

New Circular Economy Promotion law

In light of the Government's aim to improve the environment while stressing energy and resource conservation, reducing pollution and achieving sustainable development, the new Circular Economy Promotion law (effective as of January 1, 2009) introduces a compulsory system of waste recycling and resource saving measures for companies and individuals.

According to the law, "circular economy" means "activities of decrement, recycling and resource recovery in production, circulation and consumption", with a special focus on the reduction of resource consumption and waste generation. National circular economy development plans will set forth objectives, applicable scopes, main contents, major tasks and safeguard measures, as well as indexes for the rates of resource production, recycling and resource recovery.

Total energy and water consumption volumes will be defined, and a system will be established to strengthen statistical administration of resource consumption, comprehensive utilization and waste generation, and to regularly disclose major statistical indicators to the public. Additionally, the law introduces the energy efficiency mark, and a labeling system for the sale of recycled and renovated products.

The State will issue a catalogue of technologies, processes, equipment, materials and products which are encouraged, restricted or prohibited, and a catalogue of prohibited toxic and harmful substances. In the production of products, preference is accorded to materials which are easy to recover, and over-packing is prohibited. Production and sale of one-time products is restricted by the law, which calls for the implementation of waste water and garbage recovery and timber-saving technologies.

Power grid enterprises are forced to buy electricity produced entirely with remaining heat and pressure, coal-bed gas, and low-calorie fuels. Tax preferences and preferential loans are accorded to projects involving industrial activities conducive to promoting circular economy, and special funds are established by the Government to support scientific and technical research and development of new resource-saving technologies. Energy and water/resource saving projects are to be classified as the major investment areas in any investment plan issued by the State.

In addition to compensation for damages to third parties and the environment, infringers face sanctions that range from the seizure of profits and products, to fines up to RMB1 million. In the presence of serious circumstances, the business license may be revoked.

Legal news**A new "green tax"**

A taxation system to encourage polluters to cut emissions is supposed to be put in place by the Government.

An inter-ministerial task force has been established to study the introduction of a "green tax," that will be levied on polluters as a consequence of surpassing a given threshold, and of other environmental fees and mechanisms of compensation.

Beijing's bonus policy to help cutting emissions

Beijing's municipality has issued a policy to reduce emissions and promote energy conservation. A bonus from RMB500,000 up to RMB2.3 million will be given to companies according to the decrease in energy and water consumption, and pollutants' emissions, as a result of ceasing high polluting activities.

National Energy Conservation Center

The NDRC has announced on October 21 the establishment of the National Energy Conservation Center, which will focus on energy efficiency and conservation issues, providing support through the issuance of policies and regulations, and by means of coordinating research programs.

Additionally, the Center will foster the promotion of energy-saving technologies and provide assessment on energy-saving parameters for investment projects.

The NDRC has declared that the Center's activities will be carried out in the direction of maximizing international cooperation and exchange of knowledge.



Edward E. Lehman
managing director
LEHMAN, LEE & XU



Aldo Settimo Boni de Nobili
foreign legal
counselor
LEHMAN, LEE & XU

Gentle Readers,

Lehman, Lee & Xu welcomes you all to its monthly China Green Report, a brief insight into the environmental Chinese investment and legal climate.

To know more about China, feel free to contact us.

elehman@lehmanlaw.com

aldo@lehmanlaw.com

Progress

“Quantitative examination” shows improvement in urban environmental protection

Investment in environmental protection in urban areas for the year 2007 has led to relevant achievements, as pointed out by the “2007 Annual Report on Urban Environmental Management and Integrated Control”. As of 2006, the urban sewage treatment rate has increased by 9.4%, environmental-friendly treatment rate of domestic garbage by 8.1% and treatment of medical waste by 4.3%.

Through the “quantitative examination”, a tool created in the 1990’s to facilitate prevention and control of pollution and achieve environmental protection in urban areas, relevant information is tracked and progress is assessed in the areas of urban environmental quality, urban pollution prevention and control, development of urban infrastructure, and urban environmental management.

Amongst the aims of the Government are the construction and improvement of urban sewage treatment facilities and the increase of urban waste treatment and reuse rate, while raising residents’ life quality by means of addressing problems related to air and water quality, noise pollution and garbage collection.

Relevant progress in water pollution control has been scored too, with a consistent abatement of major pollutants’ discharge in key river basins in the first half of 2008. The achievements have been linked to the increasing efforts put in place by local governmental bodies, through the issuance of environmental policies and important investment in green projects.

2

The Clean Development Mechanism market in China

China’s carbon credit market is worth US\$30 billion, accounting for nearly 50% of the global carbon credit market.

More than 100 CDM projects are in the pipeline every month, while 286 have been already registered at the UN Executive Board and around 1,500 are being implemented and verified.

Success stories, such as the €330 million deal between Myland Group, a chemical plant established in Jiangsu province, and the World Bank, act like a magnet in attracting foreign investment to the area.

CDM projects in China are supposed to cut around 115 million tons of CO₂ annually.

Coal Bed Methane extraction

Exploration and exploitation of Coal Bed Methane (CBM) is a field with great investment potential. As it represents a clean source of energy and a flammable gas responsible for the majority of coal mine accidents, its extraction and utilization is encouraged by the Catalogue for the Guidance of Foreign Investment Industries. Foreign investors, however, can enter this area only by means of establishing a JV with a Chinese partner.

Furthermore, methane being one of the six GHG relevant under the UNFCCC, CBM projects are eligible to obtain CDM qualification, thus generating CERs.

Investment

Outbound Direct Investment in the mining sector

China, the world’s fourth largest economy, is intended to become the largest one within 2025. As a consequence of its impressive growth and as the world’s largest foreign exchange reserve (US\$1.81 trillion), China is eager to invest abroad, and, in particular, the need for natural resources to match internal demand is becoming a main concern. Therefore, governmental policies for the enhancement and regulation of Outbound Direct Investment (ODI) are constantly developing, and seem to identify Australia and Canada as preferential targets. Currently, investment in the mining sector accounts for nearly 40% of total Chinese outbound direct investment (US\$8.5 billion).

China has been investing in the area mainly by means of acquisition of interests in foreign companies by its State Owned Enterprises. However, private direct investment is noticeably increasing.

www.lehmanlaw.com

