

Provisional Survey Report 2014

**New Issues and Requests for Improvements on Trade and Investment  
- Asia -**

January 2015

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

# Table of Contents

## 1 . Asia

† ASEAN	.....	1	†* Malaysia	.....	116
† Bangladesh	.....	2	† Myanmar	.....	128
† Cambodia	.....	4	† Pakistan	.....	131
†* China	.....	7	†* Philippine	.....	132
* Hong Kong	.....	63	†* Singapore	.....	138
† India	.....	64	* Taiwan	.....	141
†* Indonesia	.....	86	†* Thailand	.....	147
†* Korea	.....	110	†* Vietnam	.....	161
† Laos	.....	115			

(Note) \*, APEC countries and regions

(Note) †, ASEM countries and regions

Issues and requests relating to foreign trade and investment - ASEAN

	Category	No	Issue	Issue Details	Requests	Governing Laws
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Difficulty in benefiting from FTA Preferential Tariff On Transactions between 3rd Countries	- Third country invoice gets rejected in Thailand, etc. under the Pilot Project of Self-Certification of Origin prepared by the ASEAN Authorised Exporters in denial of the benefits under ATIGA.	- It is requested that the ASEAN Member States accept the active use of the Self-Certification in regard to Invoices issued in any of the ASEAN Member States 3rd countries.	- ASEAN Trade in Goods Agreement (ATIGA)
		(2)	Delayed Implementation of Self-Certification of Origin	- Under the ASEAN Self-Certification System by Authorised Exporters, the 1st Pilot Project is now under way in Singapore, Malaysia, Brunei and Thailand benefiting all. However, there have been delays in participation by other Member States. Moreover another system under different rules is about to be implemented.	- It is requested that the rest of the ASEAN Member States expedite implementation of the Self-Certification System.	- ASEAN Trade in Goods Agreement (ATIGA)
		(3)	Problems on Issuance of Post-shipment Origin Certificate	- Due to the short sailing time within the ASEAN Member States, Form D preparation cannot catch up with the boat arrival from time to time.	- It is requested that ASEAN accepts pre-shipment issuance of Form D at port of embarkation.	- ASEAN Trade in Goods Agreement (ATIGA)
		(4)	Problems from Showing Invoice Price On Origin Certificate	- Gaps exist between the issuing institution and the customs at the importing port on the price to be described in Form D, Ex-factory or Invoice Price. From the business point of view, the price description on Form D is best dispensed with.	- It is requested that ASEAN repeals the Invoice Price description requirement on Form D.	- ASEAN Trade in Goods Agreement (ATIGA)
		(5)	Delayed FTA Negotiation	- TPP negotiation has delayed.	- It is requested that the Member States will expedite the TPP negotiation.	
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Delays in Patent Examination and Variances of Examiners' Quality Level	- While legislative preparation has made a fair progress in the ASEAN Member States, side by side with the economic growth, patent applications have snowballed rapidly. The delays in examination and qualitative variances have become noticeable by examiners (judgement variation and their expertise level). It affects applicants' effort to seek stable protection of their patent rights, and other IPRs.	- It is requested that ASEAN Member States will promote inter-Member States cooperation through enhanced use of Patent Protection Highways and ASEAN Patent Examination Co-operation (ASPEC), and dissolve the backlog of examination, while upgrading quality of examiners by providing adequate training, etc.	
		(2)	Indigested Data Base related to IPRs Information	- It is difficult to grasp accurately the risk from patents of others in the up-and-coming countries with growing needs for securing patent rights, due to shortage of information on statistics and the database for pending applications.	- It is requested that each ASEAN Member State will further advance cooperation with patent offices of developed countries and streamline the IPRs database as soon as possible.	

Issues and requests relating to foreign trade and investment - Bangladesh

	Category	No	Issue	Issue Details	Requests	Governing Laws
5	Regulations on Parts Industrial Policy	(1)	Shortage of Incentive Measures for the Domestic Textile Raw Materials Industries	- GOB's acceptance of preferential tariff on one of the processes of sewn products destined to EU/USA and Japan has displaced the need for local production of raw materials (thread and cloth). Thread and cloth production requires a heavy initial investment for machinery and equipment procured at a high local borrowing rate of nearly 20%, while the cost of raw materials equally spiral at rates higher than other countries due to increased energy cost from shortage of electric power and city gas in Bangladesh. In long term these higher costs will set off relatively lower labour costs, while Bangladesh competitive edge gets debilitated.	- It is requested that GOJ will induce GOB to introduced incentive measures to the domestic raw materials industries by reduced taxes and increased incentives, etc. to assure a long-term growth of the Bangladesh industries.	
6	Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Non-application of Foreign Capital Preferential Measures Caused by Delay in SEZ Development	- Government of Bangladesh (GOB) applies Incentive Measures only to Export Oriented Foreign Funded Enterprises (EO-FFEs) that reside within EPZ, provided, however, that FFEs residence is practically impossible as EPZ is virtually full. While GOB intends to develop SEZ with Incentive Measures and has promulgated the SEZ Law, its implementing regulation remains pending, barring construction. As a result, EO-FFEs have no alternative but invest in the area outside EPZ where incentive measures do not apply.	- It is requested that GOB: -- applies incentive measures to EO-FFEs that reside outside EPZ, and -- promulgates as soon as possible SEZ Implementing Regulation (Rules and Regulations).	- EPZ Law - SEZ Law
8	Investment Recipient Organization	(1)	Delayed, Nebulous Procedures for BOI Licences and Permits	- Actions move but at snail's pace at Bangladesh Ministries and Agencies on licences and permits at Trade / BOI (Board of Investment), Foreign Investment and Foreign Representative's Offices of trading firms. In certain cases, government employees demand payment of SPEED MONEY. Absence of proper disclosure system at National Board of Revenue (NBR) has been source of various problems in regard to payment of property tax and other taxes for overseas representative offices of trade firms. Bangladesh Office of JETRO will issue proposal to GOB for improvement of these issues.	- Negligence at BOI is at its extreme. It requires a fundamental reform.	
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Customs Employees' Demand for Exorbitant Commissions	- It appears Customs Employees at times demand payment of exorbitant commission to customs brokers when using food transport system. Customs brokers in turn seemingly pass on such commission in the invoice for customs clearance charge to a Firm. As a result the amount of customs clearance charge payable to customs brokers is abnormally high. (The Firm has changed the custom broker to alleviate the problem.)		
12	Exchange Controls	(1)	Delays, Defaults and Nebulous Procedures for Negotiating Letters of Credit Payments	- There has been a chronic delay in Letters of Credit (L/C) negotiation irrespective of the amount.	- It is requested that GOB prompts the Ministries and Agencies for Commercial Banks' negotiation of L/C.	
16	Employment	(1)	Delayed and Nebulous Issuance of Visas and Work Permits	- It is extremely time consuming and nebulous in regard to application for visa issuance its renewal. In certain cases, demand for illicit payments continues to exist in contravention of the compliance programme.		

	Category	No	Issue	Issue Details	Requests	Governing Laws
24	Indigested Legislation, Abrupt Changes	(1)	Inadequate Public Relation Activities on Revision of Laws and Regulations	- Public Relation Activities are inadequate on promulgation of new laws and regulations and their revisions.	- It is requested that GOB expedites releasing on its web site English version of its laws and regulations and their revisions.	
26	Others	(1)	Absence of Infrastructure for Commodity Distribution	- Enterprises in Bangladesh are compelled to put up with inefficient operation due to the severe traffic congestions, which deter investment into Bangladesh by foreign funded enterprises.  - Large cargo carriers cannot enter Chittagong port, due to its underdeveloped infrastructure. Foreign funded enterprises operating in Bangladesh are compelled to transship cargoes from East Asia at Singapore port. It requires additional procurement lead time for raw materials, etc.	- It is requested that GOJ approaches GOB urging streamlining of the requisite infrastructure, as soon as possible.  - It is requested that GOJ approaches GOB urging streamlining of the requisite infrastructure, as soon as possible.	
		(2)	Shortage of Power Supply and Deficiency in Gas Development Policy	- There is no mid-long term policy on energy and electricity. Due to the lagging behind of the gas field development, chronic power shortage has continued, blocking development of fertiliser industries that rely on gas for raw materials. The holding down on gas prices politically also deters foreign investors' entry for oil field development.  - A substantial volume of Independent Power Producer (IPP) introduced to complement the electricity shortage now oppresses the national budget due to the underestimation of the rental power project, which has materially raised the electricity fee. While GOB has liberalised Combined Cycle Power Plant (CCPP) and Coal Fired Power Generation to private sectors under Public-Private Partnership (PPP), the development has come to a standstill, due to the shortage of fund, technology and know-how on the part of private sectors.	- It is requested that GOJ induces GOB to make upward adjustment of gas prices to facilitate entry into gas field development projects by Foreign Funded Enterprises (FFE).  - GOB's mid-long-term policy is indispensable. It is requested that GOJ will induce GOB to set up its development policy in collaboration with the respective donor country(ies).	
		(3)	Destabilised Political Situation/ Public Security	- Political Situation and Public Security get destabilised over the split between ruling and opposing parties, the religious issue, the current trial of war criminals, industrial disputes on minimum wage, etc. Especially, frequent general strikes named <i>hartal</i> and traffic blockade named <i>oborot</i> called out by opposing parties have materially disrupted logistics, financial settlement, and visit to factories, clients and dealers. To be more precise, they have substantially raised distribution cost, and time consumption, compelling absorption of additional cost and time. While Bangladesh attracts public interest as the manufacturing hub of textile products, the foregoing set of circumstances not only materially impair the nation's image, in practice it has caused exodus of a part of their production outside Bangladesh. It is a matter of great concern to FFEs.	- It is requested that GOJ coordinates with UN and diplomatic concerns of other nations, urging GOB to take adequate political measures, in lieu of taking a bilateral approach.	
		(4)	Frequent Occurrence of <i>Hartal</i> .	- Frequent occurrence of <i>Hartal</i> has been causing chronic delivery delays. FFEs are unable to send their staff to Bangladesh to ascertain the facts and figures and to maintain correct production control.	- It is requested that GOB will: -- regain political stability, and normalises consultation between ruling and opposition parties, and -- formulate rules to invoke <i>Hartal</i> , (geared toward reduction in the frequency of <i>Hartal</i> invocation.)	

Issues and requests relating to foreign trade and investment - Cambodia

	Category	No	Issue	Issue Details	Requests	Governing Laws
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Nebulous, Delayed Customs Clearance Procedures	- For nebulous reasons, customs clearance delays frequently arise, forcing temporary cash flow difficulties, operational delays, etc. (Continuation)	- It is requested that CDC clarifies the standard system in writing.	- Cambodian laws
		(2)	Multiple Schemes/ Procedures in International Trade Administration	- The Cambodian Export/Import Administrative Regime is complex, as it involves multiple administrative organs, such as Customs and Excise Department, the Cambodia Import-Export Inspection and Fraud Repression Directorate General (Camcontrol), Economic Police, etc.	- It is requested that GOC achieves unification of multiple administrative organs to iron out the international trade procedures.	
				(Actions) - GOB has clarified its engagement toward Camcontrol reform, including without limitation, removal of the requirement for acquisition of Certificate of Origin (unless specifically required by importing country), automatisation of trademark registration, scheduled introduction of online input of Certificate of Origin, provision of online facility for accepting complaints, etc. in order to establish the single national window and to achieve connection to the ASEAN Single Window. In addition, GOB will consider clearly delineating the respective functions among Customs and Excise Department, Camontrol, and Economic Police established by Decree.		
		(3)	Delayed Implementation of Cambodian Version of AEO	- Best Trader Group Member (Cambodian Version of Authorised Economic Operator (AEO)), Prakas of which was established in April 2014, has not yet put into practical use as none of the firms has used the scheme to this date.	- It is requested that GOB achieves early introduction and implementation of AEO scheme to enable expedited international trade procedures of the Japanese affiliated enterprises that have observed the Compliance.	
				(Actions) - According to GOC, Prakas No.452 promulgated in April 2014 as the scheme will hereafter be developed into a structured system with the delineated terms and conditions		
(4)	Arbitrary Nature of Approval on Duty Free Import	- On duty free import of equipment and raw materials under the Qualified Investment Project (QIP), both the scope of approval and the lead time for approval vary by discretion of the officer in charge at the Council for the Development of Cambodia (CDC).	- It is requested that CDC clarifies the Standard System in writing.	- Cambodian laws		
(5)	Nebulous Licences / Permits on items subject to Export/Import Embargo / Restriction	- Procedures are nebulous and time consuming for obtaining licences and approvals from competent authorities of specific items, prior to the filing of Export/Import Customs Declaration to General Department of Customs and Excise.	- It is requested that GOC makes available to the Japanese side, a list of the window for each Ministry and Agency (with full names of persons in charge, names of sections and departments, telephone numbers, mail addresses, etc.)			
14	Taxation Systems	(1)	Value Added Tax is not Registered by Many	- Despite the fact that registration of Value Added Tax (VAT) is a mandatory requirement, it is not registered by many enterprises. Tax collection is not adequately made.	- It is requested that GOC promotes VAT registration by each enterprise.	- Cambodian laws

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(2)	Ambiguous Status of Amendment in Investment Law	- Investment Law amendment remains pending, while the progress status is kept in the dark if the amendment reflects Japan's request. It requires adjustments all around, internally within GOC, by and among Ministries and Agencies, as well as in the private sectors. If all goes smoothly, the draft investment law amendment will be brought up to the Cabinet Consultation in June 2014. On the other hand, according to GOC, it will more than ever expand incentives for additional investment into Cambodia.	- It is requested that GOJ positively move GOC toward its deliberation on investment law, etc.	
16	Employment	(1)	Radical and Frequent Hike in the Minimum Wage Level	- Despite the hike from USD 60 to USD 80 monthly in May 2013 in Sewing and Footwear Manufacture Sector, another hike to USD 100 is due in February 2014. Frequent and radical wage hikes give material impact on the plan for investment into Cambodia. It consequently freezes the investor's propensity for investing into Cambodia (for example, suppression of new investment, withdrawal of investment already made, etc.). - A gradual hike in minimum wage naturally follows the economic growth. However, from the investors' perspective, the prospect of radical wage hike about to take place deters enterprises from contemplating entry and investing further into Cambodia.	- It is requested that GOC holds down on wage hike to a level and at an interval that will permit continued, sustainable, and healthy economic growth in Cambodia, while maximizing employment for the Cambodian nationals. - It is requested that GOC reviews its wage hike relative to neighbouring countries from the standpoint of enterprises contemplating entry and investing further into Cambodia.	- Cambodian laws
				<b>(Actions)</b> - GOC envisages deciding on wage hike based upon research, made periodically at predetermined interval, into prices that assure livelihood of its people, commensurate with the geographical culture. For this purpose, GOC sets in place for further discussion, hereafter, a Working Group in Department of Labour that hears views from both employers and employees.		
23	Inefficient Administrative Procedures, Regimes and Practices	(1)	Nebulous Procedures at Governmental Agencies	- While some procedures are expressly set forth by Prakas, no stipulation is made in Prakas for other procedures.	- While express disclosure of the public service rates is a big step forward, what is more important is for each of the Ministries and Agencies to abide by with the tariff so disclosed in their entirety.	
				<b>(Actions)</b> - GOC has acknowledged the problems emanating from this issue and confirms it will use its best reasonable efforts to resolve the problems.		
24	Indigested Legislation, Abrupt Changes	(1)	Illogical Information Input System employed in ASYCUDA System	- The ASYCUDA System set up under the World Bank Aid at seaports and dry ports employs manual information input system, which is susceptible of frequent errors.	- It is requested that GOC improves ASYCUDA system in a way that allows information input via internet by individual enterprises.	
				<b>(Actions)</b> - General Department of Customs and Excise (GDCE) wishes private enterprises to access the GDCE Office Server by using Direct Trader Input (DTI) that allows access by prior registration, ASYCUDA being inaccessible from anywhere for the moment.		

	Category	No	Issue	Issue Details	Requests	Governing Laws
26	Others	(1)	Nebulous Outlook on Power Supply/Pricing	<p>- The outlook of power supply remains in the dark as supply shortage has occurred in certain regions. There is no concrete project in sight for resolving the supply shortage.</p> <p><b>(Actions)</b></p> <p>- Electric rates in Cambodia being determined as of now under the 5-Year Plan from 2010 through 2015, no rapid downfall can be expected this year. However, thanks to the project funded by the PRC loan, it is envisaged that electric rates can come down in future. While power shortage can arise from 2013 into 2014 during the dry season, beginning 2015, GOC expects the total power supply needs can be filled domestically. GOC also expects to review revision of electric rates as well.</p>	<p>- It is requested that GOC:</p> <ul style="list-style-type: none"> <li>-- discloses the prospect of power supply and pricing outlook, in addition to its plan for power plant construction, and</li> <li>-- recognises the importance of power supply the shortage of which can materially deter industrial development in Cambodia.</li> </ul>	

Issues and requests relating to foreign trade and investment - China

Category	No	Issue	Issue Details	Requests	Governing Laws
1 Restrictions on Entry of Foreign Capitals	(1)	Restricted Foreign Capital Entry into Service Sectors	<ul style="list-style-type: none"> <li>- As regards "Liberalisation of Domestic Trade (in PRC)", which is one of the PRC's commitments upon its accession to WTO, ostensibly PRC has liberalised the domestic trade, with promulgation of Measures for the Administration on Foreign Investment in Commercial Fields (MAFICF) enforced on 1 June 2004. However, its implementing regulation remains pending, which de facto closes the domestic trade in PRC to foreign capitals.</li> <li>- A Member Firm has experienced spending much time in obtaining the understanding of the competent authority such as acquisition of Business Licence for the Musical Class. GOC restricts Foreign Funded Enterprises' (FFEs)' entry into Educational Business. In addition, GOC restricts also Publication and Distribution of Textbooks for Musical Classes. It restricts FFEs' business development in this field.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC effectively liberalises the market through promulgation of implementing detailed rules.</li> <li>- It is requested that GOC liberalises FFEs' entry into certain Educational, and Book Publication &amp; Distribution Business Sectors.</li> </ul>	
	(2)	Requirement for Domestic Capital Contribution in Construction Sector	<ul style="list-style-type: none"> <li>- In Construction Sector, in the absence of 25% domestic capital contribution, Foreign Funded Enterprises (FFEs) are foreclosed from accepting orders for Construction Undertaking, excepting the case where the project is funded by foreign capital. Furthermore, an FFE is unable to increase its capital unless with the consent of its local partner for making additional investment in order to maintain the 25% local capital contribution ratio, which is necessary to avoid restrictions on the amount of order received.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC repeals the 25% rule.</li> </ul>	<ul style="list-style-type: none"> <li>- Rules for the Administration of Foreign-funded Construction Enterprises (09-27-2002)</li> </ul>
	(3)	Restricted Foreign Capital Majority Investment	<ul style="list-style-type: none"> <li>- GOC does not authorise investment by foreign funded enterprises (FFEs) exceeding 50% in automotive manufacturing enterprises. Even if investment by FFEs is less than 50%, nevertheless, it is subject to various approvals of Ministries and Agencies, including without limitation, National Development and Reform Commission (NDRC), Ministry of Industry and Information Technology (MIIT), and Ministry of Commerce (MOC), foreclosing any possibility of FFEs' substantive control in Joint Venture Companies (JVCs). Frequently, each competent authority requires satisfaction of various terms and conditions (which are not laid down in the laws and regulations), enabling GOC to swing its weight in JVCs' directional decisions.</li> <li>- In joint venture enterprises for motor bicycles and 4-wheel finished products, GOC authorises only up to 50% of equity ownership and up to 2-foreign funded enterprises, restricting the power endowed with foreign funded enterprises. Moreover, investment of less than 50% requires approval of NDRC.</li> <li>- 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.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC:                             <ul style="list-style-type: none"> <li>-- authorises foreign funded enterprises' investment exceeding 50%, and</li> <li>-- dispenses with the requisite approvals and licences under the going legislative system.</li> </ul> </li> <li>- It is requested that GOC repeals or deregulates its restrictions on foreign investors.</li> <li>- It is requested that GOC repeals restrictions on Foreign Capital Interest Equity Interest Ratio.</li> </ul>	<ul style="list-style-type: none"> <li>- Policy on Development of Automotive Industry, Articles 48 and 50</li> <li>- Policy on Development of Automotive Industry, Articles 48 and 50</li> <li>- CIGFI</li> </ul>

Category	No	Issue	Issue Details	Requests	Governing Laws	
			- Development Policies for the Iron and Steel Industry only allow foreign capital investment ratio of up to 50% of the equity interest.	- It is requested that GOC repeals the restrictions.	- Development Policies for the Iron and Steel Industry	
	(4)	Restrictions by Minimum Capital Ratio Requirement	- 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.	- It is requested that GOC repeals restrictions on the minimum capital ratio.		
	(5)	Restrictions on the Business Scope of Foreign Funded Investment Companies	- 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.	- 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.	- Provisions on the Establishment of Investment Companies by Foreign Investors Article 28, (Shangwubu Ling (2004, No.22)	
	(6)	Prohibited Conversion into RMB of Foreign Capital Fund in Foreign Investment Company	- Since August 2008, GOC has prohibited general enterprises other than investment companies to make business investment by conversion of the capital fund into RMB, restricting such investment within funds on hand (operational profit). While the thrust of the legislation being prevention of the hot money inflow, the across-the-board prohibition bars flexible investment.	- It is requested that GOC prepares an exceptional clause that allows investments other than for speculative purposes.	- "Notice of the Relevant Operating Issues concerning the Improvement of the Administration of Payment and Settlement of Foreign Currency Capital of Foreign-funded Enterprises", Item 3, HuiZongFa [2008] No.142	
	(7)	Restricted External Debts for FFEs Investment into Real Estate	- GOC disallows external borrowing in foreign currency (external debt) for FFEs investment into Real Estate, so that FFEs have no alternative but to borrow in RMB at high interest rates or to choose the full equity ownership.	- It is requested that GOC allows Foreign Funded Enterprises (FFE) borrowing by external debt.		
	(8)	Difficulty in Triangular Trade	- 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.	- It is requested that GOC further liberalises its national policy.	- Regulations relative to FFEs Investment.	
2	Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	(1)	Compulsory Use of State Authorised Domestic Enterprises	- A Member Firm gathers that it is necessary to use an authorised domestic enterprise when it wishes to collect log information on the use of a customer's printer in the PRC domestic market, under "Measures for the Administration of Foreign-related Investigation". This requirement impedes introduction of new functions into the growing PRC domestic market. Moreover, it must prepare a model with special specifications destined only to PRC market. It negatively impacts the efficiency of product development and technical evaluation.	- It is requested that GOC deregulates the provisions that require the use of only the PRC domestic enterprises for collection of log information on use of printers of a Member Firm by its customer in PRC.	
		(2)	Local Procurement/ Production Requirement for Plant and Equipment	- While the customer of a Member Firm desires to automate plant and equipment, it requires local procurement and local production to save customs duty. Due to the prevailing adverse socio-economic climate on Japanese firms entry into PRC, the Member Firm is at a loss what to do.	- It is requested that GOC makes available information and knowledge on lawfully executable leeway even partially such as exploiting Hong Kong.	

Category	No	Issue	Issue Details	Requests	Governing Laws
4 Restrictions on Withdrawal Of Operations	(1)	Difficult Enterprise Liquidation and Retreat	- 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), while the cases of approved capital reduction are infinitesimally close to zero.	- 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.	- Law on Foreign Investment Company
	(2)	Nebulous and Prolonged Liquidation Procedures	- 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. - Due to the standstill in the liquidation procedures for the Social Insurance in regard to the previous employer (in another area in the same city), a Member Firm Subsidiary (MFS) is unable to move the employee's Social Insurance Account to the Social Insurance Fund Management Centre (SIFMC) in the MFS's jurisdiction, the new employer. MFS finds itself unable to pay Social Insurance Premium, including the amount payable by the employer. It means new risk to MFS, who employs a person without the benefit under Social Insurance. Thus, MFS and the like, being unable to employ such person, the surge in unemployment can result.	- It is requested that GOC ensures transparency in the process of withdrawal. - It is requested that SIFMC at its window will approve the move of the account flexibly, in cases such as the one described in the left column.	
	(3)	Difficulty in Capital Reduction Procedures	- 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.)	- It is requested that GOC: -- clearly defines the terms and conditions for capital reduction, and -- accepts application for capital reduction within the scope of the terms and conditions so defined.	
6 Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Repeal of FFEs Preferential Tax Incentive Measures	- 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). - The 2008 amendment of the Enterprise Income Tax Law has reduced in stages incentive measures, raising the tax rate to 25% from 2012. The merit for operation in SEZ has disappeared, and the tax burden has climbed up. - Reduction in stages or repeal of Incentive Measures for factory relocation from coastal to inland areas. - Fewer and fewer incentive measures are available for Foreign Funded Enterprises (FFE). Some tax incentive measures granted to FFEs have been repealed.	- 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.  - It is requested that GOC affords incentive measures to FFEs.	- Notice on Extending the Urban Maintenance and Construction Tax and Educational Surcharges from Chinese to FFEs and Citizens Guofa [2010] No.35  - Enterprises Income Tax Law

Category	No	Issue	Issue Details	Requests	Governing Laws
	(2)	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 border trade. 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 Procedures for the operation of the Foreign Investment Law	(1)	Unlawful Compulsion of Setup of Company Organ under the Company Law by Local Industry and Commerce Administrative Departments	- FFEs are at a loss what to do with the erratic application of Company Law. Since enforcement of Company Law in January 2006, establishment of organs (shareholder's meeting, auditor) has been compelled including FFEs, which had been excluded from compulsion as regards FFEs established under the old Foreign Funded Enterprises/JVC Act prior to enforcement of Company Law. However, Regional Administration for Industry and Commerce (RAIC) increasingly demands establishment of such organs, on occasions such as capital increase or change in the Articles of Association (TAA). RAIC assumes the position that it approves neither capital increase nor change in TAA, if the applicant refuses to establish such organs, in effect, forcing the applicant to comply.	- It is requested that GOC refrains from compelling FFEs the establishment of the organs under the Enterprise Law, in accordance with the associated Notice as regards FFEs established before 1 January 2006.	- 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 Companies", Article 2 [2006] No. 102
	(2)	Disallowed Capital Increase/Reduction	- 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.	- It is requested that GOC acts flexibly in company's acceptance of capital contribution.	
8 Investment Recipient Organization	(1)	Delayed payment of Incorporation Incentives	- During the course of negotiation at the beginning of 2011 on incorporation of Investment Company in Chaoyang District, Beijing City, the Chaoyang Authority in Beijing and Member Firm's Subsidiary (MFS) reached agreement, whereby in exchange for Beijing Municipal Authority's recognition of the newly incorporated Investment Company as "District Headquarters", the Investment Company (MFS) so incorporated receives various incentive measures, including Incorporation Incentives, Rental Fee Subsidy, Revenue Incentive for the Main Officers of the Investment Company. In May 2011, the Investment Company received the Business Licence from the Beijing Municipal Authority and in September, the Investment Company received Beijing Municipal Authority's recognition of its position as "District Headquarters", which form the requisite qualification to receive various incentive measures. However, the first payment of incentives payable by Chaoyang City due in June 2012 was postponed to September and further postponed into 2013.	- It is requested that the Chaoyang Authority: -- honours its undertaking for payment of Incorporation Incentives due in 2nd year and 3rd year without delay, and -- promptly effect payment for various incentive measures including Rental Fee Subsidy, and Revenue Incentive for the Main Officers of the Investment Company, etc. after receipt of the Investment Company's application.	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>In November 2013, at long last, the incentive due for payment in the first year (40% of the total) was made.</p> <p>In the 2nd and 3rd years, the balance, 30% each, will be paid out. MFS is concerned with the possibility of further payment delays.</p>		
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	<ul style="list-style-type: none"> <li>- 11-23% (2007) on finished watches, 10-16% on watch movements</li> <li>- 16-23% (2007) on finished clocks, 16% on clock movements</li> <li>- 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.</li> <li>- A 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.</li> <li>- GOC levies different Duties Rates on Copolymer of Polypropylene (CPP) between imports and exports:                             <ul style="list-style-type: none"> <li>-- Duty Rate on CPP exported from Japan to PRC:                                     <ul style="list-style-type: none"> <li>--- 6.5% 3902.3010.00 Ethylene propylene copolymer</li> <li>--- 6.5% 3902.3010.00 Other</li> </ul> </li> <li>-- Duty Rate on CPP imported from PRC to Japan: (WTO Agreement)                                     <ul style="list-style-type: none"> <li>--- 2.8% 3902.30.10.2 In blocks of irregular shapes, lumps, powders (including molding powders), granules, flakes and similar bulk forms</li> <li>--- 2.8% 3902.30.090.5 Other</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that the tariff rates are reduced and tariffs are repealed.</li> <li>- It is requested that GOC reduces tariffs on large motorcycles from Japan.</li>   <li>- It is requested that GOC reduces or repeals Import Duty on this product.</li>   <li>- It is requested that GOC applies the Duty Rate identical to Japan (by reduction of its Duty Rate).</li> </ul>	<ul style="list-style-type: none"> <li>- Customs Regulations and Provisions</li> <li>- Customs Import/Export Tariff Regulations</li> </ul>
	(2)	Inconsistency with ITA	<ul style="list-style-type: none"> <li>- GOC levies Import Duty of 35% on Surveillance Camera, on the ground that the product is outside the scope of goods subject to WTO Information Technology Agreement (ITA), holding that it is a sensitive item (excluded from WTO ITA). Furthermore, once the product is imported into Japan, de facto, it cannot be shipped back to PRC, as it is subject to high Import Duty levy of 35%. It is incumbent upon GOC to review the Import Duty rate applicable to this Product.</li> </ul>	<ul style="list-style-type: none"> <li>- 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.</li> </ul>	
	(3)	Rigorous Customs Control	<ul style="list-style-type: none"> <li>- Customs control is rigorous compared to other countries:                             <ul style="list-style-type: none"> <li>-- Import Right, International Trade Right</li> <li>-- Export/Import Licence</li> <li>-- Gap in response at Customs</li> <li>-- Prior notification to Importers, etc.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC deregulates its customs control paralleling the EU/U.S. practices.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(4)	Import Control	<p>- 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, a 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.)</p> <p>- GOC restricts foods import into PRC.</p> <p>- Import control at the PRC makes import procedures complex, when a Member Firm exports CD-ROM (inclusive of data) and used machineries and equipment.</p>	<p>- It is requested that GOJ induces GOC to expedite the 2nd GOC solicitation of application for Mercury Lamp.</p> <p>- It is requested that GOC repeals import restrictions on foods.</p> <p>- It is requested that GOC improves the status quo, whereby a Member Firm has no alternative but let its subsidiary (MFS) in PRC procure software products locally in PRC, while it must export new (not used) machineries and equipment to MFS in PRC, (deregulation of import restrictions is requested.)</p>	<p>- Administrative Measures for Software Products (2009)</p> <p>- Measures for the Inspection and Supervision Administration of Imported Old Mechanical and Electrical Products (2002)</p>
	(5)	Repeal of Provisional Rates for Import Duty	<p>- 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 &amp; 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.</p> <p><b>(Improvement)</b></p> <p>- On 1 January 2013, GOC reduced provisional import duty of ferro-alloy from 2% to 1% (7202.7000, 7202.8010, 7202.9100).</p>	<p>- It is requested that GOC resurrects the PTRs.</p>	<p>- Customs Import and Export Tariff 2010</p> <p>- Notice of the Customs Tariff Commission of the State Council Regarding the 2011 Tariff Execution Plan [2010] No.26)</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(6)	Import Permit and Quota System	<p>- 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.</p> <p>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.</p> <p>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 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> <p>- GOC enforces quota (quantitative restrictions) on import of books.</p>	<p>- It is requested that GOC repeals the quota system on books.</p>	
	(7)	Suspended Customs Clearance due to Worsened Japan/PRC Diplomatic Relations	<p>- 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.</p> <p>- 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. Likelihood of a similar issue arising hereafter with Taiwan and ROK is another matter of concern also.</p>	<p>- It is requested that GOJ considers approaching GOC for resolving the problems. Especially, the assessed prices tend to fail to reflect the decline in the market average prices.</p> <p>- It is requested that GOJ and GOC normalises the diplomatic relations between the two countries.</p>	
	(8)	Import Restrictions on Used Machinery and Equipment	<p>- Imports are restricted on used machinery and equipment.</p> <p>- 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.</p>	<p>- 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.</p> <p>- It is requested that GOC deregulates the complications in import control and procedures.</p>	<p>- Measures for the Inspection and Supervision Administration of Imported Old Mechanical and Electrical Products (12-31-2002)</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
			- It takes about 2-months for completing the procedures for acquisition of 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 affects production schedule.	- It is requested that GOC: -- streamlines the import PC Disorders and -- cuts down the time required for completion of import procedures.	- Measures for the Inspection and Supervision Administration of Imported Old Mechanical and Electrical Products
	(9)	Nebulous Import Control of Used Machineries and Equipment	- It is said that import of used machineries and equipment from abroad is "difficult". However, there seems to be no express prohibitive legislation. On the other hand, it is rumoured that "import is permitted", "import is possible if the machineries and equipment are less than (xx) years in use".	- If no, is no, it cannot be helped. However, it is requested that GOC expressly spells out the underlining rules.	
	(10)	Nebulous Judgement Basis of Import Duty Exemption on Machineries and Equipment	- 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.	- It is requested that GOC clarifies and streamlines the basis of its determination and clearly identifies the requisite documents for submission to the authority.	
	(11)	Irrational Customs Valuation	- Customs in certain Regions in their customs valuation of parts and materials (PAM) 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 (MKH) Licencing Agreement, despite the fact that the MKH relates to finished products and not to individual PAM. 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. - 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	- It is requested that GOC operates the customs clearance procedure in accordance with the international norm.  - It is requested that GOC: -- approves the price revisions based on WTO Agreement, and -- refrains from levying unjustifiable import duty.	- Measures of the Customs for the Assessment and Determination of Duty-paid Value of Import and Export Goods GAC (enforced on 1 May 2006) - Rules for Evaluation of Import Cargo Licence Fees (enforced on 1 July 2003)  - Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, Article 9. 1. Where the conversion of currency is necessary for the determination of the customs value, the rate of exchange to be used shall be that duly published by the competent authorities of the country of importation concerned

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>incorporation into machine parts in the PRC factory, with no distribution 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 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>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. 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>
	(12)	Nebulous Nature of Determining Customs Value	<p>- 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.</p>	<p>- It is requested that GOC ensures transparency in application of its rules.</p>	
	(13)	Disunities, and Arbitrary Nature in Application of HS Code	<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 Processing Trade Manual (Bonded Processing Manual) upon re-export of finished products after processing of materials in EPZ, etc. - 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. - Customs Classification (HS Code) differs at times between PRC and Japan on each category of medical products.</p>	<p>- It is requested that GOC harmonises determination of HS Code for this product.  - It is requested that GOC ensures transparency in determining duty rates, provides justifiable explanation and reduces the duty rate to zero.  - It is requested that GOC/GOJ achieves the global uniformity of HS Code.</p>	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- Applied HS Code frequently varies between Customs Officers in charge so that the applicable tariff rate varies each time, depriving importers with the ability to determine the purchase cost. Moreover, delivery delays result from the prolonged time required for customs clearance far beyond the expectation.</li> <li>- Interpretation of HS Code various by officers in charge in each jurisdiction of Regional Customs. Where 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.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that PRC Customs formulate uniform HS Code that is applicable in common all across PRC.</li> <li>- It is requested that GOC expedites unification of HS Code interpretation all across Customs in PRC.</li> </ul>	
	(14)	Complex Customs Clearance Procedures	<ul style="list-style-type: none"> <li>- In certain regions, it takes much time to receive the cargoes as Simplified Customs Clearance Procedure is inapplicable.</li> <li>- While Bonded Zone Customs now administer customs clearance work by Central Processing in Bonded Zone, it takes 1 to 2-months for new products registration. The delay affects the delivery lead time.</li> <li>- It takes much time to take delivery of the goods, as duty free customs clearance begins after acquisition of Residence Certificate.</li> <li>- 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.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC applies Simplified Customs Clearance Procedure at all airports in PRC.</li> <li>- It is requested that GOC reduces the examination period on Pharmaceutical Products.</li> <li>- It is requested that GOC expedites customs clearance.</li> <li>- It is requested that GOC overhauls Export/Import Customs Declaration Scheme so that the lead-time is minimised for Pre-Pro Samples, the same as General Cargoes.</li> </ul>	
	(15)	Suspended Import Customs Clearance Permit	<ul style="list-style-type: none"> <li>- In September 2013, Shanghai Customs refused to discharge customs clearance to 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.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that Shanghai Customs discharge customs clearance adequately with transparency.</li> </ul>	
	(16)	Vexatiously Complex Import Procedures under FTA	<ul style="list-style-type: none"> <li>- The procedures are complex and time consuming to import goods into PRC under ASEAN-PRC FTA: Example)                             <ul style="list-style-type: none"> <li>-- Additional one day is necessary for Customs' confirmation and approval of Certificate of Origin</li> <li>-- Additional 3-days approx. are necessary for the approval procedures where the signature on Certificate of Origin is not registered in the PRC Customs On-line System, in which event, customs clearance is first made by payment of regular import duty and VAT for later refund, which takes 3-days in addition. Sometimes refund is disapproved.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC streamlines and abridges the time required for import customs clearance procedures.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(17)	Nebulous Requirement for Acquisition of Certificate of Origin under FTA	<p>- GOC requires its own description inconsistent with (or not found in) FTA Certificate of Origin Rules. Certificate of Origin issued in accordance with AQSIQ requirement, being inconsistent with FTA Rules, is not accepted at the importing country, or caused delay in applicant's enjoying the benefit under FTA.</p> <p>Example): ASEAN-PRC FTA Implementing Regulation prescribes "HS Code shown on Certificate of Origin (COO) shall be the HS Code in the importing country." However, Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) in each District requires description of PRC HS Code, whenever differences arise between the country of export and PRC. If this happens, AQSIQ requires PRC HS Code description, which is inconsistent with the requirements in the importing country. It results in the inability or delays for the importer to enjoy the benefit under FTA, due to the time lost in the negotiation with AQSIQ.</p>	<p>- It is requested that AQSIQ thoroughly instructs CIQ in each province to refrain from making requirements, which are inconsistent with or not found in FTA Rules.</p>	<p>- Revised Operational Certification Procedures (OCP) for the Rules of Origin of the ASEAN-CHINA Free Trade Area</p>
	(18)	Irrational Country of Origin Decision and Marking Requirement	<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)</p>
	(19)	Cumbersome and Delayed Temporary Import Procedures	<p>- 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.</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>- It is requested that GOC:</p> <ul style="list-style-type: none"> <li>-- streamlines the import procedures, and</li> <li>-- cuts down the time required for completion of customs clearance.</li> </ul> <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>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(20)	Difficulty in the Customs Clearance Procedures for Return of Defective Products	- Where product failures are discovered in substantial quantity for products manufactured in Japan by a related company (within the same group) shipped to PRC, repair by its subsidiary in PRC is one possible way to resolve the problem. However, no export/import declaration system is available in PRC to cope with such a situation. Thus, it is not possible to get such defective products repaired or refurbished in PRC.	- It is requested that GOC newly establishes a Special Licensing System for Export and Re-Import that accommodates defective products.	
	(21)	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.	
	(22)	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.              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 this year 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>- Announcement No. 57 [2010] Publication 2011 of MOFCOM on Quota Distribution of Imported Refined Fuel Oil by Non-State Foreign Trade Enterprises              - Announcement No. 72 [2012] of MOFCOM on the Final Ruling of the Anti-dumping Case against Imports of Certain High-performance Stainless Steel Seamless Tubes Originated in the EU and Japan</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(23)	Levy and Raise of High Export Tax	<p>- 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. 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%.</p> <p><b>(Improvement)</b> - 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.)</p>	<p>- It is requested that GOC deregulates the export suppression measures on raw materials.</p>	<p>- Notice of the Customs Tariff Commission of the State Council on the Tariff Execution Plan</p>
	(24)	Frequent changes in export taxation system	<p>- 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).</p>	<p>- It is requested that GOC avoids driving exporting enterprises into confusion by maintaining a stable export policy.#</p>	<p>- Import and Export Tariff of PRC 2010</p>
	(25)	Nebulous Export Licence Scheme	<p>- Since 2010, GOC has begun requiring E/L for products manufactured by a Japanese enterprise subsidiary in PRC (a Japanese enterprise), without however, any advance notice to the affected parties. It was only in February that a Japanese enterprise was made aware about the E/L requirement. It took much time for the authority to overhaul its export administration system. Consequently, all exports had to be suspended pending GOC's issuance of E/L in July. - In September 2008, Ministry of Commerce (MOC) and Ministry of Science and Technology (MOST) promulgated Amendment of "PRC Catalogue of Technology of which Export is Prohibited/Restricted", commencing the full-fledged GOC's control on the technology export. A Firm's subsidiary in Beijing consigned by the Firm for Research and Development, since 2010, has begun filing application for export licence for the fruit of the consigned work. While the control scheme has been implemented, the scheme itself remains premature. The flow chart of the filing of application and the details of documents requiring submission contain many grey areas, while no clear-cut answers are obtainable from the competent authorities (Cas). In many cases, Cas' reply has vacillated, delaying the shipment of the fruit of the consigned work. As affairs now stand, it is feared that an abrupt export embargo on the fruit of the consigned work is not an unlikely contingency.</p>	<p>- It is requested that GOC: -- repeals the E/L requirement, and -- expeditiously overhauls its export administration system based on the actual requirement.</p> <p>- It is requested that GOC establishes a regime or scheme that adequately provides full detailed information and responsive action to be taken to Foreign Funded Enterprises (FFEs) and their parent companies (in Japan).</p>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(26)	Nebulous and Delayed Export Inspection	- Substantial shipment delays have occurred due to the nebulous AQSIQ product inspection on the export products. It has materially disrupted their import schedules into the Japan Domestic Market. While AQSIQ local inspection is nothing to complain about, due to the nebulous purposes and contents of inspection and the number of days required for each inspection, both the manufacturers and a Member Firm (importer) have a great difficulty in maintaining the timely delivery of products imported from PRC.	- It is requested that AQSIQ: -- clarifies the detailed contents and the exact period of its inspection, and -- notifies such details to manufacturers or importers.	
	(27)	Increased Burden to Trade Firms by the Change in Export Invoices Issuance System	- 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.	- It is requested that Taxation Bureau issues Export Invoice in accordance with the International Norm.	
	(28)	Air Cargo Export Control	- Shanghai Pudong Airport exercises its own unique Control on Export Procedures for Airfreight Cargoes.	- It is requested that GOC: -- repeals the requirement for issuance of Non-Dangerous Goods Certificate on liquid (valve oil, grease), and -- replaces it with MSDS, which is the International Standard. - It is requested that GOC: -- repeals the requirement for issuance of Non-Dangerous Goods Certificate on goods, in which Lithium Battery is built in, and -- replaces it with IATA Certification for Shipping Dangerous Goods by Air.	
	(29)	Customs Clearance Work Disallowed for Branch Operation	- 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.	- 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.	- 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.
	(30)	Restricted Change in Customs Declaration and Its Nebulous System	- 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.	- It is requested that GAC: -- permits changes without fail, and -- repeals penalty provisions.	- Provisions related to changes in the Customs Declaration contents.
	(31)	Indefinite Period for Completing Customs Clearance	- 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.	- It is requested that GOC clearly defines the work related to customs clearance.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(32)	Delayed Customs Clearance Procedures	- Customs clearance in PRC (mainly in Shanghai port) takes, seemingly intentionally, an abnormally longtime -- recently, for more than 2-months in many cases. Customs Authority gives no explanation for the delay. It is the same with food products, which require the food hygiene licence. It takes about 2-months before issuance. As it stands, it causes hiatus of supply to distribution for 4-months in total.	- This kind of harassment goes far beyond the notion of the country ruled by law. It could continue, unless improvement is achieved in the bilateral political/ diplomatic relations between the countries.	
	(33)	Complex Product Registration Procedures	- The procedures are complex for Product Registration.	- It is requested that GOS obviates the need for renewal of registration once the product is registered, as it is done in Japan.	
	(34)	Complex Registration Procedures of Imported Products	- Allowable rate of loss for resin material in bond (of less than 3%) is unrealistically low. In actual process, about 10% is the realistic number. The loss during processing is now taxable.	- It is requested that GOC raises the allowable rate of loss.	
	(35)	Information Leakage at Customs	- 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.	- It is requested that GOC ensures prevention of leakage concerning Confidential Information of private entities.	
	(36)	Abrupt Change of Customs Regulations	- From time to time Customs abruptly changes Regulations. Customs clearance has become no longer possible for imported sugar from ROK. In many cases, customs clearance has been halted, much to the inconvenience of the Chinese purchasers.	- It is requested that GOC streamlines and clearly sets forth the application procedures for import customs clearance.	
	(37)	Delays in Export/ Import Procedures during Spring Festival	- 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.	- It is requested that GOC/Freight Forwarder will establish a scheme unaffected by holidays.	
	(38)	Complex Inspection Procedures for Export Goods	- 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.	- 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.	- Law on Import and Export Commodity Inspection
	(39)	Restricted Triangular Trade	- GOC restricts Triangular Trade only to business entities residing in the Bonded Zones.	- It is requested that GOC deregulates the restriction on Triangular Trade.	
10	Restrictive Measures for Operations in Free Trade Zones ("FTZs") and Special Economic Zones ("SEZs")	(1)	Change into the New Bank Bond Ledger System of New Processing Trade - 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. - 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.	- It is requested that GOC repeals the BSBLs.	- Announcement No. 44 [2007] of MOF/GAC, Promulgating List of Commodity Restricted for Processing Trade promulgated on 23 July 2007

Category	No	Issue	Issue Details	Requests	Governing Laws
			<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 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>		
	(2)	Delays in the Deliveries in and out of Bonded Zone	- Some customers of Member Firms Subsidiary (MFS) include customers that operate on 24-hours basis. Emergency parts imported from Japan cannot be shipped out to customers 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.	- It is requested that the Customs will permit stock registration in the Bonded Zone after the goods are delivered out of the Bonded Zone.	- Source: CIE/CIES
	(3)	Nebulous Procedures for Cargo Transfer in Bond	- Nebulous Scheme applicable to Bonded Zone. By right, transfer of products in bond from one city to another domestically 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.	- It is requested that GAC expands the customs scheme to cover the regional cities by assuring the total uniformity and thoroughness.	- Domestic In-Bond Transfer Scheme for Bonded Cargoes in PRC
	(4)	Shanghai Pilot Free Trade Zone	- A Member Firm considers establishing a new company with Business Licence to engage in overseas traveling business, as establishment of joint venture overseas travelling company has become possible in the China (Shanghai) Pilot Free Trade Zone (October 2013), in order to resolve problems, emanated from suspected nominal transfer of the Business Licence.	- It is requested that GOJ builds up the domestic organisation with the ability to transmit uniform information, as the China (Shanghai) Pilot Free Trade Zone has a direct impact upon the Japanese economy.	- Notice of the State Council on Issuing the Framework Plan for China (Shanghai) Pilot Free Trade Zone

Category	No	Issue	Issue Details	Requests	Governing Laws
	(5)	Changes in Personnel Related Application / Examination in SEZ	- 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.	- It is requested that GOC makes it possible to conduct various registrations and application work also in Tianjin Economic Development Area (TEDA).	
11 Restriction on Profits Remittance Abroad	(1)	Difficulty in Raising Royalty / Demand for Royalty Reduction	- The subsidiary of a 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. - 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.	- It is requested that GOC refrains from executing de facto examination of Technical Licence Agreement for which no examination is legally required.  - It is requested that GOC improves the state of affairs to allow the licensors' retrieval of the proper consideration for the technical assistance.	- 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 & amended on 8 January 2011, Article 17
	(2)	Restricted Remittance Overseas for the Non-Trade Consideration, Service Fees, Royalty, Etc.	- Taxation Bureau sometimes refuses to authorise remittance to the Japanese parent enterprise of royalty payment under the technical licence agreement with its subsidiary in PRC. In PRC if the amount of remittance exceeds U.S.\$5-million, the applicant must get the application form stamped in proof of payment of the withholding tax, and business tax, and in addition, must obtain SAFE's approval for remittance. There was a case in Wuxi whereby the remittance in the amount of 170-million in Japanese yen was withheld for 2-years. In this case, the subsidiary in concern was operating in red and the taxation authority took the position that royalty in a huge amount could not be approved in light of the transfer pricing taxation. - MFS is unable to recover timely, in accordance with the contract, the service fees, despite the completion of the service rendered.	- This is an issue, which should be brought up in the formal transfer pricing investigation. It is requested that GOC refrains from blocking the individual remittance in this fashion over the matter that should be dealt with in transfer pricing investigation.  - It is requested that GOC reforms the business practice in PRC so that the contracted terms are observed to the letter, despite the prevailing practice that respects the financial staff who delays payments.	
	(3)	Complex External Remittance on Non-Trade Transactions	- 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.	- It is requested that GOC: -- streamlines the remittance procedures for non-trade transactions (especially, royalty fees under technical licence agreement), and -- clearly identifies the relations by and among the various schemes.	- Trademark Law, Article 40(3) - Regulations on Administration of Import and Export of Technologies

Category	No	Issue	Issue Details	Requests	Governing Laws
			- Upon external remittance of royalty under Technical Licence Agreement (TLA), applicant must register TLA at three individual authorities, (1) MOFCOM or Local Competent Provincial Foreign Trade and Economic Department, (2) PRC Patent Office, and (3) Technical Agreement Registration Institute. Compared to other major countries, this is an excessive registration requirement.	- It is requested that GOC will revise its requirement so that one competent authority suffices for filing notification / registration, etc.	
12 Exchange Controls	(1)	Rigorous Foreign Exchange Control	<p>- 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.</p> <p>- SAFE's tightening of foreign exchange is extremely rigorous, making it difficult to remit foreign currency mutually between PRC and Japan, while conversion of foreign currency into RMB is equally difficult. It has been a factor that has materially aggravated the business efficiency from having to take actions for avoidance of payment delays, with extra cost and time.</p> <p>- 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.</p> <p><b>(Improvement)</b></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>- It is strongly requested that GOC:</p> <ul style="list-style-type: none"> <li>-- liberalises in principle remittance in foreign exchange to foreign funded enterprises, and</li> <li>-- simplifies the procedures.</li> </ul> <p>- It is requested that GOC deregulates its control for foreign currency remittance between Japan and PRC.</p> <p>- It is requested that GOC:</p> <ul style="list-style-type: none"> <li>-- deregulates restrictions and</li> <li>-- streamlines the procedures.</li> </ul>	<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>
	(2)	Difficult Remittance of Expatriates' Wages Paid in Japan	- 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])", 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.	- Overhaul of the implementing rules is necessary prior to issuance of legislation.	<p>- Notice of SAFE on Matters concerning the Issuance of Foreign Exchange Administration Rules for Trade in Services (Huifa[2013]No.30)</p> <p>- Announcement of SAT/SAFE on Issues concerning Taxation Recordation for Foreign Payments under Trade in Services and Other Items (No.40 [2013])</p>
	(3)	Restricted Disposal of Capital Fund in Foreign Currency after Conversion into RMB	- Year after year, GOC has tightened its control upon conversion into RMB and the purpose of use of the Foreign Currency Capital invested into the locally incorporated company in PRC. GOC rigorously controls purchase of land-use right by conversion into RMB of foreign currency capital fund in the name of guarantee, advance payment, down payment, etc. On the other	- It is requested that GOC deregulates restrictions on the use of the Foreign Currency Capital converted into RMB.	- Supplementary Notice of the General Affairs Department of SAFE on the Relevant Operating Issues concerning the

Category	No	Issue	Issue Details	Requests	Governing Laws	
			hand, in general, it has been customary in PRC for the landlord to demand payment of guarantee, down payment. It severely cripples the locally incorporated FFEs operation and cash flow.		Improvement of the Administration of Payment and Settlement of Foreign Currency Capital of Foreign-funded Enterprises (07-18-2011) WaiHuiFa (SAFE) No. 88 [2011]	
	(4)	Restricted Conversion into RMB of Paid-In Capital Fund in Foreign Currency	- FFEs more often than not make capital contribution in foreign currency (USD, Japanese yen, etc.). However, FFEs must hold on to foreign currency at the risk of foreign exchange fluctuations, being unable to convert the paid in foreign currency capital into RMB and hold on to it other than on the basis of actual demand.	- It is requested that GOC deregulates the restrictions on foreign currency conversion into RMB.	- SAFE No. 142 [2008] - SAFE No. 88 [2011]	
	(5)	Up-valuation of RMB	- Up-valuation of RMB, which has boosted the cost to Japanese affiliated enterprises could adversely impact their products' competitive edge in the market.			
	(6)	Complex Procedures for Receipt and Remittance in Foreign Currency	- It requires placing a seal on numerous documents to receive and remit in foreign currency. Moreover, it takes trip to the bank to file applications for remittance and/or receipt in foreign currency. - "Notice of SAFE on Matters concerning the Issuance of Foreign Exchange Administration Rules for Trade in Goods" (HuiFa [2012] No.80), enforced on 1 August 2012, has simplified the external remittance procedures in the applicant's own name. However, remittance procedures have become complicated for nominal customs clearance (discordance between transaction and distribution). - Procedures for external remittance and money exchange are complex. Payment delays remitted from Japan frequently occur.	- It is requested that SAFE will streamlines the application procedures. - It is requested that SAFE simplifies the currency exchange and external remittance procedures. - It is requested that SAFE liberalises the settlement terms for international trade settlement of account.	- Notice of SAFE on Matters concerning the Issuance of Foreign Exchange Administration Rules for Trade in Goods (HuiFa [2012] No.38)	
	(7)	External Trade Settlement Control	- Notwithstanding the fact that PRC is an IMF Member Country Accepting Article VIII Obligations, SAFE restricts even lawful external payments. Moreover, application differs by the economic trend and interpretation of government employees in charge. It frustrates importers' P&L Plan as well as Cash Flow.	- It is requested that SAFE liberalises in principle the Settlement Terms of international trade.	- SAFE Directives/Notices	
	(8)	Difficulty in Debtors and Creditors Offset	- Member Firm, the Headquarters of its subsidiary in PRC (MFS), pays Service Fees to 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.	- It is requested that SAFE liberalises restrictions on reasonable settlement of Debtors and Creditors Account by offset.		
13	Finance	(1)	Nebulous Execution of Tight Monetary Policy	- GOC implements control on the total loan amount by oral or written notices, guidances to the financial institutions, etc.	- It is requested that GOC liberalises financing business.	- Various Notices

Category	No	Issue	Issue Details	Requests	Governing Laws
	(2)	PRC Financial Institutions' Domestic Loan Restrictions	<ul style="list-style-type: none"> <li>- Restrictions for loan and credit limit by a bank per Group of Enterprises, per Enterprise.</li> <li>- Tightened control on Deposit to Loan Ratio.</li> <li>- Reduction in Short-Term Foreign Borrowing Limit.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC deregulates restrictions upon business companies, while it is recognised that control is required for real estate and speculative transactions.</li> </ul>	<ul style="list-style-type: none"> <li>- Bank Law, etc.</li> </ul>
	(3)	Interest Control for Direct Group Loans	<ul style="list-style-type: none"> <li>- Group Finance Company (Finance Company) is unable to set the Optimum Interest Rate on its direct loan to Group Companies.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC liberalises the interest rate cap (on deposit).</li> </ul>	<ul style="list-style-type: none"> <li>- Notice on Issuing the Administrative Provisions on RMB Interest Rates</li> </ul>
	(4)	Frustrated Fund Procurement from Bank Loan and Stock Market	<ul style="list-style-type: none"> <li>- Up to this date 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.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC:                             <ul style="list-style-type: none"> <li>-- improves the FFEs' business environment (by deregulating controls), and</li> <li>-- organises the Stock Market that allows FFEs' listing.</li> </ul> </li> </ul>	
	(5)	Stringent Requirement for Borrowing Operation Fund	<ul style="list-style-type: none"> <li>- It is impossible to draw bank borrowing as working capital without submitting substantive voucher. It is the same for rollover borrowing. The borrower needs to show the voucher for the actual use of the borrowed money for its operation. For this reason, where the amount of borrowing exceeds the monthly requisite operation cost, the borrowing term gets stretched to 3~6 months. It has become difficult (as it has been possible before) to pay back the borrowed amount on a monthly basis, depending upon the funding status. Up to the first half of 2010 or thereabout, it used to be possible to freely use the fund for transfer to the Current Asset Bank Account.</li> <li>- The going 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. However, in PRC, where chronic delays persist in collection of accounts receivable, it is difficult to circulate funds.</li> </ul>	<ul style="list-style-type: none"> <li>- While the thrust of the lending system is understandable, it tightens the cash flow of the Member Firm. It is requested that GOC slacken the requirement to the level of other countries.</li> <li>- It is requested that GOC deregulates the scheme to level with other foreign countries.</li> </ul>	<ul style="list-style-type: none"> <li>- Interim Measures for the Administration of Working Capital Loans</li> </ul>
	(6)	Restricted External Borrowing by FFEs	<ul style="list-style-type: none"> <li>- In many cases, FFEs confront a great hardship in fund procurement, as GOC severely controls FFEs' external borrowing.</li> <li>- Where a Foreign Funded Enterprise 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). If the external borrowing exceeds one year, the Touzhucha remains after completion of repayment.</li> <li>- Notwithstanding the fact that PRC is an IMF Member Country Accepting the Article VIII Obligations, SAFE restricts even lawful external payments. So called "Touchuzha" 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.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC deregulates the restrictions.</li> <li>- It is requested that GOC liberalises the external borrowing.</li> <li>- It is requested that SAFE controls speculative funds by a special legislation, apart from the normal economic activities.</li> </ul>	<ul style="list-style-type: none"> <li>- The Interim Provisions on the Management of Foreign Debts [2003] No.28</li> </ul>

Category	No	Issue	Issue Details	Requests	Governing Laws
14 Taxation Systems	(1)	Heavier Tax Burden upon FFEs	- In the circumstances where year after year of the wage surge burdens business operators, worse still, GOC's tax incentives to FFEs have declined. Since 2011, 10% Withholding Tax has been levied upon interest paid/consideration for service (remitted to Japan), 5% Business Tax, and on top of all these taxes, beginning 1 December 2010, GOC has compelled FFEs to pay Educational Surcharge and Urban Maintenance and Construction Tax, so that effective Tax Burden exceeds 16%.	- It is requested that GOC notifies GOJ in advance its plan for wage surge. It is requested that GOJ induces GOC to reduce the tax burdens to Japanese affiliated enterprises operating in PRC, down to the previous 10%.	
	(2)	The competitive edge has been reduced due to imposition of high rates of VAT	- Since April 2006, GOC has started to impose 20% of excise tax on goods priced at more than RMB10,000, CIF. - Operational profitability has declined on import of clocks, due to the heavy burdens of import duty and VAT.  - 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).	- It is requested that GOC reduces the excise tax. - It is requested that GOC further reduces various taxes and dues on imported goods, to liberalise the market for foreign enterprises. - It is requested that GOC reduces VAT rate on export (as it debilitates the international competitive edge).	- Customs Regulations and Provisions
	(3)	VAT not Refunded or Delayed	- VAT Refund Rates are affixed in accordance with HS Code, and not fully refunded in some cases. In actual employment of VAT refund procedures for each export and import, a Firm follows the pre-determined procedures, which are complex.	- It is requested that GOC streamlines the VAT refund procedures such as application of the uniform VAT refund rate.	
	(4)	Inadequate Refund Scheme for Unearned VAT	- 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 Unreceived 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, undefined.	- It is URGED that GOC considers and establishes the system for Unreceived VAT Refund.	
	(5)	Instability / Changes in VAT Refund Rates	- 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 1 April 2009 and 1 June 2009. 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. - MFS manufactures and distributes in PRC Emissions Control Catalytic Agent (the Product) that converts toxic pollutants in exhaust gas to less toxic pollutants. The low VAT Refund Rate applicable to this Product obstructs MFS's efforts to export the Product.	- It is requested that GOC maintains a stable export policy to eliminate confusions on the part of exporting enterprises.  - It is requested that GOC repeals Export VAT or fully refunds the Export VAT.	- MOF Notice on VAT Refund on the Canceled Portion of Goods (CaiShui [2010] No. 57)

