

<<在中国>>

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前言

In recent years , China has become one of the world ' S leading economic powers (in 20 1 0 , it overtook Japan to become the second largest economy on the planet in GDP terms , behind the us) . This economic development took place in the space of over 3 0 years as it has to be remembered that until the end of the 70s , China was closed to the outside world and during that period (first the Imperial reign , then its short experience as a republic , followed by the establishment of the People ' S Republic , with The Great Proletarian Cultural Revolution) , commercial relations between China and the outside world were virtually non—existent . It should also be noted that following the breakup of the USSR , China repealed a number of the Soviet—inspired laws it had passed and after the Cultural Revolution , China had no legal system for almost 2 0 years , which obviously greatly hindered the development of the country and its economy . All of this changed with the reform and opening up of the country instigated by Deng Xiao Ping who , with his “ open door ” policy , began , from 1 9 79 onwards , to open China up to the world . This resulted in one of the greatest economic transformations the world has seen in recent times and which radically changed the position of China and the rest of the world . Subsequently , a growing and continuous flow of foreign investment began to enter China , and today it is the second largest recipient of foreign investment in the world . Growing foreign investment in China has also given rise to massive legislative developments in the country which has enacted thousands of important laws and rules in recent years , providing commercial transactions with increased legal certainty . To give you an idea of the scale of the legislative change that has taken place in China in recent times , in the last five years alone China has amended , inter alia , the following fundamental laws : catalog of foreign investments . Company law . Antitrust law . Bankruptcy law . Property law . Real estate legislation . It could almost be said that in recent years , China has completely overhauled its entire legal system . Furthermore , China ' S entry into the World Trade Organization (WTO) in 200 1 obliged it to open up its economy to foreign investment to an even greater degree and left it with no choice but to amend and adapt a significant portion of its laws in order to comply with the commitments it assumed in the context of the WTO . Lastly , it must be taken into account that despite all of the above mentioned progress , the Chinese economy is still not fully open to the outside world and , as a result , foreign investors still sometimes find themselves subject to a legislative framework that differs from that applicable to national investors . This , together with the obstacles inherent in a culture and language that are SO different , makes it even more difficult for foreign investors to do business in China . This ad hoc system of rules takes the form of laws and provisions that subject foreign investment to administrative authorizations and approvals , registrations , additional requirements and , in some cases , restrictions that allow the Chinese government to control and select the type of investment it wishes to attract . This difference in treatment used to have a positive aspect in terms of the policy on tax incentives for foreign investment , which the Chinese government applied paradoxically with the aim of standardizing the tax treatment of national and foreign investors until its almost total abolition in January 2008 . In addition to the above , it must be noted that the Chinese legal system , although to a lesser extent than one might think , is influenced by the peculiarities of its recent history and current political situation . For example , the ownership of land located in urban areas continues to belong to the Chinese state while land located in rural areas or on city outskirts belongs , in general , to collective economic organizations . Nevertheless , individuals and legal entities can hold a right to use land , (known as a land use right) for a period of time depending on each concession and on the use of the land in question (e . g . residential , industrial or educational) . Moreover , and to greater extent following the reforms of recent years , labor legislation stands out for the protection it affords workers which , in certain areas , even rises above the levels to which we are accustomed in European countries with higher levels of protection . We hope this book will help minimize the difficulties described above , allowing foreign investors in China to reduce the uncertainties that are inherent in a country that is SO different from their own , and at the same time facilitate trade and investment between China and other countries .

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