Long-term demand for a range of agricultural (food) products will be increasing dramatically over the coming decades. This demand is mainly being driven by developing countries in Asia.

International merger and acquisition activities in the agri-food and biotech industry have surged worldwide. New technologies and growing methods are changing the conventional agricultural business models. In spite of the need for cross-border operations and investment, it has remained difficult for investors to navigate through domestic agricultural policies, laws and regulations.

This publication is unique in its field. It takes a foreign investor’s stand-point and makes cross comparisons between countries and different practice areas relating to foreign investment in agriculture business.

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ML INTERNATIONAL LAWYERS & ADVISERS
Global Agriculture Law

First edition 2015

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Being an international lawyer living in Beijing, it continues to impress me how comprehensively agriculture influences economy, society and people’s health. Economies like India and China have an urgent need for modern agricultural technologies to secure sustainable production and safe food products while, in contrast, developed countries are in need of new (export) markets.

Long term demand for a range of agricultural (food) products will continue to increase dramatically over the coming decades. This demand is predominantly driven by developing countries in Asia. International merger and acquisition activities in the agriculture, food and biotech industry have surged worldwide. New technologies and breeding methods are changing the conventional agricultural business models. Agriculture related trade issues have become complex and can involve the national security of a country. This makes agriculture a global and strategic business affair.

Agriculture law covers a comprehensive and dynamic legal playing field in which national or regional laws interact with international obligations and standards as stated in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, the UPOV Convention, the Cartagena Protocol on Biosafety and the Codex Alimentarius.

Agricultural law has become a distinct discipline in the legal landscape and deserves to be treated as such, next to the more established conventional legal practice areas like banking, M&A, real estate, intellectual property, employment, litigation and tax, to name a few.

This publication addresses different legal practice areas such as agricultural land ownership, agriculture related foreign investment issues, seed law, plant variety protection (including breeder’s exemption and farmer’s privilege), animal and plant gene rights, GM food trade, food safety standards and food product liability. The publication is not exhaustive. It does not advocate any particular agricultural policy or legal regime.

The purpose of these jurisdictional comparisons is to enable foreign investors, food producers, legal professionals and policy makers to make cross-border comparisons between countries on different agriculture practice areas.

This first edition has been a tremendous challenge to create. It covers key jurisdictions across Asia, Europe, Africa, and North and South America. At the time this first edition of the Agricultural Law Global Guide goes to print new candidate firms have already expressed interest in providing additional country contributions to be incorporated in a future edition and the online version.
My thanks go to all contributing lawyers and their respective firms for sharing their expertise, their time and their patience to comply with the stringent question format in order to bring about this unique publication. Great thanks are also due to Katie Burrington, Dawn McGovern, Emily Kyriacou, Nicola Pender and Stuart Fellows of the Thomson Reuters team, for their encouragement to start this particular publication project and for their ongoing professional support.

Finally, comments on the subject matter of this publication or suggestions to add certain chapters to a future edition or the online version will be gratefully received.

Jan V.M. Holthuis
General Editor
jholthuis@hil-law.com
Beijing, March 2015
Like in so many other industries, globalisation is impacting and changing agriculture. International markets present enormous growth opportunities in the coming decade in this industry for companies such as DuPont. While we see great potential for increasing global agricultural productivity, with technological innovation, international collaboration, and agricultural modernisation in developing countries in particular, navigating the different legal systems and markets to maximise the potential is not always obvious. In a major agricultural market like China, our AG and Nutrition business commits to the improvement of local agricultural productivity, professionalism and modernisation of local agriculture and food security for the entire country. Our commitment, nevertheless, presupposes an understanding and ability to work within China’s legal and regulatory landscape. Starting with compliance with applicable laws and regulations, we conduct business and serve customers. The same discipline applies everywhere globally where we operate business as the DuPont company.

The Agricultural Law Global Guide provides an overview of agriculture laws and policies in key jurisdictions worldwide, and compares these countries on different aspects of agricultural law and practice areas. As such, I consider it a valuable guide for investors and businesses who would like to understand and navigate the agricultural laws and policies of these countries.

After working and living in China for the past five years, I am confident that China’s agricultural and rural reforms will progress and improve. Today, the Chinese government considers the “rule of law” foundational to developing the rural China agriculture sector. Rural social, legal and environmental issues will be further regulated in the upcoming years. Regulators in other parts of the world will have to create the same momentum for change to ensure alignment across systems. I believe that the readers of this guide will find the information and perspectives helpful in operating in China under the conditions called the “new normal”, as well as in other parts of Asia and the world.

Dr. William S. Niebur
VP/GM North ASIA
DuPont Pioneer
AGRICULTURAL POLICY

1. **State whether and when your jurisdiction has joined the following:**
   - The World Trade Organization.
   - The Food and Agriculture Organization of the United Nations.
   - The International Plant Protection Convention.
   - The Office International des Epizooties, also known as the World Animal Health Organization.

**World Trade Organization (WTO)**
China has been a member of the WTO since 11 December 2001. When joining the WTO, China made several reservations with respect to market access and land ownership (in China land is state-owned). Most limitations are outdated and have been replaced by market access restrictions and prohibitions stated in the Foreign Investment Industrial Guidance Catalogue (2011).

**Food and Agriculture Organization of the United Nations (FAO)**
China is a founding member of the FAO and joined on 24 October 1945, without reservations (China replaced Taiwan in 1973).

**International Plant Protection Convention (IPPC)**
China joined the IPPC on 20 October 2005, without reservations.

**Office International des Epizooties (IOE)/World Animal Health Organisation**
The IOE was established on 25 January 1924. Taiwan joined in 1954 as a member. China joined the IOE in 1992. On 25 May 2007, China became the sole representative and Taiwan became a non-sovereign member.

2. **Describe the most recent national agricultural policy of your jurisdiction, in particular with respect to biotech crops and new crop growing technologies.**
The Communist Party of China Central Committee and the State Council jointly issue annual national policy documents on accelerating the development of modern agriculture and rural development with Chinese characteristics (the No. 1 Documents). The No. 1 Documents:

- Put great importance on larger-scale household agriculture operations (for example, family-run farms and farmer co-operatives).
- Encourage and support the transfer of rural land to specialised farmers, family-run farms, and farmer co-operatives.
To achieve this aim, innovation of financial products and services to farmers is encouraged.

Agricultural subsidies continue to support the modernisation of agricultural technologies and grain production. A mixture of minimum purchase price, temporary reserve measures and target price subsidy aims to secure the supply of wheat, rice, corn, soybean, rapeseed, cotton and sugar, and prevent volatile price fluctuations.

