Legal Issues

Legal Issue 1. Antitrust Update

In Landmark Cartel Case, Yulchon Convinces Korean Supreme Court to Vacate KFTC Sanctions Imposed on Korean Liquor Companies

Representing nine manufacturers of soju, the most widely consumed liquor in Korea, Yulchon's Antitrust Group prevailed in an appeal to the Korean Supreme Court against the Korea Fair Trade Commission ("KFTC"), which had imposed sanctions on the nine companies, including administrative fines in the amount of KRW 25.4 billion (approximately USD 23.7 million), for alleged cartel activity. This Supreme Court decision is a landmark precedent in Korean antitrust law because it establishes that de facto price regulation by an administrative agency constitutes grounds for denying the existence of a price-fixing agreement. Prior to this case, Korean case law treated such de facto administrative control as merely a consideration in determining the existence of a price-fixing agreement.

On June 16, 2010, the KFTC imposed corrective measures and administrative fines on eleven domestic soju makers on grounds that the companies had conspired to raise factory prices of soju. Nine of the soju makers appealed the KFTC's decision to the Seoul High Court. As their counsel, Yulchon argued that due to the substantial control exercised by the National Tax Service ("NTS") over factory prices of soju, the soju makers' conduct did not constitute collusion. Further, Yulchon argued that there was insufficient evidence to prove any collusion among the soju makers.

Although the Seoul High Court rejected the soju makers' request that the KFTC's corrective measures be vacated, it found that the price-fixing at issue (i) was merely a "loose" type of cartel due to the NTS's strong administrative control over factory prices of soju; and (ii) had only a limited anticompetitive effect on the market. Thus, the Court vacated the fines imposed on the soju makers as an abuse of discretion by the KFTC.

Subsequently, on appeal to the Korean Supreme Court, Yulchon once again stressed the absence of collusion in the case and requested that the corrective measures be vacated as well. On February 13, 2014, the Supreme Court vacated the corrective measures, concluding that "although there is the appearance of a price-fixing agreement, it is merely a result of the unique characteristics of the soju market, including the oligopolistic market structure and NTS's price regulation."
Korea to Extend Scope of Application of Real Estate Investment Immigration System

The Ministry of Land, Infrastructure and Transport of Korea has recently announced that it will extend the scope of application of the investment immigration system. Under the current investment immigration system, any foreigner who has invested a certain amount or more in recreational facilities designated by the Minister of the Ministry of Justice is given an F-2 visa, and after a five-year period, an F-5 visa. In an effort to facilitate the local economy and real estate market with foreign investment, this system was introduced in Jeju Island in February 2010, followed by the Pyeongchang Alpensia area in Gangwon-do, the Yeosu Daegyeongdo Tourism Complex in Jeollanam-do, and the Incheon Yeongjong District. On May 20, 2013, the Busan Haeundae Tourism Resort and East Busan Tourism Complex were newly designated as application areas.

The ministry is also considering extension of application of the system to foreigners who purchase unsold houses in the six application areas as well as a reduction of the minimum investment amount to 500 million Korean won.

1. Overview of Current Real Estate Investment Immigration System

The real estate investment immigration system is governed by the Immigration Control Act of Korea, and the scope and target of application are determined by the Minister of the Ministry of Justice.

The current real estate investment immigration system applies to the following areas:
2. Overall Effect of Real Estate Investment Immigration System to Date

Jeju Island was the first to implement the real estate investment immigration system in Korea and successfully attracted investors from abroad including China. In line with demands from such foreign investors, many Chinese real estate developers are conducting real estate development projects in Jeju Island. As a result, through February 2014 after the commencement of the system, Jeju Island attracted 1,076 foreign investments (with an aggregate value of approximately KRW 701.7 billion) that were made for residency purposes, while other designated areas rarely received foreign investment offers. For example, Busan received no investment offer until April 2014 after the commencement of the investment immigration system.

3. Overview of Investment Immigration System To Be Extended

Supposedly, the designated areas other than Jeju Island have failed to attract real estate investment immigrants because they do not provide various investment items and options or are not very interesting places from a geographical aspect, and thus there is a continuing demand for a wider variety of investment items and fewer regional restrictions.

