

China Promulgates Interim Regulations for Control of Resident Offices of Foreign Enterprises in China

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[Beijing: from our special correspondent] It is learned that the "Interim Regulations of the State Council of the People's Republic of China Concerning the Control of the Resident Offices of Foreign Enterprises" has been promulgated in Beijing. Full text (draft translation) of the "Interim Regulations" is as follows:

Article 1. The regulations hereunder are formulated with a view to facilitating the development of international economic and trade contact and the control of the resident offices in China of foreign companies, enterprises and other economic organizations (referred to hereafter as foreign enterprises).

Article 2. Any foreign enterprise desiring to establish a resident office in China should first of all apply for permission and after securing an approval go through the registration procedure.

No foreign enterprise is allowed to start business activities in the nature of those of a resident office before such an approval is granted and the registration procedure completed.

Article 3. A foreign enterprise, when applying for the permission to establish a resident office in China, should produce the following documents and materials of reference:

A. An application form signed by the chairman of the board of directors or the general manager of that enterprise. The content of the application form should include such details as the name of the resident office to be set up, the name(s) of the responsible 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 issued by the banking institution(s) which has business contact with that enterprise.

D. The credentials and brief biographies of the members of the resident office appointed by that enterprise.

A banking or insurance institution which desires to open a resident office should, apart from producing the documents and materials of reference as specified in paragraphs 1, 2 and 4 of the foregoing section, produce at the same time an annual report on the assets and liabilities and losses and profits of the head office of that enterprise, its constitution and the composition of its board of directors.

Article 4. Applications of foreign enterprises for permission to establish resident offices are to be approved by one of the following organizations:

A. A trader, manufacturer or a shipping agent should apply to the Ministry of Foreign Trade of the People's Republic of China for approval;

B. A banking or insurance institution should apply to the People's Bank of China for approval;

C. A maritime shipping operator or a maritime shipping agent should apply to the Ministry of Communications of the People's Republic of China for approval;

D. An air transport enterprise should apply to the General Administration of Civil Aviation of China for approval;

E. Enterprises outside these lines of activity should, according to the nature of their operations, apply to the proper commissions, ministries or bureaux under the Government of the People's Republic of China for approval.

Article 5. When granted approval to establish a resident office, a foreign enterprise should, within 30 days of the date of approval, go to the General Administration for Industry and Commerce of the People's Republic of China on the strength of the approval document and go through the registration procedure of filling in a registration form and paying the registration fees before it is issued a registration certificate. The original approval document should be recalled in case of failure to register within the deadline.

Article 6. After the approval for the establishment of a resident office is granted in accordance with the stipulations in Article 4, the members of that office and their families should, on the strength of the approval document, apply to the local public security organ for residence permission before they are issued residence permits.

Article 7. A resident office, when desiring to change its name, its responsible member(s), scope of operation, duration or site, should apply to the original approval-issuing organization and, after securing an approval, go to the General Administration for Industry and Commerce of the People's Republic of China on the strength of the approval document and go through the procedure for effecting such a change in the registration and pay due fees. It should also go through the procedure with the local public security organ for a change in the residence permits.

Article 8. A resident office should, on the strength of the registration certificate and in accordance with the relevant stipulations of the Bank of China, open an account in the Bank of China or in any bank which the Bank of China may designate.

Article 9. A resident office and its members should, in accordance with the stipulations of Chinese tax laws, go through the tax registration procedure with the local tax office and pay taxes in accordance with the regulations.

Article 10. A resident office and its members should declare to China's House of Customs the imported office articles, articles for daily use and means of transport and pay customs duties and unified industrial and commercial taxes as stipulated.

The imported vehicles and ships should be registered with the local public security organ before the licence plates and permits are issued. Fees should be paid to the local tax office for the use of the licence plates for such vehicles and ships.

Unauthorized transfer or sale of the above-said imported goods are not permitted. In the event of a necessary transfer or sale, an application should be put forward to the House of Customs and approval obtained before such a transfer or sale can be effected. Imported goods can be sold only to the designated shops.

Article 11. A resident office should entrust local service units for foreigners or such other units as may be designated by the Chinese government on such matters as renting a house or engaging the service of Chinese personnel.

Article 12. The Chinese government undertakes to protect, in accordance with law, the legitimate rights and interests of resident offices and their members and facilitate their normal business activities.

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

Article 14. The members of a resident office and their families should 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 office and its members violate the "Interim Regulations" or they are engaged in other law-breaking activities, the proper

Chinese authorities have the power to look into the cases and deal with them in accordance with law.

Article 16. A resident office should notify in a written form, 30 days in advance of the termination of its operation, to the original approval-granting organization when the duration of its operation expires or it decides to end its business activities before the due date and, after clearing up its debts, paying up taxes and winding up other related matters, go through the formalities with the original registration certificate issuing organization for cancelling the registration and turn in the certificate.

The foreign enterprise which the said resident office represented, should continue to be held responsible for any matter that the said resident office may leave unfinished at the time of its termination.

Article 17. Those resident offices that have already been established with approval should, within 30 days of the promulgation of the "Interim Regulations", make up for the procedure of registration with the General Administration for Industry and Commerce of the People's Republic of China on the strength of the documents of approval.

Article 18. Any other matter that may be uncovered in the "Interim Regulations" should be handled in accordance with the relevant Chinese laws, decrees and regulations.

Article 19. The "Interim Regulations" should apply to any foreign enterprise which desires to appoint a resident representative(s) as to those desiring to establish resident offices.

Article 20. The "Interim Regulations" comes into effect on the day of promulgation.

China and US Exchange Notes on Investment Insurance and Guaranties

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[Beijing: from our special correspondent] Notes on an agreement for investment insurance and investment guaranties were exchanged between the government of the People's Republic of China and the government of the United States of America in Beijing on October 30.

Zhang Wenjin, Chinese Vice-Minister of Foreign Affairs, and Leonard Woodcock, U.S. Ambassador to China, signed the notes on behalf of their respective governments. The full text of the agreement is as follows:

Article 1

As used herein, the term "coverage" shall refer to any investment insurance (including reinsurance) against loss from political risk or to any investment guaranty which is issued in accordance with this agreement by OPIC or by any successor US government agency, OPIC and any such successor being hereinafter referred to as the "issuer" to the extent of its interest as insurer or reinsurer in any coverage.

Article 2

The procedures set forth in this agreement shall apply only with respect to coverage of investments relating to projects or activities approved by the government of the People's Republic of China.