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CHINA LEGAL BRIEFING 1

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a) National

Central government issues circular on transfer of farmland use rights

The central Chinese authorities authorized publication Monday of a circular calling attention to the transfer of farmland use rights against the will of farmland contractors. Authorities in some townships and villages transfer rights against the will of farmers whose contracts are still in effect, according to the circular. It is also noted that the transfer of the right to cultivate farmland has to be done in accordance with the relevant laws and regulations and policies issued by the central authorities. Villages as a collective economic entity have no right to unilaterally terminate farmland contracts signed with farmers, or to apply "majority rules" to impel the farmers to terminate or change their contracts before they reach maturity. In China, where farmland belongs to the State, farmers signed their first 30 years-long farmland contracts with local authorities in late 1970s, after rural people's communes were abolished. (xinhua, November 05)

China unveils anti-dumping measures against EU catechol imports

China yesterday imposed temporary anti-dumping measures against imports of catechol from the European Union (EU). This is the first anti-dumping case

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begun and primarily judged according to the new Anti-dumping Rule that came into effect in January 1, 2002. The Ministry of Foreign Trade and Economic Co-operation (MOFTEC) said the French Rhodia Organique SAS has dumped at a margin of 88 per cent, Borregaard Italia SpA at 50 per cent and all other EU firms at 92 per cent. Lianyungang Sanjili Chemical Industry Co Ltd in East China's Jiangsu Province applied for an anti-dumping investigation on January 14 on behalf of domestic industry. The firm was the sole Chinese producer of catechol in 2000 and during the first nine months of 2001. MOFTEC accepted the application and initiated investigation into imports of catechol from the EU from January 1, 2001 to December 31, 2001. The State Economic and Trade Commission (SETC) found China's catechol consumption increased 50.88 per cent year-on-year last year and imports from the EU soared 72.90 per cent in the period, making up 91.90 per cent of China's total market. (China Daily, November 05)

Shares policy lifts stock-market mood

Foreign investors have been given wider access to China's stock market - they can now use the public-tender process to buy State-owned or institutional shares in domestic-listed firms. The green light was given by the China Securities Regulatory Commission, the Ministry of Finance and the State Economic and Trade Commission in a joint circular issued on Sunday. The decision reversed a 1995 ban by the State Council on foreigners buying State shares. In accordance with the decision, the state-owned shares or institutional shares of domestic-listed firms can be transferred to foreign investors. (China Daily, November 05) [See separate China Legal Report]

Eleven New Laws and Regulations to be Effective from November

From November 1 on, the Safe Manufacture Law of the People's Republic of China will come into force. This is the first national law in China specially regulating the safe manufacture activities. In this law, the State will make those who lead to the manufacture accidents responsible for the first time. Also from this day, there are other ten laws and regulations that come into force, including Rules on the Regulation of Urban Green Lines, the Provisional Rules for the Investigation of Foreign Trade Barriers, Rules on the Regulations of the Business Places of Internet Services, Decisions on Revision of Regulations of the Exports of Military Articles of the People's Republic of China, Several Regulations on the People's Mediation, the Supreme Court's Judicial Interpretation of the Effect of the People's Mediation Agreements, Regulations on the Administration of the Fake Cigarettes, Regulations on the Administration of the Post Construction and Use in Beijing, Regulations on the Administration of Reject the Motorcycles in Beijing, as well as Regulations on the Administration of Libraries in Beijing. (ChinaLawInfo, November 1)

China's Great Achievement on the Legislation of Environment Protection

The Third National Environment Policy and Law Working Conference was held in Beijing on November 2. Wang Yuqing, Vice President of State General Bureau of Environment Protection, said that China had made great progress on the legislation of environment protection. It is said that during the past five years, China has promulgated three national laws on environment protection, including Law of Environment Impact Evaluation of the People's Republic of China, Law of the Oceanic Environment Protection of the People's Republic of China, etc., two national administrative regulations, as well as 14 ministerial administrative regulations. The legal framework of environment protection in China comes to be perfect. (ChinaLawInfo, November 4)

China Issue Regulations on the Procurement of Military Equipments of PLA

Jiang Zemin, President of Central Military Committee, issued an order to execute the Regulations on the Procurement of Military Equipments of PLA. This is China's first military regulation promulgated by the Central Military Committee in terms of the procurement of military equipment of the People's Liberation Army. The Regulations consists of eleven chapters breaking into sixty-five articles. The content include the establishment of procurement plans, the establishment of procurement methods, the procurement procedures, the conclusion of the procurement contracts, the performance of the procurement contract, as well as foreign procurements. (ChinaLawInfo, November 4)

