

Rules for the Implementation of the Law of the People's Republic of China on Foreign-funded Enterprises

(Revised according to the Decision of the State Council Regarding the Revision of Rules for the Implementation of the Law of the People's Republic of China on Foreign-funded enterprises on April 12, 2001, approved on October 28, 1990 by the State Council, issued on December 12, 1990 by the Ministry of Foreign Economic Relations and Trade)

Chapter I General Provisions

Article 1 These Rules are formulated according to the Law of the People's Republic of China on Foreign-funded enterprises.

Article 2 Foreign-funded enterprises shall be subject to and under the protection of Chinese Law.

Foreign-funded enterprises engaging in business in the People's Republic of China must abide by Chinese laws and regulations and must not harm the social and public interests of China.

Article 3 A foreign-funded enterprise to be established must benefit the development of China's national economy and be capable of gaining remarkable economic results. The state encourages foreign-funded enterprises to use advanced technology and equipment, engage in the development of new products, realize the upgrading of products and the replacement of old products with new ones, economize energy and raw materials, and it is also encouraged to establish foreign-funded enterprises which are export oriented.

Article 4 Trades in which the establishment of foreign-funded enterprises is forbidden or restricted shall be determined and established according to the provisions regarding state guidance for foreign investment orientation and guiding catalogue of industries for foreign investment.

Article 5 No application for the establishment of a foreign-funded enterprise shall be approved if the proposed enterprise is under any of the following circumstances:

(1) injuring China's sovereignty or social and public interests;

- (2) endangering China's national security;
- (3) in violation of Chinese laws and regulations;
- (4) not in keeping with the requirements of China's national economic development;
- (5) may result in environmental pollution.

Article 6 A foreign-funded enterprise shall, within the approved scope of business, have its autonomy in operation and management, and be free from any interference.

Chapter II Establishment Procedures

Article 7 The application for the establishment of a foreign-funded enterprise shall be subject to the examination and approval by the Ministry of Foreign Trade and Economic Cooperation of the People's Republic of China (hereinafter referred to as the MFTEC), which shall issue a certificate of approval to those approved.

If any applications for the establishment of a foreign-funded enterprise is under any one of the following circumstances, the State Council shall authorize the people's government of the relevant province, autonomous region, municipality directly under the Central Government, city directly under State planning or special economic zone to conduct the examination and approval and issue a certificate of approval to those approved:

- (1) the total amount of investment is within the limits of power for the examination and approval of investment stipulated by the State Council;
- (2) the enterprise shall not need any raw materials to be allocated by the state, and not influence unfavorably the national comprehensive balance of energy resources, communications and transportation and export quotas for foreign trade.

The people's government of the relevant province, autonomous region, municipality directly under the Central Government, city directly under State planning or special economic zone that has, within the authorization by the State Council, approved any application for the establishment of a foreign-funded enterprise shall, within 15 days since the approval has been issued, report to the MFTEC for record (hereinafter the Ministry of Foreign Trade and Economic Cooperation and the people's government of the relevant province, autonomous region, municipality directly under the Central Government, city directly under State planning and special economic zone shall be, in general, referred to as the examining and approving authority).

Article 8 With regard to any foreign-funded enterprise that applies for establishment, if its products shall involve export license, export quota, import license or the import of which is restricted by the state, a prior consent shall be obtained from the competent authority of foreign economic relations and trade in accordance with the relevant administrative power.

Article 9 Before submitting any application for the establishment of a foreign-funded enterprise, the foreign investor shall submit to the local people's government at or above the county level at the place where the foreign-funded enterprise is to be established a report regarding matters such as the purpose of the enterprise, its scope and scale of business, products, technology and equipment, land area to be needed and related requirements, conditions and quantities of water, electricity, coal, coal gas or other energy resources required, and requirements to public facilities. The relevant local people's government at or above the county level shall, within 30 days from the date of receiving the report submitted by the foreign investor, give him a reply in writing.

Article 10 Any foreign investor who wishes to establish a foreign-funded enterprise shall submit an application to the examining and approving authority through the relevant local people's government at or above the county level at the place where the foreign-funded enterprise is to be established, together with the following documents:

- (1) a written application for the establishment of the foreign-capital enterprise;
- (2) a feasibility study report;
- (3) the articles of association of the foreign-funded enterprise;
- (4) a list of legal representative (candidates for the future board of directors) of the foreign-funded enterprise;
- (5) the legal documentation and credit certificate of the foreign investor;
- (6) the written reply given by the relevant local people's government at or above the county level at the place where the foreign-funded enterprise is to be established;
- (7) an inventory of goods and materials that shall be imported;
- (8) other documents as may be required.