Category	No	Issue	Issue Details	Requests	Governing Laws
	(6)	Irrational VAT Refund Procedures on Imported Equipment	- 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.	- It is requested that GOC: -- separates export/import of normal commodities and imported equipment, and -- makes VAT refund basically in lump sum.	
	(7)	Additional Tax Levied due to the Revision in Import VAT Calculation Method	- 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)". 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.	- 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.	- VAT and Consumption Tax Policies for Exported Goods and Labour Services - Administrative Measures for Value-added Tax and Consumption Tax on Export Goods and Labour Services
	(8)	VAT introduced upon International Freight Cost	- Effective as of 1 August 2013, New Value Added Tax has been introduced. VAT of 6% is collected on Freight in International Trade, marking the beginning of the VAT Levy on Freight. Member Firm's group resisted payment of invoices for the new VAT issued by Shipping Companies, and Airway Forwarders, the new VAT being unrefundable, unreasonable levy. Member Firm group continued consultation with GOC, which remained pending with both contentions running in parallel. Meanwhile, the new Circular since promulgated has repealed the new VAT Levy, and Member Firm's group has managed to avoid payment of the new VAT. The confusion continues, as the refund procedure for the new VAT already paid remains pending. - VAT levy on export cargo freight from PRC.	- It is requested that GOC makes it a point: -- to secure opportunities for exchange of dialogues with Foreign Funded Enterprises, -- to provide timely information followed by sufficient and proper explanation, and -- to secure transparency.  - Effective as of January 2014, exemption measures have been made available upon exporter's application. However, it is requested that GOC repeals the VAT levy on freight in international trade.	- Notice on the Nationwide Trial of Transition from Business Tax to Value Added Tax for Transportation and Certain Modern Service Industries Circular 37 CaiShui [2013] - Circular 106 Jan 1st 2014
	(9)	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 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.	
	(10)	Unique Taxation System	- 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/US. Even within the Shanghai Region, from time to time, interpretation differs by areas.	- It is requested that SAT employs taxation system based on the global standard, as close as possible.	- Taxation System

Category	No	Issue	Issue Details	Requests	Governing Laws
	(11)	Irrational Selection of Comparable Enterprises under the Transfer Pricing Taxation System (TPTS)	- In implementing the Transfer Price Taxation System, 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 resell 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.	
	(12)	Arbitrary TPTS Investigation	- GOC carries out investigation on TPTS, should profitability of FFEs declines, and levies taxes based on unilateral reasons under TPTS.	- It is requested that GOC: -- overhauls legislation on Transfer Price Taxation System, and -- carries out a fair tax investigation.	
	(13)	Follow-up investigation of TPTS	- After tax levy under Transfer Price Taxation System, GOC carries out follow-up investigation for 5-years.	- It is requested that GOC repeals the 5-year follow up investigation after TPTS investigation.	
	(14)	Non-active use of APA Scheme	- While the system exists for Advance Pricing Agreement (APA) under TPTS, it has not made any progress in substance.  - 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.	- It is requested that GOC internationalises its taxation system by introduction of International Financial Reporting Standards. - 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. - 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	- Enterprise Income Tax Law, Article 42, Regulation on the Implementation of the Enterprise Income Tax Law, Article 113 - Rules for the Implementation of the Law on the Administration of Tax Collection, Article 53
	(15)	PE Tax Levy on Employees Service Provision while on Business Trip	- 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, 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	- It is requested that: -- GOC/GOJ amends the Tax treaty, and for the time being, -- TA improves its implementation based on Tax Treaty. - 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	- Japan-PRC Tax Treaty, Article 5(5) - Enterprises Income Tax Law - Notice of SAT about the Issues Relevant to the Execution of the Royalty Clauses of Tax Treaties GuoShuiHan [2009] No.507

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>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 drawing the conclusion that the operation is PE.</p> <p>- Where service fees accrue in the context of technical support that a parent company provides to its subsidiary in PRC, by despatch 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 technical 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>- An employee stationed in Hong Kong must file Tax Return, if his stay in PRC exceeds 183-days.</p>	<p>as provision of sufficient and proper explanation.</p> <p>- It is requested that GOC overhauls the taxation system and assures its transparency.</p> <p>- It is requested that GOC and GOJ amend the Tax Treaty. For the time being, it is further requested that GOC improves employment of the going Tax Treaty.</p> <p>- 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.</p> <p>- It is requested that GOC overhauls the taxation system and assures its transparency.</p> <p>- It is requested that GOC and GOJ amend the Tax Treaty. For the time being, it is further requested that GOC improves employment of the going Tax Treaty.</p> <p>- Upon introduction of the new taxation system, or changes in the taxation system or the 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.</p> <p>- It is requested that GOC overhauls the Taxation System and assures its transparency.</p> <p>- It is requested that GOC and GOJ amend the Tax Treaty. For the time being, it is further requested that GOC improves employment of the going Tax Treaty.</p> <p>- Upon introduction of the New Taxation System, or changes in the 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.</p>	<p>Japan-PRC Tax Treaty, Article 5(5)</p> <p>- Enterprises Income Tax Law</p> <p>- Notice of SAT about the Issues Relevant to the Execution of the Royalty Clauses of Tax Treaties GuoShuiHan [2009] No.507</p> <p>Japan-PRC Tax Treaty, Article 5(5)</p> <p>- Enterprises Income Tax Law</p> <p>- Notice of SAT about the Issues Relevant to the Execution of the Royalty Clauses of Tax Treaties GuoShuiHan [2009] No.507</p> <p>Japan-PRC Tax Treaty, Article 5(5)</p> <p>- Enterprises Income Tax Law</p> <p>- Notice of SAT about the Issues Relevant to the Execution of the Royalty Clauses of Tax Treaties GuoShuiHan [2009] No.507</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- In some cases, invoicing for provision of service, etc. is susceptible of GOC's PE determination, leading to GOC's income tax levy.</li> </ul>	<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 discontinues irrational finding of PE.</li> </ul>	
	(16)	Business tax levied on Remittance to Japanese Headquarters as Expatriates' Resident Wages	<ul style="list-style-type: none"> <li>- Member Firm (Japan Headquarters of MFS) pays Expatriates' Wage (EW), and MFS locally incorporated in PRC makes external payment to Member Firm the corresponding amount as Expatriates' Resident Wage (ERW). MFS has recently received GOC's Administrative Guidance to the effect that ERW amounts to Work Consignment Fee, which is taxable as Business Tax (Indirect Tax). Incidentally, MFS pays the full amount of Personal Income Tax to PRC Taxation Authority.</li> <li>- 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 MF 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.</li> </ul>	<ul style="list-style-type: none"> <li>- In as much as MFS pays the full amount of the expatriate's personal income tax to PRC taxation authority, it is requested that the Taxation Authority appreciates that EW is the wage Member Firm Subsidiary pays to the expatriate as locally incorporated business entity and does not constitute Work Consignment Fee.</li> <li>- It is requested that:                             <ul style="list-style-type: none"> <li>-- GOC/GOJ amends the Tax treaty, and for the time being, and</li> <li>-- TA improves its implementation based on Tax Treaty.</li> </ul> </li> <li>- 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.</li> <li>- It is requested that GOC overhauls the taxation system and assures its transparency.</li> </ul>	<ul style="list-style-type: none"> <li>- Japan-PRC Tax Treaty, Article 5(5)</li> <li>- Enterprises 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> </ul>
	(17)	Nebulous Definition of Consultant PE's Provision of Service	<ul style="list-style-type: none"> <li>- If Member Firm in Japan pays expatriate's wage payable in Japan and then invoices the amount to 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)</li> </ul>	<ul style="list-style-type: none"> <li>- 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.</li> </ul>	<ul style="list-style-type: none"> <li>- Article 5(4) of Japan/China Tax Treaty</li> <li>- China Company Income Tax Law</li> <li>- Indian Company Income Tax Law</li> </ul>
	(18)	Arbitrary Interpretation and Employment of Tax Laws by Government Employees	<ul style="list-style-type: none"> <li>- 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.</li> <li>- Interpretation of laws is unstable. It varies frequently by persons in charge. Apart from Tax Laws, numerous Individual Notices issued defy recognition by even State Administration of Taxation (SAT) employees.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC harmonises its implementation of tax laws nationwide.</li> <li>- It is requested that SAT unifies the implementing aspect of the Tax Laws.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(19)	Regional Differences and Disunity of Tax Refund Implementing Procedures	- 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.	- It is requested that the taxation authority integrates the implementation of the tax law.	
	(20)	Insufficient Coordination Between SAT and Local Tax Authority	- 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.	- It is requested that SAT and local authorities improve their collaborative working relationship.	
	(21)	Frequent Revisions of Taxation System/ Shortage of Grace Period	- Business Tax, VAT, etc. are complex in contents, and subject to frequent changes. Moreover VAT rates are set at levels relatively higher than those of the neighbouring countries, so that smuggled identical goods from other countries are sold in the domestic PRC market. - Abrupt and frequent amendments in taxation system and tax rates affect the amounts of remittance to Japan of royalty and expenses of expatriates despatched to PRC.  - 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. 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. 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.	- It is requested that GOC provides sufficient and adequate explanation of the Taxation System in PRC.  - It is requested that GOC: -- gives advance notice on taxation system and tax rate changes, and -- thoroughly publicises the full details. - 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: (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.	- 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 and Some Modern Service Industries, MOF No. 37 [2013]
	(22)	Nebulous Implementation of Amended Taxation System	- While VAT Reform in Shanghai Area has been enforced since 1 January 2012, it was only by the end of November 2011 that the Notice reached the Firm. Furthermore, Detailed Implementation Rules remain indefinite so that even after 1 January 2012, the Firm remains unable to issue some invoices to its purchasers.  In general, there has been no reduction in cases, where detailed implementing rules are issued immediately before their promulgation.	- 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.	- Proposed by: CIE/CIES

Category	No	Issue	Issue Details	Requests	Governing Laws
	(23)	Discriminatory Deductions Between Internal/External Dividend Payments	- Withholding tax levied on dividends receivable by corporate shareholders within PRC is subject to tax deductions so that in substance the full tax amount is refunded to the domestic corporations in PRC. On the other hand, where PRC withholding tax levied on foreign shareholders is not deducted in full, the foreign shareholder must assume the balance of the PRC withholding tax.	- It is requested that GOJ commences bilateral talk with GOC as soon as possible.	
	(24)	Unjustified Share Transfer Tax	- 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)	- 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.	
	(25)	Business Tax not Deductible as Foreign Tax Deduction under the Japan-PRC Tax Treaty	- Business Tax is not included in the deductible foreign tax under Japan-PRC Tax Treaty, compelling enterprises to bear the tax burden.	- It is requested that Business Tax is included in the Japan-PRC Tax Treaty.	
	(26)	Inadequate Coordination between Japan-PRC Taxation Authorities	- Furthermore, as regards establishment of Transfer Price or treatment of royalty, the Firm has beefed up communication with the authority and has acted in accordance with the agreement. However, the Firm is unable to deny it resembles a tug-of-war with the taxation authority of both Japan and PRC.	- It is requested that GOJ and GOC agree on the VAT refund to achieve uniformity in its implementation.	
	(27)	Difficult Deduction in PRC of Withholding Tax Levied Overseas	- 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 absorb.	- It is requested that GOC resolves the problems through International Consultation on Tax Payment.	
	(28)	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: 1) expands the scope of the parties not only from the parent under the direct capital relations, but also to indirect parent or brethren companies. 2) repeals the Business Tax levied on interest, and 3) makes fund deposit possible not only in foreign currency but in RMB also.	
	(29)	Rather Expensive Residual Value of Depreciation	- 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.	- It is requested that GOC allows Depreciation down to Memorandum Value (In Japan 1 yen, now).	
	(30)	Discriminatory Consolidated Tax Payment	- Consolidated Tax Payment reportedly available to State Enterprises is not authorised to FFEs. If inflates the effective burden upon enterprises as a group so that foreign investors must think twice before making a full-scale investment into PRC.	- It is requested that GOC introduces consolidated tax payment to enable a Member Firm's further expansion as a group of enterprises.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(31)	SAT Personnel's Failure to Distinguish between F/S and Tax Collection Accounting	- 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
16Employment	(1)	Difficulty in Securing Human Resources and Have Them Stay	<ul style="list-style-type: none"> <li>- Due to the reduced birth rate from One-Child Policy, and the elevation of the standard of living in the internal land, which used to be the source of human resources, the procurement of workforce will get even more difficult, especially in the manufacturing business, where the workshop tends to resemble the 3K environment, 3K being a Japanese acronym, whereby 'Kitsui' stands for hard, 'Kitanai', dirty, and 'Kiken', dangerous.</li> <li>- 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.</li> <li>- Member Firm, in coping with the production increase and the difficulty in adoption of regular workers, manages workforce shortage by increased employment of despatched workers, however, with a high turnover. Year after year, it becomes increasingly difficult to secure the workforce,</li> <li>- Workers' turnover is high, with increasing difficulty in securing them. Labour cost of workers has gone up year after year.</li> <li>- 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.</li> <li>- Due to the numerosity of development companies with high wages in Beijing, human resources for development and design tend to flow into Beijing. It takes much time in Tianjin to adopt human resources experienced in development and design.</li> <li>- 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.</li> <li>- 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.</li> </ul>		
	(2)	Rapid Raise of Minimum Wage	- The labour cost took a jump due to the rapid hike of the minimum wage.	- It is requested that GOJ requests GOC to moderate the rapid surge in minimum wages.	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- Labour cost has spiraled (by 10% plus/annum), quite a jump in cost. It is a substantial factor for causing severe drop in operational profit.</li> <li>- 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 2011: Average of 30-Provinces/Cities in Average + 22.0%, In 2012: Average of 25-Provinces/Cities in Average + 20.2%, In 2013 Jan-Sept: 24 Provinces/Cities in Average+18% (Ministry of Human Resources and Social Security). The Monthly Maximum: Shanghai: RMB1,620, Shenzhen: RMB1,600. The Maximum of Minimum Hourly Wage: RMB15.2 in Beijing and Xinjiang.</li> <li>- 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. In almost every year, the minimum wage has increased (in Beijing, Tianjing, Shanghai, Shenzhen, Guangzhou, Dalian, Hangzhou, etc.)</li> <li>- GOC published "Double Income by 2020 Policy", while Guangzhou City studies further raise in minimum wages.</li> <li>- Under GOC's direction, the minimum wage in double digits will take place during this year, again.</li> <li>- In each year, the labour cost keeps going up to enterprises as the Regional Authority across PRC keeps raising the minimum wage. Since 1 April 2013, the minimum wage in Shanghai City has gone up to RMB 1,620, a big jump from last year (RMB 1,450).</li> <li>- Rapid and Radical Hike in Employees Wages (at Factories and Distributors).</li> <li>- 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. On the other hand, MFS suffers from the difficulty in securing workers. Reduction in emigrant from the development policy of the inland areas is responsible for the workers' shortage.</li> </ul>	<ul style="list-style-type: none"> <li>- 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.</li> <li>- It is requested that GOC: <ul style="list-style-type: none"> <li>-- takes measures to suppress surge in commodity prices, and</li> <li>-- holds down minimum wages to assure industrial competitiveness.</li> </ul> </li> <li>- It is requested that GOC considers revisions that allow: <ul style="list-style-type: none"> <li>-- maintenance of production cost,</li> <li>-- fostering of skilled workers in volume, and</li> <li>-- assurance of workforce.</li> </ul> </li> <li>- The rapid wage surge washes out investors' willingness to invest into PRC.</li> <li>- The radical surge of minimum wages discourages investor's desire for investing into PRC.</li> </ul>	<ul style="list-style-type: none"> <li>- The 12th 5-Year National Economic/Social Development Plan (2011-2015, published on 14 March 2011.)</li> <li>- Provisions on Minimum Wages</li> <li>- Notice of Shanghai Municipal Administration of Human Resources and Social Security</li> </ul>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(3)	Worsening Employment Environment	<p>- The steep surge in wage prevails, even 15% (including the minimum wage) has tightened the demand and supply of human resources at Jinshan Area in Shanghai, where turnover of human resources is high for fresh-from-school workers, and recently, only 30% will stay for 3-months in succession. Inter-company job-hopping is frequent within the Chin Shan Area.</p> <p>Moreover, in Chin Shan Area, the number of applicants has dropped at announcement of recruitment. Certainty of participation in fringe benefits, the pride of FFEs, alone would not assure a stable employment of workers. In Shanghai area, economic penalty has been disallowed for workers engaged in production (so called prohibition of penalty). Labour management is difficult, as meeting the contingency with reduced wage could result at the wage level, less than the minimum wage determined by the Administration.</p>	<p>- It is requested that GOC:</p> <ul style="list-style-type: none"> <li>-- introduces a public recruitment scheme,</li> <li>-- secures no cost or low cost advertisement space for recruitment, -</li> <li>-- operates and makes available webpage for creating on the web recruitment page,</li> <li>-- convenes a local joint interview forum, etc.</li> </ul> <p>- It is requested that GOC activates the foregoing measures so that employers may construct a scheme to convey the employers' contents and attractiveness to prospective employees.</p> <p>- It is requested that GOC makes available incentives to employers commensurate with the number of employees that respond to the increase to employers of labour cost.</p> <p>- It is requested that GOC establishes schemes and their employment that assure profit to both employees and employers.</p>	- Employment of Labour Contract Law
	(4)	Labour Contact Law Strongly Biased in favour of Protection of Labourers.	- Employers must conclude employment contract with indefinite term with employees under term contract, upon their reaching the third contract renewal or continued employment for 10-years. It is difficult for employers to adjust the workforce commensurate with the operational requirements.	- It is requested that GOC eliminates employment contract with indefinite terms.	- Labour Contract Law of PRC
	(5)	Frequent Outbreak of Labour Disputes	<p>- All Across PRC:</p> <p>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, strike and sabotage have been frequent in Foreign Funded Enterprises in other business sectors, and within some of the group enterprises of a Firm.</p> <p>- Since April 2010, sabotage and strike have frequently taken place at FFEs in other industrial sectors and within the group enterprises.</p> <p>- Legal base is ambiguous on the right to walk out, and the related restrictions.</p> <p>- 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.</p>		

Category	No	Issue	Issue Details	Requests	Governing Laws
	(6)	Inadequate Legislation on Labour Disputes	- Legislative provisions on Labour Disputes are ambiguous and require overhaul. It takes much time and work for getting the Labour Disputes settled.		
	(7)	Rigorous Control of Overtime Work	- 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.	- It is requested that GOC implements the law flexibly tailored to the prevailing needs and circumstances.	- Source: CIE/CIES
	(8)	Increased Cost from Double Payment of Compulsory Take Out of Social Insurance System	<p>- 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 subscription in PRC makes a double subscription, and an extra cost.</p> <p>- By Social Insurance Law amended in July 2011, GOC has mandated expatriates' subscription to Social Insurance Policy, increasing the operational cost to MFS.</p> <p>(While all resident foreign employees of the subsidiary of a Member Firm have participated in the Social Security System since December 2011, there is no uniformity in its implementation and thoroughness of operation.)</p> <p>- GOC has mandated alien workers' subscription to Social Insurance Policy. Consequently, Japanese enterprises operating in PRC and their expatriates must pay social insurance premium doubly in Japan and PRC.</p> <p>- Mandatory requirement of aliens' subscription to Social Insurance Policy has resulted in double taxation payment and increased cost on account of Social Insurance Policy.</p> <p>Legislative control varies by provinces and municipalities.</p> <p>- GOC compels participation in Social Insurance Policy and Annuity not only upon Chinese nationals but foreign workers as well.</p>	<p>- It is requested that GOJ and GOC ratify as soon as possible the Social Security Agreement to resolve the double payment problems.</p> <p>- It is requested that GOJ and GOC ratify the Social Security Agreement to resolve the double payment problems.</p> <p>- It is requested that GOJ and GOC resolves the double payment problems in both countries.</p> <p>- It is requested that GOC and GOJ ratify the bilateral Social Insurance Treaty as soon as possible.</p> <p>- It is requested that GOC excludes aliens paying Social Insurance Policy in the mother country from the scope of the mandatory participation requirement in PRC.</p> <p>- It is requested that GOC:</p> <ul style="list-style-type: none"> <li>-- assures transparency in introduction of New Taxation System, or change in Taxation System or Tax Rates by provision of opportunities to FFEs for exchange of dialogues and execution of an ample and adequate explanation, and</li> <li>-- avoids Double Taxation with Japan.</li> </ul> <p>- It is requested that GOC and GOJ ratify the Bilateral or Multilateral Treaty on Social Insurance.</p> <p>- It is requested that GOC and GOJ ratify as soon as possible Japan-PRC Bilateral Social Insurance Treaty.</p>	<p>- Social Insurance Law</p> <p>- Social Insurance Law</p> <p>- Social Insurance Law: President Order [2010] No.35</p> <p>- 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)</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- Following publication of PRC social insurance law in October 2010, its enforcement in July 2011, Detailed Implementing Rules was enforced in 15 October of 2011. Payment of insurance cost has already begun, increasing the cost to FFEs.</li> <li>- Since July 2011, foreign individuals' participation in Social Insurance has become a compulsory requirement. It means increased taxation to FFEs employing expatriates, due to doubling of the tax burden. (As it stands, no payment has been made in Shanghai, as Detailed Rules for Implementation of Social Insurance Law remain unissued in Shanghai City.)</li> <li>- A Member Firm having despatched 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.</li> <li>- Shanghai City has not yet released Detailed Rules for Implementation of Social Insurance Law (Old Age Provisions, Medication, Unemployment, Growth and Development, Workmen's Compensation) that requires compulsory participation. However, the Social Insurance Law has already been in force in Beijing City, etc. Eventually, the same will apply in other Provinces and Cities as well, further inflating the operational cost. Moreover, it could likely result in double payment of social insurance premium, and insurance with no refund payment (Old Age Provisions Insurance).</li> </ul>	<ul style="list-style-type: none"> <li>- Implementation of Order is haphazard in each Municipality within PRC. No uniformity exists on its implementation and collection basis.</li> <li>- It is requested that GOC and GOJ advance bilateral negotiation as soon as possible.</li> <li>- It is requested that GOJ and GOC ratify as soon as possible the Social Security Treaty between Japan and PRC to alleviate the tax burden due to the double taxation.</li> <li>- It is requested that GOJ and GOC wipe out the Double Tax Burden by the Social Security Treaty between Japan and PRC</li> <li>- It is requested that GOJ and GOC will soon ratify the bilateral treaty, and expedite its enforcement.</li> </ul>	<ul style="list-style-type: none"> <li>- Interim Measures for the Participation in Social Insurance of Foreigners Employed in China [Order of MHRSS (No. 16)] (09-06-2011)</li> <li>- Social Insurance Law</li> <li>- Social Insurance Law</li> <li>- Article 97 of Social Insurance Law</li> <li>- Interim Measures for the Participation in Social Insurance of Foreigners Employed in China</li> </ul>
	(9)	Difficulty in Foreigners' Receipt of Old Age Provisions Insurance Money	- An alien employee under Endowment Policy is entitled to receive the endowment payment only after 15-years of paying Insurance Premium. In effect, it makes it difficult for Japanese expatriates to receive endowment payment, after having paid the Insurance Premium.		- Social Insurance Law
	(10)	Limited Medical Clinics covered by Medical Insurance	- In regard to Medical Insurance, there are cases, where Medical Clinics frequented by foreigners are not capable of giving treatment under the Medical Insurance Policy.	- It is requested that GOC increases the number of clinics, capable of treating patients under the medical insurance coverage, especially those frequented by foreigners.	- Social Insurance Law

Category	No	Issue	Issue Details	Requests	Governing Laws
	(11)	Regional Disparity/Disunity in Implementation of Social Insurance	<p>- This issue was included in the 2012 Request GOC started its implementation in the circumstances reported in 2012. Foreign workers excluded previously till 2012 must now participate in PRC Social Security Insurance. Its treatment varies by regions and provinces.</p> <p>2012 Request: While GOC has so far excluded foreign workers from the scope of Social Insurance Policy, it has started its application since last year. However, its implementation varies, not only by regions but by officials in charge as well, due to the absence of uniform regulation and guideline. Their interpretation changes all the time, making it difficult for enterprises to respond properly and to budget the expenses incurred.</p> <p>- "Social Insurance Law of PRC", entered into force on 1 July 2011, compels foreigners working in PRC to participate in Social Insurance. Participation in Social Insurance costs roughly 800,000 yen per annum per expatriate in Japanese yen for employers and employees in total of the 5-policies: (1) Old Age Provisions Insurance, (2) Medical Insurance, (3) Unemployment Insurance, (4) Work-Related Injury Insurance, and (5) Maternity Insurance. Participation is compulsory for expatriates in Beijing and Qingdao, where roughly all expatriates have participated. However, participation is optional in Shanghai, Dalian, etc. so that participation is not necessarily thoroughly enforced. The background for the lack of thoroughness in participation can be accounted for by various problems, such as requirement for payment of insurance premium for more than 15-years before the insured begins to receive endowment payment, double payment over the payment made in Japan, limited available medical clinics to receive medication under medical insurance, etc. While a Member Firm's Subsidiary in Yuyao City receives no direction for participation from the Municipal Authority, in some regions, enterprises are penalized for non-participation in the Medical Insurance Policies.</p>	<p>- It is requested that both GOJ and GOC will expedite their negotiation toward early ratification of Social Security Treaty.</p> <p>- It is requested that GOJ and GOC ratify Japan-PRC social security treaty in order to deal with the social insurance issue effectively on a realistic basis.</p>	<p>- Legislation relative to Social Insurance</p> <p>- Social Insurance Law</p>
	(12)	Nebulous Social Insurance Scheme for Aliens	<p>- In June 2013, an MFS received Notice from Shenyang City Authority that pointed out the outstanding payment of Business Tax, with additional question: "How many Japanese are here?" The officer prompted payment of Foreigners' Social Insurance Premium. MFS temporarily replied: "We are willing to pay. However, Shenyang Japanese Association has submitted its request to the Shenyang Authority for it to provide a clear substantive basis for the Social Insurance Premium. However, MFS has received no specific prompting from the Authority such as which insurance, retroactive to when, for how many persons, etc.</p>	<p>- Instead of contacting individual firms piecemeal at the level of government officers in charge, it is requested that GOC unanimously effects tax collections, after publication of the precise rules, giving the basis, the time schedule, and other substantive details.</p>	<p>- Social Insurance Law</p>
	(13)	Nebulous Review of Labour Despatching Business	<p>- Amended Labour Contract Law on 1 July 2013 has tightened the Labour Despatch. Especially, Sanxing (defining the three-work-types: temporary, supplemental, substitutable) and Total Volume Control substantially restrict how employers and despatched labour may work under the contract.</p>	<p>- It is requested that GOC deregulates Sanxing and Total Volume Control to allow both enterprises and despatch workers free hands in their work under contract.</p>	<p>- Labour Contract Law of PRC</p> <p>- Several Provisions on Labor Despatching</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(14)	Nebulous Outlook of Review on Labour Despatch	- Tightened restrictions on the ratio of the despatched workers over other workers, increased awareness of "equal pay for equal work", etc., have pushed up the labour cost. GOC has so far not yet formally decided upon the proposal for 10% suggested in response to the Hearing. It makes it difficult for enterprises to make their prospective decisions.	- 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.	- Labour Contract Law of PRC
	(15)	Increased Cost to Employers for Security Bond on Employment of Persons with Disabilities	- Security Bond is now refunded as transitional measures in stages for employment of the Stipulated Disabled Persons under (enrolled persons x 1.5%) under Interim Measures for Transfer on Security Bond for Employment of Persons with Disabilities (Interim Measures on SBEPD). However, the burden gets heavier year after year. 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.	- It is requested that GOC reviews the mathematical formula for calculation of the Stipulated Disabled Persons under Interim Measures on SBEPD.	- Interim Measures on Security Bond for Employment of Persons with Disabilities
	(16)	Complex Procedures for Work Visa Acquisition	- 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.	- It is requested that GOC deregulates the system and procedures for acquisition of Work Visa in PRC.	
	(17)	Longer Period for Acquisition of Visas and Residence Formalities	- 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. - 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.	- It is requested that GOC cuts down the visa examination period.  - It is requested that GOC cuts down and streamlines the application procedures, as applicant's business is materially affected from the delays.	- Regulation of PRC on the Administration of the Entry and Exit of Foreign Nationals, Article 30  - New Law on the Entry and Exit of Foreign Nationals - Regulation on the Administration of the Entry and Exit of Foreign Nationals
	(18)	Stringent Requirement for Acquisition of Expatriates' Work Permit	- The requirement for a High Level of Education (University Graduate or Higher) excludes despatch to PRC of highly qualified persons, however, with a lesser academic degree.	- It is requested that GOC deregulates the academic minimum requirement to high school, the going rule being ambiguous.	
	(19)	Requested Grant of Entry under "Technical Trainee"	- The existing Law on the Entry and Exit of Foreign Nationals requires conclusion of employment agreement and wage payment in Japan for employees enrolled in the MFS incorporated in PRC.	- It is requested that GOC gives the same treatment as "Intra-Company Transferee" to the expatriate enrolled in the MFS incorporated in PRC.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(20)	Delayed Procedures for Entry from Hong Kong.	- After return, Hong Kong, as Special Administrative Region, has continued its own system separate from PRC under the principle of One China, Two Systems. Because of this reason, persons entering Shenzhen (on PRC side) overland, must pass through the Immigration Gate, the same as the time prior to return. It takes nearly an hour just for completing the immigration procedures when the traffic is heavy, as all aliens must get their passports, etc. examined and confirmed.	- It is requested that GOC deregulates Entry and Exit Immigration at Shenzhen for those holding work visa in Hong Kong.	
	(21)	Regional Differences and Arbitrary Nature of Procedures and Time Required for Visa Acquisition	- 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.  - Despite the amendment on 1 September 2013 of Regulation of PRC on the Administration of the Entry and Exit of Foreign Nationals, which caused a substantial change in Visa Application Procedures, the confusions persist even now, as regional differences remain apparent on the requisite documents and the time period for completing the procedures.	- It is requested that GOC eliminates all differences by municipality, officer in charge, etc. and cuts down the room for discretionary judgement.  - It is requested that GOC: -- unifies the requisite procedures, and -- abridges the time period.	- Regulation of PRC on the Administration of the Entry and Exit of Foreign Nationals
17	Implementation of Intellectual Property Rights ("IPRs")	(1) IPRs Protection is Inadequate, and Its Enforcement is Insufficient	- Problems abound in implementation and execution of fines and penalties relative to criminal prosecution on IPR infringements, such as weakness in administrative prosecution, 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.  - Relative to other nations, GOC lags behind in overhaul for its implementation and administration on the legislation relative to Intellectual Property Right (IPRs)	- It is requested that GOC: -- beefs up administrative power, -- reviews the thresholds for criminal prosecution, -- enhances IPR administrative staff's professional skill, -- imposes severer fines and penalties, etc., and -- beefs up response to injuries experienced in the overseas' market.  - It is requested that GOC: -- streamlines the legislation, -- thoroughly enforces implementation of legislation for the sake of IPRs' protection.	
	(2)	Difficulty in Correcting Patent Claims	- 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 the Member Firm's correction that added a claim at the time of response to the Official Action.  - Unless correction of the claim is permissible under the Patent Prosecution Highway 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	- 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 -- approves additional claim at the time of response to the Official Action.  - It is requested that GOC affords opportunity for correction of patent claim upon filing application for PPH Programme.	- Patent Law Article 33, Examination Guidance Part II, Chapter 8, 5.2 Correction, 5.2.1 Request for Correction - Detailed Rules for the Implementation of the Patent Law, Article 51(3) - Detailed Rules for the Implementation of the Patent Law, Article 51

Category	No	Issue	Issue Details	Requests	Governing Laws
			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.		
	(3)	Difficult Filing of Divisional Application	- Unless Parent Application is continuing, even if its divisional application continues, it is disallowed to file further divisional application (Sub-Sub Application).	- It is requested that the Patent Office of the State Intellectual Property Office permits filing of Sub-Sub Application.	- Patent Examination Guidelines, Part 1, Chapter 1, 5.1.1
	(4)	Nebulous Legislative Definition of the Country of Origin Principle Obligations	- 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&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.	- It is requested that GOC: -- deregulates the Country of Origin Obligations, or -- clearly defines the legislative provisions.	
	(5)	Excessive Clerical Workload for Notification and Registration of Patent Licence	- After signing Patent Licence Agreement (PLA) with a Licensee in PRC, Licensor must register the PLA at the three competent authorities ((1) Ministry of Commerce, or Competent Foreign Trade and Economy Authority of Provincial Governments, (2) Patent Office of the State IPO, and (3) Technical Licence Registration Institution). These are excessive requirements, compared to other WTO Member States. Moreover, the relevant legislation fails to define the precise terms for accepting the registration application. At seemingly arbitrary verbal directions by officials in charge, applicants must collect, organise and submit a set of voluminous application documents. These regulations on administrative procedures and their implementing practices suggest, even after the PRC's accession to WTO in 2001: (1) GOC continues to maintain excessive distortions and barriers to the international trade aspect of IPRs through maintenance of the various systems concerning payment to FFEs of consideration, which forms a part of execution of their rights under PLA. GOC compels enterprises to comply with various requirements, such as filing of various Notifications, and Registration of PLA. (2) Moreover, the legal basis remains nebulous for such GOC measures. (3) GOC continues its practice of arbitrary administrative guidance by officials in charge.	- It is requested GOC: -- ensures that only single competent authority to accept notification, application for registration, etc., as it is done in the rest of the major countries in the world, -- overhauls the governing legislative provisions on notification, etc. (including the clear cut definition of the conditions of acceptance of notification, etc.), -- monitors officials in charge lest they resort to effective resumption or maintenance of the scheme for licencing and permits, such as making verbal demand for submission of excessively vast amounts of additional documents requiring attachment of trivial details, and -- cuts down the disposal period to a reasonable length of time comparable to other major countries. (As it stands, it takes more than 6-months after signing the agreement, and a substantial amount of time for preparation of requisite documents, etc.)	- Regulations on Administration of Import and Export of Technologies - Measures for the Administration of Patent Licence Agreement - Measures for the Administration of Registration for Technical Licence Agreement
	(6)	Complex and Irrational Procedures for Patent Litigation	- 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.	- 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.	- Civil Procedure Law

Category	No	Issue	Issue Details	Requests	Governing Laws
	(7)	Invalidity Claim Made Difficult on Utility Model	- 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.	- 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, etc.).	- Examination and Employment
	(8)	Inadequate Handling of Assessment Report on Utility Model	- 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).	- It is requested that GOC: -- compels the AR requirement in instituting a civil proceeding, and -- authorises third parties (at least including defendant) request for AR.	- 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
	(9)	Disparity between Plaintiff and Defendant on Execution of Utility Model and Design Right	- 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.	- It is requested that PRC Patent Office: -- prohibits rightful claimant's assertion of right without Report of Utility Model Technical Opinion in hand, -- ensures rightful claimant bears the onus of damage in exercise of its right without Report of Utility Model Technical Opinion, and -- upon request by any person, grants access to Report of Utility Model Technical Opinion.	- Patent Law - Measures, Regulations, etc. relative to Patent Law
	(10)	The system concerning acquisition of design right is inadequate and insufficient	- Problems concerning design right acquisition in PRC: 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." 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. 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.	- It is requested that GOC: 1) -- ensures stability of the design right by shifting the system to the substantive examination, and -- enhances stability of patent right on similar design, 2) -- synchronises the law in line with the international standards by introducing substantive examination and a longer period of the design right protection. 3) -- introduces a system that allows protection of a part of the design right in line with the international trend,	- Patent Law - Article 23 of Patent Law - Article 42 of Patent Law - Article 24 of Patent Law

Category	No	Issue	Issue Details	Requests	Governing Laws
			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.	4) -- expands as Japan does the scope of application to include the case, where the disclosure is made at individual exhibition, sales activity, etc. other than Government-Sponsored or Accredited Trade Show, where "the design has become the public domain arising from the action of the applicant".	
	(11)	Inadequate Provisions of Anti-Unfair Competition Law	- 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. 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.	- 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 Unfair Competition Prevention Law.	
	(12)	Fraudulent Use or Registration of Trade Names such as Famous Trademarks	- 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 the PRC Continent.	- It is requested that PRC Patent Office tightens its examination of Registration Application based on Unauthorized Use of Famous Trademarks, etc.	
	(13)	Issues concerning Proposed Amendment of Copyright Law	- On 23 January 2013, Legislative Affairs Office of State Council (LAOSC) solicited public opinions on PRC Copyright Law (in its public opinion solicitation box) and its revision work is now under way. The following issues are matters of concern: Article 13.1.3 "Right to maintain Integrity" Exemption Clause is not included. - Article 15, Article 20 Treatment of Work-for-Hire is ambiguous. Furthermore, exempted copyrighted articles should include product design drawings.	- 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." - The relationship is ambiguous between Article 15 (Work-for-Hire), and Article 20 (Authorship of a work made by an employee in the course of his duties). Exempted Copyrighted Articles should include Product Design Drawings. There is no justifiable reason for making distinction by and among Product Design Drawings, Construction/Work Drawings, and Computer Programme.	- Proposed Amendment of Copyright Law  - Proposed Amendment of Copyright Law

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- Article 20, and Article 36: Clause that requires proper fosterage in regard to Work-for-Hire, and Live-Performance-for-Hire.</li> <li>- Article 43,1.1 The narrowed scope of authorised private copying for free without authorisation.</li> <li>- Article 65 Where more than 2-organizations of group copyright administration collect royalty for usage from users, it is provided that the group administration must establish "the uniform utility collection base".</li> <li>- Article 68, Article 69, Article 71 Extensive definition and restrictive exemption clause.</li> <li>- 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". 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."</li> </ul>	<ul style="list-style-type: none"> <li>- No additional remuneration is payable as consideration is paid as wages for Work-for-Hire, and Live-Performance-for-Hire.</li> <li>- To reflect the reality of permissible usage of work in various foreign countries, free copying should be permitted for the entire work by adding, as objective (1) "appreciation" on top of "private study and research", (2) removing the restrictions only to "work in letters", instead of restricting free copying to (3) "partial" copying.</li> <li>- Establishment of the utility collection base for royalty is better left for free competition among organisation for group copyright administration.</li> <li>- 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.</li> <li>- 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.</li> </ul>	<ul style="list-style-type: none"> <li>- Proposed Amendment of Copyright Law</li> </ul>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(14)	Insufficient Penalty upon Infringement of IPRs	<p>- As affairs stand, due to the lenient penalty imposed by the administrative agency, copyright infringing activity is repeated. There are repeated infringements by the same infringer.</p> <p>- As affairs stand, due to the lenient penalties imposed by the administrative agency, infringing activities on copyright is repeated.</p> <p>1) 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 extremely low for infringement of accompanying items, such as Tags, Operating Manuals, Outer Box, etc.</p> <p>2) 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.</p> <p>3) 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.</p> <p>4) Disclosure of information is insufficient to the rightful claimant as to the disposal of infringing goods.</p> <p>5) 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).</p> <p>6) While Customs Rules are expressly spelt out in writing, the rule for disposal of AIC/TSB/PSB is not clearly defined.</p> <p>7) 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.</p> <p>8) 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".</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>- 1) It is requested that GOC: (a) 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, (b) confiscates the business licence for the second time infringers, transfers the second time infringers automatically to PSB cases, (c) 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 (d) after administrative charge, the clampdown agency pushes forward the case for voluntary transfer to criminal prosecution.</p> <p>2) 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.</p> <p>3) It is requested that the Authority switches to a criminal case against those who fail to show up by heavier fines, etc.</p> <p>4) It is requested that the authority send to the rightful claimant the following documents at all times: (a) Details of Infringement (List Of the Seized Goods), (b) Written Decision/Certificate of Penalty upon Infringing Party(ies), (c) Confirmation on disposal of infringing products (Disposal Certificate).</p>	<p>- Trademark Law Article 56 "The amount of damage for infringement of trademark shall be the amount an infringer has gained from the infringement during the infringing period or the loss the infringed party has sustained during the infringing period, inclusive of the reasonable expenses the infringed party has paid to stop the infringing conduct." - Regulation for the Implementation of the Trademark Law, Article 52. The fine for the infringing conducts of the exclusive registered trademark shall be the treble amount of the illegal income, or RMB100,000 maximum, if the amount of illegal income is not ascertainable. - Trademark Law (10-27-2001), Article 52(1) - Provisional Regulations of PRC on Private Enterprises, Article 41 (06-25-1988)</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>5) It is requested that GOC:                      -- clamps down on sales of counterfeit products via the internet and by catalogue, and                      -- tightens its clampdown on the internet service providers for the common market place, causing them to delete the web pages that list counterfeit products.</p> <p>6) It is requested that the Administrative Agency clearly establishes the disposal rules for the confiscated goods.</p> <p>7) It is requested that GOC allows AIC/TSB's agencies to crack down also in the residential zones.</p> <p>8) 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.</p>	
	(15)	Counterfeits Run Rampant	<p>- It's a paradise of counterfeits. A whack-a-mole syndrome continues. Its extermination is 100% unworkable. What is more irritating is the local Public Security's collusion with local lawyers' offices, demanding monetary payment in exchange for the clampdown on counterfeits. It is rumoured, should one refuse to pay, and should health problems arise from counterfeits, one would risk a penalty, driving one into a desperate position for solution of the conundrum.</p> <p>- A Member Firm has discovered that its registered trademark is registered in Hong Kong by a Hong Kong firm (in the codes for classification based on similarity). It does not seem that the examination in Hong Kong on trademark registration is made fairly with precision. The Member Firm is unable to wipe out its concern that the authority arbitrarily attempts to capture Japanese trademarks as if they belong to PRC.</p> <p>- Counterfeit pharmaceutical drugs and medicines (Counterfeits) manufactured in PRC, India, 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>- It is requested that GOC makes redoubled efforts in clamping down on sales, distribution and export of Counterfeits.</p>	
	(16)	Insufficient crackdown on counterfeits	<p>- Discovery of cargoes suspected of infringement:                      While the number of suspended export of counterfeit goods continues to increase, the Custom's clampdown is not enough, since a great number of counterfeit goods made in PRC are discovered in the overseas' market.</p>	<p>- It is requested that GOC tightens its border crackdown on the infringing products, by raising the inspection rates, etc.</p>	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- There have been cases where disposal of the confiscated infringing products is not notified to the IPR owner.</li> <li>- A Member Firm has been making an all-out effort in implementation of its countermeasure against Counterfeits. However, counterfeiters with their deepened knowledge in laws are beginning to refine their methods, so that under the going legislation, it has become difficult to curb inroads of Counterfeits. (For example, no infringing trademark is attached to the products during production, distribution and export. The infringing trademark is attached to the products after import into the country of destination. It frustrates the Member Firm's effort in taking countermeasures against the infringed trademarks in PRC.) For the foregoing reasons, Counterfeits manufactured and distributed in PRC not only disrupt the PRC domestic market, they spread into Middle East, Africa, and Asia and the rest of the worldwide countries. They give serious negative impact on the sales of Member Firm's products in the respective worldwide regions. In addition, there are regional, jurisdictional differences in interpretation of law. It is mostly left to the free discretionary judgement of officials in charge. Moreover, the local protectionism persists. In many cases, it curbs Member Firm's freedom in taking adequate countermeasures against Counterfeits.</li> <li>- Counterfeits flood the market. Despite the competent authority's clampdown, the infringing activity of Counterfeiters persists.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC develops a mechanism to notify all IPR owners, in concern, the disposal of the confiscated products.</li> <li>- International Planned Parenthood Federation (IPPF) in association with METI, Intellectual Property Group in China (formed by the local Japanese affiliated enterprises in PRC), etc. have shown to PRC's authority the cases in which counterfeiters' have demonstrated their increased cleverness in pursuit of their business. It is requested that GOC overhauls and strengthen the legislative measures to stop the counterfeiting activity.</li> <li>- It is requested that GOC:                             <ul style="list-style-type: none"> <li>-- ensures correction of regional gaps in administering laws, left to individual discretionary judgement, and</li> <li>-- prepares implementing regulations, guidelines, etc. over the issues, whose interpretation is divided.</li> </ul> </li> <li>- It is requested that GOC redoubles its effort in curbing the infringing activity on IPRs.</li> </ul>	<ul style="list-style-type: none"> <li>- Patent Law</li> <li>- Trademark Law, etc.</li> </ul>
	(17)	Irrational Application Procedures for Seizure Guarantee by IPRs Holders	<ul style="list-style-type: none"> <li>- Security Deposit:                             <ol style="list-style-type: none"> <li>1) 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.</li> <li>2) 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.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC:                             <ul style="list-style-type: none"> <li>-- allows carryover of TSD once deposited to the following year, where the applicant chooses to continue with TSD and</li> <li>-- structures the system that obviates the needs for TSD to begin with (as it is done in Japan and EU/USA).</li> </ul> </li> <li>- It is requested that GOC:                             <ul style="list-style-type: none"> <li>-- allows carryover of TSD once deposited to the following year, where the applicant chooses to continue with TSD and</li> <li>-- structures the system that obviates the needs for TSD to begin with (as it is done in Japan and EU/USA).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Regulation on the Customs Protection of Intellectual Property Rights, Article 14</li> <li>- Measures for Implementation of the Regulation on the Customs Protection of Intellectual Property Rights, Article 22</li> <li>- Announcement of GAC (No. 31 [2006]) on GAC's Receipt of General Guaranties of the IPR holders</li> </ul>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(18)	Nebulous Disposal of the Case After Seizure	<ul style="list-style-type: none"> <li>- 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.</li> <li>- Disclosure of information is insufficient as regards disposal of infringing goods.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC ensures a thorough implementation of all issues set forth in the left column.</li> <li>- It is requested that GOC discloses the details of disposal for the infringing goods.</li> </ul>	<ul style="list-style-type: none"> <li>- Measures for Implementation of the Regulation on the Customs Protection of Intellectual Property Rights, Article No. 35</li> <li>- Regulation on the Customs Protection of Intellectual Property Rights, Article No.20-27</li> <li>- DRCP, Article No. 28</li> </ul>
	(19)	Shortage of Seizure Application Deadline	<ul style="list-style-type: none"> <li>- 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.</li> <li>- Appearance of Appraiser is necessary for a true-false judgement upon seizure. However, at times, on the spot determination is not feasible so that the appraiser must bring home the exhibit in question for further examination, interrupting a smooth examination.</li> </ul>	<ul style="list-style-type: none"> <li>- 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.</li> <li>- It is requested that GOC reviews the appraisal procedures to minimise the burden upon the claim holder.</li> </ul>	
	(20)	Nebulous Assumption of Storage on Seized Goods	<ul style="list-style-type: none"> <li>- Patent holders are responsible to pay warehousing, disposal fees, etc. of the seized goods incurred during the seizure period.</li> <li>- 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.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GAC holds infringing parties liable to assume cost of warehousing and disposal fees incurred during the seizure period.</li> <li>- It is requested that GOC makes it a mandatory requirement for each local customs to provide the particulars for storage on seized goods.</li> </ul>	<ul style="list-style-type: none"> <li>- CPIPR, Article No. 25</li> <li>- DRCP, Article No. 31</li> </ul>
	(21)	Nebulous Basis of Infringement Determination	<ul style="list-style-type: none"> <li>- 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.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC:                             <ul style="list-style-type: none"> <li>-- reinforces its administrative competency, reviews the basis of criminal prosecution, enhances the professional skill of IPRs staff, tightens the penalty, etc.</li> <li>-- enhances its ability to meet the injury in the overseas market, and</li> <li>-- promulgates interpretative notes and guidelines based on the laws now in force.</li> </ul> </li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(22)	Complex Administrative Registration Procedures	- 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). 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.	- It is requested that GOC: -- streamlines administrative departments, -- achieves compaction in administrative provisions, and -- harmonises state and local administrative legislation.	- Regulations of PRC on Administration of Import and Export of Technologies
	(23)	The Issue concerning Warranty Liability Imposed on Export of Technology to PRC	- 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.	- 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.	- Regulations of PRC on Administration of Import and Export of Technologies
18 Demands for Technology Transfer	(1)	Compulsory Introduction of Own Brand Car and New Energy Car on Licence Acquisition for New Factory Construction or Expansion of Existing Factory	- GOC compels introduction of own brand car and new energy car on grant of licence for establishment of new factory or factory expansion. In exchange for grant of licence for factory construction, GOC compels transfer of new technology through introduction of own brand car and new energy car.	- It is requested that GOC separates the licence for introduction of new factory and new model with introduction of own brand car and new energy car.	
	(2)	Compulsion of Technology Transfer through de facto Joint Venture Requirement	- The bid scheme involves qualification requirement. Acquisition of a High Class Qualification is limited to enterprises related to the PRC Administration. In effect, establishment of a Joint Venture Company (JVC) with a PRC enterprise is a prerequisite condition on a large-scale project. Establishment of a JVC means a de facto demand for technical transfer.	- In light of the political relationship between Japan and PRC, it is requested that Japanese Consortium is empowered to bid for a large-scale project.	
19 Industrial Standards, Approval of Safety Standards	(1)	Formulation of Unique National Standard without International Compatibility	- In regard to the Information Security on Office Equipment (Printers, Copiers, etc.) and Monitoring System such as Network Cameras, GOC has formulated its own unique standards, which are incompatible with international standards, such as ISO, and IEC. This presents problems on business operation. In addition, GOC is advancing its study of drafting the National Standard concerning re-manufacturing of Copiers and Multi-Purpose Equipment. The National Standard being formulated includes problematic provisions in the light of the original manufacturers' product warranty. - There has been an international demand for motors with higher efficiency. The new modified Japan Standard is due for implementation from April next year. However, PRC National Standard being a bit different from the International Standard, it necessitates preparation of special motors exclusive to the PRC usage.	- It is requested that GOC: -- observes WTO/TBT Agreements, and formulates National Standards, which are internationally compatible, -- eliminates difficulties, by making PRC Standard equivalent to the International Standards, and -- reflects reasonable comments from Japan in the National Standards. - It is requested that GOC revises National Standard for High Efficiency Motors to make it compatible with the International Standard.	- The Standardization Law - Regulations for the Implementation of the Standardization Law - GB4943.1-2011

Category	No	Issue	Issue Details	Requests	Governing Laws
	(2)	Nebulous Procedures for Acquisition of CCC	- The Firm is frequently directed to amend translation for the functional nomenclature, etc. in the instruction manuals during the process of acquiring CCC Mark, etc. Views are frequently different among the examiners. (Correction is required for description in Taiwanese from time to time.) Views and directions are totally vague and personal, defying correct interpretation.	- It is requested that GOC makes available a clear-cut written official Chinese description of the specifications, functions, parts, and names.	- Provisions on the Administration of Compulsory Product Certification (2008) - Incorporation into GB5296.2-2008, etc.
	(3)	Complex Procedures for Acquisition of CCC	- 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. - Certification procedures for CCC, etc. take too much time so that it impacts negatively to sales.  - The Requisite Information is excessively minute in details relative to filing application for acquisition of the CCC Certification.	- It is requested that AQSIQ streamlines the CCC exemption procedures.  - It is requested that GOC: -- streamlines the certification procedures, and -- cuts down the examination period. - It is requested that GOC simplifies the requirement.	- Provisions of AQSIQ
	(4)	Change in Product Safety Standards with Additional Requirement for Highland Usage	- GOC has changed Product Safety Standards with additional requirements capable of accommodating the highland use at the altitude 5,000m minimum, which requirement is not found in any countries outside PRC. Moreover, in meeting the new requirement, sellers experience difficulty in distinguishing the products between old and new.	- It is requested that GOC reviews the Standard for Highland Usage itself.	- GB4943.1-2011
	(5)	Rigorous but Incompatible Facsimile Standard	- GOC promulgated Lightning Surge Test Standard, which is more stringent than that applied to Office Equipment, as well as the Standards for Facsimile Equipment of other countries.	- It is requested that GOC promulgates the Standard compatible with EU/USA.	- YD/T993-2006
	20	Monopoly	(1) Requirement for Total World Sales for Notification of Company Mergers	- 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.	- It is requested that GOC replaces the requirement for the global sales with only the domestic sales in PRC.
		(2) Nebulous Details of the Requirement for Notification of Company Mergers	- 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.	- It is requested that GOC clearly identifies the substantive matters it requires in accepting notification.	- Anti-Monopoly Law, Article 21
		(3) Complex and Delayed Examination on Concentration of Undertakings	- 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.	- It is requested that MOC and other authorities in concern: -- establish the Structure that enables Expedited Examination System, and -- identify clearly the basis of the Examination that stretches into the 3rd Stage.	- Anti-Monopoly Law

Category	No	Issue	Issue Details	Requests	Governing Laws
21 Restrictions on Land Ownership	(1)	Restricted Land Ownership	- No landownership is allowed for Fully Foreign Funded Enterprises. (PRC being a communist country, landownership is granted to PRC nationals as well.)	- It is requested that GOC grants landownership to FFEs for the sake of a stable business operation.	
	(2)	Insufficient Foreseeability in Continuation of Land Use Right	- It is unclear what happens upon expiry of the going Land Use Contract.	- It is requested that GOC: -- transfer the land ownership, not the land use right, as the building is already constructed, or -- amends the contract term for indefinite term.	
	(3)	Nebulous and Delayed Acquisition Procedures for Right of Use on Afforestation Lot	- The Land Use Rights for Afforestation may be secured by 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.	- It is requested that GOC simplifies and expedites the procedure for issuance of the Land Use Rights.	- The Forest Law - Law on the Contracting of Rural Land
	(4)	Unjustifiable Farmers' Presentation of Evidence for Right of Ownership and Right of Land Use	- A Member Firm's Subsidiary (MFS), leasing State Owned Afforested Area from Office of the National Afforestation and Greening, met with the neighbouring farmers' seizure of the Afforestation Land Area on Lease. MFS can no longer harvest from the leased area. MFS has increased the management fees and enhanced patrols, in order to stop further farmers' seizure.	- In PRC, Land Ownership / Land Use Right is a difficult issue. It is the same with other firms in afforestation business. It is requested that GOC guarantees the Land Use Right, as the lessee has honoured payment of consideration for the Land Use Right.	
22 Environmental Pollution and Waste Disposal	(1)	Nebulous PRC Version of RoHS Directive	- In the process of reviewing Measures for the Control of Pollution from Electronic Information Products (PRC RoHS) (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, making it difficult for the interested parties to grasp the total system, for example, as to the difference from EU RoHS. It is also a matter of concern if PRC Certification Institute alone is capable of performing the evaluation of compliance (Certification System) (as regards analysis, reliability and stability in the analysis made, factory inspection, etc.) - Under Measures (Draft) various Standards and Specifications (Drafts) exist. It will likely make it difficult to grasp the total picture of the Control.	- 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.  - It is requested that GOC: -- continues its effort to provide opportunities for GOC's soliciting public views, -- appreciates Declaration of Conformity by enterprises and	- Measures for the Control of Pollution from Electronic Information Products - 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.)

Category	No	Issue	Issue Details	Requests	Governing Laws
				<ul style="list-style-type: none"> <li>-- pays due attention to minimise the burden upon both Ministries and Agencies and enterprises.</li> <li>- In amending Measures for Administration of Standards and Specifications, it is requested that GOC ensures the amendments so promulgated are easy to understand by everyone, especially by selecting the best timing of the implementation for all concerned, preparation of carefully organised FAQ that answers all possible questions, etc.</li> </ul>	
	(2)	Uniformity in application of Chinese WEEE between Public Consumers and Enterprises	- Under the Regulation on the Administration of the Recovery and Disposal of Waste Electrical and Electronic Products (PRC WEEE), Maintenance/ Administration differs between the products destined to consumers (B to C) and those destined to industries (B to B), making it difficult for enterprises to apply the same method for waste collection and disposal. For example, where products are maintained under the Service/Maintenance Agreement, the enterprise providing the maintenance service already voluntarily performs the collection and recycling activities.	- It is requested that GOC excludes the Waste Electrical and Electronic Products destined to industries from the scope of business subject to the Collection and Recycling Fund.	- PRC Regulation on the Administration of the Recovery and Disposal of Waste Electrical and Electronic Products (02-25-2009), Article 7
	(3)	Cap on Disposal of Pollutants and Wastes	- Under the Central Government control, Regional Governments implement restrictions on emission control of pollutants by industrial enterprises and motor vehicles operations. 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.	- Should GOC need to control enterprises' operational hours, it is appreciated if GOC does it under the well organised planning.	- Rules and Regulations enforced By Local Regional Government on Measures to Curb Atmospheric Pollution.
	(4)	Shortage of Authorised Undertakings for Disposal of Industrial Wastes	<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>- Due to the shortage of undertakings authorised for wastes disposal under the ISO Quality Management Systems Standards, the disposal cost has spiraled.</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>- It is requested that GOC takes steps:                             <ul style="list-style-type: none"> <li>-- to enhance the wastes disposal capacity, and</li> <li>-- to tighten the relative rules and regulations.</li> </ul> </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.	- Individual 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 Consumption Requirements

Category	No	Issue	Issue Details	Requests	Governing Laws
	(7)	Compulsion of Animal Test for proving the Product Safety	- GOC compels submission of safety data for all cosmetic products sold domestically in PRC, based on experiments on animals. In the growing worldwide atmosphere for animal protection, a Member Firm has decided toward total discontinuation of experiments on animals. However, on products sold in PRC, observance of the GOC's Directive prevents the Member Firm from achievement of its goal, namely, discontinuation of experiments on animals.	- It is requested that GOC takes steps for amending the legislation toward accepting the alternative data and existing data, in lieu of new experiments on animals. (In November 2013, GOC began solicitation of public comment on discontinuation of this measure. As it stands, its outlook remains nebulous.)	
23 Inefficient Administrative Procedures, Regimes and Practices	(1)	Complex and Delayed Acquisition of Notarisation, Authentication, Attestation, Etc.	- 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. It is both time-consuming and vexatiously complex.	- It is requested that GOC: -- dispenses with the CGL requirements, and -- accepts the apostille in lieu of CGL. - 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.	- Expanded application of Hague Convention (of 5 October 1961 Abolishing the Requirement of Foreign Public Documents) to the mainland PRC.
	(2)	The Nebulous Scope of the Licenced Business	- This is perhaps a malady of the Bureaucratic Society but nothing can be achieved as business operation without a Governmental Licence. For example, an MFS is unable to issue Invoice to cover the cost of airfreight on cargoes imported to fill the emergency needs (because the licenced scope of MFS's business does not include "carrier business"). Moreover, the scope of the licenced business itself is nebulous, as its interpretation vacillates to and fro at whims and fancies of the governmental employee in charge.	- It is requested that GOC takes steps to include all incidental business relative to the main business line within the scope of the Authorised Business, instead of relying upon judgement (a seedbed of cozy relationship) of the governmental employee in charge.	- Company Law - Law on Foreign Investment Company
	(3)	Administrative Guidance not Stipulated into Law	- 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.). - Administrative Guidance interferes with the royalty percentage, amount, etc. which are commercial matters to be mutually agreed between the parties to the Agreement. As it now stands, Administrative Guidance is given orally in an ambiguous manner with neither legal base, nor written confirmation.	- 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.  - It is requested that GOC honours the agreement between the parties.	
	(4)	Regional Disunity in Employment and Interpretation of Legislation	- 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.)	- It is requested that GOC eliminates the regional gaps in implementing laws and regulations.	- Measures for the Administration on Safety of Hazardous Chemicals - Measures for the Administration on Registration of Hazardous Chemicals

Category	No	Issue	Issue Details	Requests	Governing Laws
			- In regard to operation of the legal system such as Customs Duty, External Remittance, Capital Investment, etc., substantial gaps exist between the Shanghai Metropolitan area and its local outskirts in interpretation of legislation at the competent authority in each jurisdiction. The same response will not do.	- It is requested that GOC standardises and harmonises employment of law uniformly in all jurisdictions.	- Chinese Laws and Regulations
	(5)	Arbitrariness of the Local Governmental Authority's Licenses and Permits	- A 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.	- 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.	
	(6)	Restrictive Grant of Regional Authority's Temporary Economic Promotion Scheme	- A Firm rarely benefits from Temporary Economic Promotion Measures by the Local Government, which are generally available during the recessionary period. (Example: During the economic slow down in the 2nd half of 2011, Wuxi Government granted favourable measures to enterprises that participated frequently in investment, loan, and sales promotion during the period October 2011 through March 2012. One such example: 5% of Invested Amount Allowance was granted for investment into equipment exceeding 10 million RMB.)	- It is requested that local Government Authority will: -- increase opportunities to exchange dialogues with FFEs, and -- set up rules for nimble decision and rule making.	
	(7)	Overly Rigorous Standard for Storage of Dangerous Substances at Factory	- "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 Defence Bureau. However, it is impossible to operate the factory with this stock level.	- It is requested that GOC increases the allowable stock level of dangerous substances at factory.	
	(8)	Nebulous authorisation basis of Maintenance Contractors for Fire Fighting Equipment	- Since 2013 in Suzhou City, it has become necessary to contract 2-kinds of contractors for maintenance of fire fighting 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.	- 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. - 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).	
	(9)	Substantial Delay in Procedures for Licences/Approvals	- It takes more than one year from filing of application to new registration or licence renewal of Glass Materials for Medicinal Package. It materially affects MFS's operation. - In July 2012, MFS filed application for renewal of the licence (expiration of which was due in November 2012) on manufacture and sales of Glass Materials for Medicinal Package. After the lapse of one-and-half year from the filing date of its request, due to the freeze on approval of the Licence triggered by the occurrence of the case of Toxic Medicine Capsules, etc., no renewal notice has reached MFS. As a result, MFS has been forced to suspend manufacture and sales of the medicinal equipment and pharmaceutical products.	- It is requested that GOC expedites at least renewal procedures for the existing licence. - The problems have emerged solely from GOC, a party to Joint Venture Companies (JVC), so that there is nothing MFS can do as the other party to JVC.	- China Food and Drug Administration - Medicinal Package Materials and Package Licence.

