

# 30th Meeting of the Japan Business Council for Trade and Investment Facilitation

## Issues and Requests for Improvements on Trade and Investment Barriers in 2021 Features of the Survey Results

November 16, 2021

Secretariat: Japan Machinery Center for  
Trade and Investment (JMC)



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# 1. Issues and Requests for Improvements on Trade and Investment Barriers - Survey Methodology

## 1. Survey Methodology

The secretariat (Japan Machinery Center for Trade and Investment) sent questionnaires to and collected responses from Japan Business Council for Trade and Investment Facilitation member organizations (approx. 130 organizations). Furthermore, each organization collected responses from its own member companies and organizations.

## 2. Survey 26 Categories

1	Restrictions on Entry of Foreign Capitals	2	Grant of a Preferential Tariff Rates based on Increased Home Production	3	Export Requirements	4	Restrictions on Withdrawal Of Operations
5	Regulations on Parts Industrial Policy	6	Reduction and Elimination of Preferential Policies for Foreign Capital	7	Procedures for the operation of the Foreign Investment Law	8	Investment Recipient Organization
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	10	Restrictive Measures for Operations in FTZs and SEZs	11	Restriction on Profits Remittance Abroad	12	Exchange Controls
13	Finance	14	Taxation Systems	15	Price Controls	16	Employment
17	Implementation of Intellectual Property Rights	18	Demands for Technology Transfer	19	Industrial Standards, Approval of Safety Standards	20	Monopoly
21	Restrictions on Land Ownership	22	Environmental Pollution and Waste Disposal	23	Inefficient Administrative Procedures, Regimes and Practices	24	Indigested Legislation, Abrupt Changes
25	Government Procurement	26	Others				

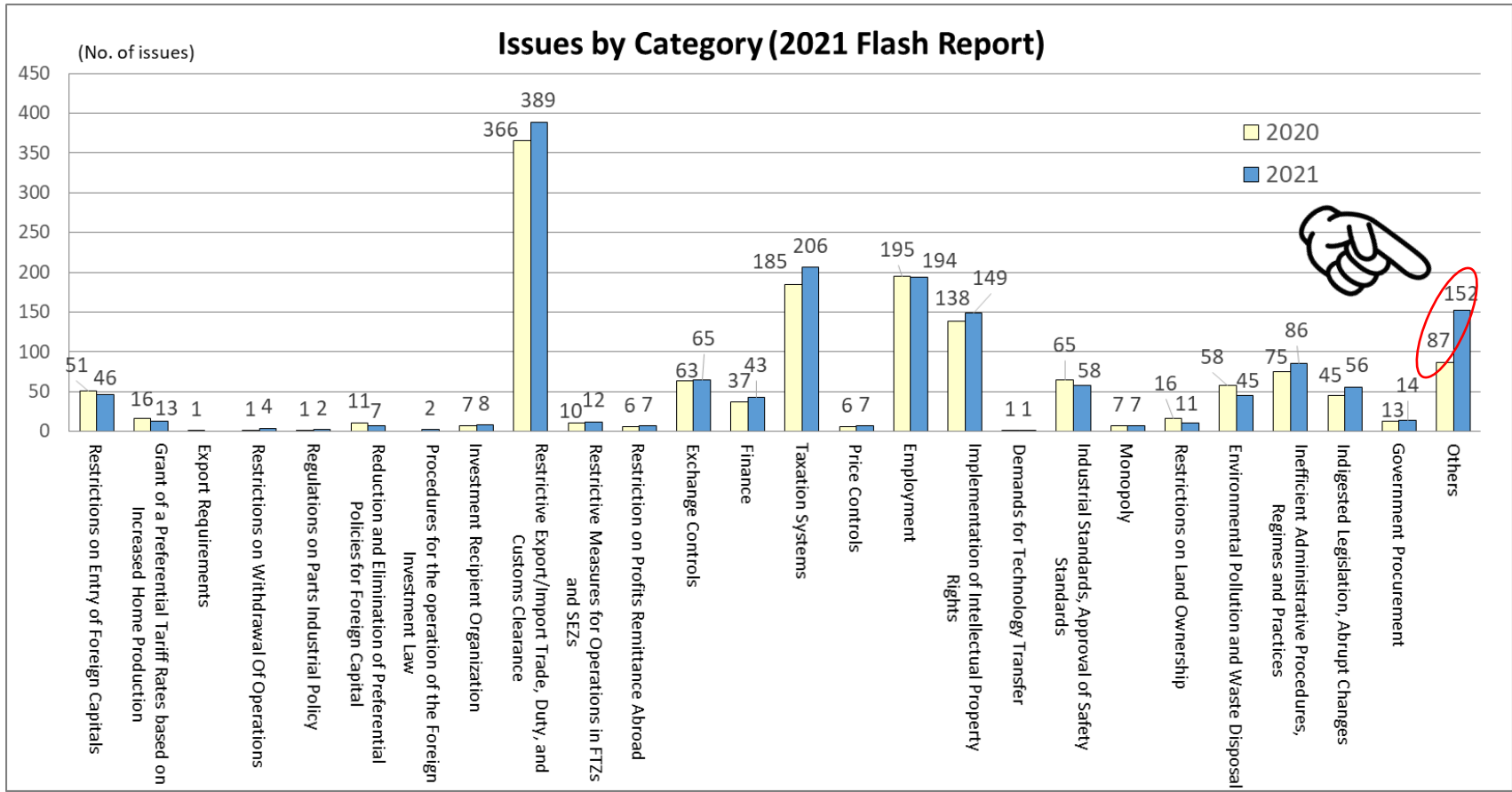
## 3. Questionnaire Timing

Sent: December 2020/collected: End-February 2021

## 2. Survey Results Overview ①

### Key Points

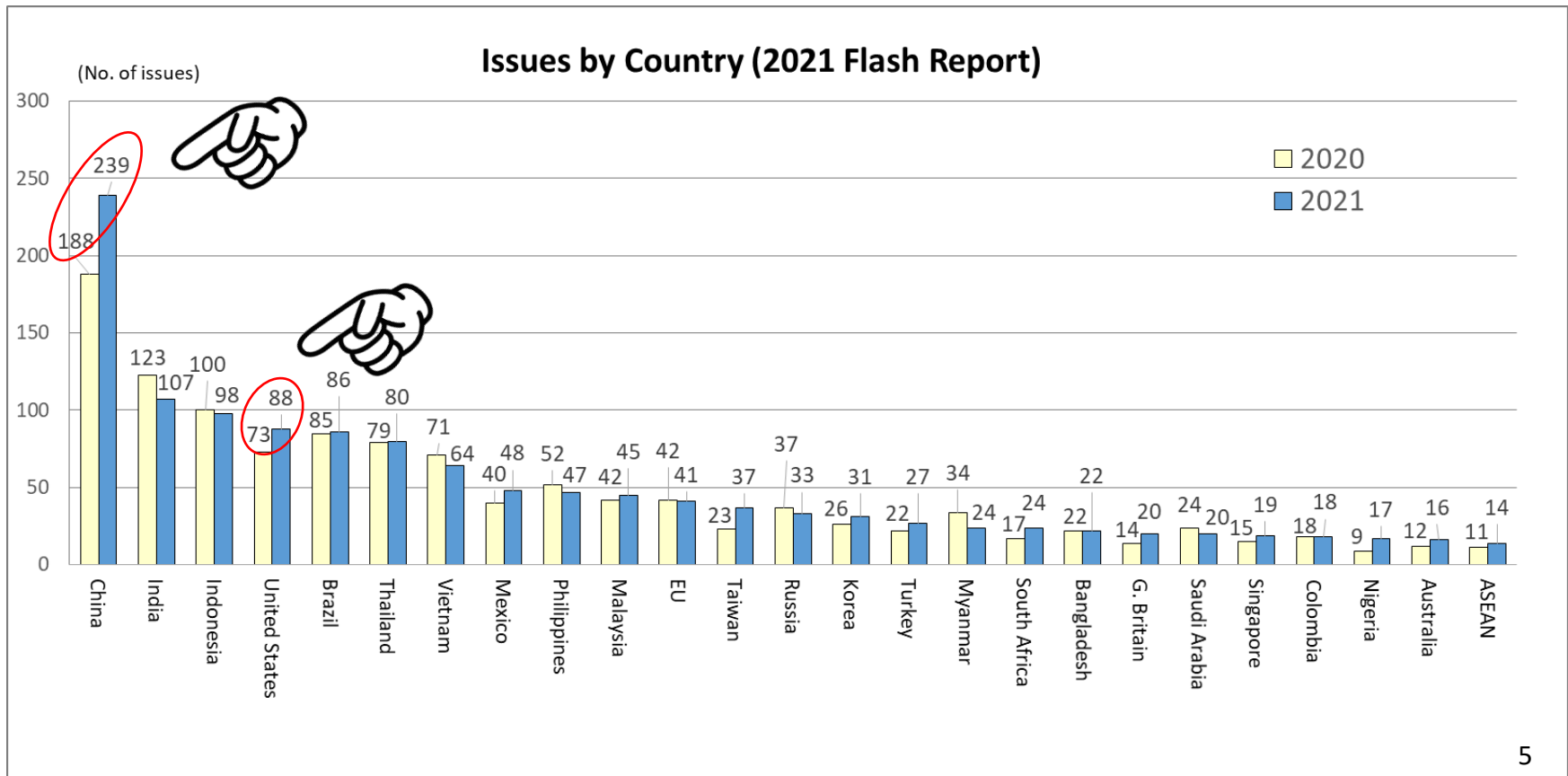
- Overall, the category with the most issues was “Restrictive Export/Import Trade, Duty, and Customs Clearance,” followed by “Taxation Systems,” “Employment,” and “Implementation of Intellectual Property Rights.”
- Many issues that were caused by the COVID-19 pandemic have been categorized as “Others.” However, some COVID-19-related issues have been placed in categories other than “Others,” such as processing delays due to customs staff working remotely.



## 2. Survey Results Overview ②

### Key Points

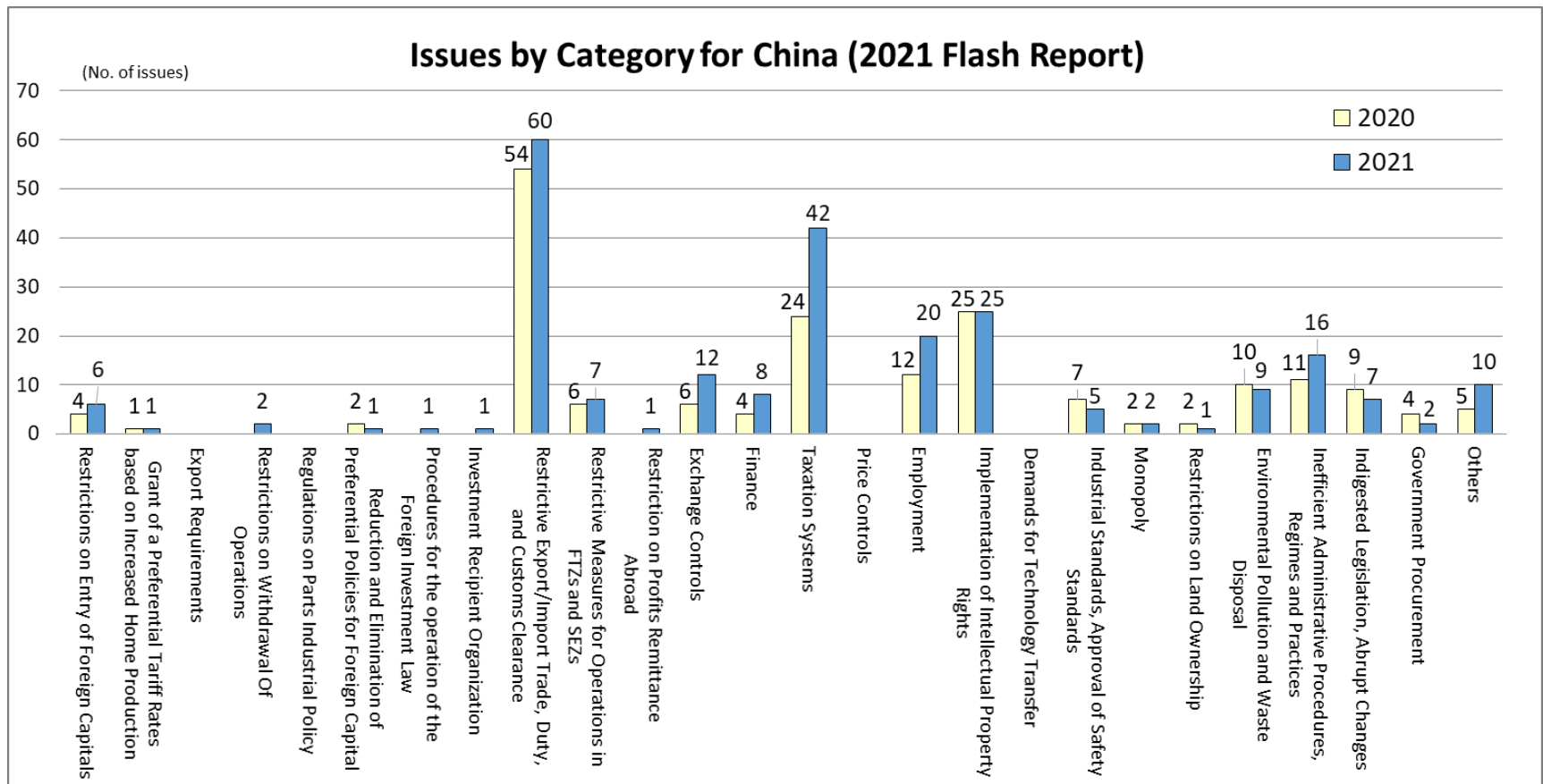
- Looking at issues by country, there were no major changes overall.
- However, the number of issues concerning China and the US increased. The many issues caused by the COVID-19 pandemic and various issues concerning friction between the US and China highlighted the dilemmas many Japanese companies are currently facing.



### 3. Northeast Asia China ①

#### Key Points

- As in past years, there was a notably large number of issues covering a wide range of topics.
- Trade friction between China and the US meant that new regulations by both countries continued to put companies in a double bind.
- The COVID-19 pandemic has had a negative impact in a wide range of areas, including the movement of people and logistics, and companies are struggling to cope.



