



## Newsletter

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November 30, 2023

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Update

### **China Approves Temporary Adjustments to Some Administrative Regulations in the Hainan FTP**

On November 2, 2023, the Chinese government released the *Reply of the State Council on Approving Temporary Adjustments to Some Administrative Regulations in the Hainan Free Trade Port* (“FTP”).

The Reply said that the State Council has approved temporary adjustments to the Regulations of the People’s Republic of China on Certification and Accreditation and the Regulations of the People’s Republic of China on the Registration and Administration of Market Entities in Hainan FTP. It states that it is unnecessary for overseas accreditation institutions that only conduct accreditation for export products in Hainan FTP to obtain the qualification for accreditation institutions and register business entities, and the institutions can conduct business in export product accreditation after being put on the record by

supervision departments under the State Council. It also clarified that the results of the accreditation can only be used overseas by export enterprises, and the conditions and procedures for putting on the institutions will be developed by supervision departments under the State Council.

### **NMPA to Release Rules Governing Experimental Research on Narcotic Drugs and Psychotropic Drugs**

On November 6, 2023, the National Medical Products Administration (“NMPA”) released the *Provisions on the Administration of Experimental Research on Narcotic Drugs and Psychotropic Drugs (Exposure Draft)* (the “Draft”) for public comment until November 20, 2023.

The Draft has 29 articles in five chapters, with appendixes including the *Catalogue of Materials Required for Applying Experimental Research on Narcotic Drugs and Psychotropic Drugs*, the *Catalogue of Narcotic Drugs Not Allowed for Use in Medical Treatment*, the *Catalogue of Psychotropic Drugs Not Allowed for Use in Medical Treatment*, the *Regulation on the Number of Producers of Narcotic Drugs and Psychotropic Drugs*, and the *Annual Report Reform of Experimental Research on Narcotic Drugs and Psychotropic Drugs*.

### **China to Adjust CCC Requirements for Imported IT Equipment in Some Free Trade Zones and Free Trade Port**

On November 11, 2023, the State Administration for Market Regulation (“SAMR”) issued the *Announcement on Adjusting the Compulsory Product Certification Requirements for Imported Information Technology Equipment in Some Pilot Free Trade Zones and Free Trade Port* (the “Announcement”).

According to the Announcement, the SAMR and the General Administration of Customs have decided to adjust the China compulsory certification (“CCC”) requirements for imported information technology equipment in pilot regions (including the pilot free trade zones in Shanghai, Guangdong, Tianjian, Fujian and Beijing and the Hainan Free Trade Port). Upon the adjustment, for imported IT equipment subject to the CCC in the pilot regions, the applicants may use self-declared assessment to certify the products conform to the electromagnetic compatibility standards of the CCC requirements when they apply for the CCC.

### **GACC Relaxes Time Limit for Declaration of Deep-processing Carry-over in Processing Trade**

On November 14, 2023, the General Administration of Customs China (“GACC”) released the *Announcement on Relaxing the Time Limit for Declaration of Deep-processing Carry-over in Processing Trade and Implementing Other Measures* (the “Announcement”).

According to the Announcement, the GACC has decided to take measures to promote the sustainable and high-quality development of processing trade. The measures will include relaxing the time limit for centralized declaration of deep-processing carry-over, optimizing export return management of finished products in processing trade, expanding the application of enterprise-based processing trade supervision,

and streamlining the procedures for centralized domestic sales and the procedures for the carry-over of domestically procured equipment out of the zone. The document also encourages enterprises in information technology, artificial intelligence, biomedicine, new energy, new materials, major equipment manufacturing and other industries that are not blacklisted for bad faith and have standardized internal management and complete information system to apply to the customs for the application of enterprise-based processing trade supervision.

### **Beijing Approved to Further Open up Service Sector**

On November 18, 2023, the State Council issued the *Work Plan for Beijing to Build Itself as a Comprehensive Demonstration Area for Deepening Reform and Expanding Opening-up in the Service Sector* (the “Work Plan”), which also came into effect on November 18, 2023.

The Work Plan calls on Beijing to deepen reform and expand opening-up in key areas of the service sector, lift foreign ownership restrictions on value-added telecommunications services such as information and internet access services, explore equity incentives on personnel from foreign countries or Hong Kong, Macao and Taiwan region who are working at pharmaceutical R&D firms in the stem cells and gene fields, try to support insurance asset management companies to issue Renminbi-denominated asset management products of a rational scale abroad conditional on keeping accounts separately and isolating the risks, and allow foreign qualified individuals to engage in securities investment consulting and futures trading consulting businesses. The Work Plan also elaborates on digital economy, data resources, financial services, trade investment system and protection of intellectual property rights.

### **Shanghai Revises Regulations on Optimizing Business Environment to Align with World Bank’s New Assessment System**

On November 23, 2023, Shanghai Municipal People’s Congress released the *Decision on Revising the Regulations of Shanghai on Optimizing Business Environment* (the “Decision”), to be effective on December 1, 2023.

The Decision makes revisions to 37 articles of the Regulations. To align with the World Bank’s new business environment assessment system, it puts forward new requirements with respect to property right protection, optimization of financing environment for small and medium-size enterprises (“SMEs”), implementation of policies that benefit enterprises, improvement of the mechanism for resolution of commercial disputes, improvement of bankruptcy handling systems, and regulation of law enforcement. According to the Decision, business entities such as enterprises are supported to practise sustainable development in respects of environment, society and governance, legitimate rights and interests of minority shareholders will be protected, an overseas emergency rescue mechanism for protection of corporate intellectual property rights will be established, a sound trade secret protection system will be set up, financial and funding rules that favor enterprises will be improved, and a mechanism for clarification of SMEs’ complaint-related information will be established.

