissible only to the extent, exclusive of "the main" or "the substantive portion". On the premise that quotation is permissible on published literary work, in approaching the issue, further deliberation should be given, in principle, to the scope, purpose, inevitability, master servant relationship, etc. between the quoted portion and the rest of the work of "the Permissible Quotation"</p> <p>- Establishment of the utility collection base for royalty is better left for free competition among organisation for group copyright administration.</p>	

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				<p>- <u>Article 68, Article 69, Article 71: Extensive definition and restrictive exemption clause.</u></p> <p>- <u>Article 73: The responsibility of Network Service Providers (NSPs).</u></p>	<p>- <u>Defining the technology relative to "access for inspection", "appreciation", "operation" as "protected technical protection means" is considered too broad, even in light of Article 65, "for the purpose of protecting copyright and neighbouring right."The provision prohibiting circumvention should remain within the boundary of prohibiting positive conducts for circumvention, modification, etc.The defined cases for permissible circumvention of "technological protection measures" are extremely narrow. It makes it impossible to secure protection under the legitimate circumvention provision.</u></p> <p>- <u>The Proposed draft makes the Network Service Provider (NSP) in concern jointly responsible with the user for the portion of the expanded damage, by the NSP's failure to take the requisite measures promptly. This provision is in order, as it comes to grips with the internationally accepted understanding on the question of the NSP's responsibility over its failure to take prompt measures. It is also the same with the provision, in which an NSP fails to take the requisite measures on a network user's copyright infringing conduct, using its network service, while NSP knows or ought to have known the network user's copyright infringing conduct, in which event,</u></p>	

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				<p><u>- Article 76: In regard to the amount of damage, statutory damage compensation system is introduced: "It allows section of either by reasonable multiplication index or the amount not exceeding RMB 1 million".</u></p> <p><u>In addition, punitive damage compensation system is introduced: "where intentional infringements of copyrights or neighbouring rights arise twice or more, the damage may be determined in the amount double or treble of the damage calculated in the preceding paragraph."</u></p> <p><u>- Article 78: Copyright Administrative Authorities (CAA) measures for law enforcement: The draft revision is inadequate to the extent it endows CAA with excessively stringent power for law enforcement, concerning manufacture, import, supply of "Tools for Circumventing Technical Protective Means (TCTPM)", and provision of "TCTPM circumventing service".</u></p>	<p><u>NSP owes a joint and several liability. Should this proposed draft be written into law, as is, the term "Requisite Measures" is ambiguous, lacking in legal stability. It can become a factor injurious to business. Moreover, the proposed draft leaves a room for interpretation that the measures the claimant demands equals requisite measures. On top of its failure to secure the opportunity for rebuttals, it denies the opportunity for rebuttals, leaving problems from the standpoint of fairness. In the least, it should be expressly made clear that onus upon NSP to take "Requisite Measures" is restricted within the "Scope of Reasonableness."</u></p> <p><u>- In light of compensating damage to the author, compensation for the actual damage should suffice. As to malicious infringement, criminal penalty and administrative penalty should suffice.</u></p> <p><u>- There is no denying of the possibility for CAA's expanding the scope of its interpretation of the term, "TCTPM" subject to control, henceforth, giving a grave negative impact on the enterprises' sound business activity.</u></p>	

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18 Demands for Technology Transfer	(1)	<u>Demands for Technology Transfer</u>	<ul style="list-style-type: none"> <li>- <u>Upon entry into PRC market, generally, technology transfer and domestic production in PRC are prerequisites. It serves as de facto expulsion of foreign funded enterprises.</u></li> <li>- <u>Under the FFEs' perspective, GOC's demand for technology transfer and domestic production means anxiety for technology leakage. FFEs must face competition against PRC industries for projects in the third countries.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOC repeals the requirements for technology transfer and domestic production.</u></li> <li>- <u>It is requested that GOC takes step to ensure strict observance of the terms of technical transfer agreements by state and private PRC industries.</u></li> </ul>	
19 Industrial Standards, Approval of Safety Standards	(1)	Formulation of Unique National Standard without International Compatibility	<ul style="list-style-type: none"> <li>- <b>In regard to the information security on office equipment (printers, copiers, etc.), GOC has formulated its own unique standards, which are incompatible with international standards, such as ISO, and IEC. This presents problems upon the business operation.</b></li> <li>- <b>In addition, GOC is advancing its study for drafting the national standard concerning re-manufacturing of copiers and multifunction peripheral. The national standard being formulated includes problematic provisions in light of the original manufacturers' product warranty.</b></li> <li>- <u>In regard to monitoring system such as network cameras, GOC has created its own state standard, which is incompatible with international standards, such as ISO, IEC, etc.</u></li> <li>- <u>It heavily burdens manufacturers for changing the product designs, to make them compatible with the unique PRC state standards, such as highland and tropical versions, which are incompatible with international standards.</u></li> <li>- <u>GOC's own unique standard on information security products heavily burdens manufacturers, such as special specifications for use in highlands and tropical regions.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- During the period of 5 March through 15 March, 2014, PRC Ministry of Industry and Industrial Information sought Public Opinion concerning the Re-Examination Results over the 987 items of Industrial Standards.</li> <li>- On 1 July 2014, Standardisation Administration Commission promulgated 108 items of National Compulsory Standard and 99 items of Recommended National Standard (Enforced on 22 January 2015)</li> <li>- On 14 July 2014, Ministry of Industries and Information announced Industrial Standards for 676-items (for Machines, Auto-Vehicles, Aircrafts, Light Industrial Products, Textiles, etc. (of which 41 items for Aircraft Industry are compulsory, while the rest are recommended) (Enforcement from 22 January 2015).</li> </ul>	<ul style="list-style-type: none"> <li>- <b>It is requested that GOC:</b></li> <li>- <b>-- observes WTO/TBT Agreements, and formulates National Standards, which are internationally compatible, and -- reflects comments from Japan, to the extent they are reasonable, in the National Standards.</b></li> <li>- <u>It is requested that GOC:</u></li> <li>- <u>-- observes WTO/TBT agreements, and formulates national standards, which are internationally compatible,</u></li> <li>- <u>-- eliminates difficulty by making it compatible with the world standard.</u></li> <li>- <u>It is requested that GOC:</u></li> <li>- <u>-- eliminated difficulty, and -- makes its national standard compatible with the international standards.</u></li> </ul>	<ul style="list-style-type: none"> <li>- The Standardization Law</li> <li>- Regulations for the Implementation of the Standardization Law</li> <li>- GB/T 28181-2011</li> <li>- GB4943.1-2011</li> </ul>

Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- On 21 July 2014, China State Administration of Quality Inspection promulgated Notification No. 23 [2014] on Implementing Rules for the China Compulsory Certificate System (enforced on 1 September 2014), amending the CCC Implementing Rules on 17-items of .Electrical Appliances, and Applicable Certification Standard, expanding the range of Applicable Products to cope with the technical breakthrough, new products development, and improvement in the Applicable Certification Standard.</li> <li>- On 15 September 2014, General Administration of Quality Supervision, Inspection and Quarantine, and Standardization Administration jointly promulgated State Standard on 259-items of electric appliances, information technology products, steel products, etc., of which 29-items are compulsory, and 230-items are recommended (Enforcement during 2 July 2015-1 October 2014) (State Standard Announcement [2014] No.21)</li> <li>- In August 2015, national standard for lithium-ion battery for cellular phones has been promulgated.</li> </ul>		
	(2)	Vexatiously Complex and Nebulous Procedures for Acquisition of Compulsory Product Certification	<ul style="list-style-type: none"> <li>- <u>As it stands, under Provisions of General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), importers must submit China Compulsory Certificate to AQSIQ. Depending upon country/manufacturer, it is difficult to obtain CCC in the exporting country. In such cases, special measures such as CCC exemption are available for importers, who must fill in numerous documents, requiring much person-hour for submission.</u></li> <li>- <u>CCC Mark (under China compulsory product certification system) is subject to stringent control, requiring production of numerous documents. It takes a lot of work-time for filing application.</u></li> <li>- <u>Spare parts for a machinery (delivered to a customer), subject to China Compulsory Certification (CCC), cannot be delivered to customers without the CCC label, while many spare parts are not CCC certified. Therefore, MFS is unable to dispatch the spare parts.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 17 April 2001, State Administration of (Quality and) Technical Supervision (SAQTS) and State Administration of Entry-Exit Inspection and Quarantine (SAEEI) were merged to form the General Administration of Quality Supervision, Inspection and Quarantine (GAQSIQ) to initiate unification of the safety standard certification system. On 1 August 2001, certification departments of both SAQTS and SAEEI were merged to form Certification and Accreditation Administration (CNCA). In December 2001, GAQSIQ and CNCA announced unification of the 4 issues, in order to realise national treatment commitment made upon its accession to WTO. These are: Product list; Standards, Technical Regulations and Procedure to determine Acceptance; Certification Mark; and Fee Schedules. As a result, 4 sets of legislation were promulgated on 3 December 2001, and on 1 May 2002, new China Compulsory Certification was created, and CCC Mark was initiated. Accordingly the 4 sets of legislation were published on 3 December 2001, and on 1 May 2003, a China Compulsory Certification was newly established to put into effect the CCC marking on or after 1 May, replacing the Changcheng Label, and the CCIB Mark, the use of which was discontinued by the end of April 2003. However, because of the abrupt spread of the SARS issue, enforcement of the CCC marking, which had been scheduled to become fully effective from 1 May 2003, had to be postponed to 1 August 2003.</li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that AQSIQ streamlines the CCC exemption procedures.</u></li> <li>- <u>It is requested that AQSIQ cuts down the examination time period.</u></li> <li>- <u>It is requested that GOC authorises import of spare parts bearing the JIS Label, etc., also, other than CCC.</u></li> </ul>	<ul style="list-style-type: none"> <li>- Provisions on the Administration of Compulsory Product Certification (2008)</li> <li>- Incorporation into GB5296.2-2008, etc.</li> <li>- Provisions of AQSIQ</li> </ul>



