

# **Table of Contents**

## **PART II. BUSINESS ENVIRONMENT FOR JOINT VENTURES IN SELECTED COUNTRIES (CONTINUED)**

### **CHAPTER 18. THE CZECH REPUBLIC**

#### **I. EXECUTIVE SUMMARY**

- § 18:1 Who is investing in the Czech Republic and why
- § 18:2 The World Bank Survey and the Czech Republic
- § 18:3 Current Czech Government Industrial Strategy
- § 18:4 Efficient capital markets and portfolio investment
- § 18:5 Openness to foreign investment
- § 18:6 Investment incentives
- § 18:7 Foreign-Trade Zones and Free Ports
- § 18:8 Bilateral Investment Agreements
- § 18:9 OECD Guidelines for Multinational Enterprises
- § 18:10 Investment protection
- § 18:11 Investment Insurance Programs (Including OPIC)
- § 18:12 Investment disputes
- § 18:13 Laws and regulations addressing foreign direct investment
- § 18:14 Major commercial laws
- § 18:15 Transparency of the regulatory system
- § 18:16 Competition law
- § 18:17 Protection of property rights
- § 18:18 Intellectual property rights
- § 18:19 Foreign-exchange controls
- § 18:20 Remittance policies
- § 18:21 Exchange rate management
- § 18:22 Expropriation and compensation
- § 18:23 State Owned Enterprises
- § 18:24 Public procurement
- § 18:25 Labor
- § 18:26 Endemic risk

#### **II. LEGAL SYSTEM**

- § 18:27 Overview of the Constitution
- § 18:28 The Executive branch
- § 18:29 The Parliament
- § 18:30 The Judiciary

### III. COMMERCIAL LAW

- § 18:31 The current civil and commercial legal regime
- § 18:32 Overview of the 2014 Civil Code
- § 18:33 Warranties under the 2014 Civil Code
- § 18:34 Damages under the 2014 Civil Code
- § 18:35 Assignment of contracts and claims under the 2014 Civil Code
- § 18:36 Real Estate under the 2014 Civil Code
- § 18:37 The right to build under the 2014 Civil Code
- § 18:38 Business leases under the 2014 Civil Code
- § 18:39 Relations between employers and employees under the 2014 Civil Code
- § 18:40 Overview of the Business Corporations Act
- § 18:41 The Joint Stock Company under the Business Corporations Act
- § 18:42 The Limited Liability Company under the Business Corporations Act
- § 18:43 The General Partnership under the Business Corporations Act
- § 18:44 The Limited Partnership under the Business Corporations Act
- § 18:45 The Co-Operative under the Business Corporations Act
- § 18:46 Branches under the Business Corporations Act
- § 18:47 Company formation procedures
- § 18:48 Overview of the 2014 Act on Private International Law
- § 18:49 Overview of the Insolvency Act

### IV. BUSINESS ENTITIES

- § 18:50 Review of business entities under the Business Corporations Act
- § 18:51 The establishment and operation of a branch office
- § 18:52 The establishment and operation of a limited liability company
- § 18:53 —Registered capital
- § 18:54 —Ownership interest
- § 18:55 —Corporate governance
- § 18:56 —The Reserve Fund
- § 18:57 —Membership Limits and “Chaining”
- § 18:58 —Contributions made in addition to the registered capital
- § 18:59 —In-kind contributions
- § 18:60 —The general meeting
- § 18:61 —Adopting decisions outside of the general meeting
- § 18:62 —Exiting the Company
- § 18:63 Establishment and operation of a joint stock company
- § 18:64 —Registered capital
- § 18:65 —Corporate governance
- § 18:66 —Corporate Body Term Limits and Membership Requirements

## TABLE OF CONTENTS

- § 18:67 —The general meeting and the website
- § 18:68 —Shares and bearer shares
- § 18:69 —Expert Evidence When Transferring Property
- § 18:70 Establishment and operation of a limited commercial partnership
- § 18:71 Establishment and operation of the general commercial partnership

## **V. MANAGEMENT OF A BUSINESS ENTITY UNDER THE BUSINESS CORPORATIONS ACT AND THE 2014 CIVIL CODE**

- § 18:72 Company management and general duties of care
- § 18:73 Management agreements
- § 18:74 Liability of executive directors under the Business Corporations Law
- § 18:75 Trade licenses and representation

## **VI. LIABILITY AND REGISTRATION REQUIREMENTS**

- § 18:76 Liability: Civil and criminal
- § 18:77 Registration in the commercial register
- § 18:78 Acquisition of real estate
- § 18:79 Data mailboxes

## **VII. REGULATION OF BUSINESS ACTIVITY**

- § 18:80 Sources of competition law
- § 18:81 Overview of the Competition Act
- § 18:82 Anticompetitive Agreements and Practices
- § 18:83 The De Minimus Rule
- § 18:84 Statute of Limitations
- § 18:85 Informal Guidance issued by the Competition Office
- § 18:86 Penalties, Enforcement and Fines
- § 18:87 Abuse of a Dominant Position
- § 18:88 Penalties for Abuse of a Dominant Position
- § 18:89 The control of concentrations, mergers and acquisitions
- § 18:90 —Review procedure and schedules
- § 18:91 —Simplified procedure
- § 18:92 —Notification
- § 18:93 —Approval of a concentration
- § 18:94 —Commitments
- § 18:95 —Confidentiality
- § 18:96 —Failure to honor conditions
- § 18:97 —Rights of appeal and procedure
- § 18:98 —Ancillary provisions
- § 18:99 Notice from the Office for the Protection of Competition on the pre-notification contacts with merging parties
- § 18:100 Notice on the Prohibition of Implementation of Concentrations Prior to Approval and Exemptions Thereof

- § 18:101 The Leniency Program
- § 18:102 Notice of the Office for the Protection of Competition on  
the Leniency Program
- § 18:103 Government procurement
- § 18:104 Environmental laws
- § 18:105 Accounting principles
- § 18:106 Customs law
- § 18:107 The banking sector
- § 18:108 Real estate
- § 18:109 Overview of the Construction Act

## **VIII. INVESTMENT INCENTIVES**

- § 18:110 Overview of the 2012 Amendments to the Act on  
Investment Incentives
- § 18:111 The corporate tax incentive
- § 18:112 The job creation incentive
- § 18:113 The strategic investment incentives
- § 18:114 Site support
- § 18:115 Limitations
- § 18:116 Eligibility criteria for manufacturing projects
- § 18:117 Eligibility criteria for technology centers
- § 18:118 Eligibility criteria for strategic service centers
- § 18:119 Application for investment incentives
- § 18:120 Purchase of construction sites
- § 18:121 Permissible level of state aid
- § 18:122 EU structural funds
- § 18:123 R&D tax allowance
- § 18:124 Education tax deduction

## **IX. REGULATION OF FOREIGN INVESTMENT**

- § 18:125 Overview of the foreign direct investment legal regime
- § 18:126 Exchange controls
- § 18:127 Establishment of companies and partnerships
- § 18:128 Trade Licenses and Permits

## **X. THE BUILDING PROCESS**

- § 18:129 Overview of procedures related to construction projects
- § 18:130 The Integrated Permit: Integrated Pollution Prevention  
and Control (IPPC)
- § 18:131 Building permits

## **XI. CORPORATE TAXATION**

- § 18:132 Overview of corporate taxation
- § 18:133 Tax deductible costs
- § 18:134 Overview of EU directives applicable to issues in taxation
- § 18:135 Tax administration
- § 18:136 Exemptions

## TABLE OF CONTENTS

§ 18:137	Withholding tax
§ 18:138	Deductible tax allowances
§ 18:139	Carrying forward tax losses
§ 18:140	Charitable donations
§ 18:141	Investment incentive tax relief
§ 18:142	Depreciation of fixed assets
§ 18:143	Transfer pricing rules
§ 18:144	Value Added Tax
§ 18:145	Real estate transfer tax
§ 18:146	Real estate tax
§ 18:147	Road tax
§ 18:148	Customs duties

## **XII. REGULATION OF IMPORTS AND EXPORTS**

§ 18:149	Overview of customs laws
§ 18:150	Customs and the VAT
§ 18:151	Preferential agreements
§ 18:152	Authorized Economic Operator
§ 18:153	Pre-arrival and pre-departure declarations

## **XIII. EXCHANGE CONTROLS**

§ 18:154	Overview of the Act on Foreign Exchange
§ 18:155	Foreign exchange controls
§ 18:156	Remittance policies
§ 18:157	Exchange rate management
§ 18:158	Expropriation and compensation

## **XIV. LABOR LAWS AND ISSUES RELATED TO LABOR**

§ 18:159	Overview of the labor laws
§ 18:160	Labor unions
§ 18:161	Working conditions
§ 18:162	Termination procedures and the social and employment security system
§ 18:163	Mass redundancy