### 3. Northeast Asia China ②

#### ① The US-China Double Bind

- Respondents pointed out that China's Export Control Law, which was enacted in December 2020, is opaque and there were worries that the market will shrink as more trade partners in China become subject to US export control regulations.
- They also pointed out that dollar weakness caused by trade friction was leading to dollar shortages and foreign exchange losses.

#### ② Restrictive Export/Import Trade, Duty, and Customs Clearance

- Although expectations continue to rise regarding RCEP going into effect, the Chinese authorities have abolished special customs exemptions in anticipation of this, which has raised tariff rates for certain products.
- There were cases regarding the acquisition of proof of place of origin for FTAs in which Chinese authorities made demands that were not stipulated in the agreements, resulting in companies becoming unable to use preferential duties in the relevant countries.

#### ③ COVID-19 Pandemic

- There were issues such as it taking longer to acquire visas and direct difficulties regarding taxation caused by people who returned temporarily to Japan becoming unable to reenter China.
- There were cases of fraud regarding the procurement of medical goods, such as agreements not being honored.
- Although this is a global trend, there was a huge number of complaints about issues caused by container and ship shortages, such as steep rises in shipping prices and production delays caused by late shipments.

### 3. Northeast Asia China ③

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#### **④ Taxation Systems**

• As in past years, there were issues including the opaqueness of procedures for claiming back value added tax and transfer pricing systems, a wide range of interpretations regarding PE designation, and inconsistent application of tax laws due to factors such as differing interpretations by different officials.

#### **⑤ Implementation of Intellectual Property Rights**

• The quality of examinations for new utility models is low and rights are awarded despite a lack of novelty.  
• There continued to be a large number of complaints regarding the insufficiency of government measures against counterfeit products and trademark infringements.  
• There were comments that despite the fact that the registration of well-known overseas trademarks and trademarks that resemble these by third parties have long been widespread, improvements are slowly being made.

#### **⑥ Others**

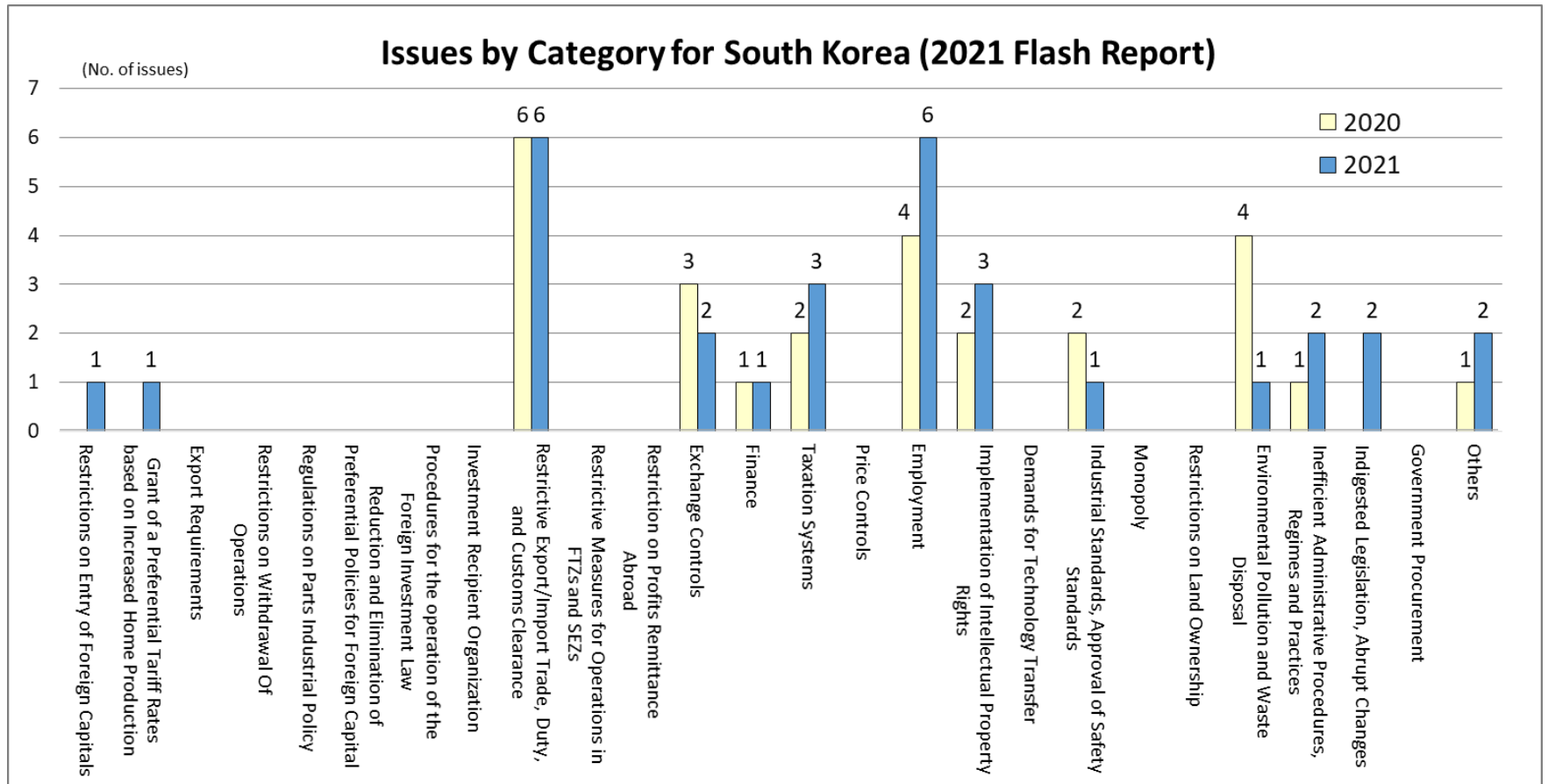
• The same issues as past years appeared again, such as difficulties regarding overseas remittances and the borrowing of working capital, and the opaque application of laws.



### 3. Northeast Asia South Korea ①

#### Key Points

- The largest numbers of issues were for “Restrictive Export/Import Trade, Duty, and Customs Clearance” and “Employment.” Overall, results were roughly the same as past years.
- The worsening of sentiment toward Japan had a negative effect on the business environment.



### 3. Northeast Asia South Korea ②

#### ① Worsening of Sentiment Toward Japan

- The spread of boycott campaigns decreased the market shares of Japanese products.
- In addition to B2C, it has also had an impact on B2B activity and there were demands to improve relations between the two countries.

#### ② Employment

- The South Korean Labor Standards Act stipulates that in order to amend rules of employment unfavorably to workers, the employer must obtain the consent of the trade union, which is the biggest barrier to revising rules of employment. This is a longstanding issue but no progress has been made.
- Following a major increase of the minimum wage, companies are struggling with personnel costs.

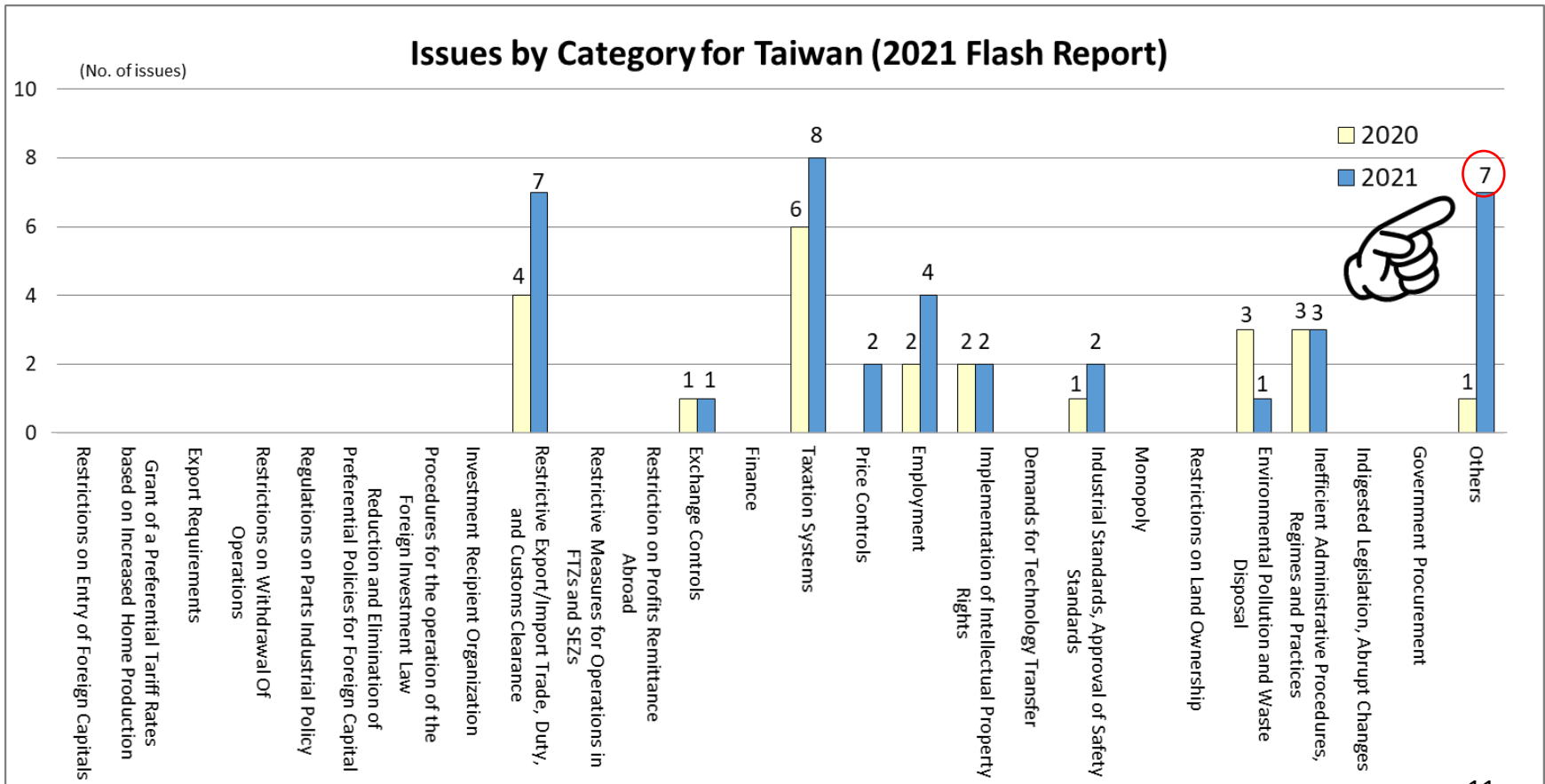
#### ③ Industrial Standards, Approval of Safety Standards

- Packaging regulations require products to be assessed by a specialist organization before going on sale and the results of this assessment must be displayed on the packaging. There is concern that this will cause issues such as additional costs, delays to new product launches, and leaks of information on new products.

### 3. Northeast Asia Taiwan ①

#### Key Points

- The number of issues identified increased significantly from 23 last year to 37 this year. The top ranking categories were “Taxation Systems” and “Restrictive Export/Import Trade, Duty, and Customs Clearance.”
- There were many issues connected to the COVID-19 pandemic, such as difficulties obtaining visas.



### 3. Northeast Asia Taiwan ②

#### ① Taxation Systems

- Issues included increases in taxes on undivided profit and income tax rates, uncompromising tax inspections aimed at compensating for tax revenues shortages, debit note treatments not being recognized, and digital data not being recognized in regard to the 10-year storage of tax-related records.
- There were complaints about the cumbersomeness of procedures related to the bilateral tax agreement concluded between Japan and Taiwan.

#### ② Restrictive Export/Import Trade, Duty, and Customs Clearance

- There were demands for the swift agreement of an EPA as the FTA between Taiwan and China means that Japanese products are losing out to Chinese products.
- Other issues included high duties on clock products, judgements regarding the application of HS codes differing between customs officials, the continuation of the existing ban on imports of products from five prefectures in the Kanto region (Fukushima, Ibaraki, Tochigi, Gunma, and Chiba), and the administrative burden of requirements to provide proof of place of origin for products from regions other than these five prefectures.

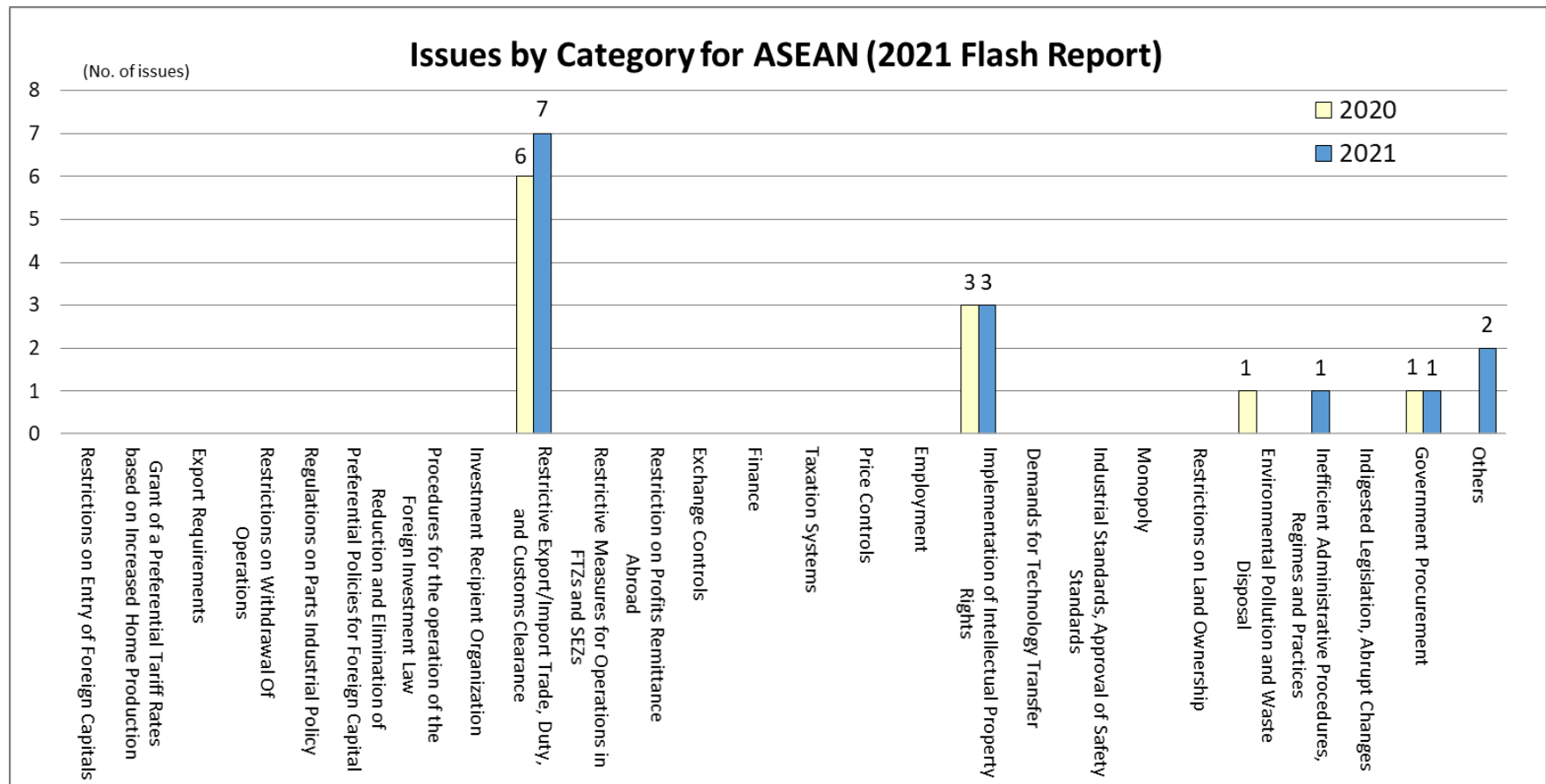
#### ③ COVID-19 Pandemic

- Issues included prolonged construction periods due to it taking longer to acquire visas and delays to raw materials and parts, and being unable to dispatch personnel needed to fulfill agreements due to entry restrictions.

