

CHINA LEGAL BRIEFING* 181

FEBRUARY 4 – 8, 2008



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Law of the People's Republic of China on Mediation and Arbitration of Labor Disputes

中华人民共和国劳动争议仲裁调解法

Issued By **National People's Congress**
Subject **Labor Disputes**
Promulgated on **December 29th 2007**
Effective from **May 1st 2008**
Source www.npc.gov.cn

The Mediation and Arbitration Law on Labor Disputes has been commonly believed as another powerful weapon for labor administration, together with the Labor Law.

The Law mainly applies to the following disputes:

1. Disputes involving confirmation of labor relationship;
2. Disputes involving the conclusion, implementation, modification or the termination of the labor contract;
3. Disputes involving dismissal or resignation;
4. Disputes involving work time, annual leave, social insurance, welfare or treatment;
5. Disputes involving labor payments, medical payments due to industrial injuries, economic compensation or legal compensation; and/or
6. others disputes.

In addition, if an enterprise does not pay remuneration, medical payment due to industrial injuries, economic compensation or legal compensation or if it does not pay in full, the laborers may lodge complaints at labor administrative departments.

In accordance with the Law, whenever a labor dispute arises between a laborer and an enterprise, the laborer may negotiate with the enterprise, or he/she may invite the labor union or a third party to negotiate with the enterprise to reach an agreement.

If the party concerned is not willing to negotiate with the counterparty, if negotiations fail, or if the agreement is failed to be honored, the party concerned may apply for mediation.

If the party concerned is not willing to enter into mediation, if the mediation fails, or if the agreement reached during mediation is failed to be honored, the party concerned may apply to the labor dispute arbitration committee for arbitration.

Unless otherwise provided for in this law, if the parties concerned are not satisfied with the arbitration result they may file a lawsuit.

Validation of labor dispute arbitration is one year. The arbitration tribunal shall make its decision within 45 days, however, for complicated cases which need an extension of time limit, additional 15 days in maximum is provided.

The functions of labor unions in dealing with labor disputes have been enhanced, to ensure labor unions perform their duties in the settlement of labor disputes. The Law stipulated that labor administrative departments of the People's government at or above the county level must establish a tripartite co-ordination mechanism with labor unions and enterprises, to solve the key problems when dealing with labor disputes.

In addition, the enterprises' labor dispute mediation committee should be formed by employee representatives and employer representatives. The principal of the committee should be taken by the person from labor union or the one elected by both parties.

Regarding the formation of the labor dispute arbitration committee, the Law stipulates that the committee should be composed of representatives from the labor administrative department, employee representatives and employer representatives. The labor union may reflect the employees' interests and requirements during the arbitration of a labor dispute, to ensure a fair and reasonable result.

If party concerned does not enforce the valid arbitration award, the counterparty may go to court and enforce such award according to civil procedures rules. The labor dispute arbitration is free, and the fund of Labor Dispute Arbitration Committee will be ensured by State finance.

Announcement of the General Customs Administration No.67 [2007] of the People's Republic of China 中华人民共和国海关总署公告2007年第67号

Issued By	General Customs Administration
Subject	Custom Administration
Promulgated on	November 26th 2007
Effective From	November 26th 2007
Source	www.customs.gov.cn

As a response to the 2007 Catalogue for Guidance of Foreign Investment Industries, the issues that may be encountered by the Customs in enforcing the Catalogue have been notified as follows.

Since December 1 2007, as regards foreign investment projects (including capital increase projects) that are approved by the competent department of investment of the State Council or any province, autonomous region, municipality directly under the Central Government or city specially designated in the state plan within its administrative power and fall into the encouraged category of the Catalogue, with regards to the self-use equipment and the technologies, components and spare parts attached to such equipment imported within the aggregate investment, except for those listed in the Catalogue for Foreign Investment Projects of Import Commodities Not Exempted from Tax, the customs shall keep handling the archive-filing procedures and examining and approving procedures for the exemption of import duty and import-linkage VAT according to the related provisions of the Urgent Circular of the General Customs Administration on Implementing the Circular of the State Council on Adjusting the Tax Policies on Import Equipment (Shushui [1997] No.1062, hereinafter referred to as Circular).

If a foreign investment project is approved by the competent department of foreign investment after December 1, 2007 (the date of approval shall be the date indicated as when the application report is approved) and does not fall within the encouraged category of the Catalogue, the customs may not accept the application made by any project entities for handling the archive-filing procedures for tax deduction or exemption.

For the purpose of maintaining the consistency among policies, if a foreign investment project is approved prior to April 1, 2002 according to the 1997 Catalogue and falls within the encouraged category or restricted category II, and if a foreign investment project is approved during the period from April 1, 2002 to November 30, 2007 according to the 2002 Catalogue and the 2004 Catalogue and falls within the encouraged category, the customs shall handle the archive-filing procedures and examining and approving procedures for the exemption of import duty and import-linkage VAT according to the Circular and the Announcement No.35 [2007] of the General Customs Administration.

Among others, the project entities of the encouraged foreign investment projects approved during the period from April 1, 2002 to November 30, 2007 must file an application with the customs for handling the archive-filing procedures for tax deduction or exemption upon the strength of the project confirmation letter and other required materials prior to December 31, 2008. The customs shall not accept any such application thereafter.

Tentative Provisions on Establishment of Subsidiary Companies of Securities Companies

证券公司设立子公司试行规定

Issued By **China Securities Regulatory Commission**
Subject **Securities Companies**
Promulgated on **December 28th 2007**
Effective from **February 1st 2008**
Source www.csrc.gov.cn

Securities companies are now permitted to establish wholly owned subsidiaries, and they will also be allowed to establish subsidiaries with other investors who have been met the requirements on shareholders of securities companies as stipulated by the Securities Law.

Main documents for application for establishing a subsidiary company are application forms, articles of association of such subsidiary company, feasibility study report, shareholders' resolution of the mother company or the JV contract if such subsidiary is established jointly by more than one investors, and legal opinions issued by Chinese law firm and other necessary documents required by CSRC.

A securities company and its subsidiary, as well as subsidiaries controlled by the same company shall not operate the same category of business on which they have conflicts of interest.

Shareholders of subsidiaries must exercise their voting rights and nomination rights, in accordance with their proportion of capital contribution or shareholding proportion.

A subsidiary shall not hold, directly or indirectly, shares of its controlling shareholders, or shares and equities of other subsidiaries with whom together controlled by the same securities company.

A securities company is prohibited from damaging the legal interests and rights of its subsidiary, shareholders and clients.

Appropriate protection systems shall be established to prevent risks and conflicts of interest between securities companies and their subsidiaries, as well as the subsidiaries together controlled by the same securities company.

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