



浦瑞律师事务所  
CENLAW & PARTNERS

PERIODICAL

April 2010

SHANGHAI. CHINA

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## Preface

After Copenhagen Conference, low carbon economy has become a hot topic in various counties. China will concretely fulfill its promises and accelerate the development of a low carbon economy. The Development Plan of Energy-saving and Environmental Protection Industry is expected to be released within this year. The output value of the national environmental protection industry will surpass RMB 1,000 billion in the year of 2010, equaling to over 3% of GDP. The environmental protection industry will develop into the pillar industry in national economy until 2020.

The Industrial Catalogue for Guiding Foreign Investment is expected to be amended in the near future. China will further implement its opening-up policy and guide foreign investment to high-end manufacturing, high technology industry, modern service industry, new energy and environmental protection industry.

The central and western region of China will face more opportunities. Labor intensive project will be added to the Catalogue of Priority Industries for Foreign Investment in the Central-Western Region, with an aim of encouraging labor intensive industry that meet the environmental protection requirements in central and western region. Domestic and foreign invested enterprises in western region will continue to enjoy tax preferential policy on corporate income tax.

Foreign capitals are encouraged to participate in the reorganization and transformation of domestic enterprises in shares or M & A forms to promote the diversification of foreign investment. The introduction of domestic or overseas strategic investors by A-share listed companies shall be supported.

CENLAW & PARTNERS has established well relationship in central and western China, and will continuously introduce the preferential policies for attracting foreign investment to foreign investors and cooperation partners. CENLAW is also glad to find resources for foreign investors and to seek the best investment target and region for them.

## Cooperation News

### Portugal

CENLAW offered legal advice to a Portuguese client in the disputes with a Chinese supplier. According to the Portugal client, the ceramic products supplied by the Chinese manufacturer were full of defects. CENLAW provided professional advice to help the client handle the current situation.

### Portugal

CENLAW sent a lawyer's letter to a Chinese local company for the sales of compact cars disputes, as entrusted by a Portuguese client. In the case, the subject of sales, the automatic cars are lack of necessary certifications and out of operation. Obtaining no substantial results with the Chinese supplier after months of negotiation, the Portugal purchaser finally asked for professional legal assistance from CENLAW.

### Portugal

CENLAW gave legal advice to a Portuguese company which imported tubular motors from China during 2006 to 2007. Since 2007, many of those tubular had been rejected for or found defects. CENLAW provided legal advice regarding the situation to the Portuguese company to claim for compensation.

### Belgium

CENLAW helped a Chinese client to appoint a Belgian law firm in execution. The Chinese creditor encountered great difficulties in execution in Belgium. The client appointed the Belgian law firm referred by CENLAW based on the long term relationship with and the trust in CENLAW.

### Belgium

CENLAW helped a Chinese law firm to collect information on Belgian law. The Chinese law firm, though proficient in Chinese law, is in lack of knowledge over Belgian law. CENLAW made contact with our Belgian cooperation partner and clarified the situation. Our Belgian cooperator provided detailed information relating to Belgian law, which was highly appreciated by the Chinese law firm.

### US

Dr. Yunling Ren, the counsel to the US law firm Butzel Long, visited CENLAW in April.

Dr. Ren is practicing in the area of intellectual property law. She focuses on US and international patent related matters in the life science.

## International Trade & Foreign Investment

### **Foreign-Funded Enterprises Encouraged To Issue Shares in China**

The General Office of the State Council has recently issued the “Opinions of the State Council on Further Improving the Utilization of Foreign Investment”. Pursuant to the Opinions, foreign capitals are encouraged to participate in the reorganization and transformation of domestic enterprises in shares or M & A forms to promote the diversification of foreign investment. The introduction of domestic or overseas strategic investors by A-share listed companies as well as public offerings and issued corporate bonds and medium-term notes by eligible foreign-funded enterprises shall be supported. Financial institutions are guided to keep increasing credit support to foreign-funded enterprises. The “Opinions” also suggest that eligible domestic and foreign-funded enterprises in the western region shall be continuously subject to corporate income tax preferential policies.

### **Reform Of Import Foreign Exchange Payment Verification System To Be Launched**

The SAFE has recently issued a notice to implement the pilot project for the reform of the import foreign exchange payment verification system in the regions under the governance of the Tianjin, Jiangsu, Shandong, Hubei, Inner Mongolia, Fujian and Qingdao branch bureaus. And the Measures for the Pilot Project for the Reform of Import Foreign Exchange Payment Administration in Goods Trade and its implementing rules have also been issued, requiring that banks in the pilot regions shall transact import foreign exchange payment business for import units in accordance with the provisions of the Pilot Measures. In non-pilot regions, import foreign exchange payment business shall still be transacted in accordance with the current provisions on import verification.

