

International Lawyer

Volume 31
Number 2 *International Legal Developments in
Review: 1996*

Article 28

1997

China Law

Xianwu Zeng

Recommended Citation

Xianwu Zeng, *China Law*, 31 INT'L L. 509 (1997)
<https://scholar.smu.edu/til/vol31/iss2/28>

This Article is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in *International Lawyer* by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

China Law

XIANWU ZENG

I. Domestic Laws and Regulations¹

A. CRIMINAL LAW

Decision of the Standing Committee of the National People's Congress on Amending the Code of Criminal Procedures of the PRC (Decision), passed and promulgated by the Fourth Session of the Standing Committee of the Eighth National People's Congress on March 17, 1996. The Decision became effective as of January 1, 1997. The Rules of the PRC on Arrest and Custody, Decision of the Standing Committee of the National People's Congress on the Swift Trial of Criminal Elements Who Seriously Jeopardize Social Order and Security, the Supplemental Regulations by the Standing Committee of the National People's Congress on the Duration of Criminal Cases became obsolete on the same date. The new Code of Criminal Procedures of the PRC was repromulgated by the Fourth Session of the Eighth National People's Congress on March 17, 1996, based on the Decision on March 17, 1996, and became effective as of January 1, 1997.

B. ENERGY

1. Electricity Law of the PRC (Electricity Law), promulgated by the Standing Committee of the National People's Congress on December 28, 1995, effective as of April 1, 1996. The Electricity Law includes 10 chapters and 75 articles. The Electricity Law was formulated to ensure and promote the development of China's power industry, protect the legal rights and interests of investors and users of electrical power, and ensure the safe operations of the power industry. The Electricity Law includes General Principles, the Administration of Electrical Power Generation and Network, the Supply and Use of Electrical Power, the Price and Cost of Electrical Power, Construction of Electrical Power Facilities and Use of Electrical Power for Agriculture, Protection of the Electrical Power Facilities, Supervision and Inspection, Legal Liabilities, and Supplements.

Xianwu Zeng is a member of the firm Sidley & Austin in New York City. The author would like to recognize the research assistance of Yan Hau Zeng of the Bei Fang Law Office in Beijing, People's Republic of China (PRC).

1. The following domestic laws and regulations are cited from *Zhonghua Renmin Gongheguo Guowuyuan Gongbao* (Gazette of the State Council of the PRC), 1996, with the exception of the Garrison Law for the Hong Kong Special Administrative Region of the PRC, which was published in the *LEGAL DAILY*, December 31, 1996 at 2.

2. Regulations on Electricity Supply and Use, promulgated on April 17, 1996, effective as of September 1, 1996 (Regulations). The Regulations were formulated based on the Electricity Law of the PRC in order to ensure the supply of electrical power and management of its use. The Regulations contain nine chapters and 45 articles. The Regulations include General Principles, Areas That Produce and Provide Electricity Supply, Equipment and Facilities for Electricity Supply, Electricity Supply, Use of Electricity, Electricity Supply Contracts, Supervision and Management, Legal Liabilities, and Supplement.

3. Coal Law of the PRC, passed and promulgated by the 21st Session of the Standing Committee of the Eighth National People's Congress (Coal Law) on August 29, 1996. The Coal Law contains eight chapters and 81 articles. The Coal Law includes General Principles, the Planning of Coal Production and Construction, Coal Production and Mining Safety, Coal Management, Protection of Coal and Coal Mines, Supervision and Inspection, Legal Liabilities, and Supplements. The Coal Law became effective as of December 1, 1996.

