

DETAILED RULES FOR IMPLEMENTING THE LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON ENTERPRISES OPERATED EXCLUSIVELY WITH FOREIGN CAPITAL

(Approved by the State Council of the People's Republic of China on October 28, 1990, and promulgated by the Ministry of Foreign Economic Relations and Trade on December 12, 1990)

Chapter 1 - General Provisions

Article 1

These Detailed Rules are formulated in accordance with the provisions of Article 23 of the Law of the People's Republic of China on Enterprises Operated Exclusively with Foreign Capital.

Article 2

All wholly foreign-owned enterprises are subject to the jurisdiction and protection of Chinese laws. Business activities conducted by a wholly foreign-owned enterprise within the territory of China must comply with Chinese laws and regulations without injury to the social public interests of China.

Article 3

Before a wholly foreign-owned enterprise can be established it must be shown to be beneficial to the development of the Chinese national economy, be able to gain remarkable economic results and meet at least one of the following requirements:

- (1) Using advanced technology and equipment which can help develop new products, save energy and raw materials, upgrade existing products and/or substitute for imports;
- (2) Reaching 50 percent or more of the annual output value of the export product in the total output value of all products of that year with a balance or surplus in foreign exchange receipts and expenditure.

Article 4

Establishment of wholly foreign-owned enterprises in the following business lines is prohibited:

- (1) News, publishing, broadcasting, television, film production;
- (2) Domestic commerce, foreign trade, insurance;
- (3) Posts and telecommunications;
- (4) Any others prohibited by the provisions of the Chinese government.

Article 5

The establishment of a wholly foreign-owned enterprise is restricted in the following lines of business:

- (1) Public utilities;
- (2) Communications and transportation;

- (3) Real estate;
- (4) Trust investment;
- (5) Leasing.

An application to establish a wholly foreign-owned enterprise in the lines of business described in the preceding paragraph is subject to approval by the Ministry of Foreign Economic Relations and Trade of the People's Republic of China (hereinafter referred to as the Ministry of Foreign Economic Relations and Trade), unless otherwise stipulated in the Chinese laws and regulations.

Article 6

An application for establishing a wholly foreign-owned enterprise shall not be approved if the enterprise involves any of the following circumstances:

- (1) Detriment to China's sovereignty or public interests;
- (2) Endangerment of the security of China;
- (3) Violation of Chinese laws and regulations;
- (4) Nonconformity with the requirements of the development of China's national economy;
- (5) Possibility of environmental pollution.

Article 7

A wholly foreign-owned enterprise, within the approved scope of operation, is entitled to do business independently without interference whatever.

Chapter 2 - Establishment Procedures

Article 8

After the examination and approval of application for the establishment of wholly foreign-owned enterprises by the Ministry of Foreign Economic Relations and Trade, certificates of approval shall be granted by the Ministry.

The State Council may authorize the people's governments in provinces, autonomous regions, or municipalities directly under the central government, special cities with independent plans and Special Economic Zones to examine and approve the applications for establishing wholly foreign-owned enterprises under the following situations and certificates of approval are granted by such people's governments after the approval:

- (1) The total investment is within the authorization for approval as set by the State Council;
- (2) No allocations of raw materials by the State are required and the national overall balance of energy resources, transportation and quotas for export are not affected. The approval of the establishment of a wholly foreign-owned enterprise by the people's governments in provinces, autonomous regions, municipalities directly under the central government, special cities with independent plans and Special Economic Zones within the authorization for approval set by the State Council shall be filed with the Ministry of Foreign Economic Relations and Trade within 15 days after approval. (The Ministry of Foreign Economic Relations and Trade and the people's governments in the provinces, autonomous regions, municipalities directly under the central government, special cities with

independent plans and Special Economic Zones shall be hereinafter referred to as "the examination and approval authority".)

Article 9

A wholly foreign-owned enterprise applying for establishment shall, according to the authorization for approval, obtain the consent of the department of foreign economic relations and trade in advance, if the products of such enterprise involve export licenses, export quotas, import licenses or are restricted for import by the State.

