

**China - Regulations Concerning the
Examination and Approval of
International Freight Forwarding
Agencies With Foreign Investment,
1996**

MOFTEC

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Regulations Concerning the Examination and Approval of International Freight Forwarding Agencies With Foreign Investment

(Promulgated by the Ministry of Foreign Trade and Economic Cooperation on September 9, 1996)

Article 1

For the purpose of standardizing the examination and approval of international freight forwarding agencies with foreign investment, these regulations are formulated in accordance with the State's relevant laws and rules concerning foreign-funded enterprises and the Regulations of the People's Republic of China on Management of International Freight Forwarders.

Article 2

All references in these regulations to international freight forwarding agencies with foreign investment refer to the foreign-funded enterprises in the form of a Sino-foreign equity joint venture or contractual joint venture which conduct international freight forwarding and related businesses entrusted by consignors and consignees of export and import goods in the name of principals or in their own names and collect remuneration for their services.

Article 3

The Ministry of Foreign Trade and Economic Cooperation of the People's Republic of China (hereinafter referred to as MOFTEC) is the competent authority in charge of the examination, approval and administration of international freight forwarding agencies with foreign investment.

Article 4

Foreign companies and enterprises are permitted to participate in the establishment of an international freight forwarding agency with foreign investment in the form of an equity joint venture or contractual joint venture within the territory of China, in which the Chinese partners' investment shall not be less than 50% of the total investment.

Article 5

Apart from meeting the conditions set out in the Regulations of the People's Republic of China on Management of International Freight Forwarders, the Chinese and foreign investors applying for the establishment of an international freight forwarding agency

with foreign investment shall also comply with the conditions of the State's relevant laws and rules on enterprises with foreign investment and the following requirements:

1. At least one of the Chinese partners is an international freight forwarding agency or a foreign trade enterprise with an annual import and export volume of more than US\$ 50 million, which holds the majority of the capital invested by all the Chinese partners; foreign partners shall be international freight forwarding agencies; 12
2. The Chinese and foreign partners shall have been engaged in the operation of international freight forwarding business or foreign trade for at least 3 years and have administrative and professional staff suitable for the business applied for, a stable source of goods for import and export and a network of agents; 13
3. None of the Chinese and foreign partners shall have acted in violation of the regulations concerning the industry administration and received punishment for that sake 3 years before the date the application is submitted. 14

Article 6 15

Shipping carriers, air carriers and other enterprises which may bring forth the unfair competition with international freight forwarding agencies shall not be allowed to participate as partners in the establishment of an international freight forwarding agency. 16

Article 7 17

A foreign partner who has invested in an international freight forwarding agency within the Chinese territory with the time of its operation less than 5 years shall not be permitted to invest in the establishment of another one of the same nature in China. 18

Article 8 19

The minimum registered capital requirement for an international freight forwarding agency with foreign investment shall be US\$ 1 million. 20

Article 9 21

If approved, an international freight forwarding agency with foreign investment may deal in part or all of the following businesses: 22

1. To book ship's holds and warehouses; 23
2. Supervision of freight loading and unloading and assembling and dismantling of containers; 24
3. International express delivery excluding private letters; 25
4. To go formalities of customs declaration, quarantine, inspection and insurance; 26

5. To prepare related bills and certificates, pay transport charges, settle accounts and pay miscellaneous fees; 27
6. Other businesses of international freight forwarding. 28

Article 10 29

The application for the establishment of an international freight forwarding agency with foreign investment shall, in accordance with the procedures set out in the State's relevant laws and rules concerning foreign investment, be submitted by the Chinese partners to the departments of foreign trade and economic cooperation of various provinces, autonomous regions and municipalities directly under the Central Government as well as cities separately listed on the State's budgetary plan where the agency is to be located (for joint examination of departments of foreign investment administration and departments of storage and transportation administration), and if approved by the local departments, it should be submitted to MOFTEC for examination and approval. 30

In accordance with the State's relevant laws and rules concerning foreign investment, MOFTEC shall decide on approval or disapproval within a stipulated period, and shall issue a Ratification Certificate of Enterprise with Foreign Investment and a Ratification Certificate of International Freight Forwarding Agency to the approved one. 31

With the two certificates of ratification issued by MOFTEC, the Chinese partners shall perform the procedures of enterprise registration with the industrial and commercial administrative departments. 32

Article 11 33

An international freight forwarding agency with foreign investment shall not be operated for more than 20 years. 34

Article 12 35

An international freight forwarding agency with foreign investment may, after one year of formal operation and fulfilling the relevant capital requirements, apply for the establishment of branches in other areas of China. 36

An international freight forwarding agency with foreign investment shall increase its registered capital by US\$ 120,000 for each branch to be established. The business scope of the branches shall not exceed that of the international freight forwarding agencies with foreign investment, and the head office shall bear the joint liabilities. 37

The application for the establishment of branches shall be first submitted to the local department of foreign trade and economic cooperation where the agency is located for examination, and then to the departments of foreign trade and economic cooperation where the branches are to be located for suggestions, and, if approved by those local 38

foreign trade and economic cooperation departments, submitted to MOFTEC which shall undergo examination and make decisions on approval or disapproval in light of the needs of the development in international freight forwarding business.

To establish branches, an international freight forwarding agency with foreign investment shall submit the following documents: 39

1. Reports of the foreign trade and economic cooperation department where the agency is situated and letters of suggestion of the foreign trade and economic cooperation departments where the branches are to be situated; 40
2. Resolution of the board of directors of the agency on establishing international freight forwarding branches and increasing the registered capital; 41
3. The agreement to amend the contracts and articles of association of the joint venture for the sake of the matters relating to the increase of registered capital; 42
4. Business operation reports, reasons for establishing branches and feasibility studies; 43
5. Credit reports; 44
6. Other documents; 45

Article 13 46

These regulations are applicable to the international freight forwarding agencies set up in the Chinese mainland by companies and enterprises from Hong Kong, Macao and Taiwan regions. 47

Article 14 48

When the international freight forwarding agencies with foreign investment established before the promulgation of these regulations apply for the expansion of their business scope, the establishment of branches and the extension of time limit of the joint venture, they shall comply with the requirements concerning the registered capital set out in these regulations. 49

Article 15 50

These regulations shall come into force as of the date of their promulgation. The effect of the Measures Concerning the Examination and Approval of International Freight Forwarding Agencies with foreign Investment promulgated on February 22, 1995 by MOFTEC shall become null at the same time. 51

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