

- **Anexo 2**

Law of the People's Republic of China on Chinese-foreign Equity Joint Ventures

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Article 1 With a view to expanding international economic co-operation and technical exchange, the People's Republic of China permits foreign companies, enterprises, other economic organizations or individuals (hereafter referred to as "foreign joint ventures") to joint with Chinese companies, enterprise or other economic organizations (hereafter referred to as "Chinese joint ventures") in establishing joint ventures in the People's Republic of China in accordance with the principle of equality and mutual benefit and subject to approval by the Chinese Government.

Article 2 The Chinese Government protects, in accordance with the law, the investment of foreign joint ventures, the profits due to them and their other lawful rights and interest in a joint venture, pursuant to the agreement, contract and articles of association approved by the Chinese Government.

Joint ventures shall follow the provisions of the laws and regulations of the People's Republic of China in all their activities.

The state does not practice nationalization and expropriation of a joint venture; under special circumstances, the state, in accordance with the needs of social public interest, expropriates a joint venture pursuant to legal procedures and offers corresponding compensations.

Article 3 The joint venture agreement, contract and articles of association signed by the parties to the venture shall be submitted to the competent authorities of foreign economic relations and trade (hereafter referred to as approval authorities), and the approval authorities shall, within three months, decide whether to approve or disapprove them. After approval, the joint venture shall register with the state competent authorities of administration for industry and commerce to obtain a license to do business and start operations.

Article 4. A joint venture shall take the form of a limited liability company.

The proportion of the investment contributed by the foreign joint venture (s) shall generally not be less than 25% of the registered capital of a joint venture.

The parties to the venture shall share the profits, risks and losses in proportion to their respective contributions to the registered capital.

No assignment of the registered capital of a joint venture shall be made without the consent of the other parties to the venture.

Article 5. Each party to a joint venture may make its investment in cash, in kind or in industrial property rights, etc.

The technology and the equipment that serve as a foreign joint venture's investment must be advanced technology and equipment that actually suit our country's needs. If the foreign joint venture causes losses by deception through the intentional use of backward technology and equipment, it shall pay compensation for the losses.

The investment of a Chinese joint venture may include the right to the use of a site provided for the joint venture during the period of its operation. If the right to the use of the site does not constitute a part of a Chinese joint venture's investment, the joint venture shall pay the Chinese Government a fee for its use.

The various investments referred to above shall be specified in the joint venture contract and articles of association and the value of each (excluding that of the site) shall be jointly assessed by the parties to the venture.

Article 6 A joint venture shall have a board of directors, which shall have its size and composition stipulated in the contract and the articles of association after consultation between the parties to the venture, and the directors shall be appointed and replaced by the parties to the venture. The Chairman and the vice-chairman are determined by the parties to the venture or elected by the board of directors. Either party of the Chinese-foreign joint ventures may be the chairman and the other shall assume the office of vice-chairman. In handling major problems, the board of directors shall reach a decision through consultation by the parties to the venture, in accordance with the principle of equality and mutual benefit.

The board of directors is empowered, pursuant to the provisions of the articles of association of the joint venture, to discuss and decide all major problems of the venture: expansion programmes, proposals for production and operating activities, the budget for revenues and expenditures, distribution of profits, plans concerning manpower and pay scales, the termination of business and the appointment or employment of the president, the vice-president(s), the chief engineer, the treasurer and the auditors, as well as their powers and terms of employment, etc.

The offices of president and vice-president(s) (or factory manager and deputy manager(s) shall be assumed by the respective parties to the venture.

Contracts shall be entered into in accordance with the law to prescribe the recruitment, dismissal, remuneration, welfare, labor protection, labor insurance, etc..

Article 7 The staff employees of the joint venture may establish trade unions in accordance with the law, carry out the activities of the trade union and defend the lawful rights and interests of the employees.

Joint ventures shall provide necessary conditions for the activities of the trade unions thereof.

Article 8 After payment, pursuant to the provisions of the tax laws of the People's Republic of China, of the joint venture income tax on the gross profit earned by the joint venture and after deduction from the gross profit of a reserve fund, a bonus and welfare fund for staff and workers, and a venture expansion fund, as provided in the articles of association of the joint venture, the net profit shall be distributed to the parties to the joint venture in proportion to their respective contributions to the registered capital.

A joint venture may enjoy the preferential treatment of reduction of or exemption from tax pursuant to relevant state taxation laws or administrative decrees.

A foreign joint venture that reinvests in China its share of the net profit may apply for refund of a part of the income taxes already paid.

Article 9. A joint venture shall, with its business license, open a foreign exchange account at the banks or other financial organizations approved by the state foreign exchange control administrative organs to handle foreign exchange business.

The pertinent foreign exchange transactions of a joint venture shall be conducted in accordance with the regulations on foreign exchange control of the People's Republic of China.

In its operating activities a joint venture may directly raise funds from foreign banks.

All insurances of joint ventures shall be procured at the insurance companies within the territory of the People's Republic of China.

Article 10 The Joint venture may purchase the materials such as raw materials, fuels, etc. as needed within the approved scope of business either on the domestic or international market according to the principle of fairness and reasonableness.

A joint venture is encouraged to market its products outside China. Export products may be distributed to foreign markets through the joint venture directly or through associated agencies, and they may also be distributed through China's foreign trade agencies. Products of the joint venture may also be distributed in the Chinese market.

Whenever necessary, a joint venture may establish branches outside China.

Article 11 The net profit that a foreign joint venture receives after fulfilling its obligations under the laws and the agreement and the contract, the funds it receives at the time of the joint venture's scheduled expiration or early termination, and its other funds may be remitted abroad in accordance with the foreign exchange regulations and in the currency specified in the joint venture contract.

A foreign joint venture shall be encouraged to deposit in the Bank of China foreign exchange that it is entitled to remit abroad.

Article 12 The wages, salaries and other legitimate income earned by the foreign staff and workers of a joint venture, after payment of the individual income tax under the tax laws of the People's Republic of China, may be remitted abroad in accordance with the foreign exchange regulations.

Article 13 The contract period of a joint venture may be decided differently according to its particular line of business and circumstance. The joint ventures of some trades should decide the contract period; and other may or may not decide the contract period. A joint venture that has set a contract period should, if the parties to the joint venture agree to extend the contract period, apply to the approval authorities six months ahead of the expiration of the contract period. The latter should make the decision of approval or disapproval within one month as of the date of application.

Article 14 In case of heavy losses, failure of a party to fulfill the obligations prescribed by the contract and the articles of association, force majeure, etc, the contract may be terminated through consultation and agreement by the parties to the venture, subject to approval by the approval authorities and to registration with the state competent authorities of administration for industry and commerce. In cases of losses caused by a breach of contract, the financial responsibility shall be borne by the party that has violated the contract.

Article 15 Disputes arising between the parties to a joint venture that the board of directors cannot settle through consultation may be settled through mediation or arbitration by a Chinese arbitration agency or through arbitration by another arbitration agency agreed upon by the parties to the venture.

Where no arbitration clauses have been included in the joint venture contract or no written arbitration agreement have been reached after a dispute arises, any party may bring a suit with the people's court.

Article 16 This Law shall come into force on the date of its promulgation.