Category	No	Issue	Issue Details	Requests	Governing Laws
	(10)	Complex Registration and Application Procedures for Dangerous Products	- The requirements are too stringent, requiring too numerous documents and materials relative to filing application for registration of Dangerous Products.	- It is requested that GOC clarifies and simplifies the application procedures.	
	(11)	Unrealistic Regional Restrictions on Education for Expatriates' Children	- In Huadong Region, it is not infrequent that expatriates live in Shanghai City for children's education, convenience of living and security reasons for their family members, while they work in the adjoining Jiangsu Province, or Zhejiang Province (in which case, the location of the Residence Card shows the address of MFS). Recently, in Shanghai City, more and more kindergartens and schools refuse to accept entry of expatriates' children, because their residence cards show addresses other than Shanghai City. (It seems they have begun following more rigorously the internal regulations, which have been in place from before.)	- It is requested that Shanghai Municipal Government takes steps to induce educational institutions in Shanghai City to accept entry of expatriates' children into their institutions (kindergartens and schools).	
24	Indigested Legislation, Abrupt Changes	(1) Frequent and Abrupt Legislative Changes	- Legislative system on export/import and labour changes ever so often abruptly for immediate implementation without prior explanation. A Firm has had a difficult time to cope with these changes.  - Changes made in laws, regulations, measures, taxation system (inclusive of tax rates) etc. are too numerous and too diversified to provide an exhaustive list here. Constant changes made make it difficult to conduct business under the same terms and conditions.  - Changes in Legal systems and Administration Policy are frequent and some changes are made, abruptly without advance notice.	- It is requested that GOC provides an ample opportunity to fully explain to FFEs the law revisions, before their formal implementation.  - It is requested that GOC takes step to secure sufficient grace period before implementation of new legislation or any change in legislation.  - It is requested that GOC: -- establishes a long lasting permanent legislative system and administrative policy, and -- gives sufficient explanation before implementing changes and revisions.	
	(2)	Incompatible, Disorganised Interpretation of Legislation System Among Competent Authorities and their Personnel in Charge	- Inconsistency has arisen between the legal systems over the jurisdictional issues between Taxation and Customs. Consequently, grey zones exist (on VAT refund scheme, etc.)  - 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".  - 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.)	- It is requested that GOC streamlines the legislative provisions to avoid inter-departmental or officials' interpretation of the legislative provisions.  - It is requested that GOC takes steps to overhaul the legislation to avoid differences in legislative interpretation among departments and persons in charge.	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- 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.</li> <li>- Amendments in regulations if made can result in differences among regions. It can also vary among the departments of competent authorities.</li> <li>- Implementation of laws involves not only regional differences in handling, but also at windows of the same region, such as if the documents are required or if application may be filed or not.</li> <li>- Occasional disunity in legislative interpretation persons in charge affects stability in business now and then.</li> <li>- In the process of procedures for change in investors, and procedures for royalty payment, GOC demanded production of documents not required at prior confirmation with additional production of consular visa. Due to the interpretative differences among persons in charge of the competent authority, inefficient, nebulous administrative procedures continue.</li> <li>- There are cases where the competent authority fails to give a clear-cut explanation. On the same questions, two different answers came back from the competent authority, depending upon who the person at the window was.</li> <li>- Interpretation of dangerous goods differ among each department on Dangerous Substances, for example:                      (1) Customs Judgement Basis: Particulars of Dangerous Substances, MSDS,                      [JCCI Note: MSDS=Abbreviation for Material Safety Data Sheet, meaning Chemical Substances Safety Data Sheet/Explanation on Chemicals Safety]                      (2) Judgement basis of State Administration of Work Safety: List of Dangerous Chemicals</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOC takes steps to overhaul the laws to avoid interpretative differences from arising among departments and persons in charge.</li> <li>- It is requested that GOC takes step to overhaul the legislation to avoid differences in interpretation among departments and persons in charge.</li> <li>- It is requested that GOC ensures uniformity in legislative interpretation all through the administrative organisations.</li> <li>- It is requested that GOC ensures uniformity in legislative interpretation throughout the entire administrative organisations.</li> <li>- It is requested that the competent authority clearly lays down the requisite documents.</li> <li>- It is requested that GOC takes steps to bring up the level of persons at the window to ensure correct answer is given all the time.</li> <li>- It is requested that GOC takes steps to ensure that each administrative department establishes uniform rules and regulations (interpretation) not vertically but horizontally by and among Ministries and Agencies.</li> </ul>	
	(3)	Shortage of the Transitional Period For New Law Enforcement	- 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.	- It is requested that GOC: -- secures ample preparation period in promulgating new legislation, and -- disseminates advance information on the legislative progress (current status, schedule, etc.).	- Implementing Rules for Energy Efficiency Labels (Printer/Facsimile)
	(4)	Inadequate Implementing Legislative Provisions / Delays in Implementation	- 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. (No response comes back on Enquiries made to Ministries and Agencies.)	- It is requested that GOC promptly gets the implementing detailed regulations promulgated following the law promulgation.	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>- 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.</p> <p>- While new legislation gets produced in excess, it does not seem detailed implementing rules are shown to the regional governments responsible for their implementation. For example, the recent amendment on Despatched Labour Law remains silent about its enforcement date. Employers are unable to fix their employment plans. As it stands, PRC is nothing but a nation governed by men not by law.</p>	<p>- 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.)</p>	<p>- Regulation on the Safety Management of Hazardous Chemicals - Measures for the Safety Administration of Hazardous Chemicals.</p>
	(5)	Inter-Regional Disparity in Employment of Legislative System	<p>- 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.</p>	<p>- It is requested that GOC ensures transparency in administering the taxation system.</p>	
	(6)	Shortage of Inter-Institutional Adjustments among Ministries and Agencies on Amendments of Legislative System	<p>- Inter-Institutional Adjustments are hardly sufficient on amendment of legislative system. Enquiries made to the competent authority would not provide a clear-cut response. Furthermore, the views vary among persons in charge.</p>	<p>- It is requested that GOC takes steps to ensure that it provides sufficient explanation and makes a thorough preparation in advance.</p>	<p>- Various Laws and Regulations</p>
	(7)	Poorly prepared Consultation Windows on Law Amendments	<p>- Pursuant to new Tourism Law (enforced on 1 October 2013), MFS incorporated in Shanghai City, made its first business under the Overseas Trip Licence of Firm A (its trading partner) under 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."</p>	<p>- It is requested that GOC opens a window in Japan that provides legal consultation as soon as possible.</p>	<p>- Tourism Law</p>
	(8)	Complex and Prolonged Legislative Control	<p>- Legislative control such as The China Food and Drug Administration (CFDA) is prolonged and complex. The documents required are also complicated. Since 1 January 2013, EMC (Electromagnetic Compatibility) Standards have come into force, requiring submission of test report on actual equipment. It is the same with renewal application, which equally requires submission of test report on actual equipment. Taking into account the aforementioned test period, it is expected that further delay of 3-months is inevitable under the going certification schedule. It impacts on production of goods destined to domestic consumption in PRC.</p>	<p>- It is requested that CFDA first of all cuts down the period required to the date of certification.</p>	
	(9)	Nebulous Customs Open Days and Abrupt Changes	<p>- It is only just before the successive holidays that customs determine the temporary office days. Customs are normally open on Saturdays. However, from time to time they are closed without notice. It affects the business schedule concerning shipment and export.</p>	<p>- It is requested that Customs Authority stabilises the work schedule and promptly announces the holiday schedule.</p>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(10)	Abrupt Change just before the Successive Holiday Begins	- 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.	- It is requested that state council sticks to the Annual Holidays once affixed.	
	(11)	Delays in Preparation of Internet Related Legislation	- Preparation of Internet Related Legislation has delayed so that the legislative control remains weak against slander upon enterprises or leakage of enterprises' internal information.		
	(12)	Inadequate Personal Information Protection Law	- 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.	- It is requested that GOC: -- suspends disclosure of personal information on the webpage, -- extends Public Security's assistance, as necessary.	
	(13)	Inadequate Preparation of Legislation relative to Liquefied Hydrogen.	- There is no law in PRC governing machineries and equipment, design, manufacture, storage, transport, sales and consumption on liquefied hydrogen. Member Firm anxious to develop business for diffusion of liquefied hydrogen, which is a clean energy, is unable to do so.	- It is requested that GOC streamlines legislation and standards for private enterprises.	
	(14)	Nebulous Subsidy Policy on High-Efficiency Products	- 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.	- It is requested that GOC expedites its policy decision on aiding the development of energy saving, high efficiency products.	- Legislation relative to aiding High Efficiency Products Development
	(15)	Inadequate Capital Reduction Scheme of the Regional Government	- A Firm is unable to retrieve invested capital, as Capital Reduction System remains undeveloped, or for certain local governments with the mandate to secure revenue from inviting foreign investment, capital reduction is beyond their comprehension.	- It is requested that GOC overhauls the capital reduction system.	
	(16)	Inadequate Specialised Wooden Structure Construction Licence	- As of today, no special licence exists for construction of Wooden Structured Buildings, although quite some years have gone, since implementation of legislation on Wooden Buildings. In addition, the provisions on General Construction Licence are based on the premises of constructing large buildings so that the requisite specifications are excessive for wooden buildings. For enterprises based on wooden buildings, sheer allotment of personnel necessary for licence maintenance becomes excessive in cost.	- It is requested that GOC: -- makes available exclusive licence for wooden structured buildings, or -- adds to the general constructors' licence, another licence exclusive to low-rise buildings.	- Credential Evaluation Standard Grade for Construction Enterprises (2001)
	(17)	Long-term Fixed Acceptable Amount for Orders on Interior Finish Work	- The Three Grades from 1st to 3rd on Licence for Interior Finish Work were affixed in 2001. Despite the spiraled commodity index, the cap on the acceptable amount for orders remains affixed at the same level. On the other had, manpower cost for licensed personnel has gone up so that the cap on the acceptable amount for orders does not balance well with the increased cost all around.	- It is requested that GOC either increased the acceptable amount for orders or deregulates the licenced personnel requirement.	- Credential Evaluation Standard Grade for Construction Enterprises (2001)

Category	No	Issue	Issue Details	Requests	Governing Laws
25 Government Procurement	(1)	Prioritised Purchase of Domestic Products in Government Procurement	<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>- GOC prioritises the domestic products manufactured in PRC for Product Category in certain Compulsory Items (printers) in the GOC's Procurement List of Energy Conservation Labeled Products. Prior examination is required on GOC's purchase of the products manufactured outside PRC. It is unfair to create gaps between the domestically manufactured products and imported products.</p> <p>- 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.</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>- It is requested that GOC applies the equal terms to all products, domestic and import, in the GOC's Procurement List of Energy Conservation Labeled Products for the sake of maintaining fairness and equality.</p> <p>- It is requested that GOC removes the restrictions as soon as possible.#</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)</p> <p>- Measures (unpublished) for Administration of Government Procurement for Domestic Products Articles 3, 6, 7 and 8.</p> <p>- Measures for Administration of Government Procurement for Imported Products</p> <p>- The Government Procurement Law of the People's Republic of China</p> <p>- The Government Procurement Law of the People's Republic of China</p>
	(2)	PRC's Pending Accession to WTO Agreement on Government Procurement (GPA)	- 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).	- It is requested that GOC provides and confirms the latest information.	
	(3)	Nebulous Relations between GPA and the Pilot Enterprise Income Tax Policies	- Regulations intertwining between "Government Procurement Policy" and "Independent Innovation" are quite complex.	- It is requested that GOC provides and confirms the latest information.	
	(4)	Tender System Reduced to a Mere Skeleton	- The Tender itself is reduced to a mere skeleton resulting in loss of time and expenses, or else justice is undermined to the extreme. [Concrete Example] 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 applicable rules and flow of the process remain ambiguous.	- 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.	- Source: CIE/CIES

Category	No	Issue	Issue Details	Requests	Governing Laws	
			=> No improvement in particular. -- The rules remain ambiguous as before, such as requisite conditions for the fall of the hammer, and the timing for the secondary bid. -- The definition remains ambiguous for the handling fees upon bidding, etc.			
	(5)	Necessary Bidding Qualifications & De Facto JV Requirement	- Bidding scheme requires multiple requirements even for introduction of 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 JVC is prerequisite to bid for large governmental tenders.	- 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.		
	(6)	Alienation of Japanese Affiliated Enterprises from GOC Government Procurement Tender due to Aggravated Relations between Japan and PRC	- A Firm enjoyed steady growth in sales of its Electronic White Board (EWB) in the PRC Educational Sector, etc. However, since the aggravation of relations between Japan and PRC in September 2012, in large government tender cases, GOC has deepened its policy to alienate Japanese affiliated enterprises. While no written notices appear to be in circulation, it looks like a higher hierarchy of unknown level has given words of mouth instructions.	- It is requested that GOC gives an equal opportunity to private enterprises' commercial and other business activities unaffected by the political movements between Japan and PRC.	- GOC's obligation as a Member State to WTO should be respected and adhered to.	
	(7)	FFEs' Participation is difficult in Government Projects	- FFEs are denied of participation in Projects above the Municipality level, such as Programme 863 (State Key Basic Research Development Programme).	- It is requested that GOC overhauls the policy to allow FFEs participation in projects with a low level of confidentiality requirement.		
26	Others	(1)	Increased Business Risk due to Aggravated Japan-PRC Relations	- The business has shrunken due to the uprising of demonstration against Japanese enterprises and people, due to the disputes over the Senkaku Islands, etc. - Since the Japan-PRC controversy in 2012, the sales have dropped, adoption of personnel has become difficult and business has substantially dwindled. - 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. - Travelling Business suffered severed damage from the Japan/PRC Diplomatic Dispute over Senkaku (Diaoyu) Island disputes.	- It is requested that GOC gives due consideration of the Japanese affiliated enterprises operating in PRC. - It is requested that GOC gives due consideration of the Japanese affiliated enterprises operating in PRC.  - It is requested that GOJ and GOC resolves the disputes as soon as possible for recovery of the amicable minds of both nationals.	
		(2)	Power Supply Shortage	- Blackout occurs due to the power supply shortage. (Planned blackout. Abrupt notice issued during summer when the power supply needs are at their peak). - According to Nanfang Dianwang, there were 14-days in August 2011 in which power supply was in short supply during peak hours for more than 10 million KW, the maximum being 14.79 million KW or shortage of supply by 15%.	- It is requested that GOC stabilizes the power supply.  - It is requested that GOC beefs up the power supply that can meet the demand as soon as possible.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(3)	Inadequate Distribution Infrastructure in Inland Regions	- Due to the occurrence of delay in restoring inland distribution, the operational cost has spiraled.	- It is requested that GOC overhauls the infrastructure in the inland regions.	
	(4)	Unlawful Claim for Compensation of Damage	- 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). This issue has since escalated, giving serious damage to logging and transportation.	- It is requested that GOC: -- redoubles its effort to disseminate among local people that afforestation of eucalyptus trees is indispensable for development of local economy, and -- intercedes with the local farmers for conciliation.	
	(5)	Aggravated Atmospheric Pollution Problems, Impacting Employees and Their Family	- Expatriate's Family Members are hesitant about taking post in PRC, desiring return to Japan for fear about the atmospheric pollution, impacting infant, should it be born during their stay in PRC. - Atmospheric pollution in Shanghai / Beijing has gotten worse. While 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 Province, MFS received request for turning off boilers from the Municipal Authority. It is beginning to impact factory operation. - Member Firm is concerned about health damage upon their expatriates and local employees from the atmospheric pollution, including PM2.5, etc. One of the parts suppliers received the administrative order for halting operation for the suspected pollution brought about by their operation, impacting the MFS operation. - MFS is concerned about the health damage of its employees from the factory effluent or proliferation of PM2.5. - The entry into PRC last year (2013) of Japanese tourists for sightseeing purposes dropped by 35% (about 510,000 persons), due to the atmospheric pollution in large cities, such as Beijing, and Shanghai, and the human avian influenza infection, etc. - Aggravated atmospheric pollution and anxiety over the health damage.	- It is requested that GOJ approaches GOC, urging GOC to expedite taking drastic measures for prevention of environment issues.  - It is requested that GOC takes measures to stop atmospheric pollution at its source.  - Instead of emphasizing the negative information, it is requested that media report gives information based on the factual state of affairs. - It is requested that GOC takes a powerful leadership toward improvement of the pollution problems as soon as possible.	
	(6)	Corruption	- 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.	- It is requested that GOC: -- tightens its control, and -- conducts investigation of actual conditions.	

Issues and requests relating to foreign trade and investment - Hong Kong

	Category	No	Issue	Issue Details	Requests	Governing Laws
14	Taxation Systems	(1)	Disparity between Hong Kong and Macao on Tax Incentives for Environment-friendly Cars, and Shortage of Grace Period for Legislative Revision	- While HKSARG implements Tax Incentive Measures for the Fuel Efficiency, HKSARG has tightened year after year the values for the Fuel Efficiency Requirements. It releases its announcement about 3-months in advance of implementation, which is too late for Foreign Funded Enterprises to take responsive measures or to benefit from tax incentive measures, leading to the loss of competitive edge and declines in sales quantity. Due to the difference in the Values for Fuel Efficiency Requirements between Hong Kong and Macao, the concerned parties must take separate responsive measures individually.		- Hong Kong Environment Friendly Petrol Private Cars - Macau Green Car Policy
16	Employment	(1)	Complex and Delayed Immigration Procedures for Aliens' Entry into PRC	- After the handover, under the scheme of one country-two systems, Hong Kong retains the system different from the mainland China. Due partly to this reason, persons crossing overland to PRC side (Shenzhen) must go through immigration just the same as before the handover, with all formalities besides showing the passport. When the traffic is heavy, it take good one hour to pass the immigration gate.	- It is requested that GOH deregulates the customs formalities for persons holding Hong Kong Work Permit.	
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Complex Procedures on Appraisal of True And False on Suspended Goods at Customs	- Upon suspension of imported goods for suspected IPR infringements, appearance of appraiser as witness becomes necessary. However, on the-spot-appraisal is sometimes found not feasible, requiring a closer laboratory inspection.	- It is requested that HKSARG takes an appropriate step to facilitate a smooth appraisal, in order to minimise the burden upon the claim holder.	
		(2)	Insufficient Examination on Registration Application by a Party Falsely Using Famous Trademark, etc.	- Internationally famous trademarks or identical or confusingly similar trademarks are registered in Hong Kong, where a company can be readily registered. Furthermore, in the mainland PRC, the number of cases is mushrooming in violation of the Anti-Unfair Competition Law, where famous trademarks are falsely used in products manufactured, sold and advertised in PRC	- It is requested that GOH makes a more stringent examination on application for trademark registration, falsely using internationally famous trademark.	
26	Others	(1)	Frequently Increased Storage Cost by Large Margin	- MFS, selling goods from stock, receives frequent notice from the warehousing operation, demanding outrageous increase in storage cost (such as 50% up). Each time, MFS is compelled to move its office, incurring emergency expenditures.	- There should be a cap on the tariff increase (by rate) each time.	

Issues and requests relating to foreign trade and investment - India

	Category	No	Issue	Issue Details	Requests	Governing Laws
1	Restrictions on Entry of Foreign Capitals	(1)	Difficulty in Share Valuation accompanying Capital Increase or Sale of Shares	- Share Valuation is a mandatory requirement upon capital increase, sale of shares, etc. As the amount of capital contribution and the voting rights (the number of shares) are not proportionate in valuation, it is difficult to take corrective measures in the case where the number of the voting rights has significant meanings, for example, joint venture agreement. Depending upon the Amount of the Share Valuation (ASV), share prices available for sale vary between the Regional Enterprises and Foreign Funded Enterprises (FFE). (Share Prices Available For Sale (SPAFS) of FFEs are higher than ASV, while SPAFS of Regional Enterprises are lower than ASV. ASV requires increase in cost for valuation by Chartered Accountant or Merchant Banker.	- It is requested that Government of India (GOI) repeals the Share Valuation Requirement.	- FEMA - Income Tax Act, 1961, Section 56(2)(vii-a), (vii-b)
		(2)	Restricted Foreign Capital Participation into the Retail Business Sector	- Up to 100% foreign capital contribution was made possible in 2012 for retail business, distributing single brand products, however, with a caveat of restricted procurement (whereby 30% of purchase must be procured domestically from small-scale enterprises). Furthermore, foreign capital contribution of up to 51% was also made possible in 2012 for General Retail Business such As Super Markets and Convenience Stores, however, with a caveat of: Minimum Investment Amount of USD100 million, Minimum 50% of Investment Amount invested within 3-years into the Back-End Infrastructure (Logistics, Warehouse, Manufacture, etc.), 30% of Procurement made from Small-Scale Enterprises, targeting cities with the Minimum Population of 1 million. Thus, Foreign Capital Investment into Retail Sector has hardly made any progress. Especially, Japanese affiliated enterprises drag their feet in entry, blocking the project progress with the local business partners.	- It is requested that Government of India (GOI): -- deregulates various terms and conditions on the left column, and -- removes the restrictions as soon as possible.	- FDA Policy Notification of DIPP
4	Restrictions on Withdrawal Of Operations	(1)	Complex and Delayed Procedures in Closure of Representative Office of Expatriates	- The procedures are too complex and time consuming for closure of Local Representative Office established to conduct feasibility study for local entry after establishment of the local corporation.		
8	Investment Recipient Organization	(1)	Additional Payments Invoiced for Cost of Land Property in Industrial Park	- At Bawal Industrial Park in Haryana, Development Corporation Limited (HDCL) issued invoice to a Member Firm Subsidiary (MFS) for additional payment of the land cost, after conclusion of purchase for the land property in concern. The action resulted from a Court Case in which the farmers sought the raise in the price of the requisitioned land. The contract for sale and purchase of the land property between HDCL and MFS holds purchaser responsible for additional payment, without, however, express statement of the amount for the additional payment. Moreover, the interest calculation on the additional land cost precedes the purchase date of the subject land property. In addition, there is no	- It is requested that HDCL: -- furnishes MFS with the particulars of the invoice amount, -- affixes the price of the land property, assuming arguendo MFS makes payment for the additional amount, MFS's payment is subject to HDCL's undertakings that no further payment results for the price of the land property,	- The Land Acquisition Act1984 - Act on Operation of Public Land Corporation

Category	No	Issue	Issue Details	Requests	Governing Laws
			assurance for the absence of no further additional payment. The additional payment requirement for the land cost of this kind exposes investors to unpredictable risks.	<ul style="list-style-type: none"> <li>-- undertakes that accrual of interest on additional payment begins on the purchase date of the land property.</li> <li>- It is further requested that GOI takes step to overhaul the legislation concerning acquisition of the land property, to prevent any further questions on acquisition of the land property.</li> </ul>	
	(2)	Varying Investment Incentives by State	- The contents of the available incentives for new investment vary by each State.	<ul style="list-style-type: none"> <li>- It is requested that GOI:                             <ul style="list-style-type: none"> <li>-- harmonises the contents of the available incentives which vary by State, and</li> <li>-- ensures the merits of new incentives becoming available hereafter extend also to enterprises already having invested in India.</li> </ul> </li> </ul>	
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	<ul style="list-style-type: none"> <li>- Tariffs on clocks and watches are 10% on finished products and 5% on watch movements, and 10% on clock movements, while pursuant to entering into force of Japan-India EPA ratified in 2011, tariffs on clocks and watches originating from Japan are eliminated in 10-years. On the other hand, GOI continues to levy substantive high tariff Countervailing Tariff, and Education CESS on top of the Basic Tariff.</li> <li>- Import Duty of 25.85% applies to mechanical parts (Solenoid Valves) having the same functions are manufactured in India by both INDIA and Japanese affiliated enterprises. A Member Firm experiences a hard time meeting the competition by reducing prices of its products.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI reduces or repeals the tariffs on clocks and watches.</li> <li>- It is requested that GOI either reduces or repeals the Import Duty.</li> </ul>	- Customs Act
	(2)	Import Duty Levied on Products Temporarily Imported for Sales Meetings	<ul style="list-style-type: none"> <li>- GOI levies high import duty on goods imported for demonstration, sales promotion for a short-term (less than 6-months). Only partial refund of import duty is available after completion of demonstration or sales promotion. If the demonstration unit is not new, a separate declaration is necessary, stating expressly the goods are for the purposes of sales demonstration.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI grants minimum import duty or duty exemption for equipment that is brought into India for demo within a specific period.</li> <li>- It is requested that GOI simplifies the import procedures of used machineries for sales promotion.</li> </ul>	- Union Budget
	(3)	Nebulous Restrictions on Import of Used Machineries and Equipment	- A Firm wishes to confirm the details of import restrictions on used machineries and its future (or verification on the legal side for business possibility on used machineries).	- It is requested that GOI provides the confirmed latest information.	
	(4)	Arbitrary Application of HS Code	- Applicable HS Code for a given product is determined by the Customs personnel at the window and may change by who the personnel in charge is. (No third party institute, etc. is available for determination of HS Code.)		

Category	No	Issue	Issue Details	Requests	Governing Laws
			- On electronic products, with the intent of levying high import duty, a Customs' personnel alleged an error in the HS Code classification entered in the customs documents. Should an importer admits an error, payment obligations arise retroactive to past entries for the amount of the difference, interest accrued on the differences, plus fines. The Customs personnel gave no explanation on the judgement basis, including the applicable legislative provisions. The interpretation given was ambiguous.		
	(5)	Complex and Delayed Customs Clearance Procedures	- It takes quite a long time to complete import customs clearance, 20-days in average. - The venue for the Customs Clearance has been moved from Container Yard (CY) to ICD (Inland Container Depot)/CFS (Container Freight Station). As a result, shippers incur drayage all the time. - GOI has suspended sales of the imported electronic product over the question of HS Code Classification and the additional requirement for confirmation of its Country of Origin. Moreover, the procedures are ambiguous for acquisition of Preliminary Sales Licence, and it is time consuming.	- It is requested that GOI streamlines the customs clearance procedures.	
	(6)	Complexity and Difficulty in Declaring and Marking Maximum Retail Price upon Import Customs Clearance	- Compulsory requirement for declaration and marking of MRP at customs clearance is complex and difficult. Its marking work is quite burdensome at factory, etc. Moreover, the need to synchronise prices at production time and at customs clearance means additional burden. - MRP (Maximum Retail Price) Marking Requirement. It requires the workload of labeling MRP on the package in the originating location of the products.	- It is requested that GOI repeals the MRP marking system.	- Relative To Customs Tariff Act, India, Central Board of Excise and Customs, Department of Revenue, Ministry of Finance <a href="http://www.cbec.gov.in/cae1-english.htm">http://www.cbec.gov.in/cae1-english.htm</a>
	(7)	Overly Rigorous Airport Cargo Inspection	- Air cargoes are subjected to customs inspection at the ratio exceeding 80%. It prolongs the lead time for cargo delivery and frequently damages the cargo.		
	(8)	Complex Procedures for Tariff Refund	- Import Duties on Export Products are refundable, subject to production of the vast amount of particulars (the Purchase Record of over 1000 pages), required for each introduction of new models. It necessitates a vast amount of clerical workload.	- It is requested that GOI makes productive, the preferential treatment on Export Business.	
	(9)	The Requirement to fill in the Full Price Details	- In regard to free export shipment to India of a sample equipment for verification purposes, with a Nominal Value duly stated on the invoice, the Indian Customs requires production of additional Official Letter that gives the full cost details (comprising of assembly cost, parts cost, etc.). It heavily increases the burden upon the exporter accepting development of machineries and equipment consigned by Indian enterprises.	- It is requested that GOI accepts import of the sample equipment at Nominal Value exported from Japan.	
	(10)	Abuse of Antidumping Measures	- On 5 December 2002, GOI made the final affirmative determination to impose antidumping duty on cold-rolled stainless steel sheet (of more than 600 minimum width) from EU, Japan, the U.S., and Canada. - On 25 November 2005, GOI imposed the antidumping duty as mentioned above (of \$305 and \$445.69 per ton, as a result of the mid-term review). - In December 2006, GOI decided to continue the antidumping measures.		

Category	No	Issue	Issue Details	Requests	Governing Laws
			- In November 2008, GOI instituted antidumping investigation on cold-rolled stainless steel plate (600 mm in width or more) against EU, Japan, U.S., PRC, South Korea, South Africa Taiwan and Thai. - In November 2008, GOI initiated Antidumping Investigation on Hot Rolled Steel Plate from Japan, PRC, Indonesia, Iran, Kazakhstan, Malaysia, the Philippines, Rumania, Russia, South Africa, Saudi Arabia, South Korea, Thailand, Turkey and Ukraine.		
			<b>(Improvement)</b> - In August 2009, GOI discontinued the investigation upon request of the petitioner. On 24 November 2009, GOI excluded Japan alone on the ground of small quantity involved and no resultant damage. Antidumping duty levy in the range of USD12.74-2,254.69/MT was decided on the remaining 14-countries.		
	(11)	Safeguard Measures	- On 9 April 2009, GOI instituted Official Safeguard Investigation on Hot-Rolled Steel Plate (up to thickness 20mm and width 2000 mm, included in HS7208).  <b>(Actions)</b> - On 8 December 2009, the Board recommended the Central Government not to impose the Safeguard Duty (on the ground that the Petitioner did not constitute "the Domestic Industry" and injury determination could not be made for the Petitioner's failure to submit the relevant information requisite to make Injury Determination.) - On 22 April 2013, GOI initiated Safeguard Measures Investigation on Seamless Steel Pipe.	- GOI discontinued investigation, excluding Japanese steel products from the subject goods of investigation. .	
	(12)	Export Embargo on Iron Ore	- On 7th October, Karnataka State Government embargoed export of iron ore, on the ground of preventing illegal mining. It has given substantial impact on the marine surface trade of iron ore, and has triggered the spiraling market prices. - In September 2012, Goa State Government, Central Government and Supreme Court executed production/export embargo on Iron Ore. It heavily impact ocean-marine trade of Iron Ore, and is a factor to push up market prices radically.	- It is requested that GOI repeals the export embargo on iron ore.  - It is requested that GOI lifts the Production/Export Embargo.	
	(13)	Export Tax Levy on Iron Ore	- On 28 February 2007, Ministry of Finance (MOF) announced (and enforced from 1 March 2007) the across-the-board tax levy of 300 Rs per ton on export of iron ore, in order to secure tax revenue and to preserve the Indian domestic iron ore resources. (The tax levy was enforced from 1 March.) During May 2007-December 2009, GOI changed its tax system for five-times as follows: -----Lump Ore-----Fine ore 3rd May 2007-----No change-----50 Rs/ton (Down) 13 June 2008-----15% on FOB (Up) 31 October 2008-----No change-----200 Rs/ton (Down) 7 December 2008-----5% on FOB (Down)-----removal (Down) 24 December 2009-----10% on FOB (Up)-----5% on FOB (Up) 29 April 2010-----15% on FOB (Up)-----5% on FOB (No change) 28 February 2011-----20% on FOB (Up)-----20% on FOB (Up) 30 December 2011-----30% on FOB (Up)-----30% on FOB (Up)	- It is requested that GOI repeals the levy of export tax on iron ore.	

Category	No	Issue	Issue Details	Requests	Governing Laws	
			Export tax imposed on iron ore is a heavy burden to iron ore suppliers, while a portion of the tax burden is passed on to the users of iron ore such as Japan in the form of increased FOB prices.			
	(14)	Complex and Rigorous Basis of determining Country of Origin under Japan/India FTA	- The Basis of determining Country of Origin under Japan/India FTA requires satisfaction of both criteria, namely, Change in Tariff Heading and Added Value requirements, which are more rigorous than other FTA's. Because of this, MFS is neither able to satisfy the Origin Qualifications nor to benefit from the preferential tariff rates.	- It is requested that GOI/GOJ deregulates the Country of Origin requirement so that satisfaction of either requirement, Change in Tariff Heading or Added Value will suffice for application of Preferential Tariff Rates.	- Japan-India Economic Partnership Agreement	
	(15)	Inconsistency in Certificate of Origin under ASEAN/India FTA and Application Procedures	- A Member Firm's subsidiary (MFS) is unable to benefit from the Preferential Tariff Rates on imports of parts under India/ASEAN FTA due to the differences in interpretation or understanding of individual Customs Officials, despite the fact that Application Form is nailed down. INDIA: Single Application Sheet may contain plural items to the extent they can be filled in that single sheet. Where the number of parts is numerous, these can be filled in as attachment to the Single Application Sheet. Plural Application Sheets may not be used per invoice, THAILAND: Attachments will not be accepted as official documents. Plural Application Sheets must be used where items are too numerous. However, this requirement does not agree with GOI's instructions. In this fashion, understandings are diametrically opposed between the Customs Authorities of Two Countries. Consigning preparation of the application documents to outside sources is prohibitively expensive. Because of these circumstances, it is not possible to file application and benefit from tariff preferential measures.	- It is requested that the Customs Authorities of India and Thailand will work together in producing a Manual to share the Common Understanding. - Rather than individual applicants' wasting their time in visiting Ministries and Agencies to obtain approvals, it is requested that GOI streamlines and facilitates the application procedures through active use of web pages, allowing direct filing of application by individual applicants.	- India-ASEAN Free Trade Agreement	
	(16)	Complex Products Registration Procedures	- Products Registration Procedures are complex.	- It is requested that GOI repeals the Renewal Requirement for Product Registration, as it is done in Japan: Once registered, no subsequent renewal is necessary.		
11	Restriction on Profits Remittance Abroad	(1)	Restricted External Remittance	- Control on foreign exchange remittance is excessively severe. A huge amount of materials and documents must be signed and submitted to the authority after going through complicated procedures.	- It is requested that GOI simplifies the procedures at the time of external remittance.	
		(2)	Restricted Scope of Applicable Items in External Remittance	- RBI strictly controls the scope of expense items that can be remitted abroad. While a Japanese enterprise desires to remit to Japanese enterprise (a sales company) in settlement of foreign exchange gains/losses, RBI does not allow such remittance, because the allowable expense items for remittance abroad do not include such expenses.	- It is requested that GOI expands the scope of applicable items for External Remittance.	- RBI Regulations
12	Exchange Controls	(1)	Restricted External Borrowing in Foreign Exchange	- A Member Firm in Japan desires to extend loan to MFS in India to fill its needs for increment of operating fund ether by itself or through its other related enterprises outside India. However, it is unable to do so, as the loan term is minimum 7-years, where the purpose of the fund utility is operational fund.	- It is requested that RBI deregulates or repeals restrictions on utility of foreign exchange funds borrowed from abroad.	- RBI Regulations

Category	No	Issue	Issue Details	Requests	Governing Laws
	(2)	Complex Procedures for External Monetary Receipt	- RBI controls remittance from abroad, for example, by requiring complex procedures such as submission of individual contracts.	- It is requested that RBI streamlines the procedures.	
	(3)	Restricted Inter-Group-Companies Exchange Transactions	- A Firm desires to establish at some future time an institution that consolidates foreign exchange transactions among the group companies in India. However, RBI allows foreign exchange transactions only with banks, disallowing such transactions within a single group of companies.	- It is requested that GOI further deregulates foreign exchange restrictions.	- RBI Regulations
	(4)	Complex Exchange Transactions Based on Real Demand Principle	- RBI compels the principle of actual demands, requiring a heavy burden of preparation and submission of related evidential documents.	- It is requested that GOI further deregulates foreign exchange restrictions.	- RBI Regulations
	(5)	Difficult International Settlement in Rupee	- In the growing Indian market, import to India is rapidly growing from Japan and other manufacturing footholds in Asian countries. However, RBI permits only U.S. \$ as settlement currency which is susceptible of exchange risks. A Japanese enterprise desires to settle the account in Rupees to minimise the foreign exchange risk to its sales subsidiary in India.	- It is requested that RBI: -- deregulates or repeals the foreign exchange control, and -- accepts Rupees for international settlement.	- RBI Regulations
	(6)	Restricted Settlement in Foreign Currency for the Domestic Transactions	- Indian Rupee is the only authorised means of payment in settlement of account in the domestic transactions. Indian Rupee, not being Hard Currency, heavily cripples Foreign Funded Enterprises' freedom in advancing transactions on dealer's terms from the perspective of the exchange risks.	- It is requested that GOI enables settlement in foreign currency in the Indian domestic transactions as well.	- Foreign Exchange Regulation Act
	(7)	Inefficiency of Domestic Settlement in Rupee	- Payment by cheque is the main stream of the domestic settlement of account in Rs, which takes a long time before the settlement is completed in the vast India.	- Early proliferation of electronic payment is eagerly awaited.	
13	Finance	(1) Restricted Interest On Intra-Group-Company Loan	- A Member Firm contemplates organising, in future, a group financing among its subsidiaries incorporated in India (MFSSs). However, it is highly likely that "Deemed Dividend Tax" accrues on the capital loan amount or on its interest.	- It is requested that Reserve Bank of India (RBI) and Competent Taxation Authority together make necessary adjustment to make it clear that such Intra-Group Financing is Non-Taxable.	
14	Taxation Systems	(1) High Rates of Indirect Taxes	- Value Added Tax (VAT) 12.5%-20% (Varies by State) Central State Tax (CST) 2%, Service Tax 12% Primary Education Cess 2%, Import Tariff, etc. Tax rates are high and their implementation is complex.	- It is requested that GOI streamlines the taxation system and reduces the tax rates.	- Central Excise Act, 1944
		(2) Complex Taxation System	- Indian taxation system is complex at all events. It varies by State, encompassing a vast variety of kinds and types. While many taxes are refundable or may be offset against other taxes, nevertheless, it involves complicated procedures. -- Local Sales Tax (=VAT) makes difficult both warehouse integration and stock reduction, -- Road Permit procedures are complex and difficult.	- It is requested that GOI unifies the taxation system into a simpler form as soon as possible.	- Union Budget

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- Indian Indirect Taxes are complex and diversified in levy method and variety of taxes, forcing enterprises into much difficulty to take proper actions in response. While the Central Government is empowered to collect central taxes (Customs Duty, Excise Duty, Central Sales Tax, Service Tax, etc.), State Governments are empowered to collect State Taxes (State VAT, Stamp Duty, State Entry Tax, Octroi, etc.). Deliberation and preparation are now underway to consolidate all indirect taxes into a single Goods and Services Tax. However, its introduction originally due in 2010 was postponed into 2011, and as the matters now stand, the 2011 introduction appears to be further extended in 2012, as the central/state governmental alignment consumes much time.</li> <li>- Tax calculation is needed for each depot to pay the state tax (as tax is levied upon each inter-depot product movement).</li> <li>- Purchase Tax Amount Deductions are complex as regards CENVAT Credit (Excise Duty/Service Tax), and State VAT/Central Sales Tax.</li> <li>- TDS (Tax Deducted at Source) in India: Besides salaries and wages payable to employees, payments, etc. of fixed assets rental fees, commissions, system development fees are subject to TDS. Tax payors must pay TDS to Income Tax Department by the 7th of each month, and file Tax Returns in each Quarterly Period. System Development Fees (Overseas) payable to Japan involving tax payment by TDS requires prior adjustment with Japan to avoid confusions.</li> <li>- Inter-State Sales, crossing the State Border, incur Central Sales Tax, pushing up sales cost. It hinders development of nationwide business.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI introduces the GST system as soon as possible (so that it is implemented from the fiscal year 2011.)</li> <li>- It is requested that GOI introduces Central Sales Tax (CST).</li> <li>- It is requested that GOI introduces GST as soon as possible.</li> <li>- It is requested that GOI simplifies the taxation system.</li> <li>- It is requested that GOI introduces Goods and Service Tax (GST) as soon as possible.</li> </ul>	<ul style="list-style-type: none"> <li>- Union Budget</li> <li>- The Central Sales Tax Act, etc.</li> <li>- Indian Income Tax Act</li> <li>- Income Tax Act, 1961</li> <li>- Income Tax Rules, 1962</li> </ul>
	(3)	Meaningless Obligations upon Non-Resident to File Tax Return	<ul style="list-style-type: none"> <li>- To enjoy the tax benefit on Withholding Tax (or Tax Deducted at Source) under the Japan-India Tax Treaty, MFS, incorporated under the Indian Law, has obtained PAN (Permanent Accounting Number) and has paid Tax Deducted at Source. In addition, since a few years ago, by legislative amendment, it has become necessary for Non-Resident Corporation to file Tax Return to Indian Authority on the tax paid as Withholding Tax.</li> <li>- To benefit from the Preferential Treatment under Japan/India Tax Treaty, GOI compels acquisition of Permanent Account Number, accompanied by: (1) Resident Certificate issued by the external taxation authority of the Corporation outside India (2) Tax Return of the Income Tax and (3) Transactions Outline with the Related Parties.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI reviews the legislative provisions that compels filing of tax return upon non-resident, as it does not make sense to compel filing of tax return upon non-resident, regardless of the tax return already filed by MFS, an Indian corporation, the payor.</li> <li>- Taxes payable on Royalty, etc. are paid by MFS, an Indian subsidiary of the Member Firm. In this process, the information sought in (2) and (3) of the left column is identical to that already submitted by MFS to Indian Taxation Authority. It is requested that GOI refrains from seeking duplicated requirements of this kind.</li> </ul>	<ul style="list-style-type: none"> <li>- Indian Tax Legislation</li> </ul>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(4)	Unreasonable Tax Levy on Transfer Profit	- Indian Tax liability results from Transfer of Shares in Japan of the shares in an Indian company (Direct Transfer). Indian Tax liability also results from Transfer of Shares in Japan of the company holding shares in an Indian company (Indirect Transfer).	- It is requested that GOJ and GOI insert a provision in Japan/India Tax Treaty so that Tax Levy on Transfer Profit is payable only in Japan from transfer of shares between Japanese companies. (The Tax Treaty between India and Singapore already includes this provision.)	- Japan/India Tax Treaty - The Income Tax Act (India)
	(5)	Refund of the Full Amount of TDS on Sales Disallowed under Singapore/India Tax Treaty	- Withholding tax of 10-20% over the sales amount is payable when providing services for design or employment from Singapore to India. While withholding tax is refundable under the Tax Treaty between Singapore and India, it is refunded only in part, impacting profitability of operation in Singapore.		- Singapore/India Tax Treaty
	(6)	Unjustifiable Transfer Price Taxation Investigation/Additional Assessment upon Trade Firm's Activity	<p>- In the course of carrying out the Transfer Pricing Investigation (TPI) on the locally incorporated subsidiary of each Trade Firm, GOI has imposed huge amounts of additional tax on each firm based on the arbitrary contention that the commission earned on the Triangular Trade, which is the main business of the investigated firm, should not be less than the profit rate gained in the Normal Sales and Purchase Transactions. The outcome of TPI materially blocks Trade Firms entry into and business expansion in India. While Trade Firms are bogged down in seeking the solution of the problems, they incur huge cost on account of consultants' fees, etc.</p> <p>- Indian Tax Authority has sent out to each Japanese affiliated Subsidiary (MFS) incorporated in India of the 6-Japanese General Trade Firms Rectification Notice under the Transfer Price Taxation System, alleging that the earned commission of 1% or so by each MFS is too thin, while each MFS performs sufficient function and runs a risk of loss well comparable to its parent in Japan.</p> <p>The Taxation Authority has arbitrarily twisted the grasp of the factual reality, despite the fact that the function of or the risk to each MFS is infinitesimal as compared to its headquarters in Japan. It has sent out the Rectification Notice to each MFS.</p> <p>The Indian company, MFS, being unable to accept the Taxation Authority's decision, appealed the case to the Court (on Tax issues) by depositing bond in the amount representing 30~50% of the additional assessment shown on the Rectification Notice.</p> <p>Transfer Price (TP): MFS's appeal to the tax court, etc. in order to correct arbitrary twisted interpretation of orders, etc. After exhaustion of a considerable time, MFS successfully got their complaints heard and won the case in the end.</p> <p>In addition, with the view to minimise both time required for winning the affirmative verdict, and the expenses for attorneys and accounting offices, MFS envisages filing application in January 2014 Advance Pricing Agreement (APA), an ahead of time agreement entered into between a Multinational Company and one or more National Tax Authorities, and</p>	<p>- It is requested that GOI: -- corrects their grasp and understanding of the business activities in detail and in full perspective, and -- assures full transparency and rationality in carrying out their TPI.</p> <p>- It is requested that Indian Taxation Authority: -- correctly appreciates and recognises the function played and the risk run by each MFS and -- makes its TPI decision properly with precision.</p>	<p>- Income Tax Act Section 92-94 - Section 92C/92CA Income Tax Act, 1961</p> <p>- Income Tax Act Section 92-94</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
			MAP (Mutual Agreement Procedure), a means to settle Transfer Price Taxation issues in the past years between a multinational enterprise and National Tax Authorities.		
	(7)	Nebulous, Arbitrary Implementation of Transfer Price Taxation System (TPTS)	<ul style="list-style-type: none"> <li>- GOI's investigation requires vast amount of person-hours, while its decision is least convincing. (GOI assumes the position of totally denying the vast amount of the fund outflow from Japan to India in the context of TPTS.)</li> <li>- The Taxation Authority in India takes the position that the negative profit in the first year of incorporation is unacceptable in India for an enterprise in Commissionaire Business. It requires review of the business plan to cover the start up deficit.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI upgrades (to the international level) the quality of the investigation officers.</li> <li>- Implementation of Transfer Price Taxation System (TPTS) swings to and fro at the mercy of the person in charge of the Taxation Authority. It is requested that GOI ensures transparency in its administration by provision of a Manual expressly setting forth the entire procedures.</li> </ul>	- Income Tax Act, Section 144C
	(8)	Periodic Aggregate Verification Disallowed under TPTS	- Under the TPTS in India, the notion of Periodic Aggregate Verification is vague in law, and not recognised in practical implementation. Profit and Loss in India being susceptible of external impact, it is practically impossible to establish Transfer Price that assures profit in a single year. Steep penalty results from additional assessment by rectification, while the court proceeding takes an extra long time (10-years or more) on tax issues in many cases.	<ul style="list-style-type: none"> <li>- It is requested that GOI:                             <ul style="list-style-type: none"> <li>-- takes step to have the law on TPTS amended, so that it allows clearly the Periodic Aggregate Verification of minimum 3-years or so, and</li> <li>-- permits the use of data for past years as the basis of Advance Pricing Agreement (APA).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- The Finance Act Section 92A to 92F</li> <li>- The Indian Income Tax Act</li> </ul>
	(9)	Nebulous Basis of Determining Excise Duty	<ul style="list-style-type: none"> <li>- CVD Excise, corresponds to Excise Duty imposed on the domestic products, is imposed upon import of goods. CIF price forms the basis of taxable price in some cases, however, in other cases, Maximum Retail Price (MRP) replaces CIF price. Moreover, what forms the basis of such distinction is ambiguous.</li> <li>- The authority determines the abatement rate to fix the taxable price based on MRP. However, the process to determine the abatement rate is nebulous.</li> <li>- Moreover, importers must attach MRP self-sticking label on the parcel (package) of each product upon import. Its requirement means additional person-hours and increased cost of production.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI:                             <ul style="list-style-type: none"> <li>-- repeals the MRP system and MRP self-sticker labeling requirement, and</li> <li>-- unifies the use of CIF price as the calculation base of the taxable price for CVD Excise Tax.</li> </ul> </li> </ul>	
	(10)	Nebulous Treatment of PE for Employees on Long-term Business Trip	- Treatment is nebulous for employees on a long-term business trip to India in the context of PE. Uncertainty in the 183-days Rule, both in concept and counting method, whether the supervision and instructions given in execution of obligations as parent company may expose the Member Firm to the PE risk. All these uncertainties frustrate enterprises' operation with subsidiaries incorporated in India.	- It is requested that GOI clarifies the application method of 183-Days Rule concerning employees on a long-term business trip to India (the calculation method for the days of stay in India).	- Transfer Price Taxation System (Corporate Income Tax Act)
	(11)	Indirect Tax Rate Enforced on the very day of Revision.	- On occasions, changes in indirect tax, inclusive of customs duty, take place in March each year, when the Federal Budget passes the Parliament. At this time, the new tax rates become effective on the very day of announcement. It hardly gives any time for adjustment of e-systems at customs, etc. and at private sectors as well, at times, causing chaos in customs clearance procedures.	- It is requested that GOI ensures a grace period for dissemination to the public, before coming into effect of the new budget in March, or enforces it from the new fiscal year, beginning on 1 April.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(12)	The Scope varies by State on Taxable Items	- The scope of taxable items varies by State on VAT and Service Tax. Corruption prevails among government employees in Taxation Bureaus		
15	Price Controls	(1)	Establishment of Minimum Import Prices	- On 11 December 1998, GOI introduced, as a temporary measure, the Minimum Price System on imports, under the EXIM (in every five years, currently from April 1997 to March 2002) to put a break on import of cheap steel products. Subsequently, the domestic re-roller users demanded the authority to repeal the measure. Accordingly, the minimum price was readjusted downward, and finally in January 2000, the minimum price system was repealed. However, the domestic steel manufacturers filed suit at the Calcutta High Court. In practice, import of low priced steel continues, with a general understanding that the minimum price system has no effect, pending the outcome of the court proceeding.	- It is requested that GOI repeals the minimum price system.	- Steel and Steel Products (Quality Control) Order
		(2)	Entry Barriers into Power Distribution Sectors by Government Subsidy	- Electric Power Bill by Power Distribution Company is kept at low level by the Government Subsidy. It is a disadvantage on price to a third party, wishing to enter into the Power Distribution Business.	- Gradual deregulation of entry restrictions is requested to encourage entry into power distribution business as a part of overhauls in infrastructure.	- The Electricity Act 2003
16	Employment	(1)	Difficult Layoff of Workforce	- Generally the notion of labour protection prevails. Restructuring workforce requires approvals and permits of the competent authorities. FFEs are confronted with a difficulty to invest on human resources with a perspective of future expansion of their businesses in India.	- It is requested that GOI restructures itself so that labour issues are resolved at the collective bargaining between employers and Unions (or employee's representatives).	
		(2)	Differing Labour Standard by Each State	- While in general terms Labour Standards and Rules vary by state, there are scarcely few tools available to grasp the contents. It makes labour management difficult.	- It is requested that GOI publishes a book on Industrial Relationship in India or discloses the requisite information on its website.	
		(3)	Shortage of Visa Validity	- While the first stay visa is valid for one year, the visa application for the applicant's accompanying family members must be filed before the balance of the authorised stay is not less than half a year. The applicant must choose between filing the application immediately after arrival or extending the authorised stay period, before filing application for his accompanying family members. This leaves not much freedom in the applicant's choice.	- It is requested that GOI issues the first stay visa with validity of plural years not just for a single year.	
		(4)	Frequent Changes and Nebulous Terms of Work Visa Issuance	- Changes are frequent on documents and descriptions required for visa application in PRC. Despite the prior confirmation obtained from the competent authority as to the types and contents of the requisite application documents, in many cases applications are not accepted. - Demands/directions differ by who Consul in charge is included in the submitted documents. Due to the disunity of rules, documents get returned, adding an extra heavy burden to the applicant.	- It is requested that GOI standardises the procedures with increased efficiency.  - It is requested that GOI unifies the rules.	