The No. 1 Documents stress the importance of developing high efficient water saving irrigation and the improvement of agricultural logistics (trade market centres, wholesale and retail distribution, cold chain logistics and online settlements) to facilitate the “North-South” and “West-East” distribution of food.

Commercial investment is encouraged in greenhouse production, food processing, and livestock farming, but not in large industrial scale crop farming. Instead of following the US and South American model of large agricultural farms, China maintains a large rural population that is encouraged to be active in large-scale household agriculture. However, as a result of the shortage of agricultural land in China (China has 9% of the total arable land in the world and 21% of the world’s population), imports are an important source of food security.

The Opinions of the State Council on Accelerating the Development of the Modern Crop Seed Industry of 10 April 2011 state that the crop seed industry is a key national industry. Its modernisation is accelerated for the long-term social stability and food security of China. To achieve this objective, China will insist on independent innovation through international co-operation in the crop seed industry, in particular with respect to advanced breeding technology, to improve the domestic crop seed industry’s competitiveness. As a result, foreign investment in the seed business in China is only allowed by way of a joint-venture in which the Chinese partners have a controlling interest.

ACQUISITION OF AGRICULTURAL COMPANIES

3. Is the acquisition of domestic agricultural companies by foreign investors subject to special prior government approval(s)? Set out the approval procedures and the authorities involved.

Acquisitions of domestic agricultural companies by foreign investors are subject to prior approvals by the Ministry of Commerce (MOFCOM) and the National Development and Reform Commission (NDRC). The NDRC focuses on macro-economic planning and MOFCOM on the project fundamentals (articles of association and business plan).

The majority of review and approval processes carried out by MOFCOM and the NDRC have been decentralised and changed to record filing. However, certain transactions can still trigger national security review, anti-monopoly review and special approval by competent industry authorities (for example, by the Ministry of Agriculture).

The approval procedure is as follows.
National security review
If foreign investors acquire or merge with a domestic Chinese enterprise that has an impact on national security in important agricultural products, and the transaction may result in actual control by the foreign investor, a national security review needs to be conducted by a ministerial panel. This panel is formed ad hoc, organised by the National Reform and Development Committee (NRDC) and MOFCOM and composed of relevant authorities of the industries in question.

Although there is no formal penalty for a foreign investor's decision not to apply for review, it can be perceived as evasive by the panel and the general public.

The review is conducted on the basis of the actual result of the transaction and cannot be evaded by placing the transaction overseas through equity entrustment, agency, a trust structure, multi-tier reinvestment, leasing, loans, variable interest entity (VIE) or other structures.

The proposed transaction can proceed if it is decided to have no influence on national security. Transactions with potential influence on national security are ordered to be terminated. The relevant parties can reapply after amendments. If a transaction is likely to cause or has already caused a great impact on national security, it must be terminated immediately and its impact reversed by way of equity and/or asset transfer and other effective measures.

Anti-monopoly review
Mergers, equity/asset purchase and contractual arrangements that will give a foreign company a controlling interest in a Chinese company are subject to merger control by MOFCOM, in accordance with the Anti-Monopoly Law of China 2008.

A filing must be made if there are at least two participants in the transaction that each has a China turnover of more than CNY400 million in the previous accounting year and either:
• Global turnover of all participants exceeding CNY10 billion.
• China turnover of all participants exceeding CNY2 billion.

Transactions on smaller scales than the above can be investigated by MOFCOM, at its discretion. Recent cases indicate that Chinese merger control is becoming stricter.

General project review at National Reform and Development Committee (NDRC)
Foreign investors and their counsel have long been puzzled by the vague wording of the NDRC Tentative Regulation on foreign investment project review, which defines the authorities for the review of foreign acquisitions of domestic companies. The division of authority is clarified in the recent Regulations on Approval and Record-filing of Foreign Investment Projects, which came into effect on 17 June 2014. This latter regulation needs to be consulted in co-ordination with the 2013 update of the Circular of The State

Together, these regulations set the below review framework for foreign acquisitions of Chinese enterprises. Whether the acquisition takes the form of a share issue, merger, share or asset acquisition is irrelevant for the review.

<table>
<thead>
<tr>
<th>Industry</th>
<th>Shareholding requirement</th>
<th>Sector</th>
<th>Investment amount</th>
<th>Examination</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encouraged industries</td>
<td>Majority Chinese</td>
<td>All</td>
<td>Above US$300 million</td>
<td>NDRC</td>
</tr>
<tr>
<td>Below US$300 million</td>
<td>Provincial government</td>
<td>All</td>
<td>Within the 2013 Project Catalogue</td>
<td>All</td>
</tr>
<tr>
<td>A applicable industry authority</td>
<td>Outside the 2013 Project Catalogue</td>
<td>Filing</td>
<td>Permitted industries</td>
<td>All</td>
</tr>
<tr>
<td>Within the 2013 Project Catalogue</td>
<td>All</td>
<td>Applicable industry authority</td>
<td>outside the 2013 Project Catalogue</td>
<td>Filing</td>
</tr>
<tr>
<td>Restricted industries</td>
<td>All</td>
<td>All</td>
<td>Above US$50 million</td>
<td>NDRC</td>
</tr>
<tr>
<td>Below US$50 million</td>
<td>Provincial government</td>
<td></td>
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</tr>
</tbody>
</table>

**Transaction review at local MOFCOM**

After a transaction receives the above approval, it is still subject to review by the local MOFCOM where the target is located. This review requires submission of all detailed information of the proposed transaction, the parties involved and post-transaction plans. The documents required differ for share and asset acquisitions. When MOFCOM approves the acquisition, the transaction is cleared.

4. **Describe if specific legal forms (such as co-operatives) are regulated or used in the agricultural sector and whether they are open to foreign investment.**

The No. 1 Documents place high importance on promoting new models of agricultural operations, in particular the farmer co-operatives (see Question 2).


Farmers’ co-operatives are mutually assisting economic organisations that members join voluntarily. They are managed in a democratic manner by producers and operators of the same kind of products, or by providers or
users of services of the same kind of agricultural production and operation. Farmers’ co-operatives mainly serve their members, offering such services as purchasing the means of agricultural production, marketing, processing, transporting and storing farm products, and providing technologies and information related to producing and operation (Article 2, Law of Farmers’ Co-operatives).

Farmers’ co-operatives are legal entities and their members are liable within the limits of their capital contribution. Farmers’ co-operatives are subject to the following additional requirements:

- Co-operatives must have five or more members.
- At least 80% of the members must be farmers.
- If the farmers’ co-operative has less than 20 members, one member can be an enterprise, public institution or organisation.
- For co-operatives with more than 20 members, no more than 5% of its members can be enterprise or institutional members.

