

CHINA'S FOREIGN ECONOMIC LEGISLATION

Vol. I

**中国
对外
经济
法规
汇编**

第一辑

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Volume 1

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PUBLISHER'S NOTE

In view of her growing economic relations with other countries and regions, the People's Republic of China has enacted and promulgated a series of laws and regulations governing these relations, which are of interest to foreigners, overseas Chinese, compatriots in Hongkong and Macao as well as compatriots in Taiwan Province. The present collection may further their understanding of the PRC's economic policies towards foreign countries and the relevant legislation.

The English texts of the laws and regulations contained in this volume are not authorized by official quarters, and the Chinese originals must be referred to in case of ambiguities and possible misinterpretations.

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**THE LAW OF THE PEOPLE'S REPUBLIC
OF CHINA ON CHINESE-FOREIGN
JOINT VENTURES**

*(Adopted by the Second Session of the Fifth
National People's Congress on July 1, 1979
and Promulgated on and Effective as
of July 8, 1979)*

Article 1 With a view to expanding international economic co-operation and technical exchange, the People's Republic of China permits foreign companies, enterprises, other economic organizations or individuals (hereafter referred to as "foreign joint venturers") to join with Chinese companies, enterprises or other economic organizations (hereafter referred to as "Chinese joint venturers") in establishing joint ventures in the People's Republic of China in accordance with the principle of equality and mutual benefit and subject to approval by the Chinese Government.

Article 2 The Chinese Government protects, in accordance with the law, the investment of foreign joint venturers, the profits due them and their other lawful rights and interests in a joint venture, pursuant to the agreement, contract and articles of association approved by the Chinese Government.

All the activities of a joint venture shall comply

with the provisions of the laws, decrees and pertinent regulations of the People's Republic of China.

Article 3 The joint venture agreement, contract and articles of association signed by the parties to the venture shall be submitted to the Foreign Investment Commission of the People's Republic of China, and the Commission shall, within three months, decide whether to approve or disapprove them. After approval, the joint venture shall register with the General Administration for Industry and Commerce of the People's Republic of China, obtain a licence to do business and start operations.

Article 4 A joint venture shall take the form of a limited liability company.

The proportion of the investment contributed by the foreign joint venturer(s) shall generally not be less than 25% of the registered capital of a joint venture.

The parties to the venture shall share the profits, risks and losses in proportion to their respective contributions to the registered capital.

No assignment of the registered capital of a joint venturer shall be made without the consent of the other parties to the venture.

Article 5 Each party to a joint venture may make its investment in cash, in kind or in industrial property rights, etc.

The technology and the equipment that serve as a foreign joint venturer's investment must be advanced technology and equipment that actually suit our country's needs. If the foreign joint venturer causes losses by deception through the intentional use of backward technology and equipment,

it shall pay compensation for the losses.

The investment of a Chinese joint venturer may include the right to the use of a site provided for the joint venture during the period of its operation. If the right to the use of the site does not constitute a part of a Chinese joint venturer's investment, the joint venture shall pay the Chinese Government a fee for its use.

The various investments referred to above shall be specified in the joint venture contract and articles of association, and the value of each (excluding that of the site) shall be jointly assessed by the parties to the venture.

Article 6 A joint venture shall have a board of directors, which shall have its size and composition stipulated in the contract and the articles of association after consultation between the parties to the venture, and the directors shall be appointed and replaced by the parties to the venture. The board of directors shall have a chairman, whose office shall be assumed by the Chinese joint venturer(s), and one or two vice-chairmen, whose office(s) shall be assumed by the foreign joint venturer(s). In handling major problems, the board of directors shall reach a decision through consultation by the parties to the venture, in accordance with the principle of equality and mutual benefit.

The board of directors is empowered, pursuant to the provisions of the articles of association of the joint venture, to discuss and decide all major problems of the venture: expansion programmes, proposals for production and operating activities, the budget for revenues and expenditures, distribution

of profits, plans concerning manpower and pay scales, the termination of business and the appointment or employment of the president, the vice-president(s), the chief engineer, the treasurer and the auditors, as well as their powers and terms of employment, etc.

The offices of president and vice-president(s) (or factory manager and deputy manager(s)) shall be assumed by the respective parties to the venture.

The employment and dismissal of the staff and workers of a joint venture shall be provided for in accordance with the law in the agreement and contract of the parties to the venture.

