typical steps for making manufacturing investment project in China

Description

By the title, I am referring to the procedures for foreign investors (companies) launching manufacturing projects in China, either by sino-foreign joint ventures or WFOEs (wholly foreign owned enterprise). I talk about greenfield investment projects in which land shall have to be purchased and developed according to the specific needs of such projects.

1. Choosing the land/premises/site for your project

Land shall be decided in the first place for industrial investment projects. As discussed in preceding post on this blog, you can find more information how you can purchase land use right for a certain land parcel. Please note, foreign investors winning in the public bidding process cannot sign the land use right grant contract before they incorporate the joint venture or WFOE entity.

Prima facie, it is obvious that investors may fail to obtain the desired land parcel for their investment projects, which is quire true in reality. I would encourage foreign investors to proactively talk and communicate with local government to see how you can increase your likelihood of getting the land you want. Once you have a desirable project to present to local governments, they are happy to do everything they can to help you to skirt the bidding rules.

Of course, if you wish to lease factories or workshops, you will save yourself a lot of trouble of purchasing and developing the land. In fact, many cities throughout China have enclosed land on which they built their own industrial parks in many of which standard workshops are offered to investors.

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2. Investment Project Approval or Verification

Manufacturing investment is regarded as fixed asset investment in China which will generally require the approval/verification (whatever you call it) of local development and reform commission, different from foreign invested consultation companies which will require the approval of local commerce department only.

This is quite an important step for investors to take care of. In order to apply for this project approval from local development and reform commission, investors shall need to prepare quite a number of documents including local land bureau’s opinion on the use of the land, local environment protection bureau’s opinion for environmental impact of the project, local zoning authority’s opinion on the project.

It is provided that without this project approval, investors cannot proceed to sign land grant contract, start company formation and effect municipal zoning formality etc.

3. Incorporate the Joint Venture or WOFE Entity

Now it is time to set up your business entity to operate your project. Here investors need to prepare and submit a list of documents required therefor some of which should have been prepared already in

the preceding steps such as incorporation certificate of the foreign investor etc.

This is a very important part of whole investment project from lawyer's perspective esp when it comes to a joint venture between foreign investors and Chinese counterparts in which legal obligations and duties shall be clearly defined and demarcated between the parties.

4. Sign Land Grant Contract and Develop the Land

Once your operational entity is duly set up, you should use this company to conclude the land use right grant contract with local land bureau (at least this is what is practiced in Shanghai) and start with developing your land parcel into business premises.

Here it can be broken into several sub-steps:

(1) once the land use right grant contract is inked, the company shall apply to local zoning authority for construction land zoning certificate to get zoning conditions for build your factory and workshops. Following this, the company shall prepare their project design plan.

(2) then, the company shall apply to the same zoning authority for construction project zoning certificate which will further define what the building will be like and how it should be constructed.

(3) the company shall apply for construction permit to break ground in building the premises.

(4) then once construction work is done, inspection shall be conducted to certify the completion of the construction project.

Now, the company may turn the premises into life.

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