
REGULATORY OVERVIEW

A summary of the main PRC laws, rules and regulations applicable to our current business and operations is set out below.

INDUSTRY POLICIES AND REGULATIONS

Foreign Investment in Dairy Farming and Production of Dairy Products

Guidance on foreign investment in different industries in the PRC can be found in the Foreign Investment Industrial Guidance Catalogue (《外商投資產業指導目錄》), or the Catalogue, jointly issued by NDRC and MOFCOM and such Catalogue will be amended and re-promulgated from time to time by these two government authorities. Industries generally fall into four categories for the purposes of guiding foreign investment, namely, encouraged, permitted, restricted and prohibited. The Catalogue only lists out specific industries falling under the encouraged, restricted and prohibited categories and what is not listed there would fall into the permitted category. The current effective version of the Catalogue was issued on December 24, 2011 and became effective on January 30, 2012. According to the 2011 Catalogue, dairy farming and production of dairy products should both belong to the permitted category.

Modern Husbandry and Dairy Industry

Since 2006, the State Council, the Ministry of Agriculture of the PRC (中華人民共和國農業部), or MOA, and NDRC have promulgated a series of policies aiming at promoting the development of modern husbandry and the healthy and sustainable development of the dairy industry. These policies include the Several Opinions of the State Council Concerning the Promotion of Sustainable and Healthy Development of Husbandry (《國務院關於促進畜牧業持續健康發展的意見》), promulgated by the State Council in January 2007, the Several Opinions of the State Council Concerning the Promotion of Sustainable and Healthy Development of the Dairy Industry (《國務院關於促進奶業持續健康發展的意見》), promulgated by the State Council in September 2007, the Circular of the General Office of the State Council Regarding the Transmittal of the Outlines of the Restructuring and Revitalization Plan for the Dairy Industry issued by NDRC and Other Ministries (《國務院辦公廳關於轉發發展改革委等部門奶業整頓和振興規則綱要的通知》), issued by the General Office of the State Council in November 2008, the Development Plan of Major Dairy Cow Farming Regions (2008-2015) (《全國奶牛優勢區域布局規劃(2008-2015)》), promulgated by MOA in January 2009 and the Several Opinions of MOA Concerning the Acceleration of the Work of Promoting Standardized Large Scale Raising and Breeding of Livestock and Poultry (《農業部關於加快推進畜禽標準化規模養殖的意見》), issued by MOA in January 2010.

On June 26, 2009, the Ministry of Industry and Information Technology of the PRC (中華人民共和國工業和信息化部) and NDRC released Dairy Product Industrial Policies (2009 Version) (《乳製品工業產業政策(2009年修訂)》). Investment in dairy products must comply with certain admission conditions. For example, to engage in dairy products processing and manufacturing, investors shall have stable and controllable bases of raw milk supply; for new dairy product processing projects, the supply of raw milk for no lower than 40% of its process capacity shall come from stable and

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controllable supply bases; for rebuilt dairy product processing projects, the proportion should be no lower than 75%; all raw fresh milk used by liquid milk production enterprises must come from stable and controllable supply bases; and for formula milk powder production enterprises, the proportion shall be no lower than 50%.

Large-Scale Animal Raising and Breeding Industry

Recordal of Animal Breeding Farms

The Husbandry Law of the PRC (《中華人民共和國畜牧法》), or the Husbandry Law, which was promulgated by the Standing Committee of the National People’s Congress of the PRC (全國人民代表大會常務委員會), or the Standing Committee of the NPC, on December 29, 2005 and became effective on July 1, 2006, stipulates the conditions an animal breeding farm must meet, and requires the owner of a breeding farm to submit the name of the farm, address, strains of livestock and poultry as well as scale of breeding for recordal with the administrative department for animal husbandry and veterinary medicine under the people’s government at the county level where the farm is located, and to obtain labels and codes for the livestock and poultry.

Disease Prevention

The Law on Animal Epidemic Prevention of the PRC (《中華人民共和國動物防疫法》), or the Law on Animal Epidemic Prevention, which was amended by the Standing Committee of the NPC on June 29, 2013, and the Measures for the Examination of Animal Epidemic Prevention Conditions (《動物防疫條件審查辦法》), which was promulgated by MOA on January 21, 2010 and became effective on May 1, 2010, stipulate the conditions for prevention of animal epidemics that an animal breeding farm shall meet and require the operator of an animal breeding farm to apply to the administrative departments for veterinary medicine under the people’s government at the county level for a certificate for meeting animal epidemic prevention conditions.

