

WORLD TRADE ORGANIZATION

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Council for Trade in Services

Original: English

NOTIFICATION PURSUANT TO ARTICLE III:3 OF THE GENERAL AGREEMENT ON TRADE IN SERVICES

The following notification has been received from the delegation of the People's Republic of China

1. **Member notifying:**

The People's Republic of China

2. **Notification under:**

Article III, paragraph 3 of the General Agreement on Trade in Services

3. **Date of entry into force/duration:**

2001/07/22

4. **Agency responsible for implementation and enforcement of the measure:**

Ministry of Foreign Trade and Economic Co-operation

5. **Complete description of the measure* indicating the modes of supply covered, the effect on trade in services (e.g., restrictions/liberalization measures) and the impact of the measure on commitments in the Member's schedule and Article II (MFN) exemption list, if relevant:**

Regulations for the Implementation of the Law of the People's Republic of China on Sino-Foreign Equity Joint Venture

Full text English translation of the regulation is attached.¹ The English translation is for reference only and the Chinese version shall be authentic.

6. **Members specifically affected, if any:**

All Members

* Including international agreements, recognition measures or other types.

¹ In English only

7. The texts are available from:

- Enquiry point ☒
 - WTO Secretariat ☒
 - Other sources (address, fax
and telephone of other body) ☐
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Regulations for the Implementation of the Law of the People's Republic of China on
Sino-Foreign Equity Joint Venture

(Promulgated by the State Council on September 20, 1983, amended by the State Council on January 15, 1986 and on December 21, 1987, amended in accordance with the Decision of the State Council on Amending the Regulations for the Implementation of the Law of the People's Republic of China on Chinese-Foreign Equity Joint Ventures on July 22, 2001)

Chapter I General Provisions

Article 1 These Regulations are formulated with a view to facilitating the smooth implementation of the Law of the People's Republic of China on Chinese-Foreign Equity Joint Ventures (hereinafter referred to as the Law on Chinese-Foreign Equity Joint Ventures).

Article 2 Chinese-Foreign equity joint ventures (hereinafter referred to as joint ventures) established within the territory of China in accordance with the Law on Chinese-Foreign Equity Joint Ventures are legal persons of China and are subject to the jurisdiction of Chinese laws and enjoy protection thereof.

Article 3 Joint ventures established within the territory of China shall be able to promote the development of China's economy and raise scientific and technological levels for the benefit of socialist modernization.

The industries in which the State encourages, permits, restricts or prohibits the establishment of joint ventures, shall be governed by the provisions of the State on guiding the direction of foreign investment and the catalogue for the guidance of foreign investment industries.

Article 4 Applications for establishing joint ventures shall not be approved if they involve any of the following circumstances:

- (1) a detriment to China's sovereignty;
- (2) violation of Chinese Laws;
- (3) nonconformity with the requirements of the development of China's national economy;
- (4) creation of environmental pollution;
- (5) obvious inequity in the agreements, contracts and articles of association signed, impairing the rights and interests of one of the parties.

Article 5 A joint venture has the right to independently conduct business operations and management within the scope as prescribed by Chinese laws and regulations, and by the agreement, contract and articles of association of the joint venture. The departments concerned shall provide support and assistance.

Chapter II Establishment and Registration

Article 6 The establishment of a joint venture in China shall be subject to examination and approval by the Ministry of Foreign Trade and Economic Cooperation of the People's Republic of China (hereinafter referred to as the Ministry of Foreign Trade and Economic Cooperation). Upon approval, an approval certificate shall be issued by the Ministry of Foreign Trade and Economic Cooperation.

The State Council may authorize the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government or relevant departments of the State Council to examine and approve the establishment of joint ventures that meet the following requirements:

- (1) the total amount of investment is within the limit set by the State Council and the source of capital of the Chinese venturers has been ascertained;

- (2) no additional allocation of raw materials by the State is required and the national balance as to fuel, power, transportation and foreign trade export quotas is not affected.

The joint ventures approved and established according to the preceding paragraph shall report to the Ministry of Foreign Trade and Economic Cooperation for the record.

The Ministry of Foreign Trade and Economic Cooperation and the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government or relevant departments of the State Council authored by the State Council will hereinafter be generally referred to as the examination and approval authorities.