	Category	No	Issue	Issue Details	Requests	References
				<p>- At the TBT Committee held in November 2007 on China's Transitional Review Mechanism, GOJ representative "highlighted some issues contained in his delegation's submission (G/TBT/W/278). He referred to the China Compulsory Certification system (the "CCC System"). Under this system, no foreign conformity assessment bodies ("CABs") had yet been accredited by China according to Article 13 of the Regulations of PRC on Certification and Accreditation, which permitted only Chinese CABs to engage in CCC certification activities. Japan considered this provision to be inconsistent with the objective of Article 6.4 of the TBT Agreement and with China's commitment in Paragraph 195 of the Report of the Working Party." GOC in reply repeated the same position as last time; "The ratification of bilateral Mutual Recognition Agreement (MRA) between Japan and PRC is required before foreign CABs are authorised to carry out examination for Certification and Accreditation."</p> <p>- In December 2007 at the meeting between GOJ (METI) and GOC (GAQSIQ), working schedule was agreed to complete the following within 3-years to pave the way for MRA:</p> <ol style="list-style-type: none"> <li>1) Exchange of information between the two countries concerning the conformity assessment system and implementation of comparative analysis;</li> <li>2) Discussion of the scope and form of mutual recognition; and</li> <li>3) Organisation of the results of such study.</li> </ol> <p>- On 16 July 2009, the General Administration of Quality Supervision, Inspection and Quarantine (GAQSIQ) promulgated an electronic version of Announcement No.117 on Provisions of the Administration of Compulsory Product Certification promulgated on 3 July 2009, and came into force on 1st September 2009. The Provisions comprise of 6 Chapters and 62 Articles, and stipulate Accreditation Process for the China Compulsory Certification (CCC) and embody the following 4 basic principles:</p> <ol style="list-style-type: none"> <li>1) Uniform compulsory, and optional standards, and compatibility evaluation procedure</li> <li>2) Uniform catalogue</li> <li>3) Uniform CCC mark</li> <li>4) Uniform level of inspection fees and commissions</li> </ol> <p>- On 1 September 2009, Provisions on the Administration of Compulsory Product Certification (2008) (amendment) was promulgated. Compared to the old Provisions, this Amendment is appreciated in regard to:</p> <ol style="list-style-type: none"> <li>(1) more precisely defined provisions for certification,</li> <li>(2) imposition of more rigorous terms of the activities for the certifying agency,</li> <li>(3) Strengthened supervisory responsibility of the major agency, and</li> <li>(4) provisions of a number of clearly defined fines.</li> </ol> <p>- On 11 May 2011, AQSIQ issued "Notice to Amend Implementation Rules for Provisions on the Administration of Compulsory Product Certification for Certain Electrical and Electronic Products", enforced on 1 August 2011. Electrical and electronic subject to the Rules are: (1) electric wire parts (2) plugs and sockets for home use, (3) fixed electric switching device for home and similar use, (4) industrial plugs and sockets, and connectors, (5) home use and similar connectors, (6) thermal cutoff, (7) electrical accessories for fixed electric device for home and similar use, and (8) tubular thermal cutoff for small fuse. The Notice aims at streamlining the acquisition procedures for CCC, reducing the cost to enterprises for CCC, and facilitating implementation of CCC.</p>		

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			<p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- GOC has established the uniform basis for both import and domestic goods in terms of the list of the subject products, technical standards, labeling, and cost basis.</li> <li>- GOC has made a significant improvement in assuring transparency, among others, by beginning to provide information at its web page, etc.</li> <li>- <u>In September 2014 under "Rules for General Requirement on Factory Inspection, etc." was promulgated, GOC announced the policy to allow enterprises of good standing to receive the 1st factory inspection after acquisition of certification. From the end of 2014, China Quality Certification Centre (CQC), under China certification &amp; inspection group (CCIC), started this procedure, contributing toward alleviating the burdens in the industrial world.</u></li> </ul>		
	(3)	<u>CCC Acquisition &amp; its Cost</u>	<u>The 3C Certification, etc. is necessary for imported goods for which certification cost is incurred.</u>	<u>It is requested that GOC simplifies the acquisition procedures and reduces the cost.</u>	<u>The 3C Certification, etc.</u>
	(4)	<u>Overly Rigorous Standard for Storage of Dangerous Substances at Factory</u>	<u>"Allowable volume is too low for dangerous substances storage at factory. Allowable volume is 2-3 times of actual daily usage," according to the Fire Defense Bureau. However, it is impossible to operate the factory with this stock level.</u>	<u>It is requested that GOC increases the allowable stock level of dangerous substances at factory.</u>	
	(5)	<u>Incompatible Energy Efficiency Label Implementing Rules and their Implementation</u>	<u>Under measures for the administration of Energy Efficiency Labels (MAEEL), the registration deadline is maximum 30-days from the First Day of the Label Use (FDLU). Nevertheless, on imports, by CIQ inspection, registration must be completed upon customs clearance, contrary to MAEEL. Importing enterprises must further advance (by 30-days, approx.) the product registration. This requirement materially hinders product renewal, import and sales.</u>	<u>It is requested that GOC takes step to synchronize the CIQ requirements and MAEEL. Should CIQ inspection upon customs clearance fall on a day within 30-days of FDLU, it is further requested that customs clearance is completed without needing completion of registration. In such a case, there could be no problem, since market supervision administration should be able to conduct inspection.</u>	<u>Measures for the Administration of Energy Efficiency Labels</u>
	(6)	<u>Grace Period is too short in the Rules for Implementing Energy Efficiency Labels</u>	<u>After MAEEL promulgation, GOC's delayed decision on substantive details, such as label design, registration method, etc., so that it leaves hardly any days before the start of its implementation. Export oriented enterprises face severe difficulty in planning ahead from production schedule to transport arrangements, because of the delayed receipt of the authority's information.</u>	<u>It is requested that MOC &amp; Other concerned authorities will:</u> <u>-- provide implementing details within reasonable schedule, and</u> <u>-- normally publish detailed information indispensable for making requisite preparation upon promulgation of MAEEL.</u>	<u>Measures for the Administration of Energy Efficiency Labels (MAEEL)</u>

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20 Monopoly	(1)	Complex and Delayed Examination on Concentration of Undertakings	<p>- <u>Procedures are complex and time consuming for acceptance and examination of undertaking concentration, (taking a few months for drafting the plan), retarding the enterprises' desire to expedite investment.</u></p> <p>- <u>The scope of application is too broad on state examination for business operators concentration (that relies only upon sales for drawing its conclusions), which is time consuming (taking more than 6-months at times). It delays by large margin the merger project in some cases.</u></p>	<p>- <u>It is requested that MOC and other authorities in concern:</u></p> <p>-- <u>establish the structure that enables expedited examination system, and</u></p> <p>-- <u>identify clearly the basis of the examination that stretches into the 3rd stage.</u></p> <p>- <u>In a merger case, which is prima facie unrelated to monopoly in the related market or to national security, it is requested that GOC:</u></p> <p>-- <u>simplifies it examination, or</u></p> <p>-- <u>replaces pre-merger examination with post-merger examination.</u></p>	<p>- <u>Anti-Monopoly Law</u></p> <p>- <u>Measure for the Undertaking Concentration Examination</u></p> <p>- <u>Notice of the General Office of the State Council on the Establishment of the Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors</u></p> <p>- <u>Provisions of MOC on the Implementation of the Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors</u></p> <p>- <u>Provisions of the State Council on the Standard for Declaration of Concentration of Business Operators</u></p> <p>- <u>Provisions of the MOC on the Implementation of the Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors</u></p>
	(2)	Requirement for Total World Sales for Notification of Company Mergers	<p>- <u>Notification to MOC is necessary for combination of enterprises with global sales over 10-billion yen in total of the group enterprises, including the parent and the fellow subsidiaries, even in the case where no sales at all results in the PRC market from the combination.</u></p>	<p>- <u>It is requested that GOC replaces the requirement for the global sales with only the domestic sales in PRC.</u></p>	<p>- <u>Anti-Monopoly Law, Article 21</u></p>