Article 10

Before applying for the establishment of a wholly foreign owned enterprise, a foreign investor shall submit to the local people's government (at county level or above) where the enterprise will be located, a report covering the following items: objective of the wholly foreign-owned enterprise to be established; scope and scale of operation; products; technology and equipment to be used; the anticipated ratio of product sales in domestic and international market; acreage and requirement of the land; conditions and quantity of required water, electric power, coal, gas or other energy resources; requirements for public facilities, etc.

The local people's government (at county level or above) shall answer the foreign investor in written form within 30 days from the date of receiving the report submitted by the foreign investor.

Article 11

A foreign investor shall through the local people's government (at county level or above) where the wholly foreign-owned enterprise will be established submit the application for establishing the wholly foreign-owned enterprise with the following documents to the examination and approval authority;

- (1) Application for establishing a wholly foreign-owned enterprise;
- (2) Feasibility study report;
- (3) Articles of association of the enterprise.
- (4) List of legal representatives of the enterprise (or the candidates for the board of directors);
- (5) Documents of testimonial and financial credit of the foreign investors;
- (6) Written reply of the local people's government at county level or above where the wholly foreign-owned enterprise will be established;
- (7) List of goods and materials which have to be imported;
- (8) Other documents needing to be submitted.

The documents in the preceding items (1) and (3) shall be written in Chinese, while documents in items (2), (4) and (5) may be written in foreign language with Chinese translation attached to.

Where two or more foreign investors apply jointly to establish a wholly foreign-owned enterprise, they shall submit the duplicate of the contract signed between them to the examination and approval authority for the record.

Article 12

The examination and approval authority shall decide whether to approve or disapprove the application for the establishment of a wholly foreign owned enterprise within 90 days from the date of receiving all the documents. Should anything imperfect or

inappropriate be found in the aforementioned documents, the examination and approval authority may demand a supplement or amendment to them within a limited period of time.

Article 13

After the application for establishing a wholly foreign-owned enterprise is approved by the examination and approval authority, the foreign investor shall, within 30 days from the date of receiving the certificate of approval, apply to the administrative authority for industry and commerce for registration and a business license. The date of issuance of the business license for a wholly foreign-owned enterprise shall be the date of its establishment. If the foreign investor fails to apply to the administrative authority for industry and commerce for registration after 30 days from the date of receiving the certificate of approval, the certificate of approval shall automatically become invalid. The enterprise shall go through the formalities for tax registration with the tax authority within 30 days of its establishment.

Article 14

A foreign investor may entrust organizations serving enterprises with foreign investment in China or other economic organizations to handle the matters stipulated in Article 9, Paragraph 1 of Article 10 and Article 11. A contract of mandate shall be signed between the foreign investor and the organizations above mentioned.

Article 15

The application for establishing a wholly foreign-owned enterprise shall include the following items:

- (1) Names, residence, places of registration of the foreign investors, and names, nationalities and titles of the legal representatives;
- (2) Name and legal address of the wholly foreign-owned enterprise to be established;
- (3) Scope of operation, variety of products, and scale of production;
- (4) Total investment, registered capital, source of funds, ways and time limit of contribution to the wholly foreign-owned enterprise to be established;
- (5) Form of organization or mechanism and legal representative of the enterprise;
- (6) Main production equipment to be adopted and its present condition, production technology, level of process of technology and their source of supply;
- (7) Districts for sale, ways and means of selling products, and the sale ratio of products on the domestic and international markets;
- (8) Arrangements for receipts and expenditures of foreign currency;
- (9) Arrangements for staff and organization, employment, training, salaries and wages, welfare benefits, labor insurance, labor protection and other matters of staff and workers;
- (10) Possibility or degree of environmental pollution and the measures for solution;
- (11) The choice and acreage of the land to use;
- (12) Funds, energy and raw materials necessary for capital construction and production and the measures for solution;
- (13) The progress schedule of project;
- (14) The duration of the enterprise to be established.