4. Decision of the 21st Session of the Standing Committee of the Eighth National People's Congress on Amending the Mineral Resources Law of the PRC, passed and promulgated on August 29, 1996, effective as of January 1, 1997 (Decision). The Mineral Resources Law of the PRC (Mineral Resources Law) was amended in accordance with the Decision and repromulgated thereby and became effective as of January 1, 1997. The Mineral Resources Law contains seven chapters and 53 articles and is based on the Chinese Constitution. The Mineral Resources Law includes General Principles, the Examination and Approval of Registration and Mining of the Exploration of Mineral Resources, the Exploration of Mineral Resources, the Mining of Mineral Resources, Collective Mining Enterprises and Individual Mining, Legal Liabilities, and Supplements. The Mineral Resources Law was formulated to develop China's mining industry; strengthen the exploration, development, utilization and protection of mining resources; and safeguard the current and long-term needs of the socialist modernization construction.

C. SCIENCE AND TECHNOLOGY

1. Criteria and Methodology for Designating High and New Technology Enterprises Outside the State High and New Technology Development Zones, promulgated by the State Science and Technology Commission on January 17, 1996, effective as of the date of their promulgation.

2. Interim Provisions Governing the Designation of Service Centers for the Establishment of High and New Technology Industries, promulgated by the State Science and Technology Commission on January 28, 1996, effective as of the date of their promulgation.

3. Law of the PRC on Promoting Transformation of Scientific and Technological Achievements, passed and promulgated by the 19th Session of the Standing Committee of the Eighth National People's Congress on May 15, 1996 (Science Law). The Science Law was formulated to promote the transforming of developments of science and technology into actual productivity, to standardize such transformation activities, to accelerate the progress in science and technology, and to promote economic construction and social development. The Science Law includes General Principles, Organizational Implementation, Measures of Guarantee, Technological Rights and Interests, Legal Liabilities, and Supplements. The Science law became effective as of October 1, 1996.

D. TELECOMMUNICATIONS

1. Interim Provisions Governing the Management of Computer Information Networks in the PRC Connecting to the International Network (Provisions), passed by the 42nd Session

of the Standing Committee of the State Council on January 23, 1996, and promulgated on February 1, 1996. The Provisions contain 17 articles and were formulated to strengthen the administration of computer networks connecting to the international network and to ensure the healthy development of information exchange through international computer networks. The Provisions became effective as of the date of their promulgation.

2. Provisions Governing the Management of Internet Inlets and Outlets for the Computer Information Network (Provisions), promulgated by the Ministry of Post and Telecommunications on April 9, 1996, and became effective on the same date. The Provisions were formulated based on the Interim Provisions Governing the Management of Computer Information Networks in the PRC Connecting to the International Network in order to strengthen the administration of inlets and outlets for the international computer information network.

3. Provisions Governing the Connection of Chinese Public Computer Network with the Internet (Provisions), promulgated by the Ministry of Post and Telecommunications on April 9, 1996, and became effective on the same date. The Provisions were formulated based on the Interim Provisions Governing the Management of Computer Information Networks in the PRC Connecting to the International Network in order to strengthen the administration of Chinese public computer network's connection with the international computer network and promote healthy development of international exchange of information.

E. ENVIRONMENTAL PROTECTION

1. Interim Provisions Governing the Protection of the Environment from Imported Wastes (Provisions), promulgated on March 1, 1996. The Provisions were formulated to strengthen the management of imported wastes into China and prevent pollution of the environment by importation of solid wastes in accordance with the Law of the PRC for Prevention and Control of Pollution by the Importation of Solid Wastes and other relevant laws. The Provisions became effective as of the date of their promulgation.

2. Decision of the 19th Session of the Standing Committee of the Eighth National People's Congress on Revising the Law for Prevention and Control of Water Pollution of the PRC (Prevention Law), passed and promulgated on May 15, 1996 (Decision). The Decision amended Articles 7, 10, 12, 14, 15, 20, and 39 and added 16 articles as Articles 10, 16, 17, 18, 20, 22, 23, 26, 39, 47, 48 49, 50, 51, 58, and 59 of the Prevention Law. The Decision became effective as of the date of its promulgation. The Prevention Law was duly amended in accordance with this Decision and was thereby repromulgated.

