

# setting up a trading company in China

## Description

As the world's manufacturing plant and one of the most vast markets, it is a good business to export goods made in china to other parts of the world, and so is importing goods into China's market.

Indeed, there are many foreign investors that have set up trading companies in China that are engaged in either exporting or importing goods out of or into China.

### I Exporting Business

Strictly speaking, an exporting company, purchasing goods from suppliers in China and selling the same to customers outside China, is also classified as a commerce company under the Administrative Measures for Foreign Investment in Commerce (the "Measures"). If a foreign invested trading company only conducts exporting business, it will be much easier to set up as Chinese government is still encouraging exporting of China made goods, though incentive for exporting, such as tax rebate is no longer that attractive as before esp for certain kinds of goods.

Therefore, foreign invested trading companies are almost having no problem in setup course. Generally, it will not need to be subject to the approval of China Ministry of Commerce (the "MOFCOM")

### II Importing and Distribution Business

The complexity for foreign invested trading companies is related to those that distribute goods (either imported or procured in China) within China. Literally speaking, the Measures is a set of rules for distribution of products in China. Business activities regulated under the Measures include (1) commission agency, referring to agents, brokers, auctioneers or other wholesalers selling goods owned by others for a commission, and accessory services, (2) wholesale, referring to selling goods to retailers, industrial, commercial, and other institutional customers, and accessory services, (3) retail, referring to selling goods to individual or group consumers at a certain places, via television, phone, post, internet and vending machines, and (4) franchising, referring to authorizing other people to use one's trademark, tradename or business models for remuneration or fees. Foreign investors intending to carry out such distribution activities shall be in compliance with the rules under the Measures.

With the Measures coming into effect, foreign invested trading company can now take the form of wholly foreign owned enterprise ("WFOE"), and can now distribute their imported goods within China.

### III Approval Procedures

1. Foreign invested trading companies that do exporting business only will be approved by foreign investment administration (commerce department) at the provincial level. In practice, this approving power can be delegated to lower governments, as China has been encouraging exports all the time.
2. Foreign invested trading companies that do importing and distribution businesses will have to be approved by foreign investment administration at provincial level or MOFCOM depending on type of

goods and type of distribution methods.

Since the adoption of the Measures, MOFCOM has been delegating approving power to provincial levels. In 2008, MOFCOM has delegated the approving power of most foreign invested commerce enterprises/trading companies to provincial commerce department except for foreign invested commerce enterprises that sell goods through television, phone, post, internet and vending machines or that wholesale visual and video products, or sell books, newspaper and periodicals.

In another notice issued in 2009, MOFCOM has clearly provided that provincial commerce department may upon consent from MOFCOM further delegate the approving power to the immediately lower level commerce department, which make it easier and faster to set up such trading companies.

Existing foreign invested non-trading companies may apply to add distribution to their current business scope to cover distributing activities.

Foreign investors may also consider acquiring domestic commerce enterprises to set up their own distribution network in China.

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