Documents of (1) and (3) of the preceding paragraph must be prepared in Chinese, while those of (2), (4) and (5) of the same paragraph may be written in a foreign language but the corresponding Chinese translations should be attached.

If two or more foreign investors jointly apply for the establishment of a foreign-funded enterprise, they shall submit a copy of the contract between them two to the examining and approving authority for record.

Article 11 The examining and approving authority shall, within 90 days from the date of receiving all the documents required for the application for the establishment of a foreign-funded enterprise, make a decision on whether to approve or disapprove the application. When finding that the documents mentioned above are not complete or that some of them are inappropriate, the examining and approving authority may demand supplementation and corrections to be made within a prescribed time limit.

Article 12 The foreign investor shall, within 30 days from the date of receiving the approval certificate issued by the examining and approving authority, apply for registration with and obtain business license from the administrative department for industry and commerce. The date of issue of the business license of the foreign-funded enterprise shall be the date of its establishment.

If the foreign investor fails to apply to the administrative department for industry and commerce for registration within 30 days from the date of receiving the approval certificate for the establishment of the foreign-funded enterprise, the approval certificate shall become invalid automatically.

The foreign-funded enterprise shall, within 30 days from the date of establishment, conduct taxation registration with the tax authorities.

Article 13 Any foreign investor may appoint a Chinese service agency for foreign-funded enterprises or any other economic organization to handle the affairs stipulated in Article 8, in the first paragraph of Article 9 and Article 10 of these Rules, provided that a contract of entrustment shall be concluded between them.

Article 14 A written application for the establishment of a foreign-funded enterprise shall contain:

- (1) the name, domicile, place of registration of the foreign investor, and the name, nationality and position of its legal representative;
- (2) the name and domicile of the foreign-funded enterprise that is to be established;
- (3) the scope of business, products and production scale;
- (4) the total amount of investment, registered capital, source of funds, form of investment and duration of the foreign-funded enterprise;

- (5) the form of organization, internal departments and legal representative of the foreign-funded enterprise;
- (6) the primary production equipment to be used and the degrees of depreciation thereof, production technology and the level thereof, as well as the sources of all of them;
- (7) sales orientation and territories, as well as sales channels and methods, of the products;
- (8) arrangements for the revenues and expenditures of foreign exchange;
- (9) relevant establishments of the internal departments and sizes of the personnel thereof, arrangements for matters such as the recruitment, training, salaries and wages, welfare, insurance and labor protection of and for workers and staff members;
- (10) the degrees of possible environmental pollution and measures for solving this problem;
- (11) the site of the enterprise and the area thereof;
- (12) funds, energy, raw materials to be needed in capital construction and in production and operations, and the solutions thereof;
- (13) schedule of the project;
- (14) duration of the foreign-funded enterprise that is to be established.

Article 15 The articles of association of a foreign-funded enterprise shall contain:

- (1) the name and domicile;
- (2) the aim and scope of business;
- (3) the total amount of investment, registered capital, and the time limit of capital subscription;
- (4) the form of organization;
- (5) the establishments of the internal departments and their functions and powers and rules of procedures, duties and power limits of the legal representative and of other persons such as the general manager, chief engineer and chief accountant;
- (6) the principles and system of financial affairs, accounting and auditing;
- (7) labor management;
- (8) the operating period, termination and liquidation of the enterprise;
- (9) procedures for amending the articles of association.

Article 16 The articles of association of a foreign-funded enterprise shall become effective upon the approval by the examining and approving authority. The same procedure shall apply whenever any amendment thereto is made.

Article 17 Any division or merger of foreign-funded enterprises or any of their significant changes in capital resulting from any other causes shall be subject to the approval by the examining and approving authority, and for which changes, the relevant enterprises shall engage a Chinese certified public accountant to make verification and render a capital verification report; upon approval by the examining and approving authority, the enterprises shall go through the procedures for the change of registration with the administrative department for industry and commerce.

