

EDITORIAL

This is the third volume in the series *Yearbook Law & Legal Practice in East Asia*. The overall focus of the series is on legal aspects of doing business in East Asia. Legal issues of a more general nature may also be dealt with, where these are relevant for a better understanding of the particular legal culture concerned.

The contributions come from expert practitioners and experienced scholars. Occasionally a contribution of a promising young law graduate will be included.

Volume 3 covers the academic year 1997/1998, a period in which the world has witnessed a number of far-reaching events involving East and South-east Asia.

The transfer of Hong Kong back to China on midnight 1 July 1997 constituted such a landmark event. The financial crisis raging through many Asian countries constitutes another. As the world's financial markets are becoming increasingly integrated, the crisis in Asia may also have an impact on major Western investors. It is another illustration of the importance for all stakeholders to keep abreast of relevant developments of the law in this region. Therefore, volume 3 of the *Yearbook* contains two contributions on banking law in the People's Republic of China and Japan. In addition, the issue of recognition and enforcement is covered which is of great practical relevance in view of the Hong Kong handover.

The transfrontier mobility of law takes many forms. In their article *International transfer of knowledge about law – lessons from China and the Lao People's Democratic Republic* Ann and Robert Seidman deal with this topic profoundly by using the examples of China and the Lao PDR. They dilate upon the following questions: Could a country's drafters ever successfully transplant laws from elsewhere? Does foreign law have any relevance to the transformatory task? They particularly stress the importance of imparting drafting skills on national lawmakers.

In the contribution *Administrative power and administrative law in China* Yong Zhang describes the emergence of modern administrative law in China, from a so-called socialist administrative law system to a system of administrative law with capitalist features. He also focuses on the transformation of administrative jurisprudence which has moved from merely em-

phasising administrative organs and the ways by which to administer civil servants and citizens, to focusing on systems for protecting citizen's rights.

Under the People's Bank of China's Provisional Administrative Measures of 2 December 1996, foreign banks may now be allowed to conduct *Renminbi* business in the Pudong district of Shanghai. In his article *Renminbi business by foreign financial institutions in China – the liberalisation of the banking sector continues* Dhirendra Srivastava describes and evaluates the actual scope of the Provisional Administrative Measures, including the conditions for obtaining a licence.

Sicheng Yu and Y. Lin focus on the characteristics of the Chinese Maritime Code in their article *The Maritime Code: a legislative landmark*. The Code has put an end to a legislative vacuum and has been well received by the international shipping industry.

Stefanie Tetz in her contribution *Real estate law in the People's Republic of China – a foreign investor's perspective* points to the inevitability for foreign investors to have a basic understanding of Chinese real estate law. It often occurs that local and national regulations are not well attuned to, or – even worse – are in contradiction with each other. This situation makes it very difficult for foreign investors to assess possible risks for medium and long term investment, usually also involving real estate.

In their contribution *Enforcing foreign judgments, orders and awards in the Hong Kong Special Administrative Region* Gary Heilbronn and Christopher Bonsall provide a detailed overview of the various options in this area, which is of vital importance to international trade, investment and financing. The two basic options for enforcement, that is enforcement at common law and enforcement by statutory registration, are analysed against the backdrop of the Hong Kong 1997 handover. This contribution does not only cover regular court judgments, but also touches upon maintenance orders and arbitral awards.

C.A. Ong and R.J. Wickins discuss the Hong Kong land registration system which has existed since the inception of British rule in *The Hong Kong land registration system in transition*. This registration system underpins the ownership of land, and the use of land in Hong Kong for all forms of commercial dealings. The article also describes the proposed modernisation of the registration system in the context of the transition to Chinese sovereignty.

In her contribution *Rules and regulations regarding the landrights of foreigners in Indonesia* Wila Chandrawila Supriadi describes how recent legislation

seeks to extend the array of rights which may accrue to non-nationals resident in Indonesia. Legal titles to parcels of land or residential buildings used to be entirely different for nationals and non-nationals respectively.

Recently, it has become possible for non-nationals to own a building for residential purposes; the author explains how this newly created right inter-relates to the right of use of land, which – in itself – has undergone several changes too in recent years.

In his contribution *Lawyers in Japan – an economic analysis*, Shozo Ota seeks to add a new dimension to the on-going debate on the size of the lawyer population in Japan. The economic model the author suggests provides a uniform, coherent standard by which data and arguments presented by both sides in the discussion – the Bar Associations versus the Ministry of Justice, Associations of Business and Industry and a majority of legal scholars – can be evaluated.

Atsuko Yoshii addresses the process of liberalisation permeating Japan's financial sector since the early 1990s. In her article *The Japanese banking system* she provides numerous examples of deregulation; areas covered vary from interest rates to new deposit products. The gradual decompartmentalisation between the banking and securities business is equally dealt with.

The article concludes with an analysis of what may be termed the reverse side of liberalisation, that is bank failure, and developments in the deposit insurance system.

The Editors