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	(3)	<u>Excessive Scope of NEM</u>	- <u>Compared to other countries on combination of business operators, the scope of NEM is extremely wide, compared to antimonopoly laws of other countries. It is a factor that hinders worldwide business activity irrespective of the internal/external markets of PRC.</u>	- It is requested that MOC: -- <u>narrows the scope of information requiring submission, and</u> -- <u>further clarifies the NEM requirements.</u>	
	(4)	<u>Excessively Complex &amp; Delayed NEM Examination Procedures</u>	- <u>Despite the introduction of simplified examination procedures, PRC examination on concentration of business operators blocks speedy M&amp;A consummation, and impedes the subsequent scheduling, because:</u> <u>(1)It stretches over a long period (for more than 2-months, even for a simplified examination).</u> <u>(2)It requires production of vast amount of documents, and</u> <u>(3)It requires advance notification of even external cases unrelated to the PRC domestic market.</u>  - <u>Administrative procedures on merger filing are quite complex and time consuming.</u>	- It is requested that GOC: -- <u>beefs up the examination system (staff increase, etc.).</u> -- <u>streamlines submission materials,</u> -- <u>formulates exemption or limits the items, subject to notification requirements.</u> -- <u>improves the filing work protocol, after the practices, exemplified by antimonopoly authorities in EU, the U.S., Japan, etc.</u> - It is requested that GOC: -- <u>simplifies the so-called "Merger Filing" examination, and</u> -- <u>cuts down the requisite time.</u>	- <u>Anti-Monopoly Law Provisions of the State Council on the Standard for Declaration of Concentration of Business Operators (08-03-2008)</u> - <u>Measure for the Undertaking Concentration Declaration: Order of MOC (No. 11 [2009])</u>
	(5)	<u>Nebulous Schedule for Business Operator's Merger Examination</u>	- <u>While operation has started on implementation of "interim provisions on standards applicable to simple cases of concentration of undertakings (interim provisions)", and the cases based on the interim provisions are beginning to get published, however, it is done with some caveat:</u> <u>(1) the time required for the decision is undefined on whether the case is "interim",</u> <u>(2) a possibility remains that a case initiated under "interim provisions" could be later changed to a normal case, wasting the time spent on examination on interim basis, ending up in just adding extra time over the normal examination, compelling the business operator to think twice before taking advantage of the interim provisions. In addition, due to the rush of applicants right after the operational start, and due probably to the shortage of workforce at the authority's window, there is some reservation, if the expected speedier examination could in fact be practically accomplished</u>	- It is requested that GOC redoubles it effort in: -- <u>further clarifying the new process, and</u> -- <u>further reducing the time required for completing the examination.</u>	- <u>Anti-Monopoly Law, Article 21</u>

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			- <u>In addition, requisite details of notification are not defined, GOC's acceptance of notification requires a long waiting time, and the timing of the GOC's approval remains undefined.</u>	- <u>It is requested that GOC clearly identifies the substantive matters it requires in accepting notification.</u>		
	(6)	<u>Inequality in Filing Operators Merger Notification</u>	- <u>Inequality in business operation has surfaced, as some business operators run their business without observing the requirements for Business Operator's Merger Notification (BOMN).</u>	- <u>It is requested that GOC:</u> -- <u>ensures thoroughness in penalizing those not observing the BOMN requirement, and</u> -- <u>thoroughly publishes the cases of penalties upon non-conforming parties.</u>		
21	Restrictions on Land Ownership	(1)	<u>Nebulous and Delayed Acquisition Procedures for Right of Use on Afforestation Lot</u>	- <u>The applicant may secure the land use right for afforestation by acquisition of the forestry right certificate (FRC) issued by the Province. In some Provinces it takes a few years before the FRC is issued. Due to the shortage of fund and human resources, some Provinces face difficulties in improving the situation. On the other hand, the demand for effective use of idle land will grow, requiring more complicated and sophisticated information handling. It should be managed on block by higher body (for example, at the Municipal or Provincial level). It is requested that GOC takes steps in promoting FRC transactions through expedited issuance of FRC for the sake of local economic development and more efficient use of the land property.</u>	- <u>It is requested that GOC simplifies and expedites the procedure for issuance of the land use rights.</u>	- <u>The Forest Law</u> - <u>Law on the Contracting of Rural Land</u>
		(2)	<u>Restricted Land Ownership</u>	- <u>No landownership is allowed for fully foreign funded enterprises (FFFEs). (PRC being a communist country, landownership is granted to PRC nationals as well.)</u> - <u>MFS's factory location, being contracted under the 50-years lease of the land utility right, MFS faces big problems for continuation of production on a permanent basis, with the accompanying investment risk.</u>	- <u>It is requested that GOC grants landownership to, FFFE's for the sake of a stable business operation.</u>	- <u>PRC Legislation</u>
			<p><b>(Actions)</b></p> <p>- Since 1 October 2007, Property Law of PRC has been enforced. It comprises of 5 Chapters, 19 Sections and 247 Articles. It classifies immovable and movable property right into state-owned, group-owned and private-owned properties and defines the title to each of them in detail. The Law protects "state-owned, group-owned and private-owned" property rights, which may not be encroached upon by any organisations or individuals. The Law clarifies the compensation principle in the event of expropriation, transfer or removal of privately owned buildings for the public interests. In concrete terms, it stipulates, among others;</p> <p>(1)equal protection of privately owned property,</p> <p>(2)possibility for extension of land-use right for agricultural and housing after expiry of the term, and</p> <p>(3)mandatory requirement for payment of security bond for expropriation of farming land.</p>			

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22	Environmental Pollution and Waste Disposal	(1)	Nebulous PRC Version of RoHS Directive	<p>- <b>In the process of reviewing measures for the control of pollution from electronic information products ((PRC RoHS (Step2)) (including formulation of new administrative measures, drafting of list of major electronic information products subject to pollution control/addition of products subject to control, and implementing provisions of CCC certification, and system for the voluntary certification for control of pollution from electronic information products), hardly any forum is made available for consultation between GOC and the related enterprises. It makes it difficult for the interested parties to grasp the total system, for example, as to how Chinese RoHS differs from EU RoHS. It is also a matter of concern if PRC certification institute by itself alone is capable of performing completely the evaluation of compliance (certification system) (as regards analysis, reliability and stability in the analysis made, factory inspection, etc.) without any deficiency.</b></p> <p>- Under measures (Draft) various standards and specifications (Drafts) exist. It will likely make it difficult to grasp the total picture of the Control.</p>	<p>- It is requested that GOC:  -- maintains compatibility with the leading RoHS countries such as EU, etc. by adopting extension of Step 1, Self-Declaration of Compliance (e.g. IEC/TR62476, ISO/IEC17025, etc.), and  -- alleviates the burden on both Certifying and Certified Parties.</p> <p>- <b>In amending administrative measures, standards, specifications, it is requested that GOC makes such amendments easy to understand and follow, for example, by synchronizing the timing for implementation, preparing a comprehensive FAQ, etc..</b></p>	<p>- System for the Voluntary Certification for Control of Pollution from Electronic Information Products  - Chinese RoHS (Measures for the Control of Pollution from Electrical and Electronic Products, etc.)</p>
				<p><b>(Actions)</b></p> <p>- Since 1 March 2007, measures for the control of pollution from electronic information products (so called PRC RoHS) have been enforced. Its enforcement takes place in two stages:  (1) The first stage: Self-declaration must be made in the label or the product instruction manual concerning hazardous/toxic substances.  (2) "List of Major Electronic Information Products Subject to Pollution Control" must be prepared and the products included in the List are subject to compulsory certification.</p> <p>- On 1 February 2008, "Administrative Measures for the Prevention and Control of Environmental Pollution by Electronic Waste" was enforced.  These measures clearly hold manufacturer, importer and distributor equally responsible for recycling of electronic waste, which must be treated or disposed of by an agency or an individual designated by the government and holding the Licence. Any person failing to observe the requirements under these measures shall be subject to fines.</p> <p>- On 4 March 2009, "Regulation on the Administration of the Recovery and Disposal of Waste Electrical and Electronic Products" was promulgated. (Ref: Regulation on the Administration of the Recovery and Disposal of Waste Electrical and Electronic Products.</p>		