## **XV. PROTECTION OF INTELLECTUAL PROPERTY: TRADEMARKS**

§ 18:164	Overview of applicable international treaties and conventions
§ 18:165	Trademark law in the Czech Republic
§ 18:166	Conventions
§ 18:167	Important definitions
§ 18:168	Classification
§ 18:169	Collective marks
§ 18:170	Trademark applicants
§ 18:171	Eligibility of goods and services

- § 18:172 Excludable from registration
- § 18:173 Marks in color
- § 18:174 Application procedures
- § 18:175 —Documents required
- § 18:176 —Priority
- § 18:177 Advertisement
- § 18:178 Effect of registration
- § 18:179 Duration, withdrawal and cancellation
- § 18:180 Usage, assignment and license
- § 18:181 Third party rights
- § 18:182 Abandonment

## **XVI. PROTECTION OF INTELLECTUAL PROPERTY: PATENTS**

- § 18:183 Overview of applicable law in the Czech Republic
- § 18:184 Overview of applicable conventions
- § 18:185 Types of patents
- § 18:186 Rights of the patentee
- § 18:187 Patentable goods and services
- § 18:188 Excludable goods and services
- § 18:189 Definition of novelty
- § 18:190 Documents required
- § 18:191 Requirements under applicable agreements and conventions
- § 18:192 Examination system
- § 18:193 Publication of patent applications
- § 18:194 Provisional protection
- § 18:195 Time limits for official action responses
- § 18:196 Opposition and appeal
- § 18:197 Fees
- § 18:198 Compulsory license and license of right
- § 18:199 Assignment and license
- § 18:200 Duration and patent termination
- § 18:201 Extension and restoration
- § 18:202 Amendment
- § 18:203 Infringement

## **XVII. PROTECTION OF INTELLECTUAL PROPERTY: COPYRIGHTS**

- § 18:204 Overview of applicable law in the Czech Republic
- § 18:205 Overview of applicable conventions
- § 18:206 Customs regulations
- § 18:207 Creation of a copyright
- § 18:208 Ownership of a copyright
- § 18:209 Duration of a copyright
- § 18:210 Transferability of rights
- § 18:211 Copyright infringement

TABLE OF CONTENTS

**XVIII. DIRECT INVESTMENT CHECKLISTS**

- § 18:212 Establishing a business
- § 18:213 Structuring Investments
- § 18:214 Acquiring a business

**XIX. OVERVIEW OF INVESTMENT INFORMATION AND INCENTIVES**

- § 18:215 Primary investment sectors
- § 18:216 Investment incentives
- § 18:217 Sector specific investment opportunities
- § 18:218 Macroeconomic summary
- § 18:219 Tax brief
- § 18:220 Measures to attract new investment
- § 18:221 Conditions attached to the obtainment of investment incentives (activity specific)
- § 18:222 Strategic investment in large scale projects

**XX. INCREASING ENTREPRENEURIAL ACTIVITY IN THE EU WITH PRIVATE FINANCE**

- § 18:223 A Commentary, by Nina Sugar-Carlsgaard, Esq.

**XXI. CASE EXAMPLES: RENEWABLE ENERGY DISPUTES BETWEEN INVESTORS AND THE CZECH REPUBLIC**

- § 18:224 List of proceedings

**XXII. DISCREPANCIES IN THE INTERPRETATION OF BITS WITH THE CZECH REPUBLIC**

- § 18:225 Overview

**XXIII. MULTIPARTITE ARBITRATIONS: A DIFFERENT TAKE ON CZECH INVESTOR-STATE DISPUTES**

- § 18:226 Commentary, by Nina Sugar-Carlsgaard, Esq.

**XXIV. CZECH INVESTMENT DISPUTES DEALING WITH TAX ISSUES (APPLICATION OF INVESTMENT TREATIES TO TAX MATTERS)**

- § 18:227 Overview

**XXV. THREE CASES THAT SHAPE THE ENVIRONMENT OF INVESTOR-STATE DISPUTES IN THE CZECH REPUBLIC**

- § 18:228 Three cases

## XXVI. SPECIAL TOPIC Q&A: CZECH MERGERS & ACQUISITIONS

- § 18:229 Question 1. Types of transaction: How may businesses combine?
- § 18:230 Question 2. Statutes and regulations: What are the main laws and regulations governing business combinations?
- § 18:231 Question 3. Governing law: What law typically governs transaction agreements?
- § 18:232 Question 4. Information to be disclosed: What information needs to be made public in a business combination? Does this depend on what type of structure is used?
- § 18:233 Question 5. Disclosure of substantial shareholdings: What are the disclosure requirements for owners of large shareholdings in a company? Are the requirements affected if the company is a party to a business combination?
- § 18:234 Question 6. Duties of directors and controlling shareholders: What duties do the directors or managers of a company owe to the company's shareholders, creditors and other stakeholders in connection with a business combination? Do controlling shareholders have similar duties?
- § 18:235 Question 7. Approval and appraisal rights? What approval rights do shareholders have over business combinations? Do shareholders have appraisal or similar rights in business combinations?
- § 18:236 Question 8. Hostile transactions: What are the special considerations for unsolicited transactions?
- § 18:237 Question 9. Government influence: Other than through relevant competition regulations, or in specific industries in which business combinations are regulated, may government agencies influence or restrict the completion of business combinations, including for reasons of national security?
- § 18:238 Question 10. Conditional offers: What conditions to a tender offer, exchange offer or other form of business combination are allowed? In a cash acquisition, may the financing be conditional?
- § 18:239 Question 11. Financing: If a buyer needs to obtain financing for a transaction, how is this provided for in the transaction documents? What are the typical obligations of the seller to assist in the buyer's financing?
- § 18:240 Question 12. Minority squeeze-out: May minority stockholders be squeezed out? If so, what steps must be taken and what is the time frame for the process?
- § 18:241 Question 13. Cross-border transactions: How are cross-border transactions structured? Do specific laws and regulations apply to cross-border transactions?
- § 18:242 Question 14. Waiting or notification periods: Other than



## TABLE OF CONTENTS

- as set forth in the competition laws, what are the relevant waiting or notification periods for completing business combinations?
- § 18:243 Question 15. Sector-specific rules: Are companies in specific industries subject to additional regulations and statutes?
- § 18:244 Question 16. Restructuring and bankruptcy: What are the special considerations for business combinations involving a target company that is in bankruptcy or receivership or engaged in a similar restructuring?
- § 18:245 Question 17. Anti-corruption and sanctions: What are the anti-corruption, anti-bribery and economic sanctions considerations in connection with business combinations?

## XXVII. COMPILATION OF SOURCES

- § 18:246 List of resources for relevant sections

## CHAPTER 19. INVESTING IN THE EUROPEAN UNION

### I. OVERVIEW

- § 19:1 Who is investing in the European Union and why
- § 19:2 Origins of and membership in the European Union
- § 19:3 The EU legal system
- § 19:4 Intellectual property rights in the European Union
- § 19:5 EU customs union and common market
- § 19:6 The EURO
- § 19:7 EU international trade and investment governance
- § 19:8 EU free trade and investment agreements
- § 19:9 Foreign investment in the European Union
- § 19:10 BREXIT
- § 19:11 Mergers and acquisitions
- § 19:12 Employment law
- § 19:13 Equal pay and equal treatment
- § 19:14 Personal data protection and e-privacy
- § 19:15 Freedom to provide and receive services across borders
- § 19:16 Banking
- § 19:17 Insurance
- § 19:18 Investment services

### II. PRACTITIONER COMMENTARY

- § 19:19 Foreign Investment Screening in the EU: An Analysis of the Implementation of the legal framework for the Screening of Foreign Direct Investments into the Union, By Simon Bonde, Esq. (Denmark)

Appendix 19A. EU Foreign Investment Regulation 2019-452

- Appendix 19B. Commission Delegated Regulation (EU) 2021/2126 of 29 September 2021 amending the Annex to Regulation (EU) 2019/452 of the European Parliament and of the Council establishing a framework for the screening of foreign direct investments into the Union
- Appendix 19C. Fourth Annual Report on the Screening of Foreign Direct Investments into the Union, Report from the Commission to the European Parliament and the Council, Brussels, COM(2024) 464 final (Oct. 17, 2024)
- Appendix 19D. Achmea ECJ Final Decision

## CHAPTER 20. HUNGARY

### I. EXECUTIVE SUMMARY

- § 20:1 Who is investing in Hungary and why
- § 20:2 The 2019 World Bank Survey
- § 20:3 Openness to Foreign Investment (FDI)
- § 20:4 The 2014 Civil Code
- § 20:5 The Competition Act—The 2013 amendments
- § 20:6 Corporate taxation
- § 20:7 Conversion and transfer policies
- § 20:8 Expropriation and compensation
- § 20:9 Dispute settlement
- § 20:10 International arbitration
- § 20:11 Performance requirements and incentives
- § 20:12 Protection of Intellectual Property Rights
- § 20:13 Transparency of the regulatory system
- § 20:14 Efficient capital markets
- § 20:15 Price regulation and liberalization
- § 20:16 Political violence
- § 20:17 Corruption
- § 20:18 Bilateral Investment Agreements
- § 20:19 Labor—Overview
- § 20:20 Labor law
- § 20:21 Foreign trade zones