During a luncheon with officials from the related industry including Korea Housing Association on April 16, 2014, the Minister of the Ministry of Land, Infrastructure and Transportation stated that "the Ministry will discuss with the competent government agencies such as the Ministry of Justice, the Ministry of Trade, Industry and Energy and free economic zone authorities about measures to improve the current system by extending
the investment items to unsold houses in free economic zones, etc." Given such statement, the investment immigration system is expected to extend as follows:

<table>
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<tr>
<th>Minimum Investment Amount</th>
<th>Investment Items</th>
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<tr>
<td>Present</td>
<td>Future</td>
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<td>500 to 700 million or more</td>
<td>500 to 700 million or more</td>
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4. **Evaluation of Extended Investment Immigration System and Action Plan**

Once the investment immigration system is extended, areas other than Jeju Island which did not previously draw much attention from foreign investors are expected to obtain more active foreign investments, and more foreign real estate developers, contractors and other enterprises could turn to the Korean real estate market. Among others things, the Ministry expects that the extended system will help alleviate the unsold housing problem as well as increasing foreign investment. The extended system is expected to create a visible effect for Incheon which is suffering from overflowing vacant apartments. If the extended system is determined to be successful, newly built houses may also be added to the investment items, according to an official at the Ministry.

As many people have voiced concerns about a possible increase in foreign land ownership and have doubts about whether the extended system would bring a positive outcome, it is expected that the government will take a close look at the issue of extension or non-extension of the investment immigration system and the scope of extension. Some people are even questioning whether foreign investors would even acquire unsold houses that are unpopular among Korean consumers.

Therefore, it is recommended that any foreign investors who are interested in the new system, or any contractors in or outside Korea who are planning to conduct real estate development business in Korea with the aid of the new system, should check whether the system has practically extended its scope of application as announced by the Ministry, and review applicable laws and regulations as well as the state of the market in seeking investment and business opportunities for real estate as existing or newly added investment items.

As one of the major practice groups at Yulchon, the Real Estate & Construction Group provides legal advice on all stages of the real estate development process, as well as with respect to dispute resolution associated with such real estate development activities, including investigation of various regulations and solutions related to real estate development projects, approvals and permits for development projects, funding, and pre-sale, sale or lease of buildings, and also provides visa services for foreigners.
Representative Matters

Representative Matter 1. Corporate & Finance Group advised carsales.com on its acquisition of a 49.9% stake in SK Encarsales.com for KRW 117.5 Billion

Yulchon's Corporate & Finance Group advised carsales.com on its KRW 117.5 billion acquisition of a 49.9% stake in SK Encarsales.com, Ltd., a spin-off of SK C&C Co., Ltd.'s online used car business unit. Yulchon represented carsales.com as buyer, advising on the spin-off of the target, the transfer of shares and negotiation of relevant agreements, including the shareholders agreement and strategic alliance agreements. Through this transaction, Korea's leading online used car company, SK C&C, and Australia's largest online car company are expected to cooperate to further enhance both parties' competitiveness in the online used car industry.

Ki Young Kim, Tehyok Daniel Yi, Hyun Jeong Kim, Il Soon Han and Na Young Kim advised on the transaction.

Representative Matter 2. Corporate & Finance Group advised Clinipace Worldwide on its 100% acquisition of Choice Pharma (HK)

Yulchon's Corporate & Finance Group advised Clinipace Worldwide, a contract research organization based in the United States, in connection with its acquisition of Choice Pharma (HK) Limited, a clinical research company with subsidiaries or representative offices in countries such as Korea, China, Taiwan, Singapore and Vietnam. Yulchon advised Clinipace Worldwide with respect to the issues pertaining to the Korean subsidiary and the Vietnamese representative office, including performing legal due diligence, concluding the share purchase agreement and executing the closing on the transaction.

Ki Young Kim, Yong Geun Bae, Su Gu Kang, Hyun Jeong Kim and Joanne Paek on the transaction.
Representative Matter 3. Real Estate & Construction Group advised Hyundai Asset Management on its Investment in office buildings in New York and Houston

Yulchon's Real Estate & Construction Group advised Hyundai Asset Management Co., Ltd. on its successful investment, via a real estate investment fund managed by Hyundai Asset Management in Korea (the "REF"), in secured loans collateralized by two office buildings located in New York and a building complex located in Houston.