Article 7 After payment out of the gross profit earned by the joint venture of the joint venture income tax, pursuant to the provisions of the tax laws of the People's Republic of China, and after deduction from the gross profit of a reserve fund, a bonus and welfare fund for staff and workers, and a venture expansion fund, as provided in the articles of association of the joint venture, the net profit shall be distributed to the parties to the joint venture in proportion to their respective contributions to the registered capital.

A joint venture that possesses advanced technology by world standards may apply for a reduction of or exemption from income tax for the first two to three profit-making years.

A foreign joint venturer that reinvests in China its share of the net profit may apply for refund of a part of the income taxes already paid.

Article 8 A joint venture shall open an account with the Bank of China or a bank approved by the

Bank of China.

The pertinent foreign exchange transactions of a joint venture shall be conducted in accordance with the regulations on foreign exchange control of the People's Republic of China.

In its operating activities a joint venture may directly raise funds from foreign banks.

The various kinds of insurance coverage of a joint venture shall be furnished by Chinese insurance companies.

Article 9 The production and operating plans of a joint venture shall be filed with the departments in charge and shall be implemented through economic contracts.

In its purchase of required raw and processed materials, fuels, parts and auxiliary equipment, etc., a joint venture should give first priority to purchases in China. It may also purchase them directly from the international market with foreign exchange raised by itself.

A joint venture is encouraged to market its products outside China. Export products may be distributed to foreign markets through the joint venture directly or through associated agencies, and they may also be distributed through China's foreign trade agencies. Products of the joint venture may also be distributed in the Chinese market.

Whenever necessary, a joint venture may establish branches outside China.

Article 10 The net profit that a foreign joint venturer receives after fulfilling its obligations under the laws and the agreement and the contract, the funds it receives at the time of the joint ven-

ture's scheduled expiration or early termination, and its other funds may be remitted abroad through the Bank of China in accordance with the foreign exchange regulations and in the currency specified in the joint venture contract.

A foreign joint venturer shall be encouraged to deposit in the Bank of China foreign exchange that it is entitled to remit abroad.

Article 11 The wages, salaries and other legitimate income earned by the foreign staff and workers of a joint venture, after payment of the individual income tax under the tax laws of the People's Republic of China, may be remitted abroad through the Bank of China in accordance with the foreign exchange regulations.

Article 12 The contract period of a joint venture may be decided through consultation by the parties to the venture according to its particular line of business and circumstances. Upon the expiration of the joint venture contract period, if the parties have agreed, the period may be extended, subject to approval by the Foreign Investment Commission of the People's Republic of China. An application for extension of the contract shall be made six months before expiration of the contract.

Article 13 Before the expiration of the joint venture contract period, in case of heavy losses, failure of a party to fulfil the obligations prescribed by the contract and the articles of association, force majeure, etc., the contract may be terminated before the date of expiration through consultation and agreement by the parties to the venture, subject to approval by the Foreign Investment Commission of

the People's Republic of China and to registration with the General Administration for Industry and Commerce. In cases of losses caused by a breach of contract, the financial responsibility shall be borne by the party that has violated the contract.

Article 14 Disputes arising between the parties to a joint venture that the board of directors cannot settle through consultation may be settled through mediation or arbitration by a Chinese arbitration agency or through arbitration by another arbitration agency agreed upon by the parties to the venture.

Article 15 This Law shall come into force on the day of its promulgation. The power to amend this Law is vested in the National People's Congress.

中华人民共和国 中外合资经营企业法

（一九七九年七月一日第五届全国人民代表大会
第二次会议通过，一九七九年七月八日公布施行）

第一条 中华人民共和国为了扩大国际经济合作和技术交流，允许外国公司、企业和其它经济组织或个人（以下简称外国合营者），按照平等互利的原则，经中国政府批准，在中华人民共和国境内，同中国的公司、企业或其它经济组织（以下简称中国合营者）共同举办合营企业。

第二条 中国政府依法保护外国合营者按照经中国政府批准的协议、合同、章程在合营企业的投资、应分得的利润和其他合法权益。

合营企业的一切活动应遵守中华人民共和国法律、法令和有关条例规定。

第三条 合营各方签订的合营协议、合同、章程，应报中华人民共和国外国投资管理委员会，该委员会应在三个月内决定批准或不批准。合营企业经批准后，向中华人民共和国工商行政管理总局登记，领取营业执照，开始营业。