According to the Law on Animal Epidemic Prevention, animal epidemic prevention institutions shall monitor the arising and spreading of animal epidemic; any entities and individuals engaged in animal raising, slaughtering, isolation, transportation or operation must report to the local administrative departments for veterinary medicine, animal health supervision institutions or animal epidemic prevention and control institutions immediately once they find the animals have got epidemics or suspect epidemics, and shall take measures to prevent the spread of such epidemics.

Where animals are eradicated and animal products and relevant goods are destroyed through mandatory measures taken in the course of prevention, control and elimination of animal epidemics, people’s governments at or above the county level shall provide compensation. The specific rates and measures for compensation shall be determined and adopted by the department of finance under the State Council together with the departments concerned.

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Water Resource

Pursuant to the requirements of the “Water Law of the People’s Republic of China” (《中華人民共和國水法》) (promulgated on August 29, 2002 and effective as of October 1, 2002), “Regulation on the Administration of the License for Water Drawing and the Levy of Water Resource Fees” (《取水許可和水資源費徵收管理條例》) (promulgated on February 21, 2006 and effective as of April 15, 2006), “Measures for the Administration of Water Abstraction Licensing” (《取水許可管理辦法》) (promulgated and effective as of April 9, 2008) and “Implementation Measures for the Administration of the License for Water Drawing and the Levy of Water Resource Fees in Inner Mongolia” (《內蒙古自治區取水許可和水資源費徵收管理實施辦法》) (promulgated on January 7, 2008 and effective as of March 1, 2008), any entity or individual that draws water resources must, except for certain circumstances, apply for a permit for water drawing, and pay water resource fees. The permit for water drawing should include the term for water drawing, the volume of water for drawing, the purpose of water drawing, the type of the water source, the location of water drawing and water withdrawal and the volume of water withdraw. An applicant may not build water drawing engineering structures or facilities until its application for water drawing has been approved by the approval authority. After the construction of water drawing engineering structures or facilities is completed and upon satisfactory inspection, the approval authority will issue the permit for water drawing. For any water drawing by an entity or individual that exceeds the planned volume, water resource fees shall be charged progressively on the excessive part. The amount of payment of water resource fees will be determined according to the levy standard of water resource fee at the locality of the water intake and the actual volume of water for drawing.

Quality of Dairy Products

According to the Regulation on the Supervision and Administration of the Quality Safety of Dairy Products (《乳品質量安全監督管理條例》), which was promulgated by the State Council and became effective on October 9, 2008, dairy animal breeders, raw milk purchasers, dairy products production enterprises and sellers are the first responsible persons who shall assume responsibility for the quality safety of the dairy products which they produce, purchase, transport and sell. Fresh milk and dairy products must comply with the national safety standards governing the quality of dairy products, which are developed by the competent health department of the State Council and amended from time to time in accordance with the results of risk monitoring and risk assessments. The addition of non-edible chemical substances or other substances which may be harmful to human health during the production process of dairy products is prohibited.

According to the Administrative Measures for Fresh Milk Production and Procurement (《生鮮乳生產收購管理辦法》), which was promulgated by MOA and became effective on November 7, 2008, provides that dairy animal breeders, purchasers of raw fresh milk and transporters of raw fresh milk are the first responsible persons who shall assume responsibility for the quality safety of the raw fresh milk that they produce, purchase, transport or sell. Raw fresh milk produced, purchased, stored, transported or sold shall comply with the national quality safety standards for dairy products. No substance is permitted to be added in during the processes of production, procurement, storage, transportation and sale of raw fresh milk. Dairy products producers, dairy animal breeders, production

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cooperatives for farmers of dairy animals who wishes to open raw fresh milk purchase stations shall apply to the administrative department for animal husbandry and veterinary medicine under the people’s government at the county level where they are located for a raw fresh milk purchase permit. Such raw fresh milk purchase permits are valid for a period of two years.

The owners of vehicles transporting raw fresh milk must obtain for such vehicles permits for transportation of raw fresh milk issued by the administrative department for animal husbandry and veterinary medicine under the people’s government at the county level where they are located.

