

INTRODUCTION TO CHINESE BUSINESS LAW

Duration: 60 minutes

1. Which one of the following industries is not part of China's economic development strategy?
 - a) Energy-efficient and environmentally friendly technology;
 - b) Biotechnology;
 - c) Production of clothing;
 - d) High-end equipment.

2. During his presidency China's President Xi Jinping has introduced various famous campaigns or innovations. Which one of the following has not been initiated by him?
 - a) One Belt One Road Initiative;
 - b) Anti-corruption programme;
 - c) Introduction of open-door policy;
 - d) Abolishment of the limited time periods (terms) of the President of the PRC.

3. Regarding the One Belt One Road Initiative which one is the correct statement?
 - a) The initiative has been introduced by the PRC in order to remain a player in the negotiations with North Korea to create a nuclear-free North Korea;
 - b) The initiative has been introduced in order to include Hong Kong into the Pearl River Delta Initiative;
 - c) The initiative has been introduced in order to reduce the tax rates in the countries along the Old Silk Road;
 - d) The initiative has been introduced in order to bring together China's goals in order to establish an intercontinental infrastructure network between Europe, Africa, Asia and China.

4. Which one of the following is not typical for structuring a project under the One Belt One Road Initiative?
- a) Build Operate Transfer;
 - b) Joint Venture;
 - c) Wholly Foreign-Owned Enterprise;
 - d) Investment through Equity Interest.
5. Which one of the following was the main goal of China's Open Door Policy that was introduced in 1978
- a) To adopt a Western-type legal System;
 - b) To bring foreign investment to China and to obtain advance and adequate technology and generate foreign exchange through trade;
 - c) To open-up China for investment by Private Equity;
 - d) To attract foreigners from Western countries to work in China.
6. Regarding Hong Kong and the term "one country two systems" which one of the following is correct?
- a) The highest instance for court cases in Hong Kong is the PRC Supreme People's Court;
 - b) Hong Kong has integrated its economic system with the PRC and does not maintain its own currency;
 - c) The custom's system of Hong Kong has been integrated into the PRC and Hong Kong does no longer maintain own borders with own customs;
 - d) Hong Kong has its own legal system, meaning that the laws of the PRC do not apply in Hong Kong.

7. Which one of the following is not a bilateral agreement that Switzerland has concluded?
- a) Double tax treaty with the PRC;
 - b) Double tax treaty with Hong Kong SAR;
 - c) Mutual recognition and enforcement of civil and commercial cases;
 - d) Agreement on Social Security with the PRC.
8. In relation to the Closer Economic Partnership Agreement concluded between Hong Kong SAR and the PRC, which one of the following is correct:
- a) It creates a form of free trade area in order to liberalize trade in goods, in services and investment facilitation between the PRC and Hong Kong SAR;
 - b) It is an agreement on the mutual recognition and enforcement of civil and commercial cases;
 - c) Together with the PRC's Pearl River Delta Area it creates a common economic market similar to the European Union;
 - d) Since the Closer Economic Partnership Agreement came into force, all foreign investment must be channelled through Hong Kong, meaning it is mandatory to first establish a holding company in Hong Kong.
9. In relation to the Wholly Foreign-owned Enterprise (WFOE) which one of the following statements is correct:
- a) The entire registered capital must be held by one single investor;
 - b) It may not be used for investment in the PRC by a company with registered office in the Hong Kong SAR;
 - c) It is the only available investment vehicle in the PRC's central and Western regions;
 - d) Its registered capital is held by investors with registered office outside of the PRC.

10. Company A with registered office in Switzerland and Company B with registered office in Hong Kong SAR establish Company C with registered office in Singapore. Company C together with Company D with registered office in Sichuan/PRC establish Company E with registered office in Beijing/PRC. Which one of the following definition is the only one that could apply to Company E?

- a) Wholly Foreign-owned Enterprise;
- b) Equity Joint Venture;**
- c) Representative Office;
- d) Contractual Co-operative Joint Venture.