Category	No	Issue	Issue Details	Requests	Governing Laws
			- GOI has tightened its examination on application documents for Business Trip Visa, so that application filed using the same wordings as before gets returned for correction. The implementation change has been effected with neither any explanation on the new requirement nor any descriptive sample document. It is difficult to respond adequately to the new requirement.	- It is requested that GOI: -- clearly identifies the requisite contents that applicant should fill in, -- provides sample descriptions to be filled in, and -- expedites and streamlines the examination.	
	(5)	Complex and Delayed Application Procedures for Expatriates Visa and Business Trip Visa	- It takes too long and too much work to get the Employment Visa (both upon new assignment and renewal).  - Since the change in May 2012 on the method for filing Visa Application, it takes exorbitant time for visa acquisition, due to the expanded scope and variety of the requisite documents for visa application.	- It is requested that GOI: -- streamlines the visa application procedures as to Japanese applicant by cutting down and simplifying the application procedures, or extending the validity term for the Employment Visa, and -- deregulates the Regulations allowing free entry without visas as to Japanese applicants, to ensure more active India/Japan interchange. - It is requested that GOI deregulates and simplifies the requisite documents for Visa Application.	
	(6)	Non-ratification of Japan-India Social Security Agreement	- Due to the pending enforcement of JIASS, double payment continues for Social Insurance (Pension) Premium, which is quite high, representing 25% of the total income subject to TDS (Tax Deducted at Source or Withholding Tax) in India. The burden upon MFS is also quite heavy. - While both GOI and GOJ agreed and signed AJISS, it has not yet reached the enforcement. A Firm faces increased cost from (1) double payment for subscription to social insurance and no-refund (2) until the insured reaches 58-years in age. - GOI compels foreigners to pay Social Insurance Premium. While the insured can receive payments beginning 58-years in age, the onus of its management and the method of its receipt are both difficult for MFS, the Employer. - While both parties have signed JIASS, its enforcement remains pending, compelling Japanese expatriates to India making double payment of Social Security Premium (Pension Fund) in both Japan and India.	- It is requested that GOI expedites getting the Agreement ratified at Indian Parliament as soon as possible. - It is requested that GOJ and GOI get the Social Security Treaty enforced as soon as possible. - It is requested that GOI takes steps to get the JIASS enforced as soon as possible.	- Agreement between Japan and the Republic of India on Social Security (2012) (JIASS) - G.S.R 148 and G.S.R 149 Dated September 2010  - Provident Fund Act
	(7)	Nebulous Refund of Social Security Premium (Pension Fund)	- Foreign expatriates to India have been paying 25% of their income to GOI as Reserve for Retirement Annuity (Provident Fund). However, it remains nebulous if the Social Security Premium (Pension Fund) gets repaid upon expatriates' return to Japan, after the JIASS is ratified and enforced.	- It is requested that GOI clarifies this question as soon as possible.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Irrational/ Nebulous Information Provision Requirement for filing Foreign Patent Application	<p>- It is incumbent upon the applicant to submit available information concerning foreign patent applications, if so required by the Director-General during the period from the filing date of Indian patent application and to the grant of the patent. "Office Action" cites USPTO, EPO, and JPO as such foreign examples. However, the examiners at Patent Office are able to access such information for all of these 3-Patent Office's readily by using the Dossier Access System. It seems that this requirement unduly burdens the applicant.</p> <p>- The countries where provision of information is required are not identified, leaving applicants unable to respond adequately to this requirement. The going Model Letter in the "Office Action" reads: "Details regarding the search and/or examination report including claims of the application allowed, as referred to in Rule 12 (3) of the Patent Rule, 2003, in respect of same or substantially the same invention filed in all the major Patent Office's such as USPTO, EPO and JPO etc., along with appropriate translation where applicable, should be submitted within a period of six months from the date of receipt of this communication as provided under section 8 (2) of the Indian Patents Act." This Model Letter fails to show the clear identity of "all the major patent office's".</p>	<p>- It is requested that Indian Patent Office will obviate the need for applicant's submission of information by activating the Trilateral (USPTO, EPO, and JPO) Dossier Access System.</p> <p>- It is requested that Indian Patent Office identifies the countries about which provision of information is required, should it continue the requirement for provision of information.</p>	<p>- The Patents Act "Section 8(2) Information and undertaking regarding foreign applications"</p> <p>- The Patents Act "Section 64 Revocation of patents"</p> <p>- The Patents Act "Section 8(2) Information and undertaking regarding foreign applications"</p> <p>- The Patents Act "Section 64 Revocation of patents"</p>
		(2)	Irrational/ Nebulous Requirement for Submission of Foreign Patent Application	<p>- Multi-National Enterprises (MNEs) bear the extremely heavy burden of having to cope with the need to protect IPRs in numerous countries, as certain countries continue to compel disclosure of the examination information such as the fact of foreign application and the result of examination, even today, when digitisation of patent examination information has made a fair progress for public disclosure. Due to the lack of clarity in the obligation imposed by each country, the risk of unintentional violation remains as a matter of concern into the future.</p>	<p>- It is requested that in light of advanced digitisation of patent examination information GOI:</p> <ul style="list-style-type: none"> <li>-- deregulates or repeals the disclosure obligation for foreign patent application or</li> <li>-- clarifies the details of such obligation.</li> </ul>	<p>- The Patents Act, Section 8, etc</p>
		(3)	Unique Requirement for Submission of Statement regarding the Working of the Patented Invention on Commercial Scale in India	<p>- Indian Patent Office (IPO) requires periodical filing of a Working Statement (W/S) regarding the commercial working of the invention in India (Form 27). This requirement, not found in any other countries, is quite burdensome, as it necessitates a special work in its preparation, requiring substantial cost and person-hours.</p>	<p>- It is requested that GOI repeals the requirement for submission of the periodical statement as the workload is quite substantial and burdensome to the patentees. It is neither clear how W/S is actively used by the IPO, nor is it identified the necessity for the current operation.</p>	<p>- The Patents Act, Section 146(2) "146. Power of Controller to call for information from patentees"</p> <p>- The Patent Rules 131(1)(2) "Form and manner in which statements required under section 146(2) to be furnished."</p> <p>- The Patents Act, Section 122(1)(b). "Refusal or failure to supply information."</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(4)	Ambiguous Legislative Provisions on Obligations for Home Country Application	- In emerging countries where growing needs for local development prevail, numerous countries continue to retain the legislative provisions on "Obligation to File Applications in the First Country (OFAFC)", however, without a clear-cut definition. It makes it difficult to protect IPRs effectively. Today when the R&D activities encompassing multiple countries are indispensable, the risk of infringement in plural countries is a matter of concern.	- It is requested that GOI: -- deregulates or repeals OFAFC or provides its clear-cut legislative provisions, or -- promotes deregulation for application of OFAFC requirements upon cross border R&D activity by agreements among plural countries, etc.	- The Patents Act, Section 39, etc.
	(5)	Concern over the System Design on Introduction Of Utility Model System	- It is said that introduction of Industrial Design System (IDS) is now positively under discussion, one of the reasons for this move being the backlog in the patent examination. Simplified examination under industrial design system is a matter of great concern, as it gives vent to advent of unstable rights, resulting in abuse of rights as well.	- Should GOI introduce IDS in fact, it is requested that GOI: -- compels submission of technical evaluation statement, -- clearly identifies the object of protection under Industrial Design Right (for example, restricting the right to form of a good, etc.).	
	(6)	Delayed Clampdown on Counterfeits	- After the clampdown and seizure of counterfeits, Police must submit to the Court the Charge Sheet. However, there are plural cases in which criminal prosecution has not begun after the lapse of more than 2-years from the counterfeits' seizure. It not only delays the solution of the case, but also makes it difficult for witness's court appearance. Moreover, timely procurement by negotiation between the parties of the source information becomes difficult.	- It is requested that Controller General of Patents, Designs, and Trade Marks (CGPDTM) takes step to establish the deadline for submission of charge sheet, such as within 1-year of Police Clampdown.	
	(7)	Inadequate IPRs' Protection in the Pharmaceutical Drug Sector	- Patent is not granted on numerous Pharmaceutical Drugs. Even if the Patent is issued, non-infringement judgement results from Patent Litigation. As it stands, hardly any Patent Protection can be hoped for.  - Counterfeit Pharmaceutical Drugs more often than not inflicts material health damage to patients, besides infringing upon IPRs (Patent Right, Trademark Right). Therefore, it is important to clamp down upon and keep the counterfeits out of reach of the patients. Counterfeits manufactured in PRC, India, etc. do not remain in the respective domestic markets. They widely infiltrate into the rest of the countries.	- It is requested that GOI: -- issues patents pursuant to Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) without regard to the field of technology or the place of production, domestic or import, and -- ensures rationality and transparency in establishment of Compulsory Licence.  - It is requested that GOI tightens clampdown upon manufacture/sales and export of Counterfeit Pharmaceutical Drugs.	- Patent Act, Article 3, and 84.
19	Industrial Standards, Approval of Safety Standards	(1) Mandatory Acquisition of Compulsory Indian Standard On Steel Products	- On 12 September 2008, Ministry of Steel (MOS) has made IS (Indian Standard) on 6-items of Steel Products, as Compulsory Standard, mandating its acquisition and marking prior to import and domestic distribution.	- It is requested that GOI repeals the measures, if not, clarifies/streamlines the procedure (including the exclusionary measures).	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- On 12 February 2009, MOS postponed by one year compulsory acquisition of IS on 8-items of Steel Products (including Half Finished Products, Thick Steel Plate, Zinc Plated Steel Plate, Tin Plate, Electromagnetic Steel Plate, etc., a reduction from the 11-items, originally scheduled.)</li> <li>- On 12 February 2010, out of the above-mentioned 8-items, MOS enforced Compulsory Acquisition of IS only on Zinc Plated Steel Plate (Specification No.277), while excluding the balance of the 7-items.</li> <li>- On 20 July 2011, MOS notified WTO its enforcement of its requirement for compulsory acquisition of IS on the 9-Standards, among others whose enforcement had been postponed till then.</li> <li>- On 10 September 2012, MOS classified the 9-Items (Second Order 2012) of Steel Products by Specifications (thickness, width, etc.) as of 12 March 2012 as being subject to Compulsory Quality Control Standard (CQCS). The enforcement date is from 12 September 2012 as scheduled, excepting a few Indian Standards and Specifications, whose implementation date is postponed to 31 March 2013 (as published on 17 October on Additional Amendment Regulation).</li> <li>- On 28 March 2013, MOS promulgated amended regulation, announcing postponement of enforcement until 1 October of 2013.???</li> <li>- On 7 August 2013, MOS promulgated Notification, excluding for 2-years application of CQCS on the 9-Items (Second Order 2012), which are used for a project (such as infrastructure) exceeding 10 billion Rupees.</li> <li>- On 1 October 2013, MOS promulgated Amended Rules, enforcing some of the IS's subject to Second Order 2012, while postponing enforcement on some until 1 April 2014, and announcing discontinuation of introduction for one IS (IS2831).</li> </ul>		
	(2)	Non-execution of Indian Standard	- Industrial Standards and Specifications are generally not enforced in India.	- Proper execution is required.	
	(3)	Grace Period is too Short for Enforcement of Safety Standard from Date of Promulgation	- While minimum 1-year start-up time is allowable in other countries from promulgating date of Safety Standards to implementation, GOI has granted only half-a-year (from 3 October 2012 to 3 April 2013) this time, inclusive of import, storage and distribution. Half-year start-up time is too short.	- It is requested that GOI ensure minimum 1-year from date of promulgation to implementation.	- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012
	(4)	Non-Acceptance of the CB Scheme Issued by Overseas Institutions	<ul style="list-style-type: none"> <li>- GOI would not recognise CB Report issued by Overseas Institutions. Moreover, it accepts CB Report issued within 3-months only.</li> <li>- The Safety Standard enforced from 3rd April 2013 somehow did not reach Japanese enterprises. Why GOI is in such a hurry to start implementation with such a severely demanding time limit against the opposition voiced also by the local Indian industries. Moreover, GOI intends to conduct new tests, instead of accepting CB Report. Why GOI refuses to accept CB Report?</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI:                             <ul style="list-style-type: none"> <li>-- recognises the CB Scheme issued by the Overseas Institution, and</li> <li>-- rescinds 3-months cap in acceptance of CB Report.</li> </ul> </li> <li>- It is requested that GOI accepts CB Report the same as other countries.</li> </ul>	- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012

Category	No	Issue	Issue Details	Requests	Governing Laws
	(5)	Unreasonably Only Applicant is qualified for filing Application for the Safety Standard Approval	- Safety Standard Application starts from 3 April 2013. By right, the applicant has been either manufacturer or importer. However, unlike other countries Order provides that the applicant must be manufacturer (factory). In the event production is assigned to another factory, it is not possible to file application as the assignee refuses to file application on behalf of a Member Firm.	- It is requested that GOI amends the order so that it allows manufacturer or importer to file application.#	- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012
	(6)	Irrational Product Safety Standards	- On 7 September 2012, Ministry of Communications and Information Technology promulgated Order, introducing Rules for 15-items of Household Electric Products, Electronic/Information and Telecommunications Equipment. It has been enforced since 3 January 2013, after two postponements. It provides for compatibility to Indian safety standard, marking of compliance, and model registration. However, due to the following problems, it remains impossible for the concerned parties to take substantive actions: -- While implementation begins in half a year after the publication date in Gazette of India, its publication date is unclear. -- Half a year for implementation from publication date of Gazette is insufficient to take proper action. -- Manufacturers/Importers are unable to take the requisite actions on goods already in distribution after the enforcement date. -- No grace period is provided when the standard renewal takes place to allow making the products compatible with the new standard and providing the new marking. -- The Indian Standard is not compatible with the latest International Standard. -- The validity of the Test Report (for not more than 90-days from the issuing date) is too short. -- Precise detailed procedures are unknown. -- Test Laboratory is restricted to BIS Authorised Test Laboratories in India. -- The shortage of human resources at the competent authority for the BIS Approval has caused the substantial delay in issuance of the Registration Certificate.	- It is requested that GOI: -- publicly announces the publication date in the Gazette (that specifies the enforcement date), -- provides the Grace Period of 1-year, -- applies the requirement only on products manufactured/imported after the enforcement date, -- provides 2-year grace period for each renewal of Standard, -- accepts the latest IEC Standard in addition to Indian Standard, -- removes the expiry requirement of the Test Report, -- recognises CB Certificate under IECEE, and -- provides the precise procedures of the system. -- simplifies the BIS registration work	- Gazette of the India, Extraordinary, Part 11, Section 3, Sub-section (ii) of dated 7.9.2012 - Order of Ministry of Communications and Information Technology
	(7)	Complex Obligations for Marking Advance Registration on Electronic Information Technology Products	- GOI compels advance registration and marking on the 15-items of home electric appliances and electronic equipment under the domestic safety standard in India. It is quite burdensome to manage the marking on the products, while the procedures are extremely complex. It is a matter of great concern that delays in the examination of registration procedures could cause hiatus of product supplies to the distribution for a certain period.	- It is requested that GOI simplifies the registration documents and the registration procedures.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(8)	Disclosure on the Web of the Registered Products, preceding the Products Release	- Simultaneously with the Product Registration, the Model Name is disclosed on the web. Disclosure of the new product name preceding the New Product Release Announcement means a fatal blow to the sales strategy.	- It is requested that GOI will keep the registration information confidential for a certain period if requested by the enterprise in concern, as they do in some other countries.	- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012 - Amendment Order, 2013
	(9)	Double Control and Disunity by 2-Different Certification Authorities	- Two Certification Authorities in the names of Bureau of Indian Standards (BIS) and Department Of Electronics & Information Technology (DeitY) implement the Certification Control, promulgating Notices, etc. on and off intermittently, showing up on the internet all of a sudden in the respective home pages, some of them escaping the attention of Enterprises in concern. Policies and views differ between BIS and DeitY, causing confusions in the industries in concern. (For example, please refer to "Irrational Marking Requirement" showing up in later pages.)	- It is requested that: -- DeitY that issued "Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012" integrates all future Notices, -- Should it become necessary for both BIS and DeitY to promulgate notifications, BIS and DeitY will integrate the opinions before releasing Notifications, -- BIS or DeitY discontinues intermittent release of notices. -- BIS or DeitY ensures to give an ample grace period.	- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012
	(10)	Inadequate Test and Registration Schemes	- GOI recognises only domestic test laboratories in India. Moreover, GOI does not accept CB Report. Due to the congested applications, a sudden halt on the registration work, etc., it takes several months to get the test report issued. Test Report contains numerous erroneous entries, which heavily burdens applicants for confirmation work. - Bureau of Indian Standards (BIS) requires applicants' scrutiny and correction on the Test Report. Moreover, due to the sudden interruption of registration work, etc., it takes a few months for completing the registration.	- It is requested that GOI: -- expands the test laboratories to include overseas laboratory, and -- accepts the CB Report.  - It is requested that BIS expedites the registration work.	- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012 - Amendment Order, 2013
	(11)	Ecomark Scheme and Issues in its Implementation	- The Ecomark Scheme embodies the following problems over its scheme and enforcement: -- design problems (the year mark on the label is too small), -- onus is upon manufacturers to collect or retrieve old labels, -- the scheme is premised on self-declaration (devoid of credibility), -- no standard is available for inverter air-conditioners, and -- the standard for window air-conditioner is less stringent by one rank than split air-conditioners. It is confusing to consumers.	- It is requested that GOI improves the Ecomark Labeling Scheme.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(12)	Irrational Marking Requirement	<p>- In early December 2013, BIS abruptly promulgated Labelling Requirement: "Self Declaration - conforming to IS.....", on product as well as on its packaging below or above the brand name" regardless of the product dimensions. It heavily burdens MFS.</p> <p>To begin with, the original requirement under "The BIS Rules, 1987" read: "Every Registered User shall display the words 'Self declaration -- Conforming to IS.....' on the article or packaging as the case may be, in a manner so as to be easily visible."</p> <p>In addition, FAQ issued by DeitY adds: "Registration number, besides Self declaration," while it also provides: "It is also okay to display the words on packaging at an appropriate location, in a manner readily visible".</p> <p>Notwithstanding this DeitY's FAQ, a separate requirement abruptly promulgated by BIS has upset and driven the industries into confusion.</p>	<p>- It is requested that BIS:</p> <ul style="list-style-type: none"> <li>-- employs the Compliance Mark, in lieu of Self Declaration clause and IS number, and</li> <li>-- repeals description of the precise marking location.</li> </ul>	<ul style="list-style-type: none"> <li>- LABELLING REQUIREMENT</li> <li>- The Bureau of Indian Standards Rules, 1987</li> <li>- FAQ on "Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012"</li> </ul>
20	Monopoly	(1) Monopoly in Cargo Handling Business at Airports	<p>- Airports Authority of India (AAI) de facto monopolises the air cargo handling business at Indian Airports. No price negotiation is possible because there is no competitor.</p> <p>=&gt; Outsourcing Airport Warehouse operation has made a fair progress, however, not to the extent, whereby individual enterprises may freely negotiate the tariff rate. (It is the same with other countries.)</p> <p>- It is different for the importers to negotiate charges (to cut down the tariff) as cargo handling is exclusively monopolised by a single firm (AAI: Airport Authority of India).</p>	<p>- It is requested that GOI liberalises air cargo forwarder business at all Indian airports, domestic and international, to enable price competition and diversify the air transportation routes connecting all local and international airports with maximum efficiency</p>	<ul style="list-style-type: none"> <li>- India Competition Act, 2002</li> </ul>
21	Restrictions on Land Ownership	(1) Unestablished Scheme for Landownership Management	<p>- The history of the landownership transfer has not been maintained so that plural Sales and Purchase Agreements exist for a single property.</p> <p>- Building registration in the strict sense does not exist so that ownership alone passes from one party to another without identifying the building.</p> <p>- Due to the non-existence of Cadaster, a Public Register showing the details of ownership and value of land, GOI tends to yield to the contention of the landowner. A Shrine owner, adjoining the MFS factory land property, asserts its ownership, assaulting MFS's employees with a grub hoe in hand. A Japanese affiliated firm next door has abandoned its ownership for the Shrine plot.</p>	<p>- It is requested that GOI structures the administrative system for ownership of land and buildings.</p> <p>- It is requested that GOI overhauls the Cadaster.</p>	
22	Environmental Pollution and Waste Disposal	(1) Inadequate Environmental Registrations and Execution of Wastes Disposal	<p>- In India, implementation on Environment Control and Waste Disposal is insufficient.</p>		
		(2) Nebulous, Delayed Acquisition Procedures for the Environmental Clearance	<p>- Upon factory construction in India, Grant of Prior Environmental Clearance (EC) is the prerequisite condition for issuance of building licence, etc. and other licences and approvals, despite the fact that EC by right is a separate legal system with no link to factory construction. Pending acquisition of EC, all applications are suspended for licences and approvals in regard to the factory construction.</p>	<p>- It is requested that MEF</p> <ul style="list-style-type: none"> <li>-- abridges the lead-time for initiation of the construction work, by allowing separate application procedures for licence and approvals individually,</li> </ul>	<ul style="list-style-type: none"> <li>- Ministry of Environment &amp; Forests Notification S.O.1533, Article 8 (iii)</li> </ul>

Category	No	Issue	Issue Details	Requests	Governing Laws
			In July 2011, after replacement of the Minister of Ministry of Environment & Forests (MEF), the Regulatory Authority, there was a delay for more than 5-months in issuance of licences on more than 100 projects, including an application filed by one of the Member Firms. It resulted in the total rescheduling, materially affecting the Member Firm's project. MEF Notification S.O.1533 under "Article 8. Grant or Rejection of Prior Environmental Clearance (EC) in paragraph (iii)" provides: "In the event that the decision of the regulatory authority is not communicated to the applicant [within 45-days], the applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned." However, in anticipation of the forthcoming long-term relationship with MEF endowed with the most powerful practical authority, presiding agencies would not advance the procedures, effectively voiding the "deemed EC" provision.	-- advances steadfastly the routine procedures for licences and approvals under EC unaffected by the replacement, etc. of the Minister, and -- makes the "deemed EC provision of the Notification" effective so that the projects may advance, regardless of any delays in the EC procedures.	
	(3)	Aggravated Atmospheric Pollution	- Atmospheric Pollution gets worse year after year. The news has not reached Japan hidden by the reported conditions about PRC. The pollution in India is even worse than it is in PRC.	- It is requested that GOI introduces controls on car emission, car ownership, etc.	
23 Inefficient Administrative Procedures, Regimes and Practices	(1)	Complex Administrative Procedures	- Generally administrative procedures are complex, vertically compartmentalised with the remotest idea of improving its service to the public. In the international perspective, it appears that Indian government's position against the public is stronger than that of any other governments.		
	(2)	Complex, Delayed Procedures for Administrative Permits and Licences	- A Member Firm was compelled to wait for nearly 2-weeks to receive the Notification after the Examination Committee's confirmation of the allotment of the land property for the new factory, due to the postal problems. In addition, due to the leave of the responsible person, the examination itself has delayed by more than 1-month, affecting the total plan for the project. - It takes too much for a Member Firm to obtain RBI's Licences and Approvals, related to investment into India from Japan. Acquisition of Expatriates' Visa, and Residence Permit are so complex so that it is almost impossible to get them without the employment of agencies.	- It is requested that Examination Committee will make its decision immediately after the Examination Meeting, prepare Minutes of the Meeting, and sign the documents (for approval or disapproval of) the project.	
	(3)	Complex Rules, Regulations, and Procedures	- The following are some of the problems concerning Rules, Regulations, and Procedures in India: -- Unidentified windows (where to file applications, etc. are unknown), -- Complex decision making processes, too many, -- Depending upon business scale, Competent authority moves from Central Government to State or vice versa. Furthermore, Matters under the State Jurisdiction can be consigned to the Central Government or the authority shifts between the central and state authorities, -- It is time consuming to obtain licences and approvals, -- Schedule changes are frequent for meetings, the monthly meeting for approvals can be postponed due to the absence of the senior executives, etc.,	- It is requested that GOI: -- further clarifies and simplifies for the procedures concerning Licences and Approvals. And -- cuts down the time required for the issuance of Licences and Approvals.	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>-- Consultancy service is necessary to complete all these procedures. [Rules and Registrations, Matters Requiring Application]</li> <li>-- Environmental Application</li> <li>-- Environment No Objection Certificate (NOC)(Consent to Operate) from Ministry of Environment and Forests</li> <li>-- Building Construction Application</li> <li>-- Building Approval (Building to Land Ratio, Waste Disposal System, etc) and confirmation of technical safety based on National Standard</li> <li>-- Fire Defence, Application for use of hazardous goods, and on-site inspection</li> <li>-- Application for Factory Operation Permit</li> </ul>		
	(4)	Disunity of Requisite Application Documents for Licences and Approvals, Arbitrary Demand for Document Production	- Depending upon the government employee in charge, the details of the requisite documents vary in each submission so that preparation of new sets of documents or amendments become necessary, doubling or tripling the workload.	- It is requested that GOI identifies expressly in writing the requisite documents.	
	(5)	Complexity of the "Signature" Culture	<ul style="list-style-type: none"> <li>- GOI requires signature on each page of all documents of hundreds of pages upon filing application for licences and approvals. So long as the signature is on the documents, it seems no check is made about the authenticity of the signature on the documents.</li> <li>- While GOI has introduced accepting in some cases electronic filing of application documents, GOI requires printout of all pages, which must be stamped and signed on each page by the applicant. It increases unnecessary waste all around.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI streamlines the signature requirement.</li> <li>- It is requested that GOI accepts the electronic filing of application as full and complete submission of the requisite application documents.</li> </ul>	
	(6)	Shortage of Coordination by and among Ministries and Agencies	- Due to the bureaucratic sectionalism, the same set of documents must be submitted to all relevant Ministries and Agencies. It takes a lot of workload.	- It is requested that Ministries and Agencies share information to each other.	
	(7)	Nebulous Decision of the Stamp Duty Amount	- The local judge decides the stamp duty amount without showing any clear classification basis upon purchase of the land property. While the purchaser is unhappy about the huge amount of the stamp duty, it has no alternative but pay the amount willy-nilly.	- It is requested that GOI takes steps to show expressly the classification basis of Stamp Duty into legislation.	- Stamp Duty under Lease Deed.
	(8)	Reporting Requirement to BIS on the Domestic Cargo Movement	- Under the BIS (Bureau of Indian Standards) Scheme, BIS requires reporting of all Intra-Inter State Cargo Movements.		

Category	No	Issue	Issue Details	Requests	Governing Laws	
	(9)	Complex, Delayed Permit to Establishes and Operate Factory	- Legislation on Factory Operating Licence requires substantive negotiation in minute details on all matters. (It has taken a lot of time with the competent authority to discuss about the minute details on unrealistic issues, such as the regulation on the shower room, the seating capacity of employees' canteen, etc.)	- It is requested that GOI improves the Scheme and Process of Business Licence.	- BA (Application for Building Confirmation) - CTO (Acquisition of Operational Licence)	
	(10)	Nebulous RBI licences and approvals	- Attorneys' opinions differ on RBI licences and approvals. It is beyond reasonable predictions. The outcome cannot be ascertained beforehand, not until application is filed. It also consumes much time.			
24	Indigested Legislation, Abrupt Changes	(1)	Inadequate Delisting Rules	- A Firm established in India its subsidiary, which is listed due to the prevailing circumstances upon entry. It is difficult to delist such enterprise. In the event of delisting, the seller must be ready for risking the share prices to soar, since in India, public shareholders determine the selling prices. Such practices are not found in any other countries. In effect, it is costly to maintain the listed status, obstructing flexible and prompt actions for business reorganisation and effective management of group enterprises. The delisting rules remain unchanged by the 2009 amendment of the Delisting Guidelines. On the other hand, the means are not streamlined in India to force out the public shareholders for reasonable consideration. (There is no readily available means, to say the least.) Thus, even after delisting, there remain many public shareholders to the detriment of optimising the efficiency in corporate governance.	- It is requested that GOI: -- amends the delisting rules to make them more flexible (in the manner comparable to TOB rules in leading countries), and -- streamlines the Act in the way that facilitates conversion of MFS into a fully owned subsidiary.	- Securities and Exchange Board of India (Delisting Of Equity Shares) Regulations, 2009
	(2)	Opaqueness in Implementation of Laws and Taxation System	- Legislative and taxation systems are quite complex, varying by each region, In addition, judgement in implementation varies by persons in charge.	- It is requested that GOI takes steps to overhaul legislation and taxation systems and to ensure transparency in their implementation.		
	(3)	Inadequate Implementing Rules and Regulations	- Not only on purchase of land property, the legislative provisions are opaque while the actual operation left to the work front. Even legal experts prevaricate their views in many occasions. Administration accordingly acts in a manner disadvantageous to the party, at times demanding returns.	- It is requested that GOI issues notifications, etc. on legislative provisions to avoid questions on legal interpretation from arising.		
	(4)	Nebulous Preparation of the System Accompanying Introduction of New Company Act	- New Companies Act is due for enforcement in April 2014. Depending upon its implementation, enterprises must take responsive actions, that necessitates incurring cost and work-time for revisions of the enterprises' provisions over the issues such as, Transfer Price Taxation System, Fiscal Year, Depreciation, Auditor, Corporate Social Responsibility, etc. - New Companies Act, which would not get passed over many years of deliberations, suddenly was carried at the Diet. There is no denying that discussions have not yet been exhausted at the Competent Ministries and Agencies and at the Working Level alike, clarification in detail is hoped for by Decree, etc. that follow hereafter. However, there has been no announcement of the substantive schedule, frustrating the formulation of the new business plan that reflects the consequent amendments of legislative provisions under the New Companies Act.	- It is requested that GOI streamlines the systems and simplifies the modification procedures.  - It is requested that GOI clarifies, to the maximum extent possible, the precise details of the kind of Decrees to be promulgated and the time-line for their preparation and implementation.	- Companies Act - Companies Bill, 2013  - Companies Act 2013	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(5)	Foreigner Regional Registration Office (FRRO)	- Member Firm's subsidiary incorporated in India (MFS) changed its company name, and MFS filed request to change the foreigner registration for its expatriate under the new company name. FRRO decided against granting the request for change. It has become necessary for the expatriate of MFS to go back to the square one, by renewing application for the Entry Visa to India.	- It is requested that FRRO responds more flexibly to the request for change in foreigner registration.	- FRRO
	(6)	Inadequate Guidelines for the New Law on The Sexual Harassment of Women at Workplace	- The Law on the Sexual Harassment of Women at Workplace is devoid of substantive, concrete details of implementation. No practical guidelines are given.	- It is requested that GOI provides practically enforceable guidelines to enhance the effectiveness of the new law.	- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
25	Government Procurement	(1) Lack of Information Concerning Government Procurement	- Information is scarce concerning the following issues: (1) Government Procurement Guidelines, and (2).Preferential Measures in favour of domestic electronic products.	- It is requested that GOI confirms and provides the latest information on Government Procurement.	
26	Others	(1) Inadequate Logistics Infrastructure	- Due to its poor quality, the asphalt pavement is washed away with the deluge in the rainy season and it goes back to the square one bumpy road. - On rainwater and sewerage, one-hour of heavy deluge turns the road into a river, with the resulting hygienic problems, as well. => While overhauls for arterial roads have made a fair progress, not much change has taken place overall. - Despite the total volume increase of import volume, expansion lags behind as regards infrastructures at ports, and cargo railway stations (hardly catching up with the increased cargo volume). Ports congestions regularly occur, materially disrupting the sales and distribution. - The congestions in the port facilities get in the way of timely completing customs clearance of import cargoes.	- It is requested that GOI overhauls the public roads.  - It is requested that GOI overhauls the ports and the cargo railway stations.  - It is requested that GOI: -- improves the congestions under its direction, and -- overhauls the environment for attracting foreign investment.	
		(2) Shortage of Electric Power Supply	- Chronic power shortage prevails. There are hardly any areas where the quality of power supply is fit for factory operation.  - Underlying structural problems seem to exist, i.e., politically decided electricity bill, subsidies, loss making power generation company, increase in volume of power supply to power company, ineffective incentives, (while foreign capitals are withdrawn). Unless something is done in these vicious cycles, a sweeping reform cannot be hoped for. - Up and down swing of power supply voltage is unusually high, damaging a number of electric appliances.	- It is requested that the power supply company improves quality of its power supply.          - It is requested that the power supply company improves quality of its power supply.	- National Electric Policy

Category	No	Issue	Issue Details	Requests	Governing Laws
			- Blackouts are extremely frequent.	- It is requested that GOI: -- gives guidance for improvement, and -- overhauls the environment for investment	
	(3)	Under-developed Downstream Industries	- MFS, manufacturing finished products in India faces difficulty in increasing the local contents, due to the paucity of the downstream industries, such as electronic parts. - Scarcely few local suppliers are not capable of manufacturing high precision materials and parts that can be used for production of high-level energy saving products. - MFS has no alternative but to rely on imports to fill its needs for electronic parts, high precision machined aluminium/copper products, DC motors, etc. - Due to depreciation of Rupee, the costs of import materials and parts have sharply gone up. Such increased cost cannot be passed on to the price of the final products and materially affects the MFS operation.	- It is requested that GOI enriches its programme for fostering and supporting the downstream local industries.	
	(4)	Non Cargo Arrival Shipped by EMS	- A Member Firm experienced cargo returns (with 'Non-Arrival at Destination' Note) for a few times, shipped as small cargoes by EMS (International Courier Service by Japan Post Co., Ltd.) to its customers in India and Turkey. Member Firm has switched to DHL and TNT capable of solving non-arrival problems at increased cost, but it wishes to avoid the switch, as it results in increased cost to end users.	- It is requested that Japan Post Company expands its EMS service area.	

Issues and requests relating to foreign trade and investment - Indonesia

	Category	No	Issue	Issue Details	Requests	Governing Laws
1	Restrictions on Entry of Foreign Capitals	(1)	Cap on the Rate of Foreign Capital Contribution	- A Member Firm, investing in an engineering company in Indonesia for Water Treatment Equipment in the category of Construction Sector, is unable to increase readily its capital for business expansion, due to the foreign investment cap of up to 67% specified in the Negative List.	- It is requested that Government of Indonesia (GOI): -- takes account of the effect of the Member Firm's contribution to this date toward environmental improvement by its grant of technology, and -- deregulates or repeals the foreign capital investment in this business sector.	- Presidential Regulation No. 36 of 2010 On List of Business Fields closed to Investment and Business Fields Open, with conditions, to Investment promulgated on 25 May 2010 - Foreign Investment Law Negative List (2010 Regulation No.36)
		(2)	Performance Requirements upon Foreign Funded Construction Enterprises	- Member Firm is engaged in provision of Plant Construction of various kinds abroad. Minister of Public Works Regulation No. 28/PRT/M/2006 promulgated on 28 November compels establishment of Foreign Construction Service Representative Office (MPWRO), and formation of a joint operation with an Indonesian Domestic Construction Company licenced for Construction Business. It is clearly understood that the thrust of this Regulation is to protect the domestic construction business, as well as to improve skills of the domestic workers, etc. However, construction work forms only a part of the commitment under the Plant Construction Project that requires a coherent performance from design/manufacture of equipment, procurement, transport, to on-site assembly/installation.	- It is requested that GOJ exchange dialogues with GOI so that GOI takes steps to exempt from application of this Regulation, Foreign Funded Enterprises exclusively dedicated to contracting construction work.	- Minister of Public Works Regulation No.28 of 28 November 2006
		(3)	Compulsion of Divestment	- Article 7 of Government Regulation No. 20/1994 compels Solely Foreign Owned Enterprises (SFOEs) to divest a portion of their shares to Local Individuals/Local Legal Entities within 15-years maximum from the Commercial Production Start. However, the validity of the Regulation (namely, if this Regulation is valid after the enforcement date of the 2007 New Investment Act) is uncertain. On 11 September 2013, as partial amendment of BKPM Directorate General Regulation No.5/2013 (hereafter, No.5) implemented since 27 May 2013 concerning Investment Procedures, BKPM Directorate General implemented Regulation No.12 /2013 (hereafter, No.12), which has been enforced since 18 September 2013. No.12 has eliminated No.5 Article 108.5(5) ("In the case of an investment company that already executes its divestment obligations pursuant to the Instrument of Approval prior to the effective date of this Regulation and/or Business Licence that already provides for Divestment Obligations, the share ownership by an indigenous Indonesian individual and/or an Indonesian legal entity shall remain the same.") Enterprises that have already transferred shares to Indonesian shareholders (in the amount more than the amount corresponding to 10	- It is requested that GOI: -- repeals the Ordinance, in as much as the thrust of the rule is ambiguous, and -- clarifies at least the rules in regard to its validity, concrete guideline, and operation.	- Government Regulation No. 20/1994 (BN No. 5566 pages 1A - 6A) Chapter 7 On Share Capital Ownership of Companies established under Foreign Capital Investment Act - BKPM Directorate General Decree No.5 of 12 April 2013, Article 108

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>million rupiah) shall observe the rules under the Foreign Capital Negative List, namely, indirectly implying unless in the Restricted Sector, such Foreign Enterprises may resume the 100% foreign share ownership by repurchasing the sold shares, (provided, however, that it does not exempt satisfaction of the Foreign Capital 15-Years Rule under No.5 Article 108.1). Consequently, it has become possible to repurchase the shares once transferred to Indonesian shareholders (employees, etc.) for Foreign Funded Enterprises to resume the 100% foreign share ownership. However, details are undisclosed, and it remains uncertain if the purchasers can be located under such terms and conditions.</p> <p>- Article 7(1) of Regulation No. 20/1994 of BKPM Directorate General provides: "A Fully Foreign Owned Enterprise shall divest a portion of its shares within 15-years maximum by selling directly to Indonesian nationals (including an ex-Japanese, who acquired the Indonesian nationality through marriage with an Indonesian) and/or via the domestic Capital Market (by listing in the Stock Exchange Market) after the commencement of the Commercial Production under IUT (Permanent Business Licence) or IUI (Industrial Business Licence).</p> <p>On the other hand, "Regulation No.5 /2013 of BKPM Director General promulgated on 8 April 2013 and enforced since 27 May 2013", provides under Article No.108, the obligations of the Wholly Foreign Owned Enterprises (so called Foreign Financial Capital, namely, PMA= Penanaman Modal Asing) that had received the Licence for Establishment and Approval for Investment, prior to the implementation of the New Investment Law promulgated on 26 April 2007, to discharge their obligations for divestment of the shares to Indonesian shareholders and legal entities, so called "the Foreign Capital 15-Year Rule", within 15-years of the commencement of their businesses operation. Furthermore, as a partial amendment of this Regulation, BKPM Directorate General promulgated Regulation No.12/2013 of 11 September 2013 (hereafter, No.12), which was enforced from 18 September 2013. In effect, No.12 deleted the provisions under Article 108(5) of No.5, ("In the case where Investment Company (IC) that had already discharged the divestment obligations as stipulated in the Letter of Approval and/or Business Licence prior to the enforcement date of this Regulation, in so far as IC continues its manufacturing/business operation, the share-ownership of the Indonesians or Indonesian legal entities shall remain unchanged"). In a nutshell, No.12 enables repurchase of the shares owned by Indonesians and/or Indonesian legal entities, and approves 100% foreign capital ownership, provided, however, that it requires extremely complex procedures that require purchase and repurchase of the shares.</p>	<p>- It is requested that GOI takes steps to repeal all legislative provisions concerning the Divestment Requirement on Foreign Capitals. (It is meaningless.)</p>	

Category	No	Issue	Issue Details	Requests	Governing Laws	
	(4)	Compulsory Transfer of Interests to Indonesian Participant in Production Sharing Project	- GOI compels foreign investors to transfer 10% Interests to Indonesian Participant (IP: Indonesian Participating Enterprise). The transfer of 10% Interests (TIIP) in a project suggests problems on the Project Financing, including without limitation, dwindled project financial composition and increased interest cost (due to the participation by Indonesian enterprises with a lower financing capability or credit standing). GOI is responsible for nominating the Indonesian enterprise, the recipient of the 10% Interests. However, GOI fails to make the nomination, past the due date. The delay in nomination can jeopardise formation of the sound financial composition and other plans for the project.	- It is requested that GOI: -- takes steps to give flexibility to TIIP or -- provides financial guarantee on account of the Indonesian Participants.	- The Production Sharing Contract (PSC)	
	(5)	Delays in the Share Acquisition by the Local Legal Entity	- Relative to the Share Acquisition by a Foreign Funded Enterprise, in addition to submission of the Sale and Purchase Contract, examination is necessary by plural competent authorities. It takes time from application date to final approval in some cases.	- It is requested that GOI takes steps to expedite the procedures for the approval of the competent authorities.		
	(6)	Compulsory Cap on Coal Production Volume	- GOI directs each coal producer, responsible for supply to the domestic market, to submit production plan to enable GOI to grasp and adjust the production volume in each year. It seems consultation has taken place in the past years between GOI and the coal producers: the theme of such consultation, however, has been limited to the extent of production plan. A Member Firm gathers, this time by its notification, GOI has tightened its pressure for observance of the cap on the production volume for the year 2014. This is a matter of concern as it interferes with free production/ distribution of coal and could develop into the binding governmental order in the end.			
2	Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	(1)	Tightened Compulsion of the Local Contents Achievement	- Implementing Regulation concerning Procurement of Goods and Services on Upstream Oil and Gas Businesses was amended. The Amendment includes tightening of local content requirement (minimum 25% on goods and 30% on services) and of procurement procedures, etc., forcing increased cost to enterprises related to government procurement.	- It is requested that SKKMigas (supervisory institution) will flexibly deal with Goods and Services, which are difficult to procure locally.	- BPMIGAS (The Upstream Oil and Gas Executive Agency) Procurement Guideline (Amendment To PTK-007 Rev. 2)
		(2)	Tightened Compulsion of Domestic Supply on Products	- GOI has tightened its compulsion of domestic supply (for more than 25% of the total production) of products (particularly gas). GOI's measures can affect the volume of products available for export.	- It is requested that GOI: -- ensures sufficient consultation on the domestic supply of the products with the business concerns to avoid interference with the long-term Purchase Agreement with overseas purchasers, and -- pays a careful attention to the competitive pricing of the domestic products to assure economy and in such form and manner as would not interfere with propulsion of the project.	- Constitutional Court Decision - Ministerial Decree No.55 [2009] - Ministry of Energy and Mineral Resources Order No.3 [2010] (Bill for New Oil and Gas)(unpromulgated)

Category	No	Issue	Issue Details	Requests	Governing Laws
8 Investment Recipient Organization	(1)	Nebulous Nature of the Import Duty Exemption Scheme as Preferential Measures for Investment	- Implementation basis is absent and nebulous regarding the scheme of "The Exemption of Import Duty on Imported Machines, as well as Goods and Materials for The Building or Development of Industries in The Framework of Investment". It disables reflection of the expected profit from the import duty exemption (12.5%) in the pricing of the relevant products to the purchaser entitled to import duty exemption.	- It is requested that GOI secures transparency in processing the new application for the Import Duty Exemption to purchasers of Member Firm's Subsidiary (MFS) that serves as domestic supplier, by ascertaining its supply policy in regard to the applicable quantity for the eligible products in the allocated quantity, which can be monitored without fail.	- 176/PK011/2009-Financial Ministry (BKPM) - 19/M-IND/PER/2/2010-Industrial Ministry - 69/M-IND/PER/7/2011-Industrial Ministry
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Abrupt Raise of Import Duty	- Import levy abruptly announced in December 2010, was implemented from January 2011. 5% import duty is levied on printers.	- It is requested that GOI provides sufficient and adequate explanation.	
	(2)	Excessive Import Duty Levy	- Since 2013, GOI has raised Import Duty to 28.1% for certain Finished Vehicles (2000cc~2500cc), which had been 20% up to the end of 2012. It has resulted from the mishandling in the Joint Work at the end of 2012 for the Tax Rate Determination between GOI and GOJ. While GOI, it is said, appreciates the circumstances, no correction has resulted.	- It is requested that GOI corrects the Import Duty Rate at once.	- Import duty law from Ministry of Financial No. 8862
	(3)	Lopsided Import Duty Rates between Parts and Finished Products	- Import Duty is Zero on Construction Equipment. However, Import Duty is levied on Certain Parts for manufacturing Construction Equipment. Despite the MFS contribution by investment into equipment, promotion of employment, acquisition of foreign currency from export, payment of business tax, etc, the Higher Import Duty levied on Parts debilitates competitive edge for MFS's Domestically Manufactured Construction Equipment.	- It is requested that GOJ and GOI reopen negotiation for Japan/Indonesia Economic Partnership Agreement (incorporating Tariff Reduction in stages). No development has taken place despite the proposal made by HINABI, Association of Heavy Equipment Manufacturers of Indonesia.	- Japan/Indonesia Economic Partnership Agreement - Change in HS Code by GOI
	(4)	Quantitative Restrictions of Finished Products	- Two kinds of Import Licences are available, API-P (Import of Raw Materials for Production) and API-U (import goods for general application). However, one firm cannot get both Licences issued. Thus MFS in manufacturing business is unable to import into and sell in Indonesia products manufactured by its overseas manufacturer of the same group. Freedom is restricted for mutual complementary production between MFS in Indonesia and its other factories within the same group. - While Import Licence granted to manufacturing entity applies to import of raw materials and work in process, it but does not apply to import of finished goods. Some has set up separately sales company to import finished products. Due to the strong industry's complaints lodged against this rule, restricted only to complementing products, it has become possible to import them by filing notification to the competent authority to get the licence issued. However, acquisition of the licence for new models destined to domestic distribution, it takes a lot of time to receive the licence.	- It is requested that GOB takes steps to enable MFS's import under API-P of finished products, by making available to MFS both API-P and API-U.	- Customs Law (November 2006)

Category	No	Issue	Issue Details	Requests	Governing Laws
	(5)	Provisions Restricting the Import of Lubricants	- Member Firm owns Water Treatment Plant Engineering Company (WTPE) that imports and supplies to its domestic customers Centrifugal Dehydrators imported from abroad as one of the constituents of the System delivered to customers. After delivery and during the product maintenance, for purpose of maintenance, WTPE receives request for purchase of lubricants for which no licence is necessary when imported as one of the constituents of the System. However, NPT (Nomor Pelumas Terdaftar=Registration No. for Lubricants) is necessary for import of lubricants alone, which can be imported only by IP (Importer/Producer). WTPE faces difficulty in providing proper product maintenance service to its customers.	- It is requested that GOI takes steps to repeal the restrictions for import of lubricants used for express purposes of product maintenance for the products procured abroad.	- Decision of Minister of Industries & Trade No. 233/2001 (233/MPP/KEP/7/2001)
	(6)	Interpretative Differences of HS Classification between PRC and Indonesia	- A Member Firm is unable to enjoy FTA benefits due to the differences in interpretation of Customs Classification between PRC Certificate of Origin Issuing Institution and Indonesian Import Customs.	- China customs classify Air-Conditioner Indoor Unit as Finished Products even without its Matching Outdoor Unit.	- Form E
	(7)	Difficult Use of Third Country Invoice under FTA	- A Member Firm is unable to exploit ACFTA due to the difference of views over the price description requirement between PRC COO Certification Institution and Indonesian Import Customs. - Since January 2010, ASEAN-PRC FTA has removed substantial import duty, provided, however, that as regards Indonesia, FTA does not apply to Triangular Trade via Third Country so that the original duty applies in such case, whereas, Thailand, Vietnam, etc. do apply FTA reduced import duty to the trade via Third Country as well. Since October 2011, pursuant to Indonesian Customs Authority Notification, customs clearance under the FTA duty rate has been made possible. The Firm has begun applying the FTA duty rate starting from the November 2011 shipment ex-PRC Factory. However, the Form E issuance status remains unstable as to PRC CIQ, where 80% of Form E issuance is rejected by CIQ. As regards the documents on Import Customs Clearance, GOI requires description of the Import Invoice Amount on Form D/E that differs from the Ex-Factory Amount so that documental issuance can be made only after shipment of goods from the factory. In case shipment is made from countries closer to Indonesia, goods arrive at the destination earlier than the documents from time to time. As a result, much time is wasted for customs clearance.	- It is requested that GOI accepts Form E prepared by a factory in PRC using a 3rd Party Invoice. - It is requested that GOJ negotiate with GOI for it to: -- deregulate the confirmation requirement to level with other ASEAN Member States, as MFS has assigned a staff solely devoted to checking the Documents related to customs clearance with the Customs Authority before issuing Form D in order to minimise the customs clearance delay, and -- obviate the need for the amount description at least as regards Form D/E. "The IV No. for Importer" described on the Documents for importer, separately submitted would dissolve the problems.	- Form E
			<b>(Actions)</b> - On 27 August 2012, AEM approved the Recommendation for Repeal of the F.O.B. Price Description Requirement on Form D at the ASEAN Economic Ministers (AEM) Conference and at the 26th AFTA Council, targeting Approval in February 2013 and Enforcement by Mid 2013. As of 17 January 2014, it remains rejected.		

Category	No	Issue	Issue Details	Requests	Governing Laws
	(8)	Variances by Countries on Application of AFTA Tariff Preferential Measures	- Member Firm's Subsidiary (MFS) imports goods under AFTA Tariff Preferential Measures. In last December GOI levied Import Duty on account of discrepancy in HS Code on goods normally entered under AFTA Tariff Preferential Measures. (No other ASEAN countries have ever levied full import duty under the same conditions.) Other firms contacted are of the view that this could be a GOI's retaliative measure taken by Vietnamese Government on imports from Indonesia under similar circumstances.	- It is requested that AFTA within the ASEAN Area is implemented equally without any difference from one country to another.	
	(9)	Abuse of Antidumping Measures	<p>- On 24 June 2011, GOI initiated Antidumping Investigation on Cold Rolled Steel From 5-Countries/Areas, including Japan, ROK, ROC, PRC and Vietnam.</p> <p>- On 19 March 2013, Ministry of Finance made Final Determination of Dumping Finding levying, for 3-years, Dumping Duties in the range of 5.9% to 55.6% against all 5-subject countries, in total disregard of the Japanese respondents' contentions of "No Injury" to the Indonesian Domestic Industry, namely, "Although no distinction is made on HS Code Commodity Classification, most Cold Rolled Steel Plates imported from Japan are destined for use in Automotive, Electric/Electronic Products Manufacturing Industries, distinctively different in both quality and supply volume from the Cold Rolled Steel Plates Domestically Manufactured in Indonesia."</p> <p>- On 19 March 2013 Anti-Dumping Committee of Indonesia, Ministry of Commerce (KADI) released antidumping duty levy on cold rolled steel coils and sheets (CRC/S) imported from Japan, PRC, ROK, Vietnam and ROC. As to Japanese steel manufacturers, 18.6% and 55.6% antidumping duties apply in total disregard of the Japanese respondents' contentions of "No Injury" to the Indonesian Domestic Industry, namely, most Cold Rolled Steel Plates imported from Japan are destined for use in Automotive, Electric/Electronic Products Manufacturing Industries, distinctively different in both quality and supply volume from the Cold Rolled Steel Plates Domestically Manufactured in Indonesia.</p>	<p>- It is requested that GOI:</p> <ul style="list-style-type: none"> <li>-- revokes the Antidumping Measures, or</li> <li>-- sets in place Exclusionary Measures.</li> </ul> <p>- It is requested that GOI repeals the antidumping determination (and applies the antidumping measures by reflecting the reality.)</p>	- Regulation No. 34 Antidumping Law
	(10)	Abuse of Safeguard Measures	- Since 2011, GOI has invoked Safeguard Measures on Multiple Steel Products. Precisely, on Wires (beginning the levy of additional duty ("the Levy") from 23 March 2011), on Steel Wires (beginning the Levy from 20 November 2012), and on Seamless Steel Wires for Excavation of Oil/Gas (beginning Investigation/ Levy from 6 August 2013), and on Unalloyed Aluminium, and Zinc Plated Steel Plate (beginning Investigation from 19 December 2012). While it seems these measures are intended to curb import surge from countries other than Japan, it does involve Japan. It interferes with the Japan's effort to maintain a stable international trade environment.	- It is requested that GOI discontinues abuse of Safeguard Measures.	- Government Regulation, No. 34 of 2011 Concerning Antidumping Measure, Countervailing Measure and Safeguard Measure

Category	No	Issue	Issue Details	Requests	Governing Laws
	(11)	Delays in Customs Clearance Procedures	<ul style="list-style-type: none"> <li>- In regard to import of instruments, equipment, etc. (Equipment), the requisite documents, requirements, etc. vary by the customs official in charge in contents and in kinds on an Equipment, which is identical to the one previously imported.</li> <li>- As it stands, it takes 1 to 2-months for completing customs clearance on cargoes shipped by sea, causing problems in business operation.</li> <li>- A lot of time is necessary for import customs clearance, impacting production schedule at factories. Uncertainty in customs clearance procedures defies calculation of the exact schedules all around.</li> <li>- Some customs clearance delays are caused by the absence of customs personnel, etc.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI takes steps to prepare guidelines, clarifying the requisite documents and other requirements.</li> <li>- It is requested that GOI cuts down the time required for completing the customs clearance.</li> <li>- It is requested that GOI streamlines the customs clearance procedures.</li> <li>- It is requested that GOI streamlines the customs clearance procedures.</li> </ul>	
	(12)	Duplicated Export/Import Customs Clearance Procedures	<ul style="list-style-type: none"> <li>- MFS has completed setting in place Electronic Data Interchange (EDI) System for Customs Clearance. Nevertheless, GOI requires filing of application by paper documents as before in parallel, including the double charge of the application fees.</li> </ul>		
	(13)	Vexatiously Complex and Delayed Customs Clearance on Expatriates' Duty-Free Import	<ul style="list-style-type: none"> <li>- Now that GOI requires submission of the original KITAS (Stay Permit) and IMTA (Work Permit), it takes more than 1-months after arrival of the expatriate for customs clearance of the personal effects.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI deregulates the requirements set forth in the left column.</li> </ul>	
	(14)	Increased burdens due to Introduction of Pre-Shipment Inspection	<ul style="list-style-type: none"> <li>- Indonesian Customs, after the manner similar to other countries, has adopted Red/Yellow/Green Lanes in its customs clearance process, depending upon the past import performance and reliability of importers. Goods in Red Lane are subject to full examinations including the physical inspection by opening the ocean containers, while those in the Green Lane require only documental examination.</li> <li>In addition, the majority of the goods must clear Pre-Shipment Inspection at each shipment location as part of the vexatiously complex, time-consuming import process.</li> <li>It does not stand to reason, why the Pre-Shipment Inspection is additionally compelled when the physical inspection by opening the ocean containers is effected on importers with low reliability or no shipment record.</li> <li>Moreover, compulsion of Pre-Shipment Inspection to importers with good reputation or past import record that enjoy customs clearance at Green Lane does not stand to reason, either, because from time to time at an irregular interval, the physical inspection is made by opening the ocean containers.</li> <li>- Indonesia is the only country among ASEAN Member States that requires Pre-Shipment Export Inspection.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI repeals unnecessary Pre-Shipment Inspection pursuant to the going Indonesian Customs Regulation.#</li> <li>- It is requested that GOI repeals Pre-Shipment Export Inspection.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- Trade Minister Decree No. 8 of 18 February 2009 compels Exporter Registration and Pre-Shipment Inspection (ERPSI) on the products covered by the Decree until end of December 2010.</li> <li>- On 11 June 2009, Trade Minister Decree No.21, amending regulation, came into effect, (excluding cars, electric/electronic products, heavy equipment, energy, importers entitled to the priority lane, etc.), requiring exporter's assumption of inspection fees for each shipment, and on-site inspection at steel manufacturers' mill port.</li> <li>- Trade Minister Decree No.54 promulgated on 28 December 2010, entered into force on 1 January 2011, which is based on Trade Minister Decree No.21 is a Measure with limited validity for 2-years up to 31 December 2012. Decree No.54 gave rise to an unstable period where yes or no of the inspection requirement was kept in the dark, since the new rules had not been disclosed up to the last minute of promulgation of Trade Minister Decree No.54.</li> <li>- On January 2012, change in HS Code System was implemented, provided, however, that. "Commerce Minister's Decree" compelling Pre-Shipment Inspection was not adequately amended. As a result, goods, which were outside the scope of Pre-Shipment Inspection (illustrative example, wire rods), can no longer be shipped without Pre-Shipment Inspection.</li> <li>- On 1 March 2012, Trade Minister's Amended Decree No.8 was promulgated and enforced. The Amended Decree changed the Target Items under AHTN2013 (by increasing the Target Items from 166 to 212-items) and extended the Enforcement Period by 3-years to 31 December 2015. GOI continues the long-term import restrictive measures, introduced with a limited effective date, without giving them a sufficient re-verification.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI:                             <ul style="list-style-type: none"> <li>-- repeals the Decree No.8 that compels ERPSI until end of December 2010, and</li> <li>-- makes more stringent the prior publication requirement under the WTO rules.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Trade Minister Decree No. 8 and 21</li> <li>- Trade Ministry Decree No. 54 and 8</li> </ul>
	(15)	Introduction of Minerals Export Restrictions	<ul style="list-style-type: none"> <li>- On 12 January 2009, new Mining Act was promulgated, due for enforcement in five years. Should GOI restricts Nickel Ores export, it would materially affect continuity of business for the domestic Ferro Nickel manufacturers using Nickel Ores. As a result, it would give the grave impact upon the domestic stainless steel manufacturers using Ferro Nickel in Japan.</li> <li>Since May 2012, GOI has begun Export Duty Levy.</li> <li>By Decree of Ministry of Industry, Export of Nickel Ores was actually suspended (for about a month) temporarily from May. Since June, subject to payment of Export Tax of 20%, export has been resumed on enterprises satisfying certain conditions. (Thus, the enterprises in concern could manage to get by without serious confusions by relying upon the residual stock.)</li> <li>On 12 January 2014, the Export Embargo measures on Nickel Ores came into effect, banning export of unprocessed Nickel Ores. Domestic manufacturers in Japan have taken temporary measures of piling up stock of raw materials. However, should Export Ban continues without any</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI avoids application of restrictions.</li> </ul>	<ul style="list-style-type: none"> <li>- New Mineral Act (Mineral &amp; Coal Mining Industries Act)</li> </ul>

Category	No	Issue	Issue Details	Requests	Governing Laws	
			<p>relaxing measures, it is a matter of concern that it would impact upon production of Ferro Nickels and stainless steel products using Ferro Nickels.</p> <p>- Introduction of Coal Export Tax is now under deliberation. It threatens an increased burden upon Coal Supplier, with a possibility of passing a part of such burden to coal users, taking a form of increase in F.O.B. price. In the end, it will drive up the electricity bill, a consequence of which will end up in the decline in the competitive power of the Indonesian industry.</p> <p>- Member Firm importing Mineral Ores faces the possible inability to secure required metal ores from Indonesia after January 2014, because of the result of the final decision of the Houses of Parliament in December 2013.</p>	<p>- It is requested that GOI avoids introduction of the Coal Export Tax.</p> <p>- It is requested that GOI continues export of Mineral Ores.</p>		
	(16)	Compulsory Determination of Coal Export Price based upon the Basic Coal Price	- On 23 September 2010, GOI compelled Indonesian Mining Enterprise to establish Export Prices with reference to the Basic Coal Price determined by the International Market Prices obtained under the specified calculation formula.	- It is requested that GOI repeals its directive concerning establishment of Export Prices.	- Minister's Decree No.17 on Energy and Mineral Resources	
	(17)	Difficulty in Amending Export Declaration	- After filing Import Declaration at Indonesian Customs, it was discovered that the declared amount is higher than the actual amount due to calculation mistakes by the Thai exporter. MFS had to pay higher amount of import duty than the actual amount, as correction in Import Declaration was not acceptable at the Indonesian Customs.	- It is requested that GOI accepts correction of import customs declaration as they do in Thai, Japan, etc.		
	(18)	Compulsion of Label Marking on Import Cargoes	<p><b>(Improvement)</b></p> <p>- On 21 December 2009, MOT Minister Decree No.62 was promulgated.</p> <p>On 21 May 2010, Decree No.22, Amending Decree No.62, was promulgated. Decree No.22 reduces the items subject to the measures (by excluding electric appliances, hot-dipped galvanised steel plate, and tin-free steel), while excluding from the scope of the subject goods, raw materials required in the manufacturing process, upon MOT Minister's approval on the importer's application. This Decree substantially improves the original Decree as it excludes from the scope of the goods subject to the measures, steel products that are used as intermediate raw materials for manufacture of end products.</p> <p>On 1 September 2010, Decree No.22, amending No.62 entered into force.</p>			
11	Restriction on Profits Remittance Abroad	(1)	Royalty Remittance is restricted	- GOI totally disallows remittance of royalty for reasons that there is no economic rationality in royalty.		
		(2)	Restricted Collection of Return on Investment under Production Sharing Contract (PSC)	- Minister's Decrees, Cabinet Orders, etc. have been promulgated to restrict investor's collection of Return on Investment (ROI) under the Production Sharing Contract (PSC). These Decrees and Orders in part retroactively apply to the existing PSCs, and may impact the future business profitability.	- In light of securing the investment environment and operational profitability, it is requested that GOI hereafter makes it a point to secure opportunities to exchange dialogues with FFEs and operators of oil and gas businesses, before introducing the legislative measures.#	<p>- Minister of Energy and Mineral Resources Order No.22 (2008)</p> <p>- National Budget Act 10 November 2008, Act No.41 25 August 2009, as amended by Act No.26 (2009)</p> <p>- Regulation on Collection of Cost and Income Tax (No.79, 2010)</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(3)	Shortage of the Contract Period under Production Sharing Contract (PSC)	- Extension is necessary on the Contract Period under the Profit Sharing Contract (PSC) for contract continuation, maintenance of production volume, securing economy, and consummation of finance. Contractor's continuation of long-term investment and assurance of future Return on Investment (ROI) are necessary for starting new production, and maintenance and expansion of the existing production volume. Performance under existing and new sales contract as well as repayment of bank borrowing becomes possible only upon fulfillment of all these requirements and necessities.	- It is requested that GOI: -- propels consultation on the extension of the Contract Period under PSC, and -- get it extended as soon as possible.	- Regulation of Minister of Energy and Mineral Resources No. 35/2008), Article 28
12 Exchange Controls	(1)	Application of the Real Demand Principle on Foreign Exchange Transactions in Rupiah	- A Firm's Subsidiary incorporated in Indonesia is unable to deal in foreign exchange in Rupiah with another the Firm incorporated in Singapore operating financing business in the same group, because GOI applies the principle of real demand as regards Rupiah related foreign exchange transactions.	- It is requested that GOI liberalises foreign exchange transactions.	- BI Foreign Exchange System
	(2)	Restricted Settlement in Foreign Currency	- On 3 October 2011, BI promulgated "New Regulation on Export Proceeds and Offshore Borrowing Fund". While the new Regulation enables "exporter's net settlement of account with importers during 2012, from 2013 only gross settlement is permitted." the Firm now only exercises net settlement of account with its financial enterprise of the same Group in Singapore for cost of trade, expenses and foreign exchange settlement. However, if in gross settlement, operational complications will result, as gross settlement must be made on transaction-by-transaction basis.	- It is requested that BI liberalises the foreign exchange transactions (by repealing the new Regulation).	- BI Foreign Exchange System
	(3)	Instability of Foreign Exchange Rate	- The loss or profit from foreign exchange fluctuations heavily impacts especially the Foreign Investment Report.	- It is requested that GOI holds down radical fluctuations in Foreign Exchange Transactions.	- Refer to Malaysian Regulation about their Foreign Exchange
13 Finance	(1)	Compulsory Receipt of Foreign Currency via Domestic Bank in Indonesia	- BI Regulation compulsion of Receipt at BI of Export Proceeds and External Borrowing is a matter of concern, lest it gives negative impact on the Existing And Future Financial Schemes (Trustee Borrowing Scheme, employing Foreign Banks).	- It is requested that BI exclude application of BI Regulation.	- BI Regulation No. 14/5/PBI/2012 of June 8, 2012 (Amendment to BI Regulation No. 13 /2011
14 Taxation Systems	(1)	Raise in Prepaid Income Tax Rate	- Since the end of 2013, BOI has raised the Prepaid Income Tax Rate (PCITR) to 7.5% on import of the final production materials. It materially affects cash flow, curbing the continued business development in the Indonesian market, which is expected to grow further from now on. What matters here is that the aggravated cash flow will serve as fetters that slow down the growth in Indonesia.	- It is requested that GOI reduces PCITR or cuts down the time required for tax refund of PCITR.	