## 4. Southeast and South Asia ASEAN ①

### Key Points

- Although the entry into force of the First Protocol to Amend the ATIGA has led to the introduction of easier to use rules, differing interpretations by each country is creating new issues.
- There were a few issues regarding the existing ASEAN+3 FTA.



## 4. Southeast and South Asia ASEAN ②

### ① First Protocol to Amend the ATIGA

- Entered into force in September 2020. The amendment aims to make the agreement easier to use through measures such as eliminating the requirement to include FOB price in proof of place of origin documents and introducing the new ASEAN-wide Self-Certification Scheme (AWSC). However, there has been confusion depending on country, such as the requirement to include FOB price in proof of place of origin documents remaining and details regarding the self-certification scheme not being settled.
- Companies continue to have issues when using back to back COs under AJCEP due to differing opinions between each country's customs.

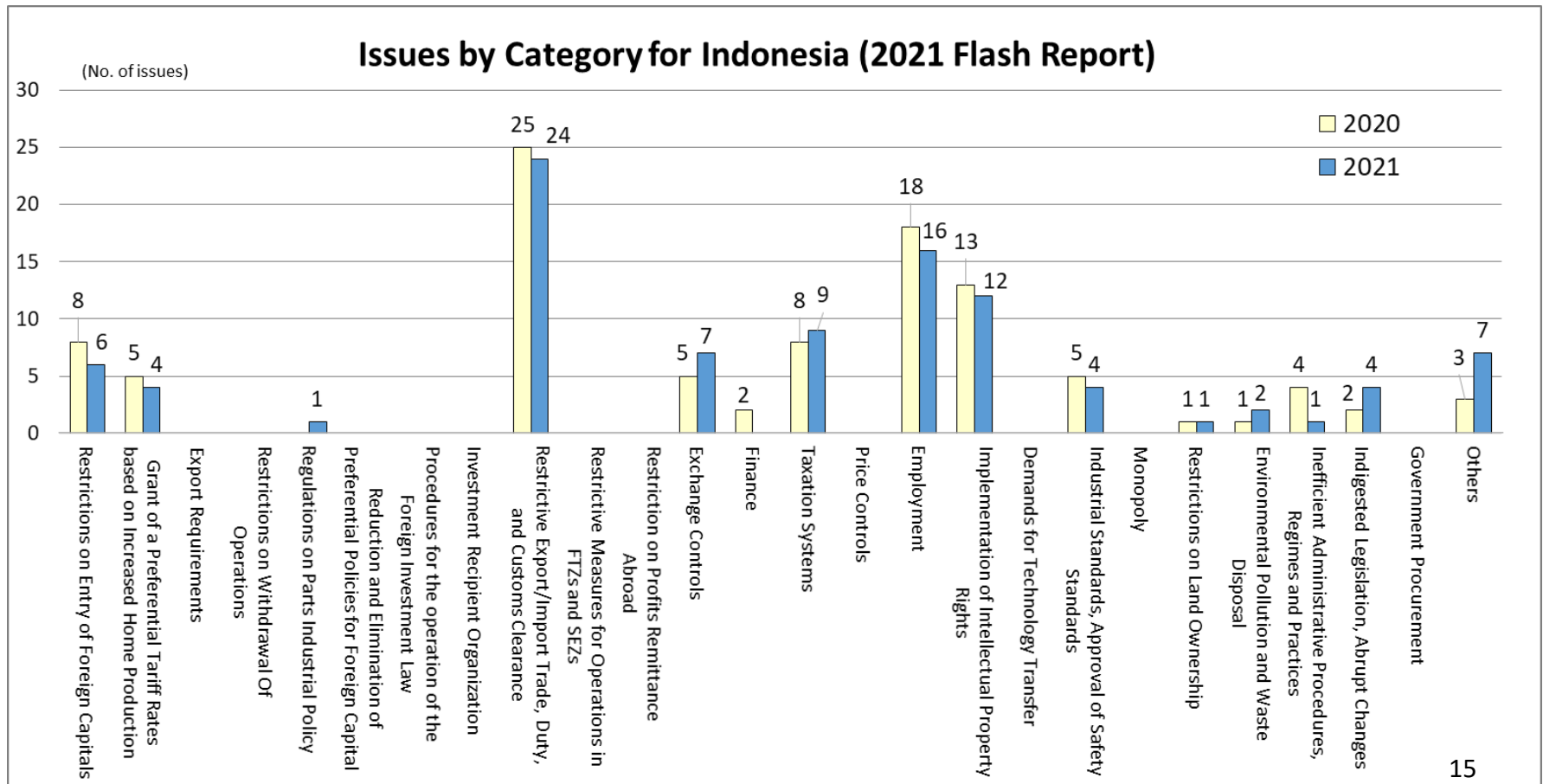
### ② COVID-19 Pandemic

- As in other regions, there was a steep rise in logistics costs and a downturn in employment conditions for both the ASEAN region and each member country.

## 4. Southeast and South Asia Indonesia ①

### Key Points

- There was no major change from the previous year with many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment”, “Implementation of Intellectual Property Rights,” and “Taxation Systems.”
- There was also a continuation of issues concerning “Indigested Legislation, Abrupt Changes.”



## 4. Southeast and South Asia Indonesia ②

### ① Restrictive Export/Import Trade, Duty, and Customs Clearance

- Tires are subject to import restrictions. However, these restrictions even extend to specialist tires for which there are no alternative products, leading to support and maintenance issues.
- Duties are leveraged on certain steels that cannot be procured in Indonesia and although the Indonesian government is taking steps to accommodate this, the introduction of systematic changes and subsequent measures is slow, making cost increases inevitable.
- There were cases of the sudden announcement and implementation of changes to import license systems and of temporary import bans being put in place, leading to major losses. Additionally, even when new licenses were issued, validity periods and restrictions to the number of licenses that can be obtained were put in place without clear information to what these periods or numbers were, making business unpredictable.

### ② Indigested Legislation, Abrupt Changes

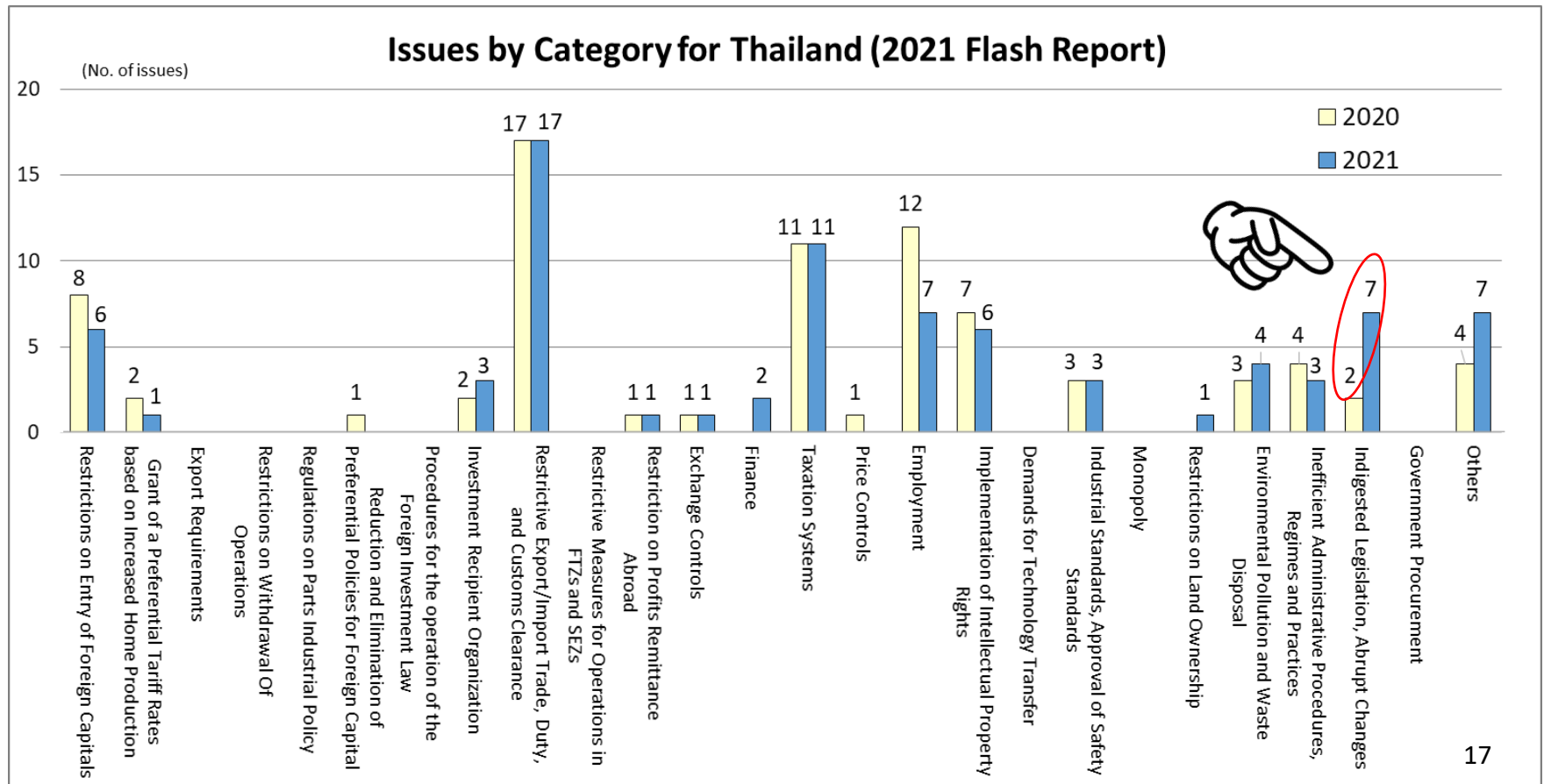
- The Omnibus Law on Job Creation went into effect in November 2020 with the aim of attracting overseas investment in job creation. Although revisions were being made to benefit employers, no details had been announced as of the time of the questionnaire responses, meaning that companies do not have enough information to advance preparations.



## 4. Southeast and South Asia Thailand ①

### Key Points

- Overall, the results were similar to last year but there was a steep rise in complaints about “Indigested Legislation, Abrupt Changes.”
- There continued to be trouble attributed to the customs incentive distribution system for customs officials.



## 4. Southeast and South Asia Thailand ②

### ① Restrictive Export/Import Trade, Duty, and Customs Clearance

- There continued to be complaints about value added tax being added to import prices in cases where exchange rate fluctuations caused the price of goods being stored in bonded warehouses to exceed actual sales prices. Although the legal grounds of this measure are unclear, when it was protested, customs clearance was halted in retaliation.
- There continued to be trouble attributed to the customs incentive distribution system for customs officials. This included cases of excessive penalties being demanded when submitting amendment declarations due to their being no system for approving transactions prior to import approval, large amounts of overdue interest being incurred due to unnecessary extensions to examination periods, and higher duties being levied based on the arbitrary judgement of customs officials.
- In regard to export controls, although the list of dual-use items introduced in 2015 is publicly available, it is not being put into use. Furthermore, there is no set direction for its application by authorities and detailed regulations have not been released, so there is concern that chaos will ensue if it suddenly starts being applied.

