

# CHINA LEGAL REPORT

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## subject

**Comparison of the 2007 and 2004  
Catalogue for the Guidance of  
Foreign Investment Industries**

## **Introduction**

The Catalogue for the Guidance of Foreign Investment Industries (Amended in 2007) has been approved by the State Council and shall come into force as of December 1st, 2007. The Catalogue for the Guidance of Foreign Investment Industries as promulgated by the former State Development Planning Commission and the Ministry of Commerce on March 30, 2004 shall be annulled at the same time.

### **1. Characteristics**

#### **1.1. The Attachment to 2004 Catalogue is Gone**

Originally, the 2004 Catalogue had an attachment, including some significant and interesting guidelines such as road goods transportation companies: foreign parties shall be allowed to take the holding position no later than Dec.11, 2002 and solely foreign-funded enterprises shall be allowed no later than Dec.11, 2004, and Advertisement: the proportion of foreign investment shall not exceed 49%, foreign parties shall be allowed to take the holding position no later than Dec 11, 2003; solely foreign-funded enterprises shall be allowed no later than Dec 11, 2005.

Many of contents of this attachment are out of time at the moment, or some of them have already been realized, and these are mainly the reason why such attachment is gone.

#### **1.2. Foreign Investment is Expected to Participate Into New Energy Development**

In line with the development of China, foreign investment is expected to be made into those industries with more desires for foreign investment. For example, the development and application of new technologies for improving the utilization of tailings and the comprehensive utilization of recovery technology of the mine ecology and prospecting and exploitation of submarine flammable ice.

Furthermore, the manufacture of the equipment of new energy electricity-power, photovoltaic power, geothermal power generation, tidal power generation, wave power generation, rubbish power generation, methane power generation, wind power generation over 1.5M and manufacture of stirling generating set.

### **1.3. Environmental Protection is more Concerned**

The 2007 Catalogue encourages more items concerning environmental protection, and this reflects the demand and expectations from the government, society, and the people.

As a reflection, the manufacturing of comprehensive utilization of waste tire equipments, use new dry cement kiln to innocuously dispose combusting industry castoff and life garbage and develop and produce new energy-saving, environment-protecting architecture material: lightweight high-intensity and multi-function materials for wall, high-level environment protecting decorating and finishing materials, high quality water-proof and airproof materials, and effective thermal insulation materials are encouraged.

On the other hand, the production of pitch used on major roads is not mentioned by the 2007 Catalogue for encouragement.

### **1.4. High-Tech Industries Desires more Foreign Investment**

This is understandable considering the fast expansion of Chinese economy and the country's ambition of developing its high-tech industries. Main examples are: Production of coherent fiber bundle and laser medical optic fiber, Manufacturing of vertical articulated industrial robots, welding robots and welding equipments thereof, Manufacturing of ground and water effect plane, Design and manufacturing of no-people plane and aerostat, Design and manufacturing of civil air-borne equipment, Design and manufacturing of civil rocket launcher, and Manufacturing of mechanical and electrical products for aircrafts, temperature control products for aircrafts, test equipment for planet products and structure and organization products for aircrafts.

Also considering China's space plans the related industries desire for more advanced technologies and experiences. However, most of such industries are subject to the condition that the Chinese party shall hold the majority of shares.

## **2. Main Newly Encouraged Industries**

The following is the main industries that newly encouraged by 2007 Catalogue but not mentioned by previous 2004 Catalogue:

1. Breeding of aquatic products, cage culture in deep water, large-scale breeding of aquatic products and breeding of eco-ocean products;

2. cultivation of new breed varieties of polyploid trees and genetically engineered forest trees;
3. Planting, development and production of woody edible oil, ingredient and industrial raw material;
4. Prospecting, exploitation and utilization of coal-bed gas (limited to equity joint ventures or contractual joint ventures), and the 2004 Catalogue did not require the limitation to equity joint ventures or contractual joint ventures;
5. Prospecting and exploitation of submarine flammable ice(limited to contractual joint ventures);
6. Development and application of new technologies for improving the utillance of tailings and the comprehensive utilization of recovery technology of the mine ecology;
7. Production of filter rods (limited to equity joint ventures or contractual joint ventures);
8. Production of clothes with computer integrated manufacturing system;
9. Production of top-grade carpet, embroider and drawnwork product;
10. Top-grade leather(sofa leather and car cushion leather);
11. Production of further processed products of sodium-process bleaching powder, polyvinyl chloride and organosilicon;
12. Production of environment-friendly printing ink and environment-friendly arene-oil;
13. Production of mass coal chemical industrial products(The Chinese party shall hold the majority of shares), however, the 2004 Catalogue did not require the Chinese party to hold the majority of shares;
14. Development and production of inorganic, organic and biologic films for environment protection;
15. Development and production of new varieties of effective, safe agriculture chemicals and pesticides;
16. Development and production of biopesticide and bio-control products: microbial insecticide, microbial fungicide, agricultural antibiotic, insect pheromone, enemy insect and microbial herbicide;
17. Production of biology bacterin;
18. Production of bcg vaccine and poliomyelitis vaccine;
19. Production of new diagnosis reagent;
20. Production of biomedicine material and ware(except flesh body, sample, human organ tissue and sample processing);
21. Production of new style fiber material made use of renewable resources, biomass technology: PLA, PDO;
22. Production of meridian tyre aramid fiber and tyre cord;