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			<p>- "The Second Stage" mentioned above due for execution in Summer 2010 or thereabout has delayed even now in summer 2011 without decision reached on the subject products. Its implementation is expected to delay substantially. In July 2010, on the other hand, GOC released the draft amendment for China RoHS and it is now under deliberation. The expanded scope (from electronic information products to electrical/electronic products), possibility for deregulation of the CCC acquisition requirements in the second stage, etc. are the main areas of amendment.</p> <p>- On 18 May 2010, "Implementation Opinions for Promoting National Unification of Voluntary Pollution Control on Electronic Information Product" (GuoRenZhengLian[2010]No.28) was promulgated. Furthermore, on 25 August 2011, "Implementing Regulation for Promoting National Unification of Voluntary Pollution Control on Electronic Information Product, Product Catalogue, Requesting Public Comment for Exceptions" was promulgated. Under the Regulation, voluntary certification system is established on finished computer, printer, television receiver and mobile telephone, parts and materials thereof.</p> <p>- As regards GOC's TBT notification filed on 21 October 2010, Japan, EU, and ROK expressed concerns at the TBT Committee regular meetings in March, June, and November of 2011 and in March 2012. At the bilateral meeting Japan expressed its desire that self-declaration method should suffice for certificate of compliance, the same as EU RoHS, and that motor vehicles, batteries/parts, etc be excluded from the TBT notification requirement. GOC responded that no further TBT notification is required as the catalog was already published in August 2011, and certificate of compliance is voluntary. (2013 Report on Compliance by Major Trading Partners with Trade Agreements)</p> <p>- <u>After soliciting the Public Comment in May 2015. (Enforced since 1 July 2016), Ministry of Industries and Information Technology (MIIT) promulgated on 21 January 2016 "measures for the administration of the restricted use of the hazardous substances contained in electrical and electronic products (RoHS Chinese Version)," jointly with the National Development and Reform Commission (NDRC), the Ministry of Science and Technology (MST), the Ministry of Finance (MOF), the Ministry of Environmental Protection (MEP), the Ministry of Commerce (MOC), the General Administration of Customs (GAC) and the General Administration of Quality Supervision, Inspection and Quarantine (GAQSIQ), (8-in-all). The main amendments include without limitation: Expanded scope of RoHS, increased types of hazardous substance, reinforced policy support, improved hazardous substance control system, etc.</u></p>		
	(2)	Uniformity in application of Chinese WEEE between Public Consumers and Enterprises	<p>- Under "the regulation on the administration of the recovery and disposal of waste electrical and electronic products (Chinese WEEE)", the final governmental procedures are now under way to include additionally in the new catalogue, copiers/printers/facsimiles (the products). It remains unclear, however, after affixation of the catalogue creation, how deliberations and decisions are going to be made, (including consultation and decision making with the industries in concern, as to the funding scheme, the amount, steps to take, schedule formulation, fund management, etc.) It is also necessary to consider in parallel improvement in the fund management under the 1st catalogue. Furthermore, in light of the fact that the used equipment market in general is already established, it is considered particularly difficult to improve the effective efficiency of collection/disposal of the products destined to industries (B to B). In addition, after use management method</p>	<p>-It is requested that GOC:</p> <p>-- takes steps in construction and management of the transparent process that amply reflects the voices of electric/electronic industry and the relevant industries in considering the funding under the new catalogue,</p> <p>-- further improves the tasks, in the 1st catalogue, into the system that enhances visibility for the fund flow and the status of cash management,</p> <p>-- establishes the funding system</p>	<p>- PRC Regulation on the Administration of the Recovery and Disposal of Waste Electrical and Electronic Products (02-25-2009), Articles 4, 5, 7, 11 and 21.</p>

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			<p>of the products destined to consumers (B to C) is different from that destined to enterprises (B to B). It is, therefore, imperative, in total of all using the products in the society, to consider structuring of the social framework to enhance effective efficiency of collection and disposal of the used products.</p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 25 February 2009, 9-Ministries and Agencies, including Ministry of Environmental Protection, jointly promulgated "Regulation on the Administration of the Recovery and Disposal of Waste Electrical and Electronic Products" (State Council 551), entered into force on 1 January 2011.</li> <li>- In September 2010, "Catalogue for Disposal of Waste Electrical and Electronic Products (First Products List)" was promulgated, naming 5-products: television receivers, refrigerators, laundry machines, air-conditioners, personal computers, as products subject to this Catalogue.</li> <li>- On 1 July 2012, GOC implemented "Measures for the Administration of Fund for the Recovery and Disposal of Waste Electrical and Electronic Products", whereby the Chinese Version of WEEE is effectively put into operation.</li> <li>= GOC collects fixed amounts as fund per unit from domestic manufacturers and importers: (TV - RMB 13, Refrigerators - RMB 12, Laundry Machines - RMB 7, Air conditioners - RMB 7, Personal Computers RMB 10), and pays fixed amounts as subsidy to Certified Wastes Collectors for disposal, (TV - RMB 85, Refrigerators - RMB 80, Laundry Machines - RMB 35, Air conditioners - RMB 35, Personal Computers RMB 85).</li> <li>- On 25 February 2015, released "Waste Electrical and Electronic Equipment (WEEE) catalogue 2014", enforced from 1 March 2016. The products listed in this catalogue are subject to the PRC Regulation on the administration of the recovery and disposal of waste electrical and electronic products (02-25-2009).</li> </ul>	<p>that amply reflects individually the respective collection status separately for B to B products and B to C products, and</p> <ul style="list-style-type: none"> <li>-- builds up the total system for the entire society, with each Interested party performing the respective individual role toward enhancement of the effective collection of the used products.</li> </ul>	
	(3)	<b>Shortage in Capacity for Disposal of Pollutants and Wastes</b>	<ul style="list-style-type: none"> <li>- An Japanese enterprise in PRC desiring to acquire the ISO qualification is faced with the problem of the shortage of the authorised waste disposal contractors, causing delays in and increased cost for the waste disposal.</li> <li>- <b>Under the central government's control, regional governments implement restrictions on emission control of pollutants by industrial enterprises and the motor vehicles operational measures. Governments have established the cap on the volume of emissions, wastes and pollutants, so that any excess remains piled up within the factory premises all over, while the cost of wastes disposal soars, due to the shortage of enterprises qualified to operate the wastes disposal business.</b></li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC beefs up the ISO certified contractors for waste disposal nationwide.</li> <li>- <b>Should GOC need to exercise control on enterprises' operational hours, it is appreciated, if GOC does it under the well-organised planning.</b></li> <li>- It is requested that GOC:                             <ul style="list-style-type: none"> <li>-- improves the pollutants disposal capacity, and</li> <li>-- makes the relative legislation more stringent.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Rules and Regulations enforced By Local Regional Government on Measures to Curb Atmospheric Pollution.</li> </ul>



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			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- In October 2007, MOF and State Administration of Environmental Protection (SAEP, currently Ministry of Environmental Protection (MOEP)) promulgated "Circular on Tightening Environmental Supervision and Control Concerning Export Enterprises" addressed to each district agency of MOF/SAEP).</li> <li>- On 1 May 2008, MOEP enforced "Measures for the Disclosure of Environmental Information (for Trial Implementation)". These Measures compel MOEP and enterprises discharging the polluted waste of a serious degree to disclose the environment related important information to the public, while encouraging enterprises discharging the polluted waste of less serious degree to disclose the environment related information to the public.</li> <li>- Since 1 January 2009, "Circular Economy Promotion Law" has been enforced with the view to develop the recycling economy.</li> <li>- On 25 February 2009, the State Council promulgated "Regulation on the Administration of the Recovery and Disposal of Waste Electrical and Electronic Products" for enforcement from 1 January 2011, so-called "Recycling law on Electric Home Appliance" that includes provisions concerning the accreditation process for the qualification of enterprises for disposal of waste electrical and electronic products, observance of environmental protection related legislation, governmental encouragement, supervision, control, fines, etc.</li> <li>- On 15 December 2010, Ministry of Environment Production (MEP) promulgated "Administrative Measures for Eligibility License for Disposal of Waste and Discarded Electrical and Electronic Products" (enforced on and after 1 January 2011) that sets forth the terms and conditions for filing application and acquisition of eligibility license for disposal of waste and discarded electrical and electronic products, listed in the "Catalogue of Major Electrical/Electronic Products Subject to Disposal".</li> </ul> <p>These Administrative Measures serve as detailed rules of implementation for the Chinese version of WEEE Directive (EU legislation restricting the use of hazardous substances in electrical and electronic equipment (Directive 2002/95/EC)), and provides, among others, for the responsibility of the competent governmental agencies, terms for acquisition of qualification certificate, procedures, supervision and control, and legal responsibility.</p>		
	(4)	Insufficiency of Measures against Atmospheric Pollution	<p><u>Atmospheric pollution in Shanghai / Beijing has gotten worse. While a member firm's subsidiary (MFS) takes measures by distributing masks and air cleaning devices, it is difficult to compel employees to report to office when the pollution index is overly high. Management is concerned about the negative impact the atmospheric pollution gives upon normal work from now on. Temporary return of expatriates' family members, including the welfare issue, confronts MFS management. In Jiangsu</u></p>	<p><u>It is requested that GOJ approaches GOC, urging GOC to expedite taking drastic measures for prevention of environment issues.</u></p>	
	(4)	Insufficiency of Measures against Atmospheric Pollution	<p><u>Province, MFS received request for turning off boilers from the Municipal Authority. It is beginning to impact factory operation.</u></p> <ul style="list-style-type: none"> <li>- MFS is concerned about the health damage of its employees from the factory effluent or proliferation of PM2.5.</li> <li>- Aggravated atmospheric pollution and anxiety over the health damage.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC:                             <ul style="list-style-type: none"> <li>-- improves pollution, and</li> <li>-- moderates traffic congestion.</li> </ul> </li> <li>- It is requested that GOC takes step to improve atmospheric pollution at point of release.</li> </ul>	