### **National Economic & Technical Development Zones In Midwest China To Enjoy Interest Subsidy**

The Ministry of Finance has recently published the Notice on Promulgating the Measures for the Management of Financial Interest Subsidy Funds under Project Loans for the Infrastructure of National Economic and Technical Development Zones in Midwest China and Other Areas, so that financial interest subsidy policies will play a better role in supporting and guiding the development of such zones. According to the Measures, the interest subsidy shall cover any infrastructure project under construction within the jurisdiction of any National Economic and Technical Development Zone provided in the Measures for which the loan has been granted and the bank loan interest has been paid. With regard to the interest subsidy funds, the principle of “payment first, subsidy later” shall be followed, and major interest subsidies shall be granted to those Development Zones that are highly rated in the comprehensive evaluation of investment environment and with a strong capacity for independent innovation. For all such projects, the period for enjoying financial interest subsidy shall be no longer than 5 years.

**SAIC Requires Strict Restriction Provisions For Enterprises' Legal Representatives**

The State Administration for Industry and Commerce (SAIC) has released the *"Notice on Further Implementing the Work Restriction Provisions on Legal Representatives of Enterprises with Legal Person Status"*, requiring that all the local industry and commerce administrations should strictly implement the provisions on the work restrictions on legal representatives of enterprises with legal person status. Under the Notice, in accordance with the "Company Law" and other relevant laws and regulations, if a legal representative of an enterprise having a legal status is no longer qualified to host the post as a legal representative, the competent administrative department shall, within the statutory restriction period, restrict him from hosting the post as a legal representative in the same enterprise or in other enterprises with legal person status. The scope of restriction shall be strictly limited to the legal representative without involving shareholders. When the restriction period expires, the restrictions on the representative shall be relieved timely through establishing an automatic relief procedure and no one may extend the restriction period. The Notice also requires that the work restriction information collection and management shall be strengthened to ensure the timeliness, accuracy and completeness of the relevant data.

## Intellectual Property Right

**SPC Unveils Opinions On Administrative Cases Regarding Trademark Authorization**

The Supreme People's Court (SPC) recently unveiled the *Opinions on Several Issues in the Trial of Administrative Cases Related to Trademark Licensing or Ownership Settlement*. The Opinions stipulate that people's courts, in determining whether to license or settle the ownership of a trademark that has not been widely used or in handling of any conflict between a disputed trademark and a precedent mark, may apply the criteria on trademark licensing and ownership settlement stringently, take full account of the interests of consumers and inside operators, try their best to remove any possible confusion between marks, and, if the disputed trademark is one that has been used for a long time and has enjoyed a relatively high market recognition among the relevant public, stick to the legislative propose of the *Trademark Law* for the protection of precedent marks and maintenance of market order, respect the fact that the relevant public has objectively distinguished the relevant trademark from others in the market and pay attention to safeguard the established and stable market order.

## Finance & Taxation

**CSRC Further Regulates Securities Brokerage Business**

To further regulate securities brokerage business, the China Securities Regulatory Commission (CSRC) has published the *"Rules on Strengthening the Administration of Securities Brokerage Business"* which will become effective on 1 May 2010. Under the

Rules, securities companies are prohibited from restricting their clients from terminating the appointment or transfer of assets. Where a client requests to alter the custodian service, withdraw the specific transaction or close an account, the securities company in question must follow the client's request within two working days after clearing the client's account unless otherwise specified by any relevant laws, regulations or rules issued by the CSRC, any stock exchange or securities depositary and clearing body.

### **Hubei Province Releases Opinions To Promote Development Of Financial Sector**

The Hubei Province has recently issued the "Opinions of the Hubei Provincial People's Government on Promoting the Development of the Financial Industry" for the purpose of further improving the development of the environment of the financial industry. Pursuant to the Opinions, in order to accelerate the reform and development of the financial sector in this province, the government shall actively support the new network and rational distribution of securities & futures institutions across the province to keep expanding the scale of business, intensify policy support in enterprise restructuring, special financial support, project occupying lands, incentive mechanisms and so on, continuously speed up the pace of public listing and bond financing of enterprises in this province, back and guide the listed companies to constantly expand their refinancing sizes by means of share placements, issuing additional stocks, convertible bonds, etc.