Chapter III Form of Organization and Registered Capital

Article 18 The form of organization of a foreign-funded enterprise shall be a limited liability company. Other liability forms may be adopted by approval.
In case of a limited liability company, the foreign investor shall be liable for the enterprise to the extent of what he has contributed for the capital.
In case of any other liability form, the foreign investor shall be liable for the enterprise according to Chinese laws and regulations.

Article 19 The total amount of investment of a foreign-funded enterprise refers to the total amount of funds required for opening the foreign-funded enterprise, i.e. the sum total of the funds invested in capital construction in accordance with the production scale and the circulating funds for production.

Article 20 The registered capital of a foreign-funded enterprise refers to the total amount of capital registered with the administrative department for industry and commerce for the purpose of establishing the foreign-funded enterprise, i.e. the total amount of investment that the foreign investor undertakes to contribute.
The amount of registered capital of a foreign-funded enterprise must be in keeping with the enterprise's operation scale, and the ratio between the registered capital and the total amount of investment shall conform to the relevant Chinese provisions.

Article 21 In its operating period, no foreign-funded enterprise may reduce their registered capital. If however, it is really needed to make such reduction due to some changes such as those in the total amount of investment or production scale, it may be reduced upon the approval by the examining and approving authority.

Article 22 Any increase or assignment of the registered capital of a foreign-funded enterprise shall be subject to the approval by the examining and approving authority, and then the enterprise shall go through the procedures for change of registration with the administrative department for industry and commerce.

Article 23 Where any foreign-funded enterprise intends to mortgage or assign its assets or right and interests to a third party, the case shall be submitted to the examining and approving authority for approval, and then to the administrative department for industry and commerce for record.

Article 24 The legal representative of a foreign-funded enterprise is the person-in-charge who, in accordance with the enterprise's articles of association, executes his/her functions and powers on behalf of the enterprise.
If the legal representative is unable to execute his/her functions and powers, he/she shall entrust in writing an agent with the execution of his/her functions and powers.

Chapter IV Form of Investments and Time Limit for Contributing Investments

Article 25 The foreign investors may make their investments with convertible foreign currencies, or with machinery and equipment, with industry property rights and proprietary technology by appraising the values of them.
Upon the approval by the examining and approving authority, the foreign investors may also make their investments with their profits in Renminbi from any other enterprises established in China with their investments.

Article 26 Machinery and equipment to be contributed by the foreign investor as investment must be those needed for the production of the foreign-funded enterprise. The appraised value of the machinery and equipment may not be higher than the normal price of machinery and equipment of the same kind in international market at that time.

An inventory must be made for all the machinery and equipment to be contributed as investment, it shall include the name, type, quantity and appraised value of the machinery and equipment, and shall be submitted to the examining and approving authority together with the application for the establishment of the foreign-funded enterprise as an attachment to the application.

Article 27 The industrial property rights and proprietary technology to be contributed as investment by the foreign investor must be owned by the foreign investor. Such industrial property rights and proprietary technology must be appraised in accordance with the relevant international rules, and the value amount of them may not exceed 20% of the registered capital of the foreign-funded enterprise. Detailed information must be prepared for the industrial property rights and proprietary technology appraised to be contributed as investment, including the copy of certificate of the title, validity of the title, and their technical performance, practical value, and the basis and standard on and according to which the value has been appraised, and it shall be submitted to the examining and approving authority together with the application for the establishment of the foreign-funded enterprise as an attachment to the application.

Article 28 Upon arrival at any port of China of the machinery and equipment contributed as investment, the foreign-funded enterprise shall apply for inspection to China's commodity inspection authority, which shall render an inspection report. Where the machinery and equipment contributed as investment are inconsistent with those listed in the inventory submitted by the foreign investor to the examining and approving authority in type, quality or quantity, the examining and approving authority may demand corrections by the foreign investor within a prescribed time limit.

Article 29 After the industrial property rights and proprietary technology appraised have been put to use, the examining and approving authority shall have the power to inspect them, and demand corrections by the foreign investor, within a prescribed time limit, if they are inconsistent with the industrial property rights and proprietary technology prescribed in the information submitted by the foreign investor.

Article 30 The time limit for the foreign investor to make his investment contributions must be clearly indicated in both the application for the establishment of the foreign-funded enterprise and the enterprise's articles of association. The foreign investor may contribute the investment in installments, provided that the last installment shall be made within three years from the date of issue of the business license. The first installment may not be less than 15% of the total amount to be contributed by the foreign investor, and shall be made within 90 days from the date of

issue of the business license of the foreign-funded enterprise.

