
REGULATORY OVERVIEW

REGULATIONS OF ENGINEERING CONTRACTING

Principal Regulatory Authorities

MOFCOM and provincial departments of commerce in the PRC are responsible for supervising and regulating the enterprises which are engaged in contracting overseas engineering projects, while the Ministry of Housing and Urban-rural Development (“**MOHURD**”) and the local administrative authorities for construction are responsible for supervising the enterprises, which are engaged in contracting engineering projects in the PRC.

Major Governing Laws and Regulations

There is a raft of laws and regulations promulgated by the PRC Government that regulate the contracting of engineering projects overseas that include: (a) the Administrative Regulations on Contracting Foreign Projects (對外承包工程管理條例) (effective on September 1, 2008) issued by the State Council, (b) the Administrative Measures for the Engineering Qualification for Contracting Foreign Projects (對外承包工程資格管理辦法) (effective on November 1, 2009) issued by MOFCOM and MOHURD, (c) the Administrative Measures for the Operational Qualification of Foreign Labor Services Cooperation (對外勞務合作經營資格管理辦法) (effective on August 25, 2004) issued by MOFCOM and State Administration for Industry and Commerce, (d) the Interim Measures for the Bidding (Bid Evaluation) Permit of Contracting Foreign Projects (對外承包工程項目投標(議標)許可暫行辦法) (effective on May 1, 2000 and abolished on January 15, 2012) issued by MOFTEC and PBOC, (e) the Administrative Measures for the Bidding (Bid Evaluation) of Contracting Foreign Projects (對外承包工程項目投標(議標)管理辦法) (effective on January 15, 2012) issued by MOFCOM, CBRC and CIRC and (f) The Relevant Provisions Concerning the Handling of Quality and Safety Issues of Contracting Foreign Projects (關於對外承包工程質量安全問題處理的有關規定) (effective on December 1, 2002) issued by MOFTEC and the former Ministry of Construction regulate PRC companies contracting overseas projects in terms of their technical qualification, foreign labor service cooperation, bidding (bid evaluation) permit of contracting foreign projects and quality and safety of foreign construction projects. In addition, there is another suite of laws and regulations that regulate the contracting of domestic construction projects that include: (a) the Directives on Fostering and Developing Construction General Contracting and Construction Engineering Project Management Enterprises (關於培育發展工程總承包和工程項目管理企業的指導意見) issued by the former Ministry of Construction (effective on February 13, 2003); (b) the Explanatory Letter on Questions Regarding Entry Into the General Contracting Market (關於工程總承包市場准入問題說明的函) (effective on July 13, 2003); and (c) the Administrative Regulations for the Administration of Construction Engineering Survey and Design Qualifications (建設工程勘察設計資質管理規定) (effective on September 1, 2007). These laws and regulations set out requisite requirements in terms of market access for conducting the general engineering contracting business.

Requirements for Relevant Business Qualification and Quality

(1) *Qualification for Contracting Foreign Projects*

According to the Administrative Regulations on Contracting Foreign Projects (對外承包工程管理條例) and the Administrative Measures for the Engineering Qualification for Contracting Foreign Projects (對外承包工程資格管理辦法), enterprises contracted to undertake foreign projects must obtain the requisite qualification for undertaking foreign engineering projects namely, the Engineering Qualification Certificate for Contracting Foreign Projects of the PRC (中華人民共和國對外承包工程資格證書) before being allowed to undertake foreign contracting projects within a permitted scope.

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(2) Operational Qualification of Foreign Labor Service Cooperation

According to the Administrative Measures for the Operational Qualification of Foreign Labor Service Cooperation (對外勞務合作經營資格管理辦法), enterprises engaged in foreign labor service cooperation shall be approved by MOFCOM and obtain the requisite operational qualification of foreign labor service cooperation, namely the Certificate for Operational Qualification of Foreign Labor Service Cooperation of the PRC (中華人民共和國對外勞務合作經營資格證書) before being allowed to engage in any of such activities.

According to the Notice of MOFCOM for the Issues Related to the Implementation of the Administrative Measures for the Operational Qualification of Foreign Labor Service Cooperation (商務部關於執行<對外勞務合作經營資格管理辦法>有關問題的通知), enterprises which have obtained the operational qualification of contracting foreign projects shall be deemed to have automatically been granted with the qualification of dispatching personnel to work for overseas projects by the enterprises. However, the enterprises will not be allowed to carry out stand-alone labor sub-contracting services. If an enterprise intends to carry out the foreign labor services cooperation business other than the provision of labor service under a project contracted by the enterprise, a separate operational qualification of the foreign labor service cooperation must be obtained by the enterprise.