Prevention and Control of Pollution

The Regulations on the Prevention and Control of Pollution Caused by Large-scale Breeding of Livestock and Poultry (《畜禽規模養殖污染防治條例》), issued by the State Council on November 11, 2013 and implemented since January 1, 2014, provide that, livestock and poultry farms and breeding districts shall be built, reconstructed and expanded to meet the requirements of animal epidemic prevention and in compliance with the development plan of animal husbandry and pollution prevention and control plan of livestock and poultry breeding, and such farms and districts must undergo environmental impact assessment. In the livestock and poultry farms and breeding districts there must be relevant facilities for feces of livestock and poultry, shunting sewage and rains, storage of feces and sewage, and comprehensive utilization and harmless treatment facilities for anaerobic digestion and stack retting of feces, organic fertilizer processing, methane producing, separation and delivery of dregs and fluid of methane, sewage treatment and corpse treatment. China encourages and supports comprehensive use of wastes of breeding of livestock and poultry by way of rebuilding farms with manure, production methane and organic fertilizer, and the like; and China encourages and supports the disposal and containment of wastes of breeding of livestock and poultry by way of combining planting and breeding to utilize wastes such as manure of livestock and poultry and sewage nearby; and China encourages and supports comprehensive utilization such as methane and organic fertilizer production and construction of facilities for delivery and utilization of dregs and fluid of methane and methane electricity generation and the like.

Food Industry in General

Food Safety

The Food Safety Law of the PRC (《中華人民共和國食品安全法》), or the Food Safety Law, which was adopted by the Standing Committee of the NPC on February 28, 2009 and became effective on June 1, 2009, and its implementation regulation (《中華人民共和國食品安全法實施條例》), which was promulgated by the State Council and became effective on July 20, 2009, adopt measures and requirements in the following aspects to improve food safety and prevent large scale food safety accidents:

- strengthen the role of local government in the supervision and coordination of food safety regulation work;

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- strengthen food safety risk monitoring, assessment; early intervention and quick control over food safety accidents;
- revise the standards for the use of food additives and strengthen regulation of use of food additives;
- establish a food recall system;
- abolish food safety inspection exemption system; and
- clarify the fundamental principles in formulating food safety standards.

Food Production

In accordance with the Food Safety Law, China implements a licensing system on food production.

According to the Measures for the Administration of Food Production Licenses (《食品生產許可管理辦法》), which was issued by the General Administration of Quality Supervision, Inspection and Quarantine of the PRC (中華人民共和國國家質量監督檢驗檢疫總局), or AQSIQ, on April 7, 2010 and became effective on June 1, 2010, food production enterprises must meet the required production conditions stipulated therein and must obtain food production licenses. An enterprise intending to produce food shall apply to the local quality and technical supervision department where food will be produced. The effective period for a food production license is three years.

According to the Inspection and Regulation Rules for Quality and Safety of Dairy Products (《乳品質量安全監督管理條例》), a food production license shall be obtained from the local quality supervision governmental department for entering into the dairy products production industry, and any individual or entity shall not produce any dairy products without such a license.

Food Inspection

In accordance with the Food Safety Law, China has implemented an inspection system relating to food production and operations. The state and local food safety supervision and administrative departments are required to carry out food inspection and may not exempt any food from inspection. The quality and technical supervision departments, industry and commerce administrative departments and food and drug supervision and administration departments at and above the county level shall carry out food inspections by taking samples on a regular or irregular basis. An enterprise engaging in the production or operations of food may itself inspect the food it produces, or entrust a qualified food inspection institution to undertake the inspection.

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Product Quality

The Product Quality Law of the PRC

Products that we manufacture are subject to the laws, rules and regulations in relation to the product quality in the PRC. The Product Quality Law of the PRC (《中華人民共和國產品質量法》), or the Product Quality Law, which was promulgated by the Standing Committee of the NPC on February 22, 1993 and became effective on September 1, 1993 and amended on July 8, 2000, is the principal law governing the supervision and administration of product quality.

According to the Product Quality Law, manufacturers are liable for the quality of products they produce and sellers must take reasonable actions to ensure the quality of the products they sell.

The manufacturer shall be liable to compensate for any bodily harm or damage to property (other than the defective product itself) caused by the defective products of the manufacturer unless the manufacturer is able to prove that:

- it has not circulated the product;
- the defect did not exist at the time when the product was circulated; or
- the state of scientific or technological knowledge at the time when the product was circulated was not such that it allowed the defect to be discovered.

The seller will be liable to compensate for any bodily harm or damage to property (other than the defective product itself) caused by the defective products it sold if such defect is attributable to the seller. A person who is harmed or whose property is damaged by the defective product may claim such loss against the manufacturer or the seller.