If the foreign investor fails to make the first installment within the time limit prescribed in the preceding paragraph, the approval certificate for the foreign-funded enterprise shall become invalid automatically, and the foreign-funded enterprise shall go through the procedures for cancellation of registration and hand in the business license for cancellation with the administrative department for industry and commerce or, if the foreign-funded enterprise fails to go through the procedures for cancellation of registration and fails to hand in the business license for cancellation, the administrative department for industry and commerce shall revoke the business license and make an announcement to the public.

Article 31 The installments other than the first one shall be made by the foreign investor within each prescribed time limit.

If an installment has not been made 30 days after the time limit, the second paragraph of the Article 30 shall apply.

If the foreign investor has any reasonable ground for the extension of time for making an installment, he should get the approval by the examining and approving authority and the extension of time shall be submitted to the administrative department for industry and commerce for record.

Article 32 For each installment made by the foreign investor, the foreign-funded enterprise shall engage a Chinese certified public accountant to make verification and render a capital verification report, which shall be submitted to the examining and approving authority and the administrative department for industry and commerce for record.

Chapter V Use of Land and the Land Use Fee

Article 33 The local people's government at or above the county level at the place where the foreign-funded enterprise is to be established shall make arrangements for the land to be used by the foreign-funded enterprise after examination and verification in the light of the local conditions.

Article 34 The foreign-funded enterprise shall, within 30 days from the date of issue of its business license, go through the procedures for use of land with and obtain land certificate from the department of land administration of the people's government at

or above the county level at the place where the foreign-funded enterprise is to be established, by presenting the approval certificate and business license.

Article 35 The land certificate shall be a legal certificate by which the foreign-funded enterprise may use a certain piece of land. In its operating period, no foreign-funded enterprise may assign its right to use land without authorization.

Article 36 For obtaining land certificate, the foreign-funded enterprise must pay land use fee to the department of land administration at the place where the enterprise is to be established.

Article 37 For using developed land, the foreign-funded enterprise must pay land development fee.

The land development fee mentioned in the preceding paragraph includes the expenses for requisition of the land, and expenses for demolition and resettlement allowances, as well as expenses for the construction of infrastructure needed by the foreign-funded enterprise. The land development fee may be calculated and collected by the land development enterprise once for all or in yearly installments.

Article 38 Where a piece of land not yet developed is to be used, the foreign-funded enterprise may either develop the land by itself or entrust a relevant Chinese enterprise to develop the land. The people's government at or above the county level at the place where the foreign-funded enterprise is to be established shall make overall arrangements for the construction of infrastructure.

Article 39 The standards for calculating and collecting the land use fee and land development fee paid by foreign-funded enterprises shall abide by the relevant provisions of China.

Article 40 The term for land use by the foreign-funded enterprise shall be the same as the approved operating period of this enterprise.

Article 41 In addition to the present Chapter, a foreign-funded enterprise may obtain the right to use land in accordance with other regulations in China.

Chapter VI Purchasing and Marketing

Article 42 Any foreign-funded enterprise may make decisions by itself on the purchase, for its own use, of machinery and equipment, raw materials, fuels, parts and components, auxiliary equipment, primary parts, means of transportation, office appliance (hereinafter referred to as goods and materials in general).

When purchasing goods and materials in China, any foreign-funded enterprise shall enjoy the same treatment as that enjoyed by Chinese enterprises under the same conditions.

Article 43 Any foreign-funded enterprise may sell its products in Chinese market. The state encourages all foreign-funded enterprises to export their products.

Article 44 Any foreign-funded enterprise may export their products either by themselves or by entrusting a Chinese foreign trade company or a company outside China with the sale of their products.

A foreign-funded enterprise may sell their products in China either by themselves or by entrusting any commercial organization with the sale of their products.

Article 45 Where any machinery and equipment contributed by a foreign investor as his investment is subject to import license according to the Chinese provisions, the relevant foreign-funded enterprise shall, by presenting the relevant approved inventory of equipment and goods and materials to be imported, apply for import license to the license issuing authority either directly or through an agency.

The foreign-funded enterprise shall prepare their annual import plans for goods and materials that are to be imported for their own use and necessary to their production within the approved scope of business, and apply for the import license to the license issuing authority every six months, if the import of goods and materials is subject to import license according to the Chinese provisions.

