

REGULATIONS

This section sets out summaries of certain aspects of PRC laws and regulations, which are relevant to our Group's operation and business.

Establishment, operation and management of a wholly foreign-owned enterprise

The establishment, operation and management of corporate entities in China are governed by the Company Law of the PRC (中華人民共和國公司法) (the “**Company Law**”), which was promulgated by the Standing Committee of the National People's Congress (全國人民代表大會常務委員會) on 29 December 1993 and became effective on 1 July 1994. It was subsequently amended on 25 December 1999, 28 August 2004 and 27 October 2005 respectively. The companies are classified into categories—limited liability companies and limited companies by shares. The Company Law shall also apply to foreign-invested limited liability companies. According to the Company Law, where laws on foreign investment have other stipulations, such stipulations shall apply.

The establishment procedures, approval procedures, registered capital requirement, foreign exchange, accounting practices, taxation and labour matters of a wholly foreign-owned enterprise are regulated by the Wholly Foreign-owned Enterprise Law of the PRC (中華人民共和國外資企業法) (the “**Wholly Foreign-owned Enterprise Law**”), which was promulgated on 12 April 1986 and amended on 31 October 2000, and the Implementation Regulation of the Wholly Foreign-owned Enterprise Law (中華人民共和國外資企業法實施細則), which was promulgated on 12 December 1990 and amended on 12 April 2001.

Investment in the PRC conducted by foreign investors and foreign-owned enterprises is governed by the Guidance Catalogue of Industries for Foreign Investment (外商投資產業指導目錄) (the “**Catalogue**”), which was amended and promulgated by the Ministry of Commerce of the PRC (中華人民共和國商務部) and the National Development and Reform Commission of the PRC (中華人民共和國國家發展和改革委員會) on 31 October 2007. The Catalogue is a long-standing tool that PRC policymakers have used to manage and direct foreign investment. Similar to the 2002 and 2004 editions, the Catalogue divides industries into three basic categories: encouraged, restricted, and prohibited. Industries not listed in the catalogue are generally open to foreign investment unless specifically barred in other PRC regulations. Foreign-invested enterprises in encouraged industries are often permitted to establish wholly foreign-owned enterprises. Parts of industries in the restricted category may be limited to equity or contractual joint ventures, in some cases with the Chinese partner as the majority shareholder. Restricted category projects are also subject to higher-level government approvals. Industries in the prohibited section are closed to foreign investment.

Taxation

Income tax

Prior to 1 January 2008, income tax payable by foreign-invested enterprises in the PRC was governed by the Foreign-invested Enterprise and Foreign Enterprise Income Tax Law of the PRC (中華人民共和國外商投資企業和外國企業所得稅法) (the “**FIE Tax Law**”) promulgated on 9 April 1991 and effective on 1 July 1991 and the related implementation rules. Pursuant to the FIE Tax Law, a foreign-invested enterprise was subject to a national income tax at the rate of 30% and a local tax at the rate of 3% unless a lower rate was provided by laws or administrative regulations. The income tax on foreign-invested enterprises established in Special Economic Zones, foreign enterprises which have establishments or places in Special Economic Zones engaged in production or business operations, and on foreign-invested enterprises of a production nature in Economic and Technological Development Zones, was levied at the reduced rate of 15%. The income tax on foreign-invested enterprises of a production nature established in coastal economic open zones or in the old urban districts of cities where the Special Economic Zones or the Economic and Technological Development Zones are located, was levied at the reduced rate of 24%. Any foreign-invested enterprise of a production nature scheduled to operate for a period of not less than ten years was exempted from income tax for two years commencing from the first profit-making year (after offsetting all tax losses carried forward from previous years) and allowed a fifty percent reduction in the following three consecutive years.

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According to the newly promulgated Enterprise Income Tax Law of the PRC (中華人民共和國企業所得稅法) (the “**New Tax Law**”), which was promulgated on 16 March 2007, the income tax for both domestic and foreign-invested enterprises will be at the same rate of 25% effective from 1 January 2008. In order to clarify some provisions in the New Tax Law, The Implementation Rules to the New Tax Law (中華人民共和國企業所得稅法實施條例) (the “**Implementation Rules**”) was promulgated on 6 December 2007, effective from 1 January 2008. The New Tax Law provides certain relief during the transition period that apply to enterprises that were established prior to 16 March 2007 (i) if foreign-invested enterprises enjoy reduced tax rates under the laws and regulations, the tax rate will be gradually increased to coincide with the new tax rate within five years starting from 2008; and (ii) if foreign-invested enterprises enjoy tax holidays for a fixed period under laws and regulations, such foreign-invested enterprises can continue the holiday until its expiry. However, if an enterprise has not started to enjoy the tax holiday due to a lack of profit, 2008 will be regarded as the first profit-making year and the enterprise starts to enjoy the tax holiday.