3. Decision of the State Council on Issues Related to Environmental Protection, dated August 3, 1996 (Decision). The Decision contains 10 major measures designed to implement China's basic national policy for protection of the environment, carry out the strategy of sustained growth, realize the goal of basically controlling the acceleration of environmental pollution and damage to ecological balance by the year 2000, and improve the quality of the environment for certain cities and regions in the nation.

4. Regulations for the Protection of Wild Plants of the PRC, promulgated by the State Council on September 30, 1996, effective as of January 1, 1997 (Regulations). The Regulations were formulated to protect, develop, and reasonably utilize wild plant resources; protect the variety of wild plants; and maintain ecological balance.

5. Law of the PRC on the Prevention and Treatment of Noise Pollution, passed and promulgated by the 22nd Session of the Standing Committee of the Eighth National People's Congress on October 29, 1996, effective as of March 1, 1997.

F. SECURITIES

1. Provisions Governing the Management of Stock Sales in Institutions Dealing in Securities, promulgated by the Security Commission of the State Council on June 17, 1996 (Provisions). The Provisions became effective as of the date of their promulgation. The Provisions were formulated in order to standardize the business activities of securities dealers and protect the legal rights and interests of investors based on the relevant laws and regulations of the State.

2. Decision of the China Securities Control Commission on Authorizing Local Securities and Futures Supervision Departments to Exercise Partial Supervisory Functions, made by the China Securities Control Commission on March 21, 1996.

G. HONG KONG AND TAIWAN

1. Three Decisions were passed by the Second Plenary Session of the Preparatory Committee of the Hong Kong Special Administrative Region Under the National People's Congress on March 24, 1996:

- a. Decision Regarding Establishment of Provisional Legislative Council of the Hong Kong Special Administrative Region;
- b. Decision Regarding Establishment of a Committee Responsible for Coordinating Celebratory Activities by All Walks of Life in Hong Kong to Mark the Occasion of Hong Kong's Return to the Motherland; and
- c. Decision on the Public Holiday Schedule for Hong Kong in the Latter Half of 1997 and the Entire Year of 1998.

2. Explanation of Some Questions by the Standing Committee of the National People's Congress concerning the Implementation of the Nationality Law of the PRC in the Hong Kong Special Administrative Region, passed on May 15, 1996, by the 19th Session of the Standing Committee of the Eighth National People's Congress.

3. Two Resolutions passed by the Third Session of the Preparatory Committee of the Hong Kong Special Administrative Region under the National People's Congress on May 25, 1996:

- a. Resolution on Erecting a Monument to Hong Kong's Return to the Motherland; and
- b. Resolution on Issues Related to Textbooks.

4. The Fourth Plenary Session of the Preparatory Committee of the Hong Kong Special Administrative Region under the National People's Congress passed the following on August 10, 1996:

- a. Procedures on the Creation of the Selection Committee for the First Government of the Hong Kong Special Administrative Region of the PRC;
- b. Interim Provisions on the Use of the Regional Flag and Regional Emblem of the Hong Kong Special Administrative Region of the PRC; and
- c. Proposals on Implementing the Second Paragraph of Article 24 of the Basic Law of the Hong Kong Special Administrative Region of the PRC.

5. Provisions Governing the Administration of Cargo Transportation Factorage between the Two Sides of the Taiwan Straits, promulgated on August 21, 1996, by the Ministry of Foreign Trade and Economic Cooperation of the PRC (Provisions). The Provisions became effective as of the date of their promulgation.

6. Procedure for Selecting the Candidates for the First Chief Executive of the Hong Kong Special Administrative Region of the PRC; Procedure for Formation of the Provisional Legislative Council of the Hong Kong Special Administrative Region of the PRC, passed by the Fifth

Plenary Session of the Preparatory Committee of the Hong Kong Special Administrative Region under the National People's Congress on October 5, 1996.

7. Rules of Conduct for the Members of the Committee for the Selection of the First Government of the Hong Kong Special Administrative Region of the PRC, promulgated by the Sixth Plenary Session of the Preparatory Committee of the Hong Kong Special Administrative Region under the National People's Congress on November 2, 1996.