The foreign-funded enterprise shall prepare their annual export plans for products that are to be exported, and apply for the export license to the license issuing authority every six months, if the export of products is subject to export license according to the Chinese provisions.

Article 46 The price of goods and materials and any technical service imported by the foreign-funded enterprise shall not be higher than the normal price for goods and materials and technical services of the same kind in international market at that time.

The price for the export products of a foreign-funded enterprise shall be determined by the enterprise itself in the light of the relevant prices in international market at that time, provided that they shall not be lower than reasonable export prices. If any enterprise evades taxes by importing products at a high price or exporting products at a low price, the legal responsibility of the relevant enterprise shall be investigated according to tax law by the tax authority.

Article 47 Any foreign-funded enterprise shall provide statistical data and submit statistical statements to the departments concerned in accordance with the provisions of the Statistics Law of the People's Republic of China and the relevant provisions of China concerning the statistical system for the utilization of foreign capital.

Chapter VII Taxation

Article 48 Any foreign-funded enterprise shall pay taxes in accordance with Chinese laws and regulations.

Article 49 Workers and staff members of a foreign-funded enterprise shall pay individual income tax in accordance with Chinese laws and regulations.

Article 50 Taxes on the following goods and materials imported by a foreign-funded enterprise shall be exempted or reduced in accordance with Chinese tax law:

- (1) machinery and equipment, parts and components, materials for construction, and materials needed for installing and fixing the machinery, which are contributed as investment by the foreign investor;
- (2) machinery and equipment, parts and components, means of transportation for production, and production management equipment, which are imported, for their own use in production, by the foreign-funded enterprise with funds within its total amount of investment;
- (3) raw materials, auxiliary materials, primary parts, parts and components and packing materials imported by the foreign-funded enterprise for producing export products.

Where any goods and materials imported as mentioned in the preceding paragraph are, upon approval, resold in the territory of China or used for producing products to be sold in China, the relevant foreign-funded enterprise shall, in accordance with Chinese tax law, pay the taxes that were exempted or reduced.

Article 51 The export commodities produced by the foreign-funded enterprises may enjoy tax reduction, exemption or refund according to the relevant provisions of Chinese tax law, except those whose export is restricted by China.

Chapter VIII Foreign Exchange Control

Article 52 Foreign exchange affairs of a foreign-funded enterprise shall be handled in accordance with Chinese regulations concerning foreign exchange control.

Article 53 A foreign-funded enterprise shall, on the strength of the business license issued by the administrative department for industry and commerce, open an account at a bank in China that may handle foreign exchange business, which shall supervise the foreign exchange receipts and payments by the foreign-funded enterprise. The foreign exchange revenues of the foreign-funded enterprise shall be deposited to its account and the foreign exchange expenditures of the enterprise shall be made from its foreign exchange account.

Article 54 Where any foreign exchange account is to be opened at a bank outside China as required by its production and operation, the foreign-funded enterprise shall submit the case to the Chinese administrative department for foreign exchange control for approval and, according to the provisions of the latter, make regular reports on its receipts and payments of foreign exchange, and provide bank statements.

Article 55 Wages and salaries as well as any other legitimate income in foreign exchange of foreign workers and staff members, or of the workers and staff members from Hong Kong, Macao or Taiwan, of a foreign-funded enterprise may be remitted outside China freely after the income tax is paid according to Chinese tax law.

Chapter IX Financial Management and Accounting

Article 56 A foreign-funded enterprise shall, in accordance with Chinese laws and regulations and provisions of the financial authority, set up its own financial and accounting systems and submit them to the local financial and tax authorities for record.

Article 57 A fiscal year of any foreign-funded enterprise shall begin from January 1 and end on December 31 of Gregorian calendar.

Article 58 A foreign-funded enterprise shall retain certain amount from its profits after the income tax has been paid in accordance with Chinese tax law as reserve funds, bonus and welfare funds for workers and staff members. The amount retained for the reserve funds shall not be less than 10% of the profits (profits after the income tax has been paid), the withdrawal may stop when the accumulated amount withdrawn has been up to 50% of the registered capital of the enterprise. The amount retained for bonus and welfare funds for workers and staff members shall be determined by the foreign-funded enterprise itself.

No foreign-funded enterprise may distribute its profits unless and until its deficits of previous fiscal years have been made up; undistributed profits of the previous fiscal years may be distributed together with the distributable profits of the current fiscal year.