### ② Indigested Legislation, Abrupt Changes

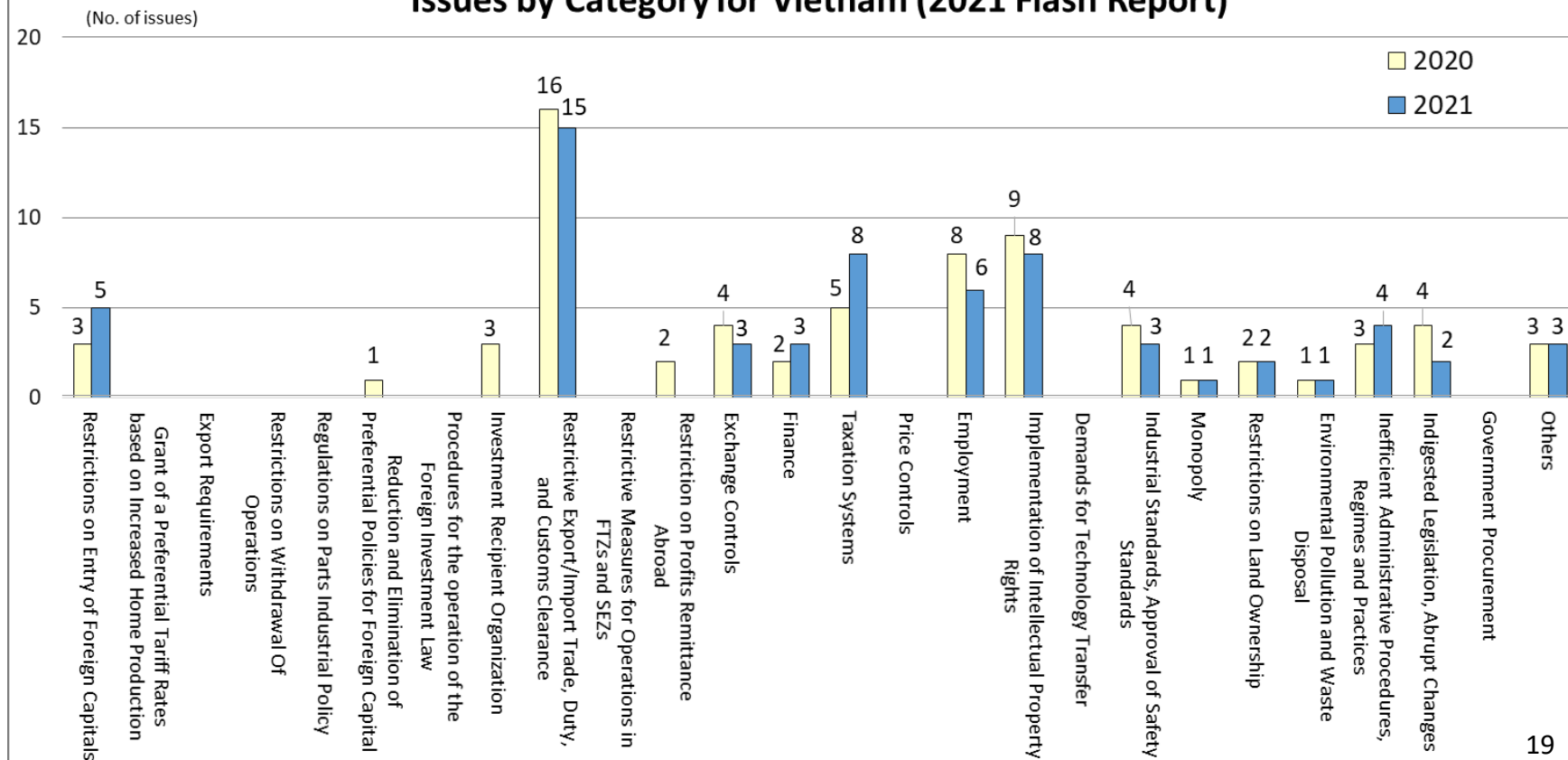
- The Personal Data Protection Act was enacted in May 2019 with a one-year grace period until its full enforcement and detailed regulations and the like being announced during this period. However, implementation was delayed until June 2021, and as of February 2021, the full content, such as detailed regulations, was still unclear, forcing companies to improvise a response.
- Thai corporate law requires a company to make a payment before it can be registered but in practice, a company cannot open a bank account until it has been established in the country, so payments are being made after registration.

## 4. Southeast and South Asia Vietnam ①

### Key Points

• There were many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance.” Although there was a decreasing trend overall, there were many complaints about “Restrictions on Entry of Foreign Capitals” and “Taxation Systems.”

Issues by Category for Vietnam (2021 Flash Report)



## 4. Southeast and South Asia Vietnam ②

### ① Restrictive Export/Import Trade, Duty, and Customs Clearance

- Continuing issues included high import duties on clock and steel products, safeguard duties and obligation to acquire import licenses for steel products, and import regulations on printed materials.
- There was no consistency between agencies to which declarations were made and customs officials, and there were cases where customs clearance was denied without new rules being properly applied.

### ② Restrictions on Entry of Foreign Capitals

- Business transfers by foreign investors are required to be carried out through a direct investment capital account (DICA), but procedures for this have to be completed and an application has to be made even if the transfer deal has not been concluded, resulting in the risk of being unable to recover capital.
- There are effectively restrictions on the entry of foreign companies into the pharmaceuticals distribution industry.

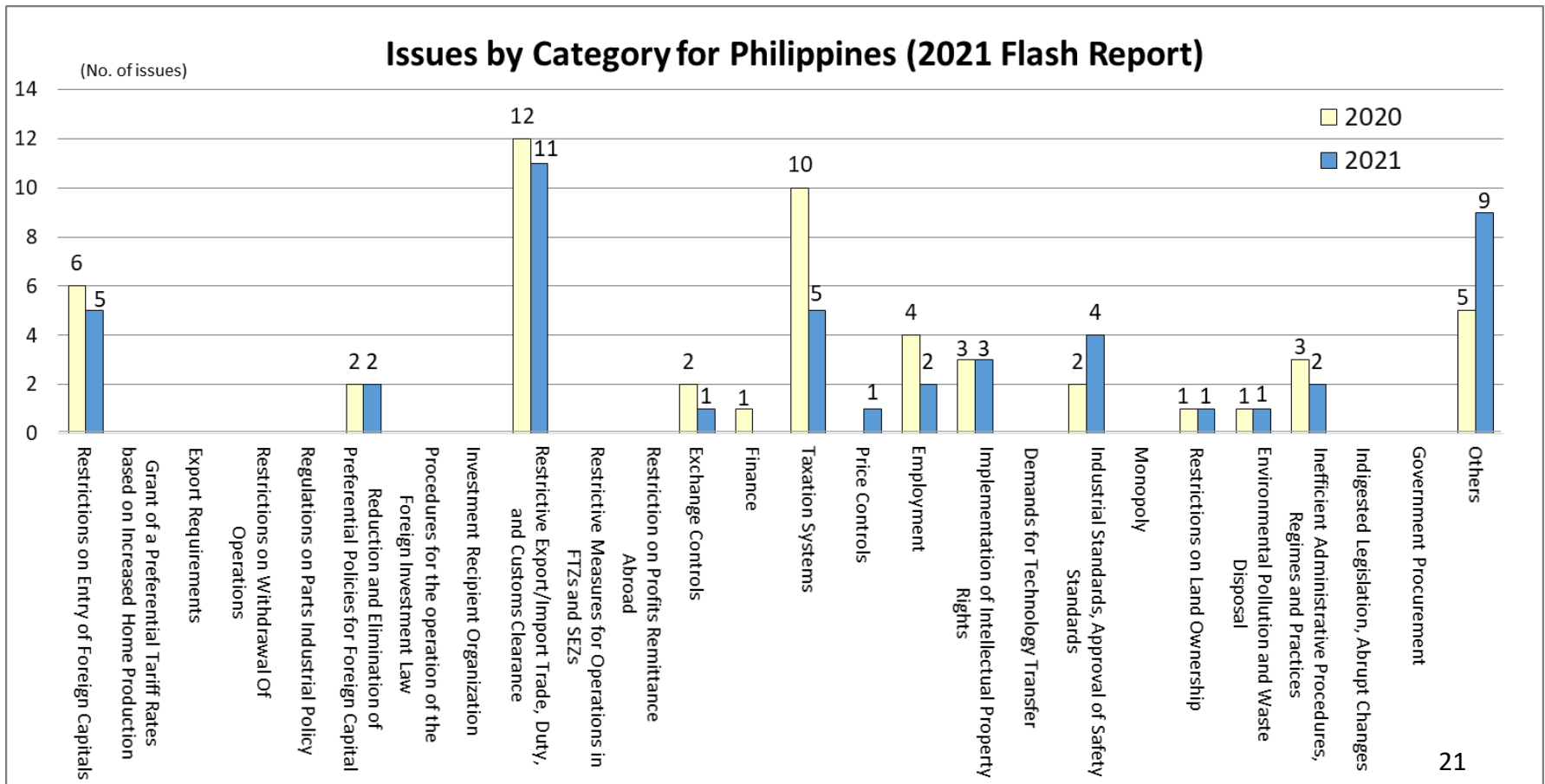
### ③ Taxation Systems

- The limit for creating transfer pricing documentation (MF, LF) is extremely short at 90 days.

## 4. Southeast and South Asia Philippines ①

### Key Points

- There were many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance” and “Others.” Many issues in the “Others” category were related to the COVID-19 pandemic.



## 4. Southeast and South Asia Philippines ②

### ① Restrictive Export/Import Trade, Duty, and Customs Clearance

- In May 2020, there were reports of a plan to levy a 5% additional duty with the aim of raising funds to tackle COVID-19, but on the same day, it was announced that this plan had been shelved. As of the deadline for the questionnaires, no measures had been taken.
- From February 2021, a 200-day provisional safeguard measure targeting imported completed automobiles was enacted (in August 2021, the official implementation of this measure was shelved and additional duties paid during the provisional period were refunded).
- Customs operations were shifted to a remote working structure as a COVID-19 countermeasure, meaning processes took longer than before.

### ② Industrial Standards, Approval of Safety Standards

- The certification of new medicines took a long time and this situation worsened further due to the COVID-19 pandemic.

### ③ COVID-19 Pandemic

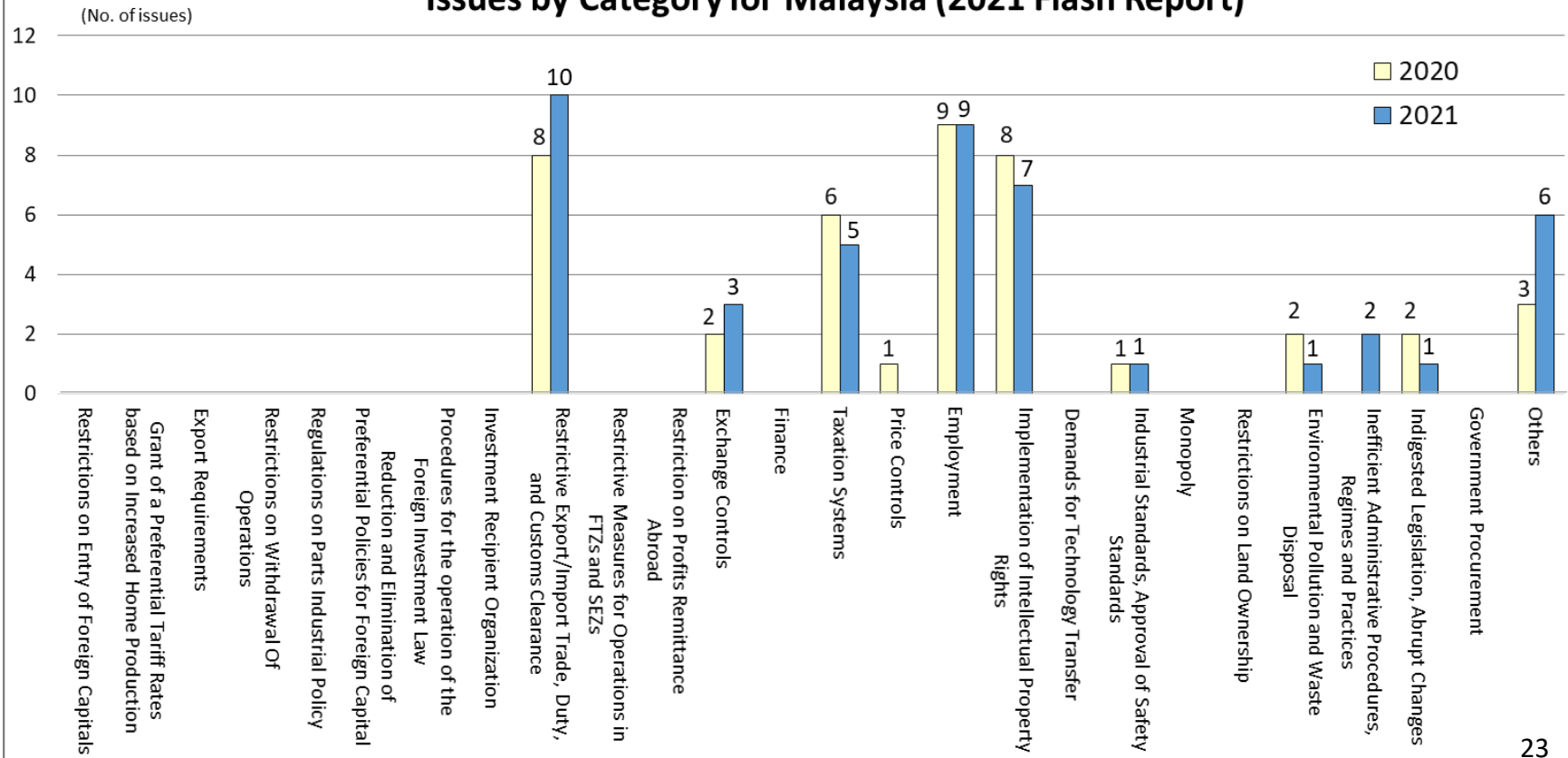
- There were issues such as it taking longer to acquire visas and companies being made responsible for securing means of commuting for employees despite the government not providing any compensation toward the large-scale additional costs this incurs.

## 4. Southeast and South Asia Malaysia ①

### Key Points

- The issues identified were roughly the same as last year, with most issues concerning “Employment,” “Restrictive Export/Import Trade, Duty, and Customs Clearance,” and “Implementation of Intellectual Property Rights.”

Issues by Category for Malaysia (2021 Flash Report)



## 4. Southeast and South Asia Malaysia ②

### ① Restrictive Export/Import Trade, Duty, and Customs Clearance

• Previously, after making a deposit equivalent to the amount of duty and then making a retroactive application for preferential duties under the EPA, the full amount would be refunded. However, this system has been abolished and now, only about 80% is refunded and examination times have become longer.

### ② Implementation of Intellectual Property Rights

• Although Malaysian consumer affairs authorities are policing counterfeit goods, there continued to be complaints that this is not being carried out sufficiently and there are many cases where penalties had not been decided even several years after the goods were discovered, as well as malicious cases where the handling of counterfeit goods soon resumed.

### ③ Taxation Systems

• Regarding the SST (sales and service tax) introduced in September 2018, there continued to be complaints about the items subject to taxation and issues regarding the system.

### ④ Employment

• The Workers' Minimum Standard of Housing and Amenities Act was amended at the end of 2019 which added a requirement for employers to obtain proof that they have accommodation (dormitories) which complies with new standards for accommodation in advance. However, there are very few actual buildings that meet these new standards.

