



V&T Legal Newsflash July to August, 2021

The Standing Committee of the National People's Congress of China Passed the Anti-foreign Sanctions Law to Counter Foreign Discriminatory Sanctions

China passed the Anti-foreign Sanctions Law (《中华人民共和国反外国制裁法》, the “Law”) on 10 June, 2021, taking effect immediately. Following the promulgation by the Ministry of Commerce of the People's Republic of China of the Rules on Unreliable Entities List in September 2020 and the Rules on Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures in January 2020, the Law supplements legal basis to combat against foreign sanctions that aims to disrupt a China's internal affairs that may endanger its national sovereignty, security, and development interests.

The Law, consisting of 16 articles, stipulates that any organization and individual, who is involved into the implementation of foreign restrictive measures against Chinese citizens or organizations, may be denied entry into China or prohibited from doing certain business in China. Their assets may be seized or frozen. Further, Chinese citizens or organizations may file a lawsuit in a Chinese court requesting them to stop discriminatory measures and compensate the incurred losses. Also, Chinese citizens or organizations that fail to implement China's countermeasures may be restricted to engage in the relevant transactions.

Over the last three years, the U.S. and the European Union have imposed a series of sanctions on Chinese officials and companies. In this June, the incumbent US president, President Biden expanded the restriction on American investment into Chinese technology firms, such as Huawei. In retaliation, China sanctioned more than a dozen foreign officials and defense companies on selling weapon to Taiwan.

While it remains to be seen how the Law will operate in practice, foreign companies in China will be required to take immediate actions to conform with the Law, and to keep a close eye on how the Law develops in future.

Please refer to the following link for full text of the Law in Chinese and English:

Chinese: <http://www.npc.gov.cn/npc/c30834/202106/d4a714d5813c4ad2ac54a5f0f78a5270.shtml>

English: <http://www.lawinfochina.com/display.aspx?lib=law&id=35670>



China Issued Guideline on High-Level Reform, Opening-up of Shanghai's Pudong New Area

On July 15, 2021, China's central authorities released a new guideline on building Shanghai's Pudong New Area (“**Pudong**”) into a pioneer of socialist modernization (《国务院关于支持浦东新区高水平改革开放 打造社会主义现代化建设引领区的意见》, the “**Guideline**”). The Guideline aims to make the Pudong New Area a trailblazer of innovation and modern governance. They aim to make Pudong more competitive and accelerate its development as an international financial center.

By 2035, Pudong will see its modernized economy comprehensively established, modern urban districts built, and modernized governance fully accomplished. Its urban development level and international competitiveness will be at the forefront globally.

By 2050, it should be a focal center for creativity and competitiveness and would be a global model of urban governance. Pudong is positioned as a central node of the domestic circulation and a strategic link of China's new development paradigm of “dual circulation”, and is expected to play a better role in leading and stimulating the integrated development of the Yangtze River Delta.

China will build international financial, trade and shipping centers in Shanghai through the active allocation of global capital, information, technology and human resources to shore up support for the real economy, and take the lead in setting up a system of high-standard international economic and trade regulations. The Guideline also plans to support Pudong in leading the domestic consumption upgrade and the trend of consumption and constructing an international consumption center.

Please refer to the following link for full text of the Guideline in Chinese:

http://www.gov.cn/zhengce/2021-07/15/content_5625279.htm



China Eases Restrictions on Foreign Investment in Entertainment Venues

On May 27, 2021, China's Ministry of Culture and Tourism announced *Notice on Adjusting Approval Conditions for Entertainment Venues and Internet Access Locations* (《文化和旅游部关于调整娱乐场所和互联网上网服务营业场所审批有关事项的通知》, “**the Notice**”), stipulating that foreign investors are now allowed to establish entertainment venues in China regardless of previous investment restrictions or a mandatory local partners, which opens a door to future wholly foreign-owned entertainment venues investment in China. Previous rules required foreign investors to partner up with Chinese local firms and form joint ventures, such as Disney was used to be obliged to cooperate with a Shanghai firm in the investment of Shanghai Disney Land.