The farmers’ co-operative has a membership assembly, a director-general (being the legal representative of the farmers’ co-operative), directors and an executive supervisor or board of supervisors.

Foreign investment entities (FIEs) can co-operate with Chinese farmers to establish a Specialised Farmers’ Co-operative, as long as they are engaged in production and operation directly related to the business of the Specialised Farmers’ Co-operative. The first Specialised Farmers’ Co-operative was established in Cixi, Zhengjiang Province, on 22 October 2012. The FIE is a subsidiary of the Chia Tai Group from Thailand.

5. To what extent does competition (anti-trust) law apply to agriculture?
The same concentration notification requirements and thresholds apply as to concentrations in non-agricultural sectors (see Question 3). If the thresholds are not met, but the concentration has the effect of excluding or restricting competition, the Ministry of Commerce (MOFCOM) still has authority to investigate the concentration.

ACQUISITION OF AGRICULTURAL LAND

Sale and transfer of usage rights and ownership

6. Set out the domestic laws that apply to the acquisition of:
- Usage rights to agricultural land.
- Ownership of agricultural land.

Usage rights to agricultural land
In China, land directly used for agricultural production is collectively referred to as agricultural land. This includes:

- Cultivated land.
- Forest land.
- Grassland.
- Land used for irrigation.
- Bodies of water used for breeding purposes.
Agricultural land is either owned by the state or by a rural collective. Private parties (FIEs or domestic enterprises) can only obtain usage rights to agricultural land. They cannot obtain ownership of agricultural land, since ownership is not transferable. Only a usage right to agricultural land is transferable.

Laws and regulations applicable to the acquisition of usage rights to agricultural land include:

• Article 10 of the People’s Republic of China (PRC) constitution (promulgated by the National People’s Congress (NPC), revised in 2004).
• The Land Administration Law of the PRC (promulgated by the Standing Committee of the NPC, revised in 2004).
• Implementing Rules for the Land Administration Law of the PRC (promulgated by the State Council, effective from 1 January 1999).
• Law of the PRC on the Contracting of Rural Land (promulgated by Standing Committee of the NPC, effective from 1 January 2003).
• Measures for the Administration of Allotment of Rural Land under Lease and Management Right (promulgated by the Ministry of Agriculture, effective from 1 March 2005).
• Interim Regulations of the PRC on the Assignment and Transfer of the Rights to the Use of State-owned Urban Land (promulgated by the State Council, effective from 19 May 1990).

Ownership of agricultural land
Chinese agricultural land is owned by the state or by rural collectives. Ownership is not transferable (see above, Usage rights to agricultural land).

7. Are there any legal restrictions on the acquisition of agricultural land (or usage rights) by a foreign (or foreign invested) party?
Agricultural land is either owned by the state or by a rural collective. Foreign or foreign invested parties can be eligible to acquire usage rights but not ownership (see Question 6).

Rural collective-owned agricultural land can only be leased by farmers to FIEs undertaking agricultural production, processing or research and development (R&D).

8. Are there any compulsory tendering or prior approval procedures required for a sale and purchase of agricultural land? Briefly describe these procedures and the approval authorities (if any).
State-owned agricultural land
In theory, entities or individuals can acquire a usage right to state-owned agricultural land by entering into a leasing contract with the Bureau of Land and Resources at the county or municipal level, through private negotiation, auctions or public tenders. In practice, however, the acquisition of usage rights to state-owned agricultural land is limited in certain regions such as Northeast China.
Collective-owned agricultural land
In rural areas, agricultural land is owned collectively by peasants. Individual peasants (the contractor) can have an agricultural land usage right under a contractual arrangement (contracted land usage right) with the village collective body or the village committee (the contract-issuing party). The contracted land usage right is transferable.

The usage right can also be transferred by pledging or an equity contribution. According to the Decision of the Central Committee of the Communist Party of China on Several Major Issues Concerning Comprehensively Deepening Reforms (promulgated by the Central Committee of the Communist Party of China (CPC), effective on 12 November 2013), farmers are encouraged to:

- Invest their contracted land usage right as equity of a company.
- Transfer contracted land usage of individual farmers to scaled agricultural participators such as modern ranches, agricultural co-operatives and enterprises in certain open market platforms.

9. Does the law and/or regulations prescribe minimum land purchase prices if the (local) government sells agricultural land?
The sale of agricultural land is not permitted. Only a land usage right can be transferred (see Question 6).

There is no statutory minimal agricultural land usage right transfer price. The transfer price of agricultural land can be determined by the value of the agricultural land, a process which is conducted by the local Bureau of Land and Resources. Local governments are encouraged to establish local guidance for land transfer pricing.

10. Is there a maximum term applicable to the lease (or use) of agricultural land?
The maximum lease term of agricultural land is 20 years. At the end of the lease term, the parties can renew the lease contract, provided that the renewed term does not exceed 20 years commencing on the date of renewal. In case of land leased from farmers, the lease term must also be no longer than the remaining term of the land usage right under the contractual arrangement (see Question 8) between the village collective and individual farmers.

11. In which circumstances can the government authorities expropriate agricultural land?
In some circumstances the competent land administrative department or rural collective organisation can reclaim land use rights over state-owned land if, among others:

- The land is to be used for the public interest.
- The use for which the land was originally allocated has stopped.
China

Tax and financing

12. Which taxes apply with respect to the sale and transfer of land ownership (or usage rights)?

The sale of agricultural land is not permitted. Only a land usage right can be transferred (see Question 6). No taxes apply on the transfer of usage rights over state-owned and collective-owned agricultural land to entities or individuals for an agricultural purpose.

For the transfer of usage rights to agricultural land for non-agricultural purposes through the elementary land market, the land user pays a number of taxes, including farmland conversion tax, deed tax, stamp tax, and urban land use tax.

13. Does your jurisdiction have special regulated agri/green-parks and is (foreign) investment in such parks incentivised? If so, what incentives apply in general?

China has some special regulated agri/green-parks, which emphasise the co-ordinated development of the economy and ecological conservation and actively attract foreign agricultural investment. Foreign investment in such parks is often incentivised and most incentives include:

• Tax cuts.
• The reduction or exemption of the land use fee and administrative fee.
• Other preferential policies concerning housing or children’s education for foreign investors.

At national level, there are mainly three types of special agri/green-parks:

• Poyang Lake Eco-economic Zone and Dongting Lake Eco-economic Zone.
• Yanglin Agricultural High Tech Industrial Model Zone.
• National Modern Agriculture Model Zone.