Article 16

Article of association of a wholly foreign-owned enterprise shall include the following items:

- (1) Name and legal address of the wholly foreign-owned enterprise;
- (2) Objective and scope of operation;
- (3) Total amount of investment, registered capital and time limit of contribution;
- (4) Form of organization;
- (5) Internal organizations and their functions of the enterprise, and rules for handling routine affairs, the responsibility and authority of legal representative, general manager, chief engineer, chief accountant and other high ranking management officers;
- (6) Principles and systems governing finance, accounting and auditing;
- (7) Labor management;
- (8) Duration, dissolution and liquidation;
- (9) Procedures for amendment of the articles of association.

Article 17

The articles of association shall come into force after being approved by the examination and approval authority. The same applies in the event of amendments.

Article 18

When a wholly foreign-owned enterprise is split up, merged with others or important changes taken place on the capital for some reasons, it shall apply to the examination and approval authority for approval with a certificate of verification provided by an accountant registered in China. And then registration procedures for changes shall be followed at the administrative authority for industry and commerce.

Chapter 3 - Form of Organization and Registered Capital

Article 19

A wholly foreign-owned enterprise shall take the form of a limited liability company. It may also with approval take other forms of organization.

Where a wholly foreign-owned enterprise is a limited liability company, the foreign investor shall be liable to the enterprise within the limit of the capital subscribed by it.

Where a wholly foreign-owned enterprise takes other forms of organization, the liability of the foreign investor to the enterprise shall be determined according to the Chinese laws and regulations.

Article 20

The total amount of investment of a wholly foreign-owned enterprise refers to the sum of funds for operating the enterprise, (meaning the sum total of capital construction funds and working capital necessary for reaching the production scale of the enterprise).

Article 21

The registered capital of a wholly foreign-owned enterprise refers to the total amount of capital registered at the administrative authority for industry and commerce when applying for the establishment of the enterprise, meaning all the capital subscribed by the foreign investor.

The registered capital of a wholly foreign-owned enterprise shall be appropriate to its business scale, and the ratio between its registered capital and total amount of investment shall confirm with relevant provisions set by China.

Article 22

A wholly foreign-owned enterprise shall not reduce its registered capital during its term of operation.

Article 23

Any increase or assignment of the registered capital of a wholly foreign-owned enterprise shall be approved by the examination and approval authority and then go through the procedures for alteration of registration with the administrative authority for industry and commerce.

Article 24

Where a wholly foreign-owned enterprise mortgages or assigns its property, or rights and interests, the enterprise shall submit it to the examination and approval authority for approval and then file it with the administrative authority for industry and commerce for the record.

Article 25

A legal representative of a wholly foreign-owned enterprise is a person in charge who exercises his functions and powers on behalf of the enterprise in line with the enterprise's articles of association. When the legal representative is unable to perform his functions and powers, he shall entrust in written form an agent to exercise his functions and powers.

Chapter 4 - Ways and Time Limit for Contributing investment

Article 26

The investment contributed by a foreign investor may be provided in freely convertible foreign currency or by machinery, equipment, industrial property rights and/or know-how which are evaluated. With the approval of the examination and approval authority, a foreign investor may also contribute his profits in RMB yielded from his other enterprises operating in the territory or China.

Article 27

The machinery or equipment contributed as investment by a foreign investor shall meet the following requirements:

- (1) Necessary for the production of the wholly foreign-owned enterprise;
- (2) Unable to be manufactured in China, or though able, their technical performance or delivery time do not meet demand. The evaluation of such machinery or equipment shall not be higher than the normal price of similar machinery or equipment in the then international market. A detailed list of the evaluated machinery or equipment contributed a investment shall be made out. It shall include items, assortments, quantity, evaluation and be submitted as an annex to the application for establishing a foreign-owned enterprise to the examination and approval authority.

Article 28

The industrial property rights or know-how contributed as investment by a foreign investor shall meet the following requirements:

(1) It is owned by the foreign investor;

(2) New products urgently needed in China or expert products easily sold in the world market are able to be manufactured with such industrial property or know-how. The evaluation of such industrial property rights or know-how shall conform with international evaluation principles and its total evaluation shall be no more than 20 percent of the registered capital of the enterprise. Detailed information shall be provided pertaining to the industrial property rights or know-how contributed as investment, including copies including copies of the ownership certificate, state of validity, technical characteristics, practical value, the basis and standard on which the evaluation is made. (This shall be submitted as an annex to the application for establishing a wholly foreign-owned enterprise to the examination and approval authority.)

