



## LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON SINO-FOREIGN COOPERATIVE ENTERPRISES

Approved by the First Session of the Seventh National People's Congress on April 13, 1988, revised in accordance with the Decision to Revise the Law of the People's Republic of China on Sino-Foreign Cooperative Enterprises made at the 18th meeting of the Standing Committee of the Ninth National People's Congress on October 31, 2000, promulgated by Order No.41 of the President of the People's Republic of China to go into effect on the day of promulgation)

**Article 1** This Law is formulated to expand economic cooperation and technological exchanges with other countries, help foreign enterprises and other economic organizations or individuals (hereinafter referred to as foreign cooperators) to establish Sino-foreign cooperative enterprises (hereinafter referred to as cooperative enterprises) in the People's Republic of China with enterprises or other economic organizations of the People's Republic of China (hereinafter referred to as the Chinese cooperators) in accordance with the principle of equality and mutual benefit.

**Article 2** When establishing cooperative enterprises, the Chinese and foreign cooperators shall, in accordance with the regulations of this Law, set the investment or cooperation conditions, the distribution of the profits or products, the share of risks and losses, the method of management, the ownership of the properties of the enterprises when the cooperation ceases and other issues covered in the cooperative enterprise contracts.

Cooperative enterprises that conform to the regulations of Chinese laws on the qualification of legal persons may acquire the status of Chinese legal persons.

**Article 3** The state protects, in accordance with law, the lawful rights and interests of cooperative enterprises and Sino-foreign cooperators.

The cooperative enterprises shall obey the provisions of laws and regulations of China, and shall not harm the social or public interests of China.

The relevant organs of the state will implement supervision over the cooperative enterprises in accordance with law.

**Article 4** The state encourages the establishment of product export and high-tech production cooperative enterprises.

**Article 5** When establishing a cooperative enterprise, the cooperators shall submit the agreement, contract, articles of association and other documents signed by the two parties to the department in charge of foreign economic relations and trade of the State Council or other organs or local governments authorized by the State Council (hereinafter referred to as the examination and approval organs). The examination and approval organs shall, within 45 days after receiving the application, decide whether to approve or reject it.

**Article 6** After an application for establishing a cooperative enterprise is approved, the enterprises shall apply for registration at the relevant industrial and commercial administrative organ, and receive a business license within 30 days after receiving the approval certificate. The date when the business license of a cooperative enterprise is issued is the date the enterprise is established.

The cooperative enterprises shall conduct tax registration with the taxation organs within 30 days after their establishment.

**Article 7** Any important changes in the cooperative contracts, discussed and agreed by all the Chinese and foreign parties involved, shall be reported to the examination and approval organs for approval; if the changes concern legal industrial and commercial registration items or tax items, the enterprises shall register such changes with the industrial and commercial administrative and taxation organs.

**Article 8** The investment or cooperative conditions supplied by the Sino-foreign cooperators can be cash, material objects, land-use rights, industrial property rights, non-patent technology or other property rights.

**Article 9** The Chinese and foreign cooperators shall carry out their obligations, providing investment in full and cooperation conditions in time, in accordance with the provisions of laws and regulations, and the agreements in the cooperative enterprise contracts. If the obligations are not carried out in time, the industrial and commercial administrative organs shall set a time limit for them to carry out the obligations. If the cooperators still do not carry out the obligations within the time limit, the examination and approval organs and the industrial and commercial administrative organs shall deal with the case in accordance with relevant state regulations.

The investment or cooperation conditions provided by the Sino-foreign cooperators shall be testified by Chinese certified public accountants or other relevant organs, which shall issue testimonials to this effect.

**Article 10** If one side of the Sino-foreign cooperators wishes to transfer whole or part of its rights and obligations in the cooperative enterprise contract, it

shall obtain the agreement of the other side and the approval of the examination and approval organs.

**Article 11** The cooperative enterprises shall manage the business in accordance with the approved cooperative enterprise contracts and articles of association. The right of the cooperative enterprises to manage the business by themselves shall not be interfered with.

**Article 12** A cooperative enterprise shall have a board of directors or a joint management organ, which will make decisions on important issues of the cooperative enterprise in accordance with the regulations of the contracts and articles of association of the cooperative enterprise. One side of the Sino-foreign cooperators shall hold the post of chairman of the board of directors or director of the joint management organ. The other side shall be the vice-chairman of the board of directors or deputy director of the joint management organ. The board of directors or the joint management organ shall make decisions to appoint or employ the chief manager, who shall be responsible for the daily operations and management. The chief manager shall be responsible to the board of directors or the joint management organ.

If the Sino-foreign cooperators wish to entrust another party besides themselves to manage their cooperative enterprise, a unanimous agreement must be made by the board of directors or the joint management organ. And then the cooperative enterprise shall report this decision to the examination and approval organs for approval, and register the change with the industrial and commercial administrative organ.