Category	No	Issue	Issue Details	Requests	References
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- In July 2014, "Regulations of Shanghai City on the Prevention and Control of Atmospheric Pollution" was approved and enforced since 1 October 2014. It provides, among others, for stricter penal provisions and cooperation for prevention of atmospheric pollution in the Yangzijiang Delta region.</li> <li>- On 6 August 2014, MOFCOM, State Administration of Taxation (SAT) and Ministry of Industry and Information Technology (MIIT) jointly promulgated "Announcement No. 53 [2014] on the Exemption of Vehicle Purchase Tax on New Energy Vehicles", exempting Vehicle Purchase Tax on Full Electric Vehicles, Plug-In Hybrid Vehicles, and Fuel Cell Vehicles.</li> <li>- On 1 January 2015, Environmental Protection Law of the People's Republic of China (2014 Revision) came into force. The 2014 Revision added new provisions, concerning management of pollutant discharge Right (Article 45), Cost of Pollutant Discharge (Article 43), Control on Total Volume of Pollutant Discharge (Article 44), and the National Pollutant Discharge Standards (Article 16), tightening the administrative supervision and control upon business operators.</li> </ul>		
	(5)	Restricted Use of 2-wheel Motor Cycles in Urban Areas	- GOC prohibits use of 2-wheel motor cycles in urban areas for the sake of traffic safety and environmental protection, including those that satisfy the emission control. It does not stand to reason that electric 2-wheel motorcycles are allowed to run on public road (on the car lanes).	- It is requested that GOC repeals or deregulates restrictions on use of 2-wheel motorcycles in the urban areas.	- Individuals restrictions implemented in each municipality.
	(6)	Issues Concerning Calculation of Company Average Fuel Consumption	- GOC does not allow grouping between imports and locally manufactured vehicles in calculating the corporate average under the 3-step Fuel Efficiency Requirements (3-SFER). As it now remains, it is difficult for the enterprises that deal only with imported vehicles to satisfy 3-SFER.	- It is requested that GOC allows grouping of imported and locally manufactured vehicles.	- Administrative Measures for the 3-Step Fuel Efficiency Requirements
	(7)	<u>Default by Designated Pollutant Discharge Operators</u>	- <u>MFS is unable to discharge pollutants in waigaoqiao bonded zone. While the pollutant discharge application is accepted at customs, the designated pollutant operator would not execute discharge. Because of this, MFS has a choice of keep paying tax for the pollutant products destined to discharge, or move them to another area for physical destruction into pieces. Incidentally, apart from pollutant discharge, abandonment of assets is another choice open to MFS. While this is possible in theory, MFS is unable to take this step, lest the abandoned products are released to the market.</u>	- <u>It is requested that GOC makes possible physical discharge of the pollutants.</u>	
	(8)	<u>Delayed Action on Environmental Issues</u>	- <u>MFS moving its factory to development zone, is confronted with the concern expressed by its neighbouring residents on the environment issue, due to the GOC's delay in implementing the development plan.</u>	- <u>It is requested that GOC:</u> <ul style="list-style-type: none"> <li>-- <u>advances the development plan,</u></li> <li><u>and</u></li> <li>-- <u>grants subsidy for taking measures to appease the environmental concern expressed by the neighbours.</u></li> </ul>	

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	(9)	<u>Increased Burden for responding to the Environmental Control</u>	<p>- <u>MFS has incurred much expenses and work-time for introduction of painting facilities for its factory, due to the tightened environment control exercised by Huadong district (Jiangsu Province) authority. MFS has incurred RMB100,000 for production of "Evaluation Report on Environmental Impact", requiring consignment to an operation specialized in evaluation.</u></p> <p>- <u>Furthermore, MFS has incurred similar financial burden on "Occupational Disease Evaluation".</u></p> <p>- <u>Manufacturing enterprises face the declining profitability caused by the expenditures on account of environmental issues that necessitates rapid replacement of production facilities (such as boilers) with the view to improve the environmental issues.</u></p>	<p>- <u>It is requested that GOC fragmentalises the approval application steps commensurate with the level of the substance impacting upon environment.</u></p> <p>- <u>It is requested that GOC considers the grant of preferential measures by type of industry for prioritising the environmental issues.</u></p>	
	(10)	<u>Nebulous Legislative Implementation on the Marking Requirements</u>	<p>- <u>The marking standard "SJ/T11364-2006" under "Measures for the administration of the restricted use of the hazardous substances contained in electrical and electronic products (China RoHS) was replaced by marking requirement, SJ/T11364-2014 in July 2014, due for enforcement from 1 January 2015. However, around September 2014, GOC made a verbal notice, announcing the delay in announcement of measures by around September. In the end, on 8 January 2015, past the due date, public announcement for adjournment was published. During this period, concerned enterprises were thrown into confusions, whether to take responsive actions. Moreover the reason for the delay, being, China RoHS, the law in the upper order, was under deliberation. This reason was amply foreseeable to administration, prior to announcement of the marking standard.</u></p>	<p>- <u>It is requested that the authorities in concern gives notification after completing due deliberation to the contents and the timing of announcement to allow the concerned enterprises to respond without confusion after announcement.</u></p>	<p>- <u>Marking Requirements for Control of Pollution Caused by Electronic Information Products, SJ/T 11364-2014.</u></p>
23	Inefficient Administrative Procedures, Regimes and Practices	(1) Complexity in acquisition of the Consulate General's Validation	<p>- <b>GOC requires Consulate General's Legalisation (CGL) upon filing power of attorney, exhibits related to the court proceedings, etc. It takes two-trips to the embassy to obtain CGL. The procedures are complex and time-consuming.</b></p>	<p>- It is requested that GOC:</p> <ul style="list-style-type: none"> <li>-- dispenses with the CGL requirements, and</li> <li>-- accepts the apostille in lieu of CGL.</li> </ul> <p>- As affairs now stand, the scope of application is restricted to Hong Kong and Macao. It is requested that GOC expands its application to the mainland PRC.</p>	<p>- Expanded application of Hague Convention (of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents) to the mainland PRC.</p> <p>- Regulation on the Administration of Registration of Resident Representative Offices of Foreign Enterprises</p>

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	(2)	Administrative Guidance not Stipulated into Law	- <u>In processing the change of company name (which took 2-1/2 months for acquisition of business licence ), a Firm received various requirement from various Ministries and Agencies, such as the new company name itself, capital increase, change in Articles of Association, unrelated to or outside the scope of legislative provisions. The authority's view varies by regions, and by wards of the same region, (for example, treatment of VAT refund procedures in the bonded zone, etc.).</u>	- <u>It is requested that GOC promulgates detailed implementing rules, which are circulated universally nationwide, instead of leaving the ambiguity of the basic laws and regulations.</u>	
	(3)	Regional Disunity in Employment and Interpretation of Legislation	- <u>Concerning administration on safety of hazardous chemicals, large gaps exit in employment, interpretation, etc. of the same law among the competent authorities at individual locations. It is impossible to apply the same method to all competent authorities. (It requires optimum individual preparation at increased cost.)</u>	- <u>It is requested that GOC eliminates the regional gaps in implementing laws and regulations.</u>	- Measures for the Administration on Safety of Hazardous Chemicals - Measures for the Administration on Registration of Hazardous Chemicals - Chinese Laws and Regulations
	(4)	Arbitrariness of the Local Governmental Authority's Licenses and Permits	- <u>A member firm's subsidiary in PRC, owner of nursery garden, must go through the ordeal of numerous negotiations in order to obtain the licence for production at its nursery garden, as some officials in the Provincial Government hold the view that eucalyptus trees are counter-protective to the environment.</u>	- <u>It is requested that GOC: -- refrains from revoking the MFS's business licence for no reason, and -- deepens its correct appreciation of nursing eucalyptus trees.</u>	- Company Law - Law on Foreign Investment Company
	(5)	Nebulous authorisation basis of Maintenance Contractors for Fire Fighting Equipment	- <u>Since 2013 in Suzhou City, it has become necessary to contract 2-kinds of contractors for maintenance of firefighting equipment. One performs maintenance while the other checks the effectiveness of maintenance, each authorised by Defence Bureau. However, to outsiders, it is difficult to distinguish the difference of the respective authorisation bases (as they resemble each other). Employment of two contractors has increased the maintenance cost from RMB2.00/sq.mt. to RMB3.00/sq.mt.</u>	- <u>It is requested that GOC cancels the 2nd contractor for checking the effectiveness of maintenance, holding the 1st contractor responsible for checking the effectiveness of maintenance.</u> - <u>It is requested that Defence Bureau will penalize the 1st contractor, should it fail its sampling inspection (after the fashion of design responsibility for buildings in regard to fire prevention).</u>	

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	(6)	<u>Arbitrary and Time Consuming Administrative Procedures</u>	<p>- <u>In December 2013, a Member Firm signed with its Chinese party, in Beijing city, joint venture agreement, which has been under negotiation between Beijing Municipal Commission of Commerce (BMCC) and Member Firm since May 2014 until now, for acquisition of foreign invested company license. Member Firm has received BMCC's suggested amendment in the wordings of the proposed agreement for plural times. Nevertheless, even the corrections made verbatim in accordance with the BMCC official's intent, Member Firm has received the same amendment request again. It reflects the abnormal nature of the BMCC personnel in charge. Seven months have lapsed since the beginning of consultation with BMCC. This is the longest record in the history of the attorney's office retained by the Member Firm, and yet the negotiation continues even now.</u></p> <p>- <u>From time to time, it takes a lot of time for handling governmental procedures at tax office, SAFE, customs, etc. due to the change in officer in charge, etc. The same explanation must be given to another personnel.</u></p>	<p>- <u>It is requested that BMCC secures transparency in its provision of sufficient and proper explanation.</u></p> <p>- <u>In lieu of "personal" governance, it is requested that MBCC will respond in the manner fit for a State governed by law, not by persons.</u></p> <p><u>(*) No evidential documents are available, as the circumstances described reflect only the verbal exchanges with the BMCC official at the window. Joint venture agreement cannot be produced for reason of protecting confidential information.</u></p> <p>- <u>It is requested that GOC (to enquires as to the progress status, etc.):</u></p> <p>-- <u>arranges taking over to another personnel,</u></p> <p>-- <u>gives timely, and documented or other clear-cut feedback.</u></p>	<p>- <u>Company Law</u></p> <p>- <u>Law on Chinese-Foreign Equity Joint Ventures</u></p>
	(7)	<u>Confusion due to the CIQ(Custom, Immigration, Quarantine) Guidance at the Window</u>	<p>- <u>Under CIQ's specific instructions at the window, MFS entered its address not at the company's registered address, but at its office address. Consequently, for the sake of maintaining uniformity, its office address had to be shown, on the country of origin certificate, commercial invoice, and price list. In order to revert back to the correct address, MFS has had to spend several months for the change of address by filing a formal request to CIQ.</u></p> <p>- <u>Telephoning is the only means available for making enquiries to CIQ on system, control, etc. However, it takes a lot of time and effort before reaching the correct department and the person in charge.</u></p>	<p>- <u>It is requested that CIQ discontinues its irresponsible/ extraneous instructions at the window and gives more realistic instructions.</u></p> <p>- <u>It is requested that GOC deploys a person fully versed with the internal organisation/function, able to understand requests at the phone desk.</u></p>	