Agricultural Products Safety

The Agricultural Products Safety Law of the PRC (《中華人民共和國農產品質量安全法》), or the Agricultural Products Safety Law, which was promulgated by the Standing Committee of the NPC on April 29, 2006 and became effective on November 1, 2006, governs the supervision and administration of the quality and safety of primary agricultural products, namely plants, animals, microorganisms and other products obtained in the course of agricultural activities. The Agricultural Products Safety Law regulates the agricultural products in the following aspects to ensure that they meet the requirements necessary to protect people’s health and safety, including:

- the quality and safety standards of agricultural products;
- the production places of agricultural products;
- the production of agricultural products; and
- the packaging and labeling of agricultural products.

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According to the Agricultural Products Safety Law, producers of agricultural products shall reasonably use chemical products in order to avoid contaminating production places of agricultural products. The agricultural producers shall also ensure that the preservatives, additives and other chemicals used in the process of production, packaging, preservation, storage and transportation of agricultural products shall be in conformity with the relevant compulsory technical specifications set by the State.

Organic Product Certification

According to Measures for the Administration of Organic Product Certification (《有機產品認證管理辦法》), which was promulgated by General Administration of Quality Supervision, Inspection and Quarantine of the PRC on November 5, 2004, became effective on April 1, 2005 and amended on November 15, 2013, producers of organic products may apply to authorized certification bodies for organic product certification. The certification bodies shall arrange for inspectors to carry out on-site inspection of the production or processing facilities of organic products in accordance with the Implementation Rules for Organic Product Certification (《有機產品認證實施規則》). The certification bodies will authorize testing agencies with statutory qualifications to test the products for which certification is applied. Where the requirements of organic product certification are met, the certification bodies shall issue organic product certification to the applicant. In addition, the certification bodies shall implement effective tracking and inspection of the certified products as well as their production and processing processes in accordance with the Implementation Rules for Organic Product Certification so as to ensure the ongoing compliance of the certificate holders. Without organic product certification, no products may be labeled or identified as organic or organically produced which would mislead the public that the said products are organic products.

Product Liabilities

Pursuant to the General Principles of the Civil Law of the PRC (《中華人民共和國民法通則》), which was promulgated by the National People’s Congress of the PRC on April 12, 1986 and became effective on January 1, 1987, and the Law on the Protection of Consumers’ Rights and Interests of the PRC (《中華人民共和國消費者權益保護法》), which was promulgated by the Standing Committee of the NPC on October 31, 1993 and became effective on January 1, 1994, and further amended by the Standing Committee of the NPC on August 27, 2009 and October 25, 2013, both manufacturers and distributors shall be held jointly liable for losses and damage suffered by consumers caused by the defective products they manufacture or distribute.

The Tort Liability Law (《中華人民共和國侵權責任法》), which was promulgated by the Standing Committee of the NPC on December 26, 2009 and became effective on July 1, 2010, provides that where a product endangers personal life or property due to its defect, the manufacturers and the distributors shall bear liability in tort.

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IMPORT RESTRICTIONS TO PREVENT MAD COW DISEASE

MOA and AQSIQ promulgated an announcement regarding Bovine Spongiform Encephalopathy, or BSE (also known as Mad Cow Disease) on March 1, 2001, which forbids the imports of any cows and heifers directly or indirectly from countries which had found BSE cases within their territories. The announcement also provides a list to show the countries which had found BSE cases till then, and any country which finds BSE cases from then on will be added into the list automatically. Since 2001, MOA and AQSIQ have promulgated announcements from time to time to forbid imports of cows and relevant products from the countries which found BSE cases, such as Canada (in 2003) and Brazil (in 2012).

Land Used for Agricultural Facilities

According to the Circular of Ministry of Land and Resources and MOA on Relevant Issues Concerning Improving the Administration of Land Used for Agricultural Facilities (《國土資源部、農業部關於完善設施農用地管理有關問題的通知》), which was promulgated and became effective on September 30, 2010, land used for agricultural facilities is divided into two categories, land for production facilities and land for ancillary facilities, which in nature are different from land used for non-agricultural construction project and are treated and administered as agricultural land.