**Article 13** A labor contract, made in accordance with law, shall set the employment, dismissal, remuneration, welfare, labor protection, labor

insurance and other items for the staff of the cooperative enterprise.

**Article 14** The workers of the cooperative enterprise shall set up union organizations in accordance with law, carry out union activities and protect the lawful rights and interests of the workers.

The cooperative enterprise shall provide the necessary conditions for the activities of the workers' union of the enterprise.

**Article 15** The cooperative enterprise shall set up account books in China, submit accounting statements in accordance with regulations, and accept the supervision of the financial and taxation organs.

If a cooperative enterprises is in violation of the above regulations by not setting up accounting books in China, the financial and taxation organs shall impose a fine, and the industrial and commercial administrative organ can order it to cease operation or even evoke its business license.

**Article 16** The cooperative enterprises shall open foreign exchange accounts with the banks or other financial organs designated by the state foreign exchange control organs for handling foreign exchange businesses.

Issues of cooperative enterprises concerning foreign exchange shall be dealt with in accordance with state regulations on the control of foreign exchange.

**Article 17** The cooperative enterprises may seek loans from financial organs in China as well as organs abroad.

The loans and guarantees used by the Sino-foreign cooperators as investments or cooperation conditions shall be arranged by themselves.

**Article 18** The various kinds of insurance coverage for cooperative enterprises shall be furnished by insurance organs in China.

**Article 19** Cooperative enterprises may import the materials they need and export their products within the approved business range. The cooperative enterprises may purchase the necessary raw materials, fuels and other materials within the approved business range in the domestic or international market, in accordance with the principles of being fair and reasonable.

**Article 20** Cooperative enterprises must pay taxes and enjoy preferential treatment such as tax reduction or exemption in accordance with relevant regulations of the state.

**Article 21** The Chinese and foreign cooperators shall distribute the profits or products and share the risks and losses in accordance with the cooperative enterprise contracts.

If all the fixed properties of a cooperative enterprise are to belong to the Chinese cooperator at the expiration of the contract, according to the cooperation contract, the Sino-foreign cooperators may arrange for the foreign cooperator to take back its investments before the expiration of the contract.

If a cooperative enterprise contract stipulates that the foreign cooperator shall take back its investments before paying income tax, the cooperative enterprise must send an application to the financial and taxation organs, for examination and approval in accordance with state taxation regulations.

As in the above provisions, if the contract stipulates that the foreign cooperator take back the investment before the expiration of the contracts, the Sino-foreign cooperators shall share the responsibility for the debts of the cooperative

enterprise in accordance with the provisions of laws and the cooperative enterprise contract.

**Article 22** The lawful profits of the enterprises, other lawful incomes of the foreign cooperators after they have performed their legal obligations and the funds shared when the cooperation is terminated may be remitted abroad in accordance with law.

The salary and other lawful incomes of the foreign employees of cooperative enterprises may be remitted abroad after paying individual income tax in accordance with law.

**Article 23** Cooperative enterprises shall clear the assets, creditor's rights and debts when the cooperative enterprise contracts expire or end before the expiration time. The Chinese and foreign cooperators shall confirm the ownership of the assets of the cooperative enterprises in accordance with the cooperation contracts.

When the cooperation comes to an end or ends before the expiration time, the cooperative enterprise shall cancel its registration with the relevant industrial and commercial administrative and taxation organs.

**Article 24** The cooperation time limit shall be decided by the Sino-foreign cooperators and stipulated in the cooperation contract. If the Chinese and foreign cooperators wish to extend the cooperation time limit, they shall send an application to the relevant examination and approval organ 180 days before the expiration date of the cooperation contract. The examination and approval organs shall, within 30 days after receiving the application, decide whether to approve or reject the application.

**Article 25** The Chinese and foreign cooperators shall solve all disputes arising in the course of performance of the cooperative enterprise contract

and the articles of association by negotiation or mediation. In case the Chinese and foreign cooperators do not wish to solve the dispute by negotiation or mediation, or negotiation or mediation has proved unsuccessful, the two parties may take the dispute to the Chinese arbitration organs or other arbitration organs in accordance with the arbitration provisions in the cooperative enterprise contracts or written arbitration agreements made after the dispute has arisen.

If the Chinese and foreign cooperators have not stipulated arbitration provisions in the cooperative enterprise contract and failed to reach any agreement in writing after the emergence of a dispute, they can file a lawsuit with a Chinese court.

**Article 26** The department in charge of foreign economic relations and trade of the State Council shall draw up rules for the implementation of this Law, which will come into effect after the State Council has given its approval.

**Article 27** This Law shall go into effect on the day it is promulgated.