

# Cases of Regulation Improvement for Foreign-Invested Companies

Office of the Foreign Investment Ombudsman

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Ministry of Trade,  
Industry and Energy

**kotra**

Korea Trade-Investment  
Promotion Agency

FOREIGN INVESTMENT  
**OMBUDSMAN**

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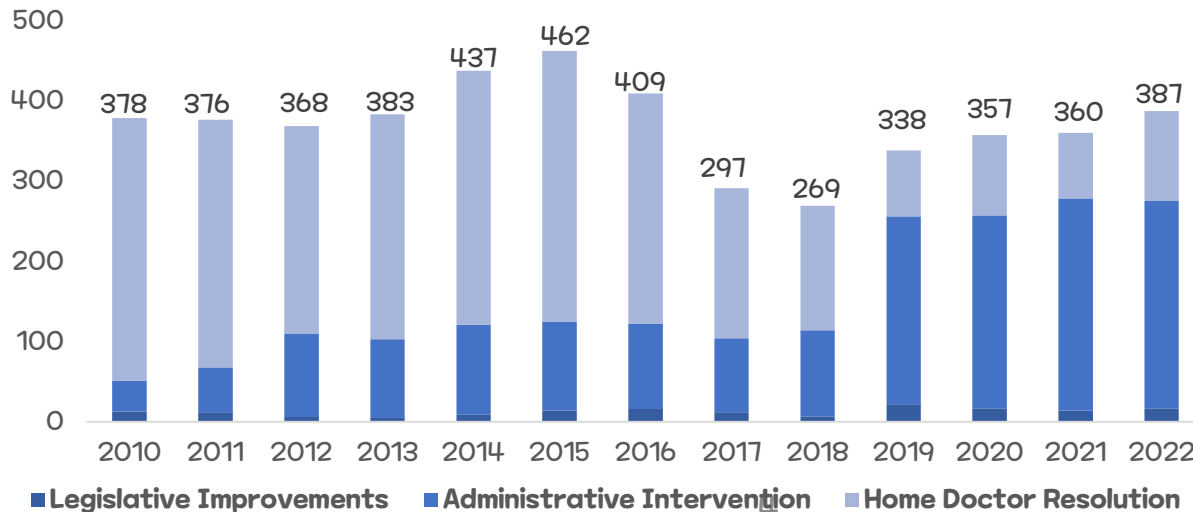
# Foreign Investment Ombudsman

# 1. Foreign Investment Ombudsman

## ❖ Role of the Office of the Foreign Investment Ombudsman

- ① Provide aftercare support and grievance resolution service for foreign investors and foreign-invested companies in Korea
- ② Contribute to improving the investment environment and attracting reinvestment
- ③ Resolve grievances through close cooperation with home doctors and investment cooperation officers

〈Number of Resolved Grievances by Year〉



**387**  
Cases  
In 2022

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# Regulation Improvement Activities in 2022

## 2. Regulation Improvement Activities in 2022

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- ▶ Background : As part of regulatory innovation for private-led growth, actively **promote foreign investment regulation improvement** and **attract high-quality foreign investment**
- ▶ Period : the second half of 2022
- ▶ Purpose : **Identify issues and difficulties of foreign-invested companies** to make improvement in the regulatory environment of Korea

## 2. Regulation Improvement Activities in 2022

### ① Large-scale survey for investment difficulties and regulation improvement

- ▶ Conduct period : Jul. ~ Aug. in 2022
- ▶ Survey participants : 5,599 foreign-invested companies
  - 2,559 companies from KOTRA DB and 3,040 companies from foreign chambers of commerce
- ▶ Identified issues : **205 items**

### Survey for Investment Difficulties and Regulation Improvement for Foreign-Invested Companies

Greetings from the Ministry of Trade, Industry, and Energy(MOTIE) and the Office of the Foreign Investment Ombudsman(OFIO).

The new government launched last May is stepping up its efforts to promote private sector investment driven growth by proactively streamlining regulations.

In light of this, MOTIE and OFIO would like to conduct a survey to identify regulations that undermine foreign-invested companies' business activities and investment environment of Korea.