TAXATION

Enterprise Income Tax

According to the Enterprise Income Tax Law of the PRC (《中華人民共和國企業所得稅法》), or the EIT Law, which was promulgated by the National People’s Congress of the PRC on March 16, 2007 and became effective on January 1, 2008, and the Implementation Rules to the EIT Law (《中華人民共和國企業所得稅法實施條例》), or the Implementation Rules, which was promulgated by the State Council on December 6, 2007 and became effective on January 1, 2008, enterprises are divided into resident enterprises and non-resident enterprises. A resident enterprise must pay enterprise income tax on its income deriving from both inside and outside China at the rate of enterprise income tax of 25.0%. A non-resident enterprise that has an establishment or place of business in the PRC shall pay enterprise income tax on its income deriving from inside China and obtained by such establishment or place of business, and on its income which derives from outside China but has actual relationship with such establishment or place of business, at the rate of enterprise income tax of 25.0%. A non-resident enterprise that does not have an establishment or place of business in China, or has an establishment or place of business in China but the income has no actual relationship with such establishment or place of business, shall pay enterprise income tax on its income deriving from inside China at the reduced rate of enterprise income tax of 10.0%.

According to the EIT Law and the Implementation Rules, income of an enterprise generated from farming cattle and poultry or primary process of agricultural products will be exempted from enterprise income tax.

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Value-Added Tax

Pursuant to the Provisional Regulations on Value-added Tax of the PRC (《中華人民共和國增值稅暫行條例》), or VAT Regulations, which was amended by the State Council on November 5, 2008 and became effective on January 1, 2009, and its implementation rules (《中華人民共和國增值稅暫行條例實施細則》), which was amended by the Ministry of Finance of the PRC (中華人民共和國財政部) on October 28, 2011, entities or individuals engaging in sale of goods, provision of processing services, repairs and replacement services or importation of goods within the territory of the PRC shall pay value-added tax. Unless provided otherwise, the rate of value-added tax for general value-added tax payers is 17.0%. Self-produced agricultural products sold by agricultural producers shall be exempt from value-added tax.

DIVIDEND DISTRIBUTION

Under the Law of the PRC on Wholly Foreign-Owned Enterprises (《中華人民共和國外資企業法》), which was amended by the Standing Committee of the NPC on October 31, 2001, and the Law of the PRC on Sino-foreign Equity Joint Ventures (《中華人民共和國中外合資經營企業法》), which was amended by the Standing Committee of the NPC on March 15, 2001, foreign-invested enterprises may not distribute after-tax profits unless they have contributed to the funds as required by PRC laws and regulations and have set off financial losses of previous accounting years.

According to the EIT Law and the Implementation Rules, dividends paid to its foreign investors are subject to a withholding tax rate of 10.0%, unless relevant tax agreements entered into by the PRC Government provide otherwise.

The PRC and the government of Hong Kong entered into the Arrangement between the Mainland of the PRC and Hong Kong for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (《內地和香港特別行政區關於對所得稅避免雙重徵稅和防止偷漏稅的安排》), or the Arrangement on August 21, 2006. According to the Arrangement, the withholding tax rate on dividends paid by a PRC company to a Hong Kong resident is 5.0%, provided that such Hong Kong resident directly holds at least 25.0% of the equity interests in the PRC company, and 10.0% if the Hong Kong resident holds less than 25.0% of the equity interests in a PRC company. In order to claim for the beneficial treatment on the withholding tax rate for dividends at 5% under the Arrangement on August 21, 2006, a Hong Kong resident is required to be the beneficial owner of dividends received, which will be subject to the assessment and approval of the competent PRC tax authorities based on relevant parameters in determining beneficial ownership status under prevailing PRC tax regulations.

Pursuant to the Circular of the State Administration of Taxation on Relevant Issues relating to the Implementation of Dividend Clauses in Tax Agreements (《國家稅務總局關於執行稅收協定股息條款有關問題的通知》), which was promulgated by SAT and became effective on February 2, 2009,

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all of the following requirements are satisfied where a fiscal resident of the other party to a tax agreement needs to be entitled to such tax agreement treatment as being taxed at a tax rate specified in the tax agreement for the dividends paid to it by a Chinese resident company:

- such a fiscal resident who obtains dividends should be a company as provided in the tax agreement;
- owner’s equity interests and voting of the Chinese resident company directly owned by such a fiscal resident reaches a specified percentage; and
- the equity interests of the Chinese resident company directly owned by such a fiscal resident, at any time during the twelve months prior to the obtainment of the dividends, reach a percentage specified in the tax agreement.