Article 29

When machinery or equipment contributed as investment arrives at a Chinese port, the wholly foreign-owned enterprise shall apply for inspection to the Chinese commodity inspection organization which will issue the inspection report to that effect. Where the assortment, quality and quantity of such machinery or equipment are inconsistent with those given in the list of contributed investment which has been submitted to the examination and approval authority, the authority has the power to require the foreign investor to make correction within the given time.

Article 30

After the industrial property rights or know-how contributed as investment is put into use, the examination and approval authority has the power to make a check. If such industrial property rights or know-how do not conform with the original document submitted by the foreign investor, the examination and approval authority has the power to require the foreign investor to make correction within the given time.

Article 31

The time limit for a foreign investor to subscribe the capital shall be stipulated in the application for establishing the wholly foreign-owned enterprise. The foreign investor may subscribe the capital by instalments. However the last instalment shall be paid within three years from the date of the issuance of the business license. The first instalment by a foreign investor shall be no less than 15 percent of all of his capital subscribed and paid within 90 days from the date on which the enterprise's business license is issued. If a foreign investor fails to subscribe the first instalment within the period stipulated in the preceding paragraph, the certificate of approval for a wholly foreign-owned enterprise shall become invalid automatically. The enterprise shall then go through the procedures of nullifying its registration with the administrative authority for industry and commerce, and hand in its business license for cancellation. In case a wholly foreign-owned enterprise fails to handle the procedures of nullification and cancellation, the administrative authority for industry and commerce shall withdraw the business license of the enterprise and make an announcement.

Article 32

After the first instalment is made, a foreign investor shall pay each instalment on schedule. If any instalment is overdue by more than 30 days without appropriate reason, it shall be handled according to the provisions of Paragraph 2, Article 31 of these Detailed Rules. Where a foreign investor has appropriate reasons for the delay of its contribution, it shall, with the consent of the examination and approval authority, report it to the administrative authority for industry and commerce for the record.

Article 33

After each instalment is paid by the foreign investor, the wholly foreign-owned enterprise shall hire an accountant registered in China for verification and for a report of verification. The report shall be filed with the examination and approval authority and the administrative authority for industry and commerce.

Chapter - 5 Land Use and Fees

Article 34

The use of land by a wholly foreign-owned enterprise shall be reviewed and arranged by the people's government at county level or above according to the circumstances of its own district.

Article 35

A wholly foreign-owned enterprise shall with its certificate of approval and business license handle the procedures with the land administrative department of the local people's government (at county level or above) where the enterprise is to be located and obtain a certificate of land within 30 days from the date of issuing its business license.

Article 36

A certificate of land is a legal document against which the wholly foreign-owned enterprise is entitled to use the land. The enterprise shall not assign its right to use the land during its term of operation without approval.

Article 37

A wholly foreign-owned enterprise shall pay the land use fee to the department in charge of land in its locality at the time the certificate of land is received.

Article 38

A wholly foreign-owned enterprise shall pay the land development fee if the land for which the enterprise is entitled to use has been developed. The land development fee referred to in the preceding paragraph includes expenses for requisition, demolition and resettlement and expenses for infrastructure provided for the wholly foreign-owned enterprise. The land development fee may be charged in one lump or yearly by the land development unit.

Article 39

If the land to be used by a wholly foreign-owned enterprise is undeveloped, the enterprise may develop it by itself or entrust a relevant Chinese unit to do it. The construction for basic facilities shall be arranged under unified management of the People's Government at county level or above where the enterprise is located.

Article 40

The standard for the land use fees and land development fees shall be fixed in accordance with the relevant provisions of China.

Article 41

The period for use of land by a wholly foreign-owned enterprise extends as long as its approved term of operation.