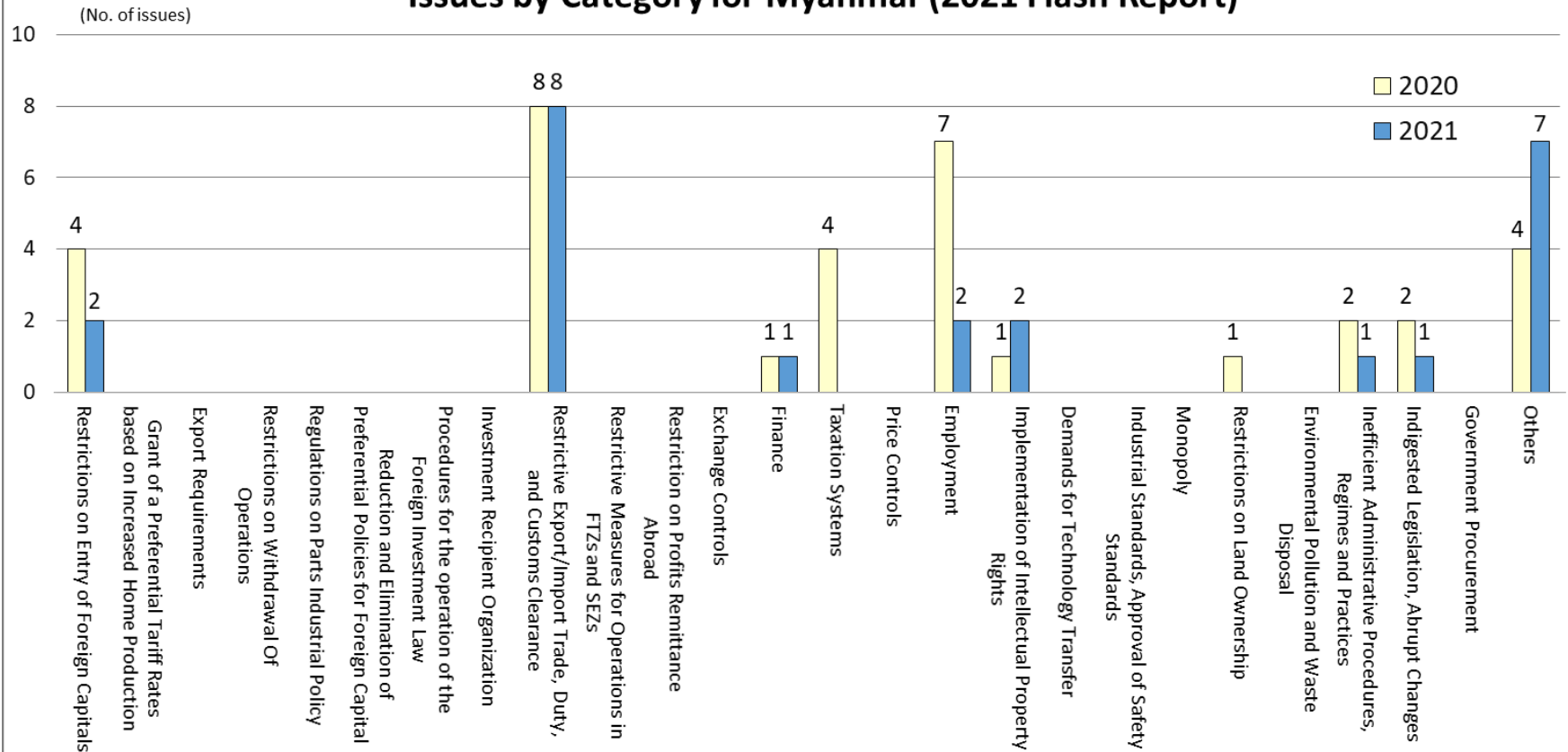


## 4. Southeast and South Asia Myanmar ①

### Key Points

• In January 2021, a coup was carried out by the military. In addition to actual damage, such as business interruptions, there were also concerns about the negative impact the disruption could cause going forward.

Issues by Category for Myanmar (2021 Flash Report)



## 4. Southeast and South Asia Myanmar ②

### **① Restrictive Export/Import Trade, Duty, and Customs Clearance**

• It was pointed out that a reduction in duties on instant noodles and a temporary reduction in duties on automobiles eliminated the advantages of local production by companies developing into Myanmar and also had a negative effect on employment.

### **② Implementation of Intellectual Property Rights**

• The new Trademark Law was enacted in 2019 and although it entered a “soft opening” period in October 2020, in reality it is not functioning and a regulatory body has yet to be established.

### **③ Military Coup**

• There were complaints that the military coup carried out in January 2021 had direct effects on companies, such as business interruptions. There were also concerns about future disruption.

### **④ COVID-19 Pandemic**

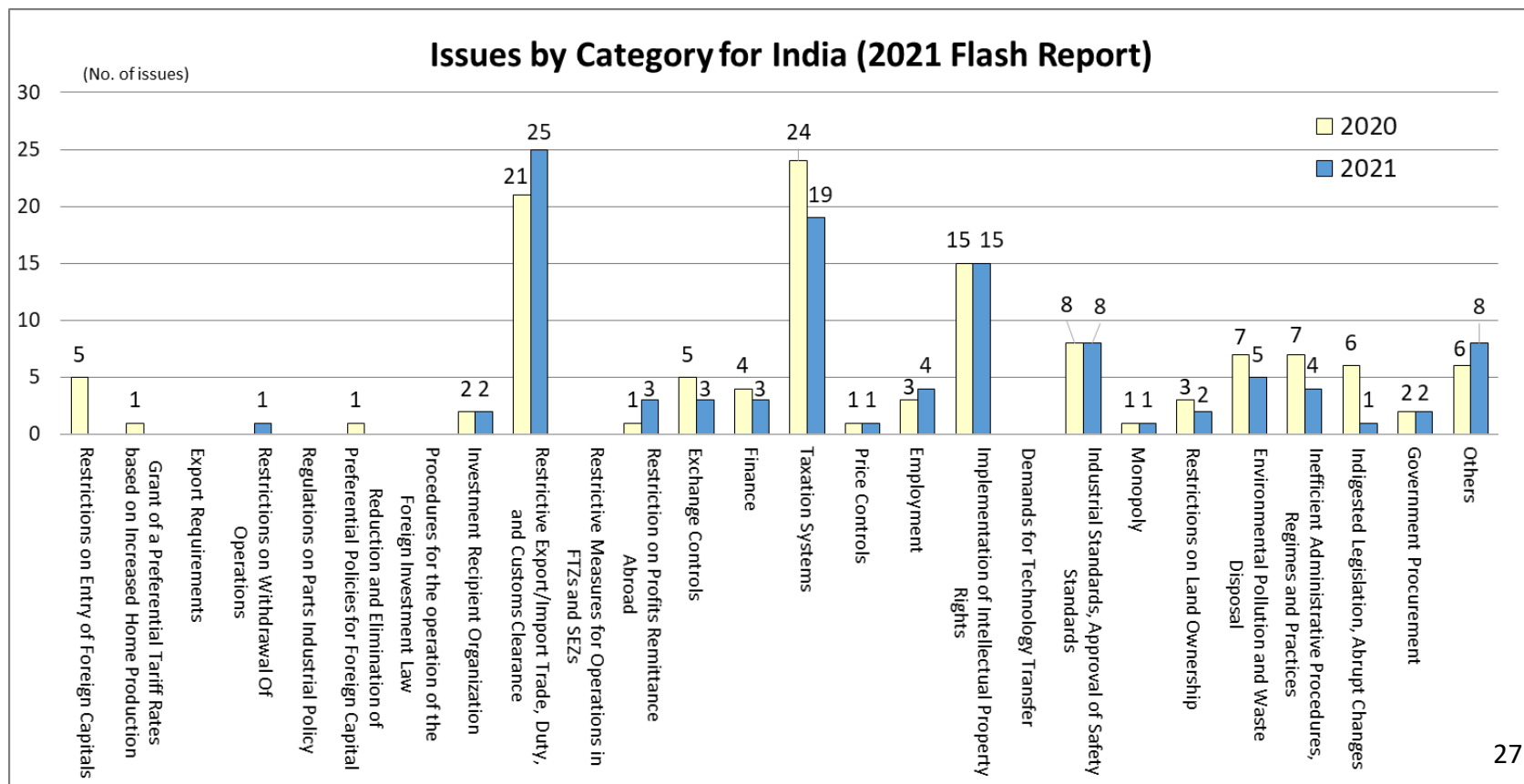
• The closure of motor vehicle authorities meant that automobile sales could not be registered, forcing a temporary halt to sales.

• Companies were unable to use their usual means of transportation and had to temporarily shift to other transportation providers, raising transportation costs. Costs were then further increased by special COVID-19 charges levied on top of this.

## 4. Southeast and South Asia India ①

### Key Points

- As in previous years, India was second in the number of issues after China. There were many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Taxation Systems,” “Industrial Standards, Approval of Safety Standards,” and “Implementation of Intellectual Property Rights.”
- There were many complaints that when using preferential duties under the FTA, responding to the new rule on proof of place of origin (CAROTAR 2020) led to cumbersome procedures and clearance delays.



## 4. Southeast and South Asia India ②

### ① Restrictive Export/Import Trade, Duty, and Customs Clearance

- The majority of issues concerned the implementation of CAROTAR 2020, which started in September 2020. This rule requires importers to keep documents such as proof of place of origin when using preferential duties under an FTA. It is difficult for companies to provide the information on manufacturing costs demanded within this, leading to a large administrative burden. The examination of documentation also requires a certain amount of time which makes clearance lead times longer. (This issue is already being addressed by the Japanese government).
- There were complaints that the sudden announcement and same-day implementation of a ban on the import of air conditioners containing refrigerants led to halts on customs clearance which caused damages for companies.
- There continued to be issues concerning the levying of duties on ITA-specified products and the strictness of rules of origin under the Japan-India EPA.

### ② Taxation Systems

- There were many issues regarding the expensiveness of indirect taxes, the cumbersomeness operations, and tax payment systems not being sufficiently maintained.
- There were demands calling for the appropriate abolishment of the Equalization Levy (digital tax), which has expanded in scope since 2020, provided international consensus can be reached.

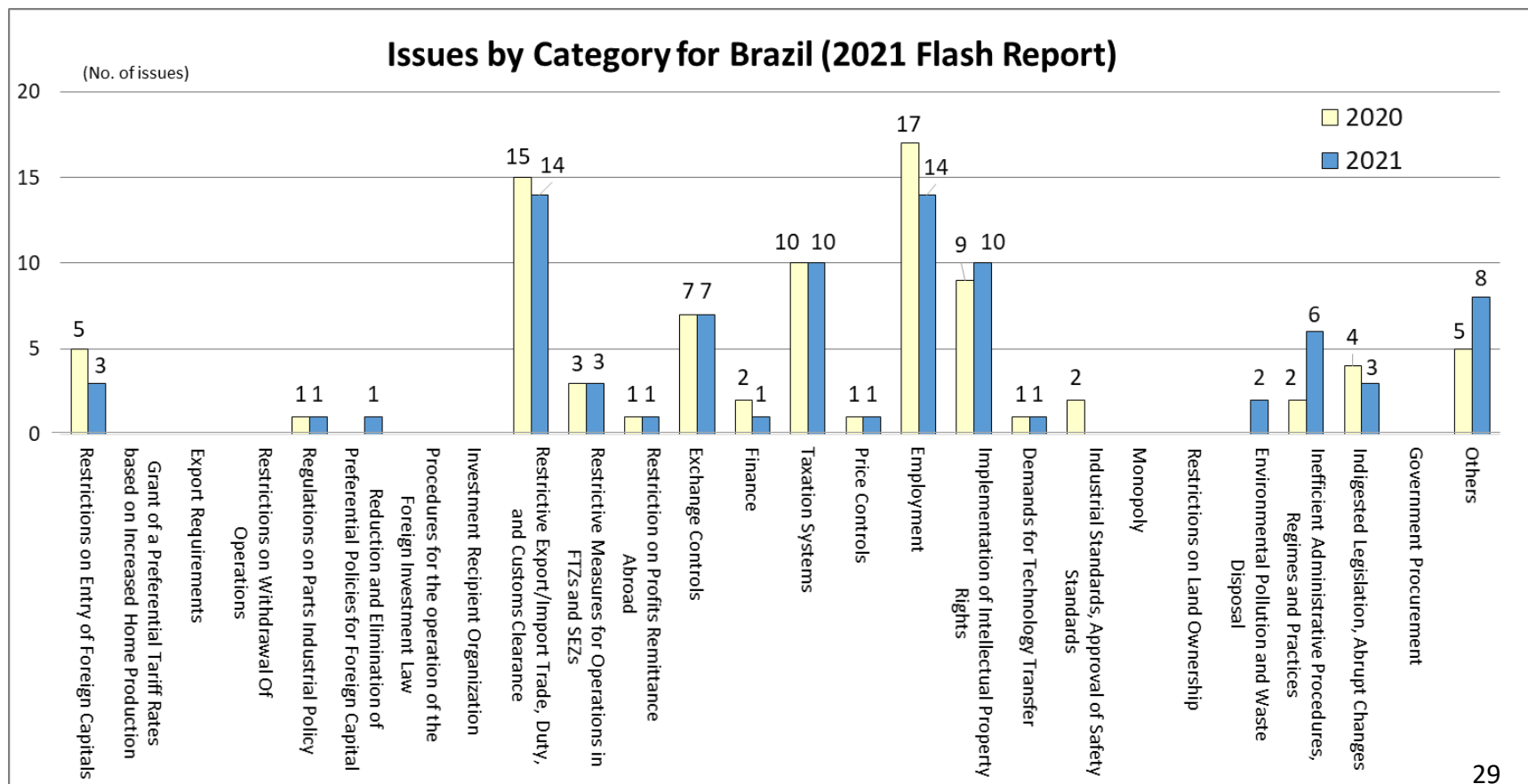
### ③ Implementation of Intellectual Property Rights

- There were calls for the relaxation or abolishment of the system requiring the provision of information on filings in related countries and the patent working statements system, which are not found in other countries, and there continued to be issues such as prolonged examinations, opaque application of systems, and insufficient measures for policing counterfeit goods.