## **GACC Unveils 12 Important Measures to Further Advance the Coordinated Development of Beijing-Tianjin-Hebei Region**

To promote high-standard opening up, development of key industries and creation of first-class business environment in the Beijing-Tianjin-Hebei region, the General Administration of Customs China (“GACC”) recently unveiled 12 important measures for the coordinated development of the Beijing-Tianjin-Hebei region.

With the measures, the GACC aims to support the construction of an integrated mode of supervision in the comprehensive bonded zone of Beijing Daxing International Airport, the building of a dual-hub Airport Integrated Service Platform in Beijing, as well as the construction and digital transformation of smart ports for airports in the region. It also stresses ensuring and stabilizing the chain for the supply of energy resources and other commodities for the development of emerging industries and key industries, as well as the commodities that concern the national economy and people’s livelihood.

## **State Council Approves Expansion of Ningbo Port**

The State Council recently has approved the proposed expansion of Ningbo Port, which involves enlarging the open area of three port zones including Chuanshan, Xiangshan, and Shipu by 58.13 square kilometers.

The approval marks the full opening of all eight port zones of Ningbo Port, including Xiangshan and Shippu, which were approved for opening for the first time. According to the State Council’s Reply, the approval involves five key projects, namely the No.1 berth of the Chuanshan container terminal, Xiangshan Xinle Shipyard and Dazhongzhuang dock, Shipu Xingang dock and the 10,000-ton dock of China Co-op Group. With the expansion, Ningbo Port will add 1,894 meters of open shoreline and nine berths, and the expansion plan is expected to increase the port’s annual container handling capacity by 620,000 TEUs and cargo throughput by 3 million metric tons.

## Article(s)

### **Overview of The SHIAC Arbitration Rules 2024**

*by Sophie Chen*

On November 7, 2023, the Shanghai International Economic and Trade Arbitration Commission (Shanghai International Arbitration Center, “SHIAC”) officially introduced its new arbitration rules *SHIAC Arbitration Rules 2024* (the “Rules 2024”), which will take effect on January 1, 2024.

The Rules 2024, on the one hand, enrich the parties’ options on the arbitration procedure, and on the other hand, strengthen the arbitral tribunal’s dominance over the arbitration procedure.

#### **I. Consolidated Arbitration Claims for Multiple Contracts**

Contrary to the 2015 version of the arbitration rules, the Rules 2024 allow the parties to initiate arbitration

on the consolidation of disputes arising from the same transaction or the same series of transactions, or the existence of the related contractual relationship, or the subject matter of arbitration is of the same type, subject to certain conditions. If the applicant requests to combine multiple contracts or the respondent requests to separate multiple contracts, the secretariat will decide whether to agree.

For one thing, this new article improves the effectiveness of arbitration and the consistency of arbitration standards, as well as saves the time and economic costs of arbitration for the parties. For another thing, it also protects the respondent.

## **II. Digital Arbitration**

According to articles 14, 39, 65 & 68, all arbitration procedures can be implemented digitally, including but not limited to online case filing, service, hearing, and cross examination. The WeChat applet of SHIAC contains several arbitration-related functions, and the parties can complete the case filing on the platform; the arbitral tribunal can conduct online hearings on the platform according to the need of the case. For online hearing cases, the arbitral tribunal can use speech recognition technology to simultaneously generate electronic transcripts; the parties can also check the arbitration rules and the list of arbitrators on this platform. As for service, SHIAC may give priority to electronic service of documents, notices and materials related to the arbitration. Compared with the traditional service method, digital submission of materials saves the parties' time in sorting out hardcopy materials, avoids possible binding problems with materials and improves the efficiency of the arbitral tribunal and the parties in accessing materials. Digital arbitration saves the parties' time and economic costs and improves the speed and efficiency of arbitration proceedings.

## **III. Regulating Dishonest Arbitration**

To prevent the parties from deliberately changing their attorneys and causing the arbitral tribunal to create avoidance of arbitrators due to conflicts of interest, causing a delay in the arbitration process, The Rules 2024 provide countermeasures. Article 21 stipulates that the arbitral tribunal has the right to decide whether to agree to the parties' change or the addition of new attorneys to participate in the arbitration proceedings. Article 36 stipulates that after being informed of the composition of the arbitral tribunal, if there are matters between the parties and the arbitrator that shall be disclosed due to the proactive actions of one party, the party will be deemed to have waived the right to apply for the challenge of the arbitrator on such matters. In addition, Article 63 gives the arbitral tribunal the power to punish the party who deliberately delays the arbitration process, such as the overdue submission of materials, by allocating arbitration costs.

The parties can supervise each other through the above rules to ensure that their arbitration actions comply with The SHIAC Arbitration Rules 2024, and can also use the above rules to safeguard their interests.

## **IV. Interim Measures**

The Rules 2024 supplement the interim measures, including property preservation, evidence preservation,

behavioral preservation, and other measures. The parties are entitled to propose interim measures to SHIAC or a court with jurisdiction under the relevant laws of the place of arbitration, the domicile of the parties, and the place where interim measures are implemented. If a party applies interim measures after the arbitration case is filed and before the arbitral tribunal is formed, it may submit a written application for the appointment of an emergency arbitrator to SHIAC. If a decision on interim measures made by an emergency arbitrator or an arbitral tribunal needs to be implemented by a court, the party shall notify the court with jurisdiction of the decision on the interim measures. If the other party violates the decision on interim measures, the party applying for interim measures is entitled to require the other party to bear the reasonable losses caused thereby.

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