Article 59 Accounting vouchers, account books and accounting statements made by a foreign-funded enterprise shall be prepared in Chinese; if they are written in any foreign language, notes in Chinese are required.

Article 60 A foreign-funded enterprise shall conduct their business accounting independently.

A foreign-funded enterprise shall prepare annual accounting statements and liquidation accounting statements in accordance with the provisions of Chinese financial and tax authorities. If an accounting statement is prepared in a foreign currency, a corresponding accounting statement in which the foreign currency is converted into Renminbi shall be prepared at the same time.

A foreign-funded enterprise shall engage Chinese certified public accountants to verify its annual accounting statements and liquidation accounting statements, and render verification reports accordingly.

The annual accounting statements and liquidation accounting statements of a foreign-funded enterprise, stipulated in the second and third paragraphs, as well as the relevant verification reports rendered by Chinese certified public accountants, shall be submitted within the prescribed time limit to the financial and tax authorities, and to the examining and approving authority and the administrative department for industry and commerce for record.

Article 61 Any foreign investor may engage Chinese or foreign accountants to audit the account books of the relevant foreign-funded enterprise, and shall bear the expenses.

Article 62 A foreign-funded enterprise shall submit their annual statements of assets and liabilities and annual profit and loss statements to the financial and tax authorities, and to the examining and approving authority and the administrative department for industry and commerce for record.

Article 63 The foreign-funded enterprise shall set up account books at the place where it is located, and shall be subject to the supervision by the financial and tax authorities. If there is any violation of the preceding paragraph, the financial and tax authorities may impose a fine, and the administrative department for industry and commerce may order a suspension of business or revoke the business license, on or of the violating foreign-funded enterprise.

Chapter X Workers and Staff Members

Article 64 The foreign-funded enterprise employing workers and staff members from China shall conclude labor contracts with the workers and staff members employed in accordance with Chinese laws and regulations. The contract shall contain such matters as employment, dismissal, remuneration, welfare, labor protection and labor insurance. No foreign-funded enterprise may employ child laborers.

Article 65 A foreign-funded enterprise shall be responsible for the vocational and technical training of its workers and staff members, set up checking and appraisal system, and make the workers and staff members capable of meeting the needs of the production and development of the enterprise.

Chapter XI Trade Union

Article 66 Workers and staff members of any foreign-funded enterprise shall be entitled to set up grass-roots trade union organizations and carry out trade union activities in accordance with the Trade Union Law of the People's Republic of China.

Article 67 The trade union in a foreign-funded enterprise, represents the interests of the relevant workers and staff members, and shall have the right to conclude labor contracts, on behalf of the workers and staff members, with the enterprise, and shall supervise the execution of such labor contracts.

Article 68 The basic tasks of the trade union in a foreign-funded enterprise shall be: to safeguard lawful rights and interests of the workers and staff members in accordance with the provisions of Chinese laws and regulations, and to assist the enterprise in making proper arrangements for and use of the welfare and bonus funds for worker and staff members; to organize for the workers and staff members political study, and study of scientific, technical and professional knowledge, and to carry out recreational and sports activities; to educate the workers and staff members to observe labor disciplines and strive to fulfill the economic tasks of the enterprise.

The representative of trade union in a foreign-funded enterprise shall have the right to attend, as an observer, meetings held to discuss and decide matters regarding rewards and punishment to workers and staff members, salary and wage system, welfare, labor protection and labor insurance, etc. The foreign-funded enterprise shall heed the opinions of the trade union, and win the cooperation thereof.

Article 69 The foreign-funded enterprise shall give an active support to the work of the trade union, and in accordance with the provisions of the Trade Union Law of the People's Republic of China, provide the trade union organization with housing and facilities necessary for office use, meeting, and carrying out collective undertakings of welfare, culture and sports for the workers and staff members. The foreign-funded enterprise shall, at a monthly basis, appropriate a sum of 2% of the actual total amount of wages and salaries of the workers and staff members, as funds of the trade union, which shall be used by the trade union in accordance with the relevant measures of All-China Federation of Trade Unions for the management of funds of trade unions.

Chapter XII Duration (Operating Period), Termination and Liquidation

Article 70 The duration of a foreign-funded enterprise shall, in the light of the circumstances of the specific trade and enterprise, be proposed by the relevant foreign investor in the application for the establishment of the foreign-funded enterprise, and shall be subject to the approval by the examining and approval authority.