According to the Administrative Measures for Non-resident Enterprises to Enjoy Treatments under Tax Treaties (Trial) (《非居民享受稅收協定待遇管理辦法(試行)》), or the Administrative Measures, which became effective on October 1, 2009, where a non-resident enterprise (as defined under the PRC tax laws) that receives dividends from a PRC resident enterprise wishes to enjoy the favorable tax benefits under the tax arrangements, it shall submit an application for approval to the competent tax authority. Without being approved, the non-resident enterprise may not enjoy the favorable tax treatments provided in the tax agreements.

ENVIRONMENTAL PROTECTION

The Environmental Protection Law of the PRC (《中華人民共和國環境保護法》), or the Environmental Protection Law, which was promulgated by the Standing Committee of the NPC and became effective on December 26, 1989, establishes the legal framework for environmental protection in the PRC. The environmental protection department of the State Council supervises and administers the environmental protection work in the PRC, and establishes national standards for the environmental quality and discharge of pollutants. Local environmental protection bureaus are in turn responsible for the environmental protection work within their respective jurisdictions.

Prevention and Control of Pollution

The Law of the PRC on Prevention and Control of Water Pollution (《中華人民共和國水污染防治法》), which was amended by the Standing Committee of the NPC on February 28, 2008, the Law of the PRC on Prevention and Control of Atmospheric Pollution (《中華人民共和國大氣污染防治法》), which was amended by the Standing Committee of the NPC on April 29, 2000, and the Law of the PRC on Prevention and Control of Environmental Noise Pollution (《中華人民共和國環境噪聲污染防治法》), which was promulgated by the Standing Committee of the NPC on October 29, 1996 and became effective on March 1, 1997, as well as the Law of the PRC on the Prevention and Control of Environmental Pollution by Solid Wastes (《中華人民共和國固體廢物污染環境防治法》), which was amended by the Standing Committee of the NPC December 29, 2004, prescribe the details for the prevention and control of water pollution, atmospheric pollution, noise pollution and solid waste pollution.

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Environmental Protection on Construction Projects

The Environmental Impact Appraisal Law (《中華人民共和國環境影響評價法》), which was promulgated by the Standing Committee of the NPC on October 28, 2002 and became effective on September 1, 2003, the Administration Rules on Environmental Protection of Construction Projects (《建設項目環境保護管理條例》), which was promulgated by the State Council and became effective on November 29, 1998, and the Measures for the Administration of Examination and Approval of Environmental Protection Facilities of Construction Projects (《建設項目竣工環境保護驗收管理辦法》), which was promulgated by the State Environmental Protection Administration of the PRC (中華人民共和國國家環境保護總局) on December 27, 2001 and became effective on February 1, 2002, require enterprises planning construction projects to engage qualified professional institution to provide assessment reports on the environmental impact of such projects. The assessment report must be approved by the competent environmental protection authorities prior to commencement of any construction work. Enterprises must file an application for examination and acceptance of the environmental protection facilities upon the completion of the construction project. A construction project may be formally put into production or use only if the corresponding environmental protection facilities have passed the acceptance examination.

LABOR

Employment Contracts

The Labor Contract Law of the PRC (《中華人民共和國勞動合同法》), or the Labor Contract Law, which was promulgated by the Standing Committee of the NPC on June 29, 2007 and became effective on January 1, 2008 and as amended on December 28, 2012, governs the relationship between employers and employees and provides for specific provisions in relation to the terms and conditions of an employment contract. The Labor Contract Law stipulates that employment contracts must be in writing and signed. It imposes more stringent requirements on employers in relation to entering into fixed-term employment contracts, hiring of temporary employees and dismissal of employees.

Social Security

Under applicable PRC laws and regulations, including the Social Insurance Law of The PRC (《中華人民共和國社會保險法》), which was promulgated by the Standing Committee of the NPC on October 28, 2010 and became effective on July 1, 2011, and the Regulations on the Administration of Housing Accumulation Fund (《住房公積金管理條例》), which was amended by the State Council on March 24, 2002, employers and/or employees (as the case may be) are required to contribute to a number of social security funds, including funds for basic pension insurance, unemployment insurance, basic medical insurance, occupational injury insurance, maternity leave insurance, and to housing provident funds. These payments are made to local administrative authorities and employers who fail to contribute may be fined and ordered to rectify within a stipulated time limit.

