

FOREIGN TRADE, INVESTMENT AND THE LAW IN THE PEOPLE'S
REPUBLIC OF CHINA. Edited by MICHAEL J. MOSER. [Singapore:
Oxford University Press. 1984. 341 pp. S\$80.00]

THE CHINA INVESTMENT GUIDE 1984/85. Edited by Gu XIANCHENG
AND OTHERS. [London: Longman 1984. 608 pp. £45.00]

“IN the not so distant past,” writes the editor of *Foreign Trade, Investment and the Law in the People's Republic of China*, “foreign businessmen in China operated within the context of what was to all intents and purposes a legal vacuum.” The first step in filling that vacuum, the promulgation of the law governing Sino-Foreign equity joint ventures, was taken only in July 1979. Prior to that it is no exaggeration to say that law had relatively little place in the economic relations of the People's Republic of China. The Great Proletarian Cultural Revolution virtually destroyed the limited domestic legal system created during the 1950s and, even in those relatively “legalistic” early years of the People's Republic, the country's lawmakers had never confronted the special problems arising from direct foreign investment. China's dramatic opening to the outside world since 1978 has presented great challenges to the country's legislators. The swiftness of their response is evidenced by the very existence of *Foreign Trade, Investment and the Law*, a book which—less than five years after the passage of China's first piece of foreign economic legislation—was able to list in its valuable appendix no less than sixty such laws and regulations.

Foreign Trade, Investment and the Law thus describes the rapid development of a very new and still incomplete legal structure. Appropriately, it is the work of practitioners who have dealt with their subject matter from its earliest days. Michael Moser, the editor and author of four of the book's twelve chapters, is a foreign lawyer and China scholar of considerable experience. Other contributors include eight foreign lawyers and solicitors as well as an American law teacher and a United States commercial attache resident in Beijing. Among these are such notables as Jerome Cohen, formerly Professor of Law and Director of the East Asian Legal Studies programme at the Harvard Law School, and Stanley Lubman, who is a familiar name to all in the field as the author of several studies of Chinese law during both the Maoist and post-Maoist periods.

The book deals comprehensively with the broad range of topics relevant to trade and investment, the only obvious omission being a chapter on China's growing number of bilateral investment protection agreements. Moser's article on "Foreign Investment in China: The Legal Framework", provides an excellent overview of the subject, ranging from a discussion of how foreign economic activities may (or may not) mesh with China's economic planning apparatus, through compensation trade and on to various modes of cooperative investment — notably equity and contractual joint ventures. The chapter is perhaps the best available introduction to a very large subject. Also highly useful are Moser's contributions regarding the Guangdong Special Economic Zones and the regulatory regime for offshore petroleum exploration and development. His chapter describing the Patent Law which came into force on 1st April 1985, while an admirable summary, has been more obviously overtaken by events than the other three as the Patent Regulations had not been published at the time *Foreign Trade, Investment and the Law* went to press in March 1984.¹

Jamie Horsley's article on the regulation of China's foreign trade and Preston Torbert's analysis of contract law also require substantial supplementation due to recent events: there have been substantial changes in the foreign trade structure during the past year, along with severe policy swings, and the promulgation of the Foreign Economic Contract Law in early 1985 is an event of the greatest importance.² Nonetheless, both pieces remain good introductory reading. The overview and transactional analysis of China's tax system offered by Timothy Gelatt and Richard Pomp is one of the best in the book, although the co-authors have subsequently published a revised version elsewhere.³ The remaining contributions include Cohen's analysis of the role of arbitration, a new look at law, policy and practice in technology transfer by Lubman, an examination of banking and finance in the China trade by Franklin Chu, an explication of the Trademark Law by Jesse Chang and Charles Conroy, and Clark Randt Jr.'s account of the legal aspects of the registration and control of foreign representative offices.

Given the swift pace of developments regarding China's foreign economic legislation, books about those laws must necessarily have rather short half-lives. It is a tribute to the editor and contributors that *Foreign Trade, Investment and the Law in the People's Republic of China* is likely to remain the standard introductory work for some time to come. It is hoped that they will again pool their collective experience in a revised edition in the not too distant future.

The China Investment Guide 1984/85 is, as the title implies, to be updated on an annual basis. It is a massive reference work, produced by a large editorial team from China International Economic Consultants, Inc., one of the new entities formed to deal with the implementation of China's open economic policy. Gu Xiancheng, the chief editor, occupies a very prominent place in the foreign investment field as a senior adviser to the China International Trust and Investment

¹ See, generally, "China's New Patent Law and Regulations," *Singapore Business* [April 1985] pp. 48-55.

² See generally, "China's New Foreign Economic Contract Law", *Asian-Pacific Tax and Investment Bulletin* (1985) Vol. 3 No. 7 p. 259.

³ Gelatt & Pomp, "Tax Aspects of Doing Business with the People's Republic of China," 22 *Colum. J. Transnational L.* 421 [1983-84].

Corporation. He is coincidentally the author of an introduction to *Foreign Trade, Investment and the Law*. Unlike the latter book, *The China Investment Guide* is in the nature of an almanac or encyclopaedia, designed to provide the potential investor with a convenient source of relevant information about China's economy, governmental structure, investment opportunities and targets major specialized corporations, and the various investment agencies and consultancies which now exist throughout the country.

For the lawyer, the great value of *The China Investment Guide* lies in its collection of relevant statutes in a single volume. As Michael Moser correctly observes in the preface to his own book, "access to published Chinese legislation has often proved to be a problem for foreigners." This problem is now being attacked by various publishers and the contribution of *The China Investment Guide* is an important one. The book provides sixty-one texts dealing with joint ventures, taxation, imports and exports, foreign exchange control, the special economic zones, foreign resident representative offices, patents, trademarks, economic contracts, insurance contracts and advertising. The English translations are not authoritative, of course, but coming from such a high-powered editorial team, their pedigree is very good. The authoritative Chinese texts may be found in the Chinese edition of the *Guide*, available from the same publishers. An additional feature of interest to lawyers is a complete listing of the nearly two hundred Sino-Foreign joint ventures agreed upon during 1979-1983, the first four years of the Joint Venture Law. The listing includes the ventures' locations, partners, types of business, total investment and overseas component, duration and date of agreement. Short case histories are also presented for six of the early joint venture projects, including a major Beijing hotel and a Sino-French wine company.

The China Investment Guide 1984/85 is up to date as of June 1984, which was too early for inclusion of the Patent Regulations or the Foreign Economic Contract Law but which is very current relative to what has previously been available. With annual revision it will make a significant addition to the basic reference materials available to the potential foreign investor and his legal advisers.

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