The Ministry of Agriculture has been promoting the establishment of a National Modern Agriculture Model Zone on a national scale. There are currently around 153 zones and the full list can be found at the Ministry of Agriculture's official website (www.moa.gov.cn/ztzl/xdnysfq/).

14. Briefly describe the procedures to mortgage/pledge agricultural land rights in order to acquire domestic financing.

A usage right to state-owned agricultural land can be mortgaged if the following conditions are satisfied:

• The land users are companies, enterprises, or other economic organisations and individuals.
• A certificate for the use of the state-owned land has been obtained.
• A contract to assign the right to use the land is signed, and the land user pays the assignment fee to the local municipal or county government, or uses the profit resulting from a mortgage to pay the assignment fee.

This implies that, in theory, an FIE can mortgage its usage rights over state-owned agricultural land. However, in practice there are few precedents in this respect.

Due to legal restrictions, a usage right over collective-owned agricultural land cannot be mortgaged, unless it relates to collective-owned wasteland.
for agricultural purposes. This implies that an FIE cannot mortgage its usage rights over collective-owned agricultural land. The central government has been promoting some pilot projects for the mortgage of a usage right to collective-owned agricultural land owned by individual farmers or farmer’s co-operatives. However, these pilot projects are still facing many obstacles, in particular legal restrictions.

CROP SEED BUSINESS

15. Which domestic laws and regulations regulate the crop seed industry and which domestic authorities/agencies supervise this sector?

Laws and regulations

The key laws and regulations on the crop seed industry are the:

- **Seed Law** promulgated on 8 July 2000 and amended on 28 August 2004 (Seed Law).
- **Administrative Rules on the Approval of Crop Seed Production and Operation** issued by the Ministry of Agriculture, effective from 25 September 2011 (Crop Seed Administrative Rules).
- **Regulation on the Scope of Main Crops** issued by the Ministry of Agriculture on 26 February 2001 (Main Crop Regulation).

FIEs operating in the crop seed industry are also subject to:

- **The Catalogue for Guiding Foreign Investment** (Catalogue), jointly issued by the Ministry of Commerce (MOFCOM) and the National Development and Reform Commission (NDRC), latest version 2011.
- **The Regulation on the Approval and Registration of Foreign-invested Crop Seed Enterprises** (FICSE Regulation), jointly issued by the Ministry of Agriculture, the State Planning Commission, the Ministry of Commerce (MOFCOM) and the State Administration of Industry and Commerce (SAIC) on 8 September 1997.

Import and export restrictions

The import and export of plants and propagation materials is restricted in the following ways.

**Entry of potentially harmful species is prohibited.** China prohibits entry of plants and seeds it believes to be potentially harmful to its ecosystem and economy. These plants are stated on a prohibited list distributed by the Ministry of Agriculture, expanded through subsequent notices issued by the Ministry of Agriculture and the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ).

**Export restrictions.** Currently crop seeds are prohibited from export if:

- The seed’s germplasm resources are prohibited from foreign trade.
- The seeds are not permitted to be produced in China (the approved species are given a number by the Ministry of Agriculture).
- The hybridised crop seed’s parent is not allowed to be exported.

**Quarantine.** Quarantine clearance is required both for exports and imports. The quarantine authority investigates the imported seeds and (if approved) issues an approval certificate.
Customs. Customs verification is limited to the quarantine approval and tax exemption (if applicable).

International Plant Protection Convention (IPPC) compliance
China acceded to the WTO in 2001 and therefore must meet the obligations of the Agreement on the Application of Sanitary and Phytosanitary Measures.

The international phytosanitary (plant health) standards are developed by the Secretariat of the International Plant Protection Convention (IPPC). China has confirmed its compliance through the promulgation of the AQSIQ Decree No. 41, Provisions for the Administration of Risk Analysis on Entry Plant and Plant Products.

16. State the approvals/licences that are required to engage in the following activities:
- Import of new plant species or varieties and import of crop growing technologies.
- Set up of R&D centres and use of test plots of new crops.
- Crop seed production.
- Commercial crop production.
- Distribution of seeds or crops (wholesale/retail/e-commerce).

Import of new plant species or varieties and crop growing technologies
New varieties must be approved (recognised) before they can be imported in China. The recognition procedure can be completed with the national or provincial crop variety approval committee. Both require the submission of a test report on the seed introduction to the Office of the Variety Approval Committee.

The report needs to be based on at least three field tests, each spanning over two or more growth cycles. The tests are carried out by the National Agriculture Technology Extension and Service Centre for national plant variety recognition, or by the Seed Management Organisation of Provincial MoA for provincial variety recognition.

The distinctiveness, uniformity and stability (DUS) test has from February 2014 been added to the criteria for plant variety recognition, which is the same as used for plant variety registration (see Question 21).

However, imports of breeding technology are not subject to special approvals.

Both the imports of high quality seeds and breeding technology can qualify for exemption from import duties and import VAT. The current regulation expires on 31 December 2015, and directly refers to genetically modified organism breeding technology.

Set up of research and development (R&D) centres and use of test plots of new crops
Legally, crop breeding is not subject to specific licences. However, crop breeding is restricted to equity joint ventures with majority Chinese ownership. Foreign investment in genetic modification of crops is prohibited. These restrictions stem from the Foreign Investment Industries Guidance
Catalogue (2011 revision). Research other than breeding or genetic modification is permitted.

**Crop seed production**
Under the Seed Law and the Crop Seed Administrative Rules, production of commercial seeds of a main crop requires a main crop seed production licence. A production licence is valid for three years. To obtain a licence the applicant must, among others, have both:
- A minimum registered capital of CNY5 million (CNY30 million, for hybrid rice seed, hybrid maize seed, and parental seed of hybrid rice and hybrid maize).
- Have completed the variety review and recognition procedures for each variety to be produced.
A production licence is not required for the production of commercial seeds of non-main crops.

**Commercial crop production**
Under the Seed Law and the Crop Seed Administrative Rules, the operation of crop seeds requires a crop seed operation licence. The definition of operation includes selection, treatment, packaging and sales of all crop seeds. An operation licence is valid for five years, and to obtain this licence the applicant must have, among others, a minimum registered capital of:
- For non-main crop seeds: CNY2 million and fixed assets of at least CNY1 million.
- For main crop seeds: CNY5 million and fixed assets of at least CNY2.5 million.
- For hybrid rice seed, hybrid maize seed, and parental seed of hybrid rice and hybrid maize: CNY30 million and fixed assets of at least CNY10 million.
The enterprise must also have the necessary technical personnel, equipment and facilities.
An operation licence has a territorial coverage, which is determined at the discretion of the competent authorities (the Ministry of Agriculture, or its local counterparts where applicable). The territory cannot extend beyond the administrative territory of the approving authority.