Article 42

A wholly foreign-owned enterprise may acquire the right to use the land according to either the provisions of the present Chapter or other laws and regulations of China.

Chapter 6 - Purchase and Sale

Article 43

A wholly foreign-owned enterprise shall make and implement its production and operation plan by itself. The plan shall be filed with the local department which is in charge of the enterprise's line of business.

Article 44

A wholly foreign-owned enterprise has the right to make decisions on its own to purchase machinery, equipment, raw materials, fuel, parts fittings, components, means of transport and stationery, etc. (hereinafter referred to as "goods and materials") for its own use. In purchasing goods and materials in China, a wholly foreign-owned enterprise shall receive the same treatment as a Chinese enterprise under like conditions.

Article 45

In selling products in the Chinese market, a wholly foreign-owned enterprise shall follow its approved sale ratio. In case a wholly foreign-owned enterprise intends to sell more of its products than the approved sale ratio in the Chinese market, approval is required from the examination and approval authority.

Article 46

A wholly foreign-owned enterprise has the right to export its own products by itself. However, it may entrust a Chinese foreign trade corporation or corporation outside China with sales on commission. A wholly foreign-owned enterprise has the right to sell its products by itself in China in line with the approved sale ratio (or may entrust a Chinese commercial agency with sales on commission).

Article 47

For machinery or equipment contributed as investment by a foreign investor and for which an import license is required according to the Chinese laws, the enterprise shall, with the list of export equipment and materials which have been approved, apply to the issuing authority for an import license by itself, or through an agency. Within the approved scope of operation, a wholly foreign-owned enterprise shall make out an annual plan for import of goods and materials which are necessary for the production of the enterprise and if the import license for such goods and materials is required according to the provisions of

China, and the enterprise shall apply for such license to the issuing authority every six months.

Article 48

Prices for goods materials, technology and services imported by a wholly foreign-owned enterprise shall not be higher than the normal price of similar goods materials, technology and service in the then international market. The enterprise may decide the price of its products for export by itself with reference to the then price in international market, but the price shall not be lower than a reasonable price for export. If a wholly foreign-owned enterprise evades tax by means of import at higher price and export at lower price (or other methods), the tax authority has the power to investigate the enterprise's legal responsibility according to the tax laws. The price for products sold in the Chinese market by a wholly foreign-owned enterprise in line with the approved sales ratio shall follow the provisions of the price control regulations in China. The said price shall be filed with the price control authority and tax authority, and subject to their supervision.

Article 49

A wholly foreign-owned enterprise shall provide statistical information and submit statistical statements and reports in accordance with the Law of Statistics of the People's Republic of China and the statistical system provisions concerning foreign investment in China.

Chapter 7 – Taxation

Article 50

A wholly foreign-owned enterprise shall pay taxes in accordance with the laws and regulation of China.

Article 51

Staff and workers in a wholly foreign-owned enterprise shall pay individual income tax in accordance with the provisions of the Chinese laws and regulations.

Article 52

A wholly foreign-owned enterprise shall be exempted Customs duty and consolidated industrial and commercial tax for the following goods and materials imported by it:

(1) Machinery, equipment, parts, building materials for the enterprise's construction, and materials required for installation and reinforcement of machinery which are contributed as investment by the foreign investor;

(2) Machinery, equipment, parts, means of transport for production and equipment for production management imported by the enterprise for its own use with funds which are part of the total amount of investment;

(3) Raw materials, auxiliary materials, components, parts and packing materials imported by the enterprise for production of export goods.

Taxes shall be levied and pursued according to the Chinese tax laws if the imported goods and materials mentioned in the preceding paragraph are approved for sale in China or for manufacturing products to be sold in China.

Article 53

Except for those restricted by China to be exported, the export products of a wholly foreign-owned enterprise shall be exempt Customs duty and consolidated industrial and commercial tax in accordance with the tax law of China.

Chapter 8 - Foreign Exchange Control**Article 54**

A wholly foreign-owned enterprise shall handle its foreign exchange transactions in accordance with the laws and regulations on exchange control of China.