The target investments were 375 Park Avenue and 650 Madison Avenue in New York and the Post Oak Central buildings (One, Two and Three) in Houston. The REF made its investment by acquiring participation interests in the secured loans.

Yulchon provided detailed advice throughout the transaction, from due diligence of the subject loans, efficient investment structuring taking into consideration restrictions under applicable laws and resultant tax effects, negotiation and execution of the related agreements and assistance with closing.

Tae Jin Cha, Ui Jae Lee, Ju Hui Lee, Hui Yeon Kim, Chris H. Kang and In Kim of the Real Estate & Construction Group (headed by Bong Hee Han) and Kyu Dong Kim and Joon Yung Jo of the Tax Group advised on the transaction.

Representative Matter 4. Real Estate & Construction Group advised Dongja Project Financial Investment on its sale of real estate to a real estate fund

Yulchon's Real Estate & Construction Group advised Dongja Project Financial Investment Co., Ltd. (the "Seller") on the sale of the office and studio apartment portion of a building that is under development in Dongja-dong, Seoul, to a real estate investment trust managed by KB Asset Management.

Yulchon's Real Estate & Construction Group represented the Seller and provided comprehensive legal advice throughout the transaction and assisted with the successful execution of the sale and purchase agreement based on its thorough review of related procedures and requirements in relation to the insolvency procedures.

Tae Jin Cha, Jin Seok Choi and Min Gyu Kim of the Real Estate & Construction Group (headed by Bong Hee Han) advised on the deal.
Representative Matter 5. Real Estate & Construction Group advised KORAMCO on its acquisition of an office building for KRW 1.172 Trillion

Yulchon’s Real Estate & Construction Group advised KORAMCO in connection with a KRW 1.172 trillion acquisition of an office building under construction in Seoul. The acquisition was structured and consummated using 2 different REITs, the tax-efficient real estate investment vehicle available under the Real Estate Investment Act of Korea. The REITs were established and are managed by KORAMCO and the primary investor is the National Pension Service, one of the largest pension funds in Korea ("NPS"). The building consists of 7 underground floors and 24 floors above ground, comprising a total area of 175,536.7 m2.

The Real Estate & Construction Group provided advice regarding all aspects of this transaction, ranging from due diligence, drafting and negotiation of various transaction documents, including the purchase and sale agreement, the master lease agreement, investment agreement, share subscription agreement, financing documents, and other ancillary documents, the establishment of the REITs (which included obtaining business licenses for REITs from Ministry of Land, Transport and Maritime Affairs) and the real estate registration procedure.

This transaction is recorded as the largest REIT acquisition in Korea, and the first acquisition by the NPS of an office building under construction.

Tae Jin Cha, Jin Seok Choi, Ui Jae Lee and Ju Hui Lee of the Real Estate & Construction Group (headed by Bong Hee Han) advised on the transaction.

Representative Matter 6. Customs Team advised C Company on concluding verification of origin project under Korea-US FTA
Yulchon’s Customs Team successfully concluded verification of origin project under Korea-US FTA with respect to U.S.-produced orange concentrate on behalf of C Company and received recognition that the origin of orange concentrate is the U.S.

The import duty rate for U.S.-produced orange concentrate was originally 54%, but this was reduced to 0% with the Korea-US FTA coming into effect on March 2012. However, the Korea Customs Service determined that some U.S. companies did not use 100% U.S.-produced oranges in their orange concentrate but used oranges from other countries including Brazil; accordingly, the Korea Customs Service required additional verification of origin, and also conducted a field audit by visiting the U.S. exporter.

In response to the Korea Customs Service’s challenge, Yulchon prepared and submitted a trace map that substantiates all of the production process of orange concentrate from U.S.-produced oranges. Yulchon also submitted an Assurance from the U.S. Department of Agriculture that the orange concentrate was manufactured from U.S.-produced oranges. Based on these submissions, Yulchon successfully persuaded the Korea Customs Service that the origin of the orange concentrate was the U.S.