## 5. Latin America Brazil ①

### Key Points

- Overall results were similar to past years with many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment,” “Taxation Systems,” and “Implementation of Intellectual Property Rights.” There were also many longstanding issues that have not seen any improvements.
- The number of issues concerning “Inefficient Administrative Procedures, Regimes and Practices” rose from two last year to six this year.



## 5. Latin America Brazil ②

### ① Employment

- There continued to be an issue with there being a variety of visas for overseas travel, which despite requiring cumbersome administrative procedures and taking time to obtain, are only valid for a short period.
- There continued to be issues such as laws and regulations that are overprotective of workers, steep rises in labor costs, and obligations to employ local workers.

### ② Restrictive Export/Import Trade, Duty, and Customs Clearance

- There continued to be issues such as the requirement to use Portuguese for product names on invoices, customs clearance taking a long time, customs officials frequently going on strike, and widespread illegal imports and smuggling.
- As the EPA between the EU and Mercosur has been agreed and is now awaiting ratification, there were ongoing calls for an EPA to be concluded with Japan.

### ③ Taxation Systems

- There were complaints that methods for calculating transfer pricing is opaque and do not conform to OECD standards, as well as continuing issues such as the total amount of the state level tax on the circulation of goods and services (ICMS) not being refunded if sales are made in different state.
- There were ongoing issues of double taxation concerning royalties and payments for the provision of services.

### ④ Inefficient Administrative Procedures, Regimes and Practices

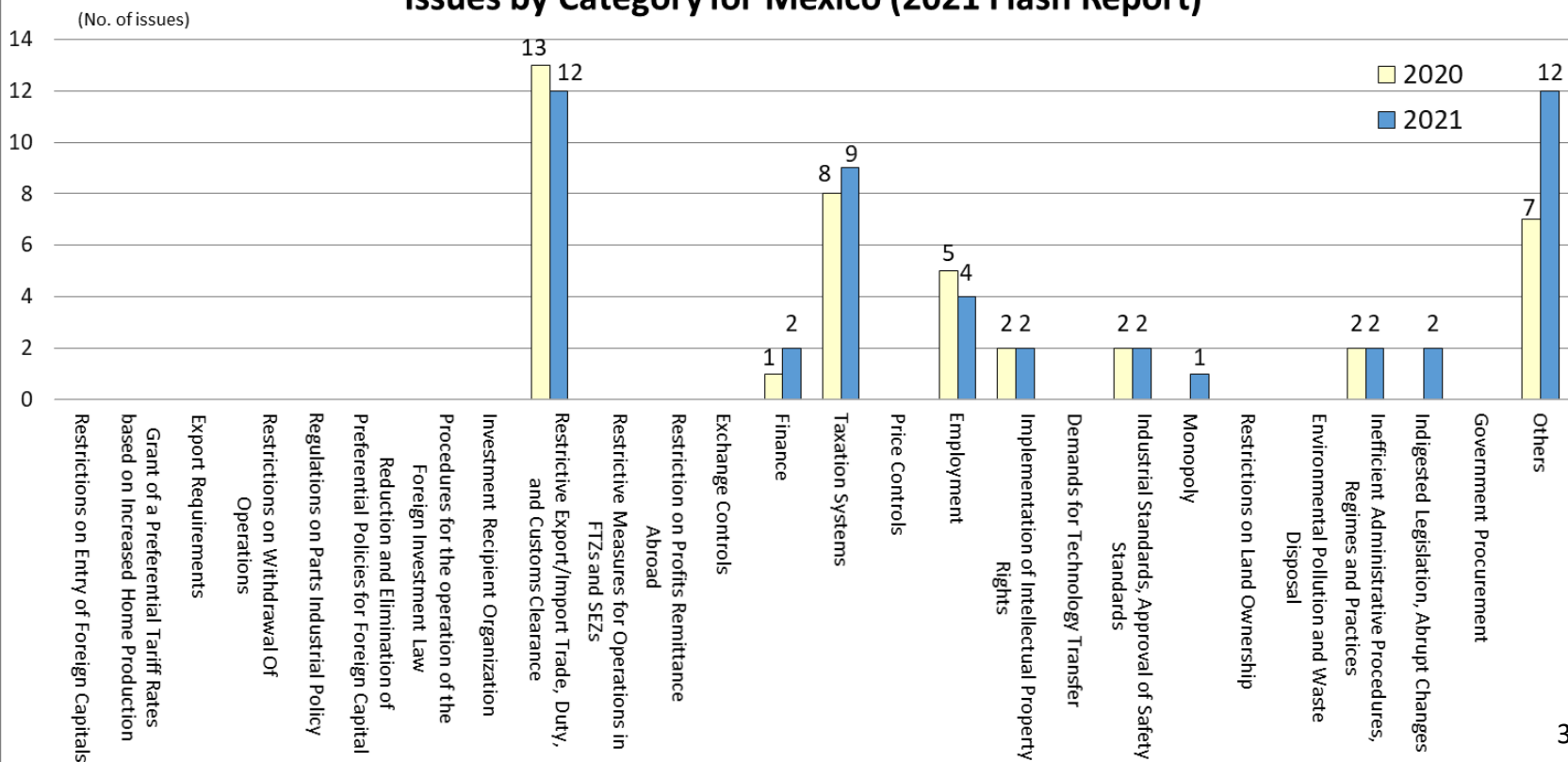
- Although the introduction of Japanese-made water meters was planned, installment within Brazil requires the obtaining of INMETRO certification (a type of approval certification). In addition to the procedures for doing this being cumbersome, complex, and taking a long time (over six months), the criteria is also idiosyncratic which presents a significant barrier to entry.

## 5. Latin America Mexico ①

### Key Points

- As in previous years, there were many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance” and “Implementation of Intellectual Property Rights.” There were also many ongoing issues.
- From the end of 2020 into early 2021, amendments to existing laws and regulations and introductions of new laws were planned, but these were advanced without sufficient consultation with the private sector, leading to issues.

**Issues by Category for Mexico (2021 Flash Report)**



## 5. Latin America Mexico ②

### ① Indigested Legislation, Abrupt Changes

- Companies are struggling to respond to a succession of new labor laws that were established without sufficient consultation with the private sector.
- The government is amending a law concerning electricity procurement which prioritizes supply from public energy companies. This may mean that companies have to revise electricity purchase agreements that have already been concluded with private sector providers, making business unpredictable.

### ② Restrictive Export/Import Trade, Duty, and Customs Clearance

- There continued to be issues concerning the arbitrary changing of the HS code for solar panels and different requirements being demanded by different customs officials.
- Regarding examinations under Mexico's national standards (NOM) during customs, issues with customs systems accompanying HS code revisions from December 2020 and issues caused by COVID-19 have meant that clearance is taking an extremely long time.

### ③ Taxation Systems

- Regarding procedures for obtaining value added tax refunds, in addition to the cumbersomeness of repeated demands for documents from officials, the procedures take a long time which has a negative effect on working capital.

### ④ Others

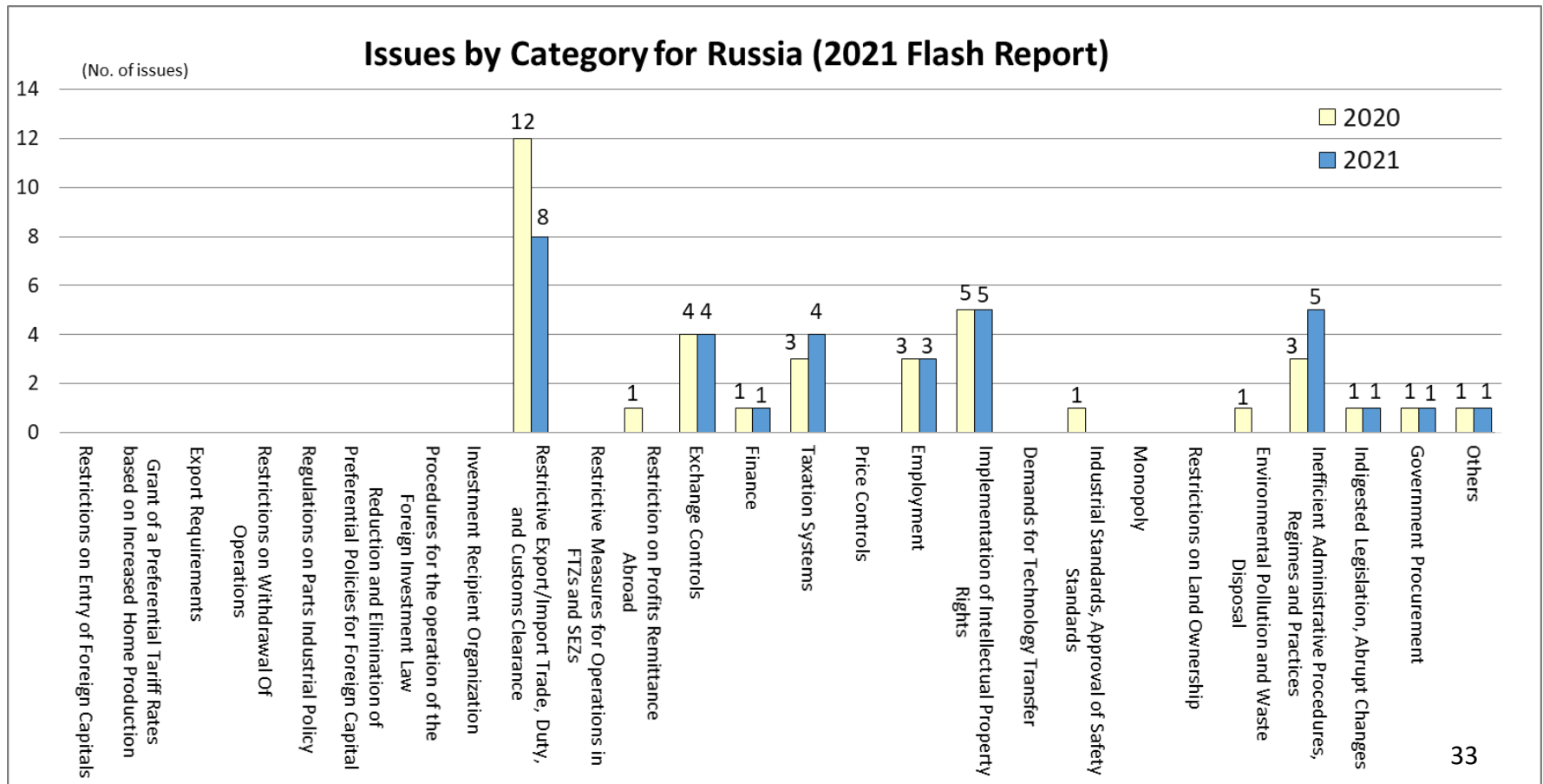
- Although the number of cases of theft has decreased due to the COVID-19 pandemic and self-defense efforts by companies, cargo theft has caused issues including the loss of sales opportunities, stoppages to production lines, and increased costs such as transport security.
- The COVID-19 pandemic caused reductions in operating rates due to national lockdowns and visa issuing delays.



## 6. Russia ①

### Key Points

- As in previous years, the largest number of issues concerned “Restrictive Export/Import Trade, Duty, and Customs Clearance” and there were also many issues concerning “Implementation of Intellectual Property Rights,” “Exchange Controls,” and “Taxation Systems.”
- The number of issues concerning “Inefficient Administrative Procedures, Regimes and Practices” increased by two.



## 6. Russia ②

### **① Restrictive Export/Import Trade, Duty, and Customs Clearance**

- As in previous years, issues included high duties on clock products, the administrative burden of submitting declaration documents, and arbitrary customs classifications.
- There were issues with the grain export quota set for the period from February 15 to June 30, 2021. Export duties were levied on exports in excess of the quota but for wheat, duties were also levied on exports within the quota. This had a negative effect in the export of Russian grains to Japan.

### **② Exchange Controls**

- To engage in the import or export of goods and services or loan transactions, an agreement between the resident party (including local subsidiaries of foreign companies) and non-resident party has to be submitted to a bank in advance. In addition to this, once a shipment has been made, if the volume changes even by a little, the agreement has to be revised or remade. The heavy administrative burden of processes such as these continued to be an issue.

### **③ Taxation Systems**

- Since 2020, a 20% value-added tax has been levied on overseas software.
- During customs, labeling has been carried out with the main aim of increasing customs revenues and responding to this incurs additional costs.
- An ongoing issue is that even if a company would like to put the cost burden of transferring personnel from Japan onto its local subsidiary, regulations concerning foreign currency money transfers and tax matters are extremely complex, making cost claims impossible.

### **④ Inefficient Administrative Procedures, Regimes and Practices**

- The process for registering healthcare equipment is inconsistent and requirements depend on the official handling the case.

## 6. Russia ③

# WTO Trade Policy Review October 27



(21-7008)

Trade Policy Review Body

### TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

RUSSIAN FEDERATION

This report, prepared for the second Trade Policy Review of the Russian Federation, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from the Russian Federation on its trade policies and practices.

Any technical questions arising from this report may be addressed to Ricardo Barba (tel. 022 739 5088), Mombert Hoppe (tel. 022 739 6098), Takako Ikezuki (tel. 022 739 5534), Mark Koulen (tel. 022 739 5224), and Rosen Marinov (tel. 022 739 6391).

Document WT/TPR/G/416 contains the policy statement submitted by the Russian Federation.

Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on the Russian Federation. This report was drafted in English.

RESTRICTED

WT/TPR/S/416

22 September 2021

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## Main Points

### ① Tariff Rates

In principle, the EAEU unified customs tariff is applied.

The simple average applied MFN tariff rate declined slightly between 2016 and 2021, from 8.3% to 7.9%.

The average applied rate is 13.4% on imports of agricultural products and 6.3% on imports of non-agricultural products.

### ② Export Restrictions

• In 2020, as a response to the COVID-19 pandemic, temporary export quotas on wheat, meslin, barley, rye, and maize were introduced. These were partially revised in the second half of 2020 to stabilize domestic market prices.

### ③ Customs Clearance

• A "track and trace" system for the marking of certain goods with machine-readable means of identification came into force in 2019.