Category	No	Issue	Issue Details	Requests	Governing Laws
			- PPH 22 (Pajak Penghasilan Pasal 22 = Income Tax Article 22) on Income Tax collected at 2.5% on import up to 2013 will be raised to 7.5% beginning 2014, while tax deduction is unavailable until filing of tax return by the yearend. It impacts heavily upon cash flow, (as Income Tax is payable upon import). Furthermore, unless pre-tax profit is around 30%, MFS must always file application for tax refund, Income Tax rate is at 25%. It further aggravates cash flow. Chances are large that no refund is made as a result of the tax investigation.	- It is requested that GOI reverts the after raise rate of Income Tax of 7.5% back to 2.5% or so applied up to 2013.	- PPH 22 (Pajak Penghasilan Pasal 22 = Income Tax Article 22)
	(2)	Nebulous and Delayed Tax Investigation	<p>- There are cases where the taxation employees' interpretation of tax laws is ambiguous, or where detailed rules of implementation are not precisely laid down. Amid such cacophony the tax collection goes on, sometimes even imposing penalties, jeopardising business operations.</p> <p>- The Tax Authority collects Income Tax based on the performance of the preceding year, so that if sales come down, possibility rises for overpayment of Income Tax. If a taxpayer files request for refund of overpayment, tax investigation takes place. More often than not, tax investigation determines additional tax at his/her sole arbitrary discretion, without referring to objective materials, as Tax Bureau is reluctant to refund the overpayment once received into the Coffers of the State. MFS once instituted legal proceedings to the Tax Court, the court proceedings, however, take almost forever before the judgement is handed down. In addition, since the fiscal year 2008, no interest has become payable on the overpaid amount.</p> <p>- It is understood that the Competent Tax Authority conduct its tax investigation based on a fixed standard. However, projects involving intervention of plural Ministries and Agencies complicate the responsive actions to take. The additional tax levy resulting from the denied amount of tax refund, penalty and so on form the first step for investigated party to initiate legal proceedings. In any event, the court proceedings are unfavourable to the taxpaying businesses.</p>	<p>- It is requested that taxation authority:</p> <ul style="list-style-type: none"> <li>-- overhauls taxation system including implementing detailed registrations, and</li> <li>-- provides a forum to exchange dialogues with business operators, industrial associations, etc., affording training programmes to taxation employees, and giving an opportunity for enterprises' case study.</li> </ul> <p>- It is requested that GOI:</p> <ul style="list-style-type: none"> <li>-- enhances discipline of its employees,</li> <li>-- devises a monitoring mechanism that stops the taxation officer's arbitrary decisions, and</li> <li>-- streamlines the tax laws and consolidates their interpretation.</li> </ul>	<p>- Minister of Finance Decree No73/PMK03/2010 (on VAT)</p> <p>- Regulation of the Directorate General of Tax No. PER-45/PJ/2013 (Amending Minister of Finance Regulation No. 163/PMK.03/2012, etc.)</p>
	(3)	Nebulous Provisions of New Regulations/ Decrees relative to Income Tax	- Certain parts of provisions and expressions are nebulous on the New Decree promulgated on Income Tax including tax on transfer of Upstream Rights and Interests for petro-gas. The Firm is at a loss how to deal with the New Decree in regard to its transfer projects, etc.	<p>- It is requested that GOI:</p> <ul style="list-style-type: none"> <li>-- provides opportunity to exchange dialogues with enterprises and business associations, etc., including FFEs in its effort to overhaul the taxation system, and</li> <li>-- provides and sufficient and clear explanation on the grey areas.</li> </ul>	<p>- Regulation on Collection of Cost and Income Tax (No.79, 2010)</p> <p>- Act No.36 (2008)(The 4th Amendment of Income Tax Act, Article 31D)</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(4)	Discriminatory Income Tax Rates on Construction Business, Foreign vs. Domestic	<p>- Tax Authority applies dual rates on Income Tax, 3% to General Construction Companies (locally licenced and qualified), and 4% to Foreign Funded Construction Enterprises.</p> <p>Tax rate of 4% (namely, Deemed Profit Rate is 16%, compared to Normal Income Tax Rate of 25%), which in effect is extremely high and does not come to grip with the reality.</p>	<p>- It is requested that GOI:</p> <ul style="list-style-type: none"> <li>-- applies the same tax rate between the two, and</li> <li>-- reduces the tax rate to level with the realities.</li> </ul>	- Income Tax Law No.51/2008, Article 3.1
	(5)	Nebulous Transfer Pricing Taxation System and Its Arbitrary Implementations	<p>- Compared to other ASEAN Member States, the legislative overhaul remains insufficient concerning Transfer Price Taxation System (TPTS), while the government employees' grasp of TPTS is not deep enough. Nevertheless, due to the severe tax levy order from the top, tax investigators, on site, keep issuing recklessly correction notices. In the latter half of 2010, some progress took place, such as publication of Guidelines on Transfer Price Taxation System and Bilateral Consultation. However, there remain ample rooms for further improvement. Although, Guideline on Transfer Price Taxation System was published on 6 September 2010, it fails to follow the OECD Guidelines on Transfer Price Taxation System, while leaving nebulous areas. There have been cases, where GOI issued invoices for additional tax levy upon Japanese Affiliated Enterprises.</p> <p>- Denial of deduction from taxable income of royalty and trademark fees, decision of penalty collection, decision of exorbitant tax levy under Transfer Price Taxation System or else, unrealistic denials, etc. all tend to freeze a huge amount of capital fund. Tax auditors deny deduction from taxable income of royalty and trademark fees without exchange of due explanation and discussions.</p> <p>- Member Firm in Japan gave Managerial Instructions and Debt Guarantee to its subsidiary located in Indonesia (MFS). GOI has rejected regarding as 'Deductible Expenses' the Consideration that MFS paid to Member Firm for the Managerial Instructions and the Debt Guarantee that MFS received from Member Firm. By insisting its position that such payment amounts to Dividends, GOI has levied additional tax upon MFS. MFS has incurred huge cost to satisfy and perfect the documentation requirements under TPTS in every detail. However, it seems, in reality, GOI levies additional tax without giving deep analysis in the course of its tax investigation.</p>	<p>- It is requested that GOI upgrades the level of TPTS investigators in knowledge, expertise and judgement power to level with that of leading countries.</p> <p>- It is requested that TA makes a fair judgement after making available ample opportunity for explanation and exchange of dialogue with taxpayers. The Head Office Accounting Department of the Member Firm has provided full explanation about the existing status to National Tax Agency, etc. to bring the issue up on the agenda for G-To-G negotiation.</p> <p>- It is requested that GOI:</p> <ul style="list-style-type: none"> <li>-- spares no effort in giving sufficient verification on the TPTS documentation the taxpayer has prepared, and</li> <li>-- be sure to provide unambiguous, clear-cut explanation for tax levy in the language and manner understandable to taxpayers.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(6)	Arbitrary Institution of Tax Investigation after Request for Tax Refund/ Difficulty in Refund Receipt	<ul style="list-style-type: none"> <li>- GOI initiates tax investigation normally upon receipt of application for tax refund. However, in many cases, investigators resort to inadequate, unreasonable expedient in application of TPTS concerning transactions between the related parties with the view to inflating the denied amounts higher than the requested refund amount. On occasion, the amount of additional tax is so huge that it can give material impact in the company management (to the extent of jeopardising the continuity of its business).</li> <li>- Due to the high rates of the pre-paid income tax upon import, frequently a Member Firm files request for tax refund. Tax auditors probably unwilling to make any refund, at their sole discretion, makes an extraordinary interpretation of Tax Laws. Contrary to tax refund, there remains a high possibility for penalty collection. Request for reinvestigation, tax court proceedings, etc. are all time consuming and costly, and can easily interfere with business performance.</li> <li>- VAT Refund Application never gets refunded, or takes a lot of time for executing the refund, due to various irrational reasons.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI:                             <ul style="list-style-type: none"> <li>-- separates the normal tax investigation and TPTS investigation, and</li> <li>-- deploys specialised investigators on TPTS investigation to assure all fairness and equality.</li> </ul> </li> <li>- It is requested that GOI:                             <ul style="list-style-type: none"> <li>-- harmonizes interpretation of Laws</li> <li>-- brings up the ethics of tax auditors,</li> <li>-- streamlines the taxation system, and</li> <li>-- implements adequate tax auditing.</li> </ul> </li> <li>- It is requested that GOB takes steps to establish effective relief measures that can be employed on occurrence of irrational tax levy.</li> </ul>	<ul style="list-style-type: none"> <li>- Indonesian Income Tax Law, Article 18.3</li> <li>- Indonesian Tax Laws in General</li> </ul>
	(7)	Cap on Royalty Rate upon Tax Investigation	<ul style="list-style-type: none"> <li>- Taxation Authority (TA) does not permit deduction of Royalty and Licence fees on Trademark, etc. from the taxable income. While a Member Firm paid 5% royalty to its Head Office, TA allowed only 3% deduction. TA applied this amendment based on the rule of thumb that royalty normally equals 25% over the total of interest and pretax profit.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that TA observes the globally indicated standard of professional judgement (Ref. Transfer Pricing (TP) Documentation).</li> </ul>	<ul style="list-style-type: none"> <li>- Income Tax Law No. 36/2008 effective 1 Jan 2009</li> </ul>
	(8)	Difficulty in Obtaining the VAT Code Number	<ul style="list-style-type: none"> <li>- GOI refuses to issue PKP (Pengusaha Kena Pajak or Taxable Companies/ Entrepreneur Code Number) in the absence of genuine transactions, resulting in anomaly that Member Firm is unable to execute its tax deduction right (SPPKP) from the prospective business profit in the future. This implementation is extremely harsh on new entrants that have just established their enterprises in Indonesia. These entrants must incur unnecessary expense and labour for establishment of temporary offices in order to obtain the permanent legal addresses, etc.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that that GOI either synchronises acquisition of VAT code number with NPNW (Nomor Pokok Wajib Pajak=Taxpayer Code Number) or synchronises issuance of PKP/SPPKP simultaneously with issuance of WPNW.</li> </ul>	<ul style="list-style-type: none"> <li>- It appears that issuance of PKP is not stipulated into law but is governed by Tax Directorate General Brochure: "Sudah Punya NPWP - Segara Sampaikan SPT Tahunan PPh Anda (Do you have a tax number- File your Tax Return Now)"</li> </ul>
	(9)	Nebulous VAT Refund Basis and Delayed VAT Refund	<ul style="list-style-type: none"> <li>- VAT 10% is premised on the conditions that the total VAT amount paid gets refunded in satisfaction of the requisite requirements. However, it takes a long time before the refund materialises from the filing date of application. The refund amount can be reduced on the ground of deficiency, etc. in the submitted documents.</li> </ul>		

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>- In business with GOI, MFS is responsible as contractor for payment of VAT 10% which is refunded later. However, it takes a long time to get the refund, for maximum one year, materially affecting MFS's cash flow. In constructing industries, income tax payable is 4% for Member Firm in Japan, and 3% for MFS locally incorporated. The prevailing circumstances make it difficult for MFS to yield profit required for payment of income tax.</p> <p>- GOI implements the scheme for advance payment of Income Tax. If the amount of Advance Payment is larger than the amount of Tax Return, filing of Refund Application follows. In such cases, tax investigation takes place. Due to the administration's arm-twisting levy of additional tax, no refund becomes receivable. (Recently, in many cases, no refund is available, due to the Transfer Price Taxation System.)</p>	<p>- It is requested that upon change in taxation system and/or tax rates, in order to ensure transparency, GOI:</p> <ul style="list-style-type: none"> <li>-- provides FFEs with opportunities for exchange of dialogue, and</li> <li>-- gives sufficient and adequate explanation.</li> </ul> <p>- It is requested that GOB takes steps to:</p> <ul style="list-style-type: none"> <li>-- overhaul its legislation, and</li> <li>-- conduct tax investigation in all fairness and correctness.</li> </ul>	- Income Tax Law No.51/2008, etc.
	(10)	The risk of PE Tax Levy Due to Deficiency in Tax Treaty	- Under Tax Treaties after Methods for Elimination of Double Taxation of the OECD Model Tax Convention (such as the Tax Treaty between Japan-Singapore) normally exclude "Storage", "Display" and "Delivery", regarding them as business activities not corresponding to PE. However, the Tax Treaty of neither Japan/Indonesia nor Singapore/ Indonesia includes "Delivery" in the "business activities not corresponding to PE" so that while the mere domestic storage of goods in the premise within Indonesia owned by an enterprise would not amount to PE (Permanent Establishment), should an enterprise deliver the goods, as if to run a warehouse, or to handle VMI (Vendor Managed Inventory), such enterprise can be considered as PE.	- It is requested that GOJ and GOI take steps to add "Delivery" in the business activity not corresponding to PE in the Tax Treaty	
	(11)	Irrational Personal Income Tax Calculation on Expatriates	<p>- GOI applies Progressive Tax Levy Calculation Method on calculating Personal Income Tax in Indonesia. The engineering company (for Water Treatment Equipment that Member Firm owns in Indonesia, namely, MFS) completed the procedures for tax payment by calculating the Personal Income Tax Rate during January through March 2013 (*a) for its expatriate, who returned to Japan in March 2013. In return, GOI instructed MFS to pay the tax amount (*b), which is obtained by quadrupling the Personal Income of January through March 2013 to obtain the Annual Personal Income Amount (APIA) and apply one-fourth of the Applicable Tax Rate on APIA to obtain the amount of the Personal Income Tax (*b), which is payable.</p> <p>Under this calculation method (*b), the amount of Personal Income Tax payable becomes higher than (*a). MFS requested the Tax Authority to show the legislative provisions, directing this calculation method. However, it remains in the dark. Repeating the same question to the competent authority seems to have only added fuel to the fire in past investigations involving other firms. MFS is at a loss what to do next.</p>	- It is requested that GOI identifies the calculation basis for the Personal Income Tax payable by Expatriates returning to Japan in Mid-Term of the Fiscal Year.	- Income Tax Law, Article 17.1(a)

	Category	No	Issue	Issue Details	Requests	Governing Laws
16	Employment	(1)	Labour Act is excessively in favour of Workers	<p>- Under the Labour Act (the Act), an employer is empowered to dismiss workers not desiring to maintain continuation of the industrial relationship with the employer upon occurrence of consolidation, merger, or change of ownership. In such event, it is provided that employees are entitled to receive the prescribed retirement allowances (inclusive of premium). In other words, employees are entitled to leave employment under the terms favourable to employees where the shares of an enterprise are transferred. In a merger and acquisition case with the intent of succeeding the employees across the board, this entitlement afforded to employees gives rise to an element of uncertainty. This provision also applies to the transfer of shares between enterprises in the same Group. It could obstruct a smooth corporate reorganisation.</p> <p>Amendment of Labour Law in November 2013 eliminated the provision on the two-year statute of limitation. It has enabled the eligible employees to institute legal proceedings past two-years.</p> <p>- New Amended Labour Law includes provisions on severe criminal and administrative penalties upon employers, while deregulating penal provisions on workers' misconducts and misdemeanours. As to dismissals, numerous provisions heavily burdens employers.</p>	<p>- The significance of employees' protection is lost, in a case where the employment relations between employers and employees remain unchanged, for example, in a share transfer transaction. It is requested that GOI gets the Act amended.</p>	<p>- Labour Act, Article 163</p>
		(2)	Radical Trade Union Activities	<p>- Due to the construction of the labour friendly legislation, it is up to Trade Union to file application at any time under due process to initiate a lawful strike, irrespective of the (logical) contents of the negotiation and to materialise easily unjustified (illogical) demands.</p> <p>In the absence of material injuries such as violations, in real terms, it would be difficult for Local Labour Department and Police to intervene. Enterprises Discretionary Power is only minimal. Dismissal of employees who make unjustified claims is difficult in practice.</p> <p>Correct interpretation of the relevant legislation is essential to avoid the prolonged contention over the differences in legal interpretation. A Member Firm retains a lawyer on annual exclusive contract basis, and achieves a smooth labour/employer negotiation by arrangement of a third party intervention.</p> <p>Trade Unions are given free hands in organising a new union through the concerns such as Local Election Candidates, Upper Union Organisation, and the Local Community. Out of the blue, a new union is organised overnight in an enterprise without Labour Union in past years.</p> <p>Recognition of plural unions in the same enterprise makes Inter-Union Adjustments difficult. Problems among the workers spark repercussions upon Labour Negotiations between employers and employees.</p>		<p>- No. 13/2003, etc.</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>- The Trade Union strikes have gotten radical. While some Police tends to keep their hands off, there are issues Police ought to deal with. Autonomous Association in Karawang Industrial Park, Karawang International Industrial City (KIIC), has started a project to collect the information in detail of the damages sustained by enterprises due to the strikes and demonstration by the Union Workers and to report the real data and information correctly to the Indonesian Ministries and Agencies via Jakarta Japan Club and Japanese Embassy in Jakarta. For fear of pressure from the Trade Union, Local Labour Department and Police Trade drag their feet to extend their helping hands to enterprises. As a last resort, enterprises in concern have been forced to wait for the expiry of the industrial bargaining period to initiate a legal proceeding, the only means left to get the refund.</p> <p>- On issues concerning wages, petroleum subsidy, discontinuation of bus stop, etc., strikes and demonstrations abound. FFEs are unable to keep up production according to the schedule while the safety of their commuting employees including foreign expatriates is not sufficiently secured.</p> <p>- While legitimate demonstrations and strikes deserve due respect, as workers lawful right, Indonesian police tends to refrain from clamping down or to use force in the Union Workers unlawful conducts such as blockage at factories and on motorways/expressways.</p> <p>- Trade Union Movements have intensified over the turning of temporary workers to regular workers. While it is the local enterprises that fail to observe the minimum wage scheme and employment system, Trade Union directs its spear for Labour Movement at large scale Foreign Funded Enterprises.</p>	<p>- It is requested that GOI administers the Labour Law in all fairness to employer and employees, without interfering with the dynamism of the enterprise's survival.</p> <p>- It is requested that GOI takes steps to stop abuse of strikes and demonstrations to resolve the labour disputes.</p> <p>- It is requested that Indonesian Police strictly deal with unlawful conducts of workers relative to demonstrations and strikes.</p>	<p>- UU No. 13/2003 " Undang Undang Ketenagakerjaan</p>
	(3)	Raise in Minimum Wage by a Large Margin	<p>-The Minimum Wage 2013 settled at more than 40% hike in the Special Region of Jakarta far above KHL (Kebutuhan Hidup Layak or Decent Standard of Living) of 22% after negotiation between GOI and Indonesian Trade Unions. Indonesian Individual Minimum Wage Decision in each Local Autonomous Body reflected the heightened intent to raise "the amount" to level with the Central decision. In Karawang Region UMK III, where one of the Member Firms' Subsidiary (MFS) locates, the Minimum Wage got settled at 58% increase. The MFS estimates its average labour cost increase in the latter half of the 30's in percentage. SPSI declared it would demand the Minimum Wage raise of more than 30% next year. The coinciding elections for the Governors and the President will create an environment that prompts acceptance of the labours' demand for Minimum Wage raise even more than this year. By 2015 or 2016, it is expected that the Indonesian Minimum Wage will level with the Shanghai and Suzhou Regions. The 2014 Karawang Region UMK III Minimum Wage Hike Rate of 16% is lower than the forecast, however, it is higher than Jakarta, Shanghai and</p>		

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>Beijing. Apart from the basic wage, employers are forced to expend much time for negotiating outrageous Trade Union's demands with threat of strikes and demonstrations, such as Hari Raya Religious Holiday Allowance, and raise in bonuses, including the issues on which employers are fully empowered with discretionary judgement.</p> <p>- In Bekasi Regency where Member Firm's subsidiary (MFS) is located, the 2014 Official Minimum Wage has gone up by about 22% which is less radical than 40% up in 2013. Nevertheless, the up rate remains at high level. In addition, Trade Union has become more and more active, while administration's role as intermediary cannot be relied upon. For the sake of avoiding strikes and hiatus of production, employers have no alternative but swallow irrational demands of the Trade Union.</p> <p>- Recently, a radical minimum wage increase of dozens of percent is a common occurrence in many areas and regencies.</p> <p>- Since 1 January 2013, the Minimum Wage Rate has gone up by 30%.</p> <p>- Minimum wage went up by 44% in 2013. While some reduction is expected in 2014, Radical Wage Increase deters entry into or expansion of business in Indonesia.</p>	<p>- It is requested that Administration will shoulder its responsibility as intermediary in a fairer and more equitable position.</p> <p>- It is requested that Kota Bekasi to hold down the Minimum Wage Raise Rate, (which debilitates the international competitive edge.)</p> <p>- It is requested that GOI causes workers to understand that unreasonable wage raise by Metal Union, etc. in effect drives out foreign investment into Indonesia.</p>	
	(4)	Compulsory Employment of Indigenous Indonesians	- Foreign Funded Enterprises entering Indonesia are under obligation to employ indigenous Indonesian at the rate of 3 (Indonesian) to 1 (foreign) workers.	- It is requested that GOB takes steps to eliminate the provisions in the legislation relative to the Compulsory Employment of Indigenous Indonesians.	
	(5)	Procedure to obtain Work Visa is complex and delayed	<p>- Frequently, examination of visa application for expatriates takes such a long time, that it disrupts the Personnel Deployment Plan of a Member Firm.</p> <p>- The Work Visa Acquisition Scheme itself is nebulous. It is devoid of speed. For example, it takes 3-4 months for its acquisition. In effect, it interferes with the expatriates' rotation, as well as the organisational management including the local employees.</p> <p>- In addition to the complexity of the pre-assignment entry procedures, GOI does not permit expatriates' working in Indonesia pending acquisition of KITAS (Residence Permit) and IMTA (Work Licence). Normally for 2-weeks after entry into Indonesia, Supervisor must waste time, being unable to enter the construction site.</p>	<p>- It is requested that GOI expedites visa issuance and examination procedures.</p> <p>- It is requested that GOI streamlines the entry procedures for a Supervisor to enable the Supervisor's entry into the construction site at one upon arrival.</p>	
	(6)	Difficulty in Alien's Participation In Personnel Matters	- Aliens are only entitled to name a person in charge of personnel matters. Aliens are precluded from concerning themselves with actual personnel matters. Work Permit for violating aliens will be revoked under the Regulation.	- It is requested that GOI repeals the provisions.	<p>- New Labour Act, Article 46</p> <p>- Act No.75/1995 Articles 5 and 12.</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(7)	Amended Law on Despatched Workers	<p>- Minister of Manpower &amp; Transmigration Regulation 2012/No. 19 “on Conditions for Outsourcing the Implementation of Work to Other Companies”, requires organising sectoral business associations that prepare a Flowchart for each Business Sector (Flowchart), while in the case of an Outsourcing Agreement (between the User Company and the Service Provider), based on the distinction of Core-non-Core, the consigned party (the Service Provider) shall secure employment of competent workers in the relevant field. The Regulation came into force on 19 November 2013. (For example, in the Logistics Industry, Regulation 2012/No. 19 requires employment, as Regular Workers, of Lorry/Truck Drivers (LTDs), besides driving, Regulation 2012/No. 19 normally deliver goods, and check the contents.)</p> <p>(In reality, from the nature of the work involved, employment of LTDs as regular workers is awkward from the nature of the work. However, there is no alternative but to conclude Outsourcing Contract at high cost willy-nilly with Manpower Supply Company under the PMDN (Penanaman Modal Dalam Negri or Domestic Capital Investment Company) Law. It debilitates the competitive edge. (In practice, while GOI treats rigorously upon PMA (Penanaman Modal Asing=Foreign Direct Investment), GOI seems to be less severe as to PMDN. It is quite possible that PMDN, although unconfirmed, could contract LTDs as Regular Employees. From the nature of the logistics business, it cannot do without LTDs. It is economically quite difficult to employ the total LTDs as regular employees, in light of the competition against PMDN, reduction of expenses at the parent companies, and the vastly vacillating volume of orders received. For all these reasons, MFS relied upon despatched workers from Manpower Supply agencies, which are no longer available. Besides driving vehicles, LTDs are responsible for delivery of goods and checkup of contents. The work involved is simple.</p> <p>Regulation No.19 weakens the competitive edge of the law abiding Logistics Business Sector, and debilitates the law abiding FFEs’ desire to invest into Indonesia, as they must cope with: 1) Annual drastically rising Minimum Wage, 2) Severance indemnities in huge amount payable commensurate with the service years, 3) provision of the same terms of employment (quality fringe benefits, medical security, etc.) as the employees with highest academic degree, (4) fixed operating cost from inability to adjust the number of employees proportionate to the business volume, high amount of overtime payment which is inevitable from the nature of work involved, etc. Moreover, unfairness results from the ability of PMDN to continue to outsource substantively LTDs profitably. Reckless traffic operation continues in Indonesia devoid of software and hardware pre-requisite for safety in traffic.</p>	<p>- The Trade Union, having gone through the squeeze of the Suharto’s power administration, swung back like a pendulum by its regained power, has inflated the demands, and caused this kind of phenomenon. It is requested that Ministry of Manpower and Transmigration (MOIT) takes an unbiased reasonable response with the mind of the participant, not leaning toward the Trade Union.</p> <p>Narrowing to the 5-business sectors of outsourcing business interferes with the rationalised business operation and extremely debilitates foreign investors’ willingness to invest into Indonesia. Furthermore, along with the continued intensified wage increase, prospectively, candidate workers on the way to the regular worker status would face the screening by a finest toothcomb so that conversely, job opportunities would be lost for the majority of the candidates. Consequently, it is requested that GOI either repeals the restrictions by business sectors, or else, deregulates the requisite terms for Outsourcing Contracts.</p>	<p>- Minister of Manpower &amp; Transmigration Regulation 2012/No. 19                      - Minister of Manpower &amp; Transmigration Circular 2013/No.4</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(8)	Compulsory Conversion of Despatched Workers to Regular Workers	<p>- Regardless of the employment period, renewal of a Contract Worker is possible for twice only. The third renewal automatically converts the Contract Worker into a Regular Employee.</p> <p>- Contract workers' renewal is at maximum twice in three years, and the 3rd renewal is possible only by employment as regular worker.</p> <p>- MFS normally changes contract workers at 3-year's interval of contract workers. It is because, unless turning them into regular employees, the legal employment period of contract workers is 3-years maximum in aggregate. However, this requirement means great loss to MFS, because sufficient period of the contract worker training is necessary to ensure stable quality of goods and to enhance productivity.</p>	<p>- It is requested that GOI increases the number of renewals for a Contract Worker without conversion into a Regular Worker.</p> <p>- It is requested that GOI increases the maximum number of years for employment under Contract Worker.</p>	
	(9)	Restricted Use of Despatched in the Core Work	<p>- In the manufacturing enterprise, the law prohibits deployment of Despatched Workers (from Manpower Supply) in the core work. In the MFS case, the entire process represents the core business, from receipt of materials and parts to shipment of finished products. Therefore, all factory employees are regular workers. It increases the labour cost.</p>		
	(10)	Enhanced Control of Foreign Workers' Employment	<p>- Minister of Energy and Mineral Resources Decree (dated 24 October 2013) was promulgated and enforced. It has tightened the control on employment of Foreign Workers in the Upstream / Downstream Oil and Gas Business Activities, and their Supporting Businesses. Among other things, the Decree includes: (1) Reduced maximum successive employment (from 6 to 4-years), (2) Reduced allowable workers' ages (from 30-60-years to 30-55-years), and (3) Prohibited Positions: (a. All Personnel in Personnel, Legal, QHSE, Procurement fields, b. Superintendent or a level lower than its equivalent.). The tightened control under the new Decree is a matter of serious concern, lest it may interfere with the timely deployment of the sufficient number of the most suitable human resources, and may delay the Project Completion.</p>	<p>- It is requested that GOI applies Exclusionary Measures on its Control for Deployment of Foreign Workers, in so far as it concerns Project Operator Companies.</p>	<p>- Decree of Minister of Energy and Mineral Resources No.31/2013</p>
	(11)	Prohibited Entry in the Project Site by Foreigners on Business Trip	<p>- Work Visa is necessary for MFS to request despatch of foreigners to the Project Site from abroad (such as Japan), while it takes several weeks to a month for the Work Visa acquisition.</p> <p>Meeting Visa, issued in 3-days, is also available, but it is good only for attending a meeting, definitely not for stepping into the Project Site.</p> <p>Arrival Visa available at Airport does not allow the Visa holder entry into a company. There is a true story, not a joke, whereby a holder of such Arrival Visa could not even enter the Front Gate of a company so that they had to finish the business, while standing outside the company's front gate.</p>	<p>- It is a continued request that GOI deregulates Prohibition of Entry into the Project Site in Emergencies, which is almost impossible or not possible at all, as it stands.</p>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(12)	Nebulous application basis of universal healthcare system	- Indonesian New Universal Social Security System (BPJS = Badan Penyelenggara Jaminan Sosial, a Government Institution) is due for enforcement from January 2014. Nevertheless, as late as in December 2013, no deliberation in detail had taken place between the GOI and insurance companies. It is difficult to wipe out the impression that GOI is highhandedly processing the BPJS Scheme. In the absence of the Application Standard for the New Scheme, each company simply marks time.	- It is requested that GOI: -- designs enforceable legal scheme, and -- causes BPJS to disseminate in advance the requisite information to the business sectors in concern.	
17 Implementation of Intellectual Property Rights ("IPRs")	(1)	Unauthorised Applicant's Voluntary Submission of Corresponding Foreign Patents.	- It takes 6 to 7-years in average in Indonesia for the examination to begin from the filing date of Patent Application. To expedite issuance of Patent Right, it is preferable to allow the applicant's voluntary submission of the corresponding Patents Application Overseas. However, no such provision is incorporated into the Law. Article 28 of Indonesia Patent Law enables the Directorate General to request a copy of the documents pertaining to the Substantive Examination of the First Patent Application Overseas. However, it does not provide for the Applicant's Voluntary Submission of materials concerning the Corresponding Patent Application overseas.	- Malaysia and Singapore have adopted Modified Substantive Examination (MSE) System that expedites examination by submission of the Registered Claim in the Corresponding Patents Application Overseas. Moreover, Vietnam and Thailand employ in substance Modified Substantive Examination (MSE) System, without, however, legislative provisions. It is requested that Indonesian Patent Office considers adoption of the MSE system.	- Indonesia Patent Law, Article 28
	(2)	Unauthorised Filing of Divisional Applications upon Examiner's Decision of Refusal	- Applicants are not authorised to file Divisional Applications upon Examiner's Decision of Refusal.	- It is requested that Directorate General of IPRs (DJHKI) takes steps to enable filing Divisional Applications upon Examiner's Decision of Refusal.	- Indonesia Patent Law, Article 36
	(3)	High Cost of Filing Patent Application	- The costs are too expensive at Indonesian Sub-Directorate of Patent. Especially expensive is the annual maintenance fee (ANF) corresponding to the pending applications in aggregate ANF payable upon filing the application.	- It is requested that DJHKI takes steps to repeal or reduce the amount of ANF.	
	(4)	Insufficient Disclosure of IPRs Information	- In the Developing Countries, including Indonesia, where needs for patent issuance are rising, due to the inadequate database for statistical data and information such as the number of pending patent application, it is difficult for the patent applicant to ascertain the risks from the patents of other firms.	- It is requested that DJHKI takes steps to: -- advance collaboration with Patent Offices of the leading countries and -- perfect its own database IPRs.	
	(5)	Rampant Counterfeits and Pirate Editions	- Products bearing similar trademarks (mainly manufactured in PRC) are rampant in the Indonesian market. Although legislative schemes are well organised, there is absence of mechanism to clamp down on the counterfeits.		

Category	No	Issue	Issue Details	Requests	Governing Laws
19 Industrial Standards, Approval of Safety Standards	(1)	Compulsory Standard enforced on Steel Products	<p>- On 1 January 2009, Compulsory Standard was implemented on zinc plated steel plate for the construction market.</p> <p>- On 6 May 2009, Compulsory Standard was implemented on hot-rolled steel including thick plate, provided, however, that, MOI's approval suffices on certain hot-rolled steel such as those used for car, electric or electronic products, those less than 1.8 mm in thickness or more than 25 mm in thickness.</p> <p>- On 6 July 2009, GOI implemented Compulsory Standard for zinc / aluminum alloy coated steel sheet.</p> <p>- On 11 October 2010, GOI notified WTO TBT (Technical Barrier to Trade) of its introduction of Compulsory Standard On Tin Plate, Section Steel, Twisted Wire, and Prestressed Concrete (PC) Steel Wire.</p> <p>- On 1 June 2011, GOI implemented Compulsory Standard for Cold Rolled Steel Plates.</p> <p>The Standard expressly provides Exclusion From Application Of This Standard, namely, Steel Materials having specifications different from SNI Standard, and Steel Materials for use as Raw Materials in Car and its Parts Industries, Home Electric Appliances, Electric/Electronic and their Parts Industries, subject to acquisition of "Technical Diagnosis Statement" issued by Ministry of Industry (Listing in Annex: "Items Exempted from Application" Japan Iron and Steel Federation Standard (JISF Standard), and certain User / Manufacturer Standards).</p> <p>- On 21 February 2012, GOI tuned the Section Steel Standard into a Compulsory Standard.</p>	<p>- It is requested that GOI:</p> <p>-- repeals the compulsive standard system and,</p> <p>-- clarifies and streamlines the procedures (including the exclusionary system).</p>	<p>- MOI regulations</p> <p>- Technical Guidance</p>
	(2)	Vexatiously Complex Procedures and Delays in Acquisition of Safety Approval [Standard National Indonesia (SNI)]	<p>- The National Standardization Agency of Indonesia (NSAI) frequently requires trip to PRC, etc. for on-site safety standard inspection at the factory of exporting country in connection with SNI (Standar Nasional Indonesia) approvals. Acquisition of SNI alone takes a long lead-time (for 2-months or more), including the on-site inspection trip.</p> <p>The scope of the subject goods is expanding. From 2012, large products such as air-conditioners, refrigerators, washing machines, etc. are included. Sometimes, in the case of new products, inclusive of these large products, it can be difficult to receive factory inspection a few months ahead of the sales launch. However, without SNI approvals, goods subject to SNI cannot be imported and cleared through the Customs, halting other procedures such as acquisition of various other licences and approvals, import of sales samples, etc., endangering the new product launch at the desired deadline.</p>	<p>- It is requested that NSAI reviews the entire standards / procedures for grant of SNI approvals, including the factory inspection on a pragmatic basis, to minimise the extra long lead-time now envisaged especially as regards introduction of new products.</p>	<p>- Water Pump: SNI 04-6292.2.41:2003</p> <p>- Electric Iron: SNI 04-6292.2.3:2003</p> <p>- CRT TV: SNI 04-6253:2003</p>
23 Inefficient Administrative Procedures, Regimes and Practices	(1)	Delays and Instability in the Administrative Procedures for Licences and Permits	<p>- It takes one-month for Customs Clearance of Goods that require Licences and Approvals, while only two-weeks in other countries in the worst case. A Member Firm wishes to open sales simultaneously with other countries.</p>	<p>- It is requested that GOI completes within two-week customs clearance on products requiring Licences and Approvals.</p>	

Category	No	Issue	Issue Details	Requests	Governing Laws	
	(2)	Plural Supervisory Institutions on the Same Business	- In the course of performing Petro-Gas Upstream Development Project, in many cases, Two Approvals are required, one by SKKMIGAS (Special Task Force for Upstream Oil and Gas Business Activities) and the other by MIGAS (The Upstream Oil and Gas Implementing Agency). It takes much time for acquisition of Permits and Approvals.	- Improvement is not easy, the problem being related to institutional issues. However, it is requested that Both Parties strengthen the Mutual Exchange of Communication to expedite the Decision Making Process.	- Law No. 22/2001 on Petroleum and Natural Gas - Presidential Decree No. 9/2013	
	(3)	Delays in Registration Procedures	- Change in articles of association, or transfer of the shares in Indonesia requires Indonesia Investment Coordinating Board (BKPM) approval followed by registration at Ministry of Law and Human Rights (MoLHR). While it takes minimum 2-weeks for MoLHR registration, it is not technically possible (due to the constrictions of the system administration) to accept another application for registration while one registration is pending of the same applicant. In some case, it takes a few months to complete the procedures for closure of part of the operation and transfer of the shares in parallel.	- It is requested that MoLHR improves its system administration so that it can cope with the disposal of plural registration procedures in parallel.		
24	Indigested Legislation, Abrupt Changes	(1)	Incompatible / Nebulous Legislative System from Enactment to Implementation	- It has become a common sense among expatriates to Indonesia "not to jump up immediately to changes in legislative provisions", because these get implemented in a haphazard manner by whims and fancies, without much deliberation given into the details, such as API Import Licences in 2012, API-P (Producer Importer) and API-U (General Importer Identification Number), 15-Year Rule for Foreign Funded Enterprises (FFE) in 2013, and Export Restrictions on Mineral Resources in 2014.	- In introduction of new tax system or changes in the tax system, tax rates, etc., it is requested that these are enforced only after the precise details are cleared defined and decided upon.	
		(2)	Promulgation of Conflicting Legislations	- There are cases where an earlier promulgated legislation is contradicted by the later promulgated legislation while both retain their validity. (For example, there are conflicting provisions concerning the participation of Indonesian enterprises between the provisions on oil and gas related business for the Production Sharing Contract (PSC) and new legislation related to oil and gas business, etc.)	- It is requested that GOI resolves the contradictions between legislations.	- The Production Sharing Contract (PSC) - Decree (2009) No.35
		(3)	Nebulous Implementing Legislative Provisions and their Implementation	- What has been most striking at this time under the new legislation to tighten tax collection by means of simple invoice rules is the ambiguity that has emerged over the issue if GOI really follows up the newly promulgated legislation by actual implementation. This ambiguity has caused much confusion at the job site.  - Laws and Regulations are ambiguous, defying comprehension. In various circumstances, big gaps in their interpretation arise.	- It is requested that GOI: -- strictly implements the legislation once it is promulgated and enforced, and conversely -- ensures to conduct sufficient prior research, and to give prior notification of the intended legislation when promulgating new rules and regulations.	
		(4)	Frequent Changes in Tax Act and Regulations	- RBI frequently and all of a sudden promulgates regulations so that their enforcement delays. In the end, decisions and policies are postponed without definitive explanation.	- It is requested that GOI prepares a clear-cut guideline for its financial policy for the benefit of investors into Indonesia.	- Bank Central letter No 13/373/DSM 20 May 2011

Category	No	Issue	Issue Details	Requests	Governing Laws
	(5)	Promulgation of Import Regulation and Retroactive Application without Moratorium Period	- In January, Minister of Trade hastily implemented Regulation on Treatment of Special Goods, compelling Pre-Shipment Inspection on Electric Products upon Import Customs Clearance. Despite the announcement made on 7 January 2013, its retroactive application from 1 January 2013 halted Customs Clearance on the ground of absence of Pre-Shipment Inspection. It resulted in a great bedlam.	- It is requested that GOI: -- conducts in-depth research on the impact upon importers before implementing law amendments, and -- provides the moratorium period to ensure a thorough dissemination of the law amendment.	- Minister of Trade Regulation No. 83/M-DAG/PER/12/2012
	(6)	Obligations to use Indonesian in Contracts and Memoranda	- Law No.24 of 9 July 2009 compels the use of Bahasa Indonesia in the contracts with Indonesian enterprises, without however, promulgating its implementing regulation that purportedly defines the details of its implementation (due within 2-years of promulgation of the Law). It is unclear if the Law is in fact validly enforced now, and if so, in what kind of contracts the use of Bahasa Indonesia is required. Assuming arguendo that the Law is valid, the language of the contract is the matter for the parties to the contract to decide. It must be said that compulsion of the use of Bahasa Indonesia unduly burdens the foreign enterprises and individuals.	- It is requested that GOI: -- repeals the Law that compels the use of Bahasa Indonesia in contracts, -- clarifies at least the validity of the Law, and -- defines the scope of the contracts in which Bahasa Indonesia must be used, provided, however, that the scope so defined should give clear-cut reasons that justify the use of Bahasa Indonesia, and that the burden therefrom must be reasonably acceptable to foreign enterprises and individuals.	- Law No. 24, dated 9 July 2009, regarding Flag, Language, National Emblem, and National Anthem
	(7)	Nebulous Terms and Conditions for Extension of Construction Licence	- Although it is a matter for a long time to come, the initial period for the Construction Licence (Hak Guna Bangunan/HGB) is for 30-years, extendable for further 20-years. However, what happens beyond remains uncertain.	- It is requested that GOI takes steps to clarify the Terms and Conditions for further extension beyond the first 30+20-years term under the Construction Licence (HGB).	- HGB-HO, 18 September 1998
	(8)	Difficulty in Securing Statistical Data of Various Kinds	- It is difficult to grasp the real market status, as database for various materials, including without limitation, on trade, customs clearance (by port, by items), etc.	- It is requested that GOI takes steps to overhauls statistical materials of all kinds and make them accessible by the public.	
25	Government Procurement	(1) Non-accession to WTO Government Procurement Agreement	- Products manufactured in Indonesia are not entitled to bid for the U.S. Government Procurement Market.	- It is requested that GOI accedes to WTO GPA Agreement.	
26	Others	(1) Inadequacy of Infrastructure on Road and Transport	- Due to the non-availability of public transportation, great congestions prevail within the Jakarta metropolitan area and its vicinity all the time. It takes time for movement of people and goods.  - Due to the heavy traffic congestions, transportation has been delayed. - Congestions are chronic due to lack of overhaul in the Public Transport Infrastructure.	- While GOJ led ODA, etc. overhaul of infrastructure is in progress, there is a far cry from perfection. There is no direct request for the moment.	

Category	No	Issue	Issue Details	Requests	Governing Laws
			- Severe traffic congestions occur amid the metropolitan areas such as Jakarta, affecting movement and transportation. Furthermore, in the rainy season, every year, deluge from concentrated heavy rain cover the road surfaces.	- It is requested that GOI expedites overhauls for the Traffic Infrastructure by concentrating the National Budget into the Infrastructure Project.	
	(2)	Power Supply Shortage and Instability	- Blackout and momentary power off are frequent, while electric power bill has gone up.  - A Member Firm operates an Experimental Plant in Lampung Province, Sumatra. Its operation is unstable, due to the frequent blackouts and shortage in power supply. In the circumstances, the firm is hesitant about constructing a real full-fledged factory.	- While GOJ led ODA, etc. overhaul of infrastructure is in progress, there is a far cry from perfection. There is no direct request for the moment. - It is requested that GOI takes steps to: -- overhaul infrastructure for securing stable power supply, and -- cause PLN (Perusahaan Listrik Negara Indonesia = Indonesian National Electric Company) to improve its measures.	
	(3)	Hike in Electricity Charges	- Electricity charge has gone up by 10%.		
	(4)	Inadequate Infrastructure for Communication	- High-speed telecommunication via internet is available only in a limited area. High volume communication is not possible. Connection is poor, also.	- While GOJ led ODA, etc. overhaul of infrastructure is in progress, there is a far cry from perfection. There is no direct request for the moment.	
	(5)	Inadequate Lifeline Infrastructure	- Due to the poor flood control, floods are frequent during the rainy season.	- While GOJ led ODA, etc. overhaul of infrastructure is in progress, there is a far cry from perfection. There is no direct request for the moment.	
	(6)	Capacity shortage and Inadequate Port Facilities	- Shortage of Bonded Warehouse. High Port Charges relative to other countries. - Import/Export cargoes suffer negative impact from the shortage of the container stowage capacity and the poor traffic conditions.	- It is requested that GOI redoubles its effort in the infrastructure overhaul. - It is requested that GOI takes steps to expand the port area and resolves the traffic congestion.	
	(7)	Cargo Retention at Major Jakarta Ports	- The volume of cargo handling has increased at major ports, side by side with the Indonesian economic growth. Especially before and after Hari Raya, it takes many days for customs clearance of raw materials.	- It is requested that GOI expedites overhauls of the infrastructure at the Port Facilities.	- MP3EI (Economic Master Plan)
	(8)	Extremely High Freight Cost	- The ocean freight cost is prohibitively high for moving resin products produced in the Eastern Java. It undermines the idea of concentrating and expanding the capacity of all manufacturing operations into the Eastern Java as the MFS's production depot.	- It is requested that GOI overhauls the Distribution Infrastructure.	
	(9)	Delayed Countermeasures against Natural Calamities	- Negative impact upon factory operation has been caused by the delayed countermeasures against floods.		

Issues and requests relating to foreign trade and investment - Korea

	Category	No	Issue	Issue Details	Requests	Governing Laws
1	Restrictions on Entry of Foreign Capitals	(1)	Automatic Setup Usance of 120 Days by SMEs Approval	- Enterprises with the capital fund in excess of KRW500 billion is recognised as Large Size Enterprises and the usance of 120 days automatically applies, regardless of if other essential factors such as sales amount, the number of employees, etc. correspond to Small and Medium Enterprises (SMEs).	- It is requested that Government of South Korea (GOK) gives freedom of setting the usance freely upon SMEs as its across-the-board setup is too difficult for some SMEs.	- Small and Medium Enterprise Basic Act
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	- For paucity of the domestic resources, enterprises in Republic of Korea (ROK) are compelled to rely on imports for materials and raw materials. However, due to 8% import duty imposed on imports from Japan, it is difficult to shift the production site from Japan to ROK. GOK also applies 8% import duty on finished parts for cars. Car assembly business in ROK is faced with the problem of the substantial amount of money that goes out of the wallet. - The import tariff rate for watches (watch/clock finished products and clock movements) is high at 8%. - Import Duty of 8% basically applies to glassware exported from Japan to ROK, while zero Duty applies on imports from other Asian and North American countries under FTA, etc., depriving competitive edge of Japanese products.	- It is requested that GOK reviews the duty rate, or GOK and GOJ ratify FTA as soon as possible.  - It is requested that GOK reduces and repeals the tariff on watches. - It is requested that GOJ ratifies with ROK the bilateral FTA and/or TPP as soon as possible.	- Customs Act  - Customs Act
		(2)	Overly extended Imposition of Antidumping Duty	- On 5 July 2003, GOK initiated Antidumping Investigation on Bar and Section Stainless Steel from Japan (also, India and Spain). On 30 July 2004, Final Affirmative Determination, deciding imposition of Antidumping Duty. On 27 March 2009, Initiation of Sunset Review. On 24 February 2010, Decision on continuation (for 3-years) of Antidumping Measures. On 20 September 2012, 2nd Sunset Review started on Stainless Steel Bar and Section Stainless Steel (SSB/SSS). On 25 July 2013, Continuation (for 3-years) of Antidumping Duty Levy determined on SSB/SSS.	- It is requested that GOK repeals Antidumping Measures.	
		(3)	Abuse of Antidumping Measures	- On 28 April 2010, Initiation of Preliminary Antidumping Investigation on stainless steel thick plate from Japan, with thickness 8mm - 80mm, width more than 1,000mm and length less than 3,270mm, mainly used in petro-chemical, LNG ship building, construction, nuclear power generation, desalination equipment industries. On 15 September 2010, Affirmative determination was made on the Preliminary Investigation, initiating the Formal Investigation of 3-5 months duration. On 23 February 2011, Affirmative determination made on the Final Investigation, deciding antidumping duty levy.	- It is requested that GOK repeals Antidumping Measures.	

Category	No	Issue	Issue Details	Requests	Governing Laws	
	(4)	Customs Arbitrary Application of HS Code Classification	- GOK levies 8% Import Duty by interpreting the HS Code as [Glassware] upon import customs clearance in ROK, instead of the HS Code shown on the Invoice, namely, [Lens for Steppers], which are interpreted as parts for manufacturing Semi-Conductor Devices at Zero Import Duty. No progress has taken place as of today. ROK Customs at its discretion levies Import Duty of 8% on Lens and Mirrors for LCD, and 3% on Lens for Steppers.	- It is requested that GOK applies the HS Code for manufacturing device of semi-conductors at zero duty not as glassware.		
	(5)	Product Registration Requirement on Proto-Type Import	- GOK requires product registration on prototype samples imported for evaluation purposes.	- It is requested that GOK simplifies the procedures for customs clearance of products imported for evaluation purposes.		
	(6)	Stringent Compulsory Marking of Country of Origin	- GOK compels express marking of Country of Origin on each product of all cargoes imported into ROK.	- Among regulations of many countries that accept attachment of labels only of Country Of Origin to outer package of goods, certain countries (such as ROK and Saudi Arabia) alone require Country Of Origin printed on each piece of the Product. It is requested that GOK like others accepts attachment of label to the outer package of the products.		
12	Exchange Controls	(1)	The Guarantor Requirement and the Cap on Credit Card	- The degree of freedom is low in foreign exchange transactions. Enterprises are unable to borrow in foreign exchange for the purpose of hedging the foreign exchange risk.	- It is requested that GOK liberalises foreign exchange transactions.	- Foreign Exchange Control Act, etc.
		(2)	Restricted Setting Off of Debtors/Creditors Accounts and External Remittance of Foreign Currency Fund	- GOK strictly controls offsetting Debtors/Creditors Account with Non-Residents, and External Remittance in Foreign Currency Fund. Even where such transactions are allowable, the procedures are complex for obtaining Licences and Approvals.	- It is requested that GOK liberalises the Korean Won Exchange Market to Non-Residents.	- Foreign Exchange Control Act, etc.
13	Finance	(1)	Guarantor Required on Credit Card Application and the Restricted Upper Limit	- To file application for a bank credit card, it is necessary to provide a guarantor. Much inconvenience on business results from the credit limit, which is too small (2-million Won) without regard to the deposit amount and the credit level of the card user.	- It is requested that GOK deregulates the guarantor requirements and the credit limit for a bank credit card.	
14	Taxation Systems	(1)	Irrational Transfer Price Taxation System	- Compared to other countries, the Transfer Pricing Assessment by GOK is relatively higher in determining the Corporate Income Tax.	- It is requested that GOK adequately implements its taxation system on FFEs.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
16	Employment	(1)	Over-Labour -Protective Industrial Practices and Systems	<p>- Labour Unions demand for wage increase and better fringe benefits without regard to employers' operational performance and productivity. Furthermore, rigidity prevails against the downward change in allowances, making it difficult for employers to implement restructuring of their workforce.</p> <p>- In total disregard of the continuity of business and productivity, Trade Unions demand for wage hike and improvement of fringe benefits. Restructuring of labour is difficult due to the stiff reaction to the downward adjustments of remuneration, and other terms and conditions.</p>	<p>- It is requested that GOK:</p> <ul style="list-style-type: none"> <li>-- repeals the Article that requires Labour Unions' agreement for any changes to the Rules of Employment that disfavour workforce,</li> <li>-- prohibits by legislation employers' purchase of unused annual-paid-leave,</li> <li>-- repeals the legal severance indemnity system, and</li> <li>-- deregulates restriction on the employment term (duration of employment) for dispatched workers.</li> </ul> <p>- It is requested that GOK deregulates the restrictions on the employment term for non-regular employees.</p>	<p>- Labor Standards Act, etc.</p> <p>- Labour Standards Act</p>
		(2)	Difficult Discontinuation of Employers' Obligation to purchase Unused Paid Leave	<p>- The amended Labour Standards Act exempts employers' obligation to purchase Unused Paid Leave (UPL) and sets forth the Scheme To Promote Annual Paid Leave under certain conditions. However, in the case where purchase of UPL forms a part of Collective-Bargaining Agreement (CBA) or Rules of Employment (ROE), it is difficult to amend such agreements. In addition, promotion of paid leave system is difficult to put into practice. As a result, Member Firm Subsidiary continues to purchase UPL from its employees.</p>	<p>- It is requested that GOK:</p> <ul style="list-style-type: none"> <li>-- causes the Act to be amended so that employers get exempted from purchase of UPL without amending the Agreements, or</li> <li>-- makes it clear that discontinuation of employers' purchase of UPL does not constitute the change unfavourable to employees.</li> </ul>	
		(3)	Restricted Employment Term for Non-Regular Workers	<p>- Due to the constriction in the employment term for 2-years maximum, non-renewable, it is difficult for employees to deploy workers flexibly commensurate with the circumstances of business operation.</p>	<p>- It is requested that GOK repeals restrictions on conclusion of employment agreement so that employers may conclude employment agreement without the fixed employment term.</p>	
		(4)	Compulsory Trade Union's Consent on Change of ROE Disadvantageous to Workers	<p>- Under Labour Standards Act, employers must obtain Trade Union's consent in amending the Rules of Employment (ROE) in the manner disadvantageous to workers. This provision under the Act one-sidedly weakens the employers' bargaining position in the collective consultation with the Trade Union.</p>	<p>- It is requested that GOK repeals the Employers' obligation to obtain Trade Union's consent in changing the ROE disadvantageous to Workers, to enable employers to flexibly meet the change in the business environment.</p>	
		(5)	Nebulous Issuance Basis of Expatriate's Work Visa	<p>- A Japanese enterprise is given an explanation that GOK does not authorise issuance of Employment Visa, unless the applicant is in a managerial position, supervising Korean employees, without, however, providing the definitive basis for Employment Visa Issuance.</p>	<p>- It is requested that GOK overhauls the legislation for issuance of alien's work visa.</p>	
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Difficulty in Patent Division after Patent Examination is Over	<p>- The going ROK Patent Act forecloses Patent Division upon reaching the stage of decision for or against patentability. It deprives the applicant's ability to acquire the patent right that satisfies the applicant's intended claims.</p>	<p>- It is requested that KIPO deregulates the timing of Patent Division that allows application upon reaching the stage of decision for or against patentability.</p>	<p>- Patent Act Article 52 (Division of Patent Application)</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(2)	Division of Patent Application Not Possible Upon Issuance of Notice on the Grant Of Patent	- It is not possible to divide Patent Application at the time of receiving the grant of patent under the going Patent Act. This provision interferes with the strategic Patent Right acquisition of the Applicant.	- It is requested that GOK deregulates the timing of the Division of Patent Application.	- Patent Act Article 52 (Division of Patent Application)
	(3)	Absence of Subjective Requirement on Indirect Infringement of Patent Right	- Current Patent Act of ROK does not provide for the subjective requirement (whereby a person knowingly, as his/her business, manufactures or transfers, or imports or transfers goods, which are patented invention or which are used for execution of patent(s).	- It is requested that GOK adds the subjective requirement in regard to indirect infringement.	- Patent Act, Article 127 (Deemed Infringement Conducts)
	(4)	Exclusion of from Patent Protection of Computer Programme by Itself	- The going ROK Patent Act does not protect computer programme itself, and cannot protect patent right holder from the programme copying over the internet without the memory device.	- It is requested that GOK causes the Patent Act to be amended so that the computer programme itself is defined as invention of goods.	- Patent Act Article 2 (Definition)
	(5)	Filing is Disallowed of Patent Application in Non-Korean Languages	- The going Patent Act, accepting only the Korean language for patent procedures, restricts foreigners' activities related to the patent right in ROK.	- It is requested that GOK permits use of more languages, such as English for all Patent procedures.	
	(6)	Disallowed Procedural Correction made in accordance with the Original Documents of IPAPCT	- In the case where an applicant files International Patent Application under the Patent Cooperation Treaty (PCT) (IPAPCT) and transfers such application to the domestic ROK, it is possible for the Applicant to make a Procedural Correction based on the translation submitted upon transfer. Nevertheless, KIPO does not allow Procedural Correction made in accordance with the original documents of IPAPCT, however, not contained in the translation.	- As regards PCT international Patent Application, it is requested that KIPO allows Procedural Correction made in accordance with the original documents of IPAPCT.	- Patent Act Article 208
19	Industrial Standards, Approval of Safety Standards	(1) Vexatiously Complex GOK's Own Standards and Specifications	- ROK's National Standard KSA9000 exists, corresponding to International Organization for Standardization (ISO) Quality Certification. - Korean Industrial Standards (KS) exists. - Where GOK applies Certification of the Standard Specifications to goods imported from abroad, it begins to function as Technical Barrier to Trade.		- KSA9000 - KSA9000 - KSA9000
	(2)	Too Brief Period from Issuance to Enforcement of Product Safety Regulation, Radio Law, Line Standard	- The periods are extremely short from promulgation to enforcement of Product Safety Regulation, Radio Law, and Line Standard. Moreover, enforcement begins before the promulgation of implementation details. From time to time customs clearance delays due to the delay in promulgation of Implementation Circular.	- It is requested that GOK: -- allows minimum one-year from promulgation to enforcement, and -- gives notification and training to all concerned departments before enforcement begins.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(3)	Incompatibility between Japan and ROK on Examination Standards for Pharmaceuticals Licence	- Examination Standards are incompatible between KFDA and (JMHLW), in regard to the Licence for Import and Distribution.	- As affairs stand, enterprises must go through the ordeal of the same sort of examination in ROK as it has received in Japan, taking 8-10 months for the product on which Japanese Pharmaceutical Licence has been issued already. Harmonisation between the two countries is necessary.	
22	Environmental Pollution and Waste Disposal	(1)	Demand for Radiation Inspection	- For export of iron scrap from Japan, importing countries require radiation inspection. While Member Firm receives compensation from Tokyo Electric Power Company (TEPCO) for expenses actually incurred as inspection fees by completing the nebulous procedures, no compensation is available as to labour cost, lost earnings, interests, etc.	- It is requested that GOJ takes steps to: -- regain the confidence in Japanese products and -- deregulate or repeal the restrictions of each country relative to Japanese products.	
24	Indigested Legislation, Abrupt Changes	(1)	Complex Procedures required on Renewal of Products Registration	- Renewal Procedures are complex on Products Registration.	- It is requested that GOK takes steps to repeal Renewal Procedures on Product Registration as it is done in Japan, so that once registered, no renewal is necessary.	
26	Others	(1)	Shortage of Power Supply	- Due to greater demand than supply of electric power, a blackout took place.	- It is requested that GOK boosts as soon as possible the power supply capacity that can meet the demand.	

Issues and requests relating to foreign trade and investment - Laos

	Category	No	Issue	Issue Details	Requests	Governing Laws
1	Restrictions on Entry of Foreign Capitals	(1)	Establishment of Government Reservation Areas Barring Entry of FFEs	- About 2-years ago, Government of Laos (GOL) established Government Reservation Areas (GRA), which are foreclosed from entry by Foreign Funded Enterprises (FFE). It forms a barrier against FFEs' entry.	- It is requested that GOL liberalises GRA to FFEs.	
		(2)	Cessation of Mining Rights for a long period	- The Premier of Laos promulgated freeze until 31 December 2015 of the Mining Right Licence (MRL) to FFEs in its Notification of 11 June 2012. As to Mining Right, freeze of Prospecting Licence and Exploration Licence, as well as Expansion Licence in the areas stipulated under Article 37 of Mining Act has been determined. These governmental measures have been prompted by the deprivation by these projects of villagers' landownership rights, and their negative impact upon the environment. GOL will review the existing projects during this freeze period.	- It is requested that GOL moves up removal of freeze on MRL to expedite the review work. Similar freeze on Mining Zone Licence has taken place in other countries in South East Asia, provided, however, that the freeze period is for about 1-year, the hiatus of 3.5 years is too long.	- Prime Minister Order No.13/PM
12	Exchange Controls	(1)	Restricted Exchange of Lao Currency Kip into Foreign Currency	- A Member Firm's Subsidiary (MFS) distributes products in local currency Kip and imports in foreign currency Fertiliser and Processing Equipment (including consumable supplies) so that necessity arises for conversion of Kip in hand into foreign currency. However, due Central Bank's Notification restricts currency conversion. It will likely impact MFS's business activity.	- It is said that the Notification is prompted by the need to put a stop to the dwindling foreign exchange reserve at the Central Bank's Coffers. However, it is requested that Central Bank pays attention not to disturb business activity in the private sector.	- "Central Bank Notification on Sales in Foreign Currency" of 5 August 2013
21	Restrictions on Land Ownership	(1)	Disunity in Administration of Land Utility Licence	- A Member Firm (MF) had obtained GOL's licence for the afforestation lot (or its candidate lot) on which it was later found that licence had been issued to another enterprise. It has taken much time and effort for settlement of the problems through a series of tri-lateral consultation among GOL, MF and the other enterprise).	- It is requested that GOL and the District Administration Office: -- share the information on land utility, and -- unify the administration for allocation of land lot on new businesses.	
24	Indigested Legislation, Abrupt Changes	(1)	Nebulous Systems related to Afforestation	- Due to the nebulous scheme concerning lease of afforestation land, afforestation, logging and export, in practical terms, all governmental supervisory agencies that are deemed to have some relation individually conduct the examination procedure. This takes much time and cost.	- It is requested that GOL constructs an efficient and clear system by clarifying its purpose. - It is requested that GOL so-called one window service.	- The Land Act - Forest Act - Tariff Act - related President Decree, and Premier Decree
		(2)	Irrational Administrative Procedures for Logging and Transporting Logged Wood	- MFS was forced to follow the administrative procedures in transport of afforestation trees, comparable to transport of natural trees. While the requisite documents seem to have similar contents, separate set of documents must be prepared for each Agencies (Forestry Commission, Bureau of Commerce and Industries, Bureau of Taxation, etc.), taking time and cost far above the estimate.	- It is requested that GOL controls separately natural trees and a forestation trees in principle. The sharing of common documentary forms (so-called one window service) is one of the ideas required.	- Premier's Notification on "Export of Afforestation Trees and Sawed Woods" of 12 February 2010, etc. - MAF Minister's Notification on Related Issues, etc.