### **SAT Issues Measures For Tax Payment Consultation Period For General VAT Payers**

The SAT has recently published the Measures for the Administration of Tax Payment Consultation Period for General VAT Payers which shall take effect as of 20 March 2010. The Measures are formulated according to, and further clarify, Clause 13 of the Measures for the Administration of the Qualification Recognition of General VAT Payers. The Measures clarify that "small trading and wholesale enterprise" means any wholesale enterprise with a registered capital below 800,000 Yuan and a staff number below 10. The Measures provide that for a small trading and wholesale enterprise that is newly recognized as a general taxpayer, the period for the implementation of tax payment consultation period administration shall be 3 months, and the amount of its purchased special invoices shall be no more than 100,000 Yuan.

### **Financial Support Offered To Cultural Industry Development**

The People's Bank of China, together with the Ministry of Publicity of the CPC Central Committee, the MOF, CBRC, CSRC and CIRC, issued the *Guiding Opinions on Financially Supporting the Revitalization, Development and Prosperity of the Cultural Industry*, in a move to further improve and enhance the financial services to the cultural industry. According to the Opinions, mature cultural enterprises with stable operation status are encouraged to list on main-board markets, and listed cultural enterprises are encouraged to carry out acquisition and merger with such refinancing options as issuance of additional shares to the public, private offering of additional issuances, etc. Meanwhile, it encourages those cultural enterprises meeting the conditions to raise funds through the issuance of enterprise bonds, collective bonds or corporate bonds.



**SAFE Regulates Overseas Individuals' Purchase Of Forex During World Expo**

In order to facilitate overseas individuals to purchase foreign exchange during the World Expo in Shanghai, the State Administration of Foreign Exchange (SAFE) has released the *"Notice on Relevant Issues concerning the Control of Foreign Exchange Purchased by Overseas Individuals during the Shanghai World Expo"* to implement a policy of controlling the total amount of foreign exchange to be purchased by overseas individuals during the World Expo in Shanghai. Under the Notice, from 1 May to 31 October 2010, the total amount of foreign exchange to be purchased by each overseas individual shall be equivalent to USD50,000. In addition, when foreign individuals purchase or reconvert foreign exchange and the bank handles the relevant business, no one may evade the quota supervision by way of splitting foreign exchange or evade the authenticity management by using false business invoices or vouchers.

**Development Of Recycling Economy To Be Backed By Government Policies**

It is reported that the National Development and Reform Committee (NDRC), the People's Bank of China (PBC), the China Banking Regulatory Commission (CBRC) and the China Securities Regulatory Commission (CSRC) have jointly issued the "Notice concerning Opinions on Investment and Financing Policies and Measures to Support the Development of a Recycling Economy", providing specific measures in terms of investment, credit, debt financing products, equity investment funds and use of foreign capital to support the development of a recycling economy. Pursuant to the Notice, key recycling economy projects subject to credit support policies shall include energy conservation, material saving, clean production, "zero" emission and other reduction projects, used auto parts, engineering machinery and other remanufacturing projects, as well as waste materials, waste water and other resources utilization projects. In addition, applications for the IPO both abroad and domestic and refinancing by eligible resource recycling enterprises as well as enterprises which invest their proceeds raised in the stock market in recycling economy projects shall be encouraged.

## Labor & Employment

**New Rules On Entry & Exit Prohibition For Foreigners Issued**

The State Council has released a notice, deciding to make amendments to the *"Implementing Rules of the Law of the People's Republic of China on Control of the Entry and Exit of Aliens"* as follows: Section (4) of Article 7 has been amended to: "those who have severe mental disorder, infectious tuberculosis or other communicable diseases that may cause major hazard to the public health", which shall come into force from the date of issuance. The *"Implementing Rules of the Law of the People's Republic of China on Control of the Entry and Exit of Aliens"* shall be amended under the Decisions before re-announcement.