Article 55

With the business license issued by the administrative authority for industry and commerce, a wholly foreign-owned enterprise may open a foreign exchange account with a bank which is permitted to handle foreign exchange transactions in the territory of China, and the supervision of receipts and payments shall be carried out by the bank with which an account is opened. The foreign exchange income of a wholly foreign-owned enterprise shall be deposited into the foreign exchange account in the bank with which an account is opened, and the expenditures in foreign exchange by the wholly foreign-owned enterprise shall be made out of the foreign exchange account.

Article 56

A wholly foreign-owned enterprise shall keep the balance of its foreign exchange receipts and expenditures by itself. Where a wholly foreign-owned enterprise is unable to keep the balance of its foreign exchange revenue and expenditure by itself, the foreign investor shall state it expressly in its application for establishing the wholly foreign-owned enterprise, and put forward a concrete proposal of solution. The examination and approval authority shall give a reply after consulting with the departments concerned. Where it is stated expressly in the application that the wholly foreign-owned enterprise can keep the balance of its foreign exchange receipts and disbursements by itself, no governmental department shall be responsible for solving the matter on the balance of foreign-exchange receipts and disbursements. In case the products made by a wholly foreign-owned enterprise are needed urgently in China and able to be used as import substitution, they can be sold in China with permission, and foreign exchange may be collected upon the approval of the authority for exchange control of China.

Article 57

If a wholly foreign-owned enterprise needs to open a foreign exchange account with a bank outside China as required for its production and operation, it shall obtain permission from the authority for exchange control of China, and report regularly its foreign exchange receipts and payments with its bank statement according to the provisions of the authority for exchange control.

Article 58

Staff and workers from foreign countries from Hong Kong, Macao or Taiwan, engaged in a wholly foreign-owned enterprise may, after having paid income tax according to the tax law of China, remit out freely their salaries and wages and other legitimate income.

Chapter 9 - Financial Affairs and Accounting

Article 59

A wholly foreign-owned enterprise shall--in accordance with Chinese laws, regulations and provisions of the finance authority--set up its financial and accounting system and report it to the local finance and tax authorities for the record.

Article 60

The fiscal year of a wholly foreign-owned enterprise shall begin from January 1 and end on December 31 of the Gregorian Calendar.

Article 61

The profit of a wholly foreign-owned enterprise (after payment of income tax according to the tax law of China) shall be allocated for reserve funds, bonuses and welfare funds for staff and Workers. The proportion of allocation for reserve funds shall be no less than 10 per cent of the profit after tax until the accumulative amount of allocation for reserve funds reaches 50 per cent of the registered capital, and then no more allocation may be made. The proportion of allocation for bonuses and welfare funds for staff and workers shall be decided by the enterprise itself.

No profit shall be distributed unless the losses suffered by the wholly foreign-owned enterprise from the previous fiscal years are recovered; the profit retained by the enterprise and carried over from the previous fiscal years may be distributed together with the distributable profit of the current fiscal year.

Article 62

The accounting vouchers, books, statements and financial reports prepared by a wholly foreign-owned enterprise shall be written in Chinese. If written in foreign languages, they shall be supplemented by Chinese translations.

Article 63

A wholly foreign-owned enterprise shall conduct independent accounting.

A wholly foreign-owned enterprise shall compile its annual accounting statement or statement on liquidation in accordance with the provisions of the finance and taxation authorities of China.

A wholly foreign-owned enterprise using a foreign currency as its book keeping base shall compile not only the accounting statement in the foreign currency but also the separate accounting in RMB equivalent to the foreign currency. A wholly foreign-owned enterprise shall engage an accountant registered in China to verify its annual accounting statement and statement on liquidation and render a certificate of verification. The annual accounting statement and statement on liquidation of a wholly foreign-owned enterprise stipulated in the second and third paragraphs shall be, with the certificate rendered by the accountant registered in China, submitted to the finance and tax authorities in the set time, as well as to the examination and approval authority and the administrative authority for industry and commerce for the record.

Article 64

A foreign investor may engage a Chinese or foreign accountant to audit the account books of its enterprise. The expenses thereon shall be borne by the foreign investor.