Article 71 The duration of a foreign-funded enterprise shall be calculated from the date of issue of its business license.

In case of an intention to extend the duration of a foreign-funded enterprise, an application for such extension shall be submitted 180 days prior to the expiration of the duration to the examining and approving authority, which shall, within 30 days from the date of receiving the application, make a decision of approving or disapproving of the extension.

If the application for the extension of duration is approved, the foreign-funded enterprise shall, within 30 days from the date of receiving the approval, go through the procedures for change of registration with the administrative department for industry and commerce.

Article 72 A foreign-funded enterprise shall be terminated, if it is under any of the following circumstances:

- (1) upon the expiration of its duration;
- (2) if the foreign investor decides to dissolve it because of poor management and serious losses;
- (3) if the business cannot be carried on because of heavy losses resulting from force majeure such as natural disasters and wars;
- (4) if it becomes bankrupt;
- (5) if it is cancelled according to law due to its violation of Chinese laws and regulations or due to its harming the social and public interests; or
- (6) if any other cause for dissolution, stipulated in the articles of association of the foreign-funded enterprise, has occurred.

In case of circumstances of (2), (3) or (4) of the preceding paragraph, the foreign-funded enterprise shall, on its own initiative, submit an application for termination to the examining and approving authority for approval. The date of approval after verification by the examining and approving authority shall be the date of termination of the enterprise.

Article 73 In case of termination under (1), (2), (3) or (6) of Article 72 of these Rules, the foreign-funded enterprise shall, within 15 days from the date of termination, make a public announcement and notify the creditors of the termination and, within 15 day from the date of such announcement, put forward liquidation procedures, principles and candidates for the liquidation committee, submit them to the examining and

approving authority for verification and approval and, upon such approval, carry out the liquidation.

Article 74 The liquidation committee shall be composed of the legal representative of the foreign-funded enterprise, representative of creditors and representatives from the competent authorities concerned, and Chinese certified public accountants and lawyers shall also be engaged to participating in the liquidation.

Article 75 The liquidation committee shall execute the following functions and powers:

- (1) to convene meetings of creditors;
- (2) to take over and liquidate the property of the enterprise, and to prepare the statement of assets and liabilities and inventory of the property;
- (3) to propose a basis for the valuation and computation of the property of the enterprise;
- (4) to work out a liquidation plan;
- (5) to recover and discharge debts;
- (6) to recover payments payable but not yet paid by shareholders;
- (7) to distribute the residual property;
- (8) to institute and respond to actions on behalf of the enterprise.

Article 76 The foreign investor may not remit or carry the enterprise's money out of the territory of China, nor dispose of the enterprise's property privately, until the liquidation of the foreign-funded enterprise is gone through.

The net assets and residual property of a foreign-funded enterprise, after the liquidation is gone through, shall be treated as profit and subject to income tax in accordance with Chinese tax law.

Article 77 When the liquidation is completed, the foreign-funded enterprise shall go through the procedures for cancellation of registration with and hand in its business license for cancellation to the administrative department for industry and commerce.

Article 78 Chinese enterprises and other economic organizations shall, under equal conditions, have the right of preemption to assets to be disposed of during the liquidation of any foreign-funded enterprise.

Article 79 In case of termination of a foreign-funded enterprise under (4) of Article 72 of these Rules, the liquidation shall be conducted by reference to Chinese laws and regulations.

In case of termination of a foreign-funded enterprise under (5) of Article 72 of these Rules, the liquidation shall be conducted in accordance with the relevant Chinese provisions.

Chapter XIII Supplementary Provisions

Article 80 All foreign-funded enterprise shall buy their various insurances from insurance companies in China.

Article 81 All contracts between a foreign-funded enterprise and other company, enterprise or economic organization and individual shall be governed by the Contract Law of the People's Republic of China.

Article 82 Enterprises, which are wholly owned by any company, enterprise or other economic organization or individual from Hong Kong, Macao or Taiwan or by any overseas Chinese, established with his total capital in the mainland of China, shall be handled by reference to these Rules.

Article 83 Foreign workers and staff members, workers and staff members from Hong Kong, Macao and Taiwan, of any foreign-funded enterprise may carry into the mainland of China means of transportation and articles for daily use that are within reasonable quantities and for their own use, and shall go through import formalities.

Article 84 These Rules shall come into force as of the date of promulgation.