



CHINA LEGAL BRIEFING 32

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1. National

CEPA Between Mainland and Hong Kong

On 29 June 2003, the Central Government and government of Hong Kong Special Administrative Region (HKSAR) concluded Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA), under which the commitments made in respect of liberalization in trade in goods as well as in services will be effective as of 1 January 2004. The CEPA covers three areas, namely trade in goods, trade in services, and trade and investment facilitation. With reference to trade in goods, the Mainland agrees to apply zero import tariff from 1 January 2004 for exports from Hong Kong meeting the rules of origin requirements in some 270 Mainland product codes. Moreover, the Mainland also agrees to apply zero import tariff latest by 1 January 2006 upon applications by local manufacturers for other product codes maintained on China's tariff system and meeting the CEPA rules of origin. The HKSAR, on the other hand, agrees to bind its existing zero import tariff regime with respect to all goods of Mainland origin and not to impose restrictive regulations on trade for these goods. With respect to trade in services, the CEPA provides for liberalization of market access in 17 sectors, namely, management consulting services, convention and exhibition services, advertising services, accounting services, construction and real estate, medical and dental services, distribution services, logistics services, freight forwarding agency services, storage

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and warehousing services, transport services, tourism services, audiovisual services, legal services, banking, securities and insurance. Broadly speaking, the liberalization permits earlier access to Hong Kong companies and services providers to the Mainland market, ahead of China's WTO timetable. With regard to trade and service facilitation, both sides agree on promoting co-operation in the following 7 areas of customs clearance facilitation, quarantine and inspection of commodities, quality assurance and food safety, cooperation of small and medium-sized enterprises (SMEs), cooperation in Chinese medicine and medical products, electronic commerce, trade and investment promotion, transparency in laws and regulations. (www.tid.gov.hk)

MOC & SAFE Circular on Outbound Processing Trade

On 26 June 2003, Ministry of Commerce and State Administration of Foreign Exchange jointly promulgated Circular on Simplifying Approval Procedure and Delegating Approval Powers to Authorities at Lower Level in Respect of Outbound Processing Trade. This circular divides approval power between Ministry of Commerce and local administrations in charge of foreign trade and economic relations on the basis of sum of investment from Chinese parties. To be specific, the outbound processing trade project to which Chinese parties invest less than USD 3 million is to be approved by provincial local administrations in charge of foreign trade and economic relations at the place of business establishment of the Chinese parties. In the case of investment from Chinese parties exceeding USD 3 million, the approval power is vested with the Ministry of Commerce. It should be noticed that where foreign exchange is to be purchased at home or to be transferred overseas, applications are required to be reviewed by the administrations of foreign exchange for the purpose of checking sources of capital before they are submitted to the administrations in charge of foreign trade and economic relations for approval. (www.safe.gov.cn)

MOC Rules of Assembly of Owners

On 26 June 2003, Ministry of Construction issued the first ever Rules of Assembly of Owners, which was enacted in accordance with Regulation on Real Estate Management (China Legal Briefing No. 29). Under the Rules, interests of owners are represented by Assembly of Owners and Commission of Owners. The Commission is responsible for convening meetings of the Assembly, concluding service contract on behalf of owners with management companies, and supervision of implementation of conventions of owners. The Assembly, however, has such power as to elect members of the Commission, select and dismiss contractual management companies, decide plans for using and raising maintenance funds, and formulate and revise rules in respect of usage of common parts and facilities, public order and health. (www.min.gov.cn)

Forex Trust Product Unveiled

Recently, foreign exchange trust product has been launched in China in two pilot companies of China Internati-

onal Trust and Investment Company and Jiangsu International Trust and Investment Company, following a decision of the State Administration of Foreign Exchange green lighting such moves. There is a lacuna in the existent Chinese rules in this regard. However, the State Administration of Foreign Exchange has been drafting a regulation on this matter. (www.fotic.com.cn)

Regulations on State Assets to Come Out

Following the promulgation of Provisional Regulation on Supervision and Management of State Owned Assets in Enterprises (China Legal Briefing No.27), State-Owned Assets Administration and Supervision Commission are speeding up the process of enacting follow-up measures. It is reported that Provisional Measures on Transfer of State Ownership in Enterprises has gone through discussion, which is expected to be released this August. Moreover, Provisional Measures on Transfer of State-Owned Shares in Listed Companies has been included in the legislation plan of the State Council. (www.chinalawinfo.com)

Regulation on Recall of Automobiles Expected This Year

It is reported that Provisions on Administration of Recall of Deficient Automobiles, after a year of consultation, is expected to be promulgated at earliest during the second semester of this year. This regulation is to fill the lacuna in existent laws in this matter, which is often used as a defense to deny recall of deficient automobiles sold in China. (www.chinalawinfo.com)

Beijing Released Migrant from Rigidity in Purchase of Real Estate

As of 15 July 2003, migrant people from other provinces without resident status in Beijing are no longer required to go through approval procedure and pay additional fees in purchasing newly built and second hand commodity premises. Under the existent rules, migrant people have to undergo extra procedure by obtaining approval from local authorities and pay 0.03% of the contractual price as additional fee. (www.xinhuanet.org)

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