Article 65

A wholly foreign-owned enterprise shall submit its annual balance sheet and its profit-and-loss statement to the finance and tax authorities (as well as to the examination and approval authority) and the administrative authority for industry and commerce.

Article 66

A wholly foreign-owned enterprise shall set an account book in its location, and accept the supervision of the finance and tax authorities. In cases where a wholly foreign-owned enterprise violates the aforesaid provisions, the finance and tax authorities may impose a fine on the enterprise, and the administrative authority for industry and commerce may order a suspension of business to the enterprise or revoke its business license.

Chapter 10 - Staff and Workers

Article 67

In the employment of staff and worker's in the territory of China, a wholly foreign-owned enterprise shall sign labor contracts with its staff and workers according to the laws and regulations of China, and matters such as employment, dismissal, remuneration, welfare, labor protection, labor insurance, etc. shall be expressly stipulated in the contracts.

All wholly foreign-owned enterprises are prohibited from employing child labor.

Article 68

A wholly foreign-owned enterprise shall take the responsibility for professional and technical training of its staff and workers, and set up systems of examining its staff and workers, thus enabling them to meet the requirements of development in production and managerial skills.

Chapter 11 - Trade Unions

Article 69

Staff and workers in a wholly foreign-owned enterprise have the right to establish grass-roots trade unions and carry out trade union activities in accordance with the Trade Union Law of the People's Republic of China (hereinafter referred to as the Trade Union Law).

Article 70

The trade union, as a representative of staff and workers, in a wholly foreign-owned enterprise is empowered to sign labor contracts with the enterprise on behalf of the staff and workers and supervise the execution of those contracts.

Article 71

The basic tasks of the trade union in a wholly foreign-owned enterprise are to protect the lawful rights and interests of the staff and worker's pursuant to the laws and

regulations of China; to assist the enterprise in rational use of welfare and bonus funds; to organize political, professional, scientific and technical studies and carry out literary, art and sports' activities for staff and workers; and to educate staff and workers to observe labor discipline and exert themselves to fulfil the productive tasks of the enterprise. The representatives of the trade union have the right to attend as non-voting members meetings held by a wholly foreign-owned enterprise to decide matters concerning staff and workers on awards and penalties, salaries and wages, welfare benefits, labor protection and labor insurance, etc. A wholly foreign-owned enterprise shall pay attention to the opinions of the trade union for its co-operation.

Article 72

A wholly foreign-owned enterprise shall actively support the work of the trade union and provide necessary space and facilities for the trade union for the purpose of office, meetings and collective activities on welfare, culture and sports in accordance with the provisions of the Trade Union Law. A wholly foreign-owned enterprise shall allot monthly an amount of money in proportion as 2 percent of the total salaries and wages actually paid to its staff and workers as the trade union's funds. The funds shall be used by the trade union in that enterprise according to the relevant managerial rules for trade union funds formulated by the All-China Federation of Trade Unions.

Chapter 12 - Duration, Termination and Liquidation

Article 73

The term of operation of a wholly foreign-owned enterprise shall be according to its particular line of business and its concrete conditions, stipulated by the foreign investor in its application for establishing the enterprise, and approved by the examination and approval authority.

Article 74

The term of operation of a wholly foreign-owned enterprise shall begin from the date on which the business license of the enterprise is issued. If an extension of term of operation is required upon expiration, a wholly foreign-owned enterprise shall submit an application for extension of the term to the examination and approval authority 180 days before the expiration. The examination and approval authority shall decide the approval or disapproval within 30 days from the date of receiving the application for extension. Upon approval of an extension of term, the enterprise shall go through formalities for the alteration of registration with the administrative authority for industry and commerce within 30 days from the date of receiving the approval document.

Article 75

A wholly foreign-owned enterprise shall be terminated in any of the following situations:

- (1) Expiration of the term of operation;
- (2) Dissolution decided by the foreign investor due to poor operation and heavy losses;
- (3) Inability to continue the operation due to heavy losses caused by force majeure such as natural calamity, war, etc;
- (4) Bankruptcy;

(5) Revocation made by the authorities concerned due to the enterprise's violation of Chinese laws and regulations and harm to the social public interests;

(6) Occurrence of other reasons of dissolution stipulated in the articles of association of the enterprise.