PRODUCTION SAFETY

Pursuant to the Production Safety Law of the PRC (《中華人民共和國安全生產法》), or the Production Safety Law, which was promulgated by the Standing Committee of the NPC on June 29,

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2002 and became effective on November 1, 2002, is the principal law governing the supervision and administration of production safety in the PRC. This law requires production entities to meet the relevant legal requirements, such as providing its staff with training and a handbook on production safety and providing safe working conditions in compliance with relevant laws, rules and regulations. Any production entities unable to provide the required safe working conditions may not engage in production activities. Violation of the Production Safety Law may result in the imposition of fines and penalties, the suspension of operations, an order to cease operations, or even criminal liability in severe cases.

Pursuant to the Regulations on Safety Supervision of Special Equipment (《特種設備安全監察條例》), which was promulgated by the State Council on March 11, 2003 and became effective on June 1, 2003 and amended on January 24, 2009, special equipment, including boilers, pressure vessels (including gas cylinders), pressure pipelines, elevators, lifting alliances, passenger ropeways, and large amusement devices, which relate to safety of human lives or having high risks, shall be registered with competent departments for safety supervision and administration of special equipment. The operators of special equipment shall not engage in operation or management of the special equipment until they have passed the examination organized by the departments for safety supervision and administration of special equipment.

FOREIGN EXCHANGE REGISTRATION

Pursuant to Circular on Foreign Exchange Issues Related to Equity Finance and Round-Trip Investments by Domestic Residents through Offshore Special Purpose Vehicles (《國家外匯管理局關於境內企業通過境外特殊目的公司融資及返程投資外匯管理有關問題的通知》), or Circular 75, which was promulgated by SAFE on October 21, 2005 and became effective on November 1, 2005, (i) a domestic resident, including a domestic resident natural person or a PRC company, must register with the local SAFE branch before it establishes or controls a special purpose vehicle, or an SPV for the purpose of conducting overseas equity financing; (ii) when a domestic resident contributes assets or equity interests to an overseas SPV, such domestic resident must register its interests in the overseas SPV or any change to its interest in the overseas SPV with the local SAFE branch; and (iii) when the overseas SPV undergoes a material change in capital outside the PRC, such as a change in share capital or merger and acquisition, the domestic resident must register such change with the local SAFE branch.

MERGERS AND ACQUISITIONS BY FOREIGN INVESTORS

The Provisions on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors (《關於外國投資者併購境內企業的規定》), or the M&A Regulation, was promulgated by MOFCOM, the State Assets Supervision and Administration Commission of the State Council (國務院國有資產監督管理委員會), SAT, SAIC, CSRC and SAFE on August 8, 2006 and became effective on September 8, 2006 as amended on June 22, 2009 by MOFCOM. Under the M&A Regulation, the following scenarios qualify as an acquisition of a domestic enterprise by a foreign investor:

- a foreign investor purchases by agreement the equity interests of a domestic enterprise without foreign investment or subscribes for the increased capital of a domestic enterprise without foreign investment, and thus converts the domestic enterprise without foreign investment into a foreign-invested enterprise;

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- a foreign investor establishes a foreign-invested enterprise and use such foreign-invested enterprise to purchase by agreement the assets of a domestic enterprise and operates such assets; or
- a foreign investor purchases by agreement the assets of a domestic enterprise and then contribute such assets as capital to establish a foreign-invested enterprise and operates such assets.

SECURITY REVIEW

Pursuant to the Circular of the General Office of the State Council on the Establishment the Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors (《國務院辦公廳關於建立外國投資者併購境內企業安全審查制度的通知》), which was promulgated on February 3, 2011 and became effective on March 3, 2011, and the Provisions of MOFCOM on the Implementation of the Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors (《商務部實施外國投資者併購境內企業安全審查制度的規定》), which was promulgated on August 25, 2011 and became effective on September 1, 2011, where foreign investors initiate mergers and acquisitions of domestic military industrial enterprises and supportive military industrial enterprises, enterprises surrounding major and sensitive military facilities, and other entities relating to the national defense security; mergers and acquisitions of domestic enterprises relating to important agricultural products, important energies and resources, important infrastructural facilities, important transportation services, key technologies, manufacturing of major equipment and other business related to the national security, which may result in the actual controlling power of foreign investors over those acquired domestic enterprises, the foreign investors shall apply to MOFCOM for the security review of the concerned mergers and acquisitions. Whether a foreign investor’ mergers and acquisitions of a domestic enterprise falls under the scope of mergers and acquisitions security review or not shall be determined in terms of the substance and actual influence of the mergers and acquisitions transaction. No foreign investors may substantially evade mergers and acquisitions security review under any circumstances, including but not limited to by way of holding on behalf of others, trust, multi-level reinvestment, leasing, loans, variable interest entities, or overseas transactions.