Article 7 When applying for the establishment of a joint venture, the Chinese and foreign venturers shall jointly submit following documents to the examination and approval authorities:

- (1) an application for the establishment of the joint venture;
- (2) the feasibility study report jointly prepared by the parties to the venture;
- (3) the joint venture agreement, contract and articles of association signed by representatives authorized by the parties to the venture;
- (4) a list of candidates for chairman and vice chairman of the board of directors and directors nominated by the parties to the venture;
- (5) other documents specified by the examination and approval authorities.

The documents listed in the preceding paragraph shall be written in Chinese. Documents (2), (3) and (4) may be written simultaneously in a foreign language agreed upon by the parties to the joint venture. Both versions are equally authentic.

Where the examination and approval authorities find something unsuitable in the documents submitted, they shall demand a modification that shall be made within a specified time limit.

Article 8 Upon receipt of the documents provided in Article 7, the examination and approval authorities shall, within 3 months, decide whether to approve or disapprove the establishment of the joint venture.

Article 9 The applicant shall, within one month as of the receipt of the Approval Certificate, register with the administrative department for industry and commerce (hereinafter referred to as registration administration agency) according to the relevant provisions of the State. The date of the issuance of its business license is the date of the formal establishment of the joint venture.

Article 10 The "joint venture agreement" mentioned in these Regulations refers to the document agreed upon and concluded by the parties to the joint venture on some major points and principles governing the establishment of the joint venture. "Joint venture contract" refers to the document agreed upon and concluded by the parties to the joint venture on their mutual rights and obligations. "Articles of association of the joint venture" refers to the document agreed upon by the parties to the joint venture specifying the purpose, organizational principles and method of management of the joint venture in compliance with the principles of the joint venture contract.

Where the joint venture agreement comes into conflict with the contract, the latter shall prevail.

The parties to the joint venture may agree to sign the contract and articles of association only, without signing an agreement.

Article 11 A joint venture contract shall include the following main items:

- (1) the names, the countries of registration, the legal addresses of parties to the joint venture, and the names, positions and nationalities of the legal representatives thereof;

- (2) the name of the joint venture, its legal address, purpose and the scope and scale of business;
- (3) the total amount of investment and registered capital of the joint venture, the amount, proportion and forms of investment to be contributed by each party to the joint venture, the time limit for contributing the investment, stipulations concerning incomplete contributions, and assignment of equity;
- (4) the proportion of profits to be shared and losses to be borne by each party;
- (5) the composition of the board of directors, the distribution of the number of directors, and the responsibilities, powers and means of employment of the general manager, deputy general manager and high ranking managerial personnel;
- (6) the main production equipment and technology to be adopted and their source of supply;
- (7) the ways and means of purchasing raw materials and selling products;
- (8) principles governing the handling of finance, accounting and auditing;
- (9) stipulations concerning labor management, wages, welfare, and labor insurance;
- (10) the duration of the joint venture, its dissolution and the procedures for liquidation;
- (11) the liabilities for breach of contract;
- (12) ways and procedures for settling disputes between the parties to the joint venture;
- (13) the language(s) used for the contract and the conditions for putting the contract into force.

The annex to the contract of a joint venture shall be equally authentic as the contract itself.

Article 12 Chinese laws shall apply to the conclusion, validity, interpretation and execution of a joint venture contract, as well as to the settlement of disputes.

Article 13 The articles of association of a joint venture shall include the following main items:

- (1) the name of the joint venture and its legal address;
- (2) the purpose, business scope and duration of the joint venture;
- (3) the names, countries of registration and legal addresses of parties to the joint venture, and the names, positions and nationalities of the legal representatives thereof;
- (4) the total amount of investment, registered capital of the joint venture, each party's investment proportion, stipulations concerning the assignment of equity, the proportions of profit distribution and losses to be borne by parties to the joint venture;
- (5) the composition of the board of directors, its responsibilities, powers and rules of procedure, the term of office of the directors, and the responsibilities of its chairman and vice chairman;
- (6) the setting up of management organizations, rules for handling routine affairs, the responsibilities of the general manager, deputy general manager and other high ranking managerial personnel, and the method of their appointment and dismissal;
- (7) principles governing financial, accounting and auditing systems;
- (8) dissolution and liquidation;
- (9) procedures for amendment of the articles of association.

Article 14 The agreement, contract and articles of association shall come into force upon approval by the examination and approval authorities. The same applies to amendments thereof.