**Distribution of seeds or crops**
This activity requires a seed operation licence (see above, Commercial crop production).

**17. Set out the domestic labelling requirements in the crop business sector.**
Commercially sold seeds require a label indicating the:
- Type.
- Variety.
- Name. Place of production.
- Quality index.
China

- Quarantine certificate number.
- Licence number of the Chinese seed production licence and/or seed operation licence, or document number of import examination and approval.

Imported seeds require a label in Chinese. Genetically modified organism seeds must be clearly stipulated, mentioning the safety control methods.

18. Are there any restrictions on foreign direct investment (FDI) in this sector?
Foreign investment in commercial crop breeding, production and trading (operation) is limited to an equity joint venture with less than 50% foreign ownership. Under certain conditions, certain research activities can be conducted by a 100% foreign owned enterprise.

19. Summarise landmark or recent cases that have defined the law and practice in this sector.
Foreign investment in crop seed business is sensitive in China and decisions to reject investments are not published. Approval for new FIEs in this sector is handled very carefully. As a result, the review and approval time for new FIEs was extended by the Ministry of Agriculture from 20 working days to 90 working days in 2013. The State Council promulgated The Opinions on Accelerating the Development of the Modern Crop Seed Industry in 2011, to improve domestic crop seed companies’ competitiveness.

Despite the increase in policy restrictions, foreign investment is still attractive due to financial and technical advantages. In January 2014, the equity joint venture between the China Seed and Monsanto increased its registered capital from CNY100 million to CNY482 million, to expand the scale of the production and trade of hybrid corn.

PLANT VARIETY RIGHTS (PVR)
China officially ratified the UPOV Convention (revisions in 1978) on 23 April 1999, becoming the 39th member of the convention. China did not ratify the 1991 revision which provides stronger PVR protection. The main reason for this decision was that the overall research and development (R&D) capability of China’s seed industry is less competitive than developed economies (for example, North America or the EU).

21. Briefly describe the registration process for PVR in your jurisdiction.
Legislation and authorities
The New Plant Variety Protection Office (PVP Office) of the Ministry of Agriculture (MOA) (www.cnpvp.cn) is the authority in charge of agricultural PVR administration.
For forestry PVR, the competent authority is the New Plant Variety Protection Office of the State Forestry Bureau (www.cnpvp.net). Forestry PVR protection has the same governing laws and similar registration and protection procedures as agriculture PVR protection.

The following regulations apply to a new agriculture PVR in China, regardless of whether the applicant is a Chinese or foreign individual or legal person:

- The Regulation on the Protection of New Plant Varieties issued by the State Council on 20 March 1997 and revised on 1 March 2013 (New Variety Regulation).

According to Article 2 of the New Variety Rules, agricultural plants include grain, cotton, oil plants, hemp, sugar crop, vegetables (including west melon or water melon), tobacco, mulberry, tea trees, fruit trees (excluding nut trees), decorative plants (excluding woody plants), grass, green manure, herb medicine, edible mushrooms, algae, and rubber trees.

The registration process for an agricultural PVR consists of three stages:

**Registration process**

**Application and acceptance.** Applications must be filed with the PVP Office. Only application documents written in Chinese are accepted. Acceptance decisions will be based on a review of the application documents.

If the application is accepted, the PVP Office will inform applicants to pay the application fee within one month from the application date.

The right to apply for a PVR and the PVR itself are both transferable.

**Preliminary examination.** This takes six months. In the preliminary examination, the PVP Office reviews all of the following:

- Whether the variety belongs to a plant genera or species listed in the schedule of protected plant varieties.
- The inventiveness of the variety.
- Whether the name of the variety is properly chosen in line with the Regulation for the Naming of the Agricultural Plant Variety (Ministry of Agriculture, April 2012).

Varieties that have passed preliminary examination enter into substantial examination. Otherwise, the application is rejected.

**Substantial examination.** At this stage, the PVP Office examines the distinctness, uniformity and stability (DUS) of the variety. The PVP Office can appoint testing institutions to conduct trials or field inspections.

A rejection of an application after the preliminary examination or substantial examination can be challenged on application to the Review Board of the PVP Office, within three months from the date of receiving the rejection notice.
22. Briefly describe the laws and procedures of your jurisdiction covering the protection of PVR in terms of:
- Requirements for protection.
- Extent of the protection.
- Restrictions on the rights of the PVR holder.
- Farmer's privilege.

Requirements for protection
The variety must satisfy all the following requirements:
- It must belong to a genera or species listed in the National Schedules of Protected Plant Varieties.
- It must be novel.
- It must be distinct, uniform and stable (DUS test).
  
In addition, the name given to the new variety must be in line with the Regulation for the Naming of the Agricultural Plant Variety (Ministry of Agriculture, April 2012).

Extent of the protection
Agricultural PVRs are protected for 15 years. Fruit tree PVRs grant protection for 20 years.
A holder enjoys exclusive rights for the duration of the PVR. Other parties cannot do either of the following, without the consent of the PVR holder:
- Produce or sell for a commercial purpose the propagation material of the protected variety.
- Repeatedly use the propagation material of the protected variety to produce propagating material of other varieties, for a commercial purpose.

Restrictions on the rights of the PVR holder
Use of protected varieties for breeding or other scientific research activities without the consent of the PVR holder or paying royalties to the PVR holder is permitted.

Farmer's privilege
Use of the propagation material of a protected variety by farmers for breeding and for propagation purposes is permitted. Selling propagation materials for a commercial purpose is prohibited. Sharing or exchanging the propagation materials with other farmers is also prohibited. In practice, farmers who share or exchange the propagation materials in violation are rarely prosecuted. This is because China has over 200 million subsistence farmers, who are generally not able to pay fines or damages.

23. Which legal actions are available to owners of PVR in the event of PVR infringements?
The PVR holder can choose to apply for administrative enforcement or lodge a civil claim.
The administrative enforcement can be requested from the provincial Agriculture Department, which can:
• Order the infringer to stop the infringement.
• Confiscate the unlawful earnings and propagation materials.
• Impose fines.
• Mediate between the parties on the compensation of damages caused by the infringement.

A civil claim can be claimed in court independently or at the same time as a pending petition for administrative enforcement. The advantage of a court proceeding is that PVR holders can claim damages (including loss of revenue).

24. Summarise landmark or recent cases that have defined the law and practice in this sector.

In a recent case:
• A (the plaintiff) was the PVR holder of rice variety GZ 63S.
• B (the respondent) was the holder of rice variety KY8, a hybrid variety using GZ 63S as propagation material (female parent). KY8 passed the variety recognition procedure in 2008, and B was recorded at the recognition authority as the breeder of KY8. B also produced and sold seeds of KY8.