8. Garrison Law for the Hong Kong Special Administrative Region of the PRC, passed by the 23rd Session of the Standing Committee of the Eighth National People's Congress on December 30, 1996 (Garrison Law). The Garrison Law was formulated to ensure the execution by the troops in charge of security sent by the Central People's Government to the Hong Kong Special Administrative Region and to maintain national sovereignty, territorial integrity, and the security of Hong Kong on the basis of the Chinese Constitution and the Basic Law of the Hong Kong Special Administrative Region of the PRC. The Garrison Law will become effective as of July 1, 1997.

H. ART, ENTERTAINMENT, AND MEDIA

1. Provisions Governing the Publication of Audiovisual Products; Provisions Governing the Reproduction of Audiovisual Products; and Provisions Governing the Import of Audiovisual Products, promulgated on February 1, 1996, by the decrees of the Press and Publication Administration. The foregoing Provisions became effective as of the date of their promulgation. The foregoing provisions were formulated to promote the healthy development and prosperity of the publication, reproduction, and import of audiovisual products and strengthen the administration of such audiovisual products.

2. Regulations Governing the Administration of Motion Pictures, promulgated by the 45th Session of the Standing Committee of the State Council on April 19, 1996, effective as of July 1, 1996 (Motion Picture Regulations). The Motion Picture Regulations were formulated to strengthen the administration of the movie industry, develop and diversify the movie industry, meet people's needs for cultural life, and promote socialist material civilization as spiritual civilization.

3. Provisions Governing the Establishment of Systems for Check and Approval in Radio Broadcasting and Television Stations, promulgated by the Ministry of Radio, Film, and Television of the PRC on May 24, 1996, effective on the same date (Provisions). The Provisions were formulated to strengthen the administration of broadcasting and television stations based on the relevant regulations of the State.

I. AVIATION SECURITY AND AIR DEFENSE

1. Regulations of the PRC concerning Safety and Security of Civil Aviation, promulgated by the decree of the State Council on July 6, 1996 (Aviation Regulations). The Aviation Regulations contain six chapters and 40 articles and were formulated to prevent illegal interference with civil aviation activities, maintain and protect the order of civil aviation, and safeguard the security of civil aviation. The Aviation Regulations apply to the security and safeguard of civil airports, the safety and security of the operations of civil aviation, security inspection, and penalties for violations. The Aviation Regulations became effective as of the date of their promulgation.

2. People's Air Defense Law of the PRC, passed and promulgated by the 22nd Session of the Standing Committee of the Eighth National People's Congress on October 29, 1996, effective as of January 1, 1997 (Air Defense Law). The Air Defense Law was formulated to

organize effectively people in air defense, safeguard the lives and property of the people, and ensure the smooth development of socialist modernization construction. The Air Defense Law contains seven chapters and 53 articles. The Air Defense Law includes General Principles, Key Areas for Air Defense, People's Air Defense Projects, Communications and Alarms, Evacuation, People's Air Defense Organizations, People's Air Defense Education, Legal Liabilities, and Supplements.

J. LEGAL PROFESSION

1. Law of the Bar of the PRC, passed and promulgated by the 19th Session of the Standing Committee of the Eighth National People's Congress on May 15, 1996 (Law of the Bar). The Law of the Bar contains eight chapters and 52 articles and was formulated to improve the system of administration for attorneys, ensure the performance by attorneys of their duties in accordance with the law, standardize attorneys' conduct, protect the legal rights and interests of the parties involved in lawsuits, ensure the correct enforcement of laws, and promote the active role played by attorneys in the establishment of a socialist legal system (rule of the law). The Law of the Bar includes General Principles, Criteria for Attorneys' Licenses, Law Firms, the Business, Rights and Obligations of Practicing Attorneys, the Bar Associations, Legal Aid, Legal Liabilities, and Supplements. The Law of the Bar became effective as of January 1, 1997. The Provisional Regulations Governing the Bar passed by the 15th Session of the Standing Committee of the Fifth National People's Congress on August 26, 1980, became obsolete on the same date.