~~11. Company D with registered office in Shanghai/PRC and Company E with registered office in Chongqing/PRC establish Company F with registered office in Zurich/Switzerland. Company F establishes Company E with registered office in Shanghai/PRC. Which one of the following definitions applies to Company E?~~

- ~~a) Hybrid Co-operative Joint Venture;~~
- ~~b) Representative Office;~~
- ~~c) Equity Joint Venture;~~
- d) Wholly Foreign-owned Enterprise.**

12. Which of the following statements does not apply in connection with a hybrid co-operative joint venture?

- a) It is a form of investment based on consensus;
- b) Participation in the profit and liquidation result is compulsory in accordance with the equity interest;**
- c) From the point of view of company law, liability is limited to the equity investment;
- d) At least one local Chinese partner is required.

13. What are so-called "variable equity interest structures" used for by foreign investors?

- a) Special provisions in the articles of association of an Equity Joint Venture which permit an ongoing adjustment of the amount of interest (variable interest) on the parties' participation in the registered capital;
- b) Special contractual agreements and structuring of investments that enable foreign investors to gain control over companies in industrial sectors in which foreign control is not permitted;
- c) Special provisions in the articles of association of an Equity Joint Venture that allow the PRC government to increase / decrease its participations in Equity Joint Ventures with foreign investors;
- d) The flexible duration of a Foreign Investment Enterprise, which allows the parties to agree on a specific duration of their company.

14. Which one of the following is not regulated under the Closer Economic Partnership Arrangement concluded between the People's Republic of China and Hong Kong regulate?

- a) Liberalisation of trade in goods between Mainland China and Hong Kong;
- b) Regulation of transport routes across the border between Mainland China (PRC) and the Hong Kong SAR;
- b) Liberalisation of trade in services between Mainland China (PRC) and Hong Kong;
- c) Access to investment in the PRC for companies qualified under the CEPA at terms preferred compared to the WTO;

15. What is the meaning of "rule by law" versus "rule of law"?

- a) The PRC has not passed any laws;
- b) In the PRC, the laws are passed directly by the Communist Party;
- c) A "rule by law" system uses law as an instrument of the state, a "rule of law" system corresponds to a constitutional system according to Western understanding.
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16. Regarding the establishment of Foreign Invested Enterprises in 2016 the PRC introduced a new system, so-called "registration for the records". Which change resulted from this amendment?
- a) All foreign invested companies (FIE) only need to register, but no longer require approval from the Ministry of Commerce;
 - b) Since autumn 2016, the approval of the Ministry of Commerce has been required for all foreign invested companies (FIE);
 - c) Those foreign invested enterprises (FIE) whose business activities are not on the negative list only have to register but no longer require a permit from the Ministry of Commerce;
 - d) The negative list authorizes the local authorities to subject the establishment of foreign invested companies to the approval of the Ministry of Commerce on a case-by-case basis.
17. Which statement is correct if the investment vehicle is an "equity joint venture"?
- a) There is no joint venture contract, which excludes a possible liability for a breach of contract by the other party;
 - b) The passing of resolutions cannot be impaired by blocking minorities;
 - c) According to the legal provisions, all decisions must be taken unanimously by the parties;
 - d) Equity joint ventures are forms of investment based on consensus.
18. China is trying to steer foreign investments into certain areas with various measures under the last and current five-year plans. Which of the following areas is not included?
- a) Investments in the central and western parts of the country;
 - b) Focus of the foreign investment in Shanghai;
 - c) High-tech, new and adapted technology;
 - d) Projects that save energy and raw material.

