

CHINA

1. Since 2018, the People's Republic of China (the "PRC" or "China") has continued to actively promote law-based governance in a comprehensive manner, and has further enhanced the implementation and supervision of the PRC Constitution. Included within this process, a number of fundamental laws and regulations affecting people's livelihoods have been adopted. In addition, China has achieved rapid and stable progress in the construction of a law-based government and instituting judicial system reform. Related legal publicity, legal education, and legal research have all achieved remarkable results. In the same period, international cooperation has continued to deepen.
2. Among recent achievements and progress in the advancement of the rule of law in China, highlights include:
 - a) adoption of the Foreign Investment Law;
 - b) codification of the Civil Code;
 - c) promotion of an optimized business environment;
 - d) enactment of special economic zone legislation;
 - e) establishment of the International Commercial Tribunal; and
 - f) construction of information-based systems in the People's Court.
3. Each of these is described further below.

Legislation of the NPC and its Standing Committee

4. In 2018, among its many achievements, the National People's Congress ("NPC") of PRC and the NPC Standing Committee adopted a constitutional amendment, formulated a total of nine laws, amended forty-seven laws, and approved sixteen decisions on relevant legal and major issues. In September of the same year, the 13th NPC Standing Committee released its five-year legislative plan (the "13th NPCSC Plan"), outlining its legislative agenda through 2023. The 13th NPCSC Plan includes one hundred and sixteen legislative items, among which sixty-nine top-priority draft laws are relatively mature for being submitted for deliberation.

Adoption of the Foreign Investment Law

5. In March 2019, the second Session of the 13th NPC enacted the PRC Foreign Investment Law, which is the first unified, fundamental law governing foreign investment in China. Necessary mechanisms regarding the facilitation, protection and management of foreign investment are incorporated into this new law, including: pre-establishment national treatment and negative list management; equal supportive policies and equal participation in government procurement; the protection of intellectual property rights of foreign investors and foreign-invested enterprises; the establishment and perfection of the service system for foreign investment; and the establishment of a foreign investment information reporting system.

6. The newly-enacted PRC Foreign Investment Law will supersede three primary laws regulating foreign-invested enterprises (FIEs) in China, i.e., the Law on Sino-Foreign Equity Joint Ventures, the Law on Wholly Foreign-Owned Enterprises, and the Law on Sino-Foreign Cooperative Joint Ventures (collectively the “Three FIE Laws”), as well as resolving inconsistencies and conflicts which had existed among them. Additionally, this new law also addresses certain legal issues of particular concern to foreign investment, including administrative approval and regulatory regimes, intellectual property, and technology transfer. As an example of landmark legislation, this new law aims to promote foreign investment and foster a transparent and predictable business environment.

Orderly progress in codification of the PRC Civil Code

7. The process of codification of China’s Civil Code is attaining steady and solid progress. Since August 2018, the Draft Civil Code has been submitted to the NPC Standing Committee for a series of deliberations. When enacted, the Civil Code will enhance the systematic character of civil legislation by strengthening protections for property ownership rights, supplementing the right of habitation, and strengthening the protection of creditors’ rights. It will not only maintain the continuity and stability of civil legislation, but also demonstrate moderate foresight and openness, simultaneously realizing scientific coordination of the legal system.

Other important legislation

8. In addition to the above noted Foreign Investment Law and the Draft Civil Code, in 2018 and 2019, the NPC Standing Committee also enacted or amended a number of other important laws. This work includes enactment of the Supervision Law, the E-Commerce Law, and the International Criminal Judicial Assistance Law, among others; amendment of the Pharmaceutical Administration Law, the Individual Income Tax Law, the Criminal Procedure Law, and the Company Law; as well as deliberation regarding the revised drafts of the Patent Law, the Land Administration Law and the Securities Law.

Law-Based Administration

9. The Chinese government continues to persist in the building-up of law-based government and has achieved great results. Institutional reform within the central government, as well as local governments, has been smoothly implemented. In 2018, the State Council examined and approved thirty-two laws and administrative regulations, where it announced five newly-enacted administrative legislations, amended thirty-two administrative legislations, abolished five administrative legislations and submitted sixteen treaties for approval by the NPC Standing Committee and the State Council. It is expected that in 2019, the State Council will submit thirteen laws to the NPC Standing Committee for review, will enact and revise forty-two administrative legislations, and intends to accomplish four other legislative projects.

