

Appendix 52 – Regulations of the State Council of the PRC for Encouraging Taiwan Compatriots to Invest in the Mainland (1988)

Source: Regulations of the State Council of the People's Republic of China for Encouraging Taiwan Compatriots to Invest in the Mainland. Ministry of Commerce People's Republic of China. 1988.

Available at:

<http://english.mofcom.gov.cn/aarticle/lawsdata/chineselaw/200211/20021100053824.html>
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(Adopted on June 25, 1988 at the 10th Executive Meeting of the State Council, and Promulgated on July 3, 1988 by Decree No. 7 of the State Council of the People's Republic of China)

Article 1. These Regulations are hereby formulated to encourage companies, enterprises and individuals from Taiwan (hereinafter referred to as Taiwan investors) to invest in the mainland in order to promote economic and technological exchange between Taiwan and the mainland in the interests of prosperity on both sides of the Taiwan Strait.

Article 2. Taiwan investors may invest in provinces, autonomous regions, municipalities directly under the Central Government and special economic zones in the mainland. Taiwan investors are encouraged to undertake land development and management in Hainan Province and on designated islands and coastal areas in Fujian, Guangdong and Zhejiang Provinces.

Article 3. Taiwan investors may invest in the mainland in the form of:

1. wholly-owned enterprises;
2. equity joint ventures, contractual joint ventures;
3. compensation trade, processing or assembling with supplied materials, co-production;
4. purchasing enterprise shares and bonds;
5. buying real estate;
6. legally obtaining land-use rights and undertaking land development and management;
7. other form as permitted by laws and regulations.

Article 4. Taiwan investors may invest in industry, agriculture, service trades and other industries that accord with the direction of the mainland's social and economic development. They may select the projects that are designated by departments concerned of the local people's government for investment, or they may put forward their investment plans and apply to the departments of foreign economic relations and trade or offices in charge of examination and approval designated by the people's government of the localities where they intend to invest.

Taiwan compatriots are encouraged to invest and run export-oriented enterprises and technologically advanced enterprises and are given corresponding preferential treatment.

Article 5. These Regulations are applicable to wholly-owned enterprise, equity joint ventures

and contractual joint ventures funded and run by Taiwan compatriots (hereinafter referred to as enterprises with Taiwan investment). In addition, they may enjoy the same treatment as foreign funded enterprises under the State's law and regulations concerning foreign investment.

These Regulations and the State's law and rules concerning foreign economic relations are applicable to Taiwan compatriots investing in other forms and having no business establishment in the mainland but having dividends, interests, rents, concession-use fees and other incomes from the mainland.

Article 6. The investment contributed by Taiwan compatriots may be provided in convertible currencies, machines and equipment or in kind, or may include industrial property rights and expertise.

Article 7. The investment by Taiwan compatriots, assets and industrial property bought by them, profits from their investment and their other legitimate rights, and interests in the mainland are protected by law and may be transferred and inherited according to relevant laws.

Taiwan investor's activities in the mainland shall abide by the State's laws and regulations.

Article 8. The State shall not nationalize any investment made or other assets bought by Taiwan compatriots.

Article 9. When the State expropriates enterprises involving Taiwan capital under special conditions where the needs of the public dictate such action, they will be done with legal procedures and appropriate compensation.

Article 10. Taiwan compatriots' legitimate profits from investment and their other legitimate income and capital may be remitted outside after clearing.

Article 11. Machinery and equipment, vehicles used in production and office equipment that the enterprises with Taiwan investment need to import and are within the total investment, and appropriated volumes of daily necessities and vehicles of Taiwan compatriots for private use when they work in the enterprises, are exempt from import duty and consolidated industrial and commercial tax, and from the requirement for import licenses.

Raw materials, fuel, bulk parts, spare parts, machine component parts and fittings that enterprises with Taiwan investment need to import for export-oriented production are exempt from import duty and consolidated industrial and commercial tax, and from the requirement for import licenses. The Customs department shall exercise supervision and control. If the imported materials and items mentioned above are used in products to be sold in the mainland, import procedures shall be handled in accordance with the concerned provisions, and taxes shall be set according to the governing sections.

Export products of enterprises with Taiwan investment, except those restricted by the State, shall be exempt from export duty and the consolidated industrial and commercial tax.

Article 12. Enterprises with Taiwan investment may obtain loans from financial institutions in and outside the mainland. The loans can be mortgaged and guaranteed with the enterprises'

assets, rights and interests.

Article 13. The period of operation of enterprises wholly owned by Taiwan investors shall be determined by the investors; the period of operation of joint ventures or contractual joint ventures shall be determined through consultation by the partners or may not be determined.

Article 14. The composition of the board of directors of a joint venture and the appointment of chairman, and the composition of the board of directors or the joint managerial institution of a contractual joint venture and the appointment of chairman or director shall be determined through consultation by the partners according to the proportion of investment or conditions for cooperation.

Article 15. Enterprises with Taiwan investment shall conduct operational and managerial activities in accordance with the approved contracts and the articles of association. The right of the enterprise to make its own operational and managerial decisions shall not be interfered with.

Article 16. Taiwan investors and technical and managerial personnel recruited by enterprises with Taiwan investment outside the mainland may apply for multiple-time entry and exit certificate.

Article 17. In investing in the mainland, Taiwan investors may mandate their relatives or friends in the mainland as their agents. The agent shall hold a trust deed with legal effect.

Article 18. In areas where enterprises with Taiwan investment are concentrated, Taiwan investors may apply to the local people's government for the establishment of an association of Taiwan businessmen.

Article 19. The application for the establishment of a joint venture or a contractual joint venture or a contractual joint venture in the mainland with Taiwan investment shall be handled by the partner of the mainland; the application for the establishment of an enterprise wholly owned by a Taiwan investor shall be handled by the investor directly or by the investor's relatives and friends, or consultant service agencies in the mainland entrusted by the investor. The application for the establishment of an enterprise with Taiwan investment shall be submitted for examination and approval to the local department in charge of foreign economic relations and trade or to the department authorized by the local people's government.

The application for the establishment of an enterprise with Taiwan investment shall be examined and approved within the limits of authority as stipulated by the State Council. The examination and approval authority shall within 45 days from the date of receipt of the application decide whether or not to grant approval.

When the application is approved, the parties shall, within 30 days of receiving the certificate of approval, apply to the administrative authorities for industry and commerce for registration and to obtain a business license in line with relevant procedures for registration and administration.

Article 20. Any disputes between the partners arising from the execution of the contract or concerning the contract shall be settled through consultation or mediation. In case of a dispute that the mainland and Taiwan parties are unwilling to settle through consultation or mediation, or a dispute that they have failed to settle through consultation or mediation, the mainland or Taiwan parties may submit it to the arbitration agency in the mainland or in Hong Kong for arbitration in accordance with the arbitration clause in the contract or a written agreement on arbitration concluded afterwards. Either party may bring a suit in the people's court, if no arbitration clause is provided in the contract and if no written agreement is concluded afterwards.

Article 21. The Ministry of Foreign Economic Relations and Trade takes charge of the explanation of these Regulations.

Article 22. These Regulations shall come into force on the date of its promulgation.