(3) Market Access of General Engineering Contracting and Qualifications of Engineering Design

The Directives on Fostering and Developing of Construction General Contracting and Construction Engineering Project Management Enterprises (關於培育發展工程總承包和工程項目管理企業的指導意見) and the Explanatory Letter on Questions Regarding Entry Into the General Contracting Market (關於工程總承包市場准入問題說明的函) were issued by the former Ministry of Construction in February 2003 and July 2003 respectively, pursuant to which no specific licensing requirements for enterprises which intend to conduct the general engineering contracting business were required. Enterprises holding the general engineering contracting qualification may undertake projects as general contractors within their qualification scopes and grades in engineering surveying, engineering design and engineering contracting.

In accordance with the Administrative Regulations for Construction Surveying and Engineering Design Qualification (建設工程勘察設計資質管理規定) issued by the former Ministry of Construction, enterprises engaged in the engineering design activities shall apply for the requisite qualifications. Once the qualifications are obtained, the enterprises will be issued with a certificate to enable them to engage in the engineering design activities within their qualification scope. The Qualification of Engineering Design is classified into different categories, namely the integrated engineering design qualification, industry-based engineering designing qualification, specialist engineering design qualification and specialist item engineering design qualification. Only a single grade has been created for the integrated engineering design qualification which is Grade A classification, while Grade A and Grade B classifications have been created for the industry-based engineering designing qualification, specialist engineering design qualification and specialist item engineering design qualification. In addition to Grade A and Grade B classifications, a Grade C may also be created for some other sectors, specialties and specialist items that is based on the engineering nature and technical features of project. The construction engineering specialist qualification may also have a Grade D classification.

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Bidding Permit for Contracting Foreign Projects (Bid Evaluation)

The Interim Measures for the Bidding (Bid Evaluation) Permit of Contracting Foreign Projects (對外承包工程項目投標(議標)許可暫行辦法) provides that enterprises taking part in bidding or bid negotiation of contracting foreign engineering projects must apply to MOFCOM for a permit prior to applying to a bank for a letter of guarantee. MOFCOM will review the project application submitted by the enterprises by taking into account the situations in the countries where the project is situated and other relevant rules and regulations. Once the application is approved, MOFCOM will then issue a bidding (bid evaluation) permit for contracting foreign engineering projects or project permit. The enterprises can then apply to a bank for a letter of guarantee by virtue of the project permit.

The Administrative Measures for the Bidding (Bid Evaluation) of Contracting Foreign Projects (對外承包工程項目投標(議標)管理辦法) provides that enterprises taking part in bidding or bid negotiation of contracting foreign engineering projects must apply to MOFCOM for approval of the bidding (bid evaluation) of contracting foreign projects prior to applying to a domestic financial institution for a letter of guarantee, credit or credit insurance. MOFCOM will review the project applications submitted by the enterprises by taking into account the project application information and will grant online approval to the applicants satisfying the conditions, and then will issue a bidding (bid evaluation) approval certificate for contracting foreign engineering projects (hereinafter referred to as the “**Approval Certificate**”). The enterprises can then apply to a domestic financial institution for a letter of guarantee, credit or credit insurance by virtue of the Approval Certificate.

Quality and Safety Management

The Relevant Provisions Concerning the Handling of Quality and Safety Issues in Contracting Foreign Projects (關於對外承包工程質量安全問題處理的有關規定) provides that if any quality and safety incidents or serious quality and safety issues arises when undertaking engineering projects overseas, the enterprises are contracted to undertake such projects shall, within 24 hours from the time when the incident or safety and quality issues occur, file a report to the economic and commercial sections of the nearest PRC diplomatic missions which in turn should report the same to the governmental instrumentality in charge of construction under the State Council. Also, a copy of the report should be filed with the governmental instrumentality in charge of foreign trade and economic cooperation under the State Council.