### II. LEGAL SYSTEM

- § 20:22 Legislative hierarchy—The fundamental law
- § 20:23 —Acts of the National Assembly
- § 20:24 —Decrees
- § 20:25 —International agreements
- § 20:26 —Legal instruments of state administration
- § 20:27 The scope of application of legislation
- § 20:28 Legal databases
- § 20:29 Administration of the courts

## TABLE OF CONTENTS

- § 20:30 Organization of the courts
- § 20:31 Decisions of the Constitutional Court
- § 20:32 The Curia
- § 20:33 Mediation and alternative dispute resolution

## III. COMMERCIAL LAW

- § 20:34 The 2014 Civil Code
- § 20:35 Book Six—The Law of Obligations—Overview
- § 20:36 Comparison of the 1959 Civil Code and the 2014 Civil Code
- § 20:37 Fundamental principles of contracts under the 2014 Civil Code
- § 20:38 Preliminary contracts under the 2014 Civil Code
- § 20:39 Offer and acceptance under the 2014 Civil Code
- § 20:40 Obligations under the 2014 Civil Code
- § 20:41 Multi-Party obligations under the 2014 Civil Code
- § 20:42 Performance of obligations under the 2014 Civil Code
- § 20:43 Time of performance under the 2014 Civil Code
- § 20:44 The treatment of legal statements under the 2014 Civil Code
- § 20:45 Third party representation under the 2014 Civil Code
- § 20:46 The statute of limitations under the 2014 Civil Code
- § 20:47 Standard contract terms under the 2014 Civil Code
- § 20:48 Contracts concluded using electronic means under the 2014 Civil Code
- § 20:49 Amendment of contracts under the 2014 Civil Code
- § 20:50 Termination by agreement of the parties under the 2014 Civil Code
- § 20:51 Book Six law of obligations—Outline

## IV. BUSINESS ENTITIES

- § 20:52 The 2014 Civil Code
- § 20:53 —Book Three—Legal persons
- § 20:54 The 2014 Civil Code and business enterprises
- § 20:55 Executive officers, the supervisory board, and auditors
- § 20:56 The Articles of Association
- § 20:57 Termination of companies
- § 20:58 Transformation of companies
- § 20:59 Loss of limited liability—Shareholders
- § 20:60 —Executive officers
- § 20:61 The limited liability company (Kft.)—Overview
- § 20:62 —The Members' Meeting
- § 20:63 —The managing directors
- § 20:64 The company limited by shares (Rt.)—Overview
- § 20:65 —Shareholders' rights
- § 20:66 —The members' meeting
- § 20:67 —Board of Directors

- § 20:68 The Company Limited by Shares (Rt.)—The Supervisory Board
- § 20:69 The company limited by shares (Rt.)—Audit Committee
- § 20:70 —Share capital
- § 20:71 —Winding-up
- § 20:72 The single member Kft. and Rt.
- § 20:73 Commercial representative offices
- § 20:74 Branches of foreign companies
- § 20:75 The unlimited partnership (Kkt.)
- § 20:76 The limited partnership (Bt.)
- § 20:77 European Economic Interest Groupings (EEIGs) and Societas Europaeas (SEs)
- § 20:78 Joint ventures
- § 20:79 Book Three Legal Persons—Outline

## **V. REGULATION OF BUSINESS ACTIVITY**

- § 20:80 Act LVII pf 1996 on the Prohibition of Unfair and Restrictive Market Practices—Overview
- § 20:81 The Competition Act—The 2013 and 2016 amendments
- § 20:82 —Outline
- § 20:83 Horizontal and vertical restraints
- § 20:84 Abuse of a dominant position
- § 20:85 Merger control—Overview
- § 20:86 Takeovers
- § 20:87 Bankruptcy
- § 20:88 Accounting and auditing
- § 20:89 Transparency of the regulatory system
- § 20:90 Efficient capital markets
- § 20:91 Price regulation

## **VI. INVESTMENT INCENTIVES**

- § 20:92 Investment incentives—Overview
- § 20:93 Reduced tax rates on designated royalty income
- § 20:94 The Research and Development Double Deduction
- § 20:95 R&D triple deduction
- § 20:96 Foreign tax credit
- § 20:97 The development tax incentive
- § 20:98 Other projects eligible for a tax allowance
- § 20:99 The film tax credit
- § 20:100 The sports tax credit
- § 20:101 Loan interest deductions for Small and Medium sized Enterprises (SMEs)

## **VII. FOREIGN INVESTMENT REGULATION**

- § 20:102 Foreign direct investment—The Fundamental Law
- § 20:103 The Act on Investments of Foreigners in Hungary
- § 20:104 Foreign invested business entities—The 2014 Civil Code

## TABLE OF CONTENTS

- § 20:105 Branches
- § 20:106 Representative offices
- § 20:107 The Hungarian Investment and Trade Development Agency
- § 20:108 National security review of foreign investments—The Security Review Act of 2018
- § 20:109 Conversion and transfer policies
- § 20:110 Expropriation and compensation
- § 20:111 Dispute settlement
- § 20:112 Performance requirements and incentives

## VIII. CORPORATE TAXATION

- § 20:113 Corporate taxation—Recent developments
- § 20:114 —Rates
- § 20:115 —Alternative Minimum Tax
- § 20:116 Tax incentives
- § 20:117 Capital gains
- § 20:118 Dividends
- § 20:119 Interest, royalties and service fees
- § 20:120 Foreign tax credits
- § 20:121 Determination of taxable income
- § 20:122 Depreciation
- § 20:123 Loss carry-forward
- § 20:124 Groups of companies
- § 20:125 Transfer pricing
- § 20:126 Administration

## IX. IMPORT AND EXPORT REGULATIONS

- § 20:127 Overview
- § 20:128 Import tariffs
- § 20:129 Valuation
- § 20:130 Classification
- § 20:131 Origin
- § 20:132 Import Charges
- § 20:133 EU regulations
- § 20:134 Import license requirements
- § 20:135 Import documentation
- § 20:136 Temporary entry
- § 20:137 Standards
- § 20:138 Conformity assessment
- § 20:139 Accreditation
- § 20:140 Labeling and marking

## X. EXCHANGE CONTROLS

- § 20:141 Foreign direct investment and foreign exchange

## XI. LABOR LAWS

- § 20:142 Act I of 2012—Introduction

- § 20:143 The 2012 Labor Code—Overview
- § 20:144 —2019 Amendments
- § 20:145 —Employment contracts
- § 20:146 Termination of employment
- § 20:147 Miscellaneous
- § 20:148 Employment of non-EU member state foreigners  
("Foreigners")
- § 20:149 The 2012 Labor Code
- § 20:150 Chapter I—General provisions
- § 20:151 Chapter II—Foundation of companies operating with  
foreign participation; Acquisition of shares in companies  
already operating
- § 20:152 Chapter III—Conditions of company operations
- § 20:153 Chapter IV—Off-shore companies
- § 20:154 Chapter V—Closing provisions
- § 20:155 2014 Civil Code

## **XII. INTELLECTUAL PROPERTY PROTECTION**

### **A. INTELLECTUAL PROPERTY LAWS AND INTERNATIONAL CONVENTIONS**

- § 20:156 Patents
- § 20:157 Trademarks
- § 20:158 Copyright
- § 20:159 Designs
- § 20:160 Geographical indications
- § 20:161 Plant variety protection
- § 20:162 Supplementary protection certificates
- § 20:163 Topography protection (semiconductors)
- § 20:164 Utility models

### **B. TRADEMARKS**

- § 20:165 Definitions
- § 20:166 Who may apply
- § 20:167 What can be registered
- § 20:168 Not registrable
- § 20:169 Classification
- § 20:170 Series of marks
- § 20:171 Associated marks
- § 20:172 Collective marks
- § 20:173 Marks in color
- § 20:174 Documents required
- § 20:175 Procedure
- § 20:176 Time limit for proceeding with application
- § 20:177 Appeals
- § 20:178 Advertisement
- § 20:179 Opposition
- § 20:180 Effect of registration

## TABLE OF CONTENTS

§ 20:181	Duration and renewal
§ 20:182	Time within which mark cannot be reregistered by another
§ 20:183	Use
§ 20:184	Assignment
§ 20:185	License
§ 20:186	Marking
§ 20:187	Cancellation
§ 20:188	Limitation of time for action to cancel
§ 20:189	Third party rights
§ 20:190	Abandonment
§ 20:191	Status of unregistered trademark
§ 20:192	Infringement
§ 20:193	Customs