Article 15 The examination and approval authorities and the registration administration agency are responsible for supervising and checking on the execution of the joint venture contracts and articles of association.

Chapter III Form of Organization and Registered Capital

Article 16 A joint venture is a limited liability company.

Each party to the joint venture is liable to the joint venture within the limit of the capital subscribed by it.

Article 17 The total amount of investment (including enterprise loans) of a joint venture refers to the sum of capital construction funds and the circulating funds needed for the joint venture's production scale as stipulated in the contract and the articles of association of the joint venture.

Article 18 The registered capital of a joint venture refers to the total amount of investment registered at the registration administration agency for the establishment of the joint venture. It shall be the total amount of investment subscribed by parties to the joint venture.

The registered capital shall generally be represented in Renminbi, or may be in a foreign currency agreed upon by the parties to the joint venture.

Article 19 A joint venture shall not reduce its registered capital during its term. However, where the changes occurring in the total investment and the scale of production or operation indicate that there is a real need to reduce the registered capital, the reduction shall be approved by the examination and approval authorities.

Article 20 If one party to the joint venture intends to assign all or part of its investment subscribed to a third party, consent shall be obtained from the other party to the joint venture, and the assignment shall be registered with the registration administration agency after being approved by the examination and approval authorities.

When one party assigns all or part of its investment to a third party, the other party has a preemptive right.

When one party assigns its investment subscribed to a third party, the terms of assignment shall not be more favorable than those to the other party to the joint venture.

No assignment shall be effective should there be any violation of the above provisions.

Article 21 Any increase, assignment or other disposal of the registered capital of a joint venture shall be approved at a meeting of the board of directors and submitted to the original examination and approval authorities for approval.

Registration procedures for changes shall be handled at the registration administration agency.

Chapter IV Ways of Contributing Investment

Article 22 Each joint venturer may invest in cash or may contribute buildings, factory premises, equipment or other materials, industrial property, proprietary technology, or right to the use of a site, appraised at appropriate prices, as an investment. If the investment is in the form of buildings, premises, equipment or other materials, industrial property or proprietary technology, the prices shall be determined through consultation by the parties to the joint venture on the basis of fairness and reasonableness, or they shall be evaluated by a third party accepted and invited by the parties to the joint venture.

Article 23 The foreign currency contributed by the foreign joint venturer shall be converted into Renminbi according to the base exchange rate quoted by the People's Bank of China on the date of its submission or be cross exchanged into the foreign currency as agreed upon.

Should the cash Renminbi contributed by the Chinese joint venturer be converted into foreign currency, it shall be converted according to the base exchange rate quoted by the People's Bank of China on the date of its submission.

Article 24 The machinery, equipment or other materials contributed as an investment by the foreign joint venturer shall be indispensable to the production of the joint venture.

The fixed price of the machinery, equipment or other materials referred to in the preceding paragraph shall not be higher than the current international market price for similar equipment or other materials.

Article 25 The industrial property or proprietary technology contributed by the foreign joint venturer as an investment shall meet one of the following conditions:

- (1) capable of markedly improving the performance and quality of existing products and raising productivity;
- (2) capable of notably saving raw materials, fuel or power.

Article 26 Foreign joint venturers who contribute industrial property or proprietary technology as an investment shall present relevant documentation on the industrial property or proprietary technology, including copies of the patent certificates or trademark registration certificates, statements of validity, their technical characteristics, practical value, the basis for calculating the price and the price agreement signed with the Chinese joint venturers. All these shall serve as an annex to the contract.

Article 27 The machinery, equipment or other materials, industrial property or proprietary technology contributed by the foreign joint venturer as an investment shall be submitted to the examination and approval authorities for approval.

Article 28 The parties to the joint venture shall pay in all the investment subscribed according to the time limit stipulated in the contract. Where the time limit has been exceeded and there has not been a payment or a full payment, compensation for losses or interest on the arrears shall be paid in accordance with the stipulations of the contract

Article 29 After the investment is paid by the parties to the joint venture, a Chinese certified public accountant shall verify it and provide a certificate of verification, in accordance with which the joint venture shall issue to them investment certificates, which include the following items: the name of the joint venture; date, month and year of the establishment of the joint venture; names of the joint venturers and the investment contributed; date, month and year of the contribution of the investment; and date, month and year of the issuance of investment certificates.