Category	No	Issue	Issue Details	Requests	References
24 Indigested Legislation, Abrupt Changes	(1)	Frequent and Abrupt Legislative Changes	<p><u>- Changes in legal systems and administration policy are frequent and some changes are made, abruptly without advance notice.</u></p> <p><u>- The tax bases of bad debt requirement are based on the assumption of legal measures (liquidation, etc.)</u></p> <p><u>- Abrupt changes are frequently on decrees, regulations, etc., driving business operators into a spot. They are at a loss how to respond properly.</u></p>	<p><u>- It is requested that GOC:</u>  <u>-- establishes a long lasting permanent legislative system and administrative policy, and</u>  <u>-- gives sufficient explanation before implementing changes and revisions.</u></p> <p><u>- It is requested that GOC cleans up substantially bankrupt cases, and deliberates on measures to reduce the substantive tax burdens.</u></p> <p><u>- It is requested that GOC gives notification upon implementation, and considers lessening of tax burdens.</u></p>	<p>- SFDA Accreditation (Regulation on the Supervision and Administration of Medical Devices)</p> <p>- CCC Certification (Measures for the Administration of Medical Device Registration)</p>
	(2)	Incompatible, Disorganised Interpretation of Legislation System Among Competent Authorities and their Personnel in Charge	<p><u>- Inconsistency has arisen between the legal systems over the jurisdictional issues between taxation and customs. Consequently, grey zones exist (on VAT refund scheme, etc.)</u></p> <p><u>- Legislative wordings are not transparent, creating differences in interpretation among the Taxation/Customs/Foreign Exchange Bureaux or their officials, and differences in their interpretation may result in disputes after the business commencement. For example, the issue concerning interpretation of "Possibility for One-Day-Round-Trip under the Direct Transaction".</u></p> <p><u>- In many cases, if the person in charge is different, his judgement differs from his predecessor. Likewise, over the same phenomenon, if region is different, a different judgement results. It takes much time and labour to confirm and to avoid running risks. (For example, regional gaps on interpretation of tax refund in case of shipment from Export Process Zone. Interpretative differences in tax payment between the persons in charge of taxation.)</u></p> <p><u>- On legal issues such as tax laws, against practical questions received from the person in charge of private entities, the competent authority at best gives its response verbally so that any change in personnel including the superior can cause problems.</u></p>	<p><u>- It is requested that GOC streamlines the legislative provisions to avoid inter-departmental or officials' interpretation of the legislative provisions.</u></p> <p><u>- It is requested that GOC takes steps to overhaul the legislation to avoid differences in legislative interpretation among departments and persons in charge.</u></p> <p><u>- It is requested that GOC takes steps to overhaul the laws to avoid interpretative differences from arising among departments and persons in charge.</u></p>	

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			<ul style="list-style-type: none"> <li>- <u>Amendments in regulations if made can result in differences among regions. It can also vary among the departments of competent authorities.</u></li> <li>- <b>Occasional arbitrariness or disunity in legislative interpretation by persons in charge affects stability in business.</b></li> <li>- <u>Interpretation remains unstable by each competent authority on legislative provision/tax law. Interpretation varies by the person in charge at the window, giving arbitrary impression at times. The person in charge sticks to verbal response, never in writing.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- At the Transitional Review Mechanism (TRM) forum last year, GOC explained: GOC restricts manufacture and sales of game machines as a measure 'necessary to protect public morals or to maintain public order' under Article XIV of WTO GATS.</li> <li>- General Administration of Press and Publication (GAPP) empowered for advance examination of online publications and examination and approval of imported online games promulgated on 28 September 2009 "Notice of the General Administration of Press and Publication, the National Copyright Administration and the Office of the National Work Group for "Combating Pornography and Illegal Publications" on Implementing the Provisions of the State Council on "Three Determinations" and the Relevant Explanations of the State Commission Office for Public Sector Reform and Further Strengthening the Administration of the Pre-approval of Online Games and Examination and Approval of Imported Online Games" (Xin Chu Lian [2009] No. 13).</li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOC takes step to overhaul the legislation to avoid differences in interpretation among departments and persons in charge.</u></li> <li>- It is requested that GOC ensures uniformity in legislative interpretation throughout the entire administrative organisations.</li> <li>- <u>It is requested that GOC eliminates regional or personal differences and harmonises implementation of legislative provisions/tax law.</u></li> </ul>	
	(3)	Regional Gaps and Disunity in the Legislative Implementation	<ul style="list-style-type: none"> <li>- <u>Interpretation differs between local provinces such as Dongbei Province and Shanghai Region on employment of tariff, external remittance, and capital investment. A member firm experiences a hard time in grasping information on its business operation.</u></li> <li>- Example): Upon effecting the change from business tax to value added tax, it is provided into law that tax exemption applies to enterprises in consulting service with 100% sales made in overseas. However, while tax exemption applies in certain regions, another region holds it is taxable and demands retroactive tax payment.</li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOC standardises interpretation of laws and regulations.</u></li> <li>- <u>It is requested that GOC ensures transparency in administering the taxation system.</u></li> </ul>	Chinese Laws and Regulations
	(4)	Shortage of the Transitional Period For New Law Enforcement	<ul style="list-style-type: none"> <li>- While 6-months transitional period is a norm for a compulsory legislation in PRC at minimum, Implementing rules for energy efficiency labels (printer/facsimile)(IREEL), promulgated on 14 September 2011 and enforced since 1 December 2011, requires IREEL printed on the designated design label with proper individual information for each product, in total disregard to the preparation period legally granted to the manufacturers.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC:                             <ul style="list-style-type: none"> <li>-- secures ample preparation period in promulgating new legislation, and</li> <li>-- disseminates advance information on the legislative progress (current status, schedule, etc.).</li> </ul> </li> </ul>	Implementing Rules for Energy Efficiency Labels (Printer/Facsimile)

Category	No	Issue	Issue Details	Requests	References
	(5)	Inadequate Implementing Legislative Provisions / Delays in Implementation	<p>- <b>In numerous cases, after the law enforcement, it takes a longtime for promulgation of its detailed implementing regulation. Enterprises are unable to make practical preparation for responsive measures against the new legislation.</b></p> <p>- <u>After enforcement of the Law in the superior position, announcement lags behind on its measures for the Administration, attached list of restricted materials, guidelines, etc. It makes it difficult for all to make requisite preparation for compliance, etc.</u></p> <p>- <u>There still remains a number of cases of which public announcements for detailed rules for implementation in the field of taxation and foreign exchange control are made right before their enforcement</u></p>	<p>- It is requested that GOC promptly gets the implementing detailed regulations promulgated following the law promulgation.</p> <p>- <u>It is requested that GOC takes steps to ensure that the Law is promulgated after completion of its subordinate measures for the Administration, Guidelines, etc. (namely, no enforcement, pending completion of thorough preparation.)</u></p> <p>- <u>It is requested that GOC takes step to:</u>                      -- <u>prepare detailed rules before implementation, and</u>                      -- <u>takes systematic approach for implementation.</u></p>	<p>- Social Insurance Law</p> <p>- Notice of the General Office of the Ministry of Commerce on the Relevant Issues concerning the Examination, Approval and Administration of Projects of Foreign Investment in Internet and Vending Machine Sales MOF[2010]No. 272</p> <p>- Regulation on the Safety Management of Hazardous Chemicals</p> <p>- <u>Measures for the Administration of Registration of Hazardous Chemicals</u></p>
	(6)	Delays in Preparation of Internet Related Legislation	<p>- <u>Preparation of internet related legislation has delayed so that the legislative control remains weak against slander upon enterprises or leakage of enterprises' internal information.</u></p>		
	(7)	Inadequate Personal Information Protection Law	<p>- <u>From time to time, it is difficult to get removal of personal addresses or an abusive attack on a person's character or good name on the internet by requesting the removal to service providers. Reactions could be quite frightening to steps taken on labour disputes, reprimanded employees, etc.</u></p>	<p>- <u>It is requested that GOC:</u>                      -- <u>suspends disclosure of personal information on the webpage,</u>                      -- <u>extends Public Security's assistance, as necessary.</u></p>	
	(8)	Poorly prepared Consultation Windows on Law Amendments	<p>- <b>Pursuant to new Tourism Law (enforced on 1 October 2013), a Member Firm's subsidiary (MFS) incorporated in Shanghai city made its first business under the overseas trip licence of firm A (its trading partner) in accordance with the scheme, whereby MFS acts as consignee of Firm A's consultation service business. The Competent authority pointed out: "It is a scheme susceptible of being questioned that it amounts to name-lending." There was no Window open in Japan for consulting this law amendment.</b></p>	<p>- It is requested that GOC opens a window in Japan that provides legal consultation as soon as possible.</p>	<p>- New Tourism Law (Date issued: 04-25-2013)</p>



