



CHINA LEGAL BRIEFING 45

WENGER VIELI BELSER BEIJING OFFICE

October 20 - October 24, 2003

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1. *National*

CEPA between Central Government and Macao

On 17 October 2003, the second Closer Economic Partnership Agreement was concluded between Central Government and Macao Special Administrative Region, following the first one concluded between Central Government and Hong Kong (China Legal Briefing No.43). This second CEPA copies the structure of the first one, which includes the text and 6 annexes, namely, 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 this CEPA, 273 Mainland product codes from Macao 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 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 of industries. (www.mofcom.gov.cn)

MII Circular on Value Added Telecom Service of Macao Investor

On 17 October 2003, Ministry of Information Industry released Circular on Certain Issues Regarding Implementing Closer Economic Partnership Agreement between the Mainland and Macao (“信息产业部关于落实《内地与澳门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 November 2003, Macao 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 Macao 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 Macao 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 the provincial level. (www.mii.gov.cn)

PBC to Be Responsible for Money Laundering

A new provision was added to the draft amendment to the Law on People's Bank prescribing that People's Bank of China organizes and coordinates campaign against money laundering across the country, directs and deploys actions against money laundering in financial field, and supervises suspicious flow of capital. This new provision is an echo to the division of power among ministries newly decided by the State Council. Early this year, People's Bank of China released three regulations to combat money laundering, which have taken effect as of 1 March 2003 (China Legal Briefing No.14). (www.xinhuanet.com)

SAFE Circular on Payment in Advance

On 9 October 2003, State Administration of Foreign Exchange released Circular on Certain Issues Regarding

Simplifying Examination Procedure for Sale and Purchase of Foreign Exchange for Payment in Advance (“关于简化预付货款项下售付汇审核手续有关问题的通知”), which has taken effect as of the date of promulgation. This circular raises the quota beyond which letter of guarantee is required from USD 30,000 to USD 200,000. According to the new rules, payment in advance under USD 200,000 will no longer be required to produce letter of guarantee issued by foreign banks. The importer may directly purchase foreign exchanges from designated banks by producing contract, verification certificate of payment for importation in foreign exchange and invoice. Moreover, payment in advance between parent companies and their subsidiaries or between related parties is exempted from letter of guarantee. (www.safe.gov.cn)

CSRC Consultation Paper on Senior Management of Securities Companies

On 23 October 2003, China Securities Regulatory Commission published draft Provisions on Administration of Senior Management and Head of Branches of Securities Companies for comments (“证券公司高级管理人员和分支机构负责人任职管理办法”). According to its draft, the candidates for senior management and head of branches of securities companies shall be examined in terms of their qualifications by CSRC and its regional offices at the place of branches before they may be appointed. CSRC will establish database recording their working experiences including irregularities and will disclose such information in an appropriate manner. Furthermore, audit will be conducted where chairman, vice chairman, general manager, vice general manager, and head of branch leave their positions. (www.csrc.gov.cn)

China's First Law on Civil Servants to Debut

The Internal and Judicial Affairs Committee of the 10th National People's Congress (NPC) has proposed legislation regarding civil servants. After a 10-year trial of the regulation on civil servants, it is time to draft China's first law on civil servants. In the first session of the 10th NPC this March, nearly 200 representatives raised six proposals calling for such legislation. The committee made the proposal after deliberating the bills and conducting relevant investigations. It also received the written proposal from related governmental departments. In January of 2001, China's Ministry of Personnel established a special working group responsible for drafting the law on civil servants jointly with other related departments. The almost completed draft law is now under revision by the related governmental departments. (www.xinhua.com)

2. *Local*

Shenzhen Stock Exchange Guidelines for Relationship towards Investors

On 21 October 2003, Shenzhen Stock Exchange released Guidelines for Management of Relationship between Listed Companies and Investors (“上市公司投资者关系管理指引”). The striking point of the document is that the concept of voluntary information disclosure is introduced, which means that listed companies may disclose voluntarily more than required by laws and regulations. The guidelines also set rules for other relationship activities relating to shareholder’s meeting, website, analyst’s meeting, statement of performance, road show, person to person communication, on-site visit, telephone enquiry. (www.sse.org.cn)

Shanghai Futures Exchange’s New Articles of Association and Rules

On 20 October 2003, Shanghai Stock Exchange published revised Articles of Association of Shanghai Futures Exchange (“上海期货交易所章程”) and Rules of Trading of Shanghai Futures Exchange (“上海期货交易所交易规则”), which will take effect as of November 1. The changes to the Articles of Association include enhancing risk management for settlement and supervision over banks of settlement, and introduction of the concept of special membership. In the revised Rules, the restriction on duplicate use of quotas for hedging is removed. (www.chinalawinfo.com)

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