Chapter V Board of Directors and Management Structure

Article 30 The highest authority of the joint venture shall be its board of directors, which shall decide all major issues concerning the joint venture.

Article 31 The board of directors shall consist of no less than three members. The distribution of the number of directors shall be determined through consultation by the parties to the joint venture with reference to the proportions of investment contributed.

The term of office for the directors is four years. Their term of office may be renewed with the re-appointment by the parties to the joint venture.

Article 32 The board of directors shall convene at least one meeting every year. The meeting shall be called and presided over by the chairman of the board. Where the chairman is unable to call the meeting, he shall authorize the vice chairman or a director to call and preside over the meeting. The chairman may convene an interim meeting on the suggestion of more than one third of the directors.

A board meeting requires a quorum of over two thirds of the directors. Where a director is unable to attend, he may make a proxy authorizing someone else to represent him and vote in his stead.

A board meeting shall usually be held at the location of the joint venture's legal address.

Article 33 Decisions on the following items shall be made only after being unanimously agreed upon by the directors present at the board meeting:

- (1) amendments to the articles of association of the joint venture;
- (2) suspension or dissolution of the joint venture;
- (3) increase in or reduction of the registered capital of the joint venture;
- (4) merger or division of the joint venture.

Decisions on other matters may be made according to the rules of procedure stipulated in the articles of association.

Article 34 The chairman of the board of directors is the legal representative of the joint venture. Where the chairman is unable to perform his duties, he shall authorize the vice chairman of the board or a director to represent the joint venture.

Article 35 A joint venture shall establish a management office which is responsible for the day-to-day management and operations. The management office shall have a general manager and several deputy general managers who assist the general manager in his work.

Article 36 The general manager shall carry out the decisions of the board meeting and organize and conduct the day-to-day management and operations of the joint venture. Within the scope of authorization by the board, the general manager shall; externally, represent the joint venture, and internally, have the right to appoint and dismiss his subordinates and exercise other powers as authorized by the board of directors.

Article 37 The general manager and deputy general managers shall be engaged by the board of directors of the joint venture. These positions may be held either by Chinese or foreign citizens.

At the instance of the board of directors, the chairman, vice chairman or other directors of the board may concurrently be the general manager, deputy general managers or other high ranking managerial personnel of the joint venture.

In handling major issues, the general manager shall consult with the deputy general managers.

The general manager or deputy general managers shall not hold posts concurrently as general manager or deputy general managers of other economic organizations. They shall not get involved in other economic organizations' commercial competition against their own joint venture.

Article 38 In case of graft or serious dereliction of duty on the part of the general manager, deputy general managers or other high ranking managerial personnel, they may be dismissed at any time by a decision of the board of directors.

Article 39 Establishment of branch offices (including sales offices) outside China or in regions of Hong Kong or Macao is subject to approval by the Ministry of Foreign Trade and Economic Cooperation.

Chapter VI Introduction of Technology

Article 40 The introduction of technology mentioned in this Chapter refers to the acquisition of necessary technology by the joint venture by means of technology transfer from a third party or a joint venturer.

Article 41 The technology to be introduced to the joint venture shall be appropriate and advanced and enable the venture's products to display conspicuous social economic results domestically or to be competitive on the international market.

Article 42 The right of the joint venture to do business independently shall be maintained when concluding such technology transfer agreements, and relevant documentation shall be provided by the technology exporting party with reference to the provisions of Article 26 of these Regulations.

Article 43 The technology transfer agreements concluded by a joint venture shall be submitted to the examination and approval authorities for approval.

Technology transfer agreements shall meet the following requirements:

- (1) Fees for the use of technology shall be fair and reasonable.
- (2) Unless otherwise agreed upon by both parties, the technology exporting party shall not put any restrictions on the quantity, price or region of sale of the products that are to be exported by the technology importing party.
- (3) The term for a technology transfer agreement is generally not longer than 10 years.
- (4) After the expiration of a technology transfer agreement, the technology importing party shall have the right to continue to use the technology.
- (5) Conditions for mutual exchange of information on the improvement of the technology by both parties to the technology transfer agreement shall be reciprocal.
- (6) The technology importing party shall have the right to buy the equipment, parts and raw materials needed from sources they deem suitable.
- (7) No irrational restrictive clauses prohibited under Chinese law and regulations shall be included.