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) effective from 1 January 1994 (amended on 5 November 2008) and its implementation rules, all entities or individuals in the PRC engaging in the sale of goods, the provision of processing services, repairs and replacement services, and the importation of goods are required to pay value-added tax (“**VAT**”). VAT payable is calculated as “output VAT” minus “input VAT”. The rate of VAT is 17% or in certain limited circumstances, 13%, depending on the product type.

Foreign currency exchange and dividend distribution

Foreign currency exchange

The principal regulation governing foreign currency exchange in China is the Foreign Exchange Administration Rules of the PRC (中華人民共和國外匯管理條例) (the “**Foreign Exchange Administration Rules**”). It was promulgated by the State Council of the PRC (中華人民共和國國務院) on 29 January 1996, became effective on 1 April 1996 and was amended on 14 January 1997 and 1 August 2008. Under these rules, Renminbi is generally freely convertible for payments of current account items, such as trade and service-related foreign exchange transactions and dividend payments, but not freely convertible for capital account items, such as capital transfer, direct investment, investment in securities, derivative products or loan unless prior approval of the SAFE is obtained.

Under the Foreign Exchange Administration Rules, foreign-invested enterprises in the PRC may purchase foreign exchange without the approval of SAFE for paying dividends by providing certain evidencing documents (board resolutions, tax certificates, etc.), or for trade and services-related foreign exchange transactions by providing commercial documents evidencing such transactions. They are also allowed to retain foreign currency (subject to a cap approval by SAFE) to satisfy foreign exchange liabilities. In addition, foreign exchange transactions involving overseas direct investment or investment and exchange in securities, derivative products abroad are subject to registration with SAFE and approval or file with the relevant governmental authorities (if necessary).

Dividend distribution

Before the promulgation of the New Tax Law, the principal regulations governing distribution of dividends paid by wholly foreign-owned enterprises include the Wholly Foreign-owned Enterprise Law and the Implementation Regulation of the Wholly Foreign-owned Enterprise Law.

Under these regulations, wholly foreign-owned enterprises in China may only pay dividends from accumulated after-tax profit, if any, determined in accordance with PRC accounting standards and regulations. Dividends paid to its foreign investors are exempt from withholding tax. However, this provision has been revoked by the New Tax Law. The New Tax Law prescribes a standard withholding tax rate of 20% on dividends and other China-sourced passive income of non-resident enterprises. However, the Implementation Rules reduced the rate from 20% to 10%, effective from 1 January 2008.

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The PRC and the government of Hong Kong signed 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) on 21 August 2006 (the “**Arrangement**”). According to the Arrangement, no more than the 5% withholding tax rate applies to dividends paid by a PRC company to a Hong Kong resident, provided that the recipient is a company that holds at least 25% of the capital of the PRC company. The 10% withholding tax rate applies to dividends paid by a PRC company to a Hong Kong resident if the recipient is a company that holds less than 25% of the capital of the PRC company.

Product Quality

The principal legal provisions governing product liability are set out in the Product Quality Law of the PRC (中華人民共和國產品質量法) (the “**Product Quality Law**”), which was promulgated on 22 February 1993 and amended on 8 July 2000.

The Product Quality Law is applicable to all activities of production and sale of any product within the territory of the PRC, and the producers and sellers shall be liable for product quality in accordance with the Product Quality Law.

Consumer Protection

The principal legal provisions for the protection of consumer interests are set out in the Consumer Protection Law of the PRC (中華人民共和國消費者權益保護法) (the “**Consumer Protection Law**”), which was promulgated on 31 October 1993 and came into effect on 1 January 1994.

According to the Consumer Protection Law, the rights and interests of the consumers who buy or use commodities for the purposes of daily consumption or those who receive services are protected and all manufacturers and distributors involved must ensure that the products and services will not cause damage to persons and properties.

Environmental protection

According to the Environmental Protection Law of the PRC (中華人民共和國環境保護法) (the “**Environmental Protection Law**”), which was promulgated and effective on 26 December 1989:

- any entity that discharges pollutants must establish environmental protection rules and adopt effective measures to control or properly treat waste gas, waste water, waste residues, dust, malodorous gases, radioactive substances, noise, vibration and electromagnetic radiation and other hazards it produces;
- any entity that discharges pollutants must report to and register with the relevant environmental protection authorities; and
- any entity that discharges pollutants in excess of the prescribed national or local standards must pay a fee therefore.

The purposes of the Environmental Protection Law are to protect and enhance living environment, prevent and cure contamination and other public hazards, and safeguard human health. The Ministry of Environmental Protection of the PRC (中華人民共和國環境保護部) implements uniform supervision and administration of environmental protection work nationwide and formulates the national waste discharge standards. Local environmental protection bureaus at county level and above are responsible for the environmental protection in their jurisdictions. Government authorities shall impose different penalties against persons or enterprises in violation of the Environmental Protection Law depending on the individual circumstances and the extent of contamination. Such penalties include warnings, fines, decisions to impose deadlines for cure, orders to stop production, orders to re-install contamination prevention and cure facilities which have been removed or left unused, imposition of administrative actions against relevant responsible persons, or orders to close down those enterprises or authorities.