



## CHINA LEGAL BRIEFING 22

WENGER VIELI BELSER BEIJING OFFICE

April 28 - May 2, 2003

**CHINA LEGAL BRIEFING** is a weekly collection of Chinese law related news gathered from various media and news services, edited by WENGER VIELI BELSER and distributed to its clients and CHINA LEGAL REPORT SUBSCRIBERS. WVB does not accept responsibility for accuracy of quotes or truthfulness of content. CHINA LEGAL BRIEFING is not intended to provide legal advice.

### 1. National

#### **New Banking Watchdog Launched**

Following the decision adopted in this March by National People's Congress (NPC) approving establishment of China Banks Regulatory Commission, the Standing Committee of NPC on 26 April adopted a resolution greenlighting the debut of the China Banks Regulatory Commission. According to this resolution, the power to approve and supervise banks, financial assets management companies, trust investment companies and other financial institutions conducting deposit business is shifted from People's Bank of China to this nascent body. Further, this resolution requires State Council propose in a expeditious manner amendments to existent Law of People's Bank of China and Law of Commercial Banks as well as other relevant laws and regulations since under these laws such power is invested in People's Bank of China. ([www.people.com.cn](http://www.people.com.cn))

#### **Measures on Administrative Compensation of Customs Took Effect**

As of 1 May 2003, Measures on Administrative Compensation of Customs, which was promulgated by the Customs General Administration on 24 March 2003, took effect. This measures, enacted in accordance with Law of Customs and Law of State Compensation, applies to claims arising out of abuse of powers by customs and its staff, as well as claims for damage caused by inspection of customs. The claimants shall make their claims against obligors, a panel of which shall hear the

Telephone +86 10 64687331  
Fax +86 10 64603132  
电话: +86 10 64687331  
传真: +86 10 64603132

mail@wenfei.com  
www.wenfei.com

Wenger Vieli Belser  
Room 722  
Golden Land Building  
No. 32 Liang Ma Qiao Road  
Chaoyang District  
Beijing 100016 P.R.C

北京办事处  
北京市朝阳区亮马桥路32号  
高澜大厦7层722  
邮编: 100016

Offices Zurich  
Wenger Vieli Belser  
Dufourstrasse 56 and  
Mühlebachstrasse 38  
CH-8034 Zürich

Office Zug  
Industriestrasse 7  
P.O. Box  
CH-6301 Zug

cases, or do so while applying for administrative reconsideration or initiate administrative proceedings. However, there is no oral procedure as a rule. ([www.customs.gov.cn](http://www.customs.gov.cn))

#### **Rules on Verification and Protection of Well-Known Trademarks**

On 17 April 2003, State Administration of Industry and Commerce promulgated Rules on Verification and Protection of Well-Known Trademarks, which supersedes Provisional Rules on Verification and Protection of Well-Known Trademarks promulgated on 14 August 1996 and will take effect as of 1 June 2003. Under the new Rules, the competent authorities in charge of verification of well-known trademarks are Trademark Office and Trademark Review and Adjudication Board. Further, scope of protection is not limited to registered trademarks any longer. However, the protection as well-known trademark requires that the respective trademark is not just well known abroad but also in China. Any complaints of infringement shall be lodged with bureaus of industry and commerce above city level, which, after reviewing the documents and deciding there is a *prima facie* case, shall forward the documents directly or via its superior at provincial level to Trademark Office, which will make the final judgment. ([www.cicn.com.cn](http://www.cicn.com.cn))

#### **Rules on Registration and Administration of Collective & Certification Trademark**

Another one of the triplet of regulations regarding trademark issued in April is Rules on Registration and Administration of Collective Trademark and Certification Trademark promulgated by State Administration of Industry and Commerce on 17 April 2003, which supplants its forerunner with the same name promulgated on 30 December 1994 and will take effect as of 1 June 2003. The Rules applies to goods as well as service. Compared with its precedents, the new one revokes the requirement that applicants for certification trademark should have the capacity of inspection. Moreover, the ban on transfer of collective trademark is lifted. ([www.saic.gov.cn](http://www.saic.gov.cn))