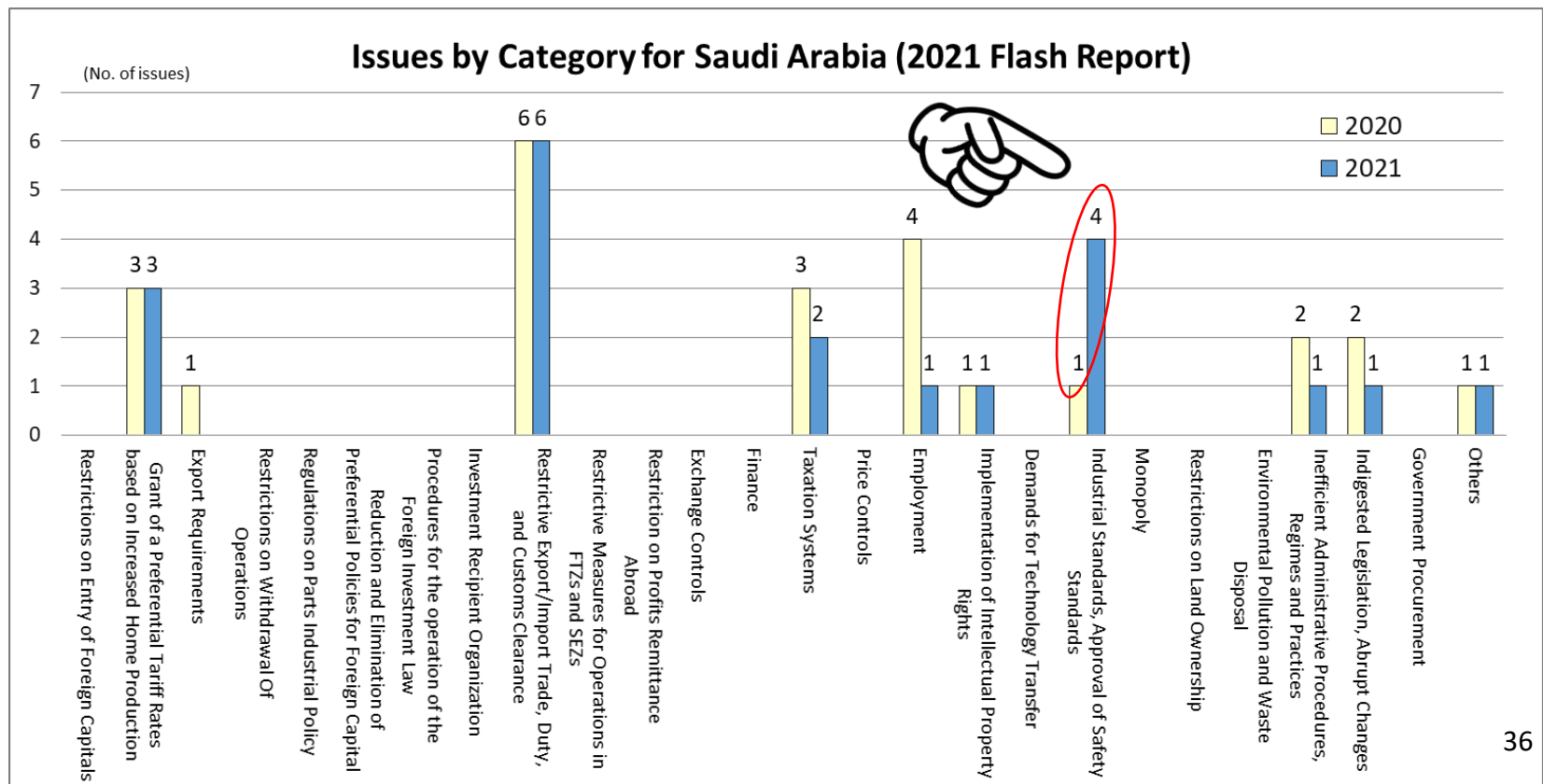
### ④ Government Procurement

• A law was formulated which requires that preference be given to certain types of suppliers, including small to medium enterprises. This allows the government to impose restrictions on the purchase of foreign goods, works and services under certain conditions.

## 7. Middle East and Africa Saudi Arabia ①

### Key Points

- Although there was a decrease in issues concerning “Employment,” which had a large number of issues last year, there was a steep rise in issues concerning “Industrial Standards, Approval of Safety Standards.”
- For projects such as EPC projects, there were ongoing issues regarding requirements to use Saudi-produced products and to procure locally.
- Taxation systems are being applied in a discriminatory manner to overseas companies compared to domestic companies.



## 7. Middle East and Africa Saudi Arabia ②

### ① Restrictive Export/Import Trade, Duty, and Customs Clearance

• Importers are obligated to use the SABER platform introduced in 2019 which requires the advance registration of technical information, safety testing reports, and relevant shipping documentation (proof of place of origin, bill of loading, and commercial invoice) and the obtaining of proof of this. Furthermore, for certain electrical products, the registration of IEC (International Electrotechnical Commission) CB (certification body) reports and obtaining of a Saudi SASO recognition certificate (SIRC) are also required. In addition to this, there were complaints that these rules are vague and that costs were incurred obtaining proofs and certifications.

### ② Industrial Standards, Approval of Safety Standards

• The number of issues concerning “Industrial Standards, Approval of Safety Standards” rose sharply from one last year to four this year.

• Saudi Arabia is planning to introduce RoHS and as part of this, it is considering the impractical requirement of requiring all homogenous materials (materials that cannot be separated or dismantled into different materials through mechanical processes such as unscrewing, disconnecting, fragmenting, crushing or grinding) to be examined.

• It was also pointed out that unlike European RoHS, there are no provisions for the exemption of substances, which is impractical.

### ③ Taxation Systems

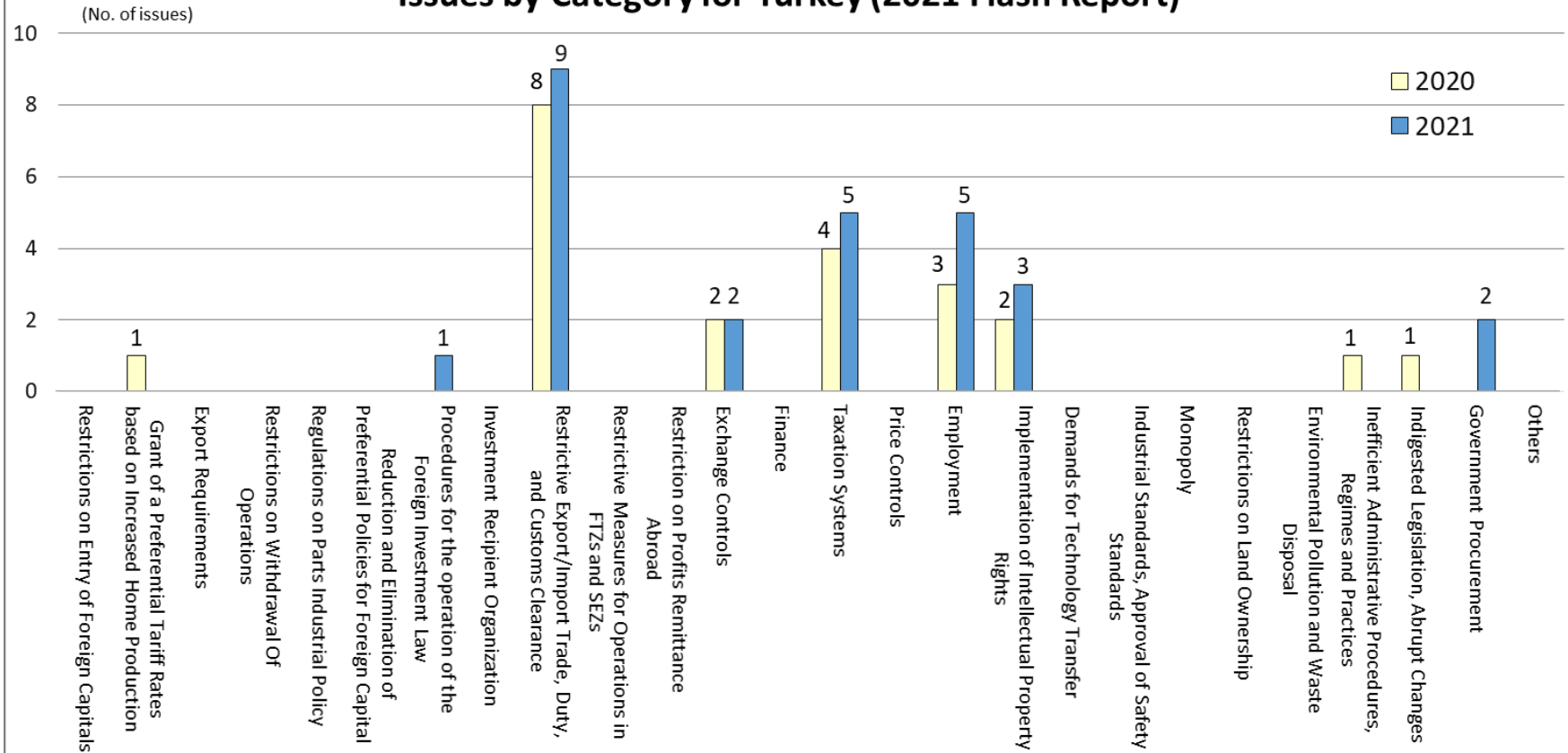
• The corporate tax rate for foreign companies is 20% while it is only 2.5% for domestic companies. This hinders fair competition between foreign and domestic companies for business investment projects (such as IPP and IWP) and reduces motivation for foreign companies to participate in such projects.

## 7. Middle East and Africa Turkey ①

### Key Points

- The introduction of additional tariffs since 2020 has increased duties on many items.
- There were calls for an EPA and a social security agreement to be made.

Issues by Category for Turkey (2021 Flash Report)



## 7. Middle East and Africa Turkey ②

### **① Restrictive Export/Import Trade, Duty, and Customs Clearance**

• Since April 2020, additional tariffs have been levied on a wide range of items and this has continued into 2021. EU countries are exempt from these tariffs meaning that Japanese products are unable to compete on price. There are calls for the swift conclusion of an EPA.

### **② Industrial Standards, Approval of Safety Standards**

• Clock products that do not have an EU REACH test report are unable to clear customs and responding to this requirement is a large burden. Therefore, there were demands to be able to use information acquired from upstream in supply chains as a substitute.

### **③ Employment**

• To establish PE, five Turkish employees need to be employed for each foreign employee.  
• Social insurance costs have to be paid in both Japan and Turkey, so there are calls for the establishment of a social security agreement between Japan and Turkey.

### **④ Taxation Systems**

• Turkey introduced a digital services tax in March 2020, ahead of international consensus, so there are calls for this tax to be abolished if an international consensus can be reached.

### **⑤ Government Procurement**

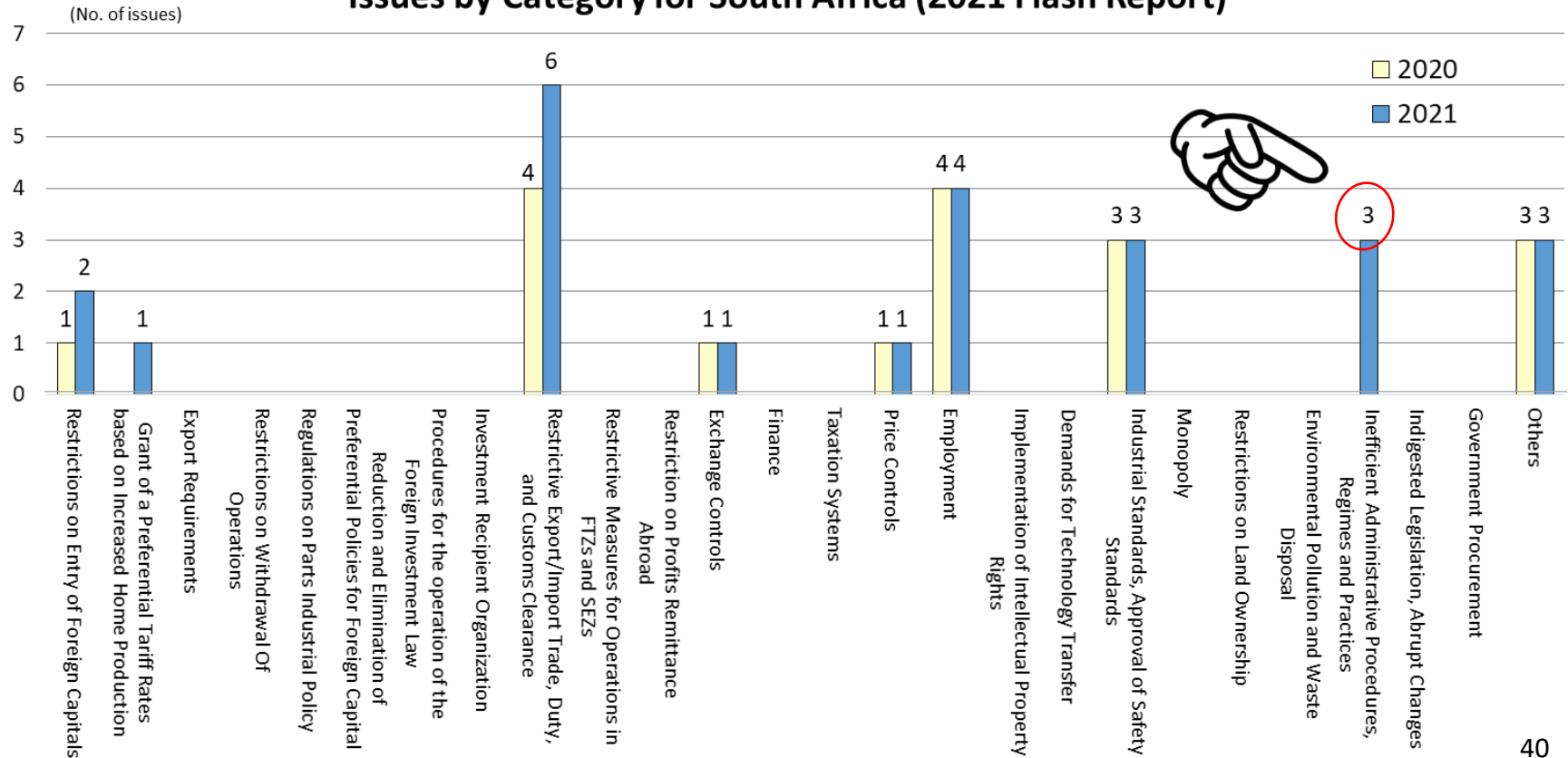
• Government procurement requirements are complex and a tender will not be established unless the number of participants meets or exceeds a certain number. Also, even after a tender has been made, procurement laws require agreements to be denominated in Turkish lira.