A claimed in court that B had violated its PVR for GZ 63S, and asked for a cease and desist order for the infringement. B argued that it was using A’s PVR for breeding or scientific research, so that it did not require A’s consent.

The court found that B repeatedly used the propagation material of GZ 63S to breed KY8, and produced and sold seeds from it for commercial purposes. This violated A’s PVR. B was ordered to stop this infringement and pay a fine of CNY300,000 to A.

GENETICALLY MODIFIED (GM) CROPS

25. Has your jurisdiction ratified the Cartagena Protocol on Biosafety 2002? What is the domestic policy with respect to GM crops?

China ratified the Cartagena Protocol on Biosafety on 8 June 2005, effective from 6 September 2005.

China has traditionally cautiously reviewed the introduction and development of Genetically Modified Organisms (GMOs) and GM products. The authorities actively promote fundamental research but strictly control the planting of GM crops. In theory, crops that pass the safety tests are considered safe and can be planted.

To date, China has approved seven GM crops of which only Bt Cotton is grown on a large scale. In addition, China has approved four imported GM crops (cotton, soybean, corn and canola) as raw materials for processing but they cannot be imported as seeds.

26. Describe the domestic laws regulating genetic engineering. Which authority(ies) is(are) responsible for approving GM crops. Set out the permit requirements and prohibitions as well as sanctions in the event of infringement.

Regulators

GMO regulation is divided between the following different regulators:
China

- State Environmental Protection Administration (SEPA): biosafety.
- China Food and Drug Administration (CFDA): GM food and medicine.
- State Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ): inspection and quarantine of GM products.

Under the current regulatory framework, the Ministry of Agriculture and AQSIQ are the two major regulators on GM crops.

Main regulations
The main regulations applicable to the production of GM crops are the (together, the GMO Regulations):
- Regulations for Administration of safety of Agricultural Genetically Modified Organisms, effective from 23 May 2001 (GMO Regulation).
- Measures for Administration of Safety Evaluation of Agricultural Genetically Modified Organisms (GMO Measures).

They cover the safety approvals needed for the introduction of GMOs. The processing of GMOs is regulated in the Measures of the Examination and Approval for the Processing of Agricultural Genetically Modified Organisms.

Imports and exports (the measures only relate to imports) are regulated in the Measures for the Administration of Import Safety for Agricultural Genetically Modified Organisms.

There are further detailed regulations on other uses of GMOs.

Safety classes
The GMO Regulations classify GMOs in four classes:
- Class 1: no verified risk yet.
- Class 2: low risk.
- Class 3: medium risk.
- Class 4: high risk.

Approval process
GMO production, processing and trade each require a specific licence. The key requirement for all licences is the Ministry of Agriculture Ag GMO Safety Certificate (see Question 27).

Sanctions
Different sanctions apply to different breaches of the GMO Regulations:
- Companies that produce, process or import GMOs without the required approvals can be ordered to stop their activities.
- Illegally produced seeds/products and income can be seized.
- The company can further be fined up to five times the illegal income, provided this income is higher than CNY100,000. If the illegal income is
less than CNY100,000, the company is fined between CNY100,000 and
CNY200,000.

27. Which safety evaluations are legally required before GM crop
commercial market entry? How are GM crops regulated?
An application for an Ag GMO Safety Certificate, which is the key permit
requirement, is based on the following four tests:
• Laboratory test.
• Medium (controlled environment) test.
• Environmental release test.
• Production test.
  These tests are conducted by the applicant itself.
  After each test, the applicant must present samples to an independent
qualified testing institute, of which there are 29 throughout China. The
Chinese name of this institute translates as Ministry of Agriculture GMO
qualified testing institute. This institute conducts its own tests on the samples
provided by the applicant and sends back its own safety assessment.
  Both the applicant’s and the institute’s test results must be submitted to
the Ministry of Agriculture after each test stage, to be approved for the next
test. After the production test is completed, the Ag GMO Safety Certificate can
be applied for from the Ministry of Agriculture.
  In addition to the Ag GMO Safety Certificate and a GMO processing/
trade licence, companies producing GM seeds require a crop seed production
licence (see Question 16).

28. Describe the GM crop test plot regulations and requirements.
The safety requirements are set out in Appendix 4 of the Measures for
Administration of Safety Evaluation of Agricultural Genetically Modified
Organisms. These measures describe the different safety requirements for
laboratories, and field tests for the safety tests (see Question 27).

29. Describe pre-market approval requirements (and approval
timelines) to grow, produce and sell GM food or feed. Provide details on
the competent approval authorities.
There is no specific regulation on growing and selling GM crops that have
been approved through the Ag GMO Safety Certificate. The commercial
production of seeds is subject to an operation and production licence (see
Question 16). However, the processing of GM crops into food or feed and
imports of GM food and feed are still separately regulated.
  The processing of GM crops into food or feed requires a specific licence
from the Provincial Ministry of Agriculture, which is valid for three years.
30. **Set out the domestic product genetically modified organism (GMO) content labelling obligations (or the absence of them) and sanctions in the event of non-compliance or inaccurate content labelling.**

The Measures of Administration for Marking of Agricultural Genetically Modified Organisms stipulate that sales of GMOs and products containing GM ingredients must be labelled if they are included in the list of GMOs published by the Ministry of Agriculture. This list currently contains the following crops:

- Beans.
- Corn.
- Rape.
- Cotton.
- Tomato.

The label must:

- Be clearly visible.
- Be in standard Chinese.
- State whether the product is a GMO or is made from GMOs.

Incorrectly labelled GMOs and product can be:

- Ordered to be corrected by a certain time.
- Confiscated along with the illegal income made thereby.
- Subject to a fine.

31. **Summarise landmark or recent cases that have defined the law and practice in this sector.**

Nestle was involved in the first GM labelling case in China. In 2003, Ms Yanling Zhu sued Nestle for not labelling GM ingredients in its cocoa powder product “Qiaobanban”, and claimed compensation of the product price and an order for Nestle to label GM ingredients on its packaging. The full case report is not publicly available.

The Court appointed the Shanghai Academy of Agricultural Science to test the cocoa product for GM ingredients:

- The result was negative when using the Protocol of the Quantitative PCR Analysis included in the recommended industrial standards issued by the Ministry of Agriculture.
- However, the sample tested positive on GM glyphosate-resistance soybean with the Nested PCR analysis provided by international standards. The GeneScan Analytics GmbH also confirmed the existence of a GM ingredient.