Your response will only be used for regulation improvement and policy suggestion, and in accordance with the Article 33 of Statistics Act this survey keeps confidential and will not be released.

2022. 8.

Host of survey : The Ministry of Trade, Industry and Energy & Foreign Investment Ombudsman

〈The online survey form used last year〉

## 2. Regulation Improvement Activities in 2022

### ② Meeting for foreign-invested companies by country, region, and industry

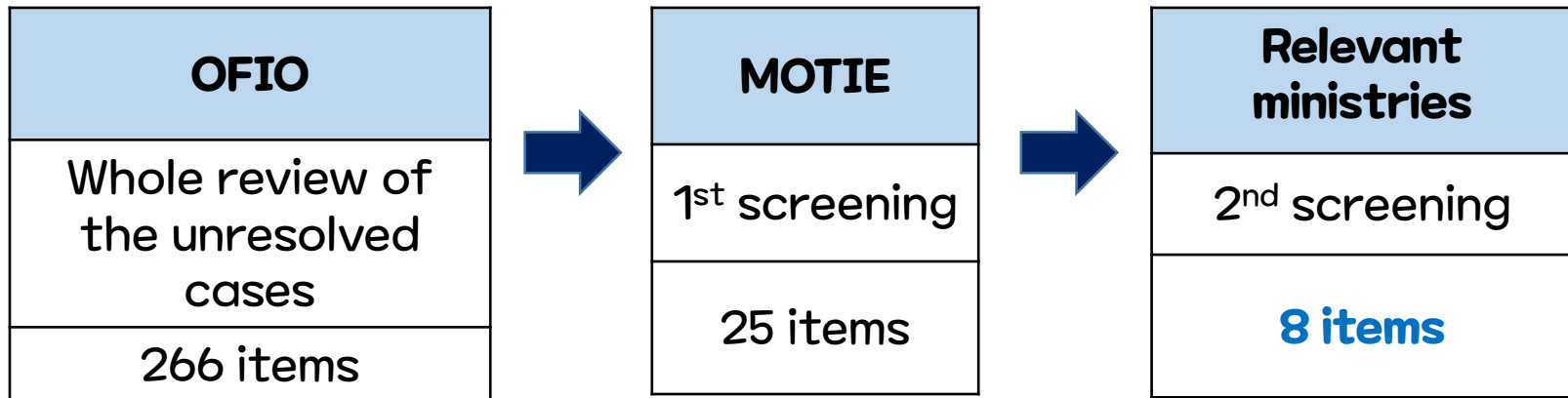
- ▶ Conduct period : Jun. ~ Sep. in 2022
- ▶ In-depth discussion & listening to on-site opinions  
(13 meetings, 307 companies and 145 items in total)

Event	Title	Date	No. of Companies	No. of Identified Issues
Meeting with Prime Minister	Meeting with German and French companies	6.23	(Nearly) 100	145 items
	Meeting with American companies	7.1	(Nearly) 110	
Meeting with Trade Minister by Major Countries	Meeting with American companies	6.7	6	
	Meeting with European companies	6.29	8	
	Meeting with Japanese companies	7.13	7	
	Meeting with Chinese companies	7.20	6	
Regional Roundtable	Roundtable in Seoul Metropolitan Area	8.19	23	
	Roundtable in Chungcheong	8.19	10	
	Roundtable in Gyeongsangnam-do	8.19	8	
	Roundtable in Busan	8.29	7	
	Roundtable in Jeollanam-do	8.31	6	
	Roundtable in Gyeongsangbuk-do	9.1	10	
Meeting for specific industry	Dialogue for semiconductor & biotechnology	9.26	6	
<b>Total</b>	<b>13 meetings</b>		<b>307 companies</b>	<b>145 items</b>



## 2. Regulation Improvement Activities in 2022

- ③ Policy proposals **by foreign chambers of commerce** (Sep. 2022)
- ▶ **91 items**
  - ▶ **18 areas**  
including healthcare, automobile, intellectual property, etc.
- ④ **Review of the unresolved cases** from last three years (Aug. 2022)
- ▶ **8 items**



## 2. Regulation Improvement Activities in 2022



In 2022, **the MOTIE and Foreign Investment Ombudsman** proactively conducted regulatory improvement activities for foreign-invested companies, **identifying 454 items.**(Jun.-Sep. 2022)