The Notice purports to give foreign entertainment enterprises more autonomy and create a better environment for foreign business operation, which further caters for the economic boost. Additionally, this policy shift will stimulate foreign entertainment investment in China, which would in turn benefit local employment and satisfy people's cultural needs. The latest Notice marks a further step in the entertainment sector's opening-up to foreign investors.

Please refer to the following link for full text of the Notice in Chinese:

http://zwgk.mct.gov.cn/zfxxgkml/scgl/202105/t20210531_924875.html



The Cyberspace Administration of China Solicited for Public Opinions on the Revised Cybersecurity Review Measures

On July 10, 2021, the Cyberspace Administration of China (国家网信办) solicited for public advice on the revised Cybersecurity Review Measures (《网络安全审查办法》(征求意见稿), the “**Measures**”). The recently-revised Measures includes data processor into the scope of review, which requires operators who plan to list abroad and possess personal information of over one million users to receive a mandatory cybersecurity review. It is also specified that operators who intend to list abroad should submit the draft materials for their IPO when entering into the review procedure. The special review procedure has been prolonged from 45 working days to three months (probably 70 working days in total), but if circumstances are complex, this may be likely extended to 180 working days. Where operators violate the provisions of the Measures, it is to be addressed in accordance with the Cybersecurity Law and the Data Security Law of People’s Republic of China. Enterprises that are currently planning to list abroad are advised to be more cautious once the revised Measures take into effect.

Please refer to the following link for full text of the revised Cybersecurity Review Measures in Chinese:

http://www.cac.gov.cn/2019-05/24/c_1124532846.htm



China Finalizes Data Security Law to Strengthen Regulation on Data Protection

On June 10, 2021, after three rounds of discussions and amendments, the PRC Data Security Law (《中华人民共和国数据安全法》, the “**Law**”) was passed and promulgated by the twenty-ninth meeting of the thirteenth Standing Committee of the National People's Congress, and will come into force on September 1, 2021.

Prior to the adoption of the finalized version of the Law, two previous drafts were published for public comments in July of 2020 and April of 2021. ([Please reference to the June 1 newsflash](#)). While the main structure and most key requirements proposed in the second draft of the Law remain unchanged, the finalized version introduces certain notable updates in addition to some minor changes for language clarity. For instance, the finalized version calls for the establishment of a more stringent regulatory framework on the protection of “national core data” on top of the regulatory framework for “important data”. Also, the finalized version adds penalties for violation of certain requirements under the Law, including the provision of data requested by a judicial or enforcement agency outside of China without obtaining prior regulatory approvals from a competent Chinese authority.

The Data Security Law, together with the Cybersecurity Law and the Personal Information Protection Law (which has been submitted for the second round of discussion and is expected to be promulgated soon), will establish the basic legal structure in the field of data security and network supervision in China.

Please refer to the following link for full text of the Data Security Law in Chinese:

http://www.cac.gov.cn/2021-06/11/c_1624994566919140.htm



New Regulation on Medical Device Supervision and Administration Takes Effect Since June 2021

The New Regulation on Supervision and Administration of Medical Devices (《医疗器械监督管理条例》), the “**New Regulation**”) took effect on June 1, 2021. This regulation aims to ensure the safety and efficacy of medical devices, to protect people's health and safety, and to further develop the medical device industry.

Under the New Regulation, the medical device registrant (for Class I medical devices, the “**Registrant**”) and the record-filing applicant (for Class II and Class III medical devices, the “**Filing Applicant**”) are allowed to entrust third-party manufacturers to produce medical devices, which greatly saves production funds for the Registrant (and the Filing Applicant), as well as encourages more flexible commercial cooperation. Compared to the previous Medical Device Regulations which was published in 2000 and further revised on March, 2014 (the “**Previous Regulation**”), more severe punishments for violation have been stated in the New Regulation: the person-in-charge of the Registrant (and the Filing Applicant) violating the New Regulation may face a fine or a ban from engaging in medical device businesses; and those overseas medical device manufacturers in violation of the New Regulation may be prohibited from exporting any medical device to China for 10 years.

Please refer to the following link for full text of the Regulation in Chinese:

<https://www.nmpa.gov.cn/xxgk/fgwj/flxzhfg/20210318084145148.html>