#### **Detailed Rules on International Registration of Trademark under Madrid Regime**

The last component of the triplet of trademark regulations promulgated by State Administration of Industry and Commerce on 17 April 2003 is Detailed Rules on International Registration of Trademark under Madrid Regime, which, like the other two pieces, substitutes its forerunner with the same name promulgated on 24 May 1996 and will take effect as of 1 June 2003. This Rules applies to international application treating China as national Office of origin, application for extension of protection to China and other relevant applications. However, it does not apply to international applications made outside Madrid regime. A new provision inserted is that China may not confirm its decision to reject on its own motion the applications for extension of protection to China once it has notified the International Authority. ([www.saic.gov.cn](http://www.saic.gov.cn))

#### **MOF Modified Accounting Rules**

Recently, Ministry of Finance modified Accounting Rules for Enterprises (Contingency) promulgated in 1998, which

will take effect as of 1 July 2003. The amendments are mainly concerned with four aspects: adjustment matters, non-adjustment matters, dividends and continuation of business. Under the revised Rules, adjustment matters refer to circumstances taking place after the balance sheet date, which may possibly change the sum reflected in the balance sheet. Non-adjustment matters refer to those taking place after the balance sheet date, which does not change the sum reflected but may influence the decisions of the readers. ([www.law-star.com](http://www.law-star.com))

### **ICBC Allowed to Do Foreign Exchange Derivatives Business**

On 25 April 2003, Industry and Commerce Bank of China announced that it had got approval from People's Bank of China to engage in foreign exchange derivatives business, including forward, swaps, options and futures. The ICBC has opened foreign exchange capital businesses such as foreign exchange trading, bond investment, trading and gold trading over the past few years. ([www.isinolaw.com](http://www.isinolaw.com))

### **China and France Vowed to Strengthen Cooperation in Agricultural Insurance**

Recently, on a Sino-French forum on agricultural insurance, Wu Dingfu, chairman of China Insurance Regulatory Commission, made the remarks that China would further promote the development of the agricultural insurance sector and strengthen cooperation with countries like France which have much experience in this field. Renaud Musseller, French State Secretary of Foreign Affairs, expressed the hope that French insurance companies could promote bilateral exchanges and cooperation between France and China. As a herald, Groupama, a giant French insurance corporation had submitted an application to the CIRC to establish a branch in China's southwest province of Sichuan. ([www.isinolaw.com](http://www.isinolaw.com))

## **2. Local**

### **Shanghai Simplified Rules on Estate Purchase**

Recently, Shanghai Housing and Land Administration issued a new rule to simplify procedure for estate purchase by authorizing district real estate exchanges to be responsible for the registration of all property purchases except for farm land and those involving state security. This new rule took effect as 1 May 2003. ([www.isinolaw.com](http://www.isinolaw.com))

© Wenger Vieli Belser, Beijing, May 2, 2003

---

## DISCLAIMER

THIS PUBLICATION IS INTENDED TO PROVIDE ACCURATE INFORMATION IN REGARD TO THE SUBJECT MATTER COVERED. READERS ENTERING INTO TRANSACTION ON THE BASIS OF SUCH INFORMATION SHOULD SEEK ADDITIONAL, IN-DEPTH SERVICES OF A COMPETENT PROFESSIONAL ADVISOR. WENGER VIELI BELSER, THE AUTHOR, CONSULTANT OR GENERAL EDITOR OF THIS PUBLICATION EXPRESSLY DISCLAIM ALL AND ANY LIABILITY AND RESPONSIBILITY TO ANY PERSON, WHETHER A FUTURE CLIENT OR MERE READER OF THIS PUBLICATION OR NOT, IN RESPECT OF ANYTHING AND OF THE CONSEQUENCES OF ANYTHING, DONE OR OMITTED TO BE DONE BY ANY SUCH PERSON IN RELIANCE, WHETHER WHOLLY OR PARTIALLY, UPON THE WHOLE OR ANY PART OF THE CONTENTS OF THIS PUBLICATION.