K. OTHER

1. Martial Law of the PRC, passed and promulgated by the 18th Session of the Standing Committee of the Eighth National People's Congress on March 1, 1996, and became effective as of the date of its promulgation (Martial Law). The Martial Law was formulated based on the Chinese Constitution. The Martial Law includes General Principles, the Implementation of Martial Law, Responsibilities of Individuals in Charge of the Enforcement of Martial Law, and Supplements.

2. Decision of the 19th Session of the Standing Committee of the Eighth National People's Congress on Revising the Statistics Law of the PRC, passed and promulgated on May 15, 1996 (Decision). The Decision revised articles 2, 3, 5, 6, 9, 11, 13, 14, 18, 19, 22, 23, and 25 of the Statistics Law of the PRC; the Decision deleted article 26 and added article 6. In addition, the Decision made certain adjustments and amendments to the language of certain provisions of the Statistics Law of the PRC. The Decision became effective as of the date of its promulgation. The Statistics Law of the PRC was duly amended in accordance with the Decision and was thereby repromulgated.

3. Auction Law of the PRC, passed and promulgated by the 20th Session of the Standing Committee of the Eighth National People's Congress (the Auction Law) on July 5, 1996. The Auction Law contains six chapters and 69 articles. The Auction Law was formulated to standardize the conduct of auctions, maintain order in auctions, and protect the legal rights and interests of persons engaged in auction-related activities. The Auction Law includes General Principles, the Auction Bidding Process, Parties to the Auction, Procedure of Auction, Legal Liabilities, and Supplements. The Auction Law became effective as of January 1, 1997.

4. Decision of the Standing Committee of the National People's Congress on Amending the Archives Law of the PRC (Archives Law), passed and promulgated by the 20th Session of the Standing Committee of the Eighth National People's Congress on July 5, 1996 (Decision).

The Decision became effective on the date of its promulgation. The Archives Law was duly amended in accordance with the Decision and repromulgated thereby on the same date.

5. The Gun Control Law of the PRC, passed by the 20th Session of the Eighth National People's Congress and promulgated on July 5, 1996 (Gun Control Law). The Gun Control Law contains eight chapters and 50 articles and was formulated to strengthen the control over firearms, maintain social order and security, and safeguard public security. The Gun Control Law includes General Principles, the Allocation and Supply of Firearms, the Manufacture and Sale of Firearms for Civilian Use, the Routine Control of Firearms, the Transportation of Firearms, the Import and Export of Firearms, Legal Liabilities, and Supplements. The Gun Control Law became effective as of October 1, 1996.

6. Law on the Guarantee of Senior Citizens' Rights and Interests of the PRC, promulgated by the 21st Session of the Standing Committee of the Eighth National People's Congress on August 29, 1996, effective as of October 1, 1996 (Senior Citizens Law). The Senior Citizens Law was formulated based on the Chinese Constitution in order to protect the legal rights and interests of senior citizens, develop the system of caring for the senior citizens, and extol the traditional Chinese virtues of respecting and taking care of senior citizens.

7. Administrative Punishment Law of the PRC (Punishment Law), passed and promulgated by the Fourth Session of the Standing Committee of the Eighth National People's Congress on March 17, 1996, effective as of October 1, 1996. The Punishment Law contains eight chapters and 64 articles and was formulated on the basis of the Chinese Constitution to standardize the establishment and execution of administrative punishment, ensure and supervise the effective implementation of administrative control by the administrative organs, maintain public interest and social order, and protect the legal rights and interests of citizens, legal persons, and others. The Punishment Law includes General Principles, the Categories and Codification of Administrative Punishments, the Implementing Organs of Administrative Punishments, the Jurisdiction and Application of Administrative Punishments, the Decision-Making Process for Administrative Punishments, the Execution of Administrative Punishments, Legal Liabilities, and Supplements.

8. Rural Enterprise Law of the PRC, passed and promulgated by the 22nd Session of the Standing Committee of the Eighth National People's Congress on October 29, 1996, effective as of January 1, 1997.

