

China

Law on the Protection of Investment of Taiwan Compatriots (1994)

Unofficial translation

Note

The Investment Laws Navigator is based upon sources believed to be accurate and reliable and is intended to be up-to-date at the time it was generated. It is made available with the understanding that UNCTAD is not engaged in rendering legal or other professional services. To confirm that the information has not been affected or changed by recent developments, traditional legal research techniques should be used, including checking primary sources where appropriate. While every effort is made to ensure the accuracy and completeness of its content, UNCTAD assumes no responsibility for eventual errors or omissions in the data.

The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

Law on the Protection of Investment of Taiwan Compatriots

Order No.20

(Adopted at the Sixth Meeting of the Standing Committee of the Eighth National People's Congress and promulgated by Order No.20 of the President of the People's Republic of China on March 5, 1994)

Article 1

This Law is formulated for the purpose of protecting and encouraging investment of Taiwan compatriots, and promoting the economic development on both sides of the Straits.

Article 2

Investment of Taiwan compatriots shall be governed by this Law. In respect of matters concerning investment of Taiwan compatriots not covered by this Law, where there are provisions thereon in other relevant laws and administrative rules and regulations of the State, such provisions shall apply.

"Investment of Taiwan compatriots" as used in this Law means investment made in other provinces, autonomous regions or municipalities directly under the Central Government by the companies, enterprises, other economic organizations or individuals from the region of Taiwan as investors.

Article 3

The State shall, according to law, protect the investments, investment returns and other lawful rights and interests of investors who are Taiwan compatriots.

Taiwan compatriots in making investment must abide by laws and administrative rules and regulations of the State.

Article 4

The State shall not nationalize or requisition the investment made by investors who are Taiwan compatriots; under special circumstances and on the basis of the need of public interests, the State may in accordance with legal procedures requisition the investments made by investors who are Taiwan compatriots and make appropriate compensations thereto.

Article 5

The invested properties, industrial property rights, investment returns and other lawful rights and interests of investors who are Taiwan compatriots may be transferred and inherited according to law.

Article 6

Investors who are Taiwan compatriots may make investment with convertible currency, machinery equipment or other physical assets, industrial property rights or non-patented technologies, etc..

Investors who are Taiwan compatriots may make reinvestment with the returns derived from their investment.

Article 7

Taiwan compatriots may make investment by establishing equity joint ventures, contractual joint ventures or enterprises with all capital invested by Taiwan compatriots (hereinafter generalized as enterprises with investment of Taiwan compatriots) or may also invest in other forms as provided by laws or administrative rules and regulations.

The establishment of enterprises with investment of Taiwan compatriots shall be in conformity with the industrial policy of the State and conducive to the development of the national economy.

Article 8

To establish an enterprise with investment of Taiwan compatriots, an application shall be made to the department prescribed by the State Council or to the local people's government prescribed by the State Council. The examining and approving authorities that have received the application shall, within 45 days from the date of receiving all the documents for the application, decide whether or not to grant approval.

After an application for the establishment of an enterprise with investment of Taiwan compatriots has been approved, the applicant shall, within 30 days from the date of receiving the certificate of approval,

register its establishment with the enterprise registration authorities and obtain a business licence according to law.

Article 9

Enterprises with investment of Taiwan compatriots shall carry out their activities of operation and management in accordance with the law, administrative rules and regulations as well as the contract and articles of association approved by the examining and approving authorities, and their decision-making power in operation and management shall be free from interference.

Article 10

In areas where enterprises with investment of Taiwan compatriots are located in compact forms, an association of enterprises with investment of Taiwan compatriots may be established according to law and its lawful rights and interests shall be protected by law.

Article 11

Investors who are Taiwan compatriots may remit in accordance with law their legal returns from investment, other lawful earnings and funds after settlement of accounts back to Taiwan or outside of the territory of the People's Republic of China.

Article 12

Investors who are Taiwan compatriots may entrust their relatives or friends to act as agents for their investment.

Article 13

Enterprises with investment of Taiwan compatriots shall enjoy preferential treatment in accordance with the relevant provisions of the State Council on encouraging investment of Taiwan compatriots.

Article 14

With respect to disputes over investment arising between investors who are Taiwan compatriots and companies, enterprises, other economic organizations or individuals in other provinces, autonomous regions or municipalities directly under the Central Government, the parties concerned may settle them through consultation or mediation.

Where the parties concerned are not willing to resort to consultation or mediation, or where consultation or mediation proves unsuccessful, they may, in accordance with the arbitration clause in the contract or the written arbitration agreement reached subsequently, submit the matter to an arbitration organ for arbitration.

Where there is no arbitration clause in the contract, and no written arbitration agreement reached subsequently, the parties concerned may bring a suit to the people's court.

Article 15

This Law shall go into effect on the date of promulgation.