Coordination by the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (“CCCME”) (中國機電產品進出口商會)

According to the Administrative Measures on the Export Projects Coordination of Large Scale of Machinery and Complete Sets of Equipment (大型單機和成套設備出口項目協調管理辦法) (effective on January 1, 2002), operators which intend to engage in the export of large scale machinery and complete sets of equipment must apply to the relevant chambers of commerce and industry in respect of the export projects to be undertaken by them. Any industrial projects in relation to the export of completed sets of equipment should be coordinated by CCCME and CCCME should review and verify the qualification of the participating operators and provide written opinions in regard to coordination to the operators. In the meantime, CCCME should send a copy of its written comments to MOFCOM and the commercial and economic section of China’s diplomatic missions for the filing purposes.

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REGULATIONS GOVERNING INTERNATIONAL TRADE

Principal Regulatory Authorities

The governmental instrumentality in charge of foreign trade under the State Council is responsible for the administration of China's foreign trade according to the PRC law. The PRC customs is responsible for the supervision of the transport vehicles, goods, freight items and other items entering into and departing from the PRC according to the PRC law.

Major Governing Laws and Regulations

The Foreign Trade Law of the People's Republic of China (中華人民共和國對外貿易法) (effective on July 1, 2004) promulgated by the Standing Committee of the National People's Congress, the Administrative Measures for the Record Filing and Registration of Foreign Trade Operators (對外貿易經營者備案登記辦法) (effective on July 1, 2004), the Administrative Measures On Goods Import Licence (貨物進口許可證管理辦法) (effective on January 1, 2005), and the Administrative Measures On Goods Export Licence (貨物出口許可證管理辦法) (effective on July 1, 2008) promulgated by MOFCOM have imposed rules and regulations concerning the filing and registration of foreign trade operators and import and export licences. The Provisions of the Customs of the PRC for the Administration of Registration of Declaration Entities (中華人民共和國海關對報關單位註冊登記管理規定) (effective on June 1, 2005) issued by the General Administration of Customs of the PRC set out the requirements for the registration of customs agents in the PRC.

a. Record Filing and Registration of Foreign Trade Operators

According to the Foreign Trade Law of the PRC (中華人民共和國對外貿易法) and the Measures for the Record Filing and Registration of Foreign Trade Operators (對外貿易經營者備案登記辦法), foreign trade operators engaged in the import and export of goods or the import and export of technology shall register with MOFCOM or its designated entities, except for those exempted for record filing and registration under PRC laws, administrative regulations and MOFCOM.

b. Goods Import and Export Licence

According to the Foreign Trade Law of the PRC (中華人民共和國對外貿易法), the Administrative Measures on Goods Import Licence (貨物進口許可證管理辦法) and the Administrative Measures on Goods Export Licence (貨物出口許可證管理辦法), the PRC permits free import and export of goods and technology, except for those stipulated otherwise under PRC laws and administrative regulations. The PRC adopts a licensing regime for goods which are restricted for import and export.

c. Registration with the Customs Office for Customs Declaration of Import and Export Goods by Importers and Exporters

According to the Administrative Provisions of the Customs of the PRC for the Administration of Registration of Declaration Entities (中華人民共和國海關對報關單位註冊登記管理規定), importers and exporters of the goods to be imported or exported shall contact the local Customs Office with a view to completing the registration formalities as customs clearance agents pursuant to the relevant regulations at the importing and exporting ports. After the completion of such registration, importers and exporters can complete with the customs clearance declaration for the enterprises at any ports or any location with centralized customs operation in the PRC.

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MISCELLANEOUS REGULATION

Qualification of International Tendering Institutions

According to the Measures for Assessing the Qualification for International Tendering of Mechanical and Electrical Products (機電產品國際招標機構資格認定辦法) issued by MOFCOM (effective on March 1, 2005), enterprises which conduct international tendering business by utilizing foreign loans and domestic funds to procure mechanical and electrical products shall obtain the Qualification of International Tendering of Mechanical and Electrical Products. The Qualification of International Tendering of Mechanical and Electrical Products comprises of the Grade A, Grade B and Grade B Ready classifications.

Qualification of Construction Projects Tendering Agencies

According to the Measures for the Qualification for Tendering Agencies of Construction Projects (工程建設項目招標代理機構資格認定辦法) issued by the former Ministry of Construction (effective on March 1, 2007), entities which act as construction project tendering agencies should obtain the Qualification of Construction Project Tendering Agencies and shall be accredited by the government instrumentality responsible for construction under the State Council or its provincial or municipal counterparts according to the PRC law. The entities shall engage in the particular construction project tendering agency business within the scope permitted by the respective qualifications. The Qualifications of Construction Project Tendering Agencies comprises of Class A, Class B and Probationary classifications.

