

# ORGANIZACIÓN MUNDIAL DEL COMERCIO

S/C/N/214  
24 de diciembre de 2002

(02-7091)

Consejo del Comercio de Servicios

Original: inglés

## NOTIFICACIÓN DE CONFORMIDAD CON EL PÁRRAFO 3 DEL ARTÍCULO III DEL ACUERDO GENERAL SOBRE EL COMERCIO DE SERVICIOS

Se ha recibido de la delegación de la República Popular China la siguiente notificación.

**1. Miembro que notifica:**

La República Popular China

**2. Notificación en virtud del:**

Párrafo 3 del artículo III del Acuerdo General sobre el Comercio de Servicios

**3. Fecha de entrada en vigor/duración:**

18.9.1995

**4. Organismo responsable de la aplicación de la medida:**

Ministerio de Construcción

Ministerio de Comercio Exterior y Cooperación Económica

**5. Descripción de la medida\* indicando las formas de suministro previstas, los efectos en el comercio de servicios (como por ejemplo restricciones a la liberalización o medidas de liberalización) e incidencia de la medida en los compromisos enunciados en la Lista del Miembro y en su Lista de exenciones del artículo II (NMF), en su caso:**

Normas sobre el establecimiento de empresas de construcción con inversión extranjera

Se adjunta el texto completo de la traducción de las normas al inglés.<sup>1</sup> La traducción al inglés se facilita únicamente a efectos de consulta y la versión china será la auténtica.

**6. Miembros específicamente afectados, en su caso:**

Todos los Miembros

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\* Incluidos los acuerdos internacionales y las medidas de reconocimiento o de otro tipo.

<sup>1</sup> En inglés solamente.

**7. Texto disponible en:**

- Servicio de información ☒
- Secretaría de la OMC ☒
- Otras fuentes (dirección, fax y teléfono de otro organismo) ☐

## **Regulations on the Establishment of Foreign Invested Construction Enterprises**

(Promulgated on 18 September 1995 by the Ministry of Construction and the Ministry of Foreign Trade and Economic Cooperation).

**Article 1** These regulations are formulated to meet the needs of China's opening up policy, to improve administration of foreign invested construction enterprises and to maintain order in the construction market.

**Article 2** For the purposes of these Regulations, the term "foreign invested construction enterprises" refer to Sino-foreign joint equity enterprises and Sino-foreign cooperative enterprises which engage in civil engineering, installation of lines, pipes and equipment as well as construction, extension or renovation for architectural decoration and fitting projects. For the time being, the establishment of construction enterprises with sole foreign investment is prohibited.

**Article 3** The establishment of foreign-invested construction enterprises shall comply with the Law of the People's Republic of China on Sino-foreign Joint Equity Enterprises, the Law of the People's Republic of China on Sino foreign Contractual Joint Ventures, Regulations Concerning the Management of the Construction Enterprise Qualifications and other relevant laws, rules and regulations.

**Article 4** Project proposals and feasibility study reports relating to the establishment of foreign-invested construction enterprises will be examined and assessed by the authority responsible for construction administration. The scope of contract engineering work which a foreign-invested construction enterprise can undertake will be determined in accordance with the Regulations Concerning the Management of the Construction Enterprise Qualifications and the Standards for the Construction Enterprise Qualifications issued by the Ministry of Construction. Contracts and articles of association relating to the establishment of foreign-invested construction enterprises will be examined and approved by the competent authority of foreign trade and economic cooperation.

**Article 5** A system of graded administration at different levels of authorities will be implemented for the examination and assessment and examination and approval of foreign-invested construction enterprises. An application to establish a Class 1 foreign-invested construction enterprise will be subject to the examination and assessment by the Ministry of Construction and to the examination and approval by MOFTEC. An application to establish a foreign-invested construction enterprise of Class 2 or lower will be subject to examination and assessment by the authority responsible for construction administration at provincial level and to examination and approval by the provincial level authority of foreign trade and economic cooperation.

If the Chinese partner to a joint venture is an enterprise directly under a State Council department, the application will be reviewed and assessed by the Ministry of Construction and reviewed and approved by MOFTEC.

