

INTERIM PROVISIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON THE ADMINISTRATION OF RESIDENT REPRESENTATIVE OFFICES OF FOREIGN ENTERPRISES

(Promulgated by the State Council on October 30, 1980)

Article 1 These Provisions are formulated with a view to facilitating the development of international economic and trade contacts and the administration of resident representative offices in China of foreign companies, enterprises and other economic organizations (hereinafter referred to as "foreign enterprises").

Article 2 Any foreign enterprise desiring to establish a resident representative office in China shall file an application for permission and, after securing approval, go through the registration procedure. No resident representative office to be established is allowed to start business activities as such before approval and registration.

Article 3 When applying for permission to establish a resident representative office in China, a foreign enterprise shall submit the following certificates and papers:

- a) an application form signed by the chairman of the board of directors or the general manager of the enterprise. The application form shall include such details as the name of the resident representative office to be established, the name(s) of the responsible staff member(s), the scope of activity, duration and site of the office;
- b) the legal document sanctioning the operation of that enterprise issued by the authorities of the country or the region in which that enterprise operates;
- c) the capital creditability document(s) issued by the financial institution(s) having business contacts with that enterprise; and
- d) the credentials and resumes of the staff members of the resident representative office appointed by that enterprise.

A banking or insurance institution which desires to open a resident representative office shall, apart from submitting the certificates and papers as specified in Paragraphs a, b and d, submit at the same time an annual report showing the assets and liabilities and losses and profits of the head office of that institution, its articles of association and the composition of its board of directors

Article 4 Foreign enterprises wishing to establish resident representative offices shall, according to their respective lines of business, apply to one of the following departments for approval:

- a) a trading or manufacturing enterprise or a shipping agency shall apply to the Ministry of Foreign Trade of the People's Republic of China;
- b) a financial or insurance institution shall apply to the People's Bank of China;
- c) a maritime shipping enterprise or a maritime shipping agency shall apply to the Ministry of Communications of the People's Republic of China;
- d) an air transport enterprise shall apply to the General Administration of Civil Aviation of China;

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e) enterprises outside these lines of business shall, according to the nature of their operations, apply to the competent commissions, ministries or bureaus under the Government of the People's Republic of China.

Article 5 When granted approval to establish a resident office, a foreign enterprise shall, within 30 days as of the date of approval, approach the State Administration for Industry and Commerce of the People's Republic of China, on the strength of the approval document, for going through the registration procedure. The enterprise shall fill in a registration form, pay registration fee and receive a registration certificate. The original approval document shall be recalled in case of failure to register at the expiry of the specified period.

Article 6 After the approval for the establishment of a resident representative office is granted in accordance with the stipulations in Article 4, the staff members of that office and their families shall, on the strength of the approval document, go through the necessary formalities with the local public security organ to obtain residence permits.

Article 7 When a resident representative office is to change its name, responsible member(s), scope of operation, duration or address, it shall apply to the original approving department and, after securing approval, approach the State Administration for Industry and Commerce, on the strength of the approval document, for going through the procedure for effecting changes in registration and pay the fees. It shall also go through the procedures with the local public security organ for changes of residence permits.

Article 8 A resident representative office shall, on the strength of the registration certificates and in accordance with the relevant stipulations of the Bank of China, open an account at the Bank of China or at any bank designated by the Bank of China.

Article 9 A resident representative office and its staff members shall, in accordance with the stipulations of China's tax laws, go through the tax registration procedure with the local tax office and pay taxes accordingly.

Article 10 A resident representative office and its staff members shall declare to China's Customs the imported office articles, articles for daily use and means of transport and pay customs duties and the consolidated industrial and commercial taxes as stipulated. Imported vehicles and ships shall be registered with the local public security organ for obtaining the license plates and permits. Dues shall be paid to the local tax office for the use of the vehicles and ships. Unauthorized transfer or sale of the above-mentioned imported goods is not permitted. Where the need to effect a transfer or sale arises, an application shall be submitted to the Customs for approval before such transfer or sale can be effected. Such imported goods can be sold only to designated shops.

Article 11A resident representative office shall entrust local service units for foreigners or other

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service units designated by the Chinese Government with such matters as renting a house or engaging the service of Chinese personnel.

Article 12 The Government of the People's Republic of China shall undertake to protect, in accordance with the law, the legitimate rights and interests of resident representative offices and their staff members and give them facilities in their normal business activities.

Article 13 Resident offices are not allowed to install radio stations on Chinese territory. They shall apply to the local telecommunications bureaus for the renting of such commercial communications lines or communications equipment as may be necessary for their business operations.

Article 14 The staff members of a resident representative office and their families shall abide by Chinese laws, decrees and relevant regulations in all their activities in China and in entering and leaving China.

Article 15 In case a resident representative office and its members violate these Provisions or engage in other activities in contravention of Chinese laws, the Chinese authorities have the power to look into the cases and deal with them in accordance with the law.

Article 16 A resident representative office, when the duration of its operation expires, or if it decides to end its business activities before the due date, shall notify in writing the original approving department 30 days in advance of the termination of its operation. After clearing up its debts, paying its taxes and winding up other related matters, the resident office shall go through the formalities with the original registration certificate-issuing department for canceling the registration and turn in the certificate. The foreign enterprise which the said resident representative office represented, shall continue to be held responsible for any matter that the said resident representative office may leave unfinished at the time of its termination.

Article 17 Those resident representative offices that have already been established with approval shall, within 30 days of the promulgation of these Provisions, go through the procedure of registration with the State Administration for Industry and Commerce of the People's Republic of China on the strength of their documents of approval.

Article 18 Any other matter that may not be covered in these Provisions shall be handled in accordance with the relevant Chinese laws, decrees and regulations.

Article 19 Matters relating to resident representatives to be instituted by foreign enterprises shall be dealt with by applying mutatis mutandis these Provisions applicable to the establishment of resident representative offices.

Article 20 These Provisions shall enter into effect as of the date of promulgation.

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