## C. PATENTS

§ 20:194	Patent-types
§ 20:195	Patentee rights
§ 20:196	Who may apply
§ 20:197	What is patentable
§ 20:198	What is not patentable
§ 20:199	Novelty
§ 20:200	Documents required
§ 20:201	Convention requirements
§ 20:202	Examination
§ 20:203	Publication
§ 20:204	Provisional protection
§ 20:205	Responding to official actions
§ 20:206	Opposition
§ 20:207	Appeals
§ 20:208	Annuities
§ 20:209	Working
§ 20:210	Compulsory license; License of right
§ 20:211	Marking
§ 20:212	Assignment
§ 20:213	Contractual licenses
§ 20:214	Duration
§ 20:215	Amendment; Reissue
§ 20:216	Extension and restoration
§ 20:217	Patent termination
§ 20:218	Infringement

## D. COPYRIGHTS

§ 20:219	Copyright Act (No. LXXVI of 1999)-Overview
§ 20:220	Part One-General Provisions
§ 20:221	Chapter Two-Moral Rights
§ 20:222	Chapter Three-Economic Rights

- § 20:223 Chapter Four-Uncompensated Uses
- § 20:224 Chapter Five-License Agreements
- § 20:225 Chapter Six-Software Program Creation
- § 20:226 Chapter Seven-Databases
- § 20:227 Part Three-Neighboring Rights
- § 20:228 Part Four-Collective Administration and Infringement

### **XIII. DIRECT INVESTMENT CHECKLISTS**

- § 20:229 Q&A Guide to Establishing a Business in Hungary

### **XIV. ACT XXIV OF 1988—ACT ON INVESTMENTS OF FOREIGNERS IN HUNGARY**

- § 20:230 Generally
- § 20:231 Chapter I—General Provisions
- § 20:232 Chapter II—Foundation of companies operating with foreign participation; Acquisition of shares in companies already operating
- § 20:233 Chapter III—Conditions of company operations
- § 20:234 Chapter IV—Off-shore companies
- § 20:235 Chapter V—Closing provisions

## **CHAPTER 21. INDIA**

### **I. EXECUTIVE SUMMARY**

- § 21:1 The World Bank survey
- § 21:2 Sovereign and Currency Risk and economic forecasts
- § 21:3 Market overview
- § 21:4 International competitiveness rankings
- § 21:5 Foreign Direct Investment (FDI) procedures
- § 21:6 Conversion and transfer policies
- § 21:7 Expropriation and compensation
- § 21:8 Dispute settlement
- § 21:9 Performance requirements and investment incentives
- § 21:10 Right to private ownership and establishment
- § 21:11 Protection of intellectual property
- § 21:12 Transparency of the regulatory system
- § 21:13 Efficient capital markets and portfolio investment
- § 21:14 Competition from state owned enterprises
- § 21:15 Corporate Social Responsibility (CSR)
- § 21:16 Political violence
- § 21:17 Corruption
- § 21:18 Bilateral investment agreements
- § 21:19 OPIC and other investment insurance programs
- § 21:20 Labor
- § 21:21 Foreign-trade zones/free ports

### **II. THE LEGAL SYSTEM**

- § 21:22 The political system



## TABLE OF CONTENTS

- § 21:23 The legal system
- § 21:24 The court system
- § 21:25 International relations and associations

### III. COMMERCIAL LAW

- § 21:26 Overview
- § 21:27 The Indian Contract Act of 1872
- § 21:28 Consumer protection and unfair trading practices
- § 21:29 Price controls
- § 21:30 Dispute resolution—Litigation
- § 21:31 —Arbitration—Overview
- § 21:32 — —The Arbitration Act—Part 1
- § 21:33 — — —Part 2
- § 21:34 — — —Part 3
- § 21:35 — —Review and summary
- § 21:36 —Conciliation
- § 21:37 —Suing the government
- § 21:38 Commercial law remedies
- § 21:39 Financial reporting and auditing

### IV. BUSINESS ENTITIES

- § 21:40 The Indian Companies Act 2013—Overview
- § 21:41 The Companies Act 2013—The most significant changes
- § 21:42 Outline of the Companies Act 2013
- § 21:43 Overview of the Companies (Amendment) Act, 2015
- § 21:44 Related Party Transactions (RPTs)
- § 21:45 Minimum capital requirement
- § 21:46 Loan to a wholly owned subsidiary
- § 21:47 Restriction on inspection of board resolutions
- § 21:48 Common seal
- § 21:49 Deposits
- § 21:50 No dividend, without depreciation
- § 21:51 Fraud Reporting-threshold limits
- § 21:52 Special Courts
- § 21:53 Bail restrictions
- § 21:54 No Declarations for commencement of business
- § 21:55 Violation of acceptance of deposits requirements
- § 21:56 Exemptions to Section 185 of the Companies Act 2013
- § 21:57 Foreign investment entry options—Operating as an Indian business entity
- § 21:58 —Operating as a foreign business entity
- § 21:59 The Companies (Amendment) Act, 2016—Overview
- § 21:60 —Detailed Discussion

### V. REGULATION OF BUSINESS ACTIVITY

- § 21:61 Licensing and registration of business activities—Overview

- § 21:62 —Procedures for establishing a manufacturing enterprise—Overview
- § 21:63 — —Incorporating a limited company
- § 21:64 — —Industrial licenses
- § 21:65 —Approvals required for foreign investment
- § 21:66 —Government oversight of companies
- § 21:67 Economic and social policies
- § 21:68 Financial operations
- § 21:69 Environmental laws
- § 21:70 The 2002 Competition Act—Background
- § 21:71 The Competition Act—Overview
- § 21:72 The competition provisions—sections 3 and 4
- § 21:73 Mergers and combinations—Sections 5 and 6
- § 21:74 Merger Control Implementing Regulations—2014 Amendments
- § 21:75 —2015 Amendments
- § 21:76 —2016 Amendments
- § 21:77 Mergers and the Companies Act 2013
- § 21:78 Treatment of joint ventures under the Competition Act
- § 21:79 Commission and appellate tribunal structure
- § 21:80 Price controls
- § 21:81 The Consumer Protection Act
- § 21:82 Data protection

## **VI. INVESTMENT INCENTIVES**

- § 21:83 Tax incentives—Applicable conditions
- § 21:84 Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (INVITs)
- § 21:85 Special Purpose Vehicles and Business Trusts
- § 21:86 Tax incentives for infrastructure development undertakings
- § 21:87 Tax incentives for enterprises other than infrastructure development enterprises
- § 21:88 Tax incentives for exports
- § 21:89 Tax incentives for units in the North Eastern Region of India
- § 21:90 Tax incentives for certain income relating to offshore banking units and international financial services centre
- § 21:91 Tax incentive for hiring new employees
- § 21:92 Tax incentive for capital expenditure on certain specified businesses
- § 21:93 Research and development (R&D) expenditure

## **VII. REGULATION OF FOREIGN INVESTMENT**

- § 21:94 Foreign Direct Investment (FDI) Procedures
- § 21:95 Conversion and Transfer Policies
- § 21:96 Performance requirements and investment incentives
- § 21:97 Right to private ownership and establishment

## TABLE OF CONTENTS

- § 21:98 The 2017 Consolidated FDI Policy
- § 21:99 DIPP Press Notes

### **VIII. CORPORATE TAXATION**

- § 21:100 Recent significant tax developments
- § 21:101 Taxes on corporate income
- § 21:102 Other taxes
- § 21:103 Branch income
- § 21:104 Inventory valuation
- § 21:105 Capital gains
- § 21:106 Losses
- § 21:107 The taxation of dividend and interest income
- § 21:108 Deductions
- § 21:109 Corporate residence
- § 21:110 Group taxation
- § 21:111 Transfer pricing
- § 21:112 Thin capitalization
- § 21:113 Controlled Foreign Company (CFC) Rules
- § 21:114 Corporate tax administration

### **IX. REGULATION OF IMPORTS AND EXPORTS**

- § 21:115 Import tariffs
- § 21:116 Tariff rates
- § 21:117 Classification
- § 21:118 Trade barriers
- § 21:119 Standards, testing, labeling and certification
- § 21:120 Anti-dumping and countervailing measures
- § 21:121 Export subsidies and domestic support
- § 21:122 Procurement
- § 21:123 Service barriers
- § 21:124 Other barriers
- § 21:125 Import requirements and documentation
- § 21:126 Temporary entry
- § 21:127 Labeling and marking requirements
- § 21:128 Prohibited or restricted imports
- § 21:129 Standards
- § 21:130 Product certification
- § 21:131 Trade agreements

### **X. EXCHANGE CONTROLS**

- § 21:132 Overview of foreign exchange controls
- § 21:133 Current account transactions
- § 21:134 Capital account transactions
- § 21:135 Repatriation of capital and sale proceeds
- § 21:136 IP license and technical service fees
- § 21:137 Dividends, profit, and interest
- § 21:138 Other remittances