Issues and requests relating to foreign trade and investment - Malaysia

	Category	No	Issue	Issue Details	Requests	Governing Laws
1	Restrictions on Entry of Foreign Capitals	(1)	Non-Manufacturing Business Sectors Closed to Foreign Capital Participation	<p>- Ministry of Domestic Trade, Co-operatives &amp; Consumerism (MDTCC) issued on 12 May 2010, "Guidelines on Foreign Participation in the Distributive Trade Services" (MDTCC Guidelines) that reflects GOM's deregulation policy on foreign capital contribution. The scope of non-manufacturing enterprises covered under MDTCC Guidelines is broad, including distribution and services, dispensing with the 30% Bumiputera capital requirement, excluding hypermarket/superstore, permitting 100% foreign capital contribution. The following sectors remain prohibited to foreign capitals:</p> <ul style="list-style-type: none"> <li>-- Supermarket/Mini Market (of less than 3,000 sq.m in sales floor space)</li> <li>-- Food store/general sales ship</li> <li>-- Convenience Store</li> <li>-- Newspaper Vending Stores, Sundry Goods Stores</li> <li>-- Pharmaceuticals Shops (handling traditional herbs and Chinese medicines)</li> <li>-- Petrol Station</li> <li>-- Wet Market and Sidewalk (Pavement) Shop</li> <li>-- Projects related to National Strategic Interest</li> <li>-- Fabric Shop, Restaurant (not high class), Bistro, Jewellery Dealer, etc.</li> </ul> <p>- The Guideline has reduced to zero "the Capital Contribution Rate of Foreign Funded Enterprises (FFE) in Convenience Stores".</p>	<p>- It is requested that GOM:</p> <ul style="list-style-type: none"> <li>-- authorises 100% foreign capital in enterprises in non-manufacturing sector,</li> <li>-- repeals the Guideline requiring local capital participation in enterprises in non-manufacturing sector, and</li> <li>-- deregulates the Guideline further.</li> </ul> <p>- It is requested that GOM takes steps to: GOM deregulates the restrictions to enable the majority share ownership by FFEs.</p>	<p>- Guidelines on Foreign participation in The Distributive Trade Services Malaysia</p>
		(2)	Restricted Foreign Capital Contribution Rate in Non-Manufacturing Sectors	<p>- Restrictions on foreign investment is being liberalised in quite a few business sectors. While Foreign Investment into GOM (Foreign Investment Commission=FIC) Guideline has put 30% cap on foreign investment into power industry, on a case-by-case basis, GOM has been deregulating the Cap on Foreign Capital Ratio. In October 2011, Premier Najib Razak announced deregulation by stages the Cap on 17 Business Sectors in the Service Industry, including Private Hospitals, Medical-Dental Services, Construction, Engineering, Financial-Accounting Service, Legal Service, Courier Service, Education, Training, Telecommunication Services, etc.</p> <p>- MITI issues Manufacturing Licences by Industrial Adjustment under the Promotion of Investment Act 1986 and the Income Tax Act 1967. MITI allows 100% foreign capital contribution in most business sectors excepting the followings that still remain:</p> <ul style="list-style-type: none"> <li>-- On 27 June 2009, deregulation on foreign capital control was released on the enterprises in financing and insurance sectors, raising the foreign capital ratio from 49% to 70% as regards Investment Bank, Islamic Bank, Insurance Co., and Takaful Insurance. However, foreign capital ratio remains unchanged at 30% on the domestic commercial banks and 20% on single foreign capitals.</li> </ul>	<p>- It is requested that GOM:</p> <ul style="list-style-type: none"> <li>-- authorises 100% Foreign Capital Contribution on non-manufacturing sector, and</li> <li>-- repeals the requirement for Local Capital Participation in Non-Manufacturing Sector,</li> <li>-- repeals the Guidelines, and</li> <li>-- effects further Deregulation.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws	
			-- On 30 June 2009, FIC repealed "Guideline on the Acquisition, Merger/Takeover of Properties by Local and Foreign Interests" and FIC was dissolved. However, the capital terms will remain valid as to the existing enterprises on the licences and approvals already issued by the respective competent authorities.			
	(3)	Pribumi Local Capital Contribution Requirement	- MDTCC Guidelines direct Pribumi Share Ownership of minimum 30% for acquisition of PDA Licence.	- GOM has already deregulated restrictions on FFEs concerning International Trade Firm. It is requested that GOM deregulates foreign exchange restrictions also as regards acquisition of Licence on commodities handled by FFEs.	- Petroleum Development Act 1974	
	(4)	Difficulty in Setting Up Local Legal Entity	- Various difficulties must be overcome for setting up a local legal entity, namely, Substantial capital fund, 2-(Malaysian Residents) Directors, 30% Capital Share Contribution by Pribumi, etc. For lack of local legal entity, a Member Firm is unable to engage in community-based business activity in Malaysia.	- It is requested that GOM deregulates the scheme.		
6	Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Restricted Application of LMW Customs Duty Exemption	- Licensed Manufacturing Warehouse (LMW) Authorised Factories (a subsidiary of a Member Firm (MFS) one of them) used to benefit from Tax Exemption in the case where its supplier imported raw materials and parts for the finished products manufactured and supplied to local purchasers, such as the Member Firm's Subsidiary (MFS). GOM granted Tax Exemption by the supplier's filing Application to MIDA, accompanying MFS's Certification thereto. However, MFS received notification from MIDA in 2012 to the effect that the Tax Exemption Measures no longer apply to the transactions in question to its great consternation and difficulty.	- It is requested that GOM grants Tax Exemption Measures regardless of the channel of purchase.	
		(2)	Further Repletion of Benefits on R&D	- A Member Firm's Subsidiary (MFS) has developed R&D Operation in an Existing Manufacturing Company. Nevertheless, GOM requires submission of a vast amount of materials on MFS's request for grant of Double Tax Amount Deduction. In the end MFS had to abandon its application.	- It is requested that GOM considers grant of incentives, which are both substantial and easy to obtain for R&D operation developed inside the Existing Manufacturing Company.	
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	- Import duty on steel is 25% on major steel items. Every year, Member Firm's Subsidiary must file application to Malaysian Investment Development Authority (MIDA) for Import Duty Exemption (IDE), decision of which is left to the discretion of the competent authority. There is, however, no assurance that IDE is granted on each application. Should IDE be discontinued for the steel import, NOL acquisition from the local steel manufacturer becomes virtually impossible. If discontinued, it will mean a great blow to the local manufacturers importing steel from Japan.	- It is requested that GOM repeals the import duty of 25 on steel products, which are imported as materials for further manufacturing and processing.	- Customs Act

Category	No	Issue	Issue Details	Requests	Governing Laws
			- GOM levies high import duty on papers manufactured in Japan. It weakens the price competitive edge of the Japanese products. [Import Duty on Japanese papers] Uncoated Quality Paper 7%, Unbleached Kraft 10%, Bleached Kraft 10%, One Side Glossed 10%, K-Liner 10%, Core Base Paper for Cardboard Sheet 10%.	- It is requested that GOM repeals or further reduces the Duty Rate.	
	(2)	Raise of Import Duty	- On 15 March 2002, GOM raised tariff on hot-rolled steel, cold-rolled steel, galvanised sheet iron, and welded steel tube to protect the domestic industry.  <b>(Improvement)</b> - On 1 August 2009, MITI released the review of its Steel Industry Policy under which GOM will reduce in stages or exempt Import Duty on Steel Products: (1) Reduction of import duty on steel bar to 10% by 1 August 2009, and 5% by 1 January 2010, (2) Reduction of import duty on steel sheet to 25% by 1 August 2009 and 0-10% by 1 January 2018. Exemption of import tariffs in so far as they are used as raw materials for final export products, or if they are not locally manufactured or used as raw materials for final products on which zero duty is imposed.		
	(3)	Review of Scheme on Import Duty	- On 19 October 2011, Ministry of International Trade and Industry (MITI) proposed Reduction of Import Tariff On Steel Products (25% => 15%) and Repeal of Tax Exemption under the MIDA Scheme to Malaysian Iron and Steel Industry Federation (MISIF). MISIF expressed its opposition to the proposal. On 9 December 2011, Japanese Chamber of Trade & Industry, Malaysia (JACTIM) likewise despatched its Written Opposition Opinion to MITI, stating that MITI's Repeal of Tax Exemption Scheme is directly inductive to the Debilitated Competitive Edge of the Malaysian Industries. On 22 January 2013, MITI announced Repeal of Tax Exemption on Hot-Rolled Steel Plates corresponding to the 18-Industrial Standards, beginning 1 February 2013.	- It is requested that GOM: -- irons out the procedures, -- resumes tax exemption system, and -- elucidates the basis of tax exemption.	
	(4)	Nebulous Import Duty Exemption Scheme under Japan-Malaysia EPA	- Unlike MIDA's Tax Exemption Scheme, the Tax Exemption Scheme (TES) under Note 13 of Japan-Malaysia EPA of 13 July 2006 grants Tax Exemption on Raw Materials Destined to the 8-users such as Car Industries, Home Electric Appliance Industries, etc. based on the Users' Opinion (in terms of Specifications, Grade, and Volume). However, in the absence of the Detailed Implementing Rules for TES, Member Firms are unable to benefit from the TES. It is reported that TES is due for incorporation into Amended Tariff Decree by the end of 2012. However, it appears there has been a delay in preparing the Amended Tariff Decree.	- It is requested that GOJ and GOM overhaul as soon as possible Detailed Implementing Rules for TES under Japan-Malaysia EPA.	
	(5)	Import Licence Scheme for Steel Products	- On 25 November 1982, GOM implemented the Import License (I/L) System on Wire Rod (Common Steel), and Bar Steel/Wire Rod (Alloy Steel). - On 15 August 1985, GOM implemented the Import License (I/L) System on Billet and Coil for Re-Rolling.		

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>- On 2 April 1999, GOM implemented the Import License (I/L) System on Hot and Cold-Rolled Steel. GOM requires the Local Mill's "Approved Permission" for steel production-Hot-Rolled Steel to grasp the Local Mill Operation, and Cold-Rolled Steel, the Market Trend.</p> <p>- Since 15 June 2012, HS7225 Flat-rolled Products of Other Alloy Steel Wide Width has become the target goods requiring I/L.</p>		
			<p><b>(Improvement)</b></p> <p>- On 1 March 2013, Customs Order 2012 exempted the above-mentioned products (Flat-rolled Products of Other Alloy Steel Wide Width (HS7225)) from the target goods requiring I/L.</p>		
	(6)	CBU Import Licence for Motorcycles issued restrictively, Only to Bumiputera Enterprises	- MITI (Malaysian Ministry of Trade and Industries) issues AP (Approved Permits) only to Bumiputera enterprises on Import of CBU Motorcycles.	- It is requested that GOM repeals the restrictions at once.	
	(7)	Vexatiously Complex and Delayed Import Duty Exemption Procedures	<p>- Since inaugurating the local steel mill in Malaysia in December 2006, it has taken a long time for an MFS to obtain the quota on Import Duty Exemption for Electrogalvanised (EG) Steel Sheet.</p> <p>On 1 August 2009, by Policy Review of Iron Steel Industry, Ministry of International Trade and Industry (MITI) abolished Import Control through fixing the ratio between Locally Sourced and Imported Products, as well as Import Duty Exemption for the Selected Sectors. MITI continues to grant Duty Exemption on Products for which Grades and Specifications are not produced locally.</p> <p>(Pending Issues)</p> <p>The ambiguity in the judgement bases for Duty Exemption by MIDA (Malaysian Industrial Development Authority), "Products for which Grades and Specifications are not produced locally", hinders the stable product supply. More precisely, reduction in the quantity applied, the extension of period before grant of tax exemption, or decision of tax exemption determined by exporter. MIDA fails to account for the suppliers' capacity, users' evaluation or opinions in its decision making.</p> <p>On 19 October 2011, MITI made a proposal to The Malaysian Iron And Steel Industry Federation (MISIF) concerning reduction of Import Duty (25% to 15%), as well as repeal of tax exemption scheme (MIDA Scheme). MISIF declared its opposition.</p> <p>On 9 December 2011, The Japanese Chamber of Trade &amp; Industry, Malaysia (JACTIM) also despatched its Opinion in opposition to repeal of MITI Tax Exemption Scheme, stating, abolishment of MITI Tax Exemption Scheme debilitates the international competitive edge of the industry.</p> <p>On 22 January 2013, MITI announced discontinuation of Tax Exemption Scheme applied on Hot Rolled Coils corresponding to the 18 Industrial Standards.</p>	<p>- It is requested that GOM:</p> <ul style="list-style-type: none"> <li>-- smoothens the procedures,</li> <li>-- reopens the tax exemption scheme, and</li> <li>-- makes transparent the basis of tax exemption.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws	
	(8)	Restricted Number of Customs Brokers	- GOM's restrictions in number of Customs Brokers (up to 3 enterprises in Port Kelang) obstruct enterprises selection of Customs Broker, and price negotiations.	- It is requested that GOM repeals the registration requirement of Customs Brokers.		
	(9)	Safeguard Measures	- On 1 May 2011, upon request of Megasteel Sdn Bhd, MITI initiated Investigation on Safeguard Measures based on the alleged causal relationship between the rapid increase of Hot-Rolled Steel Plate Import and the material injury to the Domestic Industries. On 22 August 2011, MITI terminated the Safeguard Measures Investigation with negative finding. MITI found such import did not threaten the domestic industry, although the import volume increased by 35% during January to September 2010.			
	(10)	Disappearance of Generalised System of Preferences (GSP)	- EU discontinued GSP on Audio Products from Malaysia (beginning 1 January 2013). Member Firm is concerned about the debilitated competitive edge of the Malaysian products destined to EU, compared to products shipped from PRC and Vietnam manufacturing depots.	- It is requested that GOM ratifies Malaysia-EU FTA as soon as possible.		
	(11)	Dilly-dallied Malaysia-EU FTA Negotiation	- Customs Duty burdens upon the Malaysian Export Industries due to exclusion of Malaysia from the Beneficiary Countries under EU GSP.	- It is requested that GOM ratifies Malaysia-EU FTA as soon as possible.		
14	Taxation Systems	(1)	Nebulous Implementing Regulation of Tax Law	- While increasing numbers of Foreign Funded Enterprises face expiry dates for the Pioneer Status (PS), Investment Tax Allowance (ITA) and Reinvestment Allowance (RA), cases of denials are reported in the taxation investigations involving Transfer Price Taxation System, ITA, RA, etc., all decided upon the sole discretion of investigators without clear substantive rules given in writing by public notification, etc.	- It is requested that GOM arrange opportunities for exchange of dialogues for clarification of the taxation rules between Inland Revenue Board of Malaysia and FFEs.	- General Tax Laws
		(2)	Levy of Withholding Tax in Violation of Japan-Malaysia Tax Treaty	- Japan-Malaysia Tax Treaty (JMTT) provides: "The profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a Permanent Establishment situated therein." However, there remains a possibility that GOM levies Withholding Tax upon the service a Member Firm's Subsidiary (MFS) receives from Member Firm (its Japan Head Office).	- It is requested that GOM: -- honours its undertaking with GOJ under JMTT by giving its precedence over the Malaysian Domestic Laws including Corporate Income Tax Law, and -- promulgates in the form of decree or otherwise that no Malaysian Withholding Tax Payment Obligation accrues upon the Services Rendered by an enterprise without a Permanent Establishment situated in Malaysia.	- Japan-Malaysia Tax Treaty, Article 7 - Malaysian Income Tax Act Article 109(B)
		(3)	Nebulous Application Procedures for Petroleum (Income Tax) Act and Goods and Services Tax	- While GOM promulgated new incentives on Petroleum (Income Tax), the subject goods and the application method remain nebulous. Through an Industrial Body, request has been filed to the Taxation Authority to provide a clear-cut data and information. It has been decided to introduce from 2015, Consumption Tax, in lieu of the going Goods and Services Tax. Taxation Authority has issued a Guideline On Consumer Tax for the oil and gas upstream industries. However, the procedures for filing tax return include many ambiguous points.		- Petroleum (Income Tax) Act and Goods and Services Tax

Category	No	Issue	Issue Details	Requests	Governing Laws
	(4)	Introduction of Goods and Services Tax (GST)	<ul style="list-style-type: none"> <li>- Beginning 1 April 2015, GOM introduces Goods and Services Tax corresponding to VAT at 6% Tax Rate. GOM intends to work with GST on a full-fledged basis in order to reduce the budgetary deficits and expand the tax base. (Goods and Services Taxes have been repealed and replaced by GST).</li> <li>- Corporate Income Tax will be reduced along with introduction of GST due in April 2015.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOM expands the depth of reduction in Corporate Income Tax with the introduction of GST.</li> </ul>	- GST Act
	(5)	Nebulous Transfer Price Taxation System Investigation	<ul style="list-style-type: none"> <li>- Calculation basis of additional tax from TPTS investigation is unilateral, and the resulting amount is extremely substantial.</li> </ul>		
15 Price Controls	(1)	Abrupt Hike in Electricity Bill by Large Margin	<ul style="list-style-type: none"> <li>- In December 2013, GOM notified hike in Electricity Bill by 15% (for enforcement beginning January 2014). While this is one of the GOM's measures for reduction in various subsidy policies, the 15% hike is a heavy blow to enterprises that consume electricity in substantial volume. It means increase in MFS's operation cost to the tune of RM2.4 million (about 75 million Japanese yen) per annum.</li> <li>In addition, a short grace period of only one-month from the formal announcement to the implementation has necessitated a hasty budgetary planning review, and has substantially disrupted the business operation.</li> </ul>	<ul style="list-style-type: none"> <li>- Upon effecting changes for hike in public utility charges, etc. that heavily impact business activity, it is requested that GOM gives advance notice with ample grace period before implementation to assure users a sufficient time for rescheduling their operations.</li> </ul>	- Notification promulgated by Ministry of Energy, Green Technology and Water
	(2)	Hike in Public Utility Bills	<ul style="list-style-type: none"> <li>- In September 2013, GOM reduced the subsidy on gasoline, so that per gallon price has gone up by 10% approx. In addition, further 15% hike from January 2014 has kept on aggravating the managerial environment.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOM introduces incentive measures such as reduction in Corporation of Income Tax Rate, etc.</li> </ul>	
16 Employment	(1)	Tightened Control in Employment of Foreign Workers	<ul style="list-style-type: none"> <li>- Restrictions continue on employment of Foreign Workers so that difficulties remain for employment of Foreign Workers and securing their Work Permit. On the other hand, the poor employment retention rate of indigenous Malaysian Workers also continue, even after the introduction of the Minimum Wage Scheme. To ensure stable business operation, the continued reliance upon Foreign Workers has become indispensable. Cultivation of the Malaysian nationals, assurance of securing workforce, and deregulation of the restrictions on foreign workers employment, these represent impending issues, requiring immediate attention.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOM:                             <ul style="list-style-type: none"> <li>--cultivates indigenous Malaysian Human Resources in order to secure workforce, and</li> <li>--deregulates restrictions on employment of Foreign Workers.</li> </ul> </li> </ul>	
	(2)	Wage Hike by Large Margin caused by Introduction of the Minimum Wage System	<ul style="list-style-type: none"> <li>- Under National Wages Consultative Council Act, "the Minimum Wage Order" is due for enforcement from 1 January 2013. The Minimum Wages are RM900 in the Peninsula Region, RM800 Sabah, Sarawak States and Federal Territory of Labuan. Impacted by this Order, enterprises drag their feet about new employment.</li> <li>- The hike in Minimum Wage (especially on Foreign Workers): MR600 =&gt; MR900.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOM controls wage increase as GOM's action can debilitate the international competitive edge of the Malaysian industries.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws	
			- The introduction of Minimum Wage Scheme (MWS) since January 2014 has resulted in Labour Cost Increase mainly for workers in the production site. It is said review of MWS takes place in every two years. Future increase in labour cost is a matter of serious concern.	- It is requested that GOM holds down and avoids the rapid radical labour cost increase.		
	(3)	Restricted Number of Expatriates and their Positions	- In the Upstream Petroleum Industries, GOM severely controls the number of expatriates and their positions. This gives rise to a situation where deployment of local staff becomes necessary for positions beyond the level of their technical skills and competency.	- It is requested that State Owned Company Petronas: -- understands the problems described in the left column, and -- deregulates the restrictions.	- The Model Production Sharing Contract (PSC)	
	(4)	Shortage of Grace Period for Implementing the Extended Age Limit	- "Minimum Retirement Age Act 2012", providing that "the Minimum Retirement Age of an employee shall be upon the employee attaining the age of sixty-years" in private enterprises, is due for enforcement from 1 July 2013. While GOM's intention is to improve employers' treatment of their workers, some voices the need for considering the impact upon the business management in its implementation at the time of the severest world economy. Moreover, others are afraid that the moratorium period is too short, so that it will dilute the competitive edge of the domestic industries.			
	(5)	Insufficiency of the Period for Transfer of Duties for Employees in Private Sectors	- In the case where an employee in a private sector gets transferred to Government Institutions, various inconveniences result from the excessively short period allowed for transfer of duties. (Order received upon adoption decision required the applicant's showing up at office from next week).	- It is requested that Government Institutions: -- make it compulsory to allow minimum one-month from the adoption decision when accepting transferred staff from private enterprises, and -- make it possible for the private enterprises to arrange for successors and transfer of duties.		
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Shortage of the Period for Request of Modified Substantive Examination	- The deadline for request of Modified Substantive Examination (MSE) Scheme is 4-years in principle from the Filing Date of Patent Application (FDPA), extendable up to 5-years from FDPA by requesting extension. Therefore, in most cases, it requires filing of request for extension of the application period, in order to allow for the period up to the point of registration in the U.S., Japan, etc.	- It is requested that MyIPO amends the Act so that the deadline of filing request for examination under MSE is 5-years (or more) from FDPA.	- Patents Regulations, Articles 27(1), 27A(1) & 27B(2)
		(2)	Absence of Board of Patent Appeals and Interferences (BPAI) at Intellectual Property Corporation of Malaysia (PHIM)	- Absence of BPAI at PHIM- Intellectual Property Corporation of Malaysia (PHIM, or later called MyIPO) has no scheme for seeking judgement on Invalidation of Patent. Board of Patent Appeals and Interferences (BPAI). To seek patent invalidation, the claimant must bring the case to the court naming the patent holder as defendant.	- It is requested that MyIPO establishes The Scheme for Patent Invalidation Examination.	- Patents Act, Article 56.

Category	No	Issue	Issue Details	Requests	Governing Laws
	(3)	Insufficient Application Points for Divisional Patent Application	<p>- As regards Division of Patent Application (DPA), it is prescribed that DPA may be filed within 3-months of the mailing date of the Examiner's Report on Violation of Unity of Invention, or at Claimant's own initiative. Therefore, it is impossible to divide the Patent at the time of Refusal Examination or Patent Examination. It cuts down the opportunity for the Applicant's Acquisition of the Patent in the particular claims as desired by the applicant.</p>	<p>- It is requested that MyIPO takes steps to amend the Act so that DPA may be filed upon the examiner's negative determination of the examination.</p>	<p>- Malaysia Patents Act Article 30(1)(2)(3)(5) - Patents Regulations Article 19A</p>
	(4)	Fuzzy Legislative Provisions on Obligation to File Applications in the First Country	<p>- In emerging countries where growing needs for local development prevail, numerous countries continue to retain the legislative provisions on "Obligation to File Applications in the First Country (OFAFC)", however, without a clear-cut definition. It makes it difficult to protect IPRs effectively. Today when the R&amp;D activities encompassing multiple countries are indispensable, the risk of infringement under OFAFC in plural countries is a matter of concern.</p>	<p>- It is requested that MyIPO takes steps to: -- deregulates or repeals OFAFC or provides its clear-cut legislative provisions, or -- promotes deregulation for application of OFAFC requirements upon cross border R&amp;D activity by agreements among plural countries, etc.</p>	
	(5)	Inadequate Provisions on restricting the Reproduction Right for Private Use	<p>- The use of the reproduction right should be permitted to the extent deemed necessary for testing technical development or practical application for sound recording, video recording or other technology. In addition, Article 30(4) of Copyright Act of Japan is an attempt at restricting copyright.</p> <p>- Study/analysis of computer programme amounts to a conduct for extracting ideas. Copyright should not extend to the extent of intermediate reproduction / adaptation made in its process. In addition, in Japan, The Copyright Subcommittee on Legal Issues of the Council for Cultural Affairs has reached the conclusion that certain restrictions on copyright are necessary. It only awaits amendment of the Law.</p> <p>- Reproduction should be allowable to the extent necessary for the information analysis using computer, etc. In addition, in Japan, Article 47(7) of Copyright Act restricts the copyright.</p> <p>- To the extent deemed necessary for provision of Internet Search Service, reproduction of copyrighted materials should be permissible. In Japan, Article 47(6) of Copyright Act restricts copyright, subject to non-use of such copyrighted materials upon becoming aware that they are copyrighted materials that are illegally made transmittable.</p>	<p>- It is requested that MyIPO takes steps to introduce restrictions of copyright relative to reproduction for private use, necessary for testing technical development or practical application.</p> <p>- It is requested that MyIPO introduces restrictions on copyright to the extent deemed necessary for the purposes of Reverse-Engineering.</p> <p>- It is requested that MyIPO takes steps to introduce restrictions in reproduction right for the purposes of study/analysis of information.</p> <p>- It is requested that MyIPO takes steps to introduce restrictions in reproduction right for the purposes of provision of service for internet search purposes.</p>	

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<p>- In the process of Communication, Watching/Viewing/Executing of Copyrighted Material, Provision of Service using Communication Technology, reproduction should be possible to the extent deemed necessary for making such operation smooth, and efficient.</p> <p>In addition, in Japan, copyright is further restricted under Article 47(8) (Reproduction for use of copyrighted materials by Computer), Draft Amendments for Article 47(5) (Reproduction for Prevention of Communication Interference, etc.), and Draft Amendment of 2012 for Article 47(9) (Use of Copyright necessary for preparing Data Processing in providing Information and Communication Technology).</p> <p>- Reproduction should be allowable to the extent necessary for maintenance, repair, and replacement of equipment.</p> <p>In addition, in Japan, copyright is restricted under Article 47(4) of Copyright Act.</p>	<p>- It is requested that MyIPO takes steps to restrict copyright relative to temporary storage in the process of equipment use and provision of service using communication technology.</p> <p>- It is requested that MyIPO takes steps to restrict copyright relative to temporary reproduction of copyright relative to maintenance / repair of equipment, etc.</p>	
19	Industrial Standards, Approval of Safety Standards	(1)	Complex and Delayed Evaluation Procedures for Compatibility Certification	<p>- Since 15 November 2008, Certificate issued by SIRIM Berhad (Malaysia Standard Industrial Research) has been made a requisite requirement. Inspection of Officer takes place at Bonded Warehouse or Customs Warehouse, and the landed cargoes must be moved in and out of the warehouse at cost, including the demurrage that arises if the goods are held in the warehouse for more than 3-days. Inspection fees and certificate issuance fees are also incurred.</p> <p>On 1 August 2009, the scope of products subject to MCI has been expanded to 627 items, including steel sheet. Import procedure has been made complex, while additional costs are incurred, affecting distribution.</p> <p>On 13 August 2009, SIRIM had to suspend temporarily its COA Inspection due to the clutter of imports (which lasted until 12 October 2009).</p> <p>- On 13 October 2009, the COA requirement was resumed with the reduction in the subject products from 627 to 187-items, exempting LMW and FIZ of less than 500 kgs from the COA acquisition requirement. Also exempted are Special Steel Products destined to Manufacturers and Service Centers of 5-Industries (Car, Electric/Electronic Appliances, Aeronautics/Space, Oil/Gas, Shipping/Ship Building.) In addition, by filing application, individual products could be exempted case by case at the SIRIM's discretion.</p> <p>As it stands, excluding the exempted items mentioned above, under the going COA inspection, sampling is necessary per shipment, per size for inspection, regardless of if the products are from the same factory, using the same steel materials and specifications. Because of this requirement exporters must cope with excessive inspection cost and clerical workload. Moreover, SIRIM's COA duplicates the MIL inspection items in many respects. Rather than serving for elimination of poor quality materials, it causes delay in import and complexity in procedural issues. The parties in concern look forward to its early abolition and simplification.</p>	<p>- It is requested that GOM takes steps to:</p> <ul style="list-style-type: none"> <li>-- repeal SIRIM Certification Requirement, and</li> <li>-- clarify and streamline the procedures (including the Exclusionary Scheme).</li> </ul>	- Custom Order 2012 (on Prohibition of Imports)

Category	No	Issue	Issue Details	Requests	Governing Laws	
			On 31 December 2012, SIRIM announced 141-items of the products that become subject to the COA requirements, beginning 1 March 2013.			
	(2)	COA Procedures Made More Stringent	<p>- Since 21 February 2013, SIRIM has made COA Scheme more stringent (making COA acquisition compulsory upon import over 144-items. Temporary Certificate of Approval (TCOA) was abolished (however, with a grace period of 6-months). As to Special Products destined to the 5-Specific Purposes, Comprehensive Package Application is available once a year across-the-board.</p> <p>Changed COA Application Process:</p> <ol style="list-style-type: none"> <li>1. Long-Term (Valid for 1-year after Product Certification Test by Foreign Certification Body (CB) or SIRIM or</li> <li>2. Short-Term (Full Type Test by Local or Foreign CB validity determined each time).</li> </ol> <p>Procedures have been made more stringent, including sampling inspection at the loading port, SIRIM visit to factories, etc. For Short Term, Sampling Scheme is available at unloading port for small-scale importers.</p> <p>Implemented from 22 August 2013.</p>			
22	Environmental Pollution and Waste Disposal	(1)	Aggravated Haze Damage from Forest Burning	- Haze damage has gotten aggravated. Smokes from large-scale forest burning in June-July in Sumatra, Indonesia carried by monsoon have reached Malaysia. It has developed into gigantic social, environmental problems.	- It is requested that GOJ takes steps to persuade GOM to take drastic measures to correct the problems.	
		(2)	Unsorted Waste Disposal	- GOM does not exercise sorted waste collection so that MFS faces a hard time locating used papers, which serves as raw materials for MFS. Circumstances such as these push up the price of used papers, and the finished papers, employing used papers as materials.	- It is requested that GOM takes steps to implement the law on Sorted Waste Disposal for Effective Use of Resources and Environmental Protection.	
23	Inefficient Administrative Procedures, Regimes and Practices	(1)	Hike in Electric Power Charge	- Hike in Electric Power Charge.	<p>- It is requested that GOM abolishes restrictions on entry into Power Supply Industries.</p> <p>- Relative to Tax Incentive on investment into energy saving, Eco-Tax (reduction) was terminated in November 2013. In the face of Power Charge Hike, it is requested that GOM takes steps to consider provision of incentive that facilitates each factory's investment into energy saving.</p>	- Electricity Supply Act
		(2)	Time Consuming Administrative Procedures	- Administrative Measures are extremely time consuming. It is affected by who the persons in charge are. Moreover, there is no consistency in their views. It is tossed, to and fro, like a shuttlecock.	- It is requested that GOM takes steps to streamline and clarify various procedures.	
24	Indigested Legislation, Abrupt Changes	(1)	Employment Of Laws And Regulations Disfavouring Large Enterprises	- Ministries and Agencies tend to be rigorous toward Large Enterprises and Foreign Funded Enterprises, while being less rigorous to SMEs. (There prevails an apparent propensity toward levying taxes and fines from entities with deep pockets.)	- It is requested that GOM applies all laws and regulations equally to all enterprises, domestic or foreign funded, large or small in scale.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(2)	Abrupt Hike in Power Charge	- In December 2013, GOM announced hike in the Power Charge (of 15% national average) effective from 1 January 2014. This is a radical cost up factor enforced without grace period. It has materially affected Budgeting and Funding Schedules.	- This is a vital element materially affecting competitive edge of manufacturing business. It is requested that GOM reorganise itself in such a way that announcement of this magnitude is released well in advance, accompanied by a reasonable explanation.	
25	Government Procurement	(1)	Expulsion of Foreign Funded Enterprises from Government Procurement Tender	- Enterprises majority owned by foreign capital are closed out from bidding for governmental procurement, as GOM by tradition restricts its procurement only from Bumiputera enterprises (Malaysian enterprises operated by Bumiputera Malaysians).	- It is requested that GOM allows FFEs to sell goods to Ministries and Agencies.	- Government procurement from Bumiputera enterprises is a long-standing convention.
		(2)	Prioritising Local Enterprises in Tender for Procurement of Oil Related Services and Goods	- With certain exceptions, in procurement of Services or Goods relative to the Petroleum Operation, it is necessary to use the limited operators licenced or authorised by Petronas. In many cases, Eligible Operators are restricted. The requirement for use of the domestic operators pushes up the procurement prices.	- It is requested that GOM deregulates the restrictions in government tender to accept bidding by not only by (Malaysian capitalised) local enterprises operators but also by enterprises supplying products at competitive prices in the open general market.	- The Production Sharing Contract (PSC) - Petronas Model Procurement Rule (GSCM-PGA-01)
26	Others	(1)	Inadequate Traffic Infrastructure	- Transportation of employees is interrupted by chronic delays and canceled service of public transportation (electric trains, regular buses, LRT, KTM). Employees must put up with the great burden of having to leave their respective homes about 30 minutes to an hour ahead of the schedule to be sure that they get to the office in time. With the increased number of vehicles, traffic congestions occur all the time, to the detriment of work efficiency, wasting time for move to customers' premises, etc.	- It is requested that GOM: -- reverts the services of public transportation back to normal schedule without abrupt cancellation, and -- expedites overhaul of the arterial roadway, and network of superhighways.	
		(2)	Inadequate Overhauls of IT/ Communication/ Broadcast Infrastructure	- Improvement in the foundation for IT, Telecommunications and Broadcasting is indispensable for achieving a higher efficiency in business operation. Overhaul in the Broadband Environment is an absolute necessity. Digital Broadcasting will enhance international competitive edge of the related industries. Early commencement of the Digital Broadcasting Programme is an imperative necessity.	- It is requested that GOM overhauls the Broadband Environment that satisfies the business needs.	
		(3)	Hike in Electricity Charge for Commercial/ Industrial Use	- GOM officially announced hike in electricity charge by 15% (effective from January 2014). While this is a part of the measures that accompany reduction in government subsidy, the 15% hike is a large blow to enterprises consuming much power. In the case of MFS, it means the cost hike to the tune of RM2.4 million (or about 75 million in Japanese yen), an element aggravating its P/L picture.	- It is requested that GOM gives advance notice with sufficient lead-time to enable users' preparation for timely budgetary readjustment.	- Notification of Ministry of Energy, Green Technology and Water, Malaysia (KeTTHA).

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- GOM raises electricity charge by 15% (excepting Sarawak State) from 1 January 2014, after two and half a year break since June 2011. Average 16.85% raise applies in Peninsula Malaysia for both commercial and industrial use. The hike has been prompted by reduction of subsidy to power generating operations. Minister Johnity Ongkili, KeTTHA estimates reduction of subsidy in the amount of RM4 Billion (about 128 Billion Yen) per annum by this hike in electricity charge.</li> <li>- Hike in Electric Power Charge.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOM abolishes restrictions on entry into Power Supply Industries.</li> <li>- Relative to Tax Incentive on investment into energy saving, Eco-Tax (reduction) was terminated in November 2013. In the face of Power Charge Hike, it is requested that GOM takes steps to consider provision of incentive that facilitates each factory's investment into energy saving.</li> </ul>	- Electricity Supply Act
	(4)	Price Hike in Unleaded and Diesel Fuel	- In order to reduce budgetary deficits, GOM raised prices on both unleaded and diesel fuel on 3 September 2013, while reducing subsidies by 20 sen per litre on RON95 (octane rating 95) and diesel. In addition, Ministry of Finance, on 8 January 2014, raised by 5 sen RON97 (octane rating 97) to RM2.80, while holding down RON95 price to RM2.1 per litre by grant of subsidy.		
	(5)	Sudden Change/ Addition of National Holidays	<ul style="list-style-type: none"> <li>- From time to time sudden abrupt changes take place in National Holidays. GOM willy-nilly enforces the change, ignoring the severe impact upon private business sectors, (very much likely, due to political influence).</li> <li>- By GOM announcement, the change has taken place on public holidays in Johor State from Saturdays and Sundays to Fridays and Saturdays. While majority of Enterprises and Commercial-Financial Institutions would not observe the change, there is much concern that production and commercial activities will be affected. For example, no customs clearance is possible on Fridays.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOM gives a sufficient lead time in making changes in National Holidays.</li> <li>- It is requested that GOM reverts to the calendar in which Saturdays and Sundays are holidays.</li> </ul>	
	(6)	Aggravated Public Security	- As is apparent from approval on the amendment for the Prevention of Crime Act of 1959, it seems criminal cases from misdemeanor (purse snatcher) to felony (burglary while in taxi, etc.) are increasing in the immediate neighbourhood of Japanese and other foreigners' places of business and residential areas.	- It is requested that GOM redoubles its effort for Prevention of Crime, including patrol in the livelihood sphere for Japanese expatriates and other foreign residents.	- Home Page of Embassy of Japan in Malaysia ( <a href="http://www.my.emb-japan.go.jp/">http://www.my.emb-japan.go.jp/</a> )

Issues and requests relating to foreign trade and investment - Myanmar

	Category	No	Issue	Issue Details	Requests	Governing Laws
1	Restrictions on Entry of Foreign Capitals	(1)	Non-approval of Per Project Construction Licence	- MFS, licenced as a constructing company, however, does not hold the substantive Per Project Construction Licence.	- It is requested that Government of Myanmar (GOM) grants Per Project Construction Licence.	
		(2)	Restricted Foreign Capital Ratio	- GOM does not authorise establishment of 100% Foreign Owned International Trade Company.	- It is requested that GOM discloses the possibility for Establishment of 100% Foreign Owned Distribution Company, and if yes, its timing.	
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Establishment of Relatively Higher Standard Taxable Value on Imported Goods	- GOM establishes Standard Taxable Value for each item on Imported Goods purportedly at the "Real Value", however, in effect, at a higher value than the real market price. More often than not, taxpayer must pay superfluous tax. This causes cost increase.	- It is requested that GOM takes steps to get the Amended Customs Act approved by The Assembly of the Union as soon as possible to enable its early implementation. (Being aware of the problems, GOM has already completed drafting the Bill for the Amended Customs Act, under the WTO Customs Valuation Agreement, which is based on the real price paid (based on Invoice Price)).	- Customs Act
		(2)	Nebulous Export/Import Licence System	- Partial repeal of Export/Import Licence System promulgated in February 2013 identified only the names of the subject goods without the corresponding HS Code so that in certain cases, due to the interpretative differences, the competent authority demanded submission of the Licence. The release in September of the List identifying the respective HS Code for each item has abated the confusion at Customs. - GOM requires Import Licence Registration, model by model, upon export/import of finished goods, raw materials and parts.	- It is requested that GOM expands the items included in the List of Subject Goods for which Licence is Exempted.  - It is requested that GOM repeals the Import Licence requirement.	- Ministry of Commerce Notification No. 72
				<b>(Improvement)</b> - GOM alleviated the problems by release in February 2013 of Notification that abolishes Export/Import Licence on 1,928 items, beginning September.		
(3)	Duty Exempted Import of ODA Related Materials and Equipment and Expedited Customs Clearance	- Recently, Member Firm experienced delays in import procedures for ODA related Materials and Equipment, due to the delay in issuance of Authorisation to Pay (AP). (ODA related expenses, not originally budgeted, require each time Foreign Exchange Permission at the Economic Subcommittee under the Cabinet.)	- It is requested that GOM: -- assures duty exemption measures by completing the requisite budgetary measures upon import of ODA Related Materials and Equipment, and -- ratifies ATA Carnet, as well as Japan/Myanmar Technical Corporation Agreement.			

	Category	No	Issue	Issue Details	Requests	Governing Laws
11	Restriction on Profits Remittance Abroad	(1)	Simplified External Remittance of Profits/Dividends	- In the case of a legal entity established under Foreign Investment Law, it is provided: "External remittance is possible at the Specified Exchange Rate for enterprises satisfying certain conditions." (Foreign Investment Law Article 39). Nevertheless, there are few cases in which external remittance was made.	- It is requested that GOM clarifies exactly what amounts to "Satisfaction of Certain Conditions", and facilitates external remittance of dividends.	
12	Exchange Controls	(1)	Complex Procedures for Capital Reduction	- If a company is incorporated under the Foreign Investment Act, Article 55 of Myanmar Companies Act provides: "Subject to the provisions stipulated in the Annex to Article of Association and to the confirmation by the Court, a company limited by shares, if so authorized by its articles, may by special resolution reduce its share capital in any way..." It will probably take a long time and much work to obtain the Court's confirmation. (Due to the inadequate financial system and in the absence of assurance that the bank borrowing is readily available, at the outset of its operation, foreign investors have no alternative but to invest funds in excess of the basic requirement. However, after passage of certain period, there is a high possibility for capital reduction, the procedures of which take much work.)	- It is requested that GOM takes steps to: -- remove the provisions relative to the Court Confirmation, or -- expedite the Court's Confirmation Process.	
13	Finance	(1)	Cap on the Bank Deposit Withdrawal Amount in USD	- Cap on the Bank Deposit Withdrawal Amount is USD10,000 per withdrawal (no cap for MMK). Withdrawal in USD is possible only in a limited number of the bank outlets. In addition, due to the U.S. Economic Sanctions, no remittance from abroad is possible to the State Banks (MICB, MFTB).	- It is requested that GOJ takes steps to induce GOM to: -- deregulate restrictions on deposit withdrawal, increase in the number of bank outlets, and -- enables remittance to state banks in future.	
15	Price Controls	(1)	Divergence of Tariff Value and Real Market Value on Imported Goods	- Ministry of Commerce releases the List of Fair Tariff Value (LFTV) per item of imported goods to avoid importers' tax evasion. For acquisition of Import Licence, importers must prepare Import Licence application using LFTV, which frequently differs from the actual contract price. Moreover, Bank's refusal to open the Letters of Credit above LFTV causes problems in settlement of account with the exporter.	- It is requested that GOM issues Import Licence based on Import Declaration (at Actual Contract Price).	
16	Employment	(1)	Visa Procedures	1) It takes much time to get the visa issued. 2) Letters of Recommendation required for visa acquisition take much time to obtain. 3) Renewal of visas for expatriates' family members cannot be made by Entry Visa.	- It is requested that GOM: 1) cuts down the time required for visa issuance, 2) accepts Residential Certificate issued by the Japanese Embassy, obviating the need for Letters of Recommendation from Japanese Embassy, Landlord of Expatriates' Residence, and Local Governmental Offices, and 3) streamlines the visa renewal procedures.	- At "Myanmar-Japan Joint Initiative" step-by-step improvements have been achieved. It requires careful followup from now on.

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(2)	Visa Issuance	- Letters of Recommendation from Ministries are necessary to get Visa issued. It takes more than 2-months in some cases to obtain the Visa.	- While due respect must be paid to GOM's efforts for higher efficiency, it is requested that GOM guarantees Visa Issuance within 1-month from the application date.	
24	Indigested Legislation, Abrupt Changes	(1)	Overhauls of Legislation and the Bureaucratic Organisation that implements the Law.	- In establishment of local legal entity solely by an FFE or jointly with local partner, the laws and regulations require refurbishment. Even where draft legislation is available, it takes quite a while to get it enacted into law. Law Concerning Myanmar Thilawa SEZ is an example. (The apparent lack of uniformity in interpretation among Ministries and Agencies is behind the reason for the delay.)	- It is requested that GOM takes steps to: -- review the schemes relative to investment, -- make known to everyone without exception the amended or overhauled legislation, and -- implement internal study in enforcement of the laws.	
26	Others	(1)	Improvement of Electric Power Infrastructure	- Overhauls in electric power infrastructure advance but at a snail's pace, negatively impacting Thilawa Special Economic Zone Development. It does not seem there exists in Myanmar, Systematic Master Plan for Power Supply. With the assistance of Japan /ADB, GOM needs to develop the Master Plan as soon as possible.	- It is requested that GOM takes steps to: -- create Practical National Master Plan for Electric Power Supply Overhauls, under JICA's assistance, and -- show outlook for the substantive Power Supply Improvement Plan. In addition, Policy Coordination is vitally important between Ministry of Electric Power and Ministry of Energy.	

Issues and requests relating to foreign trade and investment - Pakistan

	Category	No	Issue	Issue Details	Requests	Governing Laws
8	Investment Recipient Organization	(1)	Shortage of Board of Investment's (BOI) Industrial Development Policy	<p>- The followings are some of the factors that hinder promotion of foreign investment into Pakistan:</p> <ul style="list-style-type: none"> <li>-- Shortsighted Taxation System (Sales Tax Policy that levies tax even when the operation is in deficit, Tax Levied on Prepaid Imports, Tax Levied by Abrupt Creation if New Laws, such as Provincial Infrastructure Construction Tax, etc.).</li> <li>-- Nebulous legislative details at Special Economic Zone, Industrial Zone, etc. and slovenly overhauls of infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>- Compared to other developing countries, it is requested that Government of Pakistan (GOP) takes steps to implement industrial development policy that empowers Board of Investment (BOI) to establish One Stop Window that can act responsibly to industrial development.</li> <li>- JICA Expert Team (JET) despatched to BOI has contributed greatly to Japanese affiliated enterprises operating in Pakistan. It is felt that its continued stay is both necessary and important to both countries.</li> </ul>	
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Antidumping Measures	<p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- On 4 September 2009, Government of Pakistan (GOP) initiated Antidumping Proceedings on Hot Rolled Steel Sheet of more than 600mm width and 2-12mm thickness from Japan, the U.S., Belgium, Russia and Ukraine.</li> <li>- On 25 February 2011, GOP announced termination of Antidumping Investigation in Gazette of Pakistan (finding that the injuries to the domestic industries in Pakistan have been due to causes other than dumping from the named countries).</li> </ul>		
23	Inefficient Administrative Procedures, Regimes and Practices	(1)	Irrational Retroactive Application of Prior Notification Requirement on Corporate Mergers	<p>- A Member Firm received Notification from Competition Commission of Pakistan (CCP), ordering the Member Firm to file "Pre-Merger Notification" on Mergers and Acquisition Case consummated several years ago, pursuant to Competition Act, 2010 (CA '10), while the Governing Act requiring "Pre-Merger Notification" was promulgated after the consummation of the Case in concern. In addition, payment of fees under the Competition Act is necessary to file "Pre-Merger Notification".</p>	<ul style="list-style-type: none"> <li>- It is requested that CCP:                             <ul style="list-style-type: none"> <li>-- repeals retroactive application of the laws promulgated after completion of the performance under contract, as such retroactive application is improper, and</li> <li>-- obviates the need for Pre-Merger Notification, as requiring the same examination procedures as the previous filing of Pre-Merger Notification on the issue already completed is not only difficult but also meaningless.</li> </ul> </li> </ul>	
26	Others	(1)	Inadequate Public Security	<p>- Target killing is frequent among different political/religious parties, while burglary at gunpoint for cash and cellular phones, during the heavy traffic congestion hours, is an issue directly affecting Japanese living in Pakistan.</p> <p>Under the new Administration in June 2013, GOP has tightened the public security, empowering the police and the ranger for sweeping operation. The frequency of the armed confrontation has dropped since. "Some improvement has been achieved" is the public assessment.</p>	<ul style="list-style-type: none"> <li>- It is requested that GOP creates the Public Security Enclave that assures absolute public security, serving as Residential, Work, Business, and Industrial Zones for Japanese and other Foreign Residents living in Pakistan. It is an idea that a fixed amount of such cost could be shared among the beneficiaries.</li> </ul>	

Issues and requests relating to foreign trade and investment - The Philippines

	Category	No	Issue	Issue Details	Requests	Governing Laws
1	Restrictions on Entry of Foreign Capitals	(1)	The Philippines Residents/ Indigenous People Requirement for Establishment of a Legal Entity	- Due to the following requirements for an incorporator, director, corporate secretary, Member Firm (MF) without reliable local contacts faces much difficulty in selecting proper persons: -- The majority of founders, directors, must be the Philippines residents, -- The Corporate Secretary must be a native Filipino, residing in the Philippines.	- It is requested that GOP deregulates the requirements for being: -- residents in the Philippines concerning founders and directors, and -- both a Filipino and residing in the Philippines concerning Corporate Secretary.	- Corporation Code of the Philippines -- Founder, Section 10, -- Director, Section 23, -- Corporate Secretary, Section 25
6	Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Land Tax Levied within Subic Freeport Zone	- By right, Government of the Philippines (GOP) has developed and expanded Subic Freeport Zone (SFZ) as Special Economic Zone (SEZ), free from all taxes and dues, save for payment of 5% Corporate Income Tax, and has attracted foreign investment, after its conversion from the U.S. Military Reservation. However, since October 2011, Subic Bay Metropolitan Authority (SBMA) has compelled, upon enterprises entering SFZ, payment of 2 to 4 peso per cubic metre for Common Service Fee (CSF), ostensibly comprising the Road Overhauls within SFZ, and Forestry Maintenance. In effect, however, it is apparent that CFS is collected to cover the loss from SBMA's failure in conversion of the Subic Airport into a Container Yard. It amounts to nothing but Property Tax. Japanese affiliated enterprises, leading the on-going Court Proceedings on this issue.	- Business Environment Committee (BEC) of Japanese Chamber of Commerce and Industry of the Philippines Inc. (JCCIP), at Member Firm's request has takes up this issue with Competent Authority of GOP. However, no development has taken place in the past few months. - It is requested that JCCIP also extends its helping hand toward solution of this problem.	- Republic Act No. 7227 & R.A. No. 9400, Amending R.A. No. 7227: "The provisions of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed within the Subic Special Economic Zone."
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Import Control	- GOP restricts or bans import of certain goods for reasons of public sanitation and safety, national security, international treaty or fostering the local industry. -- Items subject to restrictions require prior governmental approval at the competent authority, and -- Banned items cannot be imported in any circumstances.		
		(2)	The L/C based Import System	- GOP requires the Letter of Credit (L/C) in principle as a means of payment for all imports of steel products. To the L/C opening bank, all importers must: 1) submit Application for opening L/C and Import Declaration Form, 2) pay Deposit for opening L/C (the amount of deposit varies depending upon the credit standing of the applicant), and 3) make provisional payment of tariff (based on the contract amount at the going rate of exchange prevailing on the L/C opening date.)	- It is requested that GOP repeals this system.	
		(3)	Safeguard Measures	- On 30 September 2009, GOP imposed Safeguard Tariff on Angle Bar and Other Section Steel. On 10 March 2012: GOP extended by 3-Years the Due Termination Date of the Safeguard Tariff imposition (until March 2015), as a result of Re-investigation made upon the request of the local Mill. On 8 October 2013: Philippines Department of Trade and Industry published on the two major newspapers initiation of Safeguard Measures Investigation on Zinc Plated Steel and Coloured Steel Plate.	- It is requested that GOP: -- repeals the Safeguard Measures, -- terminates the Investigation, and -- excludes Japanese Steel from the scope of application of the Safeguard Measures.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(4)	Pre-Shipment Inspection Obligations	- Since 4 January 2010, Administrative Order (AO243-A) has been enforced. Bulk, Break-Bulk Cargo, other than containerised cargoes, must have pre-shipment inspection completed at the port of export. On 12 May 2010, Customs Order (CMO18-2010) was promulgated. Implementation rules have been tightened by adding high-risk cargo provisions for high-risk cargoes, such as conducting inspection at the unloading port.	- It is requested that GOP repeals the requirement.	- Presidential Administration Order (AO) 243-A - Customs Order (CMO18-2010)
		(5)	Disharmony in the Import Customs Clearance Procedures	- There is no online network between the ports in the Philippines so that there are cases where double tax payment results. In exchange for TCC (Certificate for Credit against Tax), tax is exempted from the 2nd shipment and thereafter. However, due to the vexatiously complex procedures that takes more than a month to complete, delays in release of stock result.	- It is requested that GOP connect all ports on-line to annihilate double tax payments.	
12	Exchange Controls	(1)	Difficult Inter-Enterprise Foreign Exchange Transactions within a Single Group	- All foreign exchange transactions in the local peso currency are restricted to actual trade. Thus, transactions in peso are not possible within the financing institutions of the same group.	- It is requested that GOP liberalises the foreign exchange transactions.	- BSP Foreign Exchange Scheme
14	Taxation Systems	(1)	High Corporate Tax, Income Tax	- GOP levies income tax on the higher of the followings: (1) 30% or net profit, or (2) 2% of the gross profit. The income tax levy of 2% of the gross profit is a heavy burden upon the industrial competitive edge.		
		(2)	Vexatiously Complex VAT Levy and Excessive Burden	- Upon cargo arrival 12% VAT is payable on the Invoice Amount. Payment due: Upon cargo arrival for the invoice amount, converted into Peso at the prevailing rate on the date of cargo arrival, 12% of which is payable in Peso. CALCULATION OF CUSTOMS DUTY: Apply the Duty Rate to the Highest of: (1) Invoice Amount, (2) Home Consumption Value on SGS's Clean Report of Finding, or (3) Actual Home Consumption Value in the Exporting Country [Customs owns Price Lists of Major Countries] to calculate the Customs Duty Amount. Then, recalculate at the Prevailing Exchange Rate on the Date of Cargo Arrival as final, and settle the differences. - New Tax, shifting from VAT into VAST (Valued Added Simplified Tax), has been already proposed by House of Representatives as revision related to House Bill (HB1970). If the New Tax is implemented, 12% VAT is reduced to 6% VAST. However, Input VAT, payable upon purchase of materials and collected from sales to the domestic purchasers, is neither deductible nor refundable against Output VAT. The New Tax in the name of VAST has put an end to regarding Input Tax as expenditure, namely, deduction or refund of expenditure for imported raw materials, supplies, indirect materials, service, and capital equipment as it concerns the manufacturing enterprises selling the products so manufactured domestically in the Philippines.	- It is requested that GOP repeals the VAT levy.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(3)	Un-refunded and Delayed Refund of Value Added Tax	<p>- VAT exempted PEZA enterprises are uncertain when the VAT provisionally paid is refunded by GOP, as such refund is long overdue.</p> <p>- VAT (Value Added Tax) reaching the refund position never gets refunded smoothly.</p>	<p>- It is requested that GOP:</p> <ul style="list-style-type: none"> <li>-- secures the adequate fund that enable VAT refund, and</li> <li>-- expedites the tax authority's examination.</li> </ul> <p>- It is requested that GOJ takes steps to have GOP appreciates:</p> <ul style="list-style-type: none"> <li>-- smooth VAT refund is the fundamental requisite step for introduction of value added tax, and</li> <li>-- the failure to complete the VAT refund process smoothly gives negative impact upon business transactions.</li> </ul>	- National Internal Revenue Code Sec.112
	(4)	Arbitrary Tax Investigation, Back Taxes and Penalties	- Enterprises must put up with considerable amount of time and expenses at each tax investigation that involves submission of a vast amount of documents, notification for imposing unilateral, illogical back taxes, etc. The manner of conducting tax investigation requires renovation, such as one-sidedly compelling the burden of proof entirely upon taxpayers.	- It is requested that GOP makes a thorough overhaul of the essential renovation that includes the institutional restructuring and the fundamental manners of tax investigation.	
	(5)	Vexatiously Complex Procedures Required in Filing Request for Application of the Maximum Tax Rate on License Fees under JPTT	<p>- The Withholding Tax of 10% is levied on licence fees paid to Japan under the Technical Transfer Agreement (TAA), pursuant to Japan-Philippines Tax Treaty (JPTT). BIR continues requiring production of a set of documents that includes apostille by the Philippines Consul in Japan. Moreover, such apostille is required for each amendment of the TAA. Failures to produce the documents will void the benefit under JPTT, and the 30% Withholding Tax Rate based on the Corporate Income Tax will apply.</p> <p>- The procedures under JPTT are complex and time consuming on both sides including GOJ on filing application for reduction in the withholding tax rate concerning licence fees, etc. It takes more than one-year before the approval is obtained.</p>	<p>- It is requested that GOP:</p> <ul style="list-style-type: none"> <li>-- repeals the requirement for Apostille by the Philippines Consul in Japan, and</li> <li>-- accepts the submission of only the new contract when amending the contract without requiring submission, in addition, of other certificates by the Philippines Consul in Japan.</li> </ul> <p>- It is requested that GOP streamlines and expedites the procedures related to the application.</p>	
	(6)	External Dividend Remittance Procedures Requirement in Contravention of Tax Treaty	- GOP requires production of documents on each remittance of dividends from the Philippines to Japan despite the fact that it is approved under JPTT. The failure to produce documents results payment of 30% tax instead of 10%		
16	Employment	(1) Delays in Visa Renewal Procedures	- It takes 23-Business Days (more than 1-month) for Visa (47(A)2) Renewal for PEZA, so that the applicant is unable to exit the Philippines to take a business trip abroad in emergencies.	- It is requested that GOP takes steps to enable visa renewal within 2-weeks or so.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Deficiency in the Regulation for Applicant's Voluntary Submission of Materials on Corresponding Foreign Applications	- In the Philippines, it takes 5 to 6-years from the filing of patent application to examination. To expedite patent issuance, the applicant's voluntary Submission is desirable of Materials on Corresponding Foreign Application for Patents, contrary to the going Rules and Regulations on Inventions, which provide: "The applicant shall, at the request of the Director, furnish him with the date and number of any application for a patent filed by him abroad".	- Intellectual Property Office of Singapore and Intellectual Property Corporation of Malaysia have adopted Modified Substantive Examination (MSE) System that expedites examination by submission of Materials on Corresponding Foreign Application for Patents. In addition, in Vietnam and Thailand, MSE System is already in operation, although not yet made into laws. It is requested that IPO of the Philippines will adopt MSE System also in the Philippines to expedite issuance of IPRs through adoption of MSE System.	- Rules and Regulations on Inventions, Rule 612
		(2)	Disallowed Divisional Patent Application upon Refusal Examination	- Rules and Regulations on Inventions, Rule 611 prescribes that an applicant may file application for Division of Patent before the pending application is withdrawn, denied or issued, foreclosing any application for Divisional Patent during the Refusal Examination. For this reason, an applicant gets fewer opportunities to obtain the patent right in the scope of claim exactly as intended by the applicant.	- It is requested that Intellectual Property Office of the Philippines will allow filing of Divisional Application during the Denial Examination or during the Patent Examination.	- Rules and Regulations on Inventions, Rule 611
19	Industrial Standards, Approval of Safety Standards	(1)	Compulsory Philippine National Standard (PNS)	- Since June 2008, Department of Trade & Industry of the Philippines (DTI) has made acquisition of PNS Standard a Compulsory Requirement on Zinc Plated Steel Pipe, Deformed Bar, Equal Leg Angle Steel, and Steel Bar. The scheduled extension of PNS Standard Acquisition to Cold-Rolled Steel Plate in July 2010 met with oppositions both externally and internally. It remains as Voluntary Standard.	- It is requested that DTI streamlines and clarifies the procedures (inclusive of exclusionary system) concerning the target products of compulsory PNS Standard.	- DTI Department Order
21	Restrictions on Land Ownership	(1)	Land Ownership Restricted to FFEs	- Foreign Funded Enterprises (FFE) are precluded from landownership in the Philippines. - Member Firm (MF) having established its fully owned manufacturing subsidiary in the Philippines (MFS) has no alternative but to lease the land property, its ownership being denied to FFEs. If MF chooses to purchase the land property, nevertheless, it must divest its capital contribution (CB) to less than 40%. If so, MF must resolve the difficulties such as: (1) finding reliable partners willing to purchase 60% of CB, if Member Firm is unaware of any suitable candidate, (2) weakened control in MFS against the local partner holding part of the land property.	- It is requested that GOP deregulates prohibition of landownership to FFEs. - It is requested that GOP deregulates its restrictions upon FFEs on landownership.	- The 1987 Constitution of the Republic of the Philippines, Article XII, Section 2. - Foreign Investment Act of 1991
		(2)	Capital Contribution Ratio Requirement for Acquisition of Land Ownership/ Right of Water	- The local capital contribution requirement of 60% or more for Landownership /Right of Water could block new Foreign Investment into the Philippines.	- It is requested that GOP takes steps to either deregulate or amend the requirements described in the left column.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
23	Inefficient Administrative Procedures, Regimes and Practices	(1)	Vexatiously Complex Procedures on Restrictions Concerning Transfer Of Assets	- The Philippines Bulk Sales Law stipulates distribution to creditors of the consideration from the transfer of the assets, which addresses to disposal of assets outside "the normal course of business", requiring institution of the procedures for protection of creditors, even when the amount of the transfer is so small that the protection of the creditors does not make much sense.	- It is requested that GOP narrows the scope of triggering Bulk Sales Law to the case in which the protection of the creditors is warranted in relation to the business scale of the enterprises transferring the assets.	- Bulk Sales Law
		(2)	Nebulous Procedures for Change in Equity Participant	- Change in Equity Participant and Payment of Royalty have both delayed, due to the inadequate instructions given by the Competent Authority at the prior confirmation. Member Firm's Subsidiary (MFS) had to submit documents, which were newly added, including the Consular Apostille Certificate.	- It is requested that GOP clearly identifies the requisite documents.	
		(3)	Nebulous Procedures involving different Free Port Zones	- Plural Competent Authorities govern Free Port Zones in the Philippines. While Port Clark belongs to BCDA, nearly all MFS's customers belong to PEZA. Where transactions include cargo handing at both Free Port Zones, it takes one day each for moving cargoes in and out for the customs clearance, requiring complex documents, plus handling fees. All these requirements hinder the cargo movement, while prolonging the local procurement lead time.	- It is requested that GOP: -- simplifies the requisite application documents between Free Port Zones under different jurisdictions, and -- repeals handling fees.	- Clark Free Port Law - Competent Authority: Bases Conversion Development Authority (BCDA), Department of Trade and Industry (DTI)
24	Indigested Legislation, Abrupt Changes	(1)	Complex and Delayed Procedures for Handling Legal Issues	- It is time consuming to deal with legislative matters such as employment and tax collection which necessitate involved procedures.		
26	Others	(1)	Inadequate Infrastructure for Traffic and Transportation	- Due to the inadequate maintenance of traffic lights, etc. on the general road, heavy traffic congestions are frequent and so are the traffic accidents. The driving manner is poor. Many roads are submerged in water by small rainfalls. The roads in the periphery of the Airports are especially in bad or poor state of repair.	- It is requested that GOP takes steps to improve the road infrastructure, especially in the area surrounding the Airports.	
		(2)	Comparatively Expansive Electric Power Cost	- The Electric Power bill in the Philippines is equal to or higher than that in Japan, Singapore, etc. Due to instability of power supply, enterprises must protect themselves against power failures by installing power generator at factories and UPS (Uninterruptible Power System) at offices.	- It is requested that GOP takes positive steps for the stable power supply and its cost reduction.	
		(3)	Nebulous Liberalisation of Sale and Purchase of Electric Power	- Special Power Price Contract for PEZA Enterprises expired in December 2012 so that the Price Reduction Rate has dropped. The prospect is nebulous for liberalisation in sales and purchases of Electric Power as to its mechanism and introduction timing.	- It is requested that GOP: -- identifies the timing of implementing its policy to liberalise power supply, -- explains the substance of the policy in detail, and -- introduces the policy as soon as possible.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(4)	Abrupt Establishment or Changes of National Holidays	- Abrupt changes in national holidays are not infrequent by Presidential Order. Business days are suddenly made national holidays or vice versa. In the worst case, such changes become effective with a notice of only a few days. Factories incur unbudgeted payment of holiday allowance, if the business days are turned into national holidays, and should they be forced to work on the new national days to honour their commitment with the customers.	- It is requested that GOP affixes National Holidays before the end of each preceding year.	

