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CHINA LEGAL BRIEFING 2

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a) National

China Promulgate the Regulation on Usage of Foreign Capital to Re-organize the SOEs

The State Economic and Trade Commission and other three state organs jointly promulgated a regulation on the usage of foreign capitals to re-organize the State-owned Enterprises recently, which will come into force on March 1, 2003. The regulation is called the Interim Regulation of the Usage of Foreign Capital to Re-organize the SOEs. The regulation stipulates that before the re-organization of SOEs, the holder of ownership of SOEs shall check the capitals of the re-organized enterprises, and make clear their debts and obligations. [See separate China Legal Report]

China's Central Bank Banned Five Financial Statistics Activities

The People's Bank of China, China's central bank, promulgated the newly amended Regulation on the Financial Statistics recently, and will come into force on December 15, 2002. The newly amended regulation declares five financial statistics activities illegal. It further points out that if one of such activities occurs, the respective institution shall be warned, and shall be fined between 100, 000 CNY and 500,000 CNY. If the plot is serious, it could be

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suspended its certificate for business. The persons responsible for them shall be subject to discipline punishments. (ChinaLawInfo, November 8)

China's Supreme Court delivered a New Judicial Interpretation on Death Penalty

China's Supreme Court, the Supreme People's Court delivered a new judicial interpretation on the application of death penalty on November 4, and will come into force on November 9, 2002. The Supreme People's Court replies to Gangsu Province Higher People's Court's request that in accordance with Article 51 of the Criminal Law of the People's Republic of China, the period of stay of execution of death penalty shall start from the declaration or service of the legal document of stay of execution of death penalty for two years. (ChinaLawInfo, November 11)

State Council Banned Employment of Child Laborers

The State Council promulgated No. 364 decree called Regulation of Banning the Employment of Child Laborers recently, which will come into force on December 1, 2002. The former Regulation of Banning the Employment of Child Laborers promulgated in 1991 by the State Council was abolished. In accordance with the new regulation, those employers who hire one child laborer will be fined 5,000 CHY every month by the labor securities authorities. In this regard, the former regulation laid down the fine of 3,000 CHY. In the new regulation, the child laborer refers to the child aged less than 16. The new regulation forbids any state organs, social groups, enterprises, civil units and individual commercial houses from hiring child laborers, forbids any units or individuals from introducing jobs to child laborers, and forbids any child no less than 16 from establishing business. However, if the schools, other educational institutions and vocational training organs organize the children less than 16 to educational practice, vocational skills trainings in accordance with laws and regulations concerned, they do not constitute the employment of child laborers. (ChinaLawInfo, November 14)

Central Bank issue Regulation on Gold and Silver

The People's Bank of China issued a regulation on the administration of gold and silver recently. In accordance with this new regulation, after the operation of gold exchanges, the Central Bank will terminate the supply of gold for the purpose of jewelries, and the future supply of gold is mainly for the purpose of military industries and scientific research. Meanwhile, the Central Bank points out that in order to foster the orderly development of market, within a short period of the operation of gold exchanges, the Central Bank will execute a dual system between the transaction of gold in gold exchanges and purchase of gold by the Central Bank. (ChinaLawInfo, November 14)

National Drugs Registration System Born

China's National Drugs Administration promulgated a legal document called the Regulations on the Administration of Drugs Registration recently, which will come into force on December 1. The new regulations lay down the legal requirements on drugs' clinic research, the production of drugs and the import of drugs. (LawStar.com, November 15)

b) Beijing

A Court in Beijing use Electronic Seal on its Civil Mediation Document

Tongzhou District court in Beijing attached the court electronic seal onto its civil mediation document for a divorce case tried in it recently. This brings much high efficiency and convenience to the work of courts in Beijing. This also marks that all the district courts in Beijing have linked with Beijing Higher People's Court and each other. (LawStar.com, November 15)

c) Shanghai

Shanghai Securities Business Institutions Police Security Issued

Shanghai Municipal Public Securities Bureau and Shanghai Office of China Security Regulatory Commission jointly promulgated the Several Opinions on the on the Strengthening of the Police Security of Securities Business Institutions in Shanghai. This is the first time across China. The regulation orders the securities business institutions to ensure the business order. (LawStar.com)

d) Local

Shenzhen Procuratorate Establish an Organ to Hound Bankrupt Officials

The Shenzhen Procuratorate will establish a special organ for dealing with the foreign related bankrupt cases. More and more Chinese higher officials are involved with the bankrupt cases and then flee away abroad via Shenzhen. The new measurement of Shenzhen Procuratorate will be considered to combat this phenomenon. (ChinaLawInfo, November 14)

First Hacker Case Tried in Jiangsu Province

After the investigation of the public security organs, Mr. Luo was found to have attacked a school system keeping academic record in Suzhou city. Mr. Luo was said to have deleted many students' academic records after obtaining the accounts and IP of the school system. The attack brought nearly 60,000 CNY indirect losses to the school, and Mr. Luo was subjected to criminal detention by Suzhou public security bureau and waiting for trial. (ChinaLawInfo, November 14)

Anhui Province Hope to Further Open to Foreign Investments

Anhui Provincial Government issued a regulation to further widen the openness to foreign investments. The new regulation is called Several Opinions on Further Widen Openness and Attract Foreign Investments. In accordance with this new regulation, if foreign enterprises and individuals invest in Anhui province and their contribution capital to the joint venture is below 25 %, these enterprises can be treated as the Chinese domestic capital enterprises. If the foreign investment enterprises use their profits to re-invest in Anhui province, they will be awarded a certain proportion of their investments by the governments. (LawStar.com, November 15) [An interesting move towards the WTO commitment of domestic treatment.]

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