The court ruled in favour of Nestle and no GM labelling was required. The case shows that Chinese courts rule on the basis of domestic standards.
IMPORTING ANIMALS AND GENE PATENTS

32. Summarise the import/export control measures for animals and genetic resources.

Regulation and authorities

The Law on the Quarantine of Importing and Exporting Animals and Plants (the Bio-import Law) includes a prohibition from entry on:

- Pathogenic micro-organisms (including seed cultures of bacteria and viruses) of animals and plants, insect pests and other harmful organisms.
- Relevant animals and plants, their products and other quarantine objects, from countries or regions with prevalent epidemic animal or plant diseases.

The Ministry of Agriculture has specified a number of animals in the catalogue of objects prohibited from entering China (Ministry of Agriculture Order No.72 of 29 July 1997). This catalogue has been slightly amended by the catalogue of plants and animals and their products prohibited from carrying and mailing (Ministry of Agriculture and AQSIQ Order No.1712 effective from 13 Jan 2012).

When a port animal and plant quarantine office discovers any objects so prohibited from entering China, the objects will be returned or destroyed.

Imports of prohibited objects can be permitted for specific cases, for instance for scientific research. Import approval by the State Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) must be sought in advance. On the issuance of a quarantine permit by the state AQSIQ, the goods can be imported.

IOE compliance

Since China is a WTO member, restrictions on the import of animals and genetic resources need to be based on international standards or justified on a scientific basis under the WTO Agreement on Sanitary and Phytosanitary Measures. The international sanitary standards for animals are developed by the IOE. For animals these are in particular the Terrestrial Animal Health Code and The Manual of Diagnostic Tests and Vaccines for Terrestrial Animals.

The State Council has issued its planning on the implementation of international standards in the Medium and long term planning for national animal disease prevention and control (2012-2020) (No.31 [2012] State Council Office). The document confirms the manner by which China will perfect its laws and regulations on animal sanitary according to the WTO rules, IOE international sanitary standards and accepted practices.

33. Does the law of your jurisdiction allow for patentability of livestock genes on the grounds of isolating and purifying them?

Article 25 of the Patent Law of the People’s Republic of China provides that no patent right will be granted for “scientific discoveries”. According to the Patent Examination Guidelines, SIPO Order No.68, 1 May 2014 amendment, genes or DNA fragments found in natural form or derived from nature are
regarded as discoveries, within the definition of scientific discoveries. They can therefore not be patented.

However, a gene or DNA fragment and its obtaining method can be given protection under patent law if all of the following apply (Order 68, Part 2, Chapter 10, section 9.1.22):

- The gene or DNA fragment is isolated or extracted from nature for the first time.
- Its base sequence has not been recorded in the existing technology and can be clearly characterised.
- The gene or DNA fragment has useful value in the industry.

34. Which legal instruments are available to protect animal breeding know-how and a resulting animal nucleus?
Know-how can be protected under confidentiality agreements and under competition law. An animal nucleus can be protected on the basis of ownership rights.

35. Are there legal or practical restrictions on the introduction of new breeds/species, the breeding of certain animal species or certain breeding practices?
There are no legal restrictions on the breeding of new species or breeds of animals under Chinese law, as long as they do not pose a danger to human health or the environment.

36. Summarise landmark or recent cases that have defined the law and practice in this sector.
In a leading case regarding a patent application for a gene sequence, the No.1 Intermediate Court of Beijing interpreted the requirement of “creativity” as “judged by a technical person in the underlying area, if the applied technology is plain (or easily seen/understood) to current technology, it cannot constitute prominent substantial features and is of no creative nature”.

AGRICULTURAL SAFETY AND PRODUCT LIABILITY
Standards
37. Summarise the system of food safety standard setting, the main regulator(s) and regulations. If industry input on the standards is possible, indicate how this is conducted.
Imported foods must comply with Chinese safety standards, quality standards and labelling requirements. Food producers, importers, traders and caterers based in China must obtain licences. Imports and exports must complete quarantine testing.

Regulators
Policy, standards, licensing, enforcement and supervision are conducted by the:
China Food and Drug Administration (CFDA), which as a primary regulator is responsible for the uniform supervision and administration of food safety.

National Health and Family Planning Commission (NHFPC), which is mainly responsible for technical affairs such as food safety risk assessment and formulation of national food safety standards.

Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), which carries out inspections of imported and exported food. Its further responsibility for supervising registration of overseas producers of meat, seafood and dairy products is expected to be taken over by the CFDA.

Administration of Industry and Commerce (AIC), which supervises and administers food production, operation and catering licences. This task is also expected to be taken over by the CFDA.

The Ministry of Agriculture is responsible for primary production policy (including slaughtering), enforcement of standards, risk assessments and publications on product safety.

**Food safety regulations**

**Regulations.** The main regulations covering food safety are the:

- Food Safety Law (28 February 2009) by the National Congress (the 2013 draft amendment has not been adopted yet).
- Provisions on the Procedures for Food and Drug Administrative Penalties (28 April 2014) by CFDA.

Specific regulations on certain food products and procedures also apply, including the:

- Law on Agricultural Product Quality and Safety (29 April 2006) by the Standing Committee of the National Congress.
- Provisions for the Supervision and Administration of Food Additives Production (1 June 2010) by AQSIQ.
- Administrative Regulations on the Supervision of the Quality and Safety of Dairy Products (9 October 2008) by the State Council.

**Standards.** These are issued according to the following hierarchy:

- Mandatory national standards are formulated by the standardisation department under the State Council, in accordance with the Standardisation Law and implementing regulations. Next to food safety standards, which are mandatory and coded GB, there are voluntary GB/T coded standards.
- Industry standards are formulated by different ministries, in the absence of national standards covering the same product group or trade.
• Local standards formulated in the absence of national and industry standards, in a province, autonomous region or municipality directly under the central government.
• Enterprise standards formulated by companies themselves, in the absence of national, industry or local standards, or stricter than these.

The lower ranked standards are nullified when a higher one covering the same subject is issued. To date, over 2,000 national standards and over 2,900 food industry standards have been revised. The revision is expected to be completed in 2015.

The CFDA and NHFPC issue draft standards for online consultation. Industry participants can send in their comments in response. The China Food Safety Risk Assessment Centre, a public body, further organises open day discussions on policy and development of standards.

Food and Agriculture Organisation (FAO) compliance
Since China is a WTO member, restrictions on the import of food need to be based on international standards or justified on a scientific basis under the WTO Agreement on Sanitary and Phytosanitary measures. The international standards for food safety are set out in the Codex Alimentarius of the FAO (Codex). Each member country of the Codex has a delegate.

