



CHINA LEGAL BRIEFING 43

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1. *National*

6 Annexes to CEPA

Following the conclusion of the main parts Closer Economic Partnership Agreement on June 29, the Central Government and government of Hong Kong Special Administrative Region on 29 September 2003 signed 6 annexes thereto, completing the process of formulating free trade arrangement between the two sides. The six annexes fall into three categories, namely, trade in goods, trade in service as well as trade and investment facilitation. They are Arrangements for Implementation of Zero Tariff for Trade in Goods (“关于货物贸易零关税的实施”), Rules of Origin for Trade in Goods (“关于货物贸易的原产地规则”), Procedures for the Issuing and Verification of Certificates of Origin (“关于原产地证书的签发和核查程序”), Specific Commitments on Liberalization of Trade in Services (“关于开放服务贸易的具体承诺”), Definition of “Service Supplier” and Related Requirements (“关于‘服务提供者’定义及相关规定”), Trade and Investment Facilitation (“关于贸易投资便利化”).

According to the CEPA, 273 Mainland product codes meeting CEPA rules of origin will enjoy zero tariff starting from 1 January 2004. For other products, the Mainland will apply zero tariff latest by 1 January 2006 upon applications by local manufacturers and upon CEPA rules of origin being agreed and met.

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With reference to trade in service, the two sides agreed upon liberation of 18 sectors of service: management consulting services, convention and exhibition services, advertising services, accounting services, real estate and construction services, medical and dental services, distribution services, logistics services, freight forwarding agency services, storage and warehousing services, transport services, tourism services, audiovisual services, legal services, banking services, securities services, insurance services, and telecommunications services.

As to trade and investment facilitation, both sides have reached an agreement on enhancing co-operation in the following seven areas: trade and investment promotion, customs clearance facilitation, commodity inspection and quarantine, food safety, quality and standardization, electronic business, transparency in laws and regulations, cooperation of small and medium enterprises, and cooperation in Chinese medicine industry.

www.tid.gov.hk

CBRC Regulation on Rural Commercial & Cooperative Bank

On 12 September 2003, China Banking Regulatory Commission adopted Provisional Measures on Administration of Rural Commercial Bank (“农村商业银行管理暂行规定”) and Provisional Measures on Administration of Rural Cooperative Bank (“农村合作银行管理暂行规定”), which have both taken effect as of promulgation.

Rural Commercial Banks refer to local share limited financial institution jointly initiated by rural people, rural individual business, enterprise legal persons and other economic entities, within that jurisdiction, on the basis of the existent urban joint credit institution, with a view to providing financial services to local country people, local agriculture and development of local villages. The initiators shall be no less than 500 and the registered capital shall be no less than RMB 50 million with capital adequacy ratio no less than 8%.

Urban Cooperative Banks refer to local equity-cooperative financial institutions established through subscription of shares by country people, country individual business, enterprise legal persons and other economic entities, within that jurisdiction, on the basis of the existent urban joint credit institution, with a view to providing financial services to local country people, local agriculture and development of local villages. The initiators shall be no less than 1000 and the registered capital shall be no less than RMB 20 million with core capital adequacy ratio no less than 4%. (www.cbrc.gov.cn)

MII Circular on Value Added Telecom Service of Hong Kong Investor

On 30 September 2003, Ministry of Information Industry released Circular on Certain Issues Regarding Implementing Closer Economic Partnership Agreement between the Mainland and Hong Kong (“信息产业部关于落实《内地与香港关于建立更紧密经贸关系的安排》有关问题的通告”). According to this circular, as of 1 October 2003, Hong Kong investors may establish joint ventures in the mainland to

provide the following five types of value-added telecommunication services: internet data centre services, store and forward services, call centre services, internet access services and content services. However, the Hong Kong service suppliers' shareholding in the joint venture enterprises engaging in the aforesaid value-added telecommunication services mentioned should not exceed 50%. There will be no geographic restriction for the joint venture enterprises formed by Hong Kong service suppliers. The power to approve and regulate these joint ventures is exercised by Ministry of Information Industry and competent authorities in charge of telecom at provincial level. (www.mii.gov.cn)

Regulation on JV Job Brokerage Institutions

On 4 September 2003, Ministry of Personnel, Ministry of Commerce and State Administration of Industry and Commerce jointly adopted Provisional Rules on Administration of Sino-Foreign Equity Job Brokerage Institutions ("中外合资人才中介机构管理暂行规定"), which will take effect as of November 1. According to this regulation, the joint venture job brokerage institutions shall have a minimum registered capital of USD 300 thousand, among which contribution from foreign investors shall be no less than 25% but no more than 49%. The institution may conduct one or all of the following business: information service and consultancy, recommendation, recruitment, assessment, and training. To establish such an institution, the investor shall first obtain Permit for Job Brokerage Service from administrations of personnel at provincial level before going through the approval procedure of the bureaus in charge of commerce. (www.mop.gov.cn)

CGA Regulation on Customs Declaration

On 18 September 2003, Customs General Administration adopted Provisions on Administration of Declaration of Imports and Exports ("中华人民共和国海关进出口货物申报管理规定"), which will come into effect as of November 1. The regulation applies to declaration to customs offices by the shipper, the consignee and the commissioned agency conducting declaration, whether by paper or electronic form. For imports, it is required that the declaration be made within 14 days of entry of transportation vehicle. For exports, the deadline is 24 hours before shipment. Apart from ordinary procedure, this regulation also set rules for advance declaration and mass declaration. (www.customs.gov.cn)

Securities Law amending sees progress

The group amending the Securities Law held its third plenary meeting to further study the relevant issues in amending the law and vowed to fulfill the task with high quality. The final amendment draft of the Securities Law will be deliberated by the 10th Standing Committee of the People's Congress (NPC) in December this year, according to the relevant procedure of China's top legislature.

At that meeting, the amending group reported to the leading group and counseling group the work of the previous period, and expounded the concrete amendments to the Securities Law. The meeting, presided over by Zhou Zhengqing, vice chairman of the Financial and Economic Committee of the 10th NPC as well as director of the leading group amending the Securities Law, positively affirmed the progress made during the previous period.

The amending group of the Securities Law was set up on July 7 this year by the 10th NPC Financial and Economic Committee, and has revised several draft amendments in the past three months.

The current Securities Law was adopted at the sixth session of the Ninth NPC Standing Committee held on Dec. 29, 1998 and took effect as of July 1, 1999.

(XINHUANET)

2. Local

Beijing Municipality Regulation on Infrastructure Operation Concessions

On 19 August 2003, Beijing Municipality adopted Provisions on Infrastructure Operation Concessions (“北京市城市基础设施特许经营办法”), which has taken effect as of October 1. This regulation covers such areas as water supply, gas supply, heating supply, drainage, treatment of waste water and solid waste, toll public transportation (highway, subway, inter-city railway, etc.) and other urban infrastructure. Investors from home and abroad may compete for contracts of construction and operation of these projects. However, the projects have to be handed over without compensation to the municipal government after the contractual operation periods. (www.law-lib.com)

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