II. Foreign-Related Laws and Regulations

A. Provisions on the Declaration of Statistics on International Revenue and Expenditure, ratified by the State Council on August 30, 1995, and promulgated on September 14, 1995, and effective as of January 1, 1996 (Provisions). The Provisions were formulated to perfect the system for declaration of statistics on international revenue and expenditures and cover all financial transactions between Chinese residents and non-Chinese residents.

B. Regulations of the PRC Governing the Administration of Foreign Exchange (Regulations), passed by the 41st Session of the Standing Committee of the State Council on January 8, 1996, and promulgated on January 29, 1996. The Regulations contain seven chapters and 54 articles. The Regulations were formulated to strengthen the administration of foreign exchange, maintain the balance between international revenue and expenditures, and promote the healthy growth of the national economy. The Regulations include General Principles, Foreign Exchange for Routine Projects, Foreign Exchange for Capital Projects, Foreign Exchange Business of Financial Institutions, Exchange Ratios for RMB and Foreign Exchange Market, Legal Liabilities, and Supplements. The Regulations became effective as of April 1, 1996. The Provisional

Regulations of the PRC on the Administration of Foreign Exchange and its corresponding Detailed Rules for Implementation became obsolete as of the same date.

C. Interim Provisions Governing the Administration of the Foreign-Related Copyright Agencies concerning Copyrights (Provisions), promulgated by the State Copyright Bureau and the State Administration for Industry and Commerce on April 15, 1996. The Provisions were formulated to strengthen control over the administration of agencies concerning copyrights relating to foreign nationals and protect the legal rights and interests of owners and users of copyrights in accordance with the Copyright Law of the PRC. The Provisions became effective on the date of their promulgation.

D. Provisions on Levying Taxes on the Incomes of Foreign Companies in Water Transportation (Provisions), promulgated on October 24, 1996, by the Ministry of Finance and State General Administration of Taxation, effective on the date of its promulgation. The Provisions were based on the Law of the PRC on Levying Taxes on the Incomes of Enterprises with Foreign Investments and Foreign-Owned Enterprises, the Law of the PRC on the Administration of Collecting Taxes, and Interim Rules of the PRC on Business Taxation. The Provisions were formulated to strengthen administration of collecting taxes on incomes of foreign companies engaged in international shipping business generated from their water transportation business in China. The Regulations on Collection of Taxes on Incomes of Ships of Foreign Citizenship from Their Water Transportation, promulgated by the Ministry of Finance in June of 1974, became obsolete on October 24, 1996.

E. Liquidation Provisions on Foreign-Invested Enterprises, promulgated by the Ministry of Foreign Trade and Economic Cooperation of the PRC on July 9, 1996 (Provisions). The Provisions became effective as of the date of their promulgation.

III. International Agreements, Conventions, and Treaties

A. CHINA'S DECISIONS TO PARTICIPATE IN INTERNATIONAL AGREEMENTS, CONVENTIONS, AND TREATIES

1. On March 1, 1996, a Decision was passed by the 18th Session of the Standing Committee of the Eighth National People's Congress Ratifying the Convention for Nuclear Safety passed at the Meeting of Foreign Relations held in Geneva on June 17, 1994. (Cannot be verified by the U.N.)

2. On May 15, 1996, the 19th Session of the Standing Committee of the Eighth National People's Congress passed the Decision Ratifying the United Nations Convention on the Law of the Sea, with four declarations.

3. On June 15, 1996, the State Council issued its Approval on the Decision to Accede to the International Convention for the Conservation of Atlantic Tunas and the International Commission for the Conservation of Atlantic Tunas.

4. On June 19, 1996, the State Council issued its Approval on Examining and Approving the International Tropical Timber Agreement of 1994.

B. INTERNATIONAL CONVENTIONS, TREATIES, AND AGREEMENTS²

1. United Nations Convention on the Law of the Sea, opened for signature at Montego Bay, Jamaica, on December 10, 1982 (Convention), came into force on November 16, 1995.