23. Exploitation and production of new technology and new production of plastic soft package (high barrier, multi-function film and material);
24. Develop and produce new energy-saving, environment-protecting architecture material: lightweight high-intensity and multi-function materials for wall, high-level environment protecting decorating and finishing materials, high quality water-proof and airproof materials, and effective thermal insulation materials;
25. Use plastic to replace steel and wood, energy-saving and high-efficient chemical architecture material production;
26. Production of coherent fiber bundle and laser medical optic fiber;
27. Production of high-level refractory material used in furnaces for cement kiln, top grade(electronic)glasses, ceramics and glass fiber;
28. Use new dry cement kiln to innocuously dispose combusting industry castoff and life garbage;
29. Manufacturing of vertical articulated industrial robots, welding robots and welding equipments thereof;
30. Design and manufacturing of skeleton shield integrated system with diam of 6 meters, TBM system integrating with diam of 5 meters; manufacturing of large digging drilling of caliber of 1 meter and depth of 30 meters, design and manufacturing of push bench with diam of 1.2 meters or more, manufacturing of large complete non-digging pipeline laying device with pulling power of 200 tons or more, manufacturing of consecutive wall underwater drilling machine, manufacturing of automatic vertical drilling system;
31. Manufacturing of Comprehensive Utilization of waste tire equipments;
32. Manufacturing of complete automobiles (foreign investments shall not exceed 50%), but the 2004 Catalogue did not setup such limitation;
33. Manufacturing of ground and water effect plane(Chinese part shall hold the majority of shares);
34. Design and manufacturing of no-people plane and aerostat(Chinese part shall hold the majority of shares);
35. Design and manufacturing of civil rocket launcher(Chinese part shall hold the majority of shares);
36. Design and manufacturing of civil air-borne equipment(limited to equity joint ventures or contractual joint ventures);
37. Manufacturing of mechanical and electrical products for aircrafts, temperature control products for aircrafts, test equipment for planet products and structure and organization products for aircrafts;
38. Design and manufacturing of overseas fishing vessels and cabin cruiser (limited to equity joint ventures or contractual joint ventures);

39. Manufacture of the equipment of New energy electricity-power (limited to equity joint ventures and cooperative joint ventures): photovoltaic power , geothermal power generation, tidal power generation, wave power generation, rubbish power generation, methane power generation, wind power generation over 1.5M;
40. Manufacture of stirling generating set;
41. Manufacture of solar air conditioning, heating system, solar dryer;
42. Manufacture of biomass drying pyrolysis system, biomass, gasification unit;
43. Development and manufacture of third-generation and the following mobile communication system mobile phone, base station, core network equipment and network testing equipment;
44. Development and manufacture comprehensive management system for under-mine monitoring and disaster-forecasting apparatus and coal safety measurement;
45. Manufacture of new-tech equipment of environmental-protection testing instrument;
46. Manufacture of air-pollution prevention and control equipment;
47. Manufacture of equipment for water-pollution prevention and control;
48. Manufacture of the equipment for treating solid refuse;
49. Manufacture of environment motoring apparatus;
50. Production of the all biodegradable material;
51. Utilization of sea water(direct use of sea water, seawater desaltation),using industrialization to recycle industrial sewage;
52. Comprehensive maintenance of infrastructure of high-speed railway, special railway line, intercity (Chinese partner shall hold the majority of shares);
53. Operation of the performance site ((the Chinese party shall hold the relative majority of shares);
54. Operation of the gymnasium, body-fitting, competition performance, sports training and agency service;
55. Service agencies for the children.

### **3. Main Industries That Previously Encouraged by 2004 Catalogue but not Mentioned by the 2007 Catalogue**

The following items were main industries that encouraged by 2004 Catalogue but not mentioned by the 2007 version, and this shows the characteristics of the new version:

1. Exploration and mining of coal and associated resources;

2. Exploration and mining of copper, lead, and zinc mines (limited to equity joint ventures and cooperative joint ventures, solely foreign-funded enterprises are allowed in the western regions);
3. Exploration and mining of aluminum mines (limited to equity joint ventures and cooperative joint ventures, wholly foreign-owned enterprises are allowed in the western regions);
4. Exploitation and selection of chemical mines such as sulfur, phosphor and kalium, etc.;
5. Production of dairy products;
6. Manufacture of high-grade paper and paper plate (limited to equity joint ventures and contractual joint ventures);
7. Production of pitch used on major roads;
8. Production of alkene by oil catalytic cracking technology;
9. Production of depurant of automobile tail gas; catalytic agent and other assistant;
10. Production of material medicals under patent or administrative protection of China and chemical material medicals that we need to import;
11. Vitamins: production of niacin;
12. Analgesic-antipyretic that has to be produced through new technical equipment;
13. Production of diagnosis reagent for AIDS, and radio-immunity diseases;
14. Processing and production of traditional Chinese medicine material, traditional Chinese medicine extractions, and traditional Chinese patent medicine (the preparing technique of traditional Chinese herb medicine in small pieces ready for decoction excluded);
15. Production of polyamide film;
16. Rare-earth application;
17. Production of hard alloy, tin compound, and antimony compound;
18. Production of nonferrous composite materials, new type alloy materials;
19. Design and manufacturing of molds for nonmetal products;
20. Development and manufacture of new technology and new equipment for the storage, preservation, classification, packaging, drying, transport and processing of food, cotton, oil plants, vegetables, fruits, flowers, forage grass, meat products and aquatic products;
21. Cars for special purposes such as desert cars for petroleum industry;
22. Development and manufacture of special materials for semiconductor, the elements and parts;
23. Construction and management of heat power station with a single machine's installed-capacity of 100 thousand kilowatts or above;

24. Construction and operation of key water control projects for comprehensive utilization (the Chinese party shall hold the relatively dominant position);
25. Development and construction of ordinary residence houses;

#### **4. Mainly Newly Restricted Industries**

1. Breeding and seeds developing production of new train crop breed (Chinese party shall hold the majority of shares);
2. Exploring and mining of barite (limited to equity joint ventures or contractual joint ventures);
3. Mining of Ocean Manganese Nodule (Chinese partner shall hold the majority of shares);
4. Processing of soybean, rapeseed edible oil (Chinese partner shall hold the majority of shares), deep-processing of corn;
5. Manufacturing of biology liquid fuel;
6. Carbonic acid beverage manufacturing;
7. Manufacturing of threshing and curl tobacco leaf;
8. Construction and management of refineries which annual produce less than 800 ten thousand tons;
9. Non-ferrous metal refining of tungsten, molybdenum, stannum (except tin compounds), antimony (including antimony oxide and antimony sulphide);
10. Non-ferrous metal refining of electrolytic aluminium, copper, lead, zinc and another non-ferrous metal;
11. Repairing, design and manufacture of common ship (including subsection) (Chinese partner shall hold the majority of shares);
12. Manufacture of fiscal cash register;
13. Construction and management of power network (Chinese partner shall hold the majority of shares);
14. Futures companies (Chinese should hold the majority of shares);
15. Real estate transaction in second-grade market and medium and brokerage companies;
16. Status enquiry and grade service companies;
17. Photography service (including trick photography like air photograph, except mapping aerial photography, limited to equity joint ventures);



## **5. Main Industries that Previously Restricted by 2004 Catalogue but not Mentioned by the 2007 Catalogue**

1. Production of synthesized sweet sauce such as saccharine, etc;
2. Processing of fat or oil;
3. Production of cigarettes and filter tips;
4. Wool spinning, cotton spinning;
5. Filature;
6. Manufacture of small and medium sized ordinary bearings;
7. Manufacture of cranes of less than 50 tons (limited to equity joint ventures and cooperative joint ventures);
8. Wholesale and retail of books, newspapers and magazines;
9. Foreign trade companies;
10. Construction and operation of golf course.

## **6. Main Newly Prohibited Industries**

1. Processing of traditional Chinese medicines that have been listed as the Regulations on Conservation and Management of Wild Chinese Medicinal Material Resources and Rare and Endangered Plants in China;
2. Manufacture of open-lead-acid cells, mercury Button Type Silver Oxide Cells, paste dioxide-zinc battery and nickel cadmium cells;
3. Construction and management of conventional coal-fired power of condensing steam plants whose unit installed capacity is less than 300,000kW, within the small power grid in Xizang, Xinjiang, Hainan province, and the coal-fired power of condensing-extraction steam plants with dual use unit cogeneration;
4. Construction and management of nature reserve and international signify marshy;
5. Development of resources about wild animals and plants be native to domestic protected by nation;
6. News website, network audiovisual service, on line service location, internet art management;
7. Construction and operation of golf course;
8. Development and application of human stem cells and gene diagnosis therapy technology.

## 7. Main Industries That Previously Prohibited by 2004 Catalogue but not Mentioned by the 2007 Catalogue

1. Construction and management of electricity network;
2. Futures companies;

## 8. Conclusion

Remember that such Catalogue is comprehensive and has mainly guiding functions. This Catalogue can give us a general idea about which industries is encouraged, restricted, or prohibited for foreign investments. If a specific industry is not mentioned by such Catalogue, that means such industry is normally allowed and there is no special policies on encouragement, restriction or prohibition.

Furthermore, in case a specific industry is concerned, the specific regulations, detailed rules and administrative measures issued by the State and/or its competent administrative governmental agencies are still quite important since such legal documents are the basis for operation of such specific industry.

Therefore, when considering making investment in China, such Catalogue 2007 shall be studied first then the legal documents with more details shall be studied for more information.

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