INTELLECTUAL PROPERTY

China has adopted legislations related to intellectual property rights, including trademarks, patents and copyrights. China is a signatory party to all major intellectual property conventions, including the Paris Convention for the Protection of Industrial Property, the Madrid Agreement on the International Registration of Marks and Madrid Protocol, the Patent Cooperation Treaty, the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, and the Agreement on Trade-Related Aspects of Intellectual Property Rights.

Regulations on Patents

According to the Patent Law of the PRC (《中華人民共和國專利法》) promulgated on March 12, 1984 and amended on September 4, 1992, August 25, 2000 and December 27, 2008, with the last amendment effective on October 1, 2009, patent protection is divided into three categories, namely,

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invention patent, utility patent and design patent. Invention patents are valid for twenty years from the date of application, while design patents and utility patents are valid for ten years from the date of application. Once an invention patent, utility patent or a design patent is granted, unless otherwise permitted by law, no individual or entities are permitted to engage in the manufacture, use, sale, or import of the product protected by such patent or otherwise engage in the manufacture, use, sale, or import of the product directly derived from applying the production technology or method protected by such patent, without consent of the patent holder. The patent application system in China is different in many ways from that in other countries. The patent system in China uses the “first to file” principle, which means when more than one person files for a patent application for the same invention, the patent will be granted to the person who files the application first. In addition, China requires absolute novelty for an invention to be patentable. Therefore, in general, a patent will be denied if it is publicly known in or outside of China. Although patent rights are national rights, the Patent Cooperation Treaty allows an applicant in one country to seek patent protection for an invention in multiple member countries at the same time by filing an international patent application. However, the fact that a patent application is pending is not a guarantee that a patent will be granted. Furthermore, even if a patent application is granted, the scope of a patent may not be as broad as the applicant requested in the initial application.

Regulations on Trademarks

The Trademark Law of the PRC (《中華人民共和國商標法》), or the Trademark Law, was promulgated in August 1982, subsequently amended on February 22, 1993 and October 27, 2001, and Implementation Regulations on the Trademark Law of the PRC (《中華人民共和國商標法實施條例》) was promulgated on August 3, 2002 by the State Council. These laws and regulations provide the basic legal framework for the regulations of trademarks in China. In China, registered trademarks include commodity trademarks, service trademarks, collective marks and certificate marks. The Trademark Office under SAIC is responsible for the registration and administration of trademarks throughout the country. Trademarks are granted on a term of ten years. Six months prior to the expiration of the ten-year term, an applicant can renewed the application and reapply for trademark protection.

Under the Trademark Law, any of the following acts may be regarded as an infringement of the exclusive right to use of a registered trademark:

- use of a trademark that is identical with or similar to a registered trademark on the same or similar kind of commodities of the trademark registrant’s without the authorization of the trademark registrant;
- sale of commodities infringing upon the exclusive right to use the registered trademark;
- counterfeiting or making, without authorization, representations of a registered trademark, or sale of such representation of a registered trademark; and
- otherwise infringing upon other person’s exclusive right to use a registered trademark and cause damages.

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Violation of the Trademark Law may result in the imposition of fines, confiscation and destruction of the infringing commodities. Trademark license agreements must be filed with the Trademark Office under SAIC or its regional counterparts. The licensor shall supervise the quality of the commodities on which the trademark is used, and the licensee shall guarantee the quality of such commodities.

Regulations on Domain Names

The Measures for the Administration of Domain Names for the Chinese Internet (《中國互聯網絡域名管理辦法》) were promulgated by the Ministry of Information Industry on November 5, 2004 and became effective on December 20, 2004. These measures regulate the registration of domain names in Chinese with the Internet country code of “.cn.” The Measures on Domain Names Dispute Resolution (《中國互聯網信息中心域名爭議解決辦法(2006年修訂)》) were promulgated by the Chinese Internet Network Infrastructure Center on February 14, 2006 and became effective on March 17, 2006. These measures require domain name disputes to be submitted to institutions authorized by the Chinese Internet Network Information Center for resolution.