² Interview with Marc Lebel, Treaty Section of United Nations, New York (with the exception of the Locarno Agreement).

China signed the Convention in 1982 and deposited an instrument of ratification to the Convention on June 7, 1996, and the Convention became binding on China as of July 7, 1996. The Convention establishes a comprehensive framework for the regulation of all ocean space. The Convention is divided into 17 parts and nine annexes and contains provisions governing, inter alia, the limits of national jurisdiction over ocean space, access to the seas, navigation, protection and preservation of the marine environment, exploitation of living resources and conservation, scientific research, seabed mining and other exploitation of nonliving resources, and the settlement of disputes. In addition, it establishes new international bodies to carry out functions for the realization of specific objectives.

2. Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (Agreement), executed on July 28, 1994, in New York City. Since China ratified the Convention on the Law of the Sea on June 7, 1996, when the Agreement was already in effect, China automatically became a participant to the Agreement on June 7, 1996.

3. International Tropical Timber Agreement of January 26, 1994, drafted in Geneva (Agreement). China deposited its instrument of approval on July 31, 1996. The Agreement entered into force for China on January 1, 1997.

4. The International Natural Rubber Agreement, opened for signature from April 3, 1995, to December 28, 1995 (Agreement). China signed the Agreement on July 17, 1996, but the Agreement is not binding on China.

5. Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, opened for signature from December 4, 1995, to December 4, 1996 (Agreement). China signed the Agreement on November 6, 1996, but the Agreement is not binding on China.

6. Comprehensive Nuclear Test Ban Treaty adopted by the General Assembly on September 10, 1996 (Treaty). China signed the Treaty on September 24, 1996, but it is not binding on China.

7. Locarno Agreement Establishing an International Classification for Industrial Designs (1968), amended in 1979 (Locarno Agreement). China became party to the Locarno Agreement on September 19, 1996.³

IV. Issues or Events of Major Legal Significance

A. CHINA'S EFFORTS TO ENTER THE WORLD TRADE ORGANIZATION (WTO)

Negotiations were under way in Geneva in November of 1996 on China's entry into WTO and a senior Chinese trade official believed that a "better atmosphere" prevailed during those negotiations.⁴ The same official also announced that the Chinese Government has made a decision to suspend promulgation of new laws or policies inconsistent with the WTO rules during the negotiation process.

After bidding for a decade to join the General Agreement on Tariffs and Trade (GATT) and its successor, the WTO, China's top leadership has concluded that the negotiations were politically tainted and that excessive demands made by a few industrial countries have obstructed

3. Interview with Jean R. Goldberg, Liaison Officer, New York Liaison Office of World Intellectual Property Organization.

4. CHINA DAILY, Nov. 4, 1996, at 5.

China's bidding process.⁵ However, the official position is that China is still actively engaged in efforts to enter the WTO and negotiations continue.⁶

B. LEGISLATORS SIMPLIFY CRIMINAL STATUTES

As part of the effort to perfect the Chinese legal system, Chinese legislators moved to delete "counter-revolutionary crime" from China's Criminal Law toward the end of December of 1996. The revised Criminal law will categorize fewer criminal activities. Several criminal activities previously defined as "counter-revolutionary" are now classified as ordinary crimes. In addition, "Analogism"—defining a nonspecific act as a crime by comparing it to a specific crime—was abolished in the revised draft, which decrees that crimes must be defined by laws. Moreover, according to the revised Criminal Law, punishment must be relevant to the crime committed. The new draft Criminal Law is being studied by the Standing Committee of the National People's Congress and will be presented for approval at the plenary session of the National People's Congress in March 1997.⁷

5. Lu Hongyong, *Political Factor Delays WTO Membership*, CHINA DAILY, Dec. 17, 1996, at 1.

6. CHINA DAILY, Dec. 13, 1996, at 1.

7. Xu Yang, *Legislators Simplify Criminal Statutes*, CHINA DAILY, Dec. 26, 1996, at 1.