

# Regulations on Guiding the Direction of Foreign Investment of the PRC

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Promulgated by Decree No. 346 of the State Council of the People's Republic of China on February 11, 2002  
Effective: April 1, 2002

Article 1 — These Regulations are formulated in accordance with the relevant laws, administrative regulations and industrial policies of the State concerning foreign investment, for the purpose of guiding the direction of foreign investment, bringing the direction of foreign investment in line with China's national economic and social development plan, and helping to protect the lawful rights and interests of investors.

Article 2 — These Regulations apply to projects for the establishment of Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures and wholly foreign-owned enterprises (hereinafter referred to as "foreign-invested enterprises") within the territory of China, as well as to foreign-invested projects in other forms (hereinafter referred to as "foreign-invested projects").

Article 3 — Foreign-invested projects and foreign-invested enterprises shall conform to the requirements of the State's industrial policies, promote the optimization of the industrial structure, and raise the quality and level of the utilization of foreign investment.

Article 4 — Foreign-invested projects shall be classified into four categories: encouraged, permitted, restricted and prohibited. Foreign-invested projects in the encouraged, restricted and prohibited categories shall be listed in the Catalogue for the Guidance of Foreign Investment Industries; foreign-invested projects that do not fall within the encouraged, restricted or prohibited categories shall be foreign-invested projects in the permitted category. Foreign-invested projects in the permitted category shall not be listed in the Catalogue for the Guidance of Foreign Investment Industries.

Article 5 — Foreign-invested projects falling under any of the following circumstances shall be classified as encouraged:

- (1) those involving new agricultural technology, comprehensive agricultural development, or the energy, transport or important raw-material industries;
- (2) those involving new and high technology or advanced and applicable technology capable of improving product performance, raising the technological and economic efficiency of enterprises, or producing new equipment or new materials for which domestic production capacity is insufficient;
- (3) those that meet market demand, are capable of upgrading products, opening up emerging markets or increasing the international competitiveness of products;
- (4) those involving new technology or new equipment capable of saving energy and raw materials, comprehensively utilizing resources and renewable resources, or preventing and controlling environmental pollution;
- (5) those capable of bringing into play the advantages of human and natural resources in the central and western regions and conforming to the State's industrial policies; or
- (6) other circumstances prescribed by laws or administrative regulations.

Article 6 — Foreign-invested projects falling under any of the following circumstances shall be classified as restricted:

- (1) those with backward technology;
- (2) those not conducive to conserving resources or improving the ecological environment;
- (3) those engaged in the exploration or exploitation of specified mineral resources that the State provides shall be subject to protective exploitation;
- (4) those in industries to be gradually opened up by the State; or
- (5) other circumstances prescribed by laws or administrative regulations.

Article 7 — Foreign-invested projects falling under any of the following circumstances shall be classified as prohibited:

- (1) those endangering State security or harming the public interest;
- (2) those causing environmental pollution or damage, destroying natural resources or harming human health;
- (3) those occupying large areas of arable land and not conducive to the protection and development of land resources;
- (4) those endangering the safety and use efficiency of military facilities;
- (5) those manufacturing products with the use of technology or techniques peculiar to China; or
- (6) other circumstances prescribed by laws or administrative regulations.

Article 8 — Foreign-invested projects shall be subject to verification or examination and approval in accordance with the following provisions:

- (1) foreign-invested projects listed in the encouraged or restricted category of the Catalogue for the Guidance of Foreign Investment Industries shall be verified and approved within the authority and in accordance with the procedures prescribed by the State Council; and
- (2) no department, unit or individual may approve foreign-invested projects listed in the prohibited category of the Catalogue for the Guidance of Foreign Investment Industries.

Foreign-invested projects in the permitted category shall be examined and approved within the authority and in accordance with the procedures prescribed by the State Council.

Article 9 — In addition to enjoying preferential treatment in accordance with the relevant laws and administrative regulations, encouraged foreign-invested projects that are engaged in the construction and operation of energy, transport or urban infrastructure (including coal, petroleum, natural gas, electric power, railways, highways, ports, airports, urban roads, sewage treatment and waste disposal, among others) involving a large amount of investment and a long payback period may, upon approval, expand their relevant business scope.

Article 10 — Permitted foreign-invested projects shall, within the scope prescribed by the relevant laws and administrative regulations, carry out their business activities in accordance with the laws of the market economy and enjoy national treatment.

Article 11 — Restricted foreign-invested projects shall carry out their business activities within the scope prescribed by the relevant laws and administrative regulations.

Article 12 — The production equipment, technological equipment, tools and instruments, and the raw materials, spare parts and components needed to be imported for restricted foreign-invested projects shall be subject to import formalities in accordance with the relevant provisions of the State.

Article 13 — No unit or individual may establish a prohibited foreign-invested project.

Article 14 — The State shall, in light of the needs of national economic development, adjust the Catalogue for the Guidance of Foreign Investment Industries in a timely manner. When adjusting the Catalogue, the State shall solicit opinions from the relevant departments and experts in advance and obtain approval within the authority and in accordance with the procedures prescribed by the State Council.

Article 15 — Projects invested by investors from the Hong Kong Special Administrative Region, the Macao Special Administrative Region and the Taiwan region shall be implemented with reference to these Regulations.

Article 16 — These Regulations shall enter into force on April 1, 2002. The Provisional Regulations on Guiding the Direction of Foreign Investment, approved by the State Council on June 20, 1995, and promulgated by the State Planning Commission, the State Economic and Trade Commission and the Ministry of Foreign Trade and Economic Cooperation on June 28, 1995, shall be repealed simultaneously.

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