Chapter VII Right to the Use of Site and Fees

Article 44 Joint ventures shall carry out the principle of frugal use of land for their premises. Any joint venture requiring the use of a site shall file an application with local departments of the municipal (county) government in charge of land and obtain the right to use a site after securing approval and signing a contract. The acreage, location, purpose and contract period and fee for the right to use a site (hereinafter referred to as site use fee), rights and obligations of the two contracting parties and penalty provisions for breach of contract shall be stipulated in explicit terms in the contract.

Article 45 If the Chinese joint venturer already has the right to the use of a site for the joint venture, it may use the right as part of its investment. The monetary equivalent of this investment shall be the same as the site use fee otherwise paid for acquiring a site of similar conditions.

Article 46 The standards for site use fees shall be set by the people's governments of the province, autonomous region or municipality directly under the Central Government where the joint venture is located in the light of the purpose for which it is used, geographic and environmental conditions, expenses for requisition, demolition and resettlement and the joint venture's requirements for

infrastructure, and filed with the Ministry of Foreign Trade and Economic Cooperation and the State department in charge of land for the record.

Article 47 Joint ventures engaged in agriculture and animal husbandry may, with the consent of the people's governments of the province, autonomous region or municipality directly under the Central Government, pay a percentage of the joint venture's revenues from its business operations as site use fees to the local department in charge of land.

Projects of a development nature in economically under-developed areas may receive special preferential treatment in respect of site use fees with the consent of the local people's government.

Article 48 The rates of site use fees shall not be subject to adjustment in the first 5 years beginning from the date the land is used. After that, the interval in between the necessary adjustments to be made according to the development of the economy changes in, supply and demand, and changes in geographic and environmental conditions shall not be less than three years.

Site use fees as part of the investment by the Chinese joint venturers shall not be subject to adjustment during the contract period.

Article 49 The fee for the right to the use of a site obtained by a joint venture according to Article 44 of these Regulations shall be paid annually from the date of use of the land as stipulated in the contract. For the first calendar year, the venture will pay a half-year fee if it has used the land for over 6 months; if less than 6 months, the site use fee shall be exempted. During the contract period, if the rate of the site use fee is adjusted, the joint venture shall pay it according to the new rate from the year of adjustment.

Article 50 In addition to the right to use a site obtained according to the provisions of this Chapter, a joint venture may, according to the relevant provisions of the State, also obtain the right to use a site.

Chapter VIII Purchasing and Selling

Article 51 In its purchase of required machinery, equipment, raw materials, fuel, parts, means of transport and office equipment, etc. (hereinafter referred to as materials), a joint venture has the right to decide whether it buys them in China or from abroad.

Article 52 The materials needed for office and daily use for joint ventures can be purchased in China based on needs without quantity restrictions.

Article 53 The Chinese Government encourages joint ventures to sell their products on the international market.

Article 54 A joint venture has the right to export its products itself and may entrust the sales organization of the foreign joint venturer or a Chinese-Foreign trade corporation to sell on a commission or distributorship basis.

Article 55 Within the scope of business stipulated in the contract, a joint venture may import machinery, equipment, parts, raw materials and fuel needed for its production. A joint venture shall make a plan every year for items for which import licenses are required by the provisions of the State, and apply for them every 6 months. For machines, equipment and other objects a foreign joint venturer has contributed as part of its investment, import licenses can be applied for directly with the documents approved by the examination and approval authorities. For materials the import of which is

beyond the stipulated scope of the contract, separate applications for import licenses according to provisions of the State are required.

A joint venture has the right to export its products by itself, whereas for those products which require export licenses according to the provisions of the State, the joint venture shall make an export plan every business year and apply for the needed licenses every 6 months.

Article 56 A joint venture, in the price of the materials purchases in China, and the payment of fees for water, electricity, gas, heat, goods transportation, labour services, engineering design, consultancy and advertisement services, etc., shall enjoy equal treatment with other domestic enterprises in China.

Article 57 A joint venture, in its economic exchanges with another Chinese economic organization, shall undertake economic responsibilities and settle disputes over contracts in accordance with relevant laws and the contract concluded between the two parties.

Article 58 A joint venture shall, according to the provisions of the Statistics Law of the People's Republic of China and the statistical system for the utilization of foreign capital, provide statistical data and submit statistical statements.

Chapter IX Taxes

Article 59 Joint ventures shall pay taxes according to the provisions of relevant laws of the People's Republic of China.