Period	Item	No. of Identified Issues
Jul. ~ Aug. 2022	① Large-scale survey for investment difficulties and regulation improvement	205
Jun. ~ Sep. 2022	② Meeting for foreign-invested companies by country, region, and industry	145
Sep. 2022	③ Policy proposals by foreign chambers of commerce	96
Aug. 2022	④ Review of the unresolved cases	8
(Total)		<b>454 items</b>

# 2. Regulation Improvement Activities in 2022

## ■ Tasks for making improvements in investment environment

- ❖ **454 items** in total → Sort out **132 tasks** → Improvement in **40 tasks**
- ▶ Incorporate duplicate cases and exclude too broad and ambiguous opinions

### ❖ How to sort out challenges from the identified cases

- Simplify intricate and unclear certification and inspection procedures
- Alleviate the burden from excessive regulations on foreign-invested companies
- Running efficient and predictable support systems
- Transparent enforcement of administrative procedures

### 〈Breakdown of 132 tasks〉

(Unit : No. of tasks )

Tasks	Accepted	Partially Accepted	Measures Taken	Separate Review	Long-term Review	Not Accepted
132	32 (+2)	8	19	6	20	45

**40**

## 2. Regulation Improvement Activities in 2022

**<Breakdown of 132 tasks>** (Unit : No. of tasks)

Tasks	Accepted	Partially Accepted	Measures Taken	Separate Review	Long-term Review	Not Accepted
132	32 (+2)	8	19	6	20	45

**34**

### ■ Achievements of Regulation Improvement Activities in 2022

In Dec. 2022, the MOTIE presented the Strategy to Improve the Foreign Investment Environment, based on the identified issues through the roundtable meetings(13 times), survey(5,600 companies), etc. and provided 40 improvements

Then, during Jan. 2023, additional issues (34 items) were sorted out after thorough consultation with relevant ministries, including the Office for Government Policy Coordination

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**Regulation Improvement Cases**

# 3. Regulation Improvement Cases

## ① Improvement in overlapping permission for importing prohibited substances

### ❖ Issue & Concern

- **(Issue)** When importing prohibited substances, firstly it is required to obtain **import approval from the MOEL** and then again apply for **additional permit from the ME**
- **(Concern)** Each import must be went through the approval process, resulting in taking **up to 2 months** to finally sell the item to end-users

### ❖ Improvement Measure

- **[Amend the Legislation in 2023]** For the prohibited substances managed by the MOEL but also listed in the Chemical Substances Control Act, in this case, if the import of such substances is **approved by the ME, it will be recognized as having been approved by the MOEL** as well.
- Responsible Ministry : The ME and MOEL
  - Article 14 of the Enforcement Rule of the Chemical Substances Control Act, and Article 172 of the Enforcement Rule of the Occupational Safety and Health Act

# 3. Regulation Improvement Cases

Streamline certification and inspection systems

## ② Ease the burden from administrative procedures for R&D chemicals in small quantities

### ❖ Issue & Concern

- **(Issue)** When **manufacturing/importing chemicals for R&D**, to protect trade secrets, it is required to proceed with **non-disclosure approval review (14 days) of MSDS** (material safety data sheet)
- **(Concern)** **Delays in R&D due to administrative procedures** such as non-disclosure approval reviews, even in the case of importing a small amount of samples for research purpose

### ❖ Improvement Measure

- **[Amend the Legislation in 4Q, 2023]** **Alleviate the burden from the non-disclosure approval review process** for R&D substances handled in small quantities (e.g., within 100kg per year)
- Responsible Ministry : The MOEL
  - Article 112 of the Occupational Safety and Health Act

## ③ Update the Conformity Assessment for Broadcasting Communications Equipment with new functions

### ❖ Issue & Concern

- **(Issue)** If a new function is added to broadcasting and communication equipment that has undergone the conformity assessment, it is possible to apply for certification change by reflecting only the changes, but if the **type code (frequency, power, radio wave type, etc.) is changed, a new certification is required.**
- **(Concern)** Even **when a new wireless function is added** to existing certified wireless equipment, test and certification cost burden for companies is generated due to the need for obtaining a new certification

