

Provisions on the Administration of Road Transport Services with Foreign Investment

Decree [2001] No.9 of the Ministry of Communications and the Ministry of Foreign Trade and Economic Corporation

The Provisions on the Administration of Road Transport Services with Foreign Investment are hereby promulgated and shall come into force on the day of promulgation.

Minister of the Ministry of Communications: Huang Zhendong

Minister of the Ministry of Foreign Trade and Economic Corporation: Shi Guangsheng

November 20, 2001

Article 1 In order to promote the opening to the outside world and the healthy development of the road transport services, and to normalize the examination and approval administration of road transport services with foreign investment, these Provisions are formulated according to the Law of the People's Republic of China on Chinese-foreign Equity Joint Ventures, the Law of the People's Republic of China on Chinese-foreign Contractual Joint Ventures, the Law of the People's Republic of China on Foreign-capital Enterprises and other relevant laws and regulations

Article 2 These Provisions shall apply to foreign businessmen investing in the road transport services within the territory of the People's Republic of China. The road transport services referred to in these Provisions shall include road passenger transport, road goods transport, road goods portage, loading and unloading, road goods storage, and other supplementary services and vehicle maintenance relating to road transport.

Article 3 Foreign businessmen are allowed to invest in and engage in the road transport services in the following forms:

1. Investing in and engaging in the road passenger transport in the form of Chinese and foreign equity joint venture;
2. Investing in and engaging in the road goods transport, road goods portage and loading and unloading, road goods storage and other supplementary services and vehicle maintenance relating to road transport in the form of Chinese and foreign equity joint venture, and Chinese and foreign contractual cooperation; and
3. Investing in and engaging in the road goods transport, road goods portage, loading and unloading, road goods road goods storage and other supplementary services and vehicle maintenance relating to road transport in the form of sole foreign investment. The time for opening the road transport operations listed in item 3) of this Article to the outside world shall be promulgated separately by the department in charge of foreign trade and economic cooperation and the department in charge of communications under the State Council.

Article 4 The project-filing of road transport services with foreign investment and the relevant matters shall be subject to the approval of the department in charge of communications under the State Council. The contracts and articles of association of the road transport enterprises

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established with foreign investment shall be subject to the approval of the department in charge of foreign trade and economic cooperation under the State Council.

Article 5 The foreign businessmen investing in road transport services shall comply with the policies on road transport development and the requirements for enterprise qualification formulated by the department in charge of transportation under the State Council, and shall meet the requirements of the development planning of road transport services formulated by the department in charge of transportation of the place where the road transport enterprise with foreign investment to be established is located. All investors shall invest with their self-owned assets and shall have good reputation.

Article 6 Foreign businessmen who wish to invest in and provide road passenger transport services shall also meet the following conditions:

1. At least one party among the principal investors shall be an enterprise that has been engaged in the road passenger transport services for more than 5 years;
2. The proportion of foreign investment shall not be more than 49%;
3. 50% of the registered capital of the enterprise shall be used in the construction and reconstruction of the infrastructure of passenger transport; and
4. The vehicles put in use shall be passenger cars of middle level or above.

Article 7 To set up an road transport enterprise with foreign investment, one shall apply for project-filing to the department in charge of transportation at the level of city (city divided into districts, hereinafter the same) where the said enterprise is to be located, and shall submit the following materials:

1. An application, of which the contents shall include the total amount of investment, the registered capital, and the business scope, scale, and term of duration, etc;
2. A project proposal;
3. Legal certifications of the investors;
4. Credit certifications of the investors;
5. Valid asset evaluation certifications with respect to investors making investment with land-use right, establishment, and equipment, etc; and
6. Other materials required by the examining and approving department. To set up a Chinese and foreign equity joint venture or a Chinese and foreign contractual cooperative enterprise, one shall, apart from the materials mentioned above, submit the letter of intent for cooperation. The submitted materials in foreign languages shall enclose the versions translated into Chinese at the same time.

Article 8 If an enterprise with foreign investment expands its business scope to the provision of road transport services, or a road transport enterprise with foreign investment expands its business scope or expands its business scale beyond the former ratified standards, or a road transport enterprise with foreign investment wishes to consolidate, split, move, and change its investment

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subjects, registered capital, stock proportion of investment, that enterprise shall apply for alteration of registration to the department in charge of transportation at the level of city of its location and submit the following materials:

1. An application;
 2. A copy of business license of the enterprise as a legal person;
 3. A copy of the certificate of approval for an enterprise with foreign investment;
 4. A copy of the letter of approval for project-filing of an enterprise with foreign investment;
- and
5. Credit certification.

