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1. National

Reply to the Question of Whether the Administrative Acts of Government Agencies Taken In Accordance With Assistance Enforcement Orders of the Courts Are Within the Scope of Jurisdiction Ratione Materiae for Administrative Cases

最高人民法院关于行政机关根据法院的协助执行通知书实施的行政行为是否属于人民法院行政诉讼受案范围的批复

【**Issued By**】 Supreme People's Court

【**Subject**】 Jurisdiction

【**Promulgated on**】 July 13th 2004

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【**Source**】 www.court.gov.cn

In the reply addressed to the High Court of Shangdong Province answering the question of whether administrative acts of government agencies taken in accordance with Assistance Enforcement Orders of the courts are within the scope of jurisdiction *ratione materiae* for administrative cases, the Supreme People's Court observed that:

Adopting acts in accordance with Assistance Enforcement Orders issued by people's courts are the statutory obligations of administrative institutions, which shall be

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discharged and excluded from the jurisdiction *ratione materiae* for administrative cases. Nevertheless, the people's courts shall register cases filed by parties who believe they are injured by the acts of administrative institutions that have acted beyond the Assistance Enforcement Orders or in an unlawful manner.

Note from the authors: There is no doubt that acts taken in accordance with Enforcement Assistance Orders are administrative acts. It seems that, given that the government agencies are not decision-makers for the enforcement and have statutory obligation to give full credit to such Orders, the judicial interpretation exempts those acts from judicial review, which means finally that there is no way to challenge such government agencies' acts complying with the Assistance Enforcement Orders they are based on, unless the courts rescind the Order itself.

Country-Specific Industry Guidance Catalogue for Overseas Investment

对外投资国别产业导向目录

【Issued By】 Ministry of Commerce, Ministry of Foreign Affairs

【Subject】 Overseas Investment

【Promulgated on】 July 8th 2004

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【Source】 www.mofcom.gov.cn

The number of countries and regions covered by the Catalogue adds up to 67, the selection of which is made in accordance with the following criteria: (1) neighbouring countries; (2) countries strongly reciprocally complementary with China in economy; (3) major trade partners; (4) countries having established strategic partnership with China; (5) members of major regional economic organizations. The Catalogue promulgated is Block 1, which does not cover Switzerland.

The Catalogue will be used as an important yardstick by authorities in charge of foreign economic relations in guiding and acknowledging overseas investment made by China-based enterprises. Enterprises may enjoy in priority the preferential policies in respect of fund, foreign exchange, taxation, customs procedure, and entry & exit where they have satisfied the requirements in the Catalogue and obtained permits of overseas investment.

Provisions on Administration of Instructions, Tags and Package Marks of Medical Instruments

医疗器械说明书、标签和包装标识管理规定

【Issued By】 State Taxation Administration State Food and Drug Administration (SFDA)

【Subject】 Medical Instruments Labeling

【Promulgated on】 July 8th 2004

【Effective From】 July 8th 2004

【Repeal】 Provisions on Administration of Instructions of Medical Instrument
(“医疗器械说明书管理规定”, 2002)

【Source】 www.sda.gov.cn

Medical instruments sold or used in China shall be accompanied by instructions, tags and package marks in accordance with the Provisions. In the case of ready-to-use products, one or two items of instructions, tags and package marks may not be furnished where the regulations of the SFDA provide so. The instructions, tags and package marks shall be in Chinese, which may be complemented by texts in other languages.

Nothing as follows shall appear in instructions, tags and package marks:

- Declarations or guarantees on effects such as “best effects”, “cure guarantee”, “eradication”, “immediate effects”, “free from side effects”, etc;
- Absolute wording such as “highest technology”, “most scientific”, “most advanced”, “most effective”, etc;
- Rate of cure or effectiveness;
- Comparison with other producers in respect of product effects and safety;
- Undertakings such as “already insured”, “money back guarantee in case of no effects”, etc;
- Verifications and recommendations by use of names and images of entities and individuals;
- Expressions which may induce readers to perceive they are being attached by certain illness, or they will be attached by certain illness or these illness will deteriorate if they do not resort to such medical instruments;
- Expressions otherwise prohibited by laws and regulations.

Authorities in charge of drug administration shall review instructions of medical instruments when these authorities are examining applications for registration of medical instruments. The producers shall be responsible for the truthfulness and completeness of the instructions. No changes may be made to the instructions already reviewed by competent authorities in absence of written notification to these authorities and positive feedbacks returned by them.

Provisions on Administration of Establishment of Radio & Television Offices by Overseas Institutions

境外机构设立驻华广播电视办事机构管理规定

【Issued By】 State Administration of Radio, Film and Television (SARFT)

【Subject】 Radio and Television Offices

【Promulgated on】 June 18th 2004

【Effective From】 August 1st 2004

【Source】 www.chinasarft.gov.cn

The Provisions applies to the establishment of radio and television offices (“Offices”) by institutions from foreign countries, Hong Kong, Macao and Taiwan (“Overseas Institutions”). The establishment of these Offices is subject to approval from the SARFT, which will not approve radio and television agency or editing institutions.

Overseas Institutions applying for the establishment of these Offices shall meet the conditions as follows:

- In legitimate continuance in the State of incorporation;
- Hospitable to China and well-reputed;
- Business scope in conformity with provisions of Chinese laws, administrative regulations, decrees, and objectives set forth in the applications.

The head of the Offices shall be one of the following categories of persons:

- Foreign citizens holding national passports, excluding international students in China;
- Chinese citizens from mainland China who have obtained overseas permanent resident status;
- Persons from Hong Kong, Macao and Taiwan holding valid identities.

Applications shall be prepared and submitted in Chinese. Chinese translations shall be provided where the applications are drafted in other languages. In case of divergent interpretation, the Chinese version shall prevail. The approval shall be valid for 3 years and may be renewed by application made 30 days before the initial approval expires.

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