Issues and requests relating to foreign trade and investment - Singapore

	Category	No	Issue	Issue Details	Requests	Governing Laws
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Complex Procedures for Import/Export of Restricted Items	- It is time consuming to complete the requisite procedures for Import/Export or Disposal of Restricted Items.	- It is requested that Government of Singapore (GOS) streamlines the Procedures to expedite the grant of Licences and Approvals in their entirety.	- NIL
		(2)	Difficult Information Acquisition concerning Export Control Parameter Sheet	- Under the same List for Export Control such as Wassenaar Arrangement, its application method, the applicable period, etc. subtly vary from one country to another. It is quite burdensome upon exporters to collect new information, each time the goods cross the national border.	- It is requested that GOJ and GOS overhauls the Parameter Sheet under Wassenaar Arrangement (for example, the global version of Center for Information on Security Trade Controls (CISTEC)).	
		(3)	Nebulous Procedures for Registration of Imported Goods	- The procedures are complex for Product Registration.  - GOS requires Product Registration of Prototype Products imported for evaluation purposes.	- It is requested that GOS obviates the need for renewal of registration once the product is registered, as it is done in Japan.  - It is requested that GOS streamlines import procedures on products imported for evaluation purposes.	
		(4)	Complex Customs Clearance Procedures under FTA Certificate of Origin	- Customs clearance procedures under Certificate of Origin System of the Singapore-Korea FTA are quite complex, causing delays.		- Refer to Singapore Customs website at <a href="http://www.customs.gov.sg">http://www.customs.gov.sg</a>
14	Taxation Systems	(1)	Heavy Car Tax	- The Heavy Car Tax obstructs ownership of Company Cars.	- It is requested that GOS deregulates the Heavy Car Tax.	
16	Employment	(1)	Restricted Foreign Worker Employment / Tightened Immigration Control	- Since GOS set the target to reduce the Foreign Workers' Ratio to less than one-third of the Total Working Population, GOS has tightened the requisite conditions for acquiring various Visas. It is difficult to fill the need for engineers only by Singaporeans, especially on Construction Projects. Therefore, it is indispensable to rely on foreign workers. However, it is quite possible that Visa Application gets rejected. - While GOS favours especially entry of foreign "Specialists", it has tightened its control on entry of Foreign Workers. It has become increasingly difficult to secure skilled workers at the production depots in Singapore.  - GOS's Introduction of The Fair Consideration Framework (FCF) may likely prolong the visa acquisition time for despatch of Member Firm's expatriates to its subsidiary (MFS) in Singapore.	- It is requested that GOS: -- provides more precise details for Approval Standard of visa applications, and -- deregulates employment restrictions on foreign engineers, etc. - It is requested that GOS: -- permits employment of foreign workers not only from Malaysia, and PRC, but also from Myanmar and India, and -- reduces tax levy upon foreign workers, based on the environment for employment of each enterprise. - It is requested that GOS excludes expatriates (inter company transferees) from the scope of FCF, as they are not interchangeable with those made available by Human Resources Banks.	- Amendments to the Employment of Foreign Manpower Act  - Refer to Ministry of Manpower at <a href="http://www.mom.gov.sg">http://www.mom.gov.sg</a>  - Fair Consideration Framework

Category	No	Issue	Issue Details	Requests	Governing Laws	
			- The domestic unemployment rate determines GOS's exclusionary measures, such as visa issuance, rejection of visa renewal, etc.			
	(2)	Restricted Nationalities of Foreign Workers	- GOS restricts employment of foreign workers in the manufacturing sector to those from PRC, Hong Kong, Macao, Taiwan, South Korea and Malaysia, whose wage levels are higher than local workers in Singapore.	- It is requested that GOS authorises manufacturing enterprises to employ foreign workers at lower wages from Thailand, India, Myanmar, the Philippines, Indonesia, and Bangladesh.		
	(3)	Prioritised Employment Policy of the Singapore Nationals	- Since 1 August 2013, Ministry of Manpower (MOM) has enforced Fair Consideration Framework (FCF) that necessitates registration at the human resources bank first before applying for Employment Pass, offering the position first to Singaporean nationals, (exempting, however, recruitment for a position with monthly revenue of more than SGD12,000, and enterprises with less than 25-employees). While the measure is directed to securing positions for Singaporean nationals, it impacts heavily upon multi-national-companies such as Member Firm. The FCF will narrow the Member Firm's ability to receive fledgling employees for providing vocational training.	- It is requested that GOP deregulates the measures under FCF.		
	(4)	Work Visa Acquisition Made More Difficult	- The standard tends to get stricter for Acquisition and Renewal of Work Visa.	- It is requested that GOS deregulates the Scheme for Visa issuance.		
	(5)	Vexatiously Complex Visa Application Procedures for the Accompanying Spouse	- Sometimes, Government of Singapore (GOS) requires production of Diploma for the accompanying spouse in filing application for her entry visa.	- It is requested that GOS issues visa for the accompanying spouse of the expatriate, based on the stay visa issued to the expatriate.		
	(6)	Language Problems among Workers	- Employees working at Construction Companies include Pakistani workers who are unable to speak English so that they are sent to the job site without the ability to understand the safety instructions and caution signs placed at the job site.	- It is requested that GOS deregulates acceptance of foreign workers.		
	(7)	High Rate of Wage Increase	- The Wage Increase Rate is high in the range of 4 to 5%.	- It is requested that GOS reviews the taxation system.		
17	(1)	Implementation of Intellectual Property Rights ("IPRs")	Ambiguous Legislative Provision of the First to file Principle	- In the new developing countries where the needs grow for the local development of technology, many countries retain first to file principle in their patent laws. Ambiguous nature of the legislation makes it difficult to secure effective protection of Intellectual Property Right (IPRs). Nowadays when the needs grow for cross-border R&D activities, first to file principle applied in plural countries could result in infringement.	- It is requested that GOS: -- deregulates or repeals first to file principle, or provides a clear cut definition in legislation, -- and deregulates application of first to file principle on the Cross-Border R&D Activity.	
23	(1)	Inefficient Administrative Procedures, Regimes and Practices	Long Lead Time Required to Obtain Environmental Approvals	- It takes a long time to obtain QRA (Quality & Reliability Assurance) Permit, delaying the start up of the new construction.	- It is requested that GOS expedites its works concerning issuance of Licences and Approvals.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
26	Others	(1)	Polypropylene Material in Grid	- Each Polypropylene Material manufacturer must prepare pipelaying at the plant, as the plant layout is not in grid formation like EU/USA in Singapore.	- It is requested that GOS takes steps to overhaul the supply system for the basic raw materials.	
		(2)	Expensive Steam Electric Power Cost	- Extraordinary expensive steam and electric power makes unfeasible profit and loss projections.	- It is requested that GOS reviews utilities.	

Issues and requests relating to foreign trade and investment - Taiwan

	Category	No	Issue	Issue Details	Requests	Governing Laws
1	Restrictions on Entry of Foreign Capitals	(1)	Complex Examination Procedures	- Department of Investment Commission, Ministry of Economic Affairs, R.O.C. imposes severe demands upon foreign investors entering R.O.C. by ambiguous legislative provisions and control systems.	- It is requested that Government of Taiwan (GOT) sets in place a transparent and predictable Examination Scheme.	
		(2)	Delayed Share Acquisition of Local Legal Entities	- There are cases in which it takes substantial time to obtain the final approval on Foreign Funded Enterprise's acquisition of the shares in a local enterprise. In addition to submission of Contract on Sale and Purchase Of Shares, it necessitates examination by plural Competent Authorities.	- It is requested that Competent Authorities expedite the procedures for grant of Licences and Approvals.	
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Tariff Rate Levied on CBU Motorcycles	- On CBU Motorcycles, Government of Taiwan (GOT) levies 20% import duty, which is too high for a country like Taiwan where its economic power has reached the level of developed countries. The high sales prices are one of the factors that have caused the dwindling domestic market for Motorcycles. GOT prohibits import/sales of finished motorcycles and engine units from PRC.	- It is requested that GOT: -- reduces to 10% import duty for CBU Motorcycles, and -- permits import of Motorcycles from the mainland China by payment of a fixed import duty, the same as other areas.	
		(2)	High Import Duty	- The tariff rate on wristwatch is high at 5% ad valorem.  - Member Firm's Subsidiary (MFS) must manufacture products using parts imported from Japan in the market dominated by local industries. The high import duty levied on parts forms part of the cause for the debilitating competitive edge of MFS products.	- It is requested that GOT repeals the tariff on wristwatches. - It is requested that trade between ROC and Japan is liberalised, by repealing tariffs.	- Customs Act
		(3)	Tariff Gap from PRC Products under ECFA	- Due to ECFA between PRC and ROC, Tariff rates on PRC products are lower than on Japanese products. - Removal of import duty is likely between ROC and PRC, while standards and specifications will get closer, so that products from Japan must compete against low priced PRC products.	- It is requested that GOJ and GOT will ratify FTA between Japan and Taiwan.	
		(4)	Import Duty Levied on Pre-Shipped Personal Effects of Expatriates before their Entry in Taiwan	- GOT levies import duty on all personal effects of expatriates pre-shipped to Taiwan preceding the expatriates' own entry into Taiwan.	- It is requested that GOT (or Customs of Taiwan) repeals the measures levying import duty, where the circumstances on the left column apply.	
		(5)	Import License System	- Since 15 April 2002, GOT has compelled filing of Import Declaration (on 471- items). On 19 October 2004, GOT repealed the Import Declaration System (on 465- items) This decision is based on GOT's Trade Promotion Policy, and the shortage of steel products. The Import Declaration System was retained on the remaining 6-items (such as reinforcing bar and H-section steel) in consideration of the qualitative safety of the public construction work.	- It is requested that GOT repeals the measures levying import duty, where the circumstances on the left column apply.	

Category	No	Issue	Issue Details	Requests	Governing Laws	
	(6)	Absence of Mutual Recognition System on AEO	- Taiwan and Japan have introduced Authorized Economic Operator (AEO) System, without, however, ratification of Mutual Recognition System (MRS).	- It is requested that GOJ and GOT will ratify MRS, which gives favourable measures to AEOs in the domestic markets of both Taiwan and Japan.		
	(7)	Complex Product Registration Upon Import	- Product registration products are vexatiously complex.  - GOT requires Product Registration on Prototype Samples imported for evaluation purpose.	- It is requested that GOT repeals products registration renewal system, namely, like Japan, once registered no renewal is necessary. - It is requested that GOT streamlines the import procedures on Prototype Samples imported for evaluation purpose.		
	(8)	Delay in Customs Clearance Procedures	- Due to the issues on diplomatic relations with PRC, delays occurred on cargo delivery and customs clearance. Actually, the cargo shipped by sea in September 2010 to Shanghai arrived late. Although not a substantial delay, it is a matter of concern what happens next. Likewise of concern from now on is the diplomatic relations between ROC and ROK.	- It is requested that the diplomatic relation is normalised between the countries.		
	(9)	Different Customs Different Duty Rates	- Customs clearance is difficult due to the difference in duty rates between Customs on identical products.	- It is requested that GOT takes steps to improve professional expertise of its customs employees.		
	(10)	Conformity Assessment Procedures	- On 8 August 2013, Bureau of Standards, Metrology and Inspection (BSMI) notified WTO TBT on its introduction of Conformity Assessment Procedures (CAP) on Hot Dip Galvanized Steel Sheet/Coil (HDGSS_C). On 25 December 2013, BSMI announced its introduction from 1 March 2013 of Conformity Assessment Procedures on HDGSS_C in draft form its Gazette (in Chinese only), excluding, however, HDGSS_C destined to (1) re-export and (2) Cars/Motorcycles Manufacture.	- It is requested that GOT: -- withdraws the notification to WTO TBT, and. -- sets forth appropriate exemption provisions.	- Products Inspection Law - Products Inspection Registration Law	
12	Exchange Controls	(1)	Different Hedging Of Exchange Risk	- GOT denies Forward Booking in Foreign Exchange without Genuine Demand.		
		(2)	Borrowing In Foreign Currency Disallowed	- It is not possible to borrow in foreign currency.	- It is requested that GOT deregulates Foreign Exchange Control, albeit with certain conditions, such as the history of past transactions, the amount, the ratio, etc.)	
14	Taxation Systems	(1)	High Withholding Tax Levy due to Unratified Tax Treaty	- As of today, Japan-ROC Comprehensive Tax Treaty remains unratified. Tax Treaty limited only on International Transportation is the only bilateral treaty that has been ratified to this date. (Example) While 20% withholding tax is levied on dividends, interests and licensing fees between Japan and Taiwan, the less heavy withholding tax rate in the range of 5 to 15% is levied as regards countries where Tax Treaty with Japan is ratified.	- Move toward holding G-to-G Consultation on Ratification of Japan-Taiwan Tax Treaty.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(2)	Absence of Relief Measures for Avoidance of Double Taxation	<p>- GOT applies Withholding Tax Rate of 20% under the ROC Domestic Tax Law, due to the absence of Tax Treaty between Taiwan and Japan. Under the Taiwan Domestic Law, all transactions excepting transactions on stocks are subject to Withholding Tax Levy (especially, as regards Sales Commission). Furthermore, no relief is available upon correction of Transfer Price. Therefore, if Additional Tax is levied upon the Local Tax Investigation, no means are available for Avoidance of Double Taxation.</p> <p>- As it stands, if a Member Firm accepts an employee despatched to Japan from its subsidiary in Taiwan (MFS) for a fixed period, while Member Firm pays his/her wages in Japan, and MFS absorbs the personnel expenses in Taiwan, in addition to accrual of tax paid in Japan, the personnel expenses assumed by MFS are taxable in Taiwan, resulting in Double Taxation. It results in curbing the efforts for Technological and Human Resources Developments by Induction, On-the-Job Training, etc. and Interchange of Human Resources between ROC and Japan.</p>	<p>- It is requested that GOJ and GOT: -- ratify Japan-Taiwan Tax Treaty, or else establish an Institution for Relief from Double Taxation Measures at the Working Level, and -- under Tax Treaty, reduce or exempt Withholding Tax on Dividends and Rental Fees.</p> <p>- It is requested that GOT and GOJ ratify the Income Tax Treaty between Japan and Taiwan to eliminate the Double Taxation Problems.</p>	<p>- Income Tax Act, Section 4 Withholding of Tax, Article 88 and 89. - Standards of Withholding Rates for Various Incomes, Article 3.</p>
	(3)	Inadequate Nomenclature of Evidential Document for Tax Deductions	<p>- National Tax Administration (NTA) requires Invoice instead of Debit Note as Evidential Document for Tax Deductions on expenses accrued outside Taiwan. However, the nomenclature of the Evidential Document does not match the actual accounting document used by a Member Firm, impeding its accounting work. (NTA's requirement does not come to grip with the international commercial practice of using the term "Debit Note", unless transactions accompany customs clearance, in which case the term "Invoice" applies.)</p>	<p>- While Member Firm now settle all its account by Invoice, pursuant to the ROC laws, it is requested that in accordance with the long-established business practices, GOT accepts Debit Note as Evidential Document for Tax Deductions.</p>	<p>- Taiwan National Tax Administration Interpretative Circular No. 0990245351 of 30 August 2010</p>
	(4)	Irrational Imposition of 10% Corporate Income Tax on Undistributed Dividend	<p>- Article 66(9) of Income Tax Act provides for "imposition of 10% tax upon undistributed profit", aimed at complementing the tax revenue shortage arising from enterprises' willful reduction of revenue as undistributed profit. First of all, the effect is slight upon Foreign Funded Enterprises (FFE) of the GOT's intended purpose mentioned above. Moreover, this provision of the Income Tax Act is unreasonable to FFEs in Taiwan, desiring to continue developing their business and to re-invest the income gained from their operation in Taiwan in their business in Taiwan.</p>	<p>- It is requested that GOT repeals 10% tax levy on undistributed profits of FFEs in ROC. (Example) It is noteworthy that the 10% Income Tax on Undistributed Profit no longer exists in leading Asian countries, such as Hong Kong, Singapore, ROK, and Japan.</p>	<p>- Income Tax Act, Article 66(9)</p>
	(5)	Taxation Authority's Tightening of Tax Investigation	<p>- The Taxation Reform, such as reduction in Corporate Income Tax implemented to correct the prolonged Taiwanese Economic Recession, and the decline in the Taiwanese Working Population by Aging, it is considered, have been the major reasons that have prompted the current serious deficit in tax revenue. As a means to supplement the tax revenue deficits, the Taxation Authority has tightened its tax investigation upon enterprises in recent years.</p>	<p>- It is requested that GOT will resolve the fundamental tax revenue deficits by preparing the environment for attracting the domestic investment in Taiwan, steering the industrial policy toward domestic consumption, etc.</p>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(6)	Rigorous Tax Levy on Foreigners visiting ROC on Business Trip	- Member Firm operates an office in ROC, sending its staff to ROC on a business trip basis. Under the going Taxation Scheme, should the stay of the staff so sent to ROC exceeds 90-days, income paid in Japan to such staff becomes payable in ROC. Moreover, should it exceed 183 days, the staff is deemed as resident subject to progressive taxation. Thus, it further inflates the tax burden. Member Firm experiences much inconvenience from the restricted term of stay, described in the foregoing.	- It is requested that GOT deregulates the taxation scheme.	
	(7)	Expansion of Non-Taxable Items on Income Tax Levied upon Expatriates	- Taxable income of foreign expatriates working in ROC includes medical expenses and matching income tax, payable by enterprises employing such expatriates.	- It is requested that GOT also excludes from the taxable income, medical expenses and matching income tax, in addition to Moving Cost, Fuel and Light Expenses, Housing Expenses, etc.	- Finance/Tax No. 09804119810 "The Scope of Application for Tax Preferences Provided to Foreign Professionals" (2010.03.12)
15	Price Controls	(1) Rising cost of Public Utility Charges	- Under the Governmental Policy there is a concern for raise in utility charges. - As raise continues on Fuel and Light Expenses, ups and downs in the cost of raw materials push up commodity prices.		
16	Employment	(1) Unstable Employment of Workers under the Fixed Term Contract of Employment	- Limited only to seasonal or temporary type of work, Fixed Term Contract of Employment (FTCE) is permitted. However, there is a potential risk related to employment of workers considered to be seasonal labour.	- It is requested that GOT establishes the system that guarantees flexible adjustment of workers.	
		(2) Shortage of Human Resources for Managers and Engineers	- In the past few years, there has been exodus abroad of numerous Taiwanese over issues involving low technology level and low wages, resulting in acute shortage of human resources in the capacity of engineers and managers.	- It is requested that GOT: -- ensures technology transfer to Taiwan with adequate wage scale, -- overhauls environment for investment, and -- builds up environment that human resources cluster.	
17	Implementation of Intellectual Property Rights ("IPRs")	(1) Inadequate Provisions of Patent Act concerning Indirect Infringement	- Means available to patent holder are restricted to protect against others' manufacture and sales of goods (exclusive parts) used only for manufacture of the patented products, and against manufacture and sales of goods used only for the patent method, due to the absence of the provisions for indirect infringement in the Patent Act.	- It is requested that GOT causes the Patent Act to be amended so that it contains specific provisions concerning indirect infringement equivalent to the Patent Act of Japan, the U.S., etc.	
		(2) Obligations to submit Priority Certificate in filing Patent Application	- The burden is heavy upon Applicant filing Patent Application under the Paris Convention, as the Applicant must apply for issuance of Priority Certificate with Japan Patent Office (JPO) and mail the original Priority Certificate so obtained to Taiwan Intellectual Property Office (TIPO), due to the compulsory submission requirement of Priority Certificate. In addition, due to the enforcement start in December 2013 of Electronic Exchange of Priority Documents, despatch by postal service of Priority Certificate is no longer necessarily required. However, use of Electronic	- It is requested that TIPO takes steps to: -- obviate the need for submission of Priority Certificate, the same as other foreign countries, and -- share in common among IP Offices the requisite information (data) necessary for assertion of Priority Right without the applicant's intervention.	- ROC Patent Act (Article 29) - Memorandum of Understanding between Japan and ROC on Electronic Exchange of Priority Documents on Patent, etc.

Category	No	Issue	Issue Details	Requests	Governing Laws
			Exchange Scheme is quite burdensome, as it requires filing of application by the applicant. However, the applicant's submission of Priority Document is not necessary among the countries (the U.S., EP, CN, etc.) where Japan Patent Office electronically shares in common Patent Application Information.		(Enforcement began in December 2013) <a href="http://www.jpo.go.jp/tetu/zuki/t_tokkyo/shutsugan/tipo.htm">http://www.jpo.go.jp/tetu/zuki/t_tokkyo/shutsugan/tipo.htm</a>
19 Industrial Standards, Approval of Safety Standards	(1)	Inadequate Standards, Controls, relative to Electric Vehicles	- Overhaul is insufficient for the infrastructure (such as, Standards, Regulations, and Safety Standard) of the Electric Vehicles (EV).	- In as much as Taiwan is gifted with a fertile soil suited for development of the EV industry, big business opportunities are close at hand. It is requested that GOT overhauls the rules and regulations as soon as possible.	
	(2)	Complex CNS Mark Certification System for LED Lighting Products	- A Member Firm must obtain individually the Taiwan original CNS Mark Certification for sales and distribution of its LED Lighting Products in Taiwan. It is concerned about the increased cost and time to meet the CNS Mark Certification requirement, because of the LED's short product cycle that requires fast parts changes.	- It is requested that GOJ and GOT will streamline the testing, inspection, and certification system (TICS) by overhaul of Mutual Recognition System with the Japan domestic TICS, adoption of Common Specifications, etc.	- CNS Mark Certification System
	(3)	CNS Inspection	- CNS inspection is both costly and time consuming.	- It is requested that GOT allows import into ROC of JIS Certified Products without inspection in Taiwan.	
	(4)	Problems on Food Sanitation	- Food Sanitation Administration requires improvement, such as problems over impure food oil.	- It is requested that GOT ensures thorough administration of foods in detail.	
22 Environmental Pollution and Waste Disposal	(1)	Original Recycle Mark (Batteries)	- Legislative provisions have been promulgated in each country and each region throughout for effective use of natural resources and prevention of environmental pollution. It is the same with Batteries. GOB compels provision of the various markings on the Battery itself, and its User's Manual for products containing batteries in the same carton correctly without any mistakes, the administration of which heavily burdens the manufacturers.  	- It is requested that Governments will jointly work toward unification of the Recycle Marking Requirement worldwide.	
	(2)	Demand for Radiation Inspection	- For export of iron scrap from Japan, importing countries require radiation inspection. While Member Firm receives compensation from Tokyo Electric Power Company (TEPCO) for expenses actually incurred as inspection fees by completing the nebulous procedures, no compensation is available as to labour cost, lost earnings, interests, etc.	- It is requested that GOJ takes steps to: -- regain the confidence in Japanese products and -- deregulate or repeal the restrictions of each country relative to Japanese products.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(3)	Inadequate Wastes Control	- Wastes Control is not effectively administered.	- It is requested that GOT goes into more precise details in the environmental management.	
24	Indigested Legislation, Abrupt Changes	(1)	Inadequate Legislative Holding Period on the Repair Parts	- The absence of legislative provision governing the Spare Parts Retention Period (SPRP) requires manufacturers to hold stocks of spare parts for a long time. Manufacturers are exposed to the risk of disputes from their customer in the event the required spare parts are out of stock over the product the customer used for a long time.	- It is requested that GOT legalise SPRP and prepares Guidelines on this issue.	
26	Others	(1)	Delivery delays during the Lunar New Year	- Around the Lunar New Year holidays 'Chunjie ', delivery schedules of export/import cargoes fall into chaotic conditions, totally unpredictable. Shippers' anxiety reaches the apex when the cargo requires emergency delivery or there is no time to spare for delivery.	- It is requested that carriers and customs will handle cargoes unaffected by holidays throughout the year.	

Issues and requests relating to foreign trade and investment - Thailand

	Category	No	Issue	Issue Details	Requests	Governing Laws
1	Restrictions on Entry of Foreign Capitals	(1)	Restricted FFEs' Entry into Service Sectors	<ul style="list-style-type: none"> <li>- FBA's preclusion remains on MFOE's entry into the service sector.</li> <li>-- MFOE (whose majority shares are owned by foreigners or Foreign Funded Enterprises (FFE)) is prohibited from engaging in the business sector (for manufacture and sales of products, such as electric appliances and machineries) that also provides simultaneously fee-based services, such as maintenance service.</li> <li>-- In the electronics business sector, the crux of the competition lies in provision of quality customer service, in addition to the differentiated hardware. Customers' interest is eroded by the restrictions on the foreign capital ratio in the service sector.</li> <li>- Government of Thailand (GOT) restricts FFEs' entry into business, by Business Licence acquisition requirement, particularly into Service Sector (including Contract Business), in which FFEs' equity ownership ratio is restricted.</li> <li>- FFEs' entry restrictions into the service sector continuing to this date interfere with the composition of shareholders, commensurate with the depth of involvement with and contribution to the business management</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOT repeals at once the restrictions on MFOE.</li> <li>- It is requested that GOT deregulates restrictions on FFEs' entry into business.</li> <li>- It is requested that GOB takes steps to repeal or deregulate The Foreigners' Business Law</li> </ul>	<ul style="list-style-type: none"> <li>- Foreign Business Act</li> <li>- Foreign Business Act</li> </ul>
		(2)	Restrictions on Factory Expansion	<ul style="list-style-type: none"> <li>- The Zoning Act prohibits factory expansion even within the allotted land property (on the own premises of Member Firm's Subsidiary (MFS)), in the case where factory is located outside the Industrial Zone.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOT gets the Law reviewed.</li> </ul>	
2	Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	(1)	Local Contents Requirement is attached to the BOI's Investment Incentive	<ul style="list-style-type: none"> <li>- To obtain International Procurement Office (IPO) approvals, Board of Investment (BOI) requires the made-in-Thailand products represent more than 10% of the FFE's total business. Moreover, products manufactured by an MFS's factory in Thailand EPZ do not count in the 10% Thailand transactions, since they are treated as overseas products. It takes a complicated import route by product. (Note: BOI's IPO is an incentive measure that exempts import tariffs on parts and products.)</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that BOI deregulates the requirements for IPO approvals by repealing the 10% locally made products requirements, or includes products made in EPZ in the Thailand business.</li> </ul>	
6	Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Inconvenience in enjoying Tax Incentives under ROHS Scheme	<ul style="list-style-type: none"> <li>- Regional Operating Head (ROH) System, a regional management system, purportedly makes available tax reduction or exemption, provided, however, that due to the awkward requisite procedures, Japanese affiliated enterprises particularly those in the manufacturing sector experience difficulty in benefiting from the System, including the tax benefit. It has been some time since GOJ made policy recommendations to GOT.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOT improves the ROH System.</li> </ul>	
		(2)	Review of Dwindled Foreign Investment Incentive Measures	<ul style="list-style-type: none"> <li>- The New Investment Incentive Policy (Draft=NIIP) released in January 2013 changes the target of incentive by Industries not by geographic regions under the previous system. Under NIIP, Member Firm will not benefit from expansion of its operation in other geographic regions. In general, incentives the Member Firm benefits from have dwindled down, (particularly, on tax incentives).</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOT:                             <ul style="list-style-type: none"> <li>-- reviews NIIP, and</li> <li>-- continues its previous grant of incentives by regions.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- "New Investment Promotion Strategy for Thailand Sustainable Growth (Draft)" of January 2013 (Ref. JETRO Report January 24 2013)</li> </ul>

Category	No	Issue	Issue Details	Requests	Governing Laws
			- The New Investment Promotion Strategy now BOI considers reduced incentives in the business sectors with lessor importance to BOI. This reduction freezes investors' mind and drives their interest away from investing into Thailand.	- It is requested that GOT continues the going Investment Incentive Policy.	
8 Investment Recipient Organization	(1)	Delayed Import Approval Procedures under BOI Incentives	- It takes too long (more than 30-business-days) from filing application to grant of approval on BOI incentives. As a result MFS must get equipment and parts first cleared through the Customs, before the grant of approval on BOI incentives, by putting up bank guarantee or in cash, pay import duty and VAT, and later file request for refund.	- It is requested that BOI: -- streamlines and electronically process the BOI incentive procedures, and -- expedites the process to the point of BOI approval.	
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Tariffs	- GOT imposes 10% import tariffs on certain electronic parts, namely, ferrite bead chips, chip coils, sensors, buzzers, power supply, blue tooth module, saw filter and connector. The tariff rates are reduced to 0-1% on the other parts. The 10% import tariff materially weakens the international competitive edge of the Thai local manufacturers of finished products. Furthermore, the decision base for the tariff rate varies by customs personnel in charge. In one case, after production of a vast amount of materials, nevertheless, the tariff rate was raised without any precise explanation. There are cases where GOT levies high tariff rates on electronic parts not domestically manufactured in Thailand. This serves no meritorious purpose other than to debilitate the competitive edge of the manufacturers of finished products in Thailand. - The Duty on Clocks is high at 20%.  - It is requested that GOT expands the scope of import countries to which zero Import Duty applies.	- It is requested that GOT: -- repeals the import tariff, and -- elucidates the reasons for taxable or non-taxable items.  - It is requested that GOT reduces and repeals the Duty on Clocks. - It is requested that GOT improves the investment environment by expanding the countries exporting to Thailand.	
	(2)	Non-Observance of Duty Repeal Schedule under Japan-Thai EPA	- Under Japan-Thai EPA, GOT has committed to reduce Tariff Rates on Car (HS8702~8705) or Car Parts (HS8708) for assembling Car Parts from 30% Base Rate to 20% upon enforcement of EPA, and 6-years after the enforcement date to 0%, coupled with the AFTA Tariff Abolition Schedule. Originally, Car Parts for Passenger Cars are also subject to Preferential Tariff Rates. However, GOT irregularly implements EPA by applying the Tariff Reduction only to Pickup Truck Car Parts.	- It is requested that GOT discontinues implementing its own rules and observes the EPA to the letter.	- Japan-Thai Economic Partnership Agreement (EPA)
	(3)	Nebulous Rules applied to Domestically Procured Parts in Thailand	- Request filed with Office of Industrial Economics (OIE), Thai Ministry of Industry for renewal of the JTEPA application has come to a standstill, concerning Products additionally processed and assembled at Member Firm's Subsidiary in Thai (MFS) from parts procured from Japan and domestically in Thai on the ground that the domestically procured Thai parts are not in conformity with the applicable rules under JTEPA. The Products in concern have already been manufactured in Thai under application of JTEPA. MFS is unable to secure the projected P&L. [OIE's views]	- It is requested that GOT: -- discloses logical explanation of its rules, as well as rules for application of JTEPA, and in review of the applicable rules, -- provides FFEs with opportunities for exchange of dialogues, and ensures transparency by giving sufficient and reasonable explanation, and	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>(1) Domestically Procured Parts in Thai (DPPT) are allowable only to Primary Parts Processing Enterprises in Thai (PPPE).                      &lt;Supplementary Note&gt; MFS procures the Parts in concern from PPPE that consigns the processing work to another Thai enterprise.</p> <p>(2) In addition, unless DPPT conforms to the JTEPA Rules, application of JTEPA is disallowed on parts procured from Japan.</p> <p>*NOTE: MFS required Disclosure of OIE Rules. However, it has not yet materialised.</p>	<p>-- overhauls the rules in a simple and clear-cut manner, eliminating all possibility for misinterpretation.</p>	
	(4)	Delayed Thai EU FTA Negotiation	<p>- The burden of customs duty is heavy upon Domestic Exporting Industries by delisting Thai from EU GSP Scheme.</p>	<p>- GOT expressed its intent of ratifying with EU FTA by the end of 2014. If at all possible, it is requested that GOT expedites the negotiation so that ratification takes place in the 3rd quarter of 2014.</p>	
	(5)	Unjustifiable Deemed Royalty Tax on Knock-Down Parts	<p>- WTO Agreement on Customs Valuation provides: “(1) The customs value of imported goods shall be the transaction value, (2) there shall be added to the price actually paid or payable for the imported goods royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable.”</p> <p>However, despite the absence of the special elements that the buyer must pay, DOC adds these elements and levies tax on them.</p> <p>For example, Member Firm, a manufacturer of machinery parts in Japan, holds a manufacturing subsidiary (MFS) in Thailand. Member Firm:</p> <p>(1) receives payment of royalty from MFS as consideration for provision of technology and</p> <p>(2) supplies MFS with Knock-Down Parts (KD Parts) for manufacturing machinery parts. DOC notified MFS that royalty paid for such KD Parts is taxable. Much against its inclination, MFS filed amended Tax Return.</p> <p>Then, Member Firm has confirmed:</p> <p>(a.1) “the KD Parts do not incorporate the intellectual property, which is the subject of the Technical Licencing Agreement (TLA), and</p> <p>(a.2) the imported KD Parts have not been manufactured using the licenced Intellectual Property Right under TLA, and</p> <p>(b) In as much as TLA did include description on sale and purchase of imported KD Parts, Member Firm presumed that such description could be susceptible of interpretation as if payment of royalty comprises a condition for sales of imported KD Parts. To avoid misinterpretation, Member Firm amended the TLA with MFS.</p> <p>However, DOC would not accept the results of the TLA Amendment, and has continued levying tax on royalty, deeming existence of royalty relative to KD Parts.</p>	<p>- It is requested that Thai Department Of Customs (DOC):</p> <p>-- strictly abides by with WTO GATT Agreement,</p> <p>-- adequately evaluates customs duty, and</p> <p>-- refrains from levying customs duty on royalty, which is outside the scope of, tax levy.</p> <p>(Note): Page 63 of “Issues and Requests for Improvements on Trade and Investment Barriers in 2013” reports a similar PRC case. In this case, the Tax Levy on the Reporting Firm has been withdrawn by agreement with the PRC Customs Authority, through amendment of Technical Licence Agreement.</p>	<p>- Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, Article 1.1. The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Article 8, provided. . . .(Ellipsis) Article 8.1. In determining the customs value under the provisions of Article 1, there shall be added to the price actually paid or payable for the imported goods: . . . (Ellipsis) . . . (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
			(Incidentally, since July 2012, similar amendment of TLA has resulted in Non Taxation on Deemed Royalty upon KD Parts by PRC Customs).		goods being valued, (to the extent that such royalties and fees are not included in the price actually paid or payable.)
	(6)	Arbitrary and Nebulous Decision of Customs Duty	- By arbitrary judgement of customs employees in charge, high import duty is assessed (from time to time, it varies by customs employees in charge). IFDS with its aspect of supplementing customs employees' wage has been causing the delays, in the event delays in payment for customs duty should arise.	- It is requested that the customs authority: -- harmonises the judgement among its employees, and -- repeals IFDS.	- Customs Law - IFDS is unpublished Internal Rules of Customs
	(7)	Arbitrary application of HS Code Commodity Classification	- As if to make up for the Minimum Wage hike, GOT reduced Corporate Income Tax from 23% to 20%. However, for the sake of complementing the resulting tax revenue shortage, DOC has focused mainly upon Japanese affiliated enterprises in their tax investigation. It takes actions closely resembling mud-slinging. To give a substantive example, DOC has overruled the HS Code No. for a product several years after its own initial ruling (confirmed by the Customs Broker). - MFS, providing Maintenance and Repair Service for Gas Turbines, imports various Service Parts for Gas Turbines, with HS Code 8411 (which is the HS Code for Gas Turbine Parts) written in the Customs Declaration, including Customs Invoices. However, Thai Customs applies 10% Import Duty (which is applicable across-the-board to all service parts), aggravating MFS's P/L by the unbudgeted expenses. Now and then, MFS staff gives direct explanation to Customs personnel, and from time to time, successfully get the duty rate brought down to the original rate, but this is an exception. Most of the time, repair parts are sent by Courier Service, in which case, individual visit to customs is not possible, so that MFS has no alternative but pay 10% Customs Duty, much against its desire.	- It is requested that DOC: -- sticks to its own ruling on the applicable HS Code once made, and -- refrains from effecting later change.  - It is requested that DOC: -- applies the Duty Rate for Gas Turbine Service Parts, distinctively so identified in the Customs Declaration, obviating the need for individual examination, or else. -- develops a simplified system that enables fair and correct customs duty levy on Service Parts for Gas Turbines sent by Courier Service.	
	(8)	Abuse of Antidumping Measures	- On 10 March 2003, GOT imposed anti-dumping duty on cold-rolled stainless steel sheet (from Japan, ROK, ROC and all EU Member States). - On 27 May 2003, GOT imposed anti-dumping duty on hot-rolled steel sheet (from 14 countries including Japan, ROK, and ROC). GOT has excluded TF steel, tin mill black plate (TMBP), etc. while it establishes import quota in each year on steel products for reroll. - On 19 March 2004, anti-dumping duty on hot-rolled steel sheet was temporarily removed (for 6-months). - On 20 September 2004, GOT ended the temporary hiatus period and resumed imposition of anti-dumping duty - On 13 March 2008, GOT started the sunset review of the Antidumping Measures on cold rolled stainless steel sheet. - On 27 May 2008, GOT started sunset review of the Antidumping Measures on hot rolled steel sheet.	- It is requested that GOT repeals the antidumping measures.	

Category	No	Issue	Issue Details	Requests	Governing Laws										
			<p>- On 26 May 2009, GOT decided to continue the Antidumping Measures on the abovementioned sunset review and simultaneously excluded rerolled steel plates for motor vehicles.</p> <p>- 30 June 2010, Final determination on reviews on changed circumstances on hot rolled steel plate. Antidumping measures continue.</p>												
	(9)	Safeguard Measures	<p>- On 27 November 2012, Department of Foreign Trade (DFT) initiated Safeguard Investigation on Hot-Rolled Alloy Steel from Japan. Notification on Initiation of Investigation fails to describe precisely the Subject Products (as to if the products are for use in fabricating automotive vehicles via distributors/processing enterprises, for re-export, etc.). While Steel for Cold-Rolled Processing/Heat-Treatment/Automotive Vehicles would probably be outside the scope of Safeguard Investigation, there has been no radical increase in import of the subject products from Japan. Instead of Safeguard Measures Investigation, DFT should rather initiate Antidumping Investigation, if it wishes to take measures against import from a specific country.</p> <table border="1" data-bbox="622 624 1384 858"> <tr> <td>27 February 2013</td> <td>Provisional Duty Levy of 33.11% published in Royal Gazette</td> </tr> <tr> <td>12 September 2013</td> <td>Final Decision published in Royal Gazette, levying the following Safeguard Duty for 3-years from the invocation date of Provisional Duty Levy.</td> </tr> <tr> <td>1st Year:</td> <td>44.20%: 15 September 2013~26 February 2014</td> </tr> <tr> <td>2nd Year:</td> <td>43.57%: 27 February 2014~26 February 2015</td> </tr> <tr> <td>3rd Year:</td> <td>42.95%: 27 February 2015-26 February 2016</td> </tr> </table> <p>In addition, application of the Safeguard Measures exclude the cold rolled steel plate, heat treated or destined to car industrial consumption, and other steel specifications listed in the attachment to Royal Gazette.</p>	27 February 2013	Provisional Duty Levy of 33.11% published in Royal Gazette	12 September 2013	Final Decision published in Royal Gazette, levying the following Safeguard Duty for 3-years from the invocation date of Provisional Duty Levy.	1st Year:	44.20%: 15 September 2013~26 February 2014	2nd Year:	43.57%: 27 February 2014~26 February 2015	3rd Year:	42.95%: 27 February 2015-26 February 2016	<p>- It is requested that DFT:</p> <ul style="list-style-type: none"> <li>-- terminates safeguard investigation against Japan.</li> <li>-- clearly identifies the products excluded from the Subject Products of Safeguard Investigation.</li> </ul>	- Department of Foreign Trade, Ministry of Commerce Notification
27 February 2013	Provisional Duty Levy of 33.11% published in Royal Gazette														
12 September 2013	Final Decision published in Royal Gazette, levying the following Safeguard Duty for 3-years from the invocation date of Provisional Duty Levy.														
1st Year:	44.20%: 15 September 2013~26 February 2014														
2nd Year:	43.57%: 27 February 2014~26 February 2015														
3rd Year:	42.95%: 27 February 2015-26 February 2016														
	(10)	Complex Product Registration Procedures	- The Product Registration Procedures are quite complex.	- It is requested that GOT repeals product registration renewal procedures, so that once registered no subsequent renewal is necessary like Japan, et al.											
	(11)	Inconsistency in Certificate of Origin under ASEAN/India Agreement on Trade in Goods and Application Procedures	<p>- A Member Firm's subsidiary (MFS) is unable to benefit from the Preferential Tariff Rates on imports of parts under ASEAN-India Agreement on Trade in Goods due to the differences in interpretation or understanding of individual Customs Officials, despite the fact that Application Form is nailed down.</p> <p>INDIA: Single Application Sheet may contain plural items to the extent they can be filled in that single sheet. Where the number of parts is numerous, these can be filled in as attachment to the Single Application Sheet. Plural Application Sheets may not be used per invoice.</p> <p>THAILAND: Attachments will not be accepted as official documents. Plural Application Sheets must be used where items are too numerous. However, this requirement does not agree with GOT's instructions.</p>	<p>- It is requested that the Customs Authorities of India and Thailand will work together in producing a Manual to share the Common Understanding.- Rather than individual applicants' wasting their time in visiting Ministries and Agencies to obtain approvals, it is requested that GOT streamlines and facilitates the application procedures through active use of web pages, allowing direct filing of application by individual applicants.</p>	- ASEAN-India Free Trade Agreement (AIFTA)										

Category	No	Issue	Issue Details	Requests	Governing Laws
			In this fashion, understandings are diametrically opposed between the Customs Authorities of Two Countries. Consigning preparation of the application documents to outside sources is prohibitively expensive. Because of these circumstances, it is not possible to file application and benefit from Tariff Preferential Measures.		
	(12)	Arbitrary Employment of Import Customs Inspection Institution.	- The Thai Law requires inspection for the imported parts, such as steel plate, glass, etc. The inspector of the Inspection Institution determines if the particular imported good requires inspection. Should someone else replace the Inspector, the determination by the predecessor could be changed. In such a case, import customs clearance delays.	- It is requested that GOT maintains uniformity in its implementation of the imported parts inspection by the Inspection Institution.	- Export and Import of Goods Act, BE2522 (1979) - Industrial Product Standard Act BE2511 - TISI-R-PC01(04) - TISI-197-2536 - TISI-196-2536 - TISI-721-2551
	(13)	Complex Procedures for Acquisition of Certificate of Origin for Knock Down Export	- A Member Firm's subsidiary (MFS) incorporated in Thailand is unable to export knockdown parts to ASEAN Member States as a kit of knockdown parts. Thai Customs requires Certificate of Origin for each single part of the knockdown kit, involving a vast amount of work. Some parts included in the know-down kit do not satisfy the local content requirement and are taxable. If the customs clearance is made for the entire parts kit, all parts become duty free.	- It is requested that GOT approves export of knockdown parts by the kit of parts.	- Export and Import of Goods Act, BE2522 (1979)
	(14)	Nebulous Publication Contents for Changes in Customs Regulations	- Notices of Change In Customs Regulations are so nebulous that it is difficult to file import licences timely and correctly. (Even customs brokers are unable to follow). Nevertheless, Customs imposes fines by pointing out the deficiencies.	- It is requested that GOT: -- notifies changes in Customs Legislations following the pre-determined methods (such as its web site or Bulletin), and -- makes direct announcement to the interested parties, such as Customs Brokers.	
	(15)	Absence of BP/IBP Customs Clearance System	- Due to the absence of BP (cargo release Before Permit for import) and IBP (Import declaration Before Permit for import) at Thai Customs, import of goods at provisional prices for the subsequent correction after customs clearance is subject to excessive heavy fines.	- It is requested that GOT introduces the BP/IBP customs declaration system.	
	(16)	Ill-Effect From IFDS granted to Customs Employees by Distribution of Customs Penalties	- A Member Firm was compelled to pay substantial amount of interest on payment arrears, due to the customs employees' abnormally prolonging the examination period, (probably prompted by the Incentive Fund Distribution System (IFDS)).	- It is requested that GOT repeals the incentive fund distribution system.	
	(17)	Vexatiously Complex Import Procedures for Used Equipment	- Import procedures are complex for equipment not domestically available in Thailand.	- It is requested that GOT streamlines the import procedures for equipment not domestically available.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
11	Restriction on Profits Remittance Abroad	(1)	Complex procedures for external foreign currency remittance	- Foreign Exchange Remittance Procedure is made complex by the need to attach Import Declaration to the Application Form at the bank.		
12	Exchange Controls	(1)	Nebulous Implementation Rules for Practical Employment of Foreign Exchange Transactions	- GOT has notified its approval concerning Settlement of Account in Foreign Exchange between the domestic enterprises, without however, providing the precise details of practical implementation rules. Differing interpretations have been returned to enquiries made to various customers of an MFS. The competent authorities give their replies only verbally, and would not reply in writing, including e-mail (that can be used as evidence). According to a person working for a Japanese affiliated financial institution, the settlement in foreign currency in less than 1% in that financial institution.	- It is requested that GOT promulgates precise implementing rules related to the Domestic Transactions in Foreign Currency.	
		(2)	Inconsistency between the Deregulation in The Foreign Exchange Control Measures and the Tax Administration	- Since the 2010 announcement of Foreign Currency Restrictions deregulation, basically it is moving for the better. However, the deregulation does not work in substance for absence of consistency with the taxation administration.	- It is requested that GOT further improves the Detailed Implementing Rules of the collateral conditions. In respect of Control of Exchange, It is requested that GOT: -- repeals the rules requiring control of the bank account by underlying asset, -- repeals the following conditions for the domestic settlement of account in foreign currency: (1) Enterprises with foreign currency gained from export alone are entitled to make the following payment, (2) Submission to the bank of materials showing real demand, and (3) Acquisition of Revenue Department approval on issuance of investment in foreign currency.	
		(3)	Inconsistency between the Deregulation in The Foreign Exchange Control Measures and the Tax Administration	- Despite the Bank of Thailand's deregulation of Foreign Exchange Control (FEC) and Revenue Department's promulgation of Guidelines on Tax Implementation Rules in October 2010, due to the paucity of dissemination within the Ministries and Agencies in concern, officers response vary. Taxpayers must continue to be on the alert concerning taxation.	- It is requested that GOT provides staff education within the Ministries and Agencies in concern.	- Finance Ministry Order
		(4)	Difficult Procurement of Foreign Exchange for Domestic Payments	- Domestic Payments in foreign currencies are restricted by inability to procure foreign currency, in effect, making it difficult to execute.	- It is requested that GOT deregulates foreign exchange control, by reflecting the real needs in business.	- Foreign Exchange Control Law

	Category	No	Issue	Issue Details	Requests	Governing Laws
14	Taxation Systems	(1)	Arbitrary Nature of The Corporate Tax Audit and Correction	- In a case where customs clearance procedure is consigned with the Coil Center, back taxes are imposed on a non-taxable enterprise so approved by Board of Investment (BOI). (This shows an arbitrary nature of interpretation of laws.)	- It is requested that GOT discontinues back tax levy.	
		(2)	Differences in Interpretation of Technical Licencing Fees between Japan and Thailand	- Technical Assistance Fee (TAF) is differently interpreted between Thai and Japan so that in the case where TAF is paid by an enterprise in Thai to an enterprise in Japan, withholding tax on TAF is levied both in Thai and Japan, a case of Double Taxation results.	- It is requested that GOJ and GOT harmonise the Interpretative Rules on the Japan-Thailand Tax Treaty.	
		(3)	Disunity in Interpretation of Revenue Code	- Due to the differences in interpreting tax laws or by immature interpretation of the taxation personnel, the tax law is not properly implemented in some cases.		
		(4)	Pending/Delayed VAT Refund	- A Member Firm's Subsidiary (MFS) faces cash flow problems due to the delayed VAT refund. While MFS gets by with a borrowing from the Group (Financing Co.), Ministry of Commerce has alerted MFS for its excessive debt. - Member Firm's must think twice before filing VAT refund application, in anticipation of the lengthy time required to get the refund, and substantial time required for attending the tax investigation.	- It is requested that GOT expedites the VAT refund.  - It is requested that GOJ takes steps to induce GOT for it to streamline the VAT refund procedures and to achieve the expedited VAT refund.	
		(5)	Amendment of Corporate Income Tax	- Corporate Income Tax reduction schedule: -- 30% until the Fiscal Year 2011 -- 23% during the Fiscal Year 2012 -- 20% from the Fiscal Year 2013		
16	Employment	(1)	Complex and Delayed Acquisition and Renewal of Work Permit	- It takes a long time, maximum 80-days or so, for an expatriate to obtain the Work Permit. During the period between the date of filing application and of obtaining the Work Permit, the expatriate must endure untold difficulties, being unable to open bank accounts, etc. and the risk of an unwarranted charge for illegally working in Thailand. (1) Institutional Problems over Work Permit Under the existing implementation system, Work Permit required for employment in Thailand is obtainable only in Thailand. An expatriate upon transfer to the local MFS (an local enterprise incorporated in Thailand) must first obtain in Japan, Stay Visa for entry into Thailand, and after entry, the expatriate must then file application for Work Permit, or (1) choose as a temporary measure, a Simplified Notification System (SNS), which however, is inconvenient in the following respects: (a) It is good only for 15-days, far less than the requisite time period (maximum 80-days) for acquisition of Work Permit, (b) Acceptance of the application for SNS itself is at the mercy of the officer at desk of the competent authority who may sometimes reject acceptance of the application for clerical reasons, etc.	- While streamlining the disposal procedure is being deliberated under Japan-Thailand Economic Partnership Agreement (JTEPA), it is requested that GOT streamlines it just as soon as possible. (1) Rectification of Institutional Problems: -- It is requested that GOT: --- issues Work Permit outside Thailand (in Japan), or --- obviates the need for Work Permit after the date of filing application until issuance of Work Permit (However, this alternative does not resolve the inconveniences on livelihood of expatriates such as inability to open the bank account, etc.)	- Alien Occupation Law

Category	No	Issue	Issue Details	Requests	Governing Laws
			(2) Procedural Problems over Work Permit: It takes a considerable amount of time and effort to prepare the requisite documents, including the requirement for signing each page of the voluminous documents.	(2) Rectification of Procedural Problems: -- It is requested that GOT simplifies the procedures by replacing with stamps, etc. the onerous duty of signing each page of the requisite application documents.	
	(2)	Complex / Delayed Procedures for Acquisition of Work Permit for Short Term Business Trip	- In principle work visa is required even for a single day stay business trip, provided, however, that work visa applicant is exempted for a stay not exceeding 15-days by giving Notification (WP11), provided however, the work to be performed must command a high degree of "urgency" and "needs". The mere attendance to a conference or market research is insufficient to satisfy the "urgency" and "needs" requirements. In addition, the place of activities is restricted to the location of head office/branch offices to the inconvenience of the person on a business trip. Invitation letter must accompany each application, while personal appearance of the applicant himself is required in lieu of facsimile communication. An applicant on a mission on the solar power generation project making frequent short-term trips faces a constant risk of rejected application. It takes a lot of trouble for acquisition of a short-term work visa.	- It is requested that GOT deregulates the requirements as regards short-term business trips of less than 30-days made at low frequency (such as less than 4-times a year).	- Alien Occupation Law)
	(3)	Restricted Number of Foreign Expatriates / Compulsory Employment of Indigenous Thai	- The number is restricted for the alien workers in the local Representative's Office. - Work Visa for foreign workers are restricted to the ratio of 1 to 4 between Foreign Worker and Indigenous Thai. In addition, minimum 2-million Bahts Paid-Up Capital Fund Registration per Foreign Worker is necessary. Unless either of the following conditions is satisfied, the maximum number of Work Visa issued is 10: (a)The amount of income tax paid in the preceding year by the Employer is more than 3 million bahts. (b)The Employer is engaged in export business with foreign exchange revenue corresponding to minimum 30 million bahts in the preceding year. (c)The Employer operates tourism business, with more than 5,000 foreign tourists invited to visit Thailand in the preceding year. (d)The Employer employs minimum 100 Thai nationals. - Relative to Foreign Funded Enterprises, Work Visas for foreign workers are restricted to the ratio of 1 to 4 between Foreign Workers and Indigenous Thai. For SMEs (Small-to-Medium-sized Enterprises (SMEs)), it is not easy to increase the number of foreign workers.	- It is requested that GOT deregulates the restrictions. - It is requested that GOT deregulates by large margin Regulation on Foreign Workers Employment.  - It is requested that GOT deregulates the restrictions.	- Foreign Business Act B.E. 2542 (1999) - Immigration Act - Department of Employment Regulation 14
	(4)	Labour Cost has spiraled by Hike in Minimum Wage	- Since April 2012, Minimum Wage of 300 bahts/day has been applied in Capital City Bangkok and in its Peripheral Provinces, spreading across the country since January 2013. It has been a factor pushing up the labour cost in Thailand. - No control is exercised over the Minimum Wage.	- It is requested that GOT reviews the Minimum Wage Act (such as set up of Minimum Wage per region).  - No control over Minimum Wage diminishes the competitive edge of Thai industries.	- Labour Law - Minimum Wage Legislation

Category	No	Issue	Issue Details	Requests	Governing Laws	
			<ul style="list-style-type: none"> <li>- Since April 2012, Minimum Wage has been raised in the Bangkok Peripheral areas, 215 =&gt;300 bahts/day, spreading across the country since January 2013 at 300 bahts/day. It has impacted severely particularly in the local regions.</li> <li>- Minimum Wage raise in 2012 has pushed up the labour cost year after year. Employers must anticipate labour problems such as worsening of labour retention rate, outbreak of strikes, etc. (Demonstrations in Bangkok, unstable political climate, etc. are also likely to occur.) Nebulous issues relative to BOI, taxation, accounting, etc. add difficulty in decision-making.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOT:                             <ul style="list-style-type: none"> <li>-- amends the Minimum Wage hike in stages, based on a systematic plan, and</li> <li>-- maintains wage scale.</li> </ul> </li> <li>- It is requested that GOT sets up a Japanese speaking Consultation Window that can provide service over various issues to Japanese affiliated enterprises.</li> </ul>		
	(5)	Chronic shortage of Human Resources Supply	<ul style="list-style-type: none"> <li>- Chronic shortage prevails for human resources in managerial post, such as personnel, accounting, IT, and engineers with abilities and experience. In addition, it has become difficult to procure assembly-line workers.</li> <li>- Chronic shortage prevails in managerial staff, while the same problem has spread to line workers. Domestic drop in unemployment ratio has brought about difficulty in employment of quality workforce, and aggravated retention rate.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOT makes all out effort countrywide for beefing up fostering of human resources.</li> <li>- It is requested that GOT:                             <ul style="list-style-type: none"> <li>-- makes all-out efforts in fostering human resources, and</li> <li>-- repeals the legislative requirement for employment of indigenous Thai.</li> </ul> </li> </ul>	- The Alien Occupation Law	
	(6)	Restricted Term-Contract Workforce	<ul style="list-style-type: none"> <li>- GOT approves term-contract only for work which is seasonal or temporary.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOT establishes the system that guarantees flexible adjustment of workforce.</li> </ul>		
	(7)	Difficulties in Labour Management Negotiation	<ul style="list-style-type: none"> <li>- Rough Sledding in Labour Management Negotiation takes place in each year as the wage hike rate tends to get higher in each year across the nation. Labour demands, devoid of rhymes and reasons, take no heed of ups and downs in production, so that refusal of overtime, union meetings, etc. readily results from employers' failure to meet the labour demand in full, impacting production schedule. This is the problem shared among the majority of Japanese affiliated enterprises.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOT takes steps to foster a sound development of Labour Union Activity.</li> </ul>		
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Rampant Counterfeits, and Insufficient Protection of IPRs	<ul style="list-style-type: none"> <li>- Piracy is rampant not just on hardware but also on software such as movie, music and game.</li> <li>- GOT has hardly done anything about counterfeit goods.</li> </ul>		
		(2)	Non-accession to IPR Protection Treaties	<ul style="list-style-type: none"> <li>- GOT drags its feet in acceding to IPR Protection Treaties (PCT Patent Cooperation Treaty, Madrid Protocol, etc.).</li> </ul>		
		(3)	Inadequate Provisions concerning the Period to file a Request for Laying Open of an Application	<ul style="list-style-type: none"> <li>- There is no clear definition for the Laying Open Period of the Application (LOPA), while the Examination Request Period of Application (ERPA) is defined as 5-years from the publication date of the Laying Open of the Application. It makes it difficult to ascertain ERPA after filing of IPRs application.</li> </ul>	<ul style="list-style-type: none"> <li>- In most countries, LOPA is provided into rules, while ERPA falls on the date of filing application. It is requested that GOT gets the rules amended so that it clearly defines LOPA and makes ERPA the date of filing application.</li> </ul>	- Patent Act, Article 29

Category	No	Issue	Issue Details	Requests	Governing Laws
	(4)	Unspecified World Publicly Known and Used Provisions	- Thai Patent Act stipulates as requirement for novelty as not domestically publicly known and not domestically publicly used prior to the filing of a patent application. For this reason, the problems exist that the patent is issued to the invention, regardless of the fact that it is publicly known outside Thailand.	- The adoption has become a global standard of the notion of world public knowledge and world public use (WPK and WPU), also in PRC recently. It is requested that GOT considers adoption of WPK and WPU.	- Thai Patent Act, Articles 5 and 6.
	(5)	Disallowed Application for Voluntary Divisional Patents	- Department of Intellectual Property (DIP) allows filing of divisional patent application, only when the examiner determines that the application involves plural distinct inventions, foreclosing the applicant's voluntary divisional applications.	- It is requested that DIP: -- accepts applicant's filing voluntary application for divisional patents, and -- allows applicant's filing voluntary application during both denial examination and patent examination periods.	- Patent Act, Article 26
19 Industrial Standards, Approval of Safety Standards	(1)	Restrictions upon Steel Products by Compulsory Standards	- Ministry of Industry (Industry) tightened its standards for steel products in response to the pressure from the domestic mill: -- 1993.12 - Strict observance of bar steel (TIS Standard) -- 1998.05 - Strict observance of section steel (TIS Standard) -- 1998.12 - Strict observance of wire rod (TIS Standard) -- 1999.01 - Strict observance of hot rolled plate (TIS Standard) -- 2002.05 - Strict observance of cold rolled plate (TIS Standard) -- 2008.09 - TISI partially changed hot-rolled steel TIS528 (2548), voiding the old licence. -- 2008.12 - TISI started strict implementation of the compulsory standard approval (On 26 January 2009, New Regulation was promulgated, enforced, and immediately repealed. After that, new Product Inspection Standard (PIS) was promulgated.) -- 2009.03.04 - PIS entered into force. -- 2010.3-6 - Japanese Blast Furnace Manufacturers (JBFMs) received Factory Audit under the 1st Manufacturers' Audit. TISI demanded production of an excessive amount of documents. Its inefficient inspection together has increased the burden to each manufacturer to respond to the TISI requests. -- 2011, 6-11 JBFMs received the continuation of Audit for the 2nd year, without reduction in the audit procedures. As a result burdens upon JBFMs continued.	- It is requested that GOT: -- repeals the examination scheme, -- clarifies and streamlines the procedures (including the exclusion scheme), -- reduces auditing process, and -- reduces auditing frequency.	- Industrial Standard Act - Each Compulsory Standard - Products Inspection Rules
			<b>(Improvement)</b> - In December 2012, an MFS, blast furnace manufacturer, received the 3rd continuous audit. The TISI inspector referred to the TISI's internal review now under way on simplifying the auditing for manufacturers with good standing and impeccable records in the past auditing. - In November 2013, Thai Industrial Standards Institute (TISI) started its study whether to conduct Steel Mill Inspection at an interval of once every 2~3 years.		
	(2)	Long Waiting Period required for Acquisition of TISI Product Certification	- Standards Auditing by TISI is required prior to introduction of new products into the Thailand market, such as Audio/Visual Equipment, whether imported or domestically manufactured. It takes about 2-months from date of filing application to grant of approval.	- It is requested that TISI shortens the Audit Period.	- TISI Standards