19. Which of the following legal preventive measures is the most suitable to protect a Swiss company's trademark in China?
- a) Registration of the trademark in Chinese characters in China;
 - b) Registration of a world-wide trademark in Chinese characters;
 - c) Conclusion of written employment agreements with all the workers in the Swiss Company's factory in China;
 - d) Conclusion of an exclusive agency agreement with the Chinese partner.
20. In which of the following cases may the parties agree on Singapore law as the law applicable to the contract (in all cases it must be assumed that the parties are a company domiciled in Hong Kong on the one hand and a Chinese company domiciled in Shanghai on the other)?
- a) An equity joint venture agreement;
 - b) An agreement under which the Hong Kong-based company licenses technology to the Shanghai-based company for the production of solar panels in the factory of the Shanghai-based company;
 - c) An agreement regarding the sale of the participation in the joint venture from the Hong Kong-based company to the Shanghai-based Chinese company;
 - d) A Co-operative Joint Venture Agreement.
21. Which of the following statements applies in connection with a Hybrid Co-operative Joint Venture?
- a) It is not a form of investment based on consensus;
 - b) The participation in the profits and liquidation proceeds of the Hybrid Co-operative Joint Venture is not necessarily based on the proportion of the participation in the registered capital;
 - c) Although a registered capital is provided for, the shareholders are also personally liable for the liabilities of the Hybrid Co-operative Joint Venture;
 - d) No local Chinese partner is required.

22. Which was one of the most crucial change in the PRC's regulatory regime brought along by the coming into force of the PRC Competition Law?
- a) For the first time in China, a law was enacted that requires the approval of the competition authority for takeovers;
 - b) The new Competition Act is not based on European and US principles, but stipulates much rules and regulations much different from the European and US principles;
 - c) If the thresholds are reached, mergers between US and European companies also require the approval of the Chinese competition authority.
 - d) Foreign companies may only acquire minority interests in Chinese companies since the PRC's Competition Law came into force.
23. Why was the sale of iPads in China blocked in February 2012?
- a) As a result of Apple's circumvention of merger control, the Department of Commerce (MOFCOM) has banned the sale of iPads in China;
 - b) The sale of iPads was banned by the Ministry of Commerce (MOFCOM) because Apple had fixed the resale prices with the distributors, which is not permitted under Chinese competition law;
 - c) A local Chinese company was registered as the owner of the "iPad" trademark in the Chinese trademark register and demanded blocking on the basis of its trademark law;
 - d) The iPads do not comply with the local approval regulations of the Chinese Ministry of Communications.
24. What major amendment was made by the revision of the Chinese Trademark Law in 2014?
- a) The strict "first-to-file system" has been weakened to the effect that the registration and use of a trademark must follow the principle of good faith, otherwise no priority right can be asserted;
 - b) Trademarks may now also be registered in Chinese characteristics;
 - c) Trademarks applied for registration by foreigners take precedence over local applicants;
 - d) Against the background of the creation of famous Chinese trademarks, the priority right of famous foreign trademarks is limited.

25. If a foreign investor intends to determine all decisions to be taken in the joint venture through its majority shareholding, which form of investment is recommended?
- a) Hybrid Co-operative Joint Venture in the form of a GmbH with 80% capital participation;
 - b) Equity joint venture in the form of a limited liability company with 80% equity interest;
 - c) Equity joint venture in the form of a stock corporation with 80% equity participation;
 - d) Equity joint venture in the form of a stock corporation with 60% equity interest.
26. What does the bifurcated legal system mean in connection with Chinese investment law?
- a) Compared to foreign investors who directly hold a subsidiary in China, other legal provisions apply to investors who use a holding company based in Hong Kong for their investment;
 - b) Other legal provisions apply to investors domiciled abroad and investors domiciled in Hong Kong;
 - c) The term refers to the opinion of investors that enforcement in China may be more difficult for foreign companies as compared to local companies;
 - d) For foreign investments, additional laws and regulations must be observed in comparison to local Chinese investors which do not apply to local Chinese investors;
- ~~27. Which one of the following forms cannot enter into sales contracts regarding the sale of its products to its customers in China?~~
- ~~a) Equity Joint Venture;~~
 - ~~d) Representative Office;~~
 - ~~e) Hybrid Co-operative Joint Venture;~~
 - ~~d) Joint Stock Limited Company.~~

28. In which one of the following cases is an arbitral tribunal based in Paris the competent arbitral tribunal?

- a) A Russian company and a Chinese company agree in their joint venture agreement that the disputes in connection with the joint venture agreement are to be settled by an arbitration court with its seat in Paris under rules of the International Chamber of Commerce Paris;
- b) A company established in Shanghai whose parent company is established in Paris shall enter into a supply agreement with a company established in Beijing whose parent company is also established in Paris, in which it is agreed that all disputes relating to the supply agreement shall be settled by an arbitration tribunal established in Paris under the rules of the International Chamber of Commerce Paris;
- c) A Chinese company enters into a joint venture agreement with a Swiss company in which it is stated that all disputes are to be decided by the ordinary courts in Paris;
- d) An Italian company enters into a joint venture agreement with a Chinese company in which it is stated that all disputes are to be settled by an arbitration court based in Beijing under the Rules of the China International Economic Arbitration Commission (CIETAC).