### ❖ Improvement Measure

- **[Amend the Announcement in 1Q, 2023] Regardless of changes in type code,** allow for companies to **apply for make changes in the conformity certification,** instead of getting a new certification,
- Responsible Ministry : The MSIT
  - Paragraph 1, Article 15 of the Public Announcement on Assessment of Conformity for Broadcasting Communications Equipment



## ④ Exemption from Type Approval for household scales

### ❖ Issue & Concern

- ▶ **(Issue)** Measuring instruments with a **maximum measuring capacity of more than 1 kg** → **〈Type Approval〉**, in accordance with the Measures Act, is required
- ▶ **(Concern)** **〈Type Approval〉** is required even for **scales with household use**, causing **additional cost of entering the Korean market**.

### ❖ Improvement Measure

- ▶ **[Amend the Legislation in 4Q, 2023]** Specify the scope of Type Approval (for commercial use, etc.), and, regardless of the measuring capacity, **exclude household scales** from Type Approval
- ▶ Responsible Ministry : The MOTIE
  - Article 14, the Measures Act
  - Article 10, Enforcement Decree of the Measures Act

## ⑤ Efficient process for plug-in hybrid vehicles and EVs

### ❖ Issue & Concern

- ▶ **(Issue)** The ME's regulation and the joint announcement under the ME, MOTIE and MOLIT respectively states charging conditions and electric current/voltage measurement methods for plug-in hybrid vehicles and electric vehicles.
- ▶ **(Concern)** The joint announcement reflects overseas standards; however, the ME's regulation is rather conservative than the other, causing concerns about overlapping tests.

### ❖ Improvement Measure

- ▶ **[Amend the Announcement in 4Q, 2023] Promote revision** of the ME's regulation to be aligned with the joint announcement under the ME, MOTIE, and MOLIT, by **incorporating overseas standards** (SAE J1634/SAEJ1711).
- ▶ **Responsible ministries and announcement**
  - The ME, the Attached Form 5-2, Regulation for Test Procedure of Manufactured Motor Vehicles
  - the ME, MOTIE, and MOLIT, the Attached Form 3 and 4, the joint Announcement for Test procedures for Energy efficiency, GHG emission and FE for Motor Vehicles

## ⑥ Renew the domestic automobile safety standards

### ❖ Issue & Concern

- **(Issue)** For some items of automobile safety standards, test reports based on the **standards of UNECE** are also acknowledged as the **same as domestic test reports**.
- **(Concern)** Despite revising the domestic safety standards, some items that are recognized as identical in overseas test reports are **not updated in a timely manner**, so a separate test is required.

### ❖ Improvement Measure

- **[Amend the Regulation in 3Q, 2023]** Update the relevant regulation **to reflect UNECE standards**
- Responsible Ministry : The MOLIT
  - Attached Form 4, the Detailed Regulations of Korea Motor Vehicle Safety Standards

## ⑦ Internationalize the vehicle gas calculation formula Renew the domestic automobile safety standards

### ❖ Issue & Concern

- **(Issue)** Among the evaporative gas measurement methods (fixed volume, variable volume) of gasoline vehicles, **only the fixed volume formula** is acknowledged.
- **(Concern)** The internationally recognized simplified method (variable volume) is not being recognized → **confusion among businesspeople**

### ❖ Improvement Measure

- **[Amend the Announcement in 4Q, 2023] Include the simplified calculation method** (variable volume) by considering the U.S. regulation (US 40 CFR 86.143-96)
- Responsible Ministry : The ME
  - Attached Form 1 of the Regulation for Test Procedure of Manufactured Motor Vehicles

## ⑧ Ease the cycle of the regular inspection for hazardous chemical substances

### ❖ Issue & Concern

- ▶ **(Issue)** Persons who establish and manage a **hazardous chemical substances handling facility** must undergo **regular inspections** during the period set for each facility (every year for business permission, every two years for non-business permits).
- ▶ **(Concern)** **The burden on companies** to carrying out regular inspections every year