## Others

### **China Adopts Amended State Compensation Law**

The National People's Congress (NPC) Standing Committee, China's top legislature, adopted on 29 April the amendments to the *State Compensation Law of the People's Republic of China* (the State Compensation Law). The amendments, to be effective as of 1 December, stipulate that: where a state organ or its personnel, in exercising its authority, has any of the circumstances as specified in the Law with regard to infringement of the lawful rights and interests of a citizen, legal person or other organization, thus causing damage thereto, the injured party shall have the right to obtain state compensation. If the organ with the compensatory obligation fails to make a decision on the compensation within the prescribed period of time, the claimant may apply for reconsideration to the organ at the next higher level over the organ with the compensatory obligations. If not satisfied with the decision of reconsideration or receiving no decision from the organ of reconsideration, the claimant may apply for the compensation with the compensation committee of the people's court at the same level in the locality of the organ of reconsideration. The amendments also clarify that: in the event of suffering an emotional injury, the injured party shall be entitled to an elimination of ill effects, a restoration of reputation and a formal apology, and, if a serious consequence is caused, the injured party shall be paid the corresponding emotional injury damages.

### **MOJ Releases Two Measures To Strengthen Supervision Of Lawyers & Law Offices**

The Ministry of Justice (MOJ) has released the "*Measures on the Annual Inspection and Examination of Law Offices*" with immediate effect and the Order of the MOJ No.122, namely the "*Measures on the Punishment of Unlawful Practices of Lawyers and Law Offices*" with effect from 1 June 2010. The Examination Measures set out a system in which the judicial administrative authority shall inspect and examine the practices and management activities of law offices on a regular basis and clarify such content as the content of inspection and examination, examination rating and standard, procedure, result filing and announcement. The Punishment Measures further define and illustrate the unlawful practices subject to punishment as provided in the "Law on Lawyers" and set out that the punishment of lawyers shall be executed by the judicial administrative authority where the law offices where they practise law are located and that on law offices shall be executed by the judicial administrative authority where the law offices are located. In the meantime, the Punishment Measures also improve the execution procedures, basic methods and requirements relating to administrative punishment.

### **Supreme Court Releases Interpretation Clarifying Death Penalty Case Hearing Procedures**

The Supreme People's Court has announced a judicial interpretation to clarify what kind of procedures should apply in the trial of cases where the defendants of a joint crime or the plaintiffs of a civil lawsuit attached to criminal proceedings lodge an appeal but the defendant subject to the death penalty does not do so. According to the Reply, in accordance with the provisions in Article 186 of the "Criminal Procedural Law", where the

defendant of a criminal case is sentenced to death by the intermediate people's court and does not lodge an appeal in the first instance but other defendants of a joint crime lodge an appeal, the Supreme People's Court shall apply to the procedure for a second instance and conduct a legal scrutiny on the case, and hold a hearing and deal with all the relevant issues with respect to the facts of the death penalty and applicable laws. According to paragraph 1 of Article 200 of the "Criminal Procedural Law", where the defendant of a criminal case is sentenced to death by the intermediate people's court and does not lodge an appeal in the first instance but the plaintiff of a civil lawsuit attached to criminal proceedings lodges an appeal, the Supreme People's Court shall apply to the procedure for second instance and hold a hearing on the civil lawsuit attached to criminal proceedings in accordance with the law. The same trial team shall review the death penalty judgment on the defendant who does not lodge an appeal and make a judgment on whether or not to grant the death penalty.

## Legal Comments

### China Releases New Rules to Further Encourage Foreign Investment

*By Paul Huang and Aileen Weng*

China's State Council released Several Opinions on Further Improving the Work of Utilizing Foreign Investment (Guofa [2010] No. 9) (the Opinions) dated April 6, 2010 to further encourage foreign investment in China. The Opinions cover a wide range of aspects that involve, inter alia, the approaches to optimize the structure of utilization of foreign investment, and diversify the methods of the same. Most of the Opinions constitute merely general guidelines, but more concrete operational rules can be expected in the future.

Geared at increasing and improving foreign investment, the Opinions prescribes five sections, namely: optimizing the structure of utilization of foreign investment; redeploying foreign investment to central and western regions; diversifying the methods of utilization of foreign investment; streamlining foreign investment regime; improving the environment for foreign investment.

Up until March 2010, the accumulative number of foreign invested enterprises in China reached 690,000, and the total foreign capital actually used by China was over US\$ 1,000 billion. China actually used US\$ 23,443 million foreign investment in the first quarter of 2010, increasing by 7.65% on year-on-year basis. The number of newly approved FIEs in China during January to March of 2010 is 5459, increasing by 19.87% on year-on-year basis.

By promulgation of the Opinions, China is pulling in foreign investment with a more aggressive approach and in a more selective manner. China still encourages foreign investment, but it chooses the way more sustainable for economic development.