Article 9 The departments in charge of transportation shall be responsible for the review and examination and approval of the application for project-filing and alteration of registration of road transport services with foreign investment according to the following procedures:

1. The department in charge of transportation at the level of city shall, within 15 workdays from the day of receiving the application materials, give the opinions of preliminary examination according to these Provisions, and shall submit the opinions of preliminary examination and application materials to the department in charge of transportation at the level of province;
2. The department in charge of transportation at the level of province shall, within 15 workdays from the day of receiving the materials submitted, give the opinions of review according to these Provisions, and shall submit the opinions of review and the application materials to the department in charge of transportation under the State Council for examination and approval; and
3. The department in charge of transportation under the State Council shall, within 30 workdays from the day of receiving the materials mentioned in the preceding item, review the application materials. For those conforming to the provisions, the letter of approval for project-filing or for alteration shall be issued; for those failing to conform to the provisions, the applications shall be returned and the applicants shall be notified in written form and reasons explained.

Article 10 After receiving the letter of approval, the applicant shall apply to the department in charge of foreign trade and economic cooperation at the level of province for issuing or altering the certificate of approval for enterprise with foreign investment, taking with it the letter of approval and the following materials:

1. An application;
2. A report of feasibility study;
3. The contract and articles of association (for a solely road transport enterprise with foreign investment, only the article of association are needed);
4. A list of names and the resumes of the members of board of directors and of the principal managerial personnel;
5. Notification of preliminary ratification of enterprise title issued by the administrative

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department of industry and commerce;

6. Legal certifications and credit certifications of the host countries or regions of the investors; and
7. Other materials required by the examining and approving departments.

Article 11 The department in charge of foreign trade and economic cooperation at the level of province shall, after preliminary examination of the materials mentioned above, submit the application materials and opinions of preliminary examination to the department in charge of foreign trade and economic cooperation under the State Council or the department authorized thereby. The department in charge of foreign trade and economic cooperation under the State Council or the department authorized thereby shall, after receiving the application materials, make the written decision on whether to approve or not within 45 days, and for those conforming to the provisions, the certificate of approval for an enterprise with foreign investment shall be issued or altered; and for those failing to conform to the provisions, the applications shall be returned and the applicants shall be notified in written form and reasons explained.

Article 12 After receiving the certificate of approval for an enterprise with foreign investment, the applicant shall, taking with it the letter of approval for project-filing and the certificate of approval, apply to the department in charge of transportation at the level of province of the place where the enterprise to be established is located for drawing the license for road transport operation, and may conduct the road transport operations according to the ratified business scope only after completing the registration of industry and commerce according to law.

Article 13 After receiving the certificate of approval for an enterprise with foreign investment for alteration, the applicant shall, taking with it the letter of approval for alteration, the certificate of approval for an enterprise with foreign investment to make alterations and other relevant application materials, go through the relevant formalities for alteration at the department in charge of transportation and the administrative department in charge of industry and commerce at the level of province.

Article 14 After completing the relevant formalities, the applicant shall submit the copies of the business license of the enterprise as a legal person, the certificate of approval for an enterprise with foreign investment and the license for road transport operation to the department in charge of transportation under the State Council for archivist purpose.

Article 15 If the formalities of industry and commerce registration haven't been completed within 18 months after the receipt of the letter of approval for project-filing of road transport enterprise with foreign investment, the letter of approval for project-filing shall be invalidated automatically.

Article 16 Generally the operating term of a road transport enterprise with foreign investment shall not be longer than 12 years. But if more than 50% of the investment has been used in the

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construction of infrastructure of the passenger and goods transport stations and sites, the operating period may be as long as 20 years. The road transport enterprises with foreign investment that run the business in compliance with the industry policies and development planning on road transport, and that pass the examination of operation quality (quality reputation) may, upon the approval of the original examining and approving department, apply for the extension of operating period, and the operating period extended each time may not exceed 20 years.

Article 17 The enterprise with foreign investment applying for extension of operating period shall apply to the department in charge of transportation at the level of province of the place where the enterprise is located within 6 months before the expiration of the operating period, and shall submit the examination record of the enterprise operation quality (quality reputation) and other relevant materials, which shall be submitted to the department in charge of transportation under the State Council by the department in charge of transportation at the level of province after review, and the department in charge of transportation and the department in charge of foreign trade and economic cooperation under the State Council shall make replies.

Article 18 If a road transport enterprise with foreign investment stops or suspends its business or ceases to exist, it shall go through the relevant formalities at the department in charge of transportation, the department in charge of foreign trade and economic cooperation under the State Council or the departments authorized thereby, and at the administrative department of industry and commerce.

Article 19 These Provisions shall be referred to with respect to the investors from Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan, as well as overseas Chinese that make investment in the road transport services in Chinese mainland.

Article 20 These Provisions shall enter into force as of the day of promulgation. The Interim Provisions of the Ministry of Communications of the People's Republic of China on the Examination and Approval of Project-filing of Road Transport Services with Foreign Investment (JiaoYun Fa [1993] No.1178) promulgated by the Ministry of Communications in 1993 shall be nullified simultaneously.

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