Qualification of Central Investment Project Tendering Agencies

According to the Administrative Measures for the Qualification of Invitation for Bid Agencies for Projects Invested by Central Government (中央投資項目招標代理資格管理辦法) promulgated by the National Development and Reform Commission (the “NDRC”) (effective on April 2, 2012), all the agencies that conduct the invitation for bid agency business with regard to the projects invested by the central government within the territory of the PRC shall be accredited by the NDRC. The qualifications of such invitation for bid agencies are classified into Grade A, Grade B and Preparatory Grade.

Agency Qualifications of International Cargo Transportation Agencies

According to the (Interim) Measures for the Records of International Cargo Transportation Agency Enterprises (國際貨運代理企業備案(暫行)辦法) issued by MOFCOM (effective on April 1, 2005), any international cargo transportation agencies which are registered with the State Administration for Industry and Commerce of the PRC and their branch entities pursuant to the law, shall register with MOFCOM or its designated entities for record purpose.

Operation of Non-Vessel Operating Common Carrier (NVOCC) Business

According to the Rules for the Implementation of International Maritime Transportation Regulations of the PRC (中華人民共和國國際海運條例實施細則) issued by the former Ministry of Transportation of PRC (effective on March 1, 2003), operators of the NVOCC business in the PRC shall apply to the Ministry of Transportation for the Operational Qualification Registration Certificate for NVOCC (無船承運業務經營資格登記證), and register with the original enterprise registration authorities before they may engage in any operation of NVOCC business.

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Overseas Economic Trade Exhibition

According to the Administrative Measures for the Administration of Approving the Organizing of Overseas Economic Trade Exhibition (出國舉辦經濟貿易展覽會審批管理辦法) jointly issued by the China Council for the Promotion of International Trade (中國國際貿易促進委員會, “CCPIT”) and MOFTEC (effective on February 15, 2001) and the Notice for the Problems Related to Further Strengthening the Administration of Organizing Overseas Economic Trade Exhibitions (關於進一步加強出國舉辦經濟貿易展覽會管理工作有關問題的通知) jointly issued by the Ministry of Foreign Affairs, the Ministry of Public Security, MOFCOM, General Administration of Customs and CCPIT (effective on June 17, 2003), all proposals for conducting overseas exhibition have to be countersigned by CCPIT and are subject to approval by MOFCOM. Any entity without having obtained approval are prohibited from organizing groups to attend or organizing any overseas exhibition.

Qualifications of Project Supervision Enterprises

According to the Administrative Measures for the Qualification for Project Supervising Enterprises (工程監理企業資質管理規定) issued by the former Ministry of Construction (effective on August 1, 2007), enterprises that engage in the supervision of construction projects shall obtain the requisite construction supervision qualification to conduct related business activities within the scope permitted. Such qualification is classified into three categories, namely, the integrated qualification category, the specialist qualification category and the enterprise qualification category. The specialist qualification category is divided into a number of engineering classifications depending on the nature and technical features of project. No ratings are set under the integrated qualification category and the enterprise qualification category. The specialist qualification category consists of Grade A and Grade B classifications. Grade C classification may be created for sectors such as building construction, water resources and hydropower projects, roads and municipal public utilities.

Qualification of Engineering Consulting Entities

According to the Administrative Measures for the Qualification of Engineering Consulting Entities (工程諮詢單位資格認定辦法) issued by the NDRC (effective on March 4, 2005), engineering consulting services entities shall obtain the Qualification Certificate for Engineering Consulting from NDRC according to law in order to conduct related business activities within the permitted scope. The Qualification of Engineering Consulting Entities consists of a number of segments, namely, qualification grading, consulting specialties and scope of services. The Qualification of Engineering Consulting Enterprises comprises of Grade A, Grade B and Grade C classifications.

Qualification of Project Cost Consulting Enterprises

According to the Measures for the Qualification of the Administration of Project Cost Consulting Enterprises (工程造價諮詢企業管理辦法) issued by the former Ministry of Construction (effective on July 