### ❖ Improvement Measure

- ▶ **[Amend the Legislation in 2024]** Ease the regular inspection cycles **from 1 year to a maximum 4 years**, in consideration of the chemical accident prevention and management plan, etc.
- ▶ Responsible Ministry : The ME
  - Article 24 of the Chemical Substances Control Act, and Paragraph 2, Article 23 of Enforcement Rule of the Chemical Substances Control Act

# 3. Regulation Improvement Cases

More investment incentives

## ⑨ Improve predictability in cash grant program

### ❖ Issue & Concern

- **(Issue)** If necessary, **pre-review for cash grants is available** when certain foreign investments are **expected to bring significant effects** on the national economy.
- **(Concern)** The unclear requirements to apply for the pre-review for cash grants → **Difficulties to predict whether and how much government support is** → Discourage investment decisions

### ❖ Improvement Measure

- **[Amend the Regulation in 1Q, 2023]** Improve the predictability of the system by ① **providing a legal ground** for using the pre-review for cash grants when it is a **national strategic technology**, and ② **simplifying the process** in the case of **small grants**
- Responsible Ministry : The MOTIE
- Paragraph 1, Article 14 of the cash grant program

## ⑩ Allow integration of facilities and sites in FEZ among related foreign-invested companies

### ❖ Issue & Concern

- **(Issue)** At this point of time, a foreign-invested company that is the subject of the land purchase contract in a free economic zone (FEZ) **cannot provide the land to its related person.**
- **(Concern)** The provision of the site is restricted even for the related party is also a foreign invested company that can receive benefits from the FEZ  
→ **Excessive regulation undermining management efficiency** between foreign-invested companies

### ❖ Improvement Measure

- **[Amend the Legislation in 2Q, 2023] Allow integration of facilities between a foreign-invested company and its related companies** (foreign-invested company) within the same site in the FEZ
- Responsible Ministry : The MOTIE
  - Paragraph 6, Article 16 of the Special Act on Designation and Management of Free Economic Zone

## 11 Extension of Tax Exemption for Foreign Workers

### ❖ Issue & Concern

- ▶ **(Issue) Single tax rate for foreign workers** : The system of applying a flat tax rate (19%) to foreign workers' earned income when they provide labor within Korea
- ▶ **(Concern)** It is expected that reforming the flat tax system will have a significant economic impact, particularly on **foreign executives** dispatched by the parent company

### ❖ Efforts for Regulation Improvement

- ▶ **Gather opinions from foreign-invested companies** with regard to the corporate tax rate and the Restriction of Special Taxation Act 2022 (Aug. 2022)
- ▶ Conduct **a video meeting for foreign chambers of commerce** to inform the latest developments in the tax system and to collect their ideas (Aug. 2022)



## ⑪ Extension of Tax Exemption for Foreign Workers

### ❖ Outcome

▸ On Dec. 23, 2022, the tax reform bill was passed at the plenary session of the national assembly, including the clause to **expand the special application period\*** for the flat tax rate (19%) for foreign workers

\* (Before) **5 years** from the start date of work in Korea → (After) **20 years** from the start date of work in Korea

▸ Responsible Ministry : The MOEF

- Article 18-2, the Restriction of Special Taxation Act (amended on Dec.31, 2022)

## ⑫ Extend the period of stay for corporate foreign investor

### ❖ Issue & Concern

- **(Issue)** The valid period for corporate investor visa (D-8) is **usually 1 year** (when it is initially issued), in consideration of investment amount, business performance, tax payment record, etc.
- **(Concern)** The need to **renew the visa every year**

### ❖ Improvement Measure

- **[Amend the Guideline in 2023]** **Extend the valid period of stay from 1 year to 2 years** for venture start ups (D-8-4)
  - However, in case of poor business performance, the period of stay might be granted to 1 year.
- Responsible Ministry : The MOJ
- Guideline for visa issuance



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**Conclusion**

# 4. Conclusion

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- ▶ **Continuous improvement of the foreign investment environment**
  - Gather feedback and suggestion from companies through various channels such as foreign chambers of commerce, roundtable meetings, and on-site visits, with an aim to resolve their difficulties and grievances
  - Improve predictability of foreign investment-related regulations by expanding the provision of information on regulatory and institutional changes and strengthening policy promotion

**THANK  
YOU**