**Article 6** When establishing a foreign-invested construction enterprise, matters must be handled in accordance with the following procedures:

- (1) The Chinese partner to a joint venture must submit the project proposal and feasibility study report and other relevant documents relating to the establishment of the foreign-invested construction enterprise to the authority of construction administration, which will review and assess the submissions. If all requirements are met, an "Opinion on Examination and Assessment of the Establishment of a Foreign-Invested Construction Enterprise" shall be issued.
- (2) The Chinese partner must present the "Opinion on Examination and Assessment of the Establishment of a Foreign-Invested Construction Enterprise", and submit the

contract, articles of association and other documents relating to the establishment of a foreign-invested construction enterprise, to the responsible authority of foreign trade and economic cooperation, which will examine the submission for approval. If all the requirements are met, an "Approval Certificate for a Foreign-Invested Enterprise" shall be issued.

- (3) The Chinese partner must present the "Opinion on Examination and Assessment of the Establishment of a Foreign-Invested Construction Enterprise", the "Approval Certificate for a Foreign-Invested Enterprise" and other relevant documents to the administration of industry and commerce to carry out procedures for corporate status registration.
- (4) After the foreign-invested construction enterprise has obtained an enterprise corporate business license, it must return to the authority responsible for construction administration to handle procedures for examining and approving the enterprise's business qualifications.

**Article 7** In addition to complying with the provisions of relevant laws and statutory regulations, the establishment of a foreign-invested construction enterprise must also meet the following requirements:

- (1) The Chinese partner applying to establish a foreign-invested construction enterprise must be a construction enterprise with business classification certificate of Class 2 or above. The foreign partner must be a construction enterprise with legal person status, with relatively high technical and management standards and a sound reputation.
- (2) The proposed enterprise must be able to introduce into China or utilize internationally advanced construction technology and equipment, as well as train personnel from the Chinese party in such areas as engineering construction and business management.
- (3) Registered capital must comply with the following requirements: The minimum registered capital for a Class 1 construction enterprise is US\$ 10,000,000, that for a Class 2 construction enterprise is US\$ 5,000,000, and that for a Class 3 construction enterprise is US\$ 1,600,000. The registered capital shall not be less than US\$ 2,000,000 for Class 1 construction decoration and fitting enterprises; US\$ 1,500,000 for Class 2 decoration and fitting enterprises, and US\$ 600,000 for Class 3 decoration and fittings enterprises.

**Article 8** In applying for establishing a foreign-invested construction enterprise, the Chinese partner shall submit the following documents to authority in charge of construction according to the procedures prescribed in Article 5 of these Regulations:

- (1) an application for the establishment of a foreign-invested construction enterprise;
- (2) the Chinese partner's qualifications certificate;
- (3) an opinion of the authority in charge of the Chinese partner on its examination and verification of the application, except where there is no administrative authority in charge of the Chinese partner;
- (4) project proposal for the establishment of a foreign-invested construction enterprise;
- (5) feasibility study report jointly compiled by all parties to the venture;
- (6) certificates of industrial and commercial registration of all parties to the venture;
- (7) certificates of credit standing of all parties to the venture; and
- (8) other relevant documents.

**Article 9** When application is made for establishing a foreign-invested construction enterprise, the following documents must be provided to the competent authority of foreign trade and economic cooperation in accordance with the procedures prescribed in Article 5 of these Regulations:

- (1) the "Opinion on Examination and Assessment of the Establishment of a Foreign Invested Construction Enterprise" issued by the authority responsible for construction administration;

- (2) the contract and articles of association of the proposed foreign-invested construction enterprise;
- (3) project proposal and feasibility study report;
- (4) certificates of industrial and commercial registration of all parties to the venture;
- (5) certificates of credit standing of all parties to the venture;
- (6) document of ratification of the enterprise name issued by the administrative authority for industry and commerce; and
- (7) list of members of the board of directors of the enterprise and their letters of appointment issued by all parties to the venture.

**Article 10** Investors from the regions of Taiwan, Hong Kong and Macao who invest in the establishment of construction enterprises in China's mainland shall refer to these Regulations.

**Article 11** These Regulations shall take effect as of the date of promulgation.

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