#### 1. Encourage Foreign Capital in Financial Sector

- 1) The Opinions reaffirm China's stance to allow more foreign investment in its financial sector. Pursuant to the Opinions, China supports overseas strategic investors to invest in companies listed on domestic A-share market, and allows qualified foreign invested enterprise to be listed on the A-share market and issue corporate bonds and middle-term negotiable instruments. The scope of overseas entities allowed to issue RMB bonds in China will be expanded.

The proposed international board of Shanghai Stock Exchange (SSE) is scheduled to make its debut within this year according to government resources. SSE has finished the draft rules for the international board and the rules will be released for public comments in the near future, according to the chairman of SSE.

- 2) China encourages foreign investors to establish venture capital enterprises and private equity funds, and seeks to provide more complete exit regime.

Previously foreign invested VC and PE encountered various limitations in terms of the raise of RMB funds, the investment in target company and the exit process. Nevertheless, after the promulgation of the Opinions, these limitations will be gradually loosened to attract more foreign investment in financial sector.

- 3) Foreign invested guarantee companies will be promoted on a pilot basis to offer guarantee for small and medium sized enterprise.

## **2. Optimize the Structure of Utilization of Foreign Investment**

- 1) According to the Opinion, the Catalogue of Industries for Guiding Foreign Investments is proposed to be amended to meet the economic development of our country. Foreign investment in high-end manufacturing industry, high technology enterprises, service sector, new energy and energy saving industry will be encouraged.
- 2) Certain projects under encouraged category may enjoy 30% discount of the statutory minimum price when purchasing land use right.
- 3) China will continue to encourage multi-national companies to establish regional headquarters, R&D centers, procurement centers, financial management centers, settlement centers and cost and profit accounting centers in China.
- 4) R&D centers with foreign investment are qualified to enjoy exemption of import tax and value added tax, consumption tax at import stage for products required for technology development prior to December 31, 2010.

## **3. Guide Foreign Investment to Middle and Western Regions**

- 1) Foreign investors are encouraged to invest in labor-intensive sectors that meet environmental standards in the middle and western regions. FIEs located in western region will continue to enjoy a preferential enterprise income tax policy.
- 2) The Opinions further prescribe that foreign invested banks are encouraged to set up branches and carry out business operation in middle and western regions.

## **4. Simplified Approval Procedures**

- 1) The Opinions delegate the approval authority of most foreign invested projects with total investment under USD 300 million under encouraged and permitted category to the local commerce departments. This represents the government's further step to delegate the approval authority from central to regional authorities, which may

materially save time and costs in approval procedures for foreign investors.

- 2) In accordance with the Opinions, FIEs duly incorporated and legally existing under PRC law that are in lack of capital will be permitted for extension of capital contribution.
- 3) Foreign exchange regime of FIEs is scheduled to be improved to simplify the settlement procedures of foreign exchange.

The Opinions may be regarded as an overall requirement for the utilization of foreign investment in a certain period in the future, and also may be viewed as a pre-disclosure of the regulations and rules to be released.

## The Recognition and Enforcement of Foreign and Foreign-related Arbitration Awards

*By Kingward Gan and Susan Zheng*

Arbitration, in contrast to litigation, is always highly praised by its efficiency, convenience, confidentiality. Nevertheless, an issue faced by many arbitration parties is the difficulties in the enforcement of the awards. It is said that nothing could be more frustrating than not being able to enforce an arbitration award in China after winning a difficult battle in the arbitration tribunal.

### Definition of “Foreign-related Arbitration Awards”

Under Chinese legal frame, arbitrations are divided into three categories, domestic arbitrations, foreign-related arbitrations, and foreign arbitration. The first two categories are made in the area of PRC, and the third ones are made in overseas.

“Domestic arbitration awards” are awards by local arbitration commissions that do not involve a foreign element.

“Foreign awards” refer to arbitration awards made outside the PRC, including awards made under the New York Convention of 1958.

“Foreign-related arbitration” refers to the arbitration whose place of arbitration is in China but involved in some foreign-related factors. In other words, any arbitration: (i) whose party is or parties are, foreigners, foreign legal persons, or stateless persons; (ii) the dispute of which occurred within a foreign country; (iii) the creation, alternation or extermination of the legal relationship of which occurred in a foreign country, will be classified into foreign related arbitrations. Generally, foreign related awards are awards made by China International Economic and Trade Arbitration Commission, China Maritime Arbitration Commission, or local arbitration commissions that involve a foreign element.