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	(9)	<u>Abrupt Change in Schedule for National Holidays just before the Holiday begins</u>	- <u>State Council announces annual holidays during the affixed period, provided, however, that from time to time (with a short notice of less than a month) State Council changes the schedule, disrupting the production activity and business schedule.</u>	- <u>It is requested that state council sticks to the annual holidays once affixed.</u>	
	(10)	<u>Nebulous Subsidy Policy on High-Efficiency Products</u>	- <u>While no conclusion has been reached after the long time study under the top runner scheme to promote development of energy saving products, it is difficult for enterprises to nail down the production policy. They must face the risk of wasting production resources by abrupt change.</u>	- <u>It is requested that GOC expedites its policy decision on aiding the development of energy saving, high efficiency products.</u>	- <u>Legislation relative to aiding High Efficiency Products Development</u>
	(11)	<u>Laws, Regulations, Notices Diverged from Reality</u>	- <u>Many laws and regulations are impossible to be handled in practice.</u> (1) <u>On overtime work: Article 41, in part, reads: "The work hours to be prolonged, in general, shall be no longer than one hour a day, or no more than three hours a day if such prolonging is called for due to special reasons and under the condition that the physical health of labourers is guaranteed. The work time to be prolonged shall not exceed, however, 36 hours a month." This provision is hardly observed. It does not reflect reality.</u> (2) <u>Rules on Visa: The New Rule on Visa enforced since January 2015 has not been observed at all by either the local authority in PRC or China embassy in Japan. Both take the position that the old rule prevails even after January 2015, which has given rise to much confusion.</u>	- <u>It is requested that GOC:</u> (1) <u>amends the law into an executable legislation, and</u> (2) <u>promulgates executable notification and ensures its thorough execution.</u>	- <u>Labour Law, Article 41</u> - <u>Notice (No. 78 [2014]) of MOHRSS, MOF, MOPS, MOC on Issuing the Relevant Handling Procedures for a Foreign National's Entry into China to Complete a Short-Term Work Assignment (for Trial Implementation) of the Ministry of Human Resources and Social Security</u>
	(12)	<u>Barely Developed Pharmaceutical Affairs Law/Related Schemes/Regulations</u>	- <u>Legislative system and mutual authentication scheme relative to Pharmaceutical Affairs Law (PAL) are yet to be overhauled. It takes much time and cost to obtain the import licence for overseas products.</u>	- <u>In light of the fact that overhaul on PAL has been introduced in recent years, especially in Asia, it is requested that GOC overhauls its own law, and makes possible mutual authentication of PAL with the Japanese PAL.</u>	- <u>Pharmaceutical Affairs Law</u>
	(13)	<u>Halting Issuance of Designer Qualification to Foreign Engineers</u>	- <u>Previously, qualification as "project manager" was necessary to become project manager, allowing foreign engineers to manage project by acquisition of "foreigner's project manager qualifications". However, since 2008, it has been decided that only designer may act as project manager. With this change, it was decided not to issue first project manager qualification certificate, closing the door to foreign engineers' becoming</u>	- <u>It is requested that GOC grants opportunity to file application upon foreigners with equivalent designer qualification as designer qualification.</u>	- <u>Notice Concerning Announcement of List of Names (JianShiZiHan [2006]) No.89</u>

	Category	No	Issue	Issue Details	Requests	References
				<p><u>designer. The change affects not only execution of individual projects, but the total business management as well. Constructors' business license includes the cap on the number of designers per project. Inability to include foreign engineers with equal qualifications for ability and experience presents problems on business management.</u></p>		
		(14)	<p><u>Abrupt implementation of Cap upon Annual Increase in Car Ownership</u></p>	<p>- On 29 December 2014, Shenzhen city abruptly put a cap on the number of annual car ownership. It is possible that a handful of affluent classes monopolize car ownership so that cost of car reservation, etc. may jump up.</p>	<p>- It is requested that Shenzhen Municipal Authority repeals the cap on car ownership, as its enforcement is extremely abrupt.</p>	<p>- <u>Legislative Affairs Office of the Guangdong Provincial People's Government</u></p>
25	Government Procurement	(1)	<p>Prioritised Purchase of Domestic Products in Government Procurement</p>	<p>- On 26 May 2009, GOC released Notice on Government Funded Investment Project in the Category of Government Procurement, instructing to give priority to purchase of the domestic products, in the absence of rational reasons such as the project is incapable of domestic procurement. Import of such project is subject to approval of the competent authority. As they now stand, it remains unclear whether the Notice is legally binding or how the actual detailed rules are going to be laid down.</p> <p>- <u>Due to the priority GOC gives to "Made In China" in government procurement, FFEs' participation is either closed out of the bidding or made difficult with additional burdens.</u></p>	<p>- It is requested that GOC: -- clarifies the detailed rules of implementation, and -- avoids the spread of these measures to other business sectors.</p> <p>- <u>It is requested that GOC removes the restrictions as soon as possible.</u></p>	<p>- Opinions on further strengthening of the supervisory and administrative work for tender/bid on Constitution Project induced by the steady domestic economic growth (NDRC[2009] 1361 Appendix) - Measures (unpublished) for Administration of Government Procurement for Domestic Products Articles 3, 6, 7 and 8. - Measures for Administration of Government Procurement for Imported Products - The Government Procurement Law of the People's Republic of China</p>

Category	No	Issue	Issue Details	Requests	References
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 25 December 2009, GOC promulgated "Catalogue of Industries for Guiding Major Equipment of Independent Innovation" encouraging independent development of equipment industries. This Catalogue identifies 240 items of equipment that GOC desires the domestic industry to develop independently, guiding the domestic industry.</li> <li>Equipment listed in the Catalogue will enjoy every kind of incentive measures in respect of:                             <ol style="list-style-type: none"> <li>(1) GOC's Research and Development,</li> <li>(2) Financial Incentive Measures for Products' Commercialisation,</li> <li>(3) GOC' Procurement Policy for Independent Innovation Products and</li> <li>(4) Major Equipment manufactured for the first time in PRC.</li> </ol> </li> <li>Basically, this Catalogue will act as a clue to the contents of "Catalogue of the Industries for Government Procurement of Independent Innovation Products" due for promulgation during 2010.</li> <li>- In May 2010, GOC promulgated Proposed Law on Government Procurement of Domestic Products, seeking public comment. It provides the definition of finished products (exceeding 50% of the production cost) and the method of determination.</li> </ul>		
	(2)	<p>PRC's Pending Accession to WTO Agreement on Government Procurement (GPA)</p>	<p><u>- GOC's climate and goal are nebulous for accession to WTO Government Procurement Agreement (GPA) (Specifying the scope of application, etc. is desirable, such as exclusion of State Enterprises).</u></p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 28 December 2007, GOC filed application for accession to Agreement on Government Procurement (GPA) and made its initial offer. GOC's (currently acting as an observer) negotiation for ratifying GPA has officially begun since the negotiation in February 2008.</li> <li>- In December 2007, GOC filed application (the Initial Offer) for accession to GPA.</li> <li>- On 15 January 2008, Ministry of Finance (MOF) issued Notice stating that the domestic products should in principle be the subject of GOC's government procurement and that procurement of products originating from other countries is prohibited. The Notice also obligates a series of MOF's examination, when any governmental agency imports products from other country(ies). It instructs further that government procurement should priorities transfer of technology and development of human resources, and should seek opinions of National Development and Reform Commission and Ministry of Science and Technology as regards the industries and the weapons, import of which is restricted by GOC.</li> <li>- On 9 July 2010, GOC submitted Revised Offer for its accession to The WTO Agreement on Government Procurement (GPA) The Revised Offer adds 15-Central Government Agencies, although excluding State enterprises and the local governmental agencies, which together represent the major portion of the PRC's government procurement market In addition, GOC has reduced from the Initial Offer the applicable standard amount.</li> <li>- <u>On 11 February 2015, at the informal WTO government procurement committee meeting, PRC rejected the latest amended offer by GPA Signatories (EU/USA, etc.), seeking expansion in the scope of the state owned enterprises.</u></li> </ul>	<p><u>- It is requested that GOC provides and confirms the latest information.</u></p>	
	(3)	<p>Nebulous Relations between GPA and the Pilot Enterprise Income Tax Policies</p>	<p><u>- Regulations intertwining between "Government Procurement Policy" and "Independent Innovation" are quite complex.</u></p>	<p><u>- It is requested that GOC provides and confirms the latest information.</u></p>	