Category	No	Issue	Issue Details	Requests	Governing Laws
	(3)	Nebulous Procedures for Acquisition of TIS Safety Certification	<p>- TIS inspector's factory inspection is compulsory including small quantity imports from abroad. (Small quantity import must be discontinued due to cost effect.)</p> <p>- Implementing Problems over the acquisition of TISI (Thai Industrial Standard) Product Certification are epitomised as follows: Requirements for filing of model-by-model application, ordeal of factory inspection, extraordinary lengthy examination of documents, etc., sometimes affect the production schedule and shipments.</p>	<p>- It is requested that TISI simplifies the Product Certification Procedures.</p> <p>- It is requested that TISI simplifies the Product Certification Procedures.</p>	<p>- Ministerial Regulation No. 13 (B.E. 2497) on Exchange Control</p> <p>- Detailed Regulation of Revenue Code</p> <p>- Ministerial Regulation No. 13 (B.E. 2497) on Exchange Control</p> <p>- Detailed Regulation of Revenue Code</p>
22 Environmental Pollution and Waste Disposal	(1)	Inadequate Environmental Protection	- Both the level of Environmental Protection System and the public awareness are low on the environmental protection such as sorted collection of wastes.		
	(2)	Signatures required Page by Page on Documents submitted to Ministries and Agencies	- GOT requires signature in the signer's own original handwriting on each sheet of application documents of all kinds. The requisite documents are in huge volume, requiring much expense, labour and paper resources. The signer is heavily burdened with the time-consuming task of signing by hand on each page of the voluminous documents.	- It is requested that GOT streamlines the requisite documents by accepting electronic documents, company seal, etc.	
	(3)	Delays in Issuance of "Ror Ngor 4" Factory Operation Permit	<p>- The procedures are nebulous and time-consuming for issuance of Factory Licence (RorNgor4) , giving negative impact upon P/L of the business operation.</p> <p>RorNgor4: This licence is necessary for construction of a solar power generation plant. However, the uncertainty of the requisite time for acquisition of this licence severely impacts this project.</p>	<p>- It is requested that GOT:</p> <p>-- cuts down the time necessary for licence acquisition, and</p> <p>-- clearly identifies the process on grant of the licence.</p>	
	(4)	Complex / Delayed Procedures for Acquisition if Work Permit for Short Term Business Trip	- GOT requires, in principle, Work Permit even for one-day business trip, provided, however, that its acquisition is exempted in exchange for Notification (WP11), which, however, is inconvenient to use. It is limited only to works demanding "urgency", and "necessity", while excluding attendance to "business meetings", "market research", etc. In addition, many other restrictions and requirements must be satisfied, including without limitation, restriction in the activity area, requirement for letters of invitation, etc.	- It is requested that GOT deregulates the requirements by obviating the needs for WP11 Notification on Short-Term Business Trip (of less than 30-days) in low frequency (less than 4-times a year).	- The Alien Occupation Law
24 Indigested Legislation, Abrupt Changes	(1)	Nebulous Introduction of New	- GOT announced in August 2013 New Subsidy Scheme for Roof Top Solar Panel Power Generation, and started accepting application, without, however, release of Guidelines for Licences and Approvals requisite for composition of the application documents. On the other hand, under the Power Purchase Agreement (PPA), GOT envisages construction completion by 31 January 2014. It has caused confusions in the industries and the subsequent delays of the project. (Achievement of the End of January Deadline is unlikely, etc.)	- It is requested that GOT clearly identifies the Licences and Approvals required for the Roof Top Solar Panel Power Generation Project, the timing of acquisition period.	<p>- Factory Operation License (RorNgor4)</p> <p>- Plant Construction License</p> <p>- Controlled Energy Production Permit</p> <p>- Energy Operation License</p>
	(2)	Corruptions	- Even today, in the process of filing Licences and Approvals, there are cases where under-the-table payment is demanded. Also the response varies depending upon persons in charge.	- It is requested that GOT tightens the nation wide control by provision of education to public servants.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
26	Others	(1)	Inadequate Flood Control Measures	<p>- A Member Firm's Subsidiary (MFS) has been compelled to temporarily suspend its, due to its suppliers damage from the massive flood of 2011. It has experienced much difficulty in grasping the accurate status due to the mixed information reaching it in quality and accuracy.</p> <p>- MFS sustained a severe damage directly and indirectly from the flood of unprecedented magnitude occurred in October 2011, due to the inadequacy of the GOT's measures prepared in advance.</p> <p>- In 2011, the large-scale floods also hit a Member Firm's subsidiary (MFS) plant in Ayutthaya. While GOT has expedited its effort in terms of both emergency measures and a long-term measures by inviting international competition, such efforts have not completely wiped out the risk of floods. Developers have improved the banks for protection from floods in the industrial estate near Bangkok. However, no improvement has taken place by way of requisite number of workforce and arterial road for distribution. The water damage risks remain for workers housings.</p> <p>- Due to the floods in October 2013 in Amata Nakorn Industrial Estate, manufacturing operation of MFS was interrupted.</p>	<p>- It is requested that GOT:</p> <ul style="list-style-type: none"> <li>-- strengthens the protective measures against flood and inundation as soon as possible,</li> <li>-- provides the flood related accurate information in multiple languages, and</li> <li>-- ensures speedy and widespread dissemination of information after the advent of flood, and</li> <li>-- takes adequate measures such as drainage.</li> </ul> <p>- It is requested that GOT:</p> <ul style="list-style-type: none"> <li>-- draws up and implements fundamental measures for flood control, and</li> <li>-- provides adequate assistance to enterprises damaged by the flood.</li> </ul> <p>- While GOT's flood control measures have made a fair progress, including management, it is requested earnestly that GOT continues its effort to enhance its flood control.</p> <p>- It is requested that GOT:</p> <ul style="list-style-type: none"> <li>-- accelerates the sweeping solution for protection from floods,</li> <li>-- analyses the total situation for continuation of business operation, including the risk of infrastructure hiatus, and traffic congestions,</li> <li>-- discloses more information, especially to Foreign Funded Enterprises, and</li> <li>-- construct canals for protection from flood.</li> </ul> <p>- It is requested that GOT makes all out efforts in eliminating recurrence of flood damages in the future.</p>	
		(2)	Increased Insurance Premium against Great Natural Disasters	<p>- The 2011 flood has triggered the insurance premium to take a jump. Subscription to GOT authorised Catastrophe Insurance Policy (CIP) is a compulsory requirement for MFS to subscribe to voluntary insurance policy. However, insurance premium is sky-high. To enable FFEs to continue their business operation improvement is prerequisite by way of reduction in cover rate of 30%, additional 1.25%, and the high threshold for triggering the total damage in excess of 5 billion bahts, etc.</p>	<p>- It is requested that GOT flexibly adjust the threshold for payment of CIP, reviews the cover rate, and reduces insurance premium commensurate with risks.</p>	

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(3)	Anxiety over the Political Climate	<p>- Political upheavals have repeated every few years, creating turmoil in the domestic economy, while MFS experiences hard time to deal with the resulting problems.</p> <p>- Recently, there have been frequent outbursts of elements of instability, such as demonstration against the government, and the problem of the aging King.</p>	<p>- It is requested that:</p> <ul style="list-style-type: none"> <li>-- GOT uses its best efforts to stabilise its administration, and</li> <li>-- GOT concentrates its effort in education of its people nationwide.</li> </ul>	
		(4)	Political Instability	<p>- Especially since 2006, confrontation has surfaced and has been intensified between the Administration and Anti-Administration Wings, frequently accompanying occupation of major facilities, road occupancy, lock-out, demonstration, etc., threatening safety in livelihood, and hindering business activity.</p>	<p>- It is requested that GOT stabilises the political climate in Thailand.</p>	

Issues and requests relating to foreign trade and investment – Vietnam

	Category	No	Issue	Issue Details	Requests	Governing Laws
1	Restrictions on Entry of Foreign Capitals	(1)	Goods and Services Banned from Business, subject to Business Restriction or to Conditional Business as regards Foreign Investment	- A Member Firm's Subsidiary (MFS) is unable to open a lease business by locating a finance lease partner, because GOV has not liberalised the lease business to Foreign Funded Enterprises (FFEs). It is difficult for MFS to market high-class products in Vietnam. - Investment Licence is closed to Foreign Capital for Import of Publications (including CD, DVD).	- It is requested that GOV liberalises lease business in Vietnam to FFEs.  - It is requested that GOV deregulates the restrictions.	
		(2)	Suspended New Investment Licence	- Due to the current GOV's Credit Squeeze Policy, issuance of New Investment Licence in effect is suspended to Foreign Capitals. It makes entry of Foreign Capitals difficult.		
		(3)	Restricted Foreign Capital Contribution Ratio	- Foreign Capital Contribution Ratio is held down to a low level of 15% (or 20%, if specially approved by Prime Minister) for investing into the existing local financial institutions, virtually foreclosing the foreign investors influence upon the corporate management.		
5	Regulations on Parts Industrial Policy	(1)	Lack of Policy to Foster Parts Industry	- While domestic procurement is possible for the main raw materials such as lumber, Member Firm's Subsidiary (MFS) in Vietnam must rely upon imports for parts, cutters, etc. with high added values. Together with Ocean Freight, Customs Duty, these are factors that push up production cost.	- It is requested that GOV takes steps to foster Parts Industries, apart from the Machineries, Cars, Ship Building, etc. , which GOV positions as the important industrial sector, requiring nurturing.	
6	Reduction and Elimination of Preferential Policies for Foreign Capital	(1)	Ambiguous Incentive Measures for Foreign Investment	- The terms and conditions (particularly the target business sectors) are ambiguous to enjoy the benefit of Preferential Measures on Foreign Investment (PMFI). It remains nebulous, which business sectors in the high technology industries or downstream industries are included as the target for Preferential Measures.	- It is requested that GOV expands the scope of its Preferential Measures to include new additional investment.	- Article 32 - 39, Part 2, Chapter V, Investment Law 2005 - 108/2006/ND-CP
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	- The tariff rate is high at 10-25% for complete unit of clocks and watches and movements thereof. - GOV removed import restrictions on steel products under import licence as of the end December 2001. GOV, instead, shifted to imposing the high tariff rates. - While Japan-Vietnam Economic Partnership Agreement has been ratified, Japanese Lowe Glass, classified under HS Code 700510 900090 remains dutiable at the rate of 30%.	- It is requested that GOV reduces the tariff ahead of the schedule.  - It is requested that GOV reduces or repeals the Customs Duty.	- Customs Act
				<b>(Actions)</b> - Under the Japan-Vietnam EPA enforced in October 2009, the tariffs on Japanese watches have been reduced evenly in stages, while import duty on watches and clocks will be completely repealed after 10-years, while tariffs on movements and parts will be repealed after 15- years, which, while appreciated, is too long.		

Category	No	Issue	Issue Details	Requests	Governing Laws																																													
	(2)	Raise in Import Duty	<p>- GOV's repeated Tariff Increase and disrupted the distribution:</p> <table border="1"> <thead> <tr> <th>Date</th> <th colspan="4">From=&gt;To / Product Name</th> </tr> </thead> <tbody> <tr> <td>1 April 2009</td> <td>5%=&gt;8% Billet</td> <td>12%=&gt;15% Construction Steel Bars</td> <td>7%=&gt;8%, CR</td> <td>12%=&gt;13% Plated Sheet Steel</td> </tr> <tr> <td>On 20 April 2009</td> <td colspan="4">0%=&gt;10% Boron-Added Steel Bar</td> </tr> <tr> <td>February 2010:</td> <td colspan="2">5%=&gt;15% Steel bar, Wire rod (in part)</td> <td colspan="2">3%=&gt;5%. Tin plate</td> </tr> <tr> <td>Since 25 August 2011</td> <td colspan="4">MFN Tariff Rate has been raised from 0% to 10% on the Boron Added Other Alloy Steel Sheet, Wire Rod, and Shaped Steel (HS7225, 7226, 7227, and 7228 however, excluding Hot-Rolled Steel Sheet).</td> </tr> <tr> <td>11 June 2012</td> <td colspan="4">MFN Tariff Rate has been raised from 0% to 10% on the Stainless Steel Bar (in part)</td> </tr> <tr> <td>1 January 2013</td> <td colspan="4">MFN Tariff Rate has been raised from 5% to 10% on the Cold rolled Steel Sheet &amp; Welded Steel Pipe (in part)</td> </tr> <tr> <td>19 May 2013</td> <td colspan="4">MFN Tariff Rate has been raised from 0% to 3% on Wire (in part)</td> </tr> <tr> <td>1 January 2014</td> <td colspan="4">MFN Tariff Rate has been raised on Steel Sheet, Shape Steel, etc.</td> </tr> </tbody> </table>	Date	From=>To / Product Name				1 April 2009	5%=>8% Billet	12%=>15% Construction Steel Bars	7%=>8%, CR	12%=>13% Plated Sheet Steel	On 20 April 2009	0%=>10% Boron-Added Steel Bar				February 2010:	5%=>15% Steel bar, Wire rod (in part)		3%=>5%. Tin plate		Since 25 August 2011	MFN Tariff Rate has been raised from 0% to 10% on the Boron Added Other Alloy Steel Sheet, Wire Rod, and Shaped Steel (HS7225, 7226, 7227, and 7228 however, excluding Hot-Rolled Steel Sheet).				11 June 2012	MFN Tariff Rate has been raised from 0% to 10% on the Stainless Steel Bar (in part)				1 January 2013	MFN Tariff Rate has been raised from 5% to 10% on the Cold rolled Steel Sheet & Welded Steel Pipe (in part)				19 May 2013	MFN Tariff Rate has been raised from 0% to 3% on Wire (in part)				1 January 2014	MFN Tariff Rate has been raised on Steel Sheet, Shape Steel, etc.				- It is requested that GOV reduces tariff rates.	
Date	From=>To / Product Name																																																	
1 April 2009	5%=>8% Billet	12%=>15% Construction Steel Bars	7%=>8%, CR	12%=>13% Plated Sheet Steel																																														
On 20 April 2009	0%=>10% Boron-Added Steel Bar																																																	
February 2010:	5%=>15% Steel bar, Wire rod (in part)		3%=>5%. Tin plate																																															
Since 25 August 2011	MFN Tariff Rate has been raised from 0% to 10% on the Boron Added Other Alloy Steel Sheet, Wire Rod, and Shaped Steel (HS7225, 7226, 7227, and 7228 however, excluding Hot-Rolled Steel Sheet).																																																	
11 June 2012	MFN Tariff Rate has been raised from 0% to 10% on the Stainless Steel Bar (in part)																																																	
1 January 2013	MFN Tariff Rate has been raised from 5% to 10% on the Cold rolled Steel Sheet & Welded Steel Pipe (in part)																																																	
19 May 2013	MFN Tariff Rate has been raised from 0% to 3% on Wire (in part)																																																	
1 January 2014	MFN Tariff Rate has been raised on Steel Sheet, Shape Steel, etc.																																																	
	(3)	Disparity in FTA Preferential Tariff	- Japan and Vietnam both enjoy Preferential Customs Tariff under EPA. Take Paper Products, for example, Coated Paper 3%, Faint Coated Paper 3%, Uncoated Quality Paper 2%, etc. However, MFS is compelled to stand in a lesser competitive position, albeit small, against importers from the ASEAN Member States, where 0% Import Duty applies to their export to Vietnam.	- It is requested that GOV takes steps to reduce further or repeal Customs Duty.																																														
	(4)	Export Duty Levied on Coal Export	<p>- GOV imposes 20% Export Tax on export of coal, pushing up the market price.</p> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Since 23 March 2009, Ministry of Finance (MOF) have adjusted Export/Import Duty Rates for certain Coal Products so that 5% of Import Duty and 10% of Export Duty apply to HS4402.10.00.00 and HS4402.90.00.90 Coal Products, and 5% Export Duty to HS4402.90.00.10 Coal Products.</li> <li>- On 7 July 2013, Ministry of Finance raised Export Tax to 13% on HS4402.90.00.10 and HS4402.90.00.90 Coal Products.</li> <li>- On 1 September 2013, GOV raised Export Duty from 9.1 to 10%, by the request of Vietnamese Coal Industries.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- Since February 15, 2009, MOF has reduced Export Duty on Coal and Related Products from 20% to 10%.</li> </ul>	- It is requested that GOV repeals as soon as possible the Export Tax on coal that causes the constant rise in the market price.																																														
	(5)	Complex Customs Clearance Procedures	- Import customs clearance procedures are indeed time consuming, what with quality inspection and customs requirement for production of voluminous documents both of which take a long time to check and confirm. (Sometimes, it even takes more than one month).	- It is requested that GOV streamlines and expedites its inspection and confirmation of documents.																																														

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- Investigation process after customs clearance is so complex that plural Ministries and Agencies conduct investigation into Member Firm's Subsidiary (MFS) on the same issue.</li> <li>- Allowable Tax Exemption (ATX) is up to USD300 only, so that virtually all imports are taxable.</li> <li>- All concerned parties cannot help wondering why there exist so many documents, requiring individual signatures and company seals. Frequently, expedited response cannot be obtained from the Competent Authority.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that each Ministry and Agency will commonly share the submitted information.</li> <li>- It is requested that GOV considers adjusting the ATX to an adequate level.</li> <li>- It makes one wonder where has gone the Electronic Customs Clearance System. There is no sign of reduction in volume of the requisite documents. It is requested that GOV streamlines and expedites the documental processing.</li> </ul>	- Article 144, Circular 79/2009/TT-BTC
	(6)	Frequently amended and nebulous Customs Clearance Procedures and Scheme	- Customs Authority frequently changes Customs Clearance Procedures and Schemes, most of them without Notification that serves as Guidelines to the Implementing Authority. It consumes much time for handling clerical matters upon amendment. Sometimes, the contents of amendment are nebulous.	<ul style="list-style-type: none"> <li>- It is requested that before enforcing new legislation or new system, GOV:                             <ul style="list-style-type: none"> <li>-- completes thorough preparation, including without limitation, prior disclosure, notification, etc. on new legislation or amendment, and</li> <li>-- introduces a new scheme that grants a simplified procedures to enterprises of good standing with clean past records in observance of laws and regulations.</li> </ul> </li> </ul>	
	(7)	Import Restriction by Designated Trade Enterprise Scheme	- MOIT maintains a system whereby only the enterprises designated by MOIT are authorised to apply for import licence and import goods. (Steel products are included in this scheme.)	- It is requested that GOV repeals or deregulates the scheme.	
	(8)	Nebulous Scheme for In-Bond Transactions by Trade Firm	- It is ambiguous if a Trade Firm licenced to import and resell goods in Vietnam is entitled to import goods in bond for reselling in the Vietnamese domestic market. (According to some forwarders, it is possible, while some trade firms have already resold goods domestically imported in bond.)	- It is requested that GOV clearly confirms if it is possible for a trade firm to import goods in bond and resell them in the Vietnamese domestic market.	
	(9)	Compulsory Acquisition of Import Licence (I/L)	<ul style="list-style-type: none"> <li>- On 5 July 2010, GOV promulgated a rule compelling acquisition of Import Licence (I/L) on import of Cold-Rolled Steel Plate and Wire Rod, up to the end of December 2010.</li> <li>- On 9 September 2010, GOV likewise promulgated a rule compelling acquisition I/L on import of Galvanised Steel Plate, Aluminium-Zinc Plated Steel Plate, Coloured Galvanised Steel Plate and Tin Plate, up to the end of December 2010.</li> <li>- On 14 February 2011, GOV postponed the limited period measures for acquisition of I/L on import of the foregoing Steel Products to the end of December 2010 to "from 14 February 2011 to 31 December 2011".</li> <li>- On 20 September 2012, List of Items subject to Compulsory Import Licence Acquisition newly added Steel Bar, Stainless Steel Plate and Welded Steel Pipe (Import HS Code Nos. 7214/7215, 7219, 7220, and 7306).</li> </ul>	- It is requested that GOV expedites issuance of I/L as any delay means increased warehousing cost and lost business opportunities to importers.	- Ministry of Industry and Trade Circulars: No. 22/2010/TT-BCT No. 31/2010/TT-BCT No. 42/2010/TT-BCT No. 23/2012/TT-BCT

Category	No	Issue	Issue Details	Requests	Governing Laws
	(10)	Arbitrary Change in Application of HS Code Commodity Confirmation	- The Competent Customs Authority of MFS in Bac Ninh Factory (New Factory operating from June 2013) changed HS Code for 4805 Kraft Paper & Paperboard for Corrugated Board (at 10% Customs Duty), imported up to now from Taiwan, to 4804 Paper & Paperboard (at 15% Customs Duty) on the ground that the former is greater in strength (tensile or otherwise). As a result, Competent Customs Authority levies different Customs Duty Rates on the same products manufactured in MFS's Bac Ninh and Hai Phong factories.	- It is requested that GOV: -- honours the internationally accepted practice of determining the Customs Duty Rates by the mixture percentage of used papers, and -- refrains from raising the applicable Customs Duty Rates merely by the quality.	
	(11)	Complex Application Procedures for Issuance of Certificate of Origin	- Application Procedures for Issuance of Certificate of Origin require production of numerous documents, while HS Code commodity classification remains nebulous.	- It is requested that GOV streamlines the documents and ensures uniformity in its application of HS Code.	
	(12)	Non-acceptance of Certificate of Origin issued retroactively	- Under the Japan/Vietnam EPA, GOV, in certain cases, levies import duty, by rejecting Certificate of Origin (CO) retroactively issued. Presumably this has resulted from differences in interpretation on the term "retroactive issuance of CO" between Vietnam and Japan. While in Japan, CO issued after shipment date is regarded as "retroactive issuance of CO", while GOV takes the position that "retroactive issuance" means issuance after 4-days of shipment.	- It is requested that GOV: -- levies Customs Duties by observing the terms of EPA, -- makes the EPA terms known to everyone without exception at the Customs Authorities across Vietnam.	
	(13)	Abrupt Compulsion of Import Inspection on Electric Wires	- Abruptly since October 2013, all Electric Wires imported into Vietnam cannot be cleared through the Customs, unless the products accompany the Quality Certification after examination by Ministry of Science and Technology. It takes about 3-5-days to get the Certification issued. It delays customs clearance also for the rest of the products included in the same container. To avoid the delay, MFS had to separate Electric Wires from the rest of the products and to pack them into a container, incurring additional cost. Furthermore, during April-June 2013, Competent Customs Authority implemented inspection on 100% of Electric Wires imported into Vietnam. MFS incurred additional costs for the work to separate containers exclusive to Electric Wires.	- It is requested that in implementing new regulations or rules, GOV: -- allows a Grace Period for a few months to a year and announces the Purposes and the Implementing Time Schedule to enable the concerned parties to get ready for compliance, and in addition, particularly in this case, -- retains for examination only the products subject to the measures, and allows prompt customs clearance and withdrawal of the other products not requiring Inspection Certificate.	
	(14)	Complex Product Registration Procedures	- Product Registration Procedures are complex.	- It is requested that GOV: -- abolishes the renewal procedures for the product registration, and -- obviates the need for the registration renewal, once the product is registered.	
	(15)	Delayed Issuance of Import Licence for Used Equipment	- Vietnam Customs Headquarters are in charge of issuing Import Licence for used equipment. It takes about one month for compilation of the requisite documents and despatch of the Used Equipment to Vietnam. In addition, new equipment can reach Vietnam in 10-days or so, and the shipper's inability to ship both used and new equipment together results in doubling the transportation cost.	- It is requested that that GOV: -- reviews the import restrictions on used equipment, and -- cuts down the time required to complete the import process in Vietnam.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
		(16)	Disapproval of Triangular Trade in Foreign Trade Registration	- Inclusion of Triangular Trade business is disallowed in Foreign Trade Registration by Foreign Funded Enterprises (FFE), in addition to Manufacturing and Import/Export Businesses.	- It is requested that GOV authorises Triangular Trade Business also to FFEs in their line of business.	- KPMG LLP (the Audit, Tax and Advisory Firm) Information, concerning the registration of the change in the Articles of Association (Incorporation) of a Vietnamese legal entity
		(17)	Disallowed Submission of Questionable Products Before Customs' Seizure	- Customs Authority disallows release of questionable pictures, pending applicant's filing of application and bond posting for seizure of the goods. Thus the only method of determining infringement is the information on exporter and/or importer given in the Discovery Notice of Questionable Products.	- It is requested that GOV releases the questionable pictures prior to applicant's filing of request for seizure.	
10	Restrictive Measures for Operations in Free Trade Zones ("FTZs") and Special Economic Zones ("SEZs")	(1)	Nebulous terms on Grant of Licences and Approvals at SEZs	- The terms and conditions are ambiguous on the SEZs' Licences and Approvals that the Competent Authority grants.	- It is requested that GOV clearly identify the terms and conditions for the grant of SEZs' Licences and Approvals.	
11	Restriction on Profits Remittance Abroad	(1)	Complex External Remittance Procedures	- Freedom in external remittance is severely restricted. The extent of the requisite documents required goes far beyond the scope of the normal range in many occasions. GOV pokes its nose into the extent of the terms and conditions of the transactions between the private parties. Moreover, freedom in external remittance is absolutely minimal.	- It is requested that GOV amends its Foreign Exchange Scheme toward liberalisation of the External Remittance.	
12	Exchange Controls	(1)	Restricted Foreign Exchange Transactions by the Principle of Actual Demand	- SBV prohibits speculative trade based on the principle of actual trade, and requires commercial banks to confirm if the transaction is for actual trade (such as invoices, loan agreements, etc.) A Member Firm's Subsidiary (MFS) is unable to execute remittance both ways with one of the companies of its group in Singapore in settlement of account in foreign currency.	- It is requested that SBV liberalises foreign exchange transactions.	- SBV Foreign Exchange System
		(2)	Prohibited Transactions based on Foreign Currency	- For an enterprise that relies upon import for the bulk of its materials, machineries and equipment, while considering export promotion, it is only natural for it to conduct its cost estimate based on foreign currency. Sales price quotation in foreign currency is likewise inevitable. While GOV's policy is understandable to defend its own domestic currency, its wielding of extraordinary measures deters development of private enterprises. Moreover, in its turn, it can grow into the factor that deters development of the national economy in Vietnam. * The problems at issue here are not addressed to the domestic settlement in foreign currency itself.	- It is requested that GOV approves transactions in foreign currency.	- Ordinance on Foreign Exchange
		(3)	Restricted Loans in Foreign Currency	- Enterprises without income in foreign currency face difficulty in business operation, being unable to borrow in foreign currency in Vietnam.	- It is requested that GOV deregulates Foreign Currency Control as soon as possible.	

	Category	No	Issue	Issue Details	Requests	Governing Laws
				<ul style="list-style-type: none"> <li>- The following are problems relative to borrowing in foreign currency:                             <ul style="list-style-type: none"> <li>-- Enterprises without foreign currency revenue are unable to borrow in foreign currency from domestic financial institutions.</li> <li>-- Requirement for submission of documents showing the fund disposal (Certificate for Actual Demand)</li> <li>-- The Borrowed Fund must be used by the end of the following day.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that SBV deregulates the terms for Foreign Exchange Transactions.</li> </ul>	<ul style="list-style-type: none"> <li>- SBV Foreign Exchange Scheme</li> </ul>
		(4)	Double Tiered Foreign Exchange Quotation	<ul style="list-style-type: none"> <li>- Due to the adoption of the Crawling Peg System, the gap widens in the foreign exchange quotations between the SBV rate and the unofficial market quotations in relation to USD/VND. It has become impossible to purchase USD in Vietnam, delaying the payment to overseas in USD.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that Substantive:                             <ul style="list-style-type: none"> <li>-- annihilates the unofficial quotation through its own positive involvement in the foreign exchange market, and</li> <li>-- moves into the Floating Exchange Rate System.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- SBV Foreign Exchange System</li> </ul>
		(5)	The Weak Dong Undertone	<ul style="list-style-type: none"> <li>- Due to the Weak VND undertone, the Exchange Risk is high on the borrowing in foreign currency.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOV continues its policy to stabilise VND.</li> </ul>	
13	Finance	(1)	Complex Borrowing Procedures from Financial Institutions	<ul style="list-style-type: none"> <li>- In the name of the Governmental Control, financial institutions require submission of extremely detailed evidence, frustrating the dynamic employment of the available credit already agreed upon.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that SBV takes steps to amend Individual Rules that accompany borrowings.</li> </ul>	
14	Taxation Systems	(1)	Foreign Contractor Tax Levied upon Foreign Contractors Providing Service in Vietnam Domestic Market	<ul style="list-style-type: none"> <li>- GOV levies and collects Foreign Contractor's Tax of 1% (FCT) not only upon the service rendered, but also upon the goods supplied in conjunction with the service rendered. It has been a general practice to levy import duty or import VAT upon the imported goods. However, GOV levies FCT in addition. Despite the Japan/Vietnam Tax Treaty, GOV levies FCT even in the absence of PE in Vietnam. It is difficult to get in Japan application of deduction on the tax amounts paid abroad.</li> <li>- In the case where the foreign shipper assumes the domestic delivery in Vietnam under D-terms (DDP, Delivered Duty Paid, DAP, Delivery At Place), etc., GOV levies FCT of 1% on the total sales amount, curbing the business activity of foreign enterprises.</li> <li>- Where domestic transportation is carried out at the cost of foreign enterprises under the D Terms (such as DDP (Delivered Duty Paid) DAP (Delivered at Place)), GOV levies Foreign Contractor Tax (FCT) of 1% on the total sales amount. It restricts the foreign enterprises' activities.</li> <li>- GOV levies and collects FCT on service rendered in Vietnam such as Transportation Cost incurred in Vietnam on goods exported under DDP terms. FCT is payable on the total value of the DDP price and the domestic Transportation Cost.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOV takes steps to get the FCT amended properly.</li> <li>- It is requested that GOV repeals the FCT.</li> <li>- It is requested that GOV repeals the FCT.</li> <li>- It is requested that GOV repeals FCT levy upon such services rendered by FFEs as shown in the left column.</li> </ul>	<ul style="list-style-type: none"> <li>- Circular No. 134/2008/TT-BTC of 31 December 2008</li> <li>- Circular No. 60/2012/TT-BTC of 12 April 2012</li> </ul>
		(2)	Tax Levied upon Services Rendered by a Japanese Enterprise's Employee on Business Trip to Vietnam	<ul style="list-style-type: none"> <li>- GOV levies and collects FCT of 5%, apart from the Income Tax levied upon the technical service rendered on installation of machineries and equipment jointly with an employee of Member Firm and an employee of another Japanese manufacturer, both on business trip to Vietnam.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOV takes steps to repeal FCT levied upon such services rendered by Foreign Funded Enterprises.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws
			<ul style="list-style-type: none"> <li>- There has been a move toward taxing non-resident income tax on a Japanese employee on business trip, if he performs some work, instead of sightseeing. In the case of a non-resident working for a Japanese enterprise, with less than 183-days of stay in Vietnam, by right, such work rendered should be tax-free.</li> <li>- While Japan-Vietnam Tax Treaty has been ratified, it requires prior application (of 7-days in advance) the procedures of which are undefined. As a result, Member Firm is faced with the personal income tax on the income earned by its employee on a short business trip to Vietnam. The problem becomes more serious for an employee working for other companies, as Member Firm's access to personal income information is restricted by Act on the Protection of Personal Information. It results in double payment of Personal Income Tax.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOV makes the terms of Japan-Vietnam Tax Treaty known to everyone without exception working for Vietnamese Taxation Authority.</li> <li>- Concerning the wages paid to the Foreign Workers on Business Trip to Vietnam on Normal Work (to attend the meeting, to give advice to local employees, it is requested that GOV makes a clear distinction between the works that generate a special wage, and the works that don't.</li> </ul>	<ul style="list-style-type: none"> <li>- Implementation of legislation.</li> <li>- Article 26, Circular on Personal Income Tax Law 111/2013/TT-BTC 2013</li> </ul>
	(3)	Frequently Amended Nebulous Procedures of the Tax Accounting System	<ul style="list-style-type: none"> <li>- While notification is issued frequently one after another, timely access to the latest information is not possible. The competent authority' efforts are insufficient to make the new taxation scheme known to everyone. Consequently, Member Firm ends up by payment of additional tax and fines.</li> <li>- In regard to the Taxation System, frequent change takes place in its implementing schemes, while instructions to implementing institutions lag behind, doubling the work time at each change. Moreover, the details of changes are sometimes nebulous.</li> <li>- Due to the ambiguous legislative overhauls, its interpretation frequently varies by taxation officer in charge. It has taken more than 3-months to obtain formal interpretation in past cases. Should taxpayer decide to file tax return and the views of the taxation authority change, the taxpayer runs the risk of delays and additional tax liability. There have been cases where additional tax resulting from the legislative change has been levied retroactively.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that Ministries and Agencies ensure new tax accounting system is known to everyone at public briefing sessions, etc. MFS relies upon information supplied by certified auditors and consultants.</li> <li>- It is requested that the Taxation Authority ensures a thorough dissemination of Changes in the Taxation scheme and Publication Of Notification, etc. before implementing amendments.</li> <li>- It is requested that Taxation Authority introduces expedient measures on enterprises with clean records in observing the taxation system.</li> <li>- It is requested that The Japan Business Association in Vietnam establishes a forum to exchange information among Japanese affiliated enterprises, accounting offices, etc.</li> <li>- It is requested that GOV:                             <ul style="list-style-type: none"> <li>-- establishes a mechanism to distribute the latest information, and</li> <li>-- puts into operation such mechanism.</li> </ul> </li> </ul>	
	(4)	Tightened Tax Investigation	<ul style="list-style-type: none"> <li>- Taxation Authority has been tightening its tax collection scheme. For example, it has denied tax preferential measures expressly included in the Investment Licence issued to Japanese affiliated enterprises, while levying additional Personal Income Tax on expatriates sent from Japan. Japan Chamber Of Commerce And Industry has filed petition as an issue concerning the Vietnamese Investment Environment, while it is a problem facing the Member Firm.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOV unites the Rules on Preferential Measures for Investment into Vietnam by Foreign Funded Enterprises, unaffected by personal interpretation of individual taxation employees.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(5)	Delayed Tax Investigation	- Prolonged Personal Income Tax Retroactive Investigation accompanying the Closure of the Representative Office has delayed the Permit for its closure. Member Firm is concerned about the possible tax penalty that might result from the delay in closure.	- It is requested that the Taxation Authority assures transparency, and expedites its tax investigation.	
	(6)	Complex Tax Calculation Base for Expatriates to FFEs	- The calculation basis is extremely complex on Personal Income Tax for Japanese expatriates.	- It is requested that GOV takes steps to: -- have the taxation system amended, and -- simplify the tax calculation system.	- Circular No. 84/2008/TT-BTC (as amended in part by Circular 62/2009, and Circular 02/2010)
	(7)	High-cost Tax Burden upon Foreign Workers	- GOV compels the high-cost tax burden upon Foreign Workers, based on the Worldwide Income and Progressive Tax Levy.	- It is requested that GOV takes steps to: -- have the taxation system amended, and -- simplifies the tax calculation system.	- Circular No. 84/2008/TT-BTC (as amended in part by Circular 62/2009, and Circular 02/2010)
	(8)	Malady from Rigorous Employment of VAT Invoice	- GOV goes too far in the pursuit of supremacism on Official Invoice, as exemplified by its rejection from deductible expenses, in which a minor descriptive error not affecting the transactions terms, is found.	- It is requested that GOV shifts its taxation measures from controlling the economic activity by the VAT Invoice Scheme (which is based on the theory of mankind's propensity for evil) into the operation, based on the free market economy and the posteriori monitoring.	
16	Employment	(1) Rapid Spiraling of Labour Cost from Repeated Minimum Wage Increase	- Revision in Minimum Wage takes place in each year, up by 15%~20%. The Commodity Price Index (CPI) has been kept to a single digit by the measures to control inflation. Nevertheless, the hike of Minimum Wage continues, far exceeding CPI. There is no telling how far the spiraling labour cost continues.  - The climbing rate of Minimum Wage has undergone a transition of more or less 15%, threatening cost increase. On the other hand CPI has undergone 6~7% increase. However, the gap between the statistic and reality has created a situation where wage hike is inevitable. In addition, the prevailing social circumstances suggest an occurrence of labour strikes. It is a testing period for employers to achieve an optimum balance between employees' benefits and the pursuit of operational profits.	- It is requested that GOV determines Minimum Wage most suited to each further fragmentalised geographical division. - It is requested that GOV continues its policy to control inflation. - It is requested that GOV: -- improves reliability of each statistical data, and -- contains the minimum wage increase rate no higher than the hike in CPI. - It is requested that GOV develops the structure to clamp down tightly upon illegal strikes.	
		(2) Unlawful Strikes	- Illegal strikes have been on the decline due to the economic recessions, however, they occur from time to time. The Authority's responsive measures have become systematic and prompt. However, dissemination to workers of Labour Code remains less than full and complete.	- It is requested that: -- GOV keeps employers and employees thoroughly versed in Labour Code, and -- Police and Public Security will take austere measures, should workers' interrupt business activities of enterprises such as shipment, and delivery.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(3)	Difficulty in Renewal of Fixed Term Employment Contract	<ul style="list-style-type: none"> <li>- Employment Contract with a Fixed Term is no longer possible at the third renewal, which must be without term (unlimited). It is difficult for enterprises to adjust flexibly its workforce requirement commensurate with the prevailing circumstances of their business operation.</li> <li>- Employment Contract renewal with the Term Provision is possible only for the First Renewal. From the Second Renewal and thereafter, dismissal in the middle of the term is not possible. Replacement of human resources is not possible in effect.</li> <li>- Labour Law permits renewal of Fixed Term Employment up to twice so that all subsequent contract terms are unlimited. It frustrates flexible workforce adjustments commensurate with production volume and replacements of human resources.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOV removes restrictions on fixed term employment contracts.</li> <li>- It is requested that GOV amends the Law to enable the Contract renewal with the term provision.</li> <li>- It is requested that GOV takes steps to amend the Labour Law flexibly, such as increasing the number for Contract Renewal, acceptable to workforce as well.</li> </ul>	- Labor Law
	(4)	Restrictions on Overtime Hours	<ul style="list-style-type: none"> <li>- The law prescribes the cap on overtime hours, 4-hours a day, 30-hours a week and 200-hours a year (or with permission 300-hours), depriving employers the freedom of a flexible management of the work hours.</li> <li>- The restricted cap on hours of overtime work for protection of workforce frustrates flexible adjustment in production activity.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOV either repeals or increase the cap on overtime hours.</li> <li>- It is requested that GOV takes steps to have the Labour Law amended to:                             <ul style="list-style-type: none"> <li>-- review the cap on hours worked overtime, or</li> <li>-- add a more flexible provision.</li> </ul> </li> </ul>	- Labor Law
	(5)	Shortage of Workforce Suitable to Industrial Zones	<ul style="list-style-type: none"> <li>- Over-development of the Industrial Zones has resulted in shortage of workers in each Industrial Zone. This problem did not come to a head very much during 2012 due to the economic downturn. However, it remains a matter of concern that in mid-long-term the problems will loom large.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOV fosters human resources that match the employment needs.</li> </ul>	
	(6)	Work Permit Made More Stringent for Foreign Workers	<ul style="list-style-type: none"> <li>- On acquisition of Work Permit for Foreign Workers:                             <ul style="list-style-type: none"> <li>-- The amended labour law this time has repealed Work Permit exemption for short-term (less than 3-months) workers, previously exempted.</li> <li>-- This amendment mandates upon foreign workers acquisition of Work Permit even for a single day, paid or unpaid,</li> <li>-- This amendment fails to address practical needs, such as despatch of an engineer for the sake of emergency repair, etc., as prior approval of the competent authority is required for Work Permit exemption.</li> </ul> </li> </ul>		- No.102/2013/ND-CP
	(7)	Nebulous Visa Acquisition Procedures	<ul style="list-style-type: none"> <li>- Prior information (on requisite documents, the number of days for acquisition, etc.) is unavailable on visa acquisition procedures at Vietnamese Embassy in Japan.</li> <li>- As regards expatriates' visa in Vietnam, details on requisite documents, validity, etc. are ambiguous. (A Member Firm's expatriate received clarification on the requisite documents only after arrival in Vietnam.)</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOV:                             <ul style="list-style-type: none"> <li>-- provides requisite information on its webpage, and</li> <li>-- responds to telephone enquiries.</li> </ul> </li> <li>- It is considered necessary that GOV clarifies rules concerning issuance of Visa, particularly Work Permit.</li> </ul>	

Category	No	Issue	Issue Details	Requests	Governing Laws	
			- Much confusion has arisen on the question as to how far the legislative requirement needs to be strictly observed, concerning Visas/Work Permit not only for expatriates but also for staff on short trip to Vietnam. In practice, prior acquisition of Visa/Work Permit is difficult in many cases. Such confusion is not limited to private enterprises alone, but it has spread to the Competent Authority as well. Pending promulgation of the detailed rules for implementation of the law, practical issues have arisen such as total suspension of Work Permit issuance.	- It is requested that GOV takes steps to repeal the legislation in concern.	- Amended Labour Law	
	(8)	Ambiguous Requisite Terms for Acquisition of Work Permit	- The amendment last year of the Labour Act outlines the requisite terms for Work Permit. Nevertheless, due to the nebulous interpretation of the Law, the competent authority retains the procedures as before.	- While the problems must have been forwarded to the concerned parties, no clear-cut response has been promulgated.		
	(9)	Delayed Visa Application Procedures	- Upon filing application for visa issuance, the documents get returned on the application date. However, it takes much time before completion of the procedures.	- It is requested that Vietnamese Consulate General in Japan enhances efficiency in its operation.		
	(10)	Soaring Social Security Cost	- By amendment of Social Insurance Law, insurance premium soars in every two years. It is a far cry from the policy based on the Long-Term Vision.	- It is requested that GOV publicly disclose its Long-Term Vision, which it must keep up in their sleeves.		
	(11)	Informal charges demanded in the Procedures for Acquisition of Work Permit	- Not only at this (Work Permit) desk, it is appalling to experience demand for informal charges from governmental employees.			
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Disallowed Filing of Divisional Patent Application upon Examiners Decision of Refusal	- Upon Examiners Decision of Refusal on patent application, the applicant is disallowed to divide the patent application.	- It is requested that National Office Of Intellectual Property of Vietnam (NOIP) allows filing of Divisional Patent Application during Denial Examination and Patent Examination.	- Article 115(1)
		(2)	Insufficient Disclosure of IPRs Information	- In the Developing Countries, including Thailand, where needs for patent issuance are rising, due to the inadequate database for statistical data and information such as the number of pending patent application, it is difficult for the patent applicant to ascertain the risks from the patents of other firms.	- It is requested that National Office of Intellectual Property (NOIP) advances collaboration with IPO's of developed countries and overhauls the database relative to IPRs as soon as possible.	
		(3)	Ambiguous Legislative Provision of the First to file Principle	- In the new developing countries where the needs grow for the local development of technology, many countries retain first to file principle in their patent laws. Ambiguous nature of the legislation makes it difficult to secure effective protection of Intellectual Property Right (IPRs). Nowadays when the needs grow for cross-border R&D activities, first to file principle applied in plural countries could result in infringement.	- It is requested that NOIP: -- deregulates or repeals first to file principle, or provides a clear cut definition in legislation, -- and deregulates application of first to file principle on the Cross-Border R&D Activity.	- Decree No. 122/2010/ND-CP (Promulgated on 31 December 2010)

Category	No	Issue	Issue Details	Requests	Governing Laws
	(4)	High Cost of Patent Issue, and Increasing Complexity of Court Proceeding	- The Filing Date of Patent Application cannot be ensured in any language other than the Vietnamese, (whereas, it is possible to ensure the filing date by filing application in English in Indonesia, Malaysia, Singapore, etc.)	- It is requested that NOIP ensures also the Filing Date of Patent Application filed in English or in languages other than the Vietnamese.	
	(5)	Water's Edge Clampdown on Infringing Products	- MFS receives information from Vietnamese customs on suspected infringing products, however, giving only names of exporters/importers in principle. The informed party is barred from accessing the suspected products, unless MFS files a formal request for suspension that requires the bond posting. Being denied the opportunity to determine the authenticity of the suspected products, the right holder of IPRs has no alternative but agreeing to the release of the suspected products. The bond-posting requirement disables the measures at the water's edge.	- It is requested that NOIP takes steps to modify the Scheme that allows the right-holder's opening of cargo in order to ascertain the authenticity of the suspected goods, when it receives information on suspected infringing products.	
	(6)	Inadequate Restrictive Rules on Reproduction for Private Use	<p>- Reproduction should be allowable to the extent deemed necessary to provide Search Service for Internet Information. Incidentally, Article 47-6 of the Copyright Act, Japan restricts the right of copyright holder, subject to discontinuing the use upon becoming aware of the fact that the copyrighted materials were illegally made transmittable.</p> <p>- Reproduction for private use actually takes place from an officially purchased music CD into a Personal Computer (PC), from PC to Portable Audio Player, from Broadcast Programme to Audio/Video Recorder for time-shift, as well as to Smartphone (for listening/viewing while away from home), digitization of books purchased for tablet reading, etc. In light of the fact that all of these conducts cannot be considered injurious to copyright holder, the right of copyright holder requires restrictions. Nevertheless, in certain countries, these conducts are considered illegal, or even if stipulated as legal on certain conducts, such stipulation could be insufficient. Furthermore, in Japan, Article 30 of the Copyright Act restricts copyright relatively broadly in regard to reproduction for private use.</p> <p>- Reproduction of copyrighted materials should be permissible to the extent deemed necessary for developing or testing practical application of audio/video recording technology. Incidentally, in Japan, under Article 30-4 of the Copyright Act, restrictions on copyright are about to be enforced.</p> <p>- Reproduction of copyrighted materials should be permissible to the extent necessary for information analysis using computers, etc. In Japan Article 47-7 of Copyright Act restricts copyright in this regard.</p> <p>- Study/analysis of computer programme amounts to a conduct for extracting ideas. Copyright should not extend to the extent of intermediate reproduction / adaptation made in its process. In addition, in Japan, The Copyright Subcommittee on Legal Issues of the Council for Cultural Affairs has reached the conclusion that certain restrictions on copyright are necessary. It only awaits amendment of the Law.</p>	<p>- It is requested that NOIP takes steps to introduce the restriction of the copyright relative to provision of Search Service for Internet Information.</p> <p>- It is requested that NOIP introduces restriction on copyright for reproduction for private use on a realistic basis.</p> <p>- It is requested that NOIP introduces restrictions on copyright, relative to testing for technological development or for practical application of the technology.</p> <p>- It is requested that NOIP introduces restrictions on copyright relative to reproduction for the purpose of information analysis research.</p> <p>- It is requested that NOIP takes steps to introduce restrictions on copyright for the purpose of reverse engineering.</p>	- Self-reproducing one single copy for the purposes of Science Research and Individual Teaching (Article 25.1.a))

Category	No	Issue	Issue Details	Requests	Governing Laws
			<p>- Reproduction of copyrighted materials should be possible to the extent deemed necessary to carry out, smoothly with high efficiency, provision of service that employs Telecommunication Technology in its process of communication, viewing, listening and/or executing copyrighted materials.</p> <p>Furthermore, in Japan, copyright is restricted under the Copyright Act 47-8 (Reproduction for Use of Copyrighted Materials in Computer), and 47-5 (Reproduction for Prevention of Transmission Interference, etc.)(pending enforcement), and Draft Amendment of 2012 (Copyright Act 47-9 (Use of Copyright necessary to process information employing Telecommunication Technology)).</p>	<p>- It is requested that NOIP takes steps to introduce restrictions on copyright for the purpose of:</p> <ul style="list-style-type: none"> <li>-- temporary storage for use of appliances/in the communication process, and</li> <li>-- provision of service using the telecommunication technology.</li> </ul>	
19 Industrial Standards, Approval of Safety Standards	(1)	Marking Requirement for Compulsory Technical Standard Certification	<p>- On 1 June 2011, Ministry of Science and Technology (MOST) released promulgation on 1 August of Proposed Regulation for Technical Standard, including Concrete Reinforcing Steel (RFS) Standard under WTO for enforcement from January 2012. Manufacturers and Importers of RFS (both Domestic and Foreign) must declare the Standard Name, Certification and provide the appropriate Marking.</p> <p>On 3 June 2013, Ministry of Industry and Trade (MOIT) notified joint implementation with Ministry of Science and Technology "Draft Technical Standard, including Steel Standard for Concrete Reinforcement". If enforced, all manufacturers and parties concerned with manufacture / import of the products must conform to the requirements contained in this Notification. (Dates of Notification and Enforcement both remain undecided.)</p>	<p>- It is requested that MOST and MOIT</p> <ul style="list-style-type: none"> <li>-- refrain from introduction of the Measures, and</li> <li>-- provide adequate exclusionary provisions.</li> </ul>	
	(2)	Delayed Issuance of Test Standard for Energy Efficiency Standards and Labeling	<p>- Energy Efficiency Standards and Compulsory Labeling on Home Appliances (EES-CL) due for enforcement from 1 January 2013 has been postponed by one year on refrigerator and television receivers and by half a year on other home appliances. The following issues, for example, are pending:</p> <p>Delays in issuance of test specifications (for example, drum type washing machines) on which test inspections remain pending, so that the manufacturer is in a deadlock to take timely responsive actions.</p>	<p>- It is requested that GOV postpones the enforcement date of EES-CL in line with promulgation of its Test Standard.</p>	<p>- Decision No: 51/2011/QĐ-TTg (2011)</p> <p>- Circular No: 07/2012/TT-BCT dated April 04, 2012 of the Ministry of Industry and Trade defining the energy labeling for means and equipment using energy</p>
21	Restrictions on Land Ownership	(1) Land Ownership not authorised to FFEs	<p>- Landownership is not authorised to wholly foreign owned enterprises. (Vietnam, being a Communist State, does not authorise such ownership to its own people).</p>	<p>- It is requested that GOV authorised FFEs landownership to FFEs for the sake of their stable operation.</p>	<p>- Circular No.94/2011/TT-BTC</p>
22	Environmental Pollution and Waste Disposal	(1) Burdensome Unique Energy Efficiency Regulation	<p>- The Energy Efficiency Legislation requires for each shipment either Certification on 1) Factory Inspection or 2) Product Inspection. This is a requirement unique to GOV, as no similar legislative requirements are found in other countries. This is an excessively heavy demand upon the concerned parties, not found elsewhere.</p>	<p>- It is requested that GOV takes steps to amend the legislation so that Acquisition of Certification for each Product Model or each Representative Model suffices (plus sampling inspection without advance notice as necessary) as it is done in other countries.</p>	<p>- Circular No. 07/2012/TT-BCT dated April 04, 2012 of the Ministry of Industry and Trade defining the energy labeling for means and equipment using energy</p>

Category	No	Issue	Issue Details	Requests	Governing Laws
	(2)	Difficulty in Discharge of WEEE Retrieval Obligations	- In regard to retrieval of Waste Electrical/Electronic Equipment (WEEE), it is difficult for manufacturer/importer to obtain consumers' undertaking for wastes' retrieval. While Ministry of Natural Resources and Environment (MONRE) intends to hold manufacturers and importers responsible for "establishment of retrieval point", "retrieval" and "disposal", it has not published implementing regulation in detail (targeted promulgation in January 2015). In the first place, in Vietnam, scrap dealers repurchase and resell after refurbishment used WEEE.	- It is requested that GOV takes steps to hold manufacturers/importers responsible for the retrieval rates from the retrieval points of WEEE.	- Decision Providing Regulations on Retrieval, Treatment of Discarded Products dated 28 September 2012
23 Inefficient Administrative Procedures, Regimes and Practices	(1)	Vexatiously Complex and Delayed Procedures for Approvals and Permits	- An MFS, having filed application for Direct Sales and Distribution Licence and for Establishment of New Distribution Foothold, faces the loss of business opportunities. as it begins to take a longer time. The application must be authenticated and approved by too many Ministries and Agencies. The Competent Authority's Policy for Examination is nebulous in many cases. It requires unreasonable accommodation on a case-by-case basis, etc.	- It is requested that GOV: -- reduces the departments and divisions concerned with authentication and approval, and -- expedites the work for approval and authentication.	
	(2)	Nebulous Demand to FFEs for Submitting Duplicated Copies of Report	- GOV requires submission of copies of applications (the original of which has been already submitted.)	- It is requested that GOV streamlines the documents requiring submission.	
	(3)	Attachment of Contract for External Remittance	- In principle, GOV requires attachment of contract on all cases of external remittance (payment). To satisfy this requirement, the applicant must cope with much workload for creating contracts on purchase of raw materials, acceptance of assistance, etc., pursuant to the governing laws of the respective countries.	- The issue in concern could be unavoidable for GOV, it being a traditional practice in Vietnam. There being a room for lessening the burden, if the applicant knew the requirement before entry. It is requested that GOV despatches negative information during the applicant's deliberation of its entry into Vietnam.	
	(4)	Discretionary Administrative Procedures	- At the on-site inspection, etc. by the Competent Authority, from time to time, the inspector points out imperfection. Nevertheless, precise details are not made public in many cases, so that it can be said that GOV conducts discretionary administration.	- It is requested that GOV ensures high degree of transparency in administration, while takes steps to publish laws, regulations, and implementing rules in advance.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(5)	Lack of Transparency in MOIT Procedures relative to Project Formation	- Neither pertinent advice nor opinion comes back on proposals made to MOIT in charge of Build-Operate-Transfer (BOT) Investment Projects. In addition, MOIT directs the applicant to approach Prime Minister's Office for submission of proposal under the BOT Project. The proposal formation for the BOT Project at MOIT (being the official window for proposal submission of the BOT Project) is not possible.	- It is requested that Competent Authority: -- structures the simplified bill proposal scheme, and -- discloses the reason for approval or rejection of the proposed bill. (While it is understandable to a certain degree that Public Tender is not feasible on all projects, it takes too much time for Public Tender on the BOT Power Projects. Much is expected on the strong leadership of GOV hereafter.)	
24 Indigested Legislation, Abrupt Changes	(1)	Inadequate / Nebulous Legislative System	- While in more and more cases, the Administration seeks public comment (including enterprises), the legal system including Revenue Code remains undeveloped. Interpretation of laws varies from one government employee to another. It negatively affects the business activity of enterprises. Each time a new law comes into force, it gets more complex and obscure.  - There are cases where precise details are not specified in the law, while its interpretation from time to time varies by the government official in charge. It makes it difficult to determine whether it is allowable or not. - It seems laws and regulations are not disclosed in full to the public in Vietnam. (Supposedly, they are made public. However, it seems it is difficult for the general public to check in detail the legislation in detail.) In most cases implementing regulations are not ready upon promulgation of new laws or their amendments, so that administrative authority is uninformed about what to do. It causes backlog in the administrative work. It is difficult to wipe out the impression that the Administrative Authority arbitrarily implements legislation.	- It is requested that GOV: -- overhauls the legal system (by polishing up styles, etc.), and -- arrange opportunities for public and government servants alike to thoroughly understand what's written into the law, before its enforcement.  - It is requested that GOV takes steps to: -- make thorough preparation ahead of legislative amendment, and -- prepare in advance detailed implementing regulation in anticipation of the real business activity.	
	(2)	Unavailability of Implementing Detailed Rules and Procedures on Licences and Approvals	- Relative to acquisition of Licences and Approvals of various kinds necessary for production start-up of MFS's new factory, MFS is faced with numerous ambiguities in law and in its employment. Their interpretation differs by Ministries and Agencies and their personnel in charge. It takes time and energy to cope with the work relative to establishment of a new factory operation.	- It is requested that GOV defines its implementation procedures clearly for each licence and approval based on laws.	
	(3)	Disunity in Interpretation / Employment of Legal System among Government Employees in Charge.	- The requisite procedures differ from person to person at the window, necessitating resubmission of documents. It takes much time to complete the entire procedures.	- It is requested that GOV thoroughly ensures that the common understanding is shared among the Ministries and Agencies.	

Category	No	Issue	Issue Details	Requests	Governing Laws	
	(4)	Frequent Legislative Changes	- Due to the frequent changes in legislation such as weight restrictions in cargo transport, restrictions on import of waste materials, etc., it takes a lot of time and trouble to cope with the sudden suspension of clearance at customs, etc., each time requiring much workload. It is aggravated by the ambiguity in the Circular itself.	- It is requested that GOV notifies changes in legislation to Foreign Funded Enterprises promptly and clearly.		
	(5)	Nebulous Introduction of Weight Restrictions in the Domestic Transport in Containers	- Since 15 July 2013, GOV has implemented weight restrictions on the domestic transport in containers in Vietnam, setting the maximum at less than 21 tons per container. Its interpretation has differed by transporters. While the domestic transporters are able to load in excess of 23 tons without problems, Foreign Funded Transporters have purchased new trucks in order to observe the new regulation. Foreign Funded Transporters pay special surcharges on transports made with current trucks in excess of 23 tons per truck.	- It is not clear if the legislation is uniformly applied, or unjustifiable charge is made against Foreign Funded Transporters. It is requested that GOV gives explanation on new legislation and ensure transparency on implementing the new law.	- Ministry of Transportation Circular 30/2011/BGTVT	
26	Others	(1)	Inadequate Transportation Infrastructure	- Due to the inadequate arterial roads especially the one leading to the harbours, a Member Firm's Subsidiary (MFS) frequently experiences delays in shipment as scheduled, inconveniencing its customers. MFS's operation is gravely impacted by its inability to achieve the target sales due to shipment delays. In 2012, some improvement has taken place for traffic infrastructure in the urban area, although further improvement is imperative on the roads leading to the harbours. - Delays in delivery and damages upon cargoes in transit are the knowledge, commonly shared by everyone living in Vietnam. - Accidents and breakdowns of large vehicles clog the traffic. On top of the regular car inspection scheme, tightening of clampdown on vehicles in poor repair is requested.	- It is requested that GOV gives priority in the overhaul of the arterial roads connecting between industrial park and seaports and airports.  - It is requested that GOV prioritises overhauls of the arterial routes. - It is requested that GOV thoroughly enforces the Vehicle Inspection Scheme.	
		(2)	Inadequate Power Infrastructure	- As regards the impact upon enterprises due to power shortage, GOV has overcome the problems over the scheduled blackout affecting enterprises in North Vietnam due to imbalance in demand and supply. However, the blackout related to maintenance and construction work continues. Their requests arrive too late, and impact the production schedule. There has not been much improvement in instantaneous power failure, either.	- It is requested that GOV: -- introduces new power generation plant, and transportation/distribution equipment and -- gives advance notice to users in the event of effecting scheduled blackouts.	
		(3)	Shortage of Supporting Industry	- There is urgent need for development and fostering of the downstream industries in Vietnam, as MFS's effort of local procurement would not make the desired progress for parts, tools and related processing with the view to improve its competitive edge. No tangible advancement has taken place in 2013, either.	- In Vietnam, multiple Ministries and Agencies and associations engage themselves in development of the downstream industries. It is requested that they all will redouble their efforts to reach their goal as soon as possible.	

Category	No	Issue	Issue Details	Requests	Governing Laws
	(4)	Demand for Bribery	<p>- Bribery and corruption flourish in Vietnam, particularly noticeable at airport immigration and customs.</p> <p>- MFS receives demand for payment of unofficial commissions, a threat in a sense.</p>	<p>- While GOV recognizes corruption and bribery are two issues that require nationwide attention for improvement, it is requested that GOV spreads the notion of compliance with the global standards through its accession to WTO, etc.</p> <p>- It is requested that GOV:</p> <ul style="list-style-type: none"> <li>-- tightens fines on giving and receiving bribery in both public and private sectors, and</li> <li>-- makes an all out effort in giving education on ethics.</li> </ul> <p>- It is requested that GOC clearly identifies the window that accepts reporting in the event of bribery demands.</p> <p>- Together with Taiwan and South Korea enterprises, as well as Chamber of Industry and Commerce of other countries, Japanese side will in unison approach GOV for action to annihilate bribery.</p>	<p>- The anti-corruption Law</p> <p>- The Law amending and supplementing a number article of the Law on anti-corruption</p> <p>- Decree 78/2013/ND-CP on transparency of asset and income of government officers.</p> <p>- Decree 59/2013/ND-CP elaborating some articles of Law on anti corruption</p>
	(5)	Improvement of Living Conditions in the Industrial Park to Attract the Needed Workforce	<p>- Less attractive living environment in the vicinity of industrial park forms a part of difficulty in attracting the needed workforce. While GOV has achieved improvement in workers dormitories, fixed route bus, etc., accelerated further improvement of the living environment is a mandatory requirement.</p>	<p>- It is requested that GOV continues its effort to improve the living environment by listening to the workers' interest and what concerns them the most.</p>	
	(6)	Excessive Purchasers' Power	<p>- Purchaser's (Sponsor's) legal authority is greater than the Engineer's authority under the FIDIC (Federation Internationale des Ingenieurs Conseils) Contract, so that the issues, including without limitation, payment approval, design change instructions, materials decision, etc., approved by Engineers can be overturned by Purchasers. In addition, it takes a long time before the Purchaser makes its decision, since the Purchaser lacks the professional ability (*) to decide or approve as needed.</p> <p>(*) In the first place, the Purchasers employ the Engineer's service, as the Purchaser has no such professional ability.</p>	<p>- This issue is now placed on the table of Japan-Vietnam joint initiative to discuss the treatment of discrepancies between the FIDIC Contract and Vietnamese Law. =&gt; Pending outcome of the Joint Initiative, Member Firm wishes to hold making additional request.</p>	<p>- Construction Law</p> <p>- Decree No. 15</p> <p>- Decree No. 48</p> <p>- FIDIC</p>

Provisional Survey Report 2014  
New Issues and Requests for Improvements on Trade and Investment

---

January 2015

Published by the Japan Machinery Center for Trade and Investment

Room No.401, Kikai Shinko Bldg.,  
3 - 5 - 8, Shiba Koen, Minato-Ku, Tokyo, 105-0011 Japan  
TEL (81)3-3431-9348  
FAX (81)3-3436-6455  
E-Mail [tohshi@jmcti.or.jp](mailto:tohshi@jmcti.or.jp)  
<http://www.jmcti.org>

---

Unauthorized reproduction prohibited