29. Once the draft new Investment Law comes into force, the legislation on Equity Joint Ventures, Co-operative Joint Ventures and Wholly Foreign-Owned Enterprises significantly changes. Which of following changes will not be introduced:

- a) As per the requests of the United States there will no longer be any restrictions on foreign investment in China, such as the Guiding Catalogue or the Negative List, and China will have fully opened up to foreign investment;
- b) The new Investment Law provides for a national security assessment procedure;
- c) Company law continues to apply to investments from abroad;
- d) The special foreign investment laws, such as the Equity Joint Venture Law, the Co-operative Joint Venture Law and the Wholly Foreign-owned Enterprise Law will be abolished.

30. Which one of the following is not a principle under the Uniform Contract Law?

- a) Confidentiality;
- b) Good faith;
- c) Simplicity and clear wording;
- d) Equality and mutual benefit.

31. In which one of the following cases is the termination of the employment contract not in violation of the Chinese Employment Contract Law?
- a) The employer terminates the employment contract after expiry of the probationary period with 30 days' notice without cause;
 - b) The employee terminates the employment contract after expiry of the probationary period with 30 days' notice without cause;
 - c) The employee terminates the employment contract after expiry of the probationary period with immediate effect and without cause;
 - d) The employer terminates the employment contract during the probationary period with immediate effect and without cause, although the employee fulfils his duties.
32. ~~What was the main issue why Hermes lost its trademark court case against Guangdong Foshan Dafeng Garment?~~
- ~~a) Hermes had not registered its trademarks in English language in the PRC;~~
 - ~~b) The trademark license agreement between Hermes and Guangdong Foshan Dafeng Garment did not include a jurisdiction clause;~~
 - ~~c) The transfer of Hermes trademark was not made in accordance with the legal provisions;~~
 - d) ~~Hermes had not originally not registered its trademark in Chinese characters.~~
33. Which one is not one of the difficulties encountered by foreign investors in setting up Foreign Invested Enterprises (FIE) in the PRC?
- a) Many opportunities offered to foreign investors;
 - b) Disagreements with Chinese joint venture partners;
 - c) Expiry of land-use rights after a specific period of time;
 - d) Disclosure of intellectual property rights in connection with the approval of products on the Chinese market.

~~34. Company A, based in Hong Kong, together with Company B, based in Tokyo, and Company C, based in Shanghai establishes Company D with registered office in Chongqing/PRC. Which of the following definitions applies to company C?~~

~~a) Wholly Foreign-owned Enterprise;~~

~~b) Equity Joint Venture or hybrid Co-operative Joint Venture;~~

~~c) True Co-operative Joint Venture;~~

~~d) State-owned Enterprise.~~

35. Which of the following statements applies in the bilateral relationship between Switzerland and Hong Kong?

a) Switzerland and Hong Kong have concluded an agreement on the enforcement and recognition of judgments;

b) Switzerland and Hong Kong have not concluded a double taxation agreement;

c) Switzerland and Hong Kong have concluded a free trade agreement;

d) Switzerland and China have not concluded a bilateral agreement, as Hong Kong is not entitled to enter into bilateral agreements with countries.

36. Company A with registered office in Shanghai has created a special and unique design on a fabric that they use in the production and sale of their goods. What sort of intellectual property right could they claim and for what period in time?

a) As Company A has not registered the design, it cannot claim any intellectual property rights;

b) As Company A has not registered the design, it cannot claim any intellectual property rights on it;

c) Company A can claim a copyright for the duration of 50 years since the goods on which the design is applied were first sold on the Chinese market;

d) The PRC has not enacted laws that protect trademarks and/or designs.