The Chinese delegate’s office could not be reached. However, the NHFPC has publicly stated (presentation by Yongxiang FAN, Deputy Director of Office of Food Safety Standards, China Food Safety Risk Assessment Centre in December 2008) that China’s activities regarding the Codex include:
• Taking an active role in the development of standards of the Codex, including for dried fish and frozen bean products.
• Developing national standards in consideration of the Codex, but without directly copying the Codex.
• Fully using its role and adjusting the Codex standards where needed.

Liability
38. Set out the legal requirements to establish the liability of producers and suppliers for defective or contaminated food ingredients that cause damage, in relation to:
- Tort.
- Product liability.

In general, the liability of producers and suppliers for defective or contaminated food is regulated in the:
• Tort Law of the People’s Republic of China (Tort Law).
• Product Quality Law of the People’s Republic of China (Product Quality Law).
• Food Safety Law of the People’s Republic of China (Food Safety Law).
• Supreme Court of the People’s Republic of China’s Regulations on Several Issues with regard to the Trial of Cases Concerning Food and Drugs Disputes (Supreme Court’s Opinion Concerning Food and Drugs Disputes).
The legal requirements for liability of producers and suppliers differ under these laws and regulations.

**Producers**
The principle of strict liability applies to producers. The legal requirements to establish the liability of a producer include:
- There is a defect in a food product.
- Another person suffers harm.
- The defect in the food product causes the harm to the other person.

**Suppliers**
The principle of negligence applies to suppliers. The legal requirements to establish the liability of a supplier include:
- There is a defect in a food product.
- The supplier is negligent.
- Another person suffers harm.
- The defect in the food product causes the harm to the other person.

If the supplier cannot identify the producer or an upstream supplier of the defective product, the supplier will assume strict liability.

39. Which defences are available to the producer and/or supplier to avoid liability? For instance, is market-entry prior government approval a legal defence against product liability and under which conditions? Under the Product Quality Law, a producer can avoid liability if he can prove any of the following circumstances:
- The product has not been put in circulation.
- The defect causing the damage did not exist at the time when the product was put in circulation.
- The science and technology at the time the product was put in circulation was incapable of detecting the defect.

According to the Supreme Court’s Opinion Concerning Food and Drugs Disputes, two defences are available to food producers and suppliers, if they can prove:
- That the food manufactured or sold complies with quality standards.
- The damage is not caused by the food not complying with quality standards.

If market-entry prior government approval contains official recognition of the quality of the food or the food complying with food quality standards, it can be used as a legal defence in civil courts.

40. Which types of damage are generally compensated by civil courts in food safety liability cases? For instance loss of value, reparation costs, loss of revenue, and personal injury. Are punitive damages available? Compensation for damage which can be generally awarded to a victim by civil courts is as follows.
Damage to personal rights

Personal injury. The following can be compensated:
- Medical treatment expenses.
- Nursing fees.
- Travel expenses.
- Loss of revenue.

Disability. The following can be compensated:
- The cost of disability assistance living equipment for the victim.
- Disability indemnity.
- Living expenses necessary for any other person(s) supported by the disabled person.

In some cases, civil courts compensate the victim for mental distress, if harm caused by a tort inflicts serious mental distress on the victim.

Death. The following can be compensated:
- The funeral service fee.
- Death compensation.
- Living expenses necessary for any other person(s) supported by the deceased before his death.

Damage to property rights

Loss of value and reparation costs can be generally compensated.

Punitive damages

When a producer produces food not complying with the food safety standards, or a supplier sells food knowing that it does not comply with the food safety standards, a consumer can directly demand for a court to order the producer or supplier to pay a penalty amounting to ten times the purchase price of the food, in addition to the compensation.

41. Summarise landmark or recent cases that have defined the law and practice in this sector.

The 2008 Sanlu milk case contributed directly to the changes to the legal framework on food safety. The Sanlu milk scandal dates from 16 July 2008, after 16 infants who had been fed on Sanlu milk powder containing melamine were diagnosed with kidney stones. The chemical was thought to have been added to milk to show a higher protein content. By November 2008, the milk powder had caused an estimated 300,000 victims, with six infants dying from kidney stones and other kidney damage, and an estimated 54,000 babies being hospitalised. Government inspections revealed the problems existed to a lesser degree in products from other companies, even including some big names in the dairy industry. A number of criminal prosecutions occurred. Two persons who produced and sold melamine were executed and several government officials were dismissed or forced to resign.

The serious consequences of the case contributed directly to the enactment of the Regulations on Supervision and Management of Dairy Quality and Safety in 2008, which abolished the exemption system for food products. The
Food Safety Law and the Tort Law were issued in 2009, which both stipulate punitive damages for tort cases concerning food products.

In 2013, the PRC Supreme Court jointly with the PRC Supreme People’s Procuratorate issued the Interpretation on Issues Concerning the Application of Laws in the Handling of Criminal Cases Jeopardising Food Safety. In 2013, the PRC Supreme Court also issued the Provisions of the Supreme Court on Issues Concerning Application of Laws in the Trial of Food and Drug Disputes.

It is interesting to note that the Shijiazhuang Sanlu Group Co., Ltd was HACCP certified.

ONLINE RESOURCES

The National People’s Congress of China (NPC)
W www.npc.gov.cn
Description. The NPC is responsible for enacting and amending all statutes including environmentally related statutes.

The Ministry of Agriculture (China)(MOA)
W www.moa.gov.cn
Description. Ministry of Agriculture’s official website in Chinese.

China Food and Drug Administration (CFDA)
W www.sda.gov.cn
Description. The SFDA regulates medicinal products for human use and medical equipment.

National Health and Family Planning Commission (NHFPC)
W www.nhfpc.gov.cn
Description. The NHFPC is responsible for drafting laws and regulations for health and family planning as well as the development of Traditional Chinese Medicine.

Administration of Quality Supervision, Inspection and Quarantine of China (AQSIQ)
W www.aqsq.gov.cn

State Administration of Industry and Commerce of China (SAIC)
W www.saic.gov.cn
Description. The SAIC are responsible for the Regulation of trade marks, unregistered designs, trade secret, and unfair competition acts. The Trade Mark Office is a subsidiary office of the State Administration for Industry and Commerce (SAIC), and is hosted on SAIC’s website.
China

The Ministry of Environmental Protection of China (MEP)
W www.zhb.gov.cn
Description. The MEP is empowered to formulate national environmental policies, laws, quality and discharge standards, as well as to supervise and guide their implementation.

The Ministry of Land and Resources of China
W www.mlr.gov.cn

The Ministry of Commerce of China (MOFCOM)
W www.mofcom.gov.cn

The National Development and Reform Commission (NDRC)
W www.sdpc.gov.cn
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