Four Regulations on Safe Manufacture be Effective from November 15

The four regulations on safe manufacture promulgated by the State Economic and Trade Commission will be effective from November 15. These four regulations include the Regulations of Administration of Coal Mining Safe Products, the Regulations on the Registration of Dangerous Chemical Articles, the Regulations of Administration of Certificate of Business of Dangerous Chemical Articles, as well as the Regulations of Administration of the Wrapping and Production for Chemical Articles. (ChinaNews, November 6)

Supreme Court Deliver New Judicial Interpretation on Tax Dodging and Tax Defrauding

China's Supreme People's Court issued a new judicial interpretation on tax dodging and tax defrauding on November 7. This new judicial interpretation is called Interpretations on the Application of Laws to Tax Dodging and Tax Defrauding Cases. This interpretation is a new step to combat the tax dodging and tax defrauding activities from the judicial organs following this September's judicial interpretation on the defrauding of export drawback tax. In accordance with the new interpretation, if the activities of the accused constitute the crime of tax dodging, he shall be subject to at most seven years' imprisonment, and the penal sum will be at most five

times the sum of tax dodging. Meanwhile, the new interpretation defines the crime of rejecting to pay the tax by force or by intimidation, regardless of the sum. (ChinaNewsNet, November 8)

b) Beijing

A Beijing Court Finish a Civil Case by Taking Phone Conversation as Testimony

The Fangshan District Court in Beijing finished a civil case by taking phone conversation as testimony. The plaintiff sued the defendant because of the debts. During the trial, the defendant refused to recognize the validity of the receipt. After the approval of the judges, the plaintiff called a witness by mobile at the tribunal and the witness recognized that the defendant owned money to the plaintiff. Finally, the defendant recognized what the witness said and the case come to an end. It is reported that it is the first case in China the court admitting the phone conversation as the testimony before the new civil evidence rules come to effect. (ChinaLawInfo, November 4)

c) Shanghai

Consumer privacy to be protected

Protecting consumer privacy will, for the first time, receive legal support when the new Shanghai Consumers' Right Protection Regulation is implemented from January 1 next year. According to the new regulation, service or product providers have no right to ask customers to provide personal information unrelated to their purchase. Such information should not be revealed to others without the express permission of the customer. The personal information at issue includes the customer's name, sex, profession, marital situation, income and property, contact details, fingerprints, blood type, medical history, educational background and other details relating to customers and their families. The rules will also protect customers against intrusive (body) searches, insults and slander. Consumers can also ask for mental compensation for serious cases. The regulation also requires service or product providers to stop providing service or selling products right after any defect is found in the products or service. In addition, the goods have been sold out should be recalled to be repaired or destroyed. (Shanghai Star, October 31)

Fill in out the Suit Risk Form before Suit in Shanghai Courts

From December 1, the plaintiff shall firstly fill in out the Suit Risk Form before bring a suit in any courts in Shanghai. This is promulgated by Shanghai High People's Court. It is said this system is being executed in Zha-bei District Court in Shanghai and has made good achievements. Shanghai High People's Court will executive this system across Shanghai. The Suit Risk Form lists the problems the plaintiff might face from the file and execution of the judgment. The plaintiff shall corporate the actions of the courts and bear the corresponding responsibility. (ChinaLawInfo, November 4).

Shenzhen and Shanghai Issue New Rules for the List of Bonds

On November 4, Shenzhen Securities Exchange and Shanghai Securities Exchange jointly issued Rules for the List of Convertible Corporate Bonds. The new rules made great revision on the former rules on the list of convertible corporate bonds. The new rules consist of seven chapters, including the general rules, the list application of convertible corporate bonds, information disclosure, stop listing, re-list and cease listing, suspension, responsibility and annexed rules. Notably, the new rules laid down the requirements for information disclosure of listed bonds for the first time. The issuer shall disclose information concerned at the time of listing and after listing. (ChinaLawInfo, November 4)

d) Local

Jilin Issue Regulation Permitting Single Women to Reproduce By Medical Means

Jilin Province, located in Northeastern part of China, issued a local regulation permitting single women to reproduce by medical means. Article 30, Paragraph 2 of this new regulation called Jilin Province Regulation on Population and Family Plan stipulates that the women who have reached the legal age for marriage but do not wish to marry and without children can produce one child by legal medical means. Such stipulation is deemed to be the first time of China's local regulations on this issue. Before this regulation, the illegal reproduce was forbidden. The new regulation is to protect the women's right to reproduce. (China Youth Daily, November 8)

Hong Kong Government Print Files to Interpret the Draft of Article 23 of Basic Law

Hong Kong SAR government printed two files to the public with a view to interpreting the draft of Article 23 of the Basic Law. The Hong Kong public are concerned much with this legislation process. According to Article 23 of the Basic Law, the Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies. (LawBase.com.cn, November 6)

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