Article 60 Staff members and workers employed by joint ventures shall pay individual income tax according to the Individual Income Tax Law of the People's Republic of China.

Article 61 The following materials imported by a joint venture enjoy tax reduction or tax exemption according to the relevant provisions of the tax law of China:

- (1) machinery, equipment, parts and other materials (materials here and hereinafter mean required materials for the joint venture's construction on the factory site and for installation and reinforcement of machines) which are part of the foreign joint venture's share of investment according to the provisions of the contract;
- (2) machinery, equipment, parts and other materials imported with funds from the joint venture's total investment;
- (3) machinery, equipment, parts and other materials imported by the joint venture with the additional capital and with the approval of the approval and examination authorities, of which China cannot guarantee production and supply;
- (4) raw materials, auxiliary materials, components, parts and packaging materials imported by the joint venture for the production of export goods.

Duties and taxes shall be paid or paid retroactively according to regulations when the above mentioned duty tax free materials are approved for sale inside China or diverted to the production of items to be sold on the Chinese domestic market.

Article 62 Except those export items restricted by China, export products of a joint venture enjoy tax reduction, tax exemption or refund of tax according to the relevant provisions of the tax law of China.

Chapter X Foreign Exchange Control

Article 63 All matters concerning foreign exchange for joint ventures shall be handled according to the Regulations on Foreign Exchange Control of the People's Republic of China and relevant administrative measures.

Article 64 On the basis of its business license, a joint venture may open a foreign exchange account or a Renminbi account with a bank within the territory of China, and the depository bank shall monitor its receipts and expenditures.

Article 65 A joint venture shall get permission from the State Administration of Foreign Exchange or one of its branches to open a foreign exchange account with an overseas bank or one in Hong Kong or Macao, and report to the State Administration of Foreign Exchange or one of its branches its foreign exchange receipts and expenditures, and provide statements of account.

Article 66 Any branch office set up by a joint venture in a foreign country or in Hong Kong or Macao shall submit its annual statement of assets and liabilities and annual statement of profit to the State Administration of Foreign Exchange or one of its branches through the joint venture.

Article 67 A joint venture may apply to the financial institutions within the territory of China for foreign currency loans and Renminbi loans according to business needs; a joint venture may also borrow foreign exchange as capital from banks abroad or in Hong Kong or Macao according to the relevant provisions of the State and go through the registration or record formalities with the State Administration of Foreign Exchange or one of its branches.

Article 68 After foreign staff and workers or staff and workers from Hong Kong or Macao have paid income tax on their salaries and other legitimate income according to law, they may, with the deduction of their living expenses in China, convert the remaining portion into foreign exchange and remit them out according to the relevant provisions of the State.

Article 69 The financial and accounting systems of a joint venture shall be instituted in accordance with China's relevant laws and procedures on financial affairs and accounting, and in consideration of the conditions of the joint venture, and then be filed with the local finance departments and tax authorities for the record.

Article 70 A joint venture shall employ a chief accountant to assist the general manager in handling the financial affairs of the enterprise. If necessary, a deputy chief accountant may be appointed.

Article 71 A joint venture shall (unless it is a small venture) appoint an audit or to be responsible for checking financial receipts, payments and accounts, and to submit reports to the board of directors and the general manager .

Article 72 The fiscal year of a joint venture shall coincide with the calendar year, i.e. from January 1 to December 31 on the Gregorian calendar.

Article 73 The accounting of a joint venture shall adopt the internationally used accrual basis and debit and credit accounting system. All vouchers, account books, and statements prepared by the enterprise shall be written in Chinese, or concurrently in a foreign language agreed upon by the parties.

Article 74 Joint ventures shall, in principle, adopt Renminbi as the standard accounting currency; however, a foreign currency may also be used as the standard accounting currency, if so agreed upon by the parties concerned.

Article 75 In addition to the use of a standard accounting currency, joint ventures shall record accounts in currencies actually used in payments and receipts, if such currencies in cash, bank deposits, funds of other currencies, assets and liabilities, gains, expenses, etc. are inconsistent with the standard accounting currency. The account statement compiled and reported by a joint venture that uses a foreign currency as the standard accounting currency shall be converted into Renminbi equivalents. The differences, converted into the standard accounting currency and resulting from the fluctuations in foreign exchange rates, shall be recorded as current gains or losses in remittances for the year in which they occur. The surplus appearing in foreign currency accounts as the result of a recorded fluctuation in the exchange rates shall be handled, while settling accounts at the end of the year, by accountants in accordance with the provisions of relevant Chinese laws and financial and accounting system.