This deal was led by partner Jeong Cheol Cho and Un Sang Jung of Yulchon’s Customs Team and handled by senior customs attorney Chang hee Seo.

News

News1. Awards

[ASIAN-MENA COUNSEL] Yulchon receives ASIAN-MENA COUNSEL Deal of the Year 2013 award

Yulchon received the ASIAN-MENA COUNSEL 2013 Deal of the Year award for its work on Lotte Shopping’s Acquisition of Hi-Mart for approximately USD 1.1 billion. This was one of the biggest acquisitions closed in 2012.

This matter was complex in that it involved multi-faceted negotiations and multiple parties with diverse interests, including four corporations, two private equity funds, and two individuals. In addition, with regard to antitrust merger clearance, the transaction had to overcome the Korea Fair Trade Commission’s (the “KFTC”) concern that the transaction might lessen competition by enabling Lotte, the largest domestic retailer in Korea, to gain too much power in the retail market by acquiring Hi-Mart. However, Yulchon provided innovative and convincing arguments to obtain clearance from the KFTC.

According to ASIAN-MENA COUNSEL, “The collaboration enabled Hi-Mart to leverage a wider sales network both domestically and abroad, whilst Lotte profited by being able to secure a distribution channel which catered to the needs of a changing consumer market.”
ASIAN-MENA COUNSEL, a monthly magazine addressing the concerns of in-house lawyers across Asia, provides analysis of vital legal, regulatory and business issues, along with news and profiles of leading in-house practitioners. Winning deals were selected based on size, complexity, and uniqueness.

News2. News

Yulchon Opens Office in Myanmar.

Yulchon has opened a Myanmar office. Centrally located in the commercial city of Yangon in the city's Junction Square. Resident attorneys include U.S. attorney Ahn Woo-Jin and Myanmar attorney Kaung Htet Zaw. Working together with Yulchon's Southeast Asia Team based in Seoul, the Myanmar office provides legal counsel to companies investing in Myanmar.

Address: Yulchon Myanmar Co., Ltd.
Junction Square Shop House, Building No. 2, 3rd Floor, Between Kyun Taw Road and Pyay Road, Kamayut Township, Yangon, Myanmar
Phone Number: +95-94-3088-377


After a year's work, Yulchon published the Legal Guide for Investment in Korea by Chinese Companies in Chinese.
This comprehensive guide for Chinese companies interested in investing in Korea is the first of its kind to be published by any large law firm in Korea, and is notable in that the legal guide is written in Chinese and was published in China. The guide describes the overall investment atmosphere of Korea and provides a general explanation regarding the system of foreign direct investment.

The comprehensive legal guide covers all legal areas that companies investing in Korea should know, including mergers and acquisitions, real estate acquisition and leasing, listings on the Korean Exchange, corporate law, antitrust, taxation, foreign exchange, labor law, IP law, company dissolution and reorganization proceedings, dispute resolution, and more. Yulchon attorneys drew on their expertise in their respective fields to write this legal guide.

The lead author of this legal guide is Yulchon's chairman, Chang Rok Woo. In the legal guide's introduction, he writes "through the publication of this legal guide, I hope that more Chinese companies will decide to invest in Korea, and that this guide will help companies through each step of the investment process."

Yulchon Hosts a Power Breakfast for the Russian Minister of Economy and the Conglomerate Chairmen Association (3/22)

In honor of Minister of Economic Development of the Russian Federation, Ulyukaev Alexey's visit to Korea, Yulchon hosted a power breakfast on March 22nd (Saturday) at the Sogong-dong Lotte Hotel with the Minister and various chairmen and CEO's from Korea's conglomerates.

Attendees of the breakfast for Russia's Minister of Economic Development Ulyukaev Alexey hosted by Yulchon included Yulchon Partner, Sai Ree Yun; the Chairman of the Korean Council on Foreign Relations, Tae Ik Jung; the Chairman of CJ Group, Young Dae Kim; the CEO of Hyundai Asan, Gun Shik Cho; the CEO of Lotte Group, Gak Gyu Hwang; the Vice President of the Korea National Oil Corporation, Joong Hyun Kim; the Vice President of KT, Gyu Shik Shin; and ten other individuals. Attendees discussed topics relating to expanding Russia's investment in Korean companies.