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	(4)	Losing substances in Bidding System	<p><b>In regard to bidding on equipment, the bidding system is losing its substances, resulting in loss of time and expenses, or else fairness is undermined to the extreme.</b></p> <p><b>[Concrete Example]</b></p> <p><b>Price negotiation after the fall of the hammer has become habitual. Where the hammer fell at a price much against the will of the buyer, tender is renewed unilaterally. A series of the applicable rules and the flow of the processes remain ambiguous.</b></p> <p><b>No significant improvement in particular has taken place since last year as the rules remain ambiguous as before, such as the requisite conditions for the fall of the hammer, the timing for the secondary bid, and the definition for the handling fees upon bidding, etc.</b></p> <p><b>While some users were observed, in some instances, to be bidding by a fair, square and transparent process, it is premature to determine if it has grown into a general practice.</b></p> <p><b>(Actions)</b></p> <p>- On 3 March 2014, MOFCOM promulgated "Implementation Measures for International Competitive Bidding for Mechanical and Electrical Products (for Trial Implementation)", designating the competent authority on international bidding, and defining in separate table, complete with HS Codes, the scope of the mechanical and electrical products subject to international bidding, and their exceptions.-- Order No. 1 [2014] of the Ministry of Commerce [in Chinese] _ (<a href="http://www.mofcom.gov.cn/article/b/c/201403/20140300504579.shtml">http://www.mofcom.gov.cn/article/b/c/201403/20140300504579.shtml</a>).</p>	<p>- It is requested that GOC promulgates expressly in writing the tender rules in line with the international rules (that expel any room for human judgement to creep in), clearly laying down the duties and responsibilities of the buyer.</p>	
	(5)	Necessary Bidding Qualifications & De Facto JV Requirement	<p><b>The bidding scheme requires satisfaction of multiple qualifications even for introduction of a single system. It is extremely difficult to satisfy these qualifications. In addition, high-grade qualification is restricted to entities with deep interest with the Government. In fact, establishment of a joint venture company is prerequisite to bid for large governmental tenders. Establishment of a joint venture company equals demand for transfer of technology. It seems, in substance, it ends up merely by transferring technology without yielding substantive profit.</b></p>	<p>- While the political relations with both governments do play a role, it is requested that GOC enables Japanese consortium to bid for large government tender.</p>	
	(6)	FFEs' Participation is difficult in Government Projects	<p>Foreign funded enterprises (FFEs) are denied of participation in Projects <u>above the Municipality level, such as Programme 863 (State key basic research development programme).</u></p>	<p>- It is requested that GOC <u>overhauls the policy to allow FFEs participation in projects with a low level of confidentiality requirement.</u></p>	
	(7)	Excessive Demand of Materials in Government Procurement	<p>GOC requires overseas' manufacturers submission of various materials twice a year. Apart from "certified copy of the entire register" and "certificate of authorized representative", GOC also requires "attorney's certificate," the thrust of which is ambiguous. Moreover, GOC requires <u>notarization issued by legal affairs bureau, Authentication certificate</u></p>	<p>- It is requested that GOC ensures <u>that:</u></p> <p>-- <u>Materials for government procurement suffice by submission of "ertificate of all current</u></p>	<p>- <u>Administrative Measures for the Government Procurement of Domestic Products,</u></p>

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				<p><u>issued by China embassy in Japan. Authenticity is already imbedded by itself in "certificate of all present matters" or "representative certificate". issued formally by Japanese Government authority. It must be questioned as to the necessity of private attorneys' certificate, legal affairs bureau's authentication, and embassy's attestation. Deepening appreciation is desirable between GOC and GOJ as to the differences in legal system. The submission deadline of 15-business days is severe: in practice, within 13-15 business days. All submission materials require certification, etc. at governmental authority (of Japan and/or China Embassy in Japan). During the days around new year, due to the closure of offices in both China and Japan authorities, it becomes even more difficult to meet the submission deadline.</u></p>	<p><u>matters" and "representative's certificate", obviating the need for "attorney's certificate", while dispensing with legal affairs bureau's notarisation, and authentication by China embassy in Japan.</u>                      -- <u>Submission of all the foregoings, only once a year, not twice, and--Expansion of the material submission deadline to 20-working days.</u></p>	<p><u>Articles 3, 6, 7 &amp; 8 Administrative Measures for the Government Procurement of Import Products</u></p>
26	Others	(1)	Increased Business Risk due to Aggravated Japan-PRC Relations	<p>- The business has shrunk due to the uprising of demonstration against Japanese enterprises and people, due to the disputes over the Senkaku Islands, etc.</p> <p>- <u>Since the Japan-PRC controversy in 2012, the sales have dropped, adoption of personnel has become difficult and business has substantially dwindled.</u></p> <p>- <u>The negative impact of the Japan-PRC relations such as disputes over the Senkaku (Diaoyu) Islands: Example: Boycott against Japanese products, anti-Japan demonstration, etc., affecting the safety management of expatriates, etc.</u></p> <p>- Travelling Business suffered severed damage from the Japan/PRC Diplomatic Dispute over Senkaku (Diaoyu) Island disputes.</p> <p>- <u>Outcome of diplomatic issues can give material impact on business. If not, within enterprises, the resulting negative impact socially, and upon infrastructure cannot be ignored.</u></p>	<p>- It is requested that GOC gives due consideration of the Japanese affiliated enterprises operating in PRC.</p> <p>- <u>It is requested that GOC gives due consideration of the Japanese affiliated enterprises operating in PRC.</u></p> <p>- It is requested that GOJ and GOC resolves the disputes as soon as possible for recovery of the amicable minds of both nationals.</p> <p>- <u>It is requested that GOJ and GOC uses their best efforts for the maintenance of stable diplomatic relations.</u></p>	
		(2)	Power Supply Shortage	<p>- <b>Blackout occurs due to the power supply shortage. (Blackout notices abruptly reach the user, when the power supply needs are at their peak).</b></p> <p>- <b>During 2014, no blackout occurred, thanks to the overhauls of generating equipment and drop in power consumption by economic recession. However, the tightened demand/supply balance continues.</b></p>	<p>- It is requested that GOC stabilizes the power supply.</p> <p>- It is requested that GOC beefs up the power supply that can meet the demand as soon as possible.</p>	

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			<p>- <u>Production equipment is subject to the total power supply volume control. Upward change in power supply capacity is subject to governmental approval, provided, however, the timing of the grant of upward change is unpredictable. MFS has no alternative but foregoing the business opportunity that requires power output volume in excess of the budgeted plan at the fiscal year beginning. (Fatshan city, Guangdong province).</u></p> <p><b>(Actions)</b></p> <p>- Guangzhou City invoked the measure for emergency restriction of power supply, again in January and February 2008.</p> <p>- On 1 April 2008, "Energy Conservation Law of PRC" was enforced. It stipulates among others enhancement of efficiency in energy consumption and tightening of penalties.</p>	<p>- It is requested that GOC takes <u>responsive action to ensure stable power supply, even at a moderate speed.</u></p>	
	(3)	Unlawful Claim for Compensation of Damage	<p>- <u>A Japanese enterprise received a complaint from neighbouring farmers claiming unlawful damage compensation, when a Japanese enterprise constructed a forest road for logging (alleging that mud flew into their paddy field).</u></p> <p><u>This issue has since escalated, giving serious damage to logging and transportation.</u></p>	<p>- It is requested that GOC:</p> <p>-- <u>redoubles its effort to disseminate among local people that afforestation of eucalyptus trees is indispensable for development of local economy, and</u></p> <p>-- <u>intercedes with the local farmers for conciliation.</u></p>	
	(4)	Corruption	<p>- <u>While control has been tightened on bribery, entertainment, etc., local governments continue to demand gifts, or enterprises' products at no cost, or designate low, low prices, as if nothing has happened.</u></p> <p>- <u>Due to the ambiguous definition of unfair competition (commercial bribery), there are cases where arbitrary authority's implementation is suspected.</u></p>	<p>- It is requested that GOC:</p> <p>-- <u>tightens its control, and</u></p> <p>-- <u>conducts investigation of actual conditions.</u></p> <p>- It is requested that GOC takes step <u>to stipulate its harmonised definition, employment, etc. into legislation for public disclosure.</u></p>	
	(5)	Non-Payment / Payment Delays	<p>- <u>A year before last, having received dunning, a Member Firm's Subsidiary (MFS) under contract, however, without receipt of the contracted down payment, supplied equipment to a new building (under construction) of Public Security Bureau in certain Province (PSB). Due, in part, to the delay for more than one-year the completion of the building construction,</u></p>		
	(5)	Non-Payment / Payment Delays	<p><u>the overdue amount remains unpaid to this day, (driving MFS into a financial shortage). As it stands, in light of the fact that certain portion of the work remains undone, the MFS proposed PSB that the remaining work would be suspended, pending receipt of payment. One of the shareholders of MFS is prompting payment by activating the personal contacts.</u></p>		

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			- <u>MFS is faced with collection problems with its customers: delays, difficulty in collection in its transactions, from differences in business custom, code of ethics, power balance, etc. While MFS deals on pre-payment principles, on high turnover business (smartphone parts manufacturing business, etc.), the highest priority falls on delivery and price, even the successful collection of accounts receivable has been achieved, the payment delays squeeze the profit.</u>	- <u>It is requested that GOC supports Small-to-Medium Enterprises (SMEs) by providing information and warrants the collection risk.</u>	
	(6)	<u>Reimbursement is Difficult on Materials Price Differences</u>	- <u>In a case where:</u> <u>(1) Member Firm (from its Headquarters in Japan) procures centrally all materials and parts at volume discount prices (A)</u> <u>(2) for supply at market prices (B) to plural third party processing vendors, in PRC and/or in third countries, and</u> <u>(3) sells the Processed (finished) goods to Member Firm's Subsidiary (MFS) in PRC, Member Firm is unable to reimburse the differences [(C)=(A)-(B)] to MFS.</u>	- <u>It is requested that GOC approves reimbursement in the mechanism similar to that employed as in the case of Hong Kong/Malaysia/Japan triangular trade.</u>	