Article 76 Principles of profit distribution after payment of taxes in accordance with the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises are as follows:

- (1) Allocations for reserve funds, bonuses and welfare funds for staff and workers and expansion funds of the joint venture. The proportion of allocations is to be decided by the board of directors.
- (2) Reserve funds which can be used to make up for the losses of the joint venture, or with the consent of the examination and approval authorities, to increase the joint venture's capital for the expansion of production.
- (3) After the funds specified in Item (1) of this Article have been deducted and if the board of directors decides to distribute the remaining profit, it shall be distributed proportionately according to each party's investment.

Article 77 Profits may not be distributed before the losses of the previous year have been made up. Remaining profits from a previous year (or years) may be distributed together with those of the current year.

Article 78 A joint venture shall submit quarterly and annual accounting reports to parties to the joint venture, the local tax authority and the financial authority .

Article 79 Only after being examined and certified by a certified public accountant of China shall the following documents, certificates and reports be considered valid:

- (1) certificates of investment from all the parties to a joint venture (lists of assessed value agreed upon and signed by the parties to the joint venture and relevant written agreements shall be attached if investment involves materials, site use rights, industrial property and proprietary technology);
- (2) annual accounting reports of the joint venture;
- (3) accounting reports on liquidation of the joint venture.

Chapter XII Staff and Workers

Article 80 The employment, recruitment, dismissal and resignation of the staff and workers of joint ventures, and their salary, welfare benefits, labor insurance, labor protection, labor discipline and other matters shall be handled according to the provisions of the State on labour and social security .

Article 81 Joint ventures shall make efforts to conduct professional and technical training of their staff and workers and establish a strict examination system so that they can meet the requirements of production and managerial skills in a modern enterprise.

Article 82 The salary and bonus system of joint ventures shall be in accord with the principle of distribution to each according to his work, and more pay for more work.

Article 83 Salaries and remuneration of the general manager and deputy general manager(s), chief engineer, deputy chief engineer(s), chief accountant and deputy chief accountant, auditor and other high ranking managerial personnel shall be decided upon by the board of directors.

Chapter XIII Trade Unions

Article 84 Staff and workers of a joint venture have the right to set up grassroots trade unions and carry on trade union activities in accordance with the Trade Union Law of the People's Republic of China and the Statute of the Trade Unions of China.

Article 85 Trade unions in joint ventures are representatives of the interests of the staff and workers. They have the right to sign, on behalf of the staff and workers, labor contracts with joint ventures and supervise the execution of these contracts.

Article 86 The basic tasks of the trade unions in joint ventures are: to protect the democratic rights and material interests of the staff and workers according to law; to help the joint ventures with the arrangement and rational use of welfare and bonus funds; to organize political, professional, scientific and technical studies, carry out literary, art and sports activities; and to educate staff and workers to observe labor discipline and strive to fulfill the economic tasks of the enterprises.

Article 87 Trade union representatives have the right to attend, without the right to vote, meetings of the board of directors held to discuss important issues such as development plans, production and operational activities of joint ventures and to air the opinions and demands of staff and workers.

Trade union representatives have the right to attend, without the right to vote, meetings of the board of directors held to discuss and decide on awards and penalties to staff and workers, the salary and wage system, welfare benefits, labor protection and labor insurance, etc. The board of directors shall heed the opinions of the trade union and win its cooperation.

Article 88 A joint venture shall actively support the work of the trade union, and, in accordance with the provisions of the Trade Union Law of People's Republic of China, provide housing and facilities for the trade union as offices, meeting halls, and for organizing welfare, cultural and sports activities. The joint venture shall allot an amount of money totalling 2 per cent of all the salaries of the joint venture's staff and workers as trade union funds, which the trade union of the joint venture shall use according to the relevant administrative rules for trade union funds formulated by the All China Federation of Trade Unions.

Chapter XIV Duration, Dissolution and Liquidation

Article 89 The duration of a joint venture is governed by the Interim Provisions Concerning Contract Period of Chinese-Foreign Equity Joint Ventures.

