

Recent Amendments to Foreign Investment Related Laws in the DPRK (6) (Summary)

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The Democratic People's Republic of Korea (hereafter the DPRK) revised its major foreign investment related laws on February 26, 1999. The last five articles have dealt with brief descriptions of the investment climate and modes of foreign direct investment (FDI), drawn comparisons between the systems of FDI in the DPRK and the People's Republic of China (hereafter China), and introduced each law and regulation that has recently been revised or enacted.

This article will focus on the following laws and regulations: Insurance Law of the DPRK, Regulations on Resident Representative Offices of Foreign Enterprises in Rason Economic and Trade Zone, Regulations on Entrepot Trade in Rason Economic and Trade Zone, Regulations on Contract Construction in Rason Economic and Trade Zone, Regulations on a Forwarding Agency in Rason Economic and Trade Zone, Regulations on Statistics in Rason Economic and Trade Zone, Regulations on Tourism in Rason Economic and Trade Zone, Regulations on Financial Management of Foreign-Invested Enterprises in Rason Economic and Trade Zone, Regulations on Foreigners' Immigration and Residence in Rason Economic and Trade Zone and Custom Regulations for the Rason Economic and Trade Zone. Some of these regulations, mainly focusing on Rason Economic and Trade Zone, have undergone significant revision. This is mainly because of the advance of the open-door policy and of the development of methods for dealing with foreign-related business.

The Insurance Law of the DPRK was enacted on April 6, 1995 and revised on February 4, 1999. This law is the basic law governing insurance in the DPRK. In the DPRK, insurance is classified into two categories: personal insurance and property insurance. Other than in Rason ETZ, the state insurance body conducts insurance business in the DPRK. In Rason ETZ, foreign investors and "overseas Korean compatriots" may also engage in insurance business.

The Regulations on Resident Representative Offices of Foreign Enterprises in Rason Economic and Trade Zone were enacted on February 21, 1994 and revised on October 27, 2000. In the Rason ETZ, the term of residence of a representative office is up to three years and the number of officers shall not exceed five, except for administrative, technical or service staff such as interpreters, typists, bookkeepers and drivers.

The Regulations on Entrepot Trade in Rason Economic and Trade Zone were enacted on July 15, 1995 and revised on October 27, 2000. The definition of entrepot trade was expanded by adding the provisions of "repackaging" and "some processing" in the most recent revision. A provision that prohibits businesses labeling

goods with a DPRK certificate of origin or its trademark was also added.

The Regulations on Contract Construction in Rason Economic and Trade Zone were enacted on July 15, 1996 and revised on October 27, 2000. After the revision, a chapter regulating the planning (of buildings) and provisions that should be regulated by contracts were deleted. In the DPRK, the guarantee period of a structure built under contract is one year.

The Regulations on a Forwarding Agency in Rason Economic and Trade Zone were enacted on July 13, 1995 and revised on March 21, 1999. In these regulations, the activities of forwarding agents are defined as "acceptance, dispatch, arrangements for cargo handling and storage, customs clearance, inspection and quarantine, settlement of costs, dealing with mishaps, arrangement of transport and the like, for transit cargoes in a foreign shipper's consignment." An external transportation body in the Rason ETZ may engage in these activities. When a shipper intends to transship cargoes under this regulation, it must notify one of the forwarding agencies of the information needed to fill in the bill of landing or the invoice five days before transshipment. In the case of transshipment to/from railroads, prior notice to the railroad organization should be made by the 20th day of the previous month.

The Regulations on Statistics in Rason Economic and Trade Zone were enacted on March 6, 1999. These new regulations were formulated "with a view to taking proper statistics on social and economic situations and establishing a proper order for the management and use of statistical data." (Art. 1) Statistics, defined in this regulation, includes "data with respect to the level of economic and cultural development, information related to natural resources, population and livelihoods and so on." (Art. 2) The statistical data relating to operational activities are to be compiled through statistical reports, while those relating to social and economic situations, population, livelihoods and prices are to be gathered through statistical research. (Art. 13) In this regulation, statistical data are treated as secret documents. This is not to protect foreign invested enterprises but to protect the secrets of the Rason ETZ.

The Regulations on Tourism in Rason Economic and Trade Zone were enacted on July 15, 1996 and revised on April 29, 2000. These regulations are intended to regulate sightseeing in the Rason ETZ by foreigners and overseas Korean compatriots. Sightseeing is defined as "tours for the proposes of sightseeing, education, recuperation, study, entertainment and so on." In the event that a foreigner or an overseas Korean enters the Rason ETZ directly from a foreign country for sightseeing purpose, she or he does not need to obtain a visa. Instead, she or he must obtain a

document of approval of sightseeing, such as a tourist certificate, etc. In principle, sightseeing tours must be arranged in groups. Before the revision, there was an article allowing tourists to bring with them a camping car or a tent, but this has been deleted from the new regulation.

The Regulations on Financial Management of Foreign-Invested Enterprises in Rason Economic and Trade Zone were enacted on May 13, 2000. These form a kind of basic law in the field of the financial management of foreign-invested enterprises in the Rason ETZ. The DPRK also has the Regulations on Financial Management of Foreign-Invested Enterprises for areas other than the Rason ETZ. Compared with these, the Regulations for the Rason ETZ have more specific and effective measures relating to the creation and utilization of capital, financial planning, assets, the calculation of production costs, financial settlements, profit distribution and fund management. Regarding financial liquidation, the Implementing Regulation for the Law on Equity Joint Venture, the Implementing Regulation for the Law on Contractual Joint Venture and the Regulations for the Implementation of the DPRK Law on Wholly Foreign-Owned Enterprises have provisions for setting up orders for claims to be paid. The three implementing regulations give priority to state levies,

while these regulations prioritize the remuneration of employees for their labor. This discrepancy may lead to a conflict when a foreign-invested enterprise in the Rason ETZ is dissolved.

The Regulations on Foreigners' Immigration and Residence in Rason Economic and Trade Zone were revised on February 19, 2000, when the two related regulations were merged. In this regulation, the stay of a foreigner is divided into two types; short stays (up to 90 days) and long stays (more than 90 days). A foreigner should report his or her arrival by the day following entry to the zone, except for those who will leave the day after they arrive in the zone. A revision in 2000 led to this regulation being supplemented with exhaustive provisions for landing/exiting and residential formalities.

The Custom Regulations for the Rason Economic and Trade Zone were enacted on June 28, 1995 and revised on September 23, 2000. These are the only regulations adopted by the Decree of the Central People's Committee. They originally comprised sixty articles, but this increased to seventy-four after the revision. The provisions concerning customs registration and clearance, and customs inspection and control were thoroughly revised.