### The Applicable Regulations for the “Foreign-related Arbitration Awards” in PRC

Up till now, when dealing with the cases on recognition and enforcement of foreign and foreign-related arbitration awards, Chinese judges have four pieces of legislation to follow: the Civil Procedure Law of the PRC, the Arbitration Law of the PRC, judicial interpretations of the Supreme People’s Court of the PRC, and New York Convention.

Article 264 of Civil Procedure Law of PRC and Article 72 of the Arbitration Law of PRC regulates the recognition and enforcement of foreign-related arbitration awards, which held that

*If a party applies for enforcement of a legally effective arbitral award made by an arbitral*

*organ in the People's Republic of China handling cases involving foreign element and the opposite party or his property is not within the territory of the People's Republic of China, he may directly apply for recognition and enforcement of the award to the foreign court which has jurisdiction.*

Also, due to the entrance of New York Convention, the parties may also directly apply for the recognition and enforcement of the award made by the arbitral organ in PRC to the foreign court in line with the international treaty.

On the other hand, Article 267 of Civil Procedure Law of PRC regulates the recognition and enforcement of foreign arbitration awards, which held that

*If an award made by a foreign arbitral organ requires the recognition and enforcement by a people's court of the People's Republic of China, the party concerned shall directly apply to the intermediate people's court of the place where the party subjected to enforcement has his domicile or where his property is located. The people's court shall deal with the matter in accordance with the international treaties concluded or acceded to by the People's Republic of China or with the principle of reciprocity.*

As for the New York Convention, attention must be paid to the two reservations declared by Chinese government: reciprocity reservation and commercial reservation. According to reciprocity reservation, we only recognize and enforce those foreign awards made after the New York Convention came into force within territory of China. The commercial reservation, in addition, excludes the application of dispute arisen between foreign investors and host government.

### **Recognition and Enforcement of Foreign-related Arbitration Awards in Foreign Countries**

When the parties apply for the recognition and enforcement of foreign-related arbitration awards to PRC court, the materials below shall be handed over:

- i. The duly authenticated original award or a duly certified copy thereof;
- ii. The original arbitration agreement or a duly certified copy thereof;
- iii. Acknowledgment receipt of the delivery and other certificates. Under the circumstance of trial by default, legal documents to support the legality of the trial by default shall also be provided;
- iv. The translation version in accordance with the official language recognized by the court of all the documents above. After receipt of the application, it shall be examined by the court on the basis of the judicial agreement or treaty signed between China and their country or principle of reciprocity.

### **Recognition and Enforcement of Foreign Arbitration Awards in China**

In the light of the international treaties and the Civil Procedure Law of the PRC, the arbitration awards applied for recognition and enforcement to the foreign court shall meet the following requirements:

- i. Between the place of residence of the parties or the place of the court and China,



- there exists Sino-foreign agreement on judicial assistance or treaty on the recognition and enforcement of arbitration awards;
- ii. The parties or foreign courts shall apply for the recognition and enforcement to PRC intermediate court with jurisdiction;
  - iii. The award has come into force;
  - iv. The award was made by the court of the arbitration organ with jurisdiction to the issue of the case, which is not within the reservation of China;
  - v. The procedure is legal when producing the award;
  - vi. The arbitration award does not violate the national sovereignty, security, and public interests of China and basic principles of Chinese law.

Under the following circumstances, the application to recognize and enforce the foreign arbitration awards will be rejected:

- i. The arbitration agreement is invalid;
- ii. The respondent of an arbitration was not notified about the appointment of arbitrators or about the arbitration proceedings, or was not able to present its opinions due to other reasons not attributable to the respondent;
- iii. The cause of arbitration falls outside of the scope of the arbitration agreement, the arbitration institute does not have jurisdiction or authority over such causes;
- iv. The formation of the arbitration panel or the procedures of the arbitration was not in accordance with the applicable arbitration rules;
- v. The arbitration awards do not have binding force or have been withdrawn or stopped enforcement;
- vi. The recognition and enforcement will violate the public policy of the country.

It needs to be also noted that the Chinese courts have different standards for foreign judgments and foreign arbitration awards on recognition and enforcement. As for the foreign arbitration awards, only procedural examination will be implemented because of its autonomy.

*This Periodical has been prepared for CLIENTS and COOPERATION PARTNERS of CENLAW&PARTNERS . Whilst every effort has been made to ensure accuracy, no responsibility can be accepted for errors and omissions, however caused. The information contained in this Newsletter should not be relied on as legal advice and should not be regarded as a substitute for detailed advice in individual cases.*

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