Article 90 A joint venture may be dissolved in the following situations:

- (1) expiration of the duration of joint operation;
- (2) inability to continue operations due to heavy losses;
- (3) inability to continue operations due to the failure of one of the contracting parties to fulfill its obligations stipulated in the agreement, contract and articles of association;
- (4) inability to continue operations due to heavy losses caused by force majeure such as natural calamities and war;
- (5) failure to obtain the desired objectives of the operation and having no prospects for future development;

- (6) occurrence of other reasons for dissolution as stipulated in the contract and articles of association. In cases described in items (2), (4), (5) and (6) of the preceding paragraph, the board of directors may make an application for dissolution to the examination and approval authorities for approval. In case described in item (3) of the preceding paragraph, the party that is carrying out or has fulfilled the contract may make an application for dissolution to the examination and approval authorities for approval.

In the situation described in (3) of this Article, the party that has failed to fulfill its obligations stipulated in the agreement, contract and articles of association shall be liable for the losses arising therefrom.

Article 91 Upon announcement of the dissolution of a joint venture, its liquidation shall be carried out; the said joint venture shall, according to the Measures for the Liquidation of Foreign Investment Enterprises, establish a liquidation committee that is responsible for the liquidation matter.

Article 92 Members of a liquidation committee shall generally be selected from among the directors of a joint venture. In case the directors cannot serve or are unsuitable to be members of the liquidation committee, the joint venture may invite Chinese certified public accountants and lawyers to do the job. When the examination and approval authorities deems necessary, it may send personnel to supervise the process.

The liquidation expenses and remuneration for the members of the liquidation committee shall be given priority in the disbursements from the existing assets of the joint venture.

Article 93 The tasks of the liquidation committee are: to conduct a thorough investigation of the property of the joint venture concerned, its credits and debts; to work out the statement of assets and liabilities and an inventory of its property; to put forward a basis on which its property is to be evaluated and calculated; and to formulate a liquidation plan. All these shall be carried out upon approval of the board of directors.

During the process of liquidation, the liquidation committee shall represent the joint venture concerned in initiating legal actions or responding thereto.

Article 94 A joint venture shall be liable for its debts with all of its assets. The remaining assets after the clearance of debts shall be distributed among the parties to the joint venture in proportion to each party's investment unless otherwise provided for in the agreement, contract and articles of association of the joint venture.

At the time when a joint venture is being dissolved, if the balance of its net assets or the balance of its remaining property with deduction of the enterprises undistributed profit, various funds and liquidation expenses exceeds the enterprises paid in capital, the excess portion is the liquidation income on which the income tax shall be paid according to law.

Article 95 On the completion of the liquidation of a dissolved joint venture, the liquidation committee shall submit a liquidation report approved by a meeting of the board of directors to the examination and approval authorities, go through formalities for cancelling its registration and hand in its business license to the registration administration agency.

Article 96 After the dissolution of a joint venture, its account books and documents shall be left in the custody of the former Chinese joint venturer.

Chapter XV Settlement of Disputes

Article 97 Disputes arising over the interpretation or execution of the agreement, contract or articles of association between the parties to the joint venture shall, if possible, be settled through friendly consultation or mediation. If these means prove futile, the disputes shall be subject to arbitration or judicial settlement.

Article 98 Parties to a joint venture, in accordance with the written agreement on arbitration, may have an arbitration carried out by an arbitral institution in China or by other arbitral institutions.

Article 99 In the absence of a written agreement on arbitration between the parties to a joint venture, either party may bring a suit in the Chinese people's court.

Article 100 In the process of settling disputes, except for matters in dispute, parties to a joint venture shall continue to carry out other provisions stipulated by the agreement, contract and articles of association of the joint venture

Chapter XVI Supplementary Provision

Article 101 The Chinese departments in charge of visas shall provide facility by simplifying procedures for staff and workers from foreign countries or from Hong Kong or Macao, (including their family members) who have frequent needs for entry and exit into and out of the territory of China.

Article 102 The Chinese staff and workers going abroad for study, business negotiations or training because of work requirements shall go through the exit formalities according to the relevant provisions of the State.

Article 103 Staff and workers from foreign countries or from Hong Kong or Macao working for a joint venture may bring in needed means of transport and office equipment with payment of taxes according to the relevant provisions of the tax law of China.

Article 104 Where laws or administrative regulations provide otherwise for joint ventures set up in the special economic zones, such provisions prevail.

Article 105 These Regulations shall be effective as of the date of promulgation.