The power breakfast took place during the situation in Crimea and the U.S' recent imposition of sanctions on Russia, and the representatives of the corporations who attended the
breakfast listened to Russia's perspective on these issues and Russia's views on the issues henceforth. Rather than being hosted by a government office, this power breakfast was unique in that it was hosted by Yulchon, making it a good opportunity for the Russian Minister and the Chairmen and CEO's of Korea's corporations to have an open conversation and exchange opinions.

In the event the previous day, the Russian Minster presented appreciation plaques to Yulchon, Hyundai Motor Company, LG Electronics, Lotte Hotel, Daewoo Maritime Shipbuilding, and the Orion Group for their service in the promotion/enhancement of Korea-Russia Economic and Investment cooperation.

**News 3. People**

### Law Times: Yulchon Partners Soon Moo Soh and Jai Yun Lim Selected as Top Specialists in their Fields.

Partners Soon Moo Soh and Jai Yun Lim were selected as top tax and capital markets specialists, respectively, according to a survey of in-house lawyers published by the legal newspaper Law Times.

Dr. Soh is the author of Tax Litigation, which is referred to as the bible of its field. Mr. Lim wrote The Securities and Exchange Act and The Securities Regulation Act, both of which were nominated as Excellent Books by the National Academy of Sciences.

The Law Times worked jointly with the Korea In-house Counsel Association on this survey in determining not only the top specialists in various legal fields, but also ranked the top five firms in those fields. Yulchon's taxation department ranked first and eight other Yulchon departments ranked within the top five.

### Soon Moo Soh Appointed to Korea Institute of Public Finance

Dr. Soon Moo Soh, Chair of Yulchon's Tax Group, has been appointed as a research advisor to the Korea Institute of Public Finance.

The Korea Institute of Public Finance was established to investigate, research, and analyze tax issues to support setting tax-related policies and develop the nation's economy.

In addition, the Korea Institute of Public Finance researches tax policy and tax administration, methods of estimating tax revenue, and adjustments of national and local taxes. The Institute also collects and manages tax and public expenditure documents, and educates citizens about the tax system.

### Russian Attorney Hwa Joon Lee Appointed as Consulting Attorney to KOTRA Russia Moscow Trade Association and the
CIS Local Headquarters.

On March 27th, Yulchon’s Hwa Joon Lee was appointed as a consulting attorney to the KOTRA Russia/CIS Local Headquarters Moscow Trade Association (Russia, Central Asia, and other countries formerly part of the Soviet Union including Ukraine, Belarus, etc.).

The Moscow Trade Association, which serves Russia (Vladivostok, St. Petersburg, Novosibirsk), Central Asia (Kazakhstan, Uzbekistan, Azerbaijan, etc.), Ukraine and Belarus, as the Russia/CIS Local Headquarters of KOTRA, hopes to expand its services to other countries.

Russian Attorney Dmitry Letunov Re-Appointed as Consultant to the Jeju Special Self-Governing Province.

Yulchon’s Dmitry Letunov has been reappointed as a consultant to the Jeju Special Self-Governing Province. Mr. Letunov's reappointment is expected to bolster investments in Jeju Island. Mr. Letunov, who is a member of Yulchon’s Russia/CIS team was first appointed as a consultant to this investment promotion panel in 2011 and was reappointed to the same position in 2013.

In order to revitalize and specialize in investment promotion, the investment promotion panel to the Jeju Special Self-Governing Province has shifted from a government official-oriented panel to an advisory panel composed of civilian experts. Mr. Letunov's fluency in the Korean language and his deep understanding of the Korean culture has been recognized and he has been appointed as the sole Russian consultant to this panel.

To revitalize Russia's investment in Jeju Island, Mr. Letunov provides consultation to both Korean and Russian companies and serves as an intermediary. Recently, businesses from Russia's eastern regions have been looking to actively invest in Jeju Island, and Mr. Letunov is expected to play an essential role in promoting such investment activities.