Adoption of Draft Regulation on Optimizing the Business Environment

10. In October 2019, the State Council's executive meetings deliberated and formulated the Draft Regulation on Optimizing the Business Environment (the "Draft Regulation"), aiming to establish a fundamental framework of rules for businesses in which all types of market players, domestic and foreign, will be treated equally. The Draft Regulation focuses on the transformation of government functions and calls for greater strides in streamlining administration, with measures to further widen market access and provide better protection of market players. The Draft Regulation also highlights the importance of transparency in government services, affirming that administrative services with unified criteria must be enjoyed by all types of market players on an equal basis. Additionally, the Draft Regulation includes strengthened measures to ensure accountability, providing that government staff members and officials will be held accountable for any arbitrary acts, lawbreaking behaviour, and arbitrary surcharges by public institutions.

Other important administrative legislation

11. In addition to the Draft Regulation, since 2018, the State Council has enacted and amended a number of important other administrative legislations, including amendment of the Regulation on Patent Agency, Regulation on the Implementation of the Individual Income Tax, and adoption of the Draft Amendment of Archives Law.

Special Economic Zone Legislation

Free Trade Zone Legislative Developments

12. The year 2019 marks the sixth year since the establishment of China's first pilot free trade zones ("FTZ"). Since establishment of the first pilot FTZ in Shanghai, China's twelve pilot FTZs have attracted nearly 40,000 foreign enterprises and witnessed the establishment of more than 600,000 new enterprises. In 2018 alone, there were 9,409 newly-established foreign enterprises in the pilot FTZs, with year-on-year growth of 37.5%, accounting for 15.5% of the number for the entire country. In August 2019, the State Council announced six new pilot FTZs, raising the total number of China's pilot FTZs to eighteen. Since 2018, Liaoning, Hubei, Sichuan, Chongqing and other places have passed local level pilot FTZ regulations, effectively guaranteeing further pilot FTZ development by local legislation.

Judicial System Reform

13. In order to better adapt to the new era, reform of the Chinese judicial system has continuously deepened and widened, entering into a new stage since 2018.

Promotion of a Modernized Organizational System of People's Courts.

14. In June 2018, the General Office of the Communist Party Central Committee and the General Office of the State Council issued the "Opinion Concerning the Establishment of the Belt and Road International Commercial Dispute Resolution

Mechanism and Institutions,” pointing out that China will establish the International Commercial Court to properly resolve commercial disputes arising during the course of the Belt and Road Initiative, equally protecting the legal rights and interests of Chinese and foreign parties, and to ensuring a fair and just business environment.

15. The same month, the Supreme People’s Court examined the “Provisions of the Supreme People’s Court on Several Issues concerning the Establishment of the China International Commercial Court.” In August 2018, the Supreme People’s Court issued the Decision of the Supreme People’s Court on the Establishment of the International Commercial Expert Committee, and thirty-one experts from fourteen countries and regions were appointed as the first group of expert members, contributing wisdom to the establishment and improvement of the international commercial dispute settlement mechanism.
16. In addition to the establishment of the International Commercial Court, the Shanghai Financial Court, the Beijing and Guangzhou Internet courts, and the intellectual property tribunal of the Supreme People’s Court all were established from 2018. Additionally, studies on normalization of the circuit court of the Supreme People’s Court, and the internal institutional reform of the People’s Court below the provincial level, were carried out and actively promoted in 2018.

Improvement of information-based People's Courts

17. For the facilitation of comprehensive and coordinated development of the construction of information and “Smart Court”, with the intention to enhance top-level design, Supreme People’s Court issued a series of guideline documents, such as “Five-Year Development Plan of Information Construction of People’s Court (2016-2020)” “Opinion Concerning Accelerating the Construction of “Smart Court”” etc.
18. Since 2018, the development of informatization systems in the People’s Court has reached new heights of achievement, contributing to justice in practice, enforcement of adjudication, and judicial management. The construction of “smart courts” has moved into the phase of comprehensive development. According to the 2019 annual report on the informatization of Chinese courts (the Blue Book on the Rule of Law), 2,824 of the assessed courts support the simultaneous generation of case files, with a realization rate of 80.46%. More than 2,951 courts have carried out electronic delivery, accounting for 84.07% of the total assessed courts, with a year-on-year increase of 8.66%. Now, 2,942 courts support one click access to adjudication documents, accounting for 83.82%. And 3,078 courts can automatically provide judges with information from process nodes, such as delivery, trial, preservation, cancelation of preservation, termination, accounting for 87.92%. In February 2019, the Outline of the Fifth Five-Year Reform Program of the People’s Courts (2019-2023) was issued, providing a clear path forward for furthering the progress in “smart court” intelligent development.