If a wholly foreign-owned enterprise is involved in the situations described in (2), (3) and (4) of the preceding paragraph, the enterprise shall itself submit for verification and approval an application for termination to the examination and approval authority. The date of termination shall begin from the date of verification and approval by the examination and approval authority.

Article 76

In case a wholly foreign-owned enterprise is terminated under the provision of (1), (2), (3) and (6) in Article 75, the enterprise shall make a public announcement and notify the creditor's within 15 days from the date of termination. It shall, within 15 days from the day on which the announcement of termination is issued, put forwards the procedures and principles for liquidation, nominate the candidates for the liquidation committee and submit them to the examination and approval authority, and then carry out liquidation after the examination and verification by the authority.

Article 77

The liquidation committee shall be composed of the legal representative of a wholly foreign-owned enterprise, and representatives of the creditors and the competent authorities concerned. It shall also engage an accountant registered in China and a lawyer as its member's.

The liquidation expenses shall be paid first from the existing assets of the enterprise.

Article 78

The liquidation committee shall exercise its functions and powers as follows:

- (1) To convene the meeting of creditors;
- (2) To take over and sort out the property of the enterprise, and work out a balance sheet and a list of property;
- (3) To put forward a basis on which the property is evaluated and calculated;
- (4) To formulate a liquidation program;
- (5) To collect claims and clear debts;
- (6) To recover the amount of money which should be, but has not been contributed by shareholder;
- (7) To allocate the property left over after the clearance of all debts;
- (8) To sue (or be sued) on behalf of the wholly foreign-owned enterprise.

Article 79

Before the completion of the liquidation of a wholly foreign-owned enterprise, the foreign investor shall not remit or carry the funds of the enterprise outside China and may not dispose of the property of the enterprise by itself. If the net assets and remaining property exceed the registered capital of a wholly foreign-owned enterprise upon its completion of the liquidation, the excess sum shall be regarded as profits on which income tax shall be levied in accordance with the tax laws of China.

Article 80

Upon completion of the liquidation of a wholly foreign-owned enterprise, the foreign investor shall go through with the administrative authority for industry and commerce formalities to nullify its registration and cancel its business license.

Article 81

When a wholly foreign-owned enterprise is disposed of its property upon the liquidation, any Chinese-owned enterprises or other economic organizations have the priority of purchase under the like conditions.

Article 82

In case a wholly foreign-owned enterprise is terminated pursuant to (4) of Article 75, the liquidation shall be conducted with reference to the related laws and regulations of China. In the event that a wholly foreign-owned enterprise is terminated according to (5) of Article 75, the liquidation shall be carried out in accordance with the relevant provisions of China.

Chapter 13 - Supplementary Provisions**Article 83**

All the insurance coverage of a wholly foreign-owned enterprise shall be furnished by insurance institutions within the territory of China.

Article 84

Economic Contract Law of The People's Republic of China shall apply to the economic contracts concluded between a wholly owned enterprise and any other Chinese owned enterprises or economic organizations. Foreign Economic Contract Law of the People's Republic of China shall apply to the economic contracts concluded between a wholly foreign-owned enterprise and a foreign company, enterprise or individual.

Article 85

If a company, enterprise or other economic organization or individual in Hong Kong, Macao or Taiwan or a Chinese citizen abroad establishes on the Mainland a wholly-owned enterprise, it shall be handled with reference to the present Detailed Rules.

Article 86

Staff and workers from foreign countries or Hong Kong, Macao or Taiwan engaged in a wholly foreign-owned enterprise may bring in a rational number of self-use means of transport and articles for daily use through complying with the formalities for the importation according to the provisions of China.

Article 87

The Ministry of Foreign Economic Relations and Trade is responsible for the interpretation of the present Detailed Rules.

Article 88

The present Detailed Rules shall enter into force on their date of promulgation.