## 7. Middle East and Africa South Africa ①

### Key Points

- As in past years, there were many issues concerning “Restrictive Export/Import Trade, Duty, and Customs Clearance,” “Employment” and “Industrial Standards, Approval of Safety Standards.”
- There were three issues concerning “Inefficient Administrative Procedures, Regimes and Practices” despite being none last year.

Issues by Category for South Africa (2021 Flash Report)





## 7. Middle East and Africa South Africa ②

### **① Broad-Based Black Economic Empowerment**

• South Africa is advancing the Broad-Based Black Economic Empowerment (B-BBEE) program comprising measures to improve economic conditions for black people.

The program uses five indicators, including “ownership” and “management control,” to award a rating for contribution to the program, which is used as a standard in areas such as public procurement.

It is difficult for foreign companies, including Japanese companies, to meet criteria in areas such as “ownership,” which has an impact on business.

### **② Restrictive Export/Import Trade, Duty, and Customs Clearance**

• Although duty rates are high overall, South Africa has concluded FTAs with many countries and regions, including the EU. Therefore, Japanese products are falling behind in price competition with products from countries that have an FTA. As a result, there were calls for Japan to conclude an EPA with South Africa.

### **③ Inefficient Administrative Procedures, Regimes and Practices**

• Procedures for obtaining investment approvals have opaque aspects, such as different officials making different demands, and obtaining approvals requires a lot of time and effort.

• Although a bilateral tax agreement has been concluded, some of its provisions are not being honored.

• There were calls for an investment treaty to be agreed from an investment safety perspective.

## 7. Middle East and Africa Other African Countries

### ① Egypt

- There continued to be issues concerning the General Authority For Investment which was established in 2018.

Foreign companies which have a representative office in Egypt are required to establish a company or branch office within three years. In cases where this is not possible, companies are required to provide a suitable explanation and in some cases, licenses for the representative office may be revoked.

- Items such as electrical appliances, furniture, and clocks which are manufactured in overseas factories and do not have ISO quality certification cannot be exported to Egypt and even in cases where certification has been obtained, export procedures based on Egyptian regulations are cumbersome.
- There were calls for Japan to conclude an EPA with Egypt.

### ② Nigeria, Ghana, and Morocco

- There were calls for Japan to conclude EPAs with these countries.

Japanese products are falling behind in price competition with products imported from countries that have FTAs with these countries.

### ③ Kenya

- Issues included it becoming normal for procedures concerning exemptions for ODA-related imports to take over six months, as well as the reality of massive customs clearance delays and huge costs related to container storage incurred as a result of this.

### ④ Nigeria, Uganda, and Tanzania

- There continued to be issues regarding measures to police counterfeit goods.

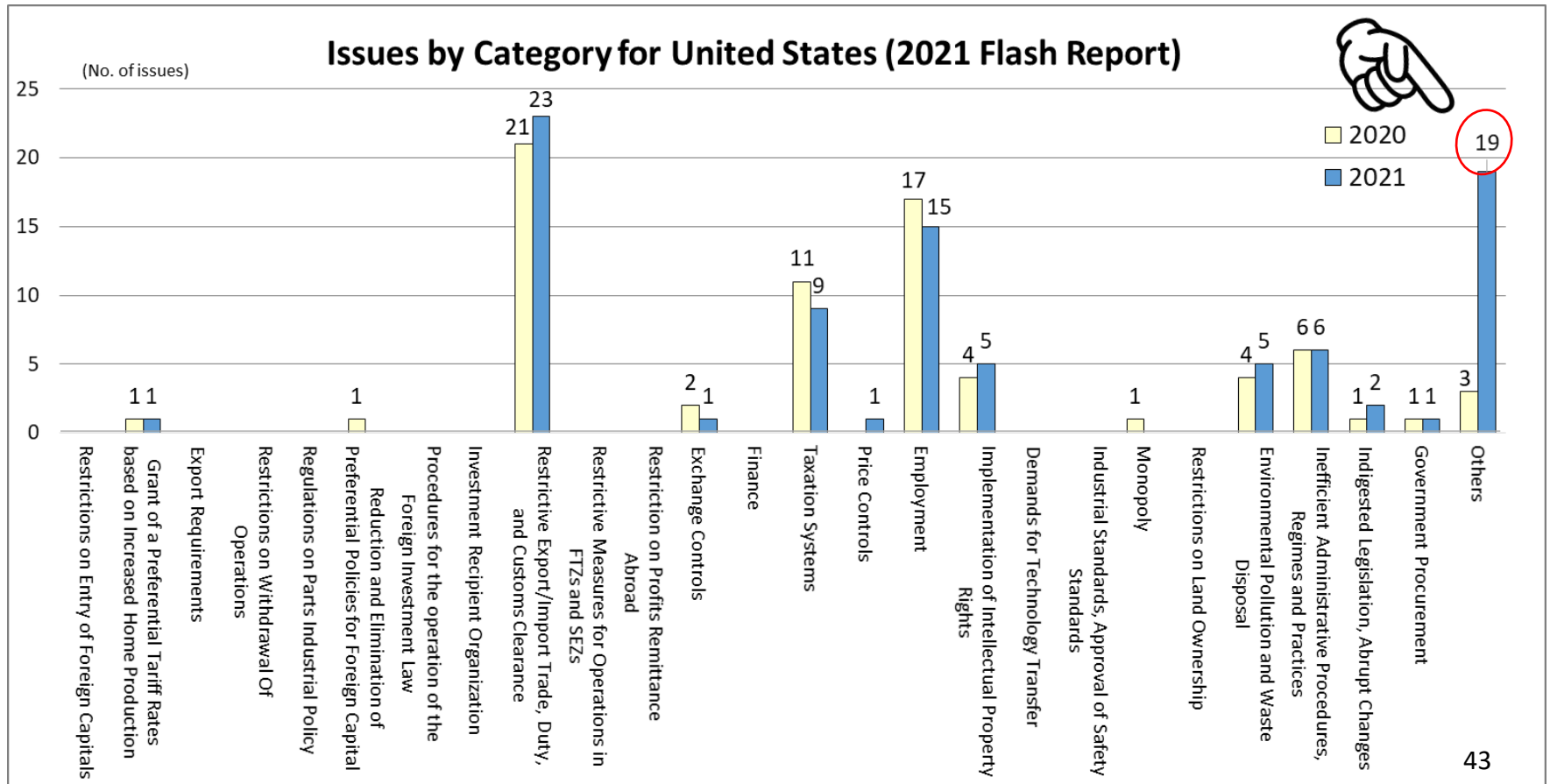
### ⑤ Algeria

- The 2020 Finance Act removed the shareholding obligations on foreign companies (the 51/49 rule) for sectors considered as non-strategic. However, the finalization and implementation of the law is taking time and there are concerns that it will be changed again after enactment.

## 8. Developed Countries US ①

### Key Points

- The overall trend was the same as the previous year. Many issues were caused by the trade friction between the US and China.
- Following the COVID-19 pandemic, there were many issues such as container shortages, semiconductor shortages, and increased difficulty in obtaining visas.



## 8. Developed Countries US ②

### ① US-China Trade Friction

- There were many companies struggling with issues such as various regulations imposed because of the trade friction (such as the 2019 National Defense Authorization Act, the Export Control Reform Act, and the Foreign Investment Risk Review Modernization Act), export control procedures becoming more complex, and increases in duty rates.
- There were calls for Japan to be exempted from measures for steel and aluminum based on Section 232 of the Trade Expansion Act.

### ② Buy American Provisions

- The Biden administration has continued these provisions. In addition to strict conditions for certification as US-made, states are widely introducing their own individual rules. This movement is causing concern among Japanese companies.

### ③ Restrictive Export/Import Trade, Duty, and Customs Clearance

- Continuing issues included high duties and complex calculation methods for clocks and clock parts, strict and cumbersome regulations for labeling place of origin, and idiosyncratic labeling requirements, as well as the overuse and prolongation of anti-dumping and countervailing duties, particularly in regard to steel products.
- There were calls for the reinstatement of the Generalized System of Preferences which expired at the end of 2020.
- There were calls for swift movement on phase two of negotiations over the U.S.-Japan Trade Agreement and complaints that basing rules of origin on change of tariff classification alone would have an adverse effect.

## 8. Developed Countries US ③

### ④ Industrial Standards, Approval of Safety Standards

- The TSCA PBT rules promulgated on January 6, 2021, were enacted after just 60 days.
- PIP (3:1), which has been designated as a prohibited substance, is widely used molded products such as electronic components and there are almost no examples of regulations outside of the US. There was an issue that the time given for tracking this substance within supply chains was very short and that sufficient time is required.

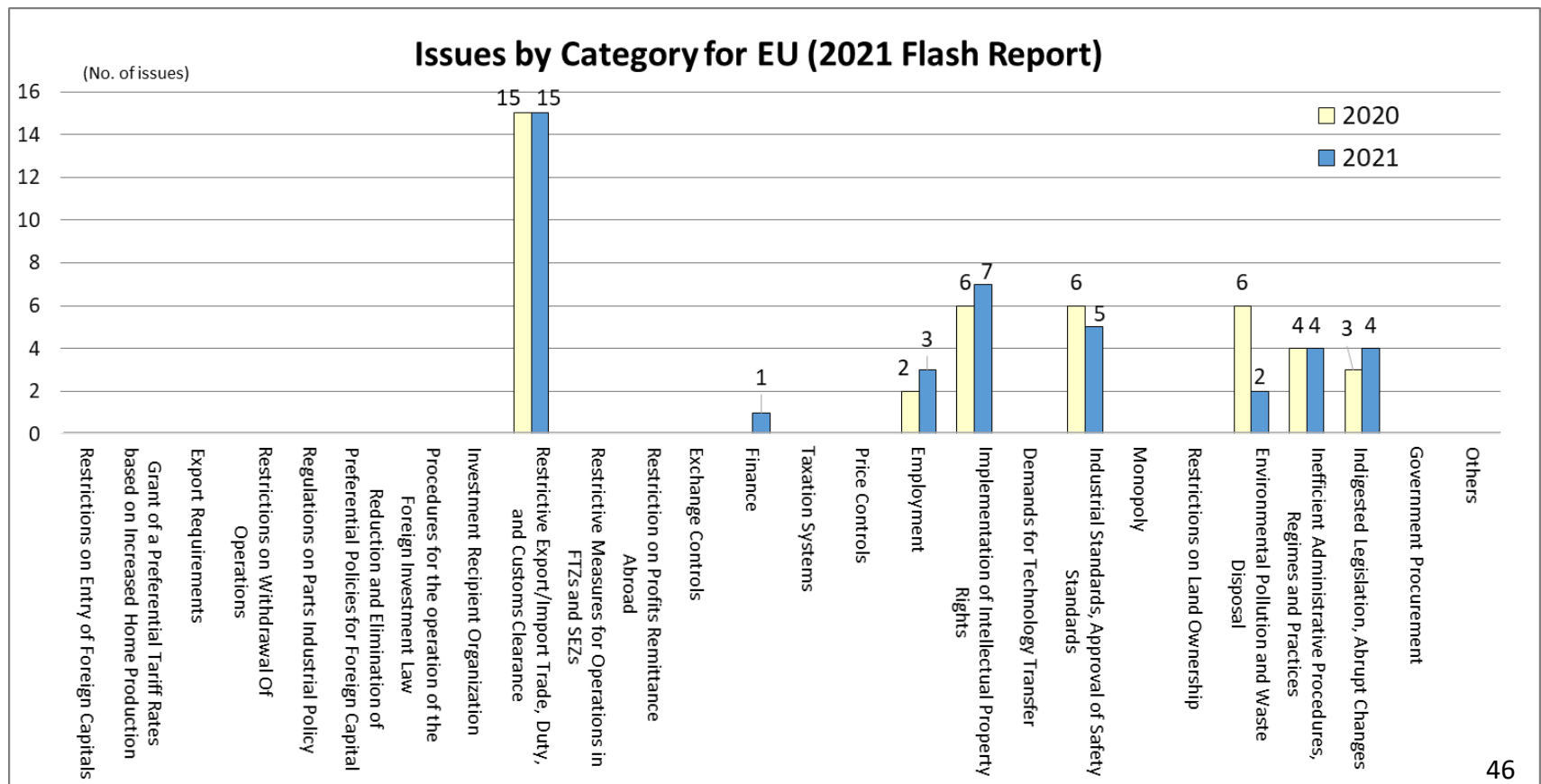
### ⑤ COVID-19 Pandemic

- There were many issues caused by the pandemic, including rises in freight prices and shipping delays due to container shortages, downturns in factory operations, vaccination delays, failure to return to work as an adverse effect of compensation benefits for absence from work, and visa delays and difficulties.

## 8. Developed Countries EU ①

### Key Points

- Although more than two years have passed since the Japan-EU EPA entered into force, there are still issues concerning its implementation.
- Although the confusion caused by Brexit has been subdued, there were issues such as customs payments due to the FTA between the mainland and the UK not having any provisions concerning diagonal cumulation, and cost increases due to a lack of mutual recognition of standards certification systems between the parties.



## 8. Developed Countries EU ②

### ① Japan-EU EPA

- When applying for preferential duties based on “importer’s knowledge” as stipulated in the EPA, there were cases when customs did not understand the concept of this arrangement and proof of place of origin was submitted after the fact.

### ② Brexit

- Although the deadline for submission of the questionnaire was in February 2021, after Brexit took place, there were not many specific issues concerning Brexit. However, despite a Japan-UK EPA being concluded after the UK was withdrawn from the Japan-EU EPA, there were concerns about customs burdens due to the EU-UK FTA not having any provisions concerning diagonal cumulation.
- There were calls for the mutual recognition of batch tests of pharmaceutical products.

### ③ Issues at the Member Country Level

- There continued to be an issue with the inconsistent handling of private copying levy systems between countries.
- In response to countries such as the UK, France, Italy, and Spain unilaterally introducing digital services taxes ahead of an international consensus, there were calls that this should have been delayed until a consensus between a significant number of countries could be reached.