

China further facilitates foreign investment inflow

China announced new measures today to facilitate foreign investment in China. The Ministry of Commerce issued two documents giving more power to its local offices at the provincial level on approving foreign investment projects.

The new policies take effect on March 6, 2009.

Incorporation and changes of foreign-funded investment companies with the registered capital of or below 100 million USD will be subject to the approval from commerce authorities of the province where the company is registered.

In another document, local commerce offices, together with local taxation, foreign exchange and industry departments, will review maximum 100 million USD or 50 million USD mergers and acquisition deals -- depending on whether the deal is under the encouragement and permission category or limited category defined by the government -- in which foreign investors buy out a domestic company.

One-off capital increase by more than 100 million USD still has to be approved by the Ministry of Commerce.

Alterations of foreign-funded investment companies established under the approval of the Ministry of Commerce will be subject to the approval of commerce authorities of the province where the company is registered.

But alterations involving one-off capital increase by more than 100 million USD or change of investors still have to be approved by the Ministry of Commerce.

Cases that will not be approved for foreign-funded investment companies, for example, investors or companies with records of misconducts in China, are also stated in the document.

It also requires that particular investment projects are still subject to procedures in line with relevant regulations.

If an enterprise funded by an investment company or an enterprise jointly funded by an investment company and other investors has at least 25 percent of foreign currency denominated investment by foreign investors -- including the investment companies and other overseas investors, then the enterprise is regarded as a foreign funded company and enjoy all favorable policies due.

Application for lifting supervision on equipment imported by foreign-funded companies ahead of designated time of lifting such supervision is no longer necessary.

Foreign-funded enterprises will register their newly built subsidiaries in China at the local commerce authorities, instead of applying for approval from the Ministry.

Provincial commerce departments and national economic and tech development zones will decide the application of incorporation and alterations of foreign-funded companies which are under the encouragement category of the foreign investment catalog.

Establishment of overseas subsidiaries of foreign funded companies is subject to both the approval of the provincial commerce departments or municipal commerce departments authorized by provincial governments, and written consent of the business and commerce counsellor's offices of the Chinese embassy or consulate in that country or region.

Local commerce departments also have the rights of approving foreign investment on auto sector.

Alterations of foreign-funded enterprises -- except capital increase up to a certain amount or equity transfer from the

Chinese side to foreign investors -- will be reviewed and approved by local commerce offices.

The document also explains M&A deals which have to be applied to other government departments or involve anti-monopoly reviews. Projects subject to existing rules in line with industrial policies are also stated in the document.

Local commerce departments are required to submit the approved projects to the Ministry of Commerce.

Provincial commerce authorities include those in provinces, autonomous regions, municipalities, Xinjiang Production and Construction Corps, cities specifically designated in the state plan and minor provincial cities (Ha'erbin, Changchun, Shenyang, Jinan, Nanjing, Hangzhou, Guangzhou, Wuhan, Chengdu, Xi'an).

By People's Daily Online

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