§ 21:139 External commercial borrowings

## **XI. LABOR LAWS**

§ 21:140 Overview  
 § 21:141 Statutory control of employee benefits  
 § 21:142 Wages and hours  
 § 21:143 Settlement of industrial disputes  
 § 21:144 Trade unions  
 § 21:145 Industrial disputes—the right to strike  
 § 21:146 Transfer of business  
 § 21:147 Foreign personnel  
 § 21:148 The Maternity Benefit Act, 1961  
 § 21:149 The Payment of Bonus Act, 1965  
 § 21:150 Payment of Gratuity Act, 1972  
 § 21:151 Workmen's Compensation Act, 1923  
 § 21:152 Industrial Employment (Standing Orders) Act, 1946  
 § 21:153 Minimum Wages Act, 1948  
 § 21:154 Payment of Wages Act, 1936  
 § 21:155 Employees Provident Fund and Miscellaneous Provisions Act

## **XII. PROTECTION OF INTELLECTUAL PROPERTY**

### **A. INTELLECTUAL PROPERTY LAWS AND INTERNATIONAL CONVENTIONS**

§ 21:156 Patents  
 § 21:157 Trade Marks  
 § 21:158 Industrial designs  
 § 21:159 Copyright and related rights  
 § 21:160 Appellations of origin  
 § 21:161 Unfair competition  
 § 21:162 Plant variety protection  
 § 21:163 International treaties and conventions

### **B. PATENTS**

§ 21:164 Generally  
 § 21:165 Novelty/ Not—Anticipated  
 § 21:166 Inventive Step/ Non-obviousness  
 § 21:167 Industrial Application  
 § 21:168 Section 3 of the Patent Act  
 § 21:169 —Section 3(d)  
 § 21:170 Kinds of Patents Granted  
 § 21:171 Who May File for an application for A Patent?  
 § 21:172 Amendments to the Patents Rules  
 § 21:173 Convention requirements  
 § 21:174 Disclosure  
 § 21:175 Examination

## TABLE OF CONTENTS

§ 21:176	Publication
§ 21:177	Time limits
§ 21:178	Opposition
§ 21:179	Appeals
§ 21:180	Marking
§ 21:181	Assignments
§ 21:182	Licenses
§ 21:183	Duration
§ 21:184	Termination
§ 21:185	Compulsory Licensing
§ 21:186	—India's First Compulsory License Grant
§ 21:187	Infringement
§ 21:188	—Expert Evidence
§ 21:189	Bolar Provisions
§ 21:190	Standard Essential Patents
§ 21:191	Biosimilars in India
§ 21:192	—The New Biosimilar Guidelines

### C. TRADEMARKS

§ 21:193	Generally
§ 21:194	Who Can Apply?
§ 21:195	Marks that can be registered
§ 21:196	Marks that cannot be registered
§ 21:197	Duration
§ 21:198	Renewal
§ 21:199	Well-known Marks
§ 21:200	Unconventional Trademarks—Shape Marks
§ 21:201	—Smell Marks
§ 21:202	—Sound Marks
§ 21:203	—Colour Marks
§ 21:204	Notable Amendments in Indian Trade Mark Law
§ 21:205	Procedure of Registration of Trademark
§ 21:206	Rights Conferred by Registration
§ 21:207	Licensing and Assignment of a Trade Mark
§ 21:208	The Intellectual Property Appellate Board
§ 21:209	Enforcement
§ 21:210	Enforcement of Domain Names
§ 21:211	Civil Remedies
§ 21:212	John Doe Orders
§ 21:213	Anton Pillar Orders
§ 21:214	Mareva Injunction
§ 21:215	Criminal Remedies
§ 21:216	Remedies under Customs Laws

### D. COPYRIGHT

§ 21:217	Definitions
§ 21:218	Duration

- § 21:219 Registration
- § 21:220 Assignments
- § 21:221 Licenses
- § 21:222 Enforcement
- § 21:223 Acts Not Amounting to Infringement/Fair Use/Fair  
Dealing Provisions
- § 21:224 Copyright Ownership
- § 21:225 Moral Rights
- § 21:226 Remedies
- § 21:227 —Civil Remedies
- § 21:228 — —Interlocutory injunctions
- § 21:229 — —Pecuniary Remedies
- § 21:230 — —Anton Pillar Orders
- § 21:231 — —Mareva Injunction
- § 21:232 — —Norwich Pharmacal Orders
- § 21:233 —Criminal Remedies

#### E. TRADE SECRETS

- § 21:234 Generally
- § 21:235 Protection of Trade Secrets in India
- § 21:236 —*Mr. Anil Gupta and Anr. v. Mr. Kunal Dasgupta and  
Ors*
- § 21:237 —*Gujarat Bottling Co. Ltd. v. Coca Cola Co.*
- § 21:238 Confidential Business Information
- § 21:239 Know-How
- § 21:240 Trade Secrets and Criminal Law
- § 21:241 Protection to Trade Secrets—Protection under Tort Law
- § 21:242 —Protection under Contract Law
- § 21:243 National Innovation Bill
- § 21:244 —Annual Integrated Science and Technology Plan
- § 21:245 —Specific Measures for Supporting Innovation
- § 21:246 —Creating an Electronic Exchange (and Physical  
Exchange) for trading in Innovation
- § 21:247 —Trade Secrecy Provisions
- § 21:248 —Defining Innovation and “Economic Significance”
- § 21:249 —Ambit of Protection
- § 21:250 —Balancing Public Interest and Reasonability of Royalty

### XIII. INVESTING IN INDIA—CHECKLISTS AND FREQUENTLY ASKED QUESTIONS

- § 21:251 Investing in India FAQ

### XIV. MODEL JOINT VENTURE AGREEMENT

- § 21:252 Summary of the model joint venture agreement
- § 21:253 Model of a Foreign Collaboration Agreement (Parties and  
Details redacted)

## TABLE OF CONTENTS

### **XV. FOREIGN INVESTMENT LAWS AND TREATIES OF INDIA (APPENDIX)**

- § 21:254 Official Translation of the Companies (Amendment) Act, 2016
- § 21:255 The 2015 Consolidated FDI Policy
- § 21:256 The Arbitration and Conciliation Act, 1996
- § 21:257 The Competition Act, 2002
- § 21:258 Agreement for avoidance of double taxation of income with USA

### **XVI. PRACTITIONER COMMENTARIES**

- § 21:259 The Solar Dispute Between the United States and India: The United States Won the Dispute but Did India Win the War?, by Lauren Wood, Esq.
- § 21:260 Pharmaceutical trade barriers in Indian law, by Jonathan Duffield, Esq.
- § 21:261 The merits of special economic zones in India, by Alfred Von Kessler, Esq.

Appendix 21A. Who is Investing in India and Why?

## **CHAPTER 22. INDONESIA**

### **I. EXECUTIVE SUMMARY**

- § 22:1 Who is investing in Indonesia and why Starbucks and MAP Boga Adiperkasa
- § 22:2 The World Bank survey
- § 22:3 Sovereign and Currency Risk and economic forecasts
- § 22:4 The foreign investment climate—Overview
- § 22:5 The 2007 Investment Law and the Negative List
- § 22:6 Natural resources
- § 22:7 Business establishment
- § 22:8 Privatization program
- § 22:9 Competition Law
- § 22:10 Conversion and transfer policies
- § 22:11 Expropriation and Compensation
- § 22:12 Dispute settlement
- § 22:13 Performance requirements
- § 22:14 Investment incentives
- § 22:15 Intellectual property rights
- § 22:16 Transparency of regulatory system
- § 22:17 Efficient capital markets and portfolio investment
- § 22:18 Competition from State Owned Enterprises (SOEs)
- § 22:19 Political violence
- § 22:20 Corruption
- § 22:21 Labor
- § 22:22 Foreign-trade zones/free ports

## II. THE LEGAL SYSTEM

- § 22:23 Overview of the Indonesian Legal System
- § 22:24 Constitutional structure
- § 22:25 Legislation
- § 22:26 Courts
- § 22:27 Government
- § 22:28 Legal professionals
- § 22:29 Statutory sources of law
- § 22:30 Overview of litigation and arbitration

## III. COMMERCIAL LAW

- § 22:31 Overview
- § 22:32 The basic requirements for contracts of sale
- § 22:33 Book Three of the Civil Code—Contracts
- § 22:34 General Contract Principles
- § 22:35 Penalties
- § 22:36 Fraud and duress
- § 22:37 Enforceability
- § 22:38 Interpretation of contracts
- § 22:39 Damages
- § 22:40 Nullification of contracts
- § 22:41 Third party performance
- § 22:42 Payment
- § 22:43 Nullification of contracts
- § 22:44 Sale and passage of ownership
- § 22:45 Obligations of the seller
- § 22:46 Obligations of the buyer
- § 22:47 Government contracts
- § 22:48 Commercial law remedies
- § 22:49 Dispute resolution—Litigation
- § 22:50 —Rules of civil procedure and evidence
- § 22:51 —Service and execution of process
- § 22:52 —Interlocutory relief
- § 22:53 —Choice of law and forum
- § 22:54 —Enforcement and execution of judgments
- § 22:55 —Recognition of foreign judgments
- § 22:56 —Special dispute resolution procedures
- § 22:57 —Arbitration
- § 22:58 —The New York convention on the recognition and enforcement of foreign arbitral awards
- § 22:59 —International arbitration rules
- § 22:60 —General provisions
- § 22:61 —Alternative dispute resolution

## IV. BUSINESS ENTITIES

- § 22:62 The 2007 Limited Liability Company Law—Overview



## TABLE OF CONTENTS

- § 22:63 Foreign investment procedures—Application to the BKPM and company formation
- § 22:64 Other business entities—Partnerships
- § 22:65 —Branches
- § 22:66 —Production-sharing contracts and contracts of work
- § 22:67 —Representative offices

## V. REGULATION OF BUSINESS ACTIVITY

- § 22:68 The 2007 Foreign Investment Law
- § 22:69 The 2016 Negative List
- § 22:70 The Investment Coordinating Board (BKPM)
- § 22:71 Consumer protection
- § 22:72 Monopolistic practices and unfair competition
- § 22:73 Merger Notification—Government Regulation No. 57 of 2010
- § 22:74 Environmental regulation

## VI. INVESTMENT INCENTIVES

- § 22:75 The corporate income tax exemption
- § 22:76 Inbound investment incentives
- § 22:77 Reinvestment of branch profits
- § 22:78 Other investment incentives

## VII. REGULATION OF FOREIGN INVESTMENTS

- § 22:79 Overview of the foreign direct investment legal regime
- § 22:80 The 2007 Investment Law—Law No. 25 of 2007
- § 22:81 The foreign direct investment process—Overview
- § 22:82 Procedures for the establishment of a PMA Company
- § 22:83 The Negative List
- § 22:84 Overview of key changes
- § 22:85 The Negative List—Business sectors now open to 100% foreign investment (subject to certain restrictions)
- § 22:86 —Increasing of permit level in industries where 100% foreign investment is not permitted
- § 22:87 —Businesses fields reserved for investment by, or in partnership with Domestic SMEs
- § 22:88 —Business fields entirely closed to both foreign and domestic investment
- § 22:89 —Other core changes
- § 22:90 —What has not changed

## VIII. CORPORATE TAXATION

- § 22:91 Significant developments
- § 22:92 Corporate tax rates
- § 22:93 Other taxes
- § 22:94 Income determination
- § 22:95 Deductions

- § 22:96 Group taxation
- § 22:97 Transfer pricing
- § 22:98 Regional taxes
- § 22:99 Corporate residence
- § 22:100 Thin capitalization
- § 22:101 Foreign tax credits
- § 22:102 Tax Investment Incentives

## **IX. THE REGULATION OF IMPORTS AND EXPORTS**

- § 22:103 Import tariffs
- § 22:104 Trade barriers
- § 22:105 Nontariff barriers
- § 22:106 Import requirements and documentation
- § 22:107 Temporary entry
- § 22:108 Labeling and marking requirements
- § 22:109 Prohibited and restricted imports
- § 22:110 Customs regulations
- § 22:111 Standards
- § 22:112 Conformity assessment
- § 22:113 Product certification
- § 22:114 Accreditation

## **X. EXCHANGE CONTROLS**

- § 22:115 Overview of Forex law
- § 22:116 Hedging regulations covering offshore loans

## **XI. LABOR LAWS**

- § 22:117 Overview
- § 22:118 Contracts
- § 22:119 Staff hiring
- § 22:120 Employee rights
- § 22:121 Unions
- § 22:122 Termination
- § 22:123 Expatriate employees
- § 22:124 Manpower report

## **XII. PROTECTION OF INTELLECTUAL PROPERTY**

### **A. INTELLECTUAL PROPERTY LAWS AND INTERNATIONAL CONVENTIONS**

- § 22:125 Overview

### **B. TRADEMARKS**

- § 22:126 Applicable laws
- § 22:127 Definitions
- § 22:128 Registering a trademark

## TABLE OF CONTENTS

§ 22:129	Classification
§ 22:130	Types of marks—In general
§ 22:131	—Collective marks
§ 22:132	Documents required for registration
§ 22:133	Procedure for registration
§ 22:134	Appeal of rejected application
§ 22:135	Oppositions
§ 22:136	Duration and renewal of mark
§ 22:137	Assignment of mark
§ 22:138	Use of mark—In general
§ 22:139	—Licenses
§ 22:140	Deletion or cancellation of mark
§ 22:141	Third party rights
§ 22:142	Infringement

## C. PATENTS

§ 22:143	Law
§ 22:144	Conventions
§ 22:145	Types of patents
§ 22:146	Rights of the patentee
§ 22:147	Who may apply
§ 22:148	What is patentable
§ 22:149	What is not patentable
§ 22:150	Novelty
§ 22:151	Documents required
§ 22:152	Convention requirements
§ 22:153	Examination
§ 22:154	Publication
§ 22:155	Time limits for responding to official actions
§ 22:156	Appeal
§ 22:157	Annuities
§ 22:158	Working
§ 22:159	Compulsory license; License of right
§ 22:160	Assignment
§ 22:161	License
§ 22:162	Duration
§ 22:163	Extension and restoration
§ 22:164	Amendment; Reissue
§ 22:165	Termination of patent
§ 22:166	Infringement

## D. COPYRIGHT LAW

§ 22:167	Generally
§ 22:168	Overview of the Copyright Law

## E. TRADE SECRETS

§ 22:169	Generally
----------	-----------

- § 22:170 Definitions
- § 22:171 Differences from other forms of intellectual property
- § 22:172 Categories
- § 22:173 Remedies

### **XIII. FOREIGN INVESTMENT CHECKLIST**

- § 22:174 BKPM Guide to establishing a company in Indonesia
- § 22:175 Application Forms and Investment Checklist

### **XIV. MODEL JOINT VENTURE AGREEMENT**

- § 22:176 Summary of the Joint Venture Agreement
- § 22:177 Joint Venture Agreement (Perjanjian Joint Venture—Sample)

### **XV. FOREIGN INVESTMENT LAWS AND TREATIES OF INDONESIA—APPENDIX**

- § 22:178 The 2007 Limited Liability Company Law—Unofficial Translation
- § 22:179 The 2007 Foreign Investment Law—Law No. 25 of 2007
- § 22:180 The Negative Investment List
- § 22:181 Law No. 5/1999 on Unfair Competition
- § 22:182 The Trade Secrets Law
- § 22:183 The Copyright Law
- § 22:184 Government Regulation Number 57 Year 2010, Concerning Merger or Consolidation of Business Entities and Acquisition of Share of Companies Which May Cause Monopolistic Practices and Unfair Business Competition (Mergers)
- § 22:185 Law No. 30 of 1999 Concerning Arbitration and Alternative Dispute Resolution (The Arbitration Law)
- § 22:186 Who is Investing in Indonesia and Why Starbucks and MAP Boga Adiperkasa

# Table of Contents

## **PART II. BUSINESS ENVIRONMENT FOR JOINT VENTURES IN SELECTED COUNTRIES (CONTINUED)**

### **CHAPTER 33. AFRICA AND THE MIDDLE EAST**

- § 33:1 Introduction
- § 33:2 United States trade and investment agreements in the Middle East and North Africa
- § 33:3 Israel: The first U.S. free trade agreement
- § 33:4 1985-2001: No free trade for the Middle East
- § 33:5 Jordan: Free trade and terror
- § 33:6 MEFTA
- § 33:7 —Morocco: The first MEFTA agreement
- § 33:8 — —The Morocco-U.S. FTA in detail
- § 33:9 —Bahrain: The Second MEFTA Agreement
- § 33:10 —Oman: The third MEFTA agreement
- § 33:11 —United Arab emirates: A problematic case study
- § 33:12 MEFTA: Rhetoric and reality
- § 33:13 Terrorism, national security and trade
- § 33:14 Dubai, trailblazing for sustainable prosperity—Practitioner commentary
- § 33:15 Investments in the Arab Gulf Region with Focus on the Kingdom of Bahrain—Practitioner Commentary
- § 33:16 Chinese investment in Africa
- § 33:17 Reforming the law and culture of corruption in Nigeria
- § 33:18 Will the new investment climate in Tunisia attract foreign investment?
- § 33:19 GCC Cooperation and Qatar Boycott Crisis
- § 33:20 The Afghanistan Aynak Copper Mine Agreement with China: how to make it work?
- § 33:21 The Principle of Responsibility to Protect: Implementation Perspective in Middle East and North Africa, by Shorouq B. Al-Othman
- § 33:22 The Saudi Arabia- Qatar Crisis in 2021: Resolved?, by Asem Ali Alhamad, Esq.
- § 33:23 The Implications of Israel-Arab Normalization, by Fahad Alquwae, Esq.
- § 33:24 Western Sahara: How is Trade Affected by Unresolved Conflicts that Involve Disputes of Territory?, By Sergio Harim del Pino, Esq. (Spain)

## APPENDIX 33A. Tunisia Investment Law 2016

**CHAPTER 34. VIETNAM****I. EXECUTIVE SUMMARY**

- § 34:1 Introduction
- § 34:2 Ease of foreign direct investment
- § 34:3 The 2016 World Bank survey
- § 34:4 Regulations of investments
- § 34:5 Entry control
- § 34:6 Investment licensing and regulation
- § 34:7 Corporate taxation
- § 34:8 Conversion and transfer policies
- § 34:9 Expropriation and compensation
- § 34:10 Dispute settlement
- § 34:11 Performance requirements and investment incentives—  
Overview
- § 34:12 Right to private ownership and establishment
- § 34:13 Protection of property rights
- § 34:14 Transparency of the regulatory system
- § 34:15 Capital markets
- § 34:16 Competition from State Owned Enterprises (SOEs)
- § 34:17 Corporate Social Responsibility
- § 34:18 Political violence
- § 34:19 Corruption
- § 34:20 Investment treaties
- § 34:21 OPIC and other investment insurance programs
- § 34:22 Labor
- § 34:23 Foreign trade zones, industrial zones, and export  
processing zones

**II. LEGAL SYSTEM**

- § 34:24 Overview
- § 34:25 The 2013 Constitution of Vietnam
- § 34:26 Government structure and the judiciary

**III. COMMERCIAL LAWS**

- § 34:27 Introduction
- § 34:28 The 2005 Commercial Law
- § 34:29 The 2015 Civil Code
- § 34:30 Secured transactions
- § 34:31 The 2015 Civil Procedure Code
- § 34:32 Overview of the 2010 Arbitration Law
- § 34:33 Outline of the 2010 Arbitration Law
- § 34:34 The 2010 Arbitration Law
- § 34:35 The 2005 Law on Competition

## TABLE OF CONTENTS

### IV. BUSINESS ENTITIES

- § 34:36 The 2015 Enterprise Law and the 2015 Investment Law
- § 34:37 The 2015 Enterprise Law—Overview
- § 34:38 Legal Representatives
- § 34:39 Changes in management
- § 34:40 Capital contributions
- § 34:41 Lower quorum and voting thresholds
- § 34:42 Reduction in charter capital
- § 34:43 Restrictions on founding shareholders of a JSC
- § 34:44 Group of companies
- § 34:45 The 2015 Enterprise Law—Unofficial translation

### V. REGULATION OF BUSINESS ACTIVITIES

- § 34:46 The Law on Prices
- § 34:47 —Unofficial translation
- § 34:48 The 2005 Law on Competition
- § 34:49 The 2015 Investment Law and the 2015 Enterprise Law
- § 34:50 Government procurement and tendering
- § 34:51 The 2013 Labor Code
- § 34:52 Environmental law
- § 34:53 The law on protection of consumers' rights (Law No.59/2010/QH12)
- § 34:54 Protecting consumers' information
- § 34:55 Traders—Prohibited Acts
- § 34:56 Third parties—Liability for providing false or misleading information to consumers
- § 34:57 Warranties
- § 34:58 Defective goods
- § 34:59 Standard form contracts
- § 34:60 Decree No. 99/2011/ND-CP
- § 34:61 Settling consumer complaints
- § 34:62 Law No.59/2010/QH12—The law on protection of consumers' rights
- § 34:63 The 2005 Commercial Law
- § 34:64 The Law on Advertising
- § 34:65 Decree No. 181/2013/ND-CP (Decree No. 181)
- § 34:66 The Law on Advertising—Law No. 16/2012/QH13 on Advertising dated June 21, 2012
- § 34:67 Decree No. 181
- § 34:68 Decree 35—Franchising
- § 34:69 The 2015 Civil Code
- § 34:70 2015 Civil Code Articles 116 through 133
- § 34:71 2015 Civil Code—Part 3, Chapter XV, Section 1, Articles 274 through 454
- § 34:72 The 2015 Civil Procedure Code
- § 34:73 Anti-Corruption measures
- § 34:74 The Law on prevention of money laundering 2012
- § 34:75 Unofficial translation of the 2005 Competition Law

- § 34:76 The 2005 Commercial Law
- § 34:77 The 2014 Bankruptcy Law—Overview
- § 34:78 The 2014 Bankruptcy Law

## **VI. INVESTMENT INCENTIVES**

- § 34:79 Significant developments in Corporate Income Tax in 2014
- § 34:80 Foreign tax credits
- § 34:81 Inbound investment incentives
- § 34:82 Tax holidays
- § 34:83 Employment incentives and the Research and Development (R&D) Fund

## **VII. REGULATION OF FOREIGN INVESTMENT**

- § 34:84 The 2015 Investment Law and the 2015 Enterprise Law
- § 34:85 The 2005 Investment Law
- § 34:86 The 2015 Investment Law—Overview
- § 34:87 —Chapter IV
- § 34:88 Foreign Exchange Regulations
- § 34:89 The 2015 Investment Law—Unofficial translation
- § 34:90 Decree 118/2015/ND-CP guiding the implementation of Law on Investment—Appendix I and Appendix II
- § 34:91 Law 03/2016/QH14 On Amendment And Supplement To Article 6 And Annex 4 On The List Of Conditional Business Lines Stipulated In The Law On Investment
- § 34:92 The 2020 Vietnam Investment Law

## **VIII. TAXATION-CORPORATE**

- § 34:93 Significant recent developments
- § 34:94 Corporate income tax (CIT) Rates
- § 34:95 Other taxes
- § 34:96 Tax administration
- § 34:97 Branch income
- § 34:98 Deductions
- § 34:99 Group taxation
- § 34:100 Transfer pricing
- § 34:101 Thin capitalization
- § 34:102 Income determination
- § 34:103 Corporate residence
- § 34:104 Withholding taxes
- § 34:105 The 2009 Law on Enterprise Income Tax
- § 34:106 Law No. 32/2013/QH13 dated June 19, 2013

## **IX. REGULATION OF EXPORTS AND IMPORTS**

- § 34:107 Customs law—Overview
- § 34:108 WTO entry and tariffs
- § 34:109 Trade barriers
- § 34:110 Import permits and trading rights



## TABLE OF CONTENTS

§ 34:111 The 2014 customs law—Law No. 54-2014-QH13

### **X. EXCHANGE CONTROLS**

§ 34:112 Foreign exchange—Overview

§ 34:113 The 2015 Law on Investment

### **XI. LABOR LAWS**

§ 34:114 The 2013 Labor Code

§ 34:115 Law No. 10/2012/QH13 (the 2013 Labor Code)

§ 34:116 Law No. 12/2012/QH13 on Trade Unions

### **XII. INTELLECTUAL PROPERTY**

§ 34:117 Intellectual property (IP) - International conventions

§ 34:118 Legal & regulatory framework

§ 34:119 Overview of the 2009 Amendments to the 2006 IP Law

§ 34:120 The 2009 Amendments

§ 34:121 Decree on No. 131 on sanctioning administrative violations of copyright and related rights

§ 34:122 Plant Variety Rights

§ 34:123 The 2007 Law on Technology Transfer

§ 34:124 Protection of trade secrets

§ 34:125 Intellectual property—Legal proceedings

§ 34:126 The intellectual property law—Law No. 50/2005/QH11

§ 34:127 The law amending and supplementing a number of articles of the law on intellectual property, No. 36/2009/QN12 (the 2009 Amendments)

§ 34:128 Decree No. 47/2009/ND-CP on sanctioning administrative violations of copyright and related rights (hereinafter Decree No. 47)

§ 34:129 The 2008 Joint Circular on Settlement of IP Disputes

### **XIII. SAMPLE AGREEMENT**

§ 34:130 Vietnam joint venture sample agreement

## **PART III. INTERNATIONAL JOINT VENTURE COMMERCE**

### **CHAPTER 35. SPECIAL PROBLEMS: COUNTERTRADE AND JOINT VENTURES WITH SAMPLE AGREEMENTS**

#### **I. INTRODUCTION**

§ 35:1 Foreign government approval of joint venture

§ 35:2 Countertrade in the post-World War II years

§ 35:3 Why engage in countertrade?

## **II. FORMS OF COUNTERTRADE**

- § 35:4 Barter
- § 35:5 Counterpurchase
- § 35:6 Compensation or buyback
- § 35:7 Offsets
- § 35:8 Switch trading
- § 35:9 Bilateral clearing accounts
- § 35:10 Investment commitment

## **III. THE COUNTERTRADE AGREEMENT**

- § 35:11 Single versus three agreements
- § 35:12 The first agreement
- § 35:13 The second agreement
- § 35:14 The third agreement—The protocol

## **IV. NEGOTIATING A COUNTERTRADE AGREEMENT**

- § 35:15 Understanding countertrade
- § 35:16 Length of time to negotiate
- § 35:17 Definition of the goods
- § 35:18 Quality
- § 35:19 Quantity
- § 35:20 Prices
- § 35:21 Other trade rules applicability
- § 35:22 Percentage of countertrade demanded
- § 35:23 Discount for costs of disposing countertrade goods
- § 35:24 Nonperformance penalties
- § 35:25 Selection of goods
- § 35:26 Release of United States party
- § 35:27 Renegotiation
- § 35:28 Dispute resolution

## **V. COUNTERTRADE IN THE CONTEXT OF A JOINT VENTURE**

- § 35:29 Compensation countertrade and a joint venture

## **VI. POLICY POSITIONS CONCERNING COUNTERTRADE**

- § 35:30 Governments and international organizations
- § 35:31 United States government policy
- § 35:32 United States trade law
- § 35:33 United States antitrust law
- § 35:34 Western European nations
- § 35:35 Nonmarket economy nations
- § 35:36 Developing nations

## TABLE OF CONTENTS

- § 35:37 Middle East nations
- § 35:38 United Nations
- § 35:39 GATT/WTO
- § 35:40 OECD

## **VII. CONCLUSIONS**

- § 35:41 Future of countertrade

## **VIII. SAMPLE COUNTERTRADE AGREEMENTS**

- § 35:42 Counterpurchase contract with India
- § 35:43 Counterpurchase contract with Russia (production of polyester fibers, polyester threads and their raw materials and delivery of chemicals and cotton)
- § 35:44 Offset agreement with Israel
- § 35:45 General guide for the offset program of the Korean Telecommunication
- § 35:46 International buy-back contracts (UN ECE)

## **CHAPTER 36. DOCUMENTARY AND STANDBY LETTERS OF CREDIT**

### **PART I. DOCUMENTARY LETTERS OF CREDIT**

- § 36:1 The international sales transaction problem
- § 36:2 The documentary sale transaction
- § 36:3 Risk allocation in the letter of credit transaction
- § 36:4 The governing letter of credit rules
- § 36:5 Applicable law
- § 36:6 Basic legal principles
- § 36:7 Wrongful dishonor of a credit
- § 36:8 Wrongful honor of the credit
- § 36:9 Examination of the documents for discrepancies
- § 36:10 Notification of discrepancies
- § 36:11 The documents in the letter of credit transaction
- § 36:12 Electronic letters of credit
- § 36:13 Back-to-back and revolving credits
- § 36:14 Sample LOC

### **PART II. STANDBY LETTERS OF CREDIT**

- § 36:15 Overview
- § 36:16 Transaction pattern of standby letters of credit, sample LOC
- § 36:17 Differences with commercial letter of credit
- § 36:18 Sources of law and rules/governing rules
- § 36:19 Revised UCC Article 5
- § 36:20 Uniform Customs and Practices for Documentary Credits (UCP)

- § 36:21 New international rules for standby letters of credit
- § 36:22 United Nations Convention on independent guarantees  
and stand-by letters of credit (1995)
- § 36:23 Drafting History of the Rules on International Standby  
Practices (ISP 98)
- § 36:24 The rules of ISP 98
- § 36:25 Use of ISP 98
- § 36:26 The debate over ISP 98
- § 36:27 The “fraud defense”
- § 36:28 Fraudulent or abusive demands for payment under the  
United Nations Convention on independent guarantees  
and stand-by letters of credit

## **CHAPTER 37. INTERNATIONAL JOINT VENTURE SALES LAW**

### **I. INTRODUCTION**

- § 37:1 Introduction to the CISG
- § 37:2 United Nations Commission on International Trade Law  
(UNCITRAL)
- § 37:3 Short history of the drafting of CISG

### **II. SCOPE AND GENERAL PROVISIONS OF CISG**

- § 37:4 The sphere of application of CISG
- § 37:5 Choice of law clauses
- § 37:6 Transactions excluded from the convention
- § 37:7 Types of sales transactions excluded from the convention
- § 37:8 Issues excluded from the convention
- § 37:9 General provisions of CISG

### **III. CONTRACT FORMATION**

- § 37:10 Contract formation in general
- § 37:11 Offer
- § 37:12 Firm offers
- § 37:13 Acceptance

### **IV. RIGHTS AND OBLIGATIONS OF THE PARTIES**

- § 37:14 Seller's obligations—Delivery
- § 37:15 —Quality of the goods
- § 37:16 —Property issues
- § 37:17 Buyer's obligations
- § 37:18 Buyer's inspection and notice of defects
- § 37:19 Cure
- § 37:20 Risk of loss
- § 37:21 Excused performance
- § 37:22 Interpretation in U.S. courts

## TABLE OF CONTENTS

### V. REMEDIES

- § 37:23 Remedies in general
- § 37:24 Suspending performance
- § 37:25 “Avoidance” of a contract—Refusal to accept  
nonconforming performance
- § 37:26 Non-judicial price adjustment
- § 37:27 Reclamation of the goods
- § 37:28 Judicial remedies
- § 37:29 Seller’s action for specific performance
- § 37:30 Buyer’s action for the contract price
- § 37:31 Damages
- § 37:32 Buyer’s damages
- § 37:33 Seller’s damages

### VI. COMMERCIAL TERMS

- § 37:34 Overview
- § 37:35 The purpose of commercial terms
- § 37:36 Incoterms as a trade usage
- § 37:37 Categories of commercial terms
- § 37:38 Revisions of Incoterms
- § 37:39 The format of Incoterms
- § 37:40 The Ex Works (EXW) term
- § 37:41 The Free Carrier (FCA) term
- § 37:42 The Free Alongside Ship (FAS) term
- § 37:43 The Free on Board (FOB) term
- § 37:44 The Cost, Insurance and Freight (CIF) term
- § 37:45 The Cost and Freight (CFR) term
- § 37:46 The Carriage and Insurance Paid To (CIP) term
- § 37:47 The Carriage Paid To (CPT) term
- § 37:48 Destination terms
- § 37:49 The Delivery Ex Ship (DES) term (eliminated in 2010)
- § 37:50 The Delivery Ex Quay (DEQ) term (eliminated in 2010)
- § 37:51 The Delivery at Frontier (DAF) term (eliminated in 2010)
- § 37:52 The Delivery Duty Unpaid (DDU) term (eliminated in  
2010)
- § 37:53 The Delivery Duty Paid (DDP) term
- § 37:54 The Delivered at Place (DAP) term
- § 37:55 The Delivered at Terminal (DAT) term
- § 37:56 Interpretation of gaps in Incoterms, electronic  
communications
- § 37:57 Comparison of Incoterms with UCC and CISG
- § 37:58 The EXW term and default rules under CISG and UCC
- § 37:59 The UCC “F.O.B. place of shipment” term
- § 37:60 The UCC “F.A.S. vessel” term
- § 37:61 The UCC “F.O.B. vessel” term
- § 37:62 The UCC “C.I.F.” term
- § 37:63 The UCC “F.O.B. place of destination” term

## **VII. BILLS OF LADING**

- § 37:64 Introduction
- § 37:65 Descriptive terms for bills of lading
- § 37:66 Non-negotiable or straight bills of lading
- § 37:67 Negotiable or order bills of lading
- § 37:68 International conventions
- § 37:69 Overview of United States law
- § 37:70 The Harter Act
- § 37:71 Carriage of Goods by Sea Act (COGSA)
- § 37:72 Federal Bills of Lading Act
- § 37:73 Choice of law
- § 37:74 Overview of Payment Against Documents Transactions
- § 37:75 The necessity of a negotiable bill of lading
- § 37:76 Payment
- § 37:77 Risks of the parties
- § 37:78 Seller's risks
- § 37:79 Buyer's risks
- § 37:80 Misdelivery
- § 37:81 Misdescription
- § 37:82 Forged bills of lading
- § 37:83 Introduction to electronic bills of lading
- § 37:84 Establishing a system and format for electronic bills of lading

## **VIII. SAMPLE INTERNATIONAL SALES AGREEMENTS**

- § 37:85 Sample international product sales agreement (PRC) with accompanying irrevocable bank guarantee
- § 37:86 Sample international sales agreement (PRC)
- § 37:87 Sample international commodity sales agreement (PRC)
- § 37:88 Volume purchase agreement (Germany) (electronics)
- § 37:89 License to manufacture agreement (Germany) (electronics)
- § 37:90 International contract for sale of secondary galvanized metal (Selective CISG Application)
- § 37:91 Purchase and sale agreement (chemicals industry)
- § 37:92 Third party labor conditions and supply chain accountability clause
- § 37:93 Sample vendor standard terms and conditions of purchase
- § 37:94 Sample vendor nondisclosure agreement
- § 37:95 Sample logistics service provider contract

## **IX. PRACTITIONER COMMENTARY**

- § 37:96 The controversy of good faith in the United Nation Convention on contracts for the international sale of goods, by Jennifer Mays, Esq.

### **Table of Laws and Rules**

### **Table of Cases**

TABLE OF CONTENTS

**Index**