

China - Provisional Measures on the Establishment of Sino-Foreign Joint Venture Trading Companies on a Pilot Basis, 1996

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1 **Provisional Measures on the Establishment of**
2 **Sino-Foreign Joint Venture Trading Companies on a**
3 **Pilot Basis**
4 **(Promulgated by Decree No.3 Ministry of Foreign Trade**
5 **and Economic Cooperation on September 30,**
6 **1996)**

7 **Article 1**

8 With a view to further expanding opening-up to the outside
9 world and promoting the development of China's foreign trade,
10 these Measures are hereby formulated in accordance with the
11 Foreign Trade Law of the People's Republic of China and the
12 Law of the People's Republic of China on Joint Ventures Using
13 Chinese and Foreign Investment as well as other relevant laws
14 and regulations.

15 **Article 2**

16 These Measures shall be applicable to Sino-foreign joint venture
17 trading companies (hereinafter referred to as "joint venture trading
18 companies") specialized in import and export trade which are es-
19 tablished by foreign companies or enterprises (hereinafter referred
20 to "foreign companies" and Chinese companies or enterprises (hereinafter referred to as "Chinese companies") within the territory of China (the pilot places).

21 **Article 3**

22 A joint venture trading company shall be a company of limited liabil-
23 ities. The shares of the Chinese company in the registered capital
24 of a joint venture trading company shall be no less than 51% and

25 that of the foreign company shall be at least 25%. The legal repre-
26 sentative shall be appointed by the Chinese company.

27 **Article 4**

28 The establishment of a joint venture trading company shall satisfy
29 the following conditions upon its establishment:

30 1. The foreign company shall

31 (1) enjoy a turnover of over US \$ 5 billion in the year prior to the
32 application;

33 (2) enjoy an average annual trading volume of over US \$ 30 million
34 with China in the three years prior to the application;

35 (3) have established representative office within the territory of
36 China for more than three years or have made an investment of
37 over US \$ 30 million within the territory of China prior to the appli-
38 cation.

39 2. The Chinese company shall

40 (1) enjoy foreign trade rights;

41 (2) enjoy an average annual foreign trade volume of over US \$ 200
42 million, among which the export volume shall be no less than US \$
43 100 million in the three years prior to the application; and

44 (3) have established more than 3 branches, subsidiaries and joint
45 ventures outside China, each with an average annual turnover of
46 over US \$ 10 million in the three years prior to the application.

47 3. A joint venture trading company shall

48 (1) have a registered capital of no less than RMB100 million
49 yuan;

50 (2) have its own name and organization;

(3) have its own operational venue, professionals and other necessary physical conditions compatible with its foreign trade operations.

Article 5

In applying for the establishment of a joint venture trading company, the Chinese company shall submit, through the local department responsible for foreign trade and economic cooperation, the following documents for examination to the national authorities in charge of foreign trade and economic cooperation:

1. A project proposal, a feasibility study report signed by both the Chinese and foreign parties, the relevant contract and articles of association;

2.(Copies of) Documents certifying the registrations of all Chinese and foreign parties, and documents certifying the credit-worthiness and the legal representatives of the Chinese and foreign parties;

3.(Copies of) Certificates of approval of the enterprises invested by the foreign company in China or (copies of) certificates of approval of the representative office established in China, (copies of) business licenses and report of registered capital verification issued by accounting firms registered in China;

4.(Copies of) Certificates of the registration of the branches, subsidiaries and joint ventures established by the Chinese company outside China;

5. Balance sheets of all Chinese and foreign parties in the recent three years and certificates of confirmation issued by auditing organizations;

6. Business scope of the proposed joint venture trading company ; and

7. Other documents required by the state competent authorities responsible for foreign trade and economic cooperation.

An approving certificate shall be issued by national authorities responsible for foreign trade and economic cooperation to a joint venture trading company after the approval by the State Council following the examination by national authorities responsible for foreign trade and economic cooperation.

Article 6

Once an application for the establishment of a joint venture trading company is approved by the state, the Chinese company shall go through, upon presentation of the approval certificate, the registration procedures with administrative authorities for industry and commerce within one month from the date of the approval, and shall go through the financial registration procedures with the competent financial authorities within one month from the date of the business registration.

Article 7

The foreign company shall make its contribution to the registered capital of the joint venture trading company in freely convertible currencies while the Chinese company may contribute in Renminbi-the Chinese currency, in kind, in tangible assets or other property rights.

Joint venture partners to a joint venture trading company shall pay up the full amount of their respective subscribed contributions within one month from the date of the issuance of the business license.

Article 8

38 A joint venture trading company shall undertake import and export of goods and technology either for itself or on proxy within the approved business scope and shall not undertake other business without approval.

Article 9

39 A joint venture trading company which imports and exports commodities subject to state quota and licensing administration shall file an application with competent authorities concerned according to relevant state provisions, and shall only undertake import or export of such commodities upon approval of the application. A joint venture trading company which imports and exports commodities subject to quota tendering of the state shall participate in the tendering in line with rules on tender invitation and bidding of import and export commodities formulated by the competent authorities concerned.

Article 10

41 A joint venture trading company shall settle, purchase and transfer foreign exchange according to relevant provisions applicable to state-owned foreign trading companies. A joint venture trading company must maintain foreign exchange balance. Specific administrative rules for this purpose shall be formulated by the People's Bank of China in consultation with national authorities responsible for foreign trade and economic cooperation.

Article 11

43 A joint venture trading company shall pay taxes according to the

37 state's taxation laws and regulations, while the state shall refund taxes for the exported products according to provisions on the export tax refund for state-owned foreign trading companies.

Article 12

45 A joint venture trading company shall submit financial, accounting and statistical statements and reports to the local competent authorities in a timely fashion and in line with Chinese laws and regulations governing financial, accounting and statistical procedures.

Article 13

47 A joint venture trading company shall apply for membership in a chamber of commerce for importers and exporters or association of enterprises with foreign investment and shall subordinate itself to the coordination of the chamber of commerce or association.

Article 14

49 A joint venture trading company shall abide by laws and regulations of China and subordinate itself to the jurisdiction of Chinese laws and regulations, and shall have its legitimate rights and interests protected by Chinese laws and regulations.

51 A joint venture trading company which has violated Chinese law or regulations shall be dealt with according to relevant laws and regulations, and a joint venture trading company which has violated these Measures shall be dealt with by the competent authorities administering foreign trade and economic cooperations.

Article 15

52

53 Joint venture foreign trading companies set up by companies or en-
terprises in HongKong, Macao and Taiwan regions and companies
or enterprises in the mainland of China shall be treated in reference
to these Measures.

Article 16

54

55 The places for the experimentation and the number of pilot com-
panies shall be determined by the State Council. For the time be-
ing, the pilot program shall be conducted only in the Pudong New
Development Area in Shanghai and Shenzhen Special Economic
Zone.

Article 17

56

57 These Measures shall enter into force on the date of promulgation,
and the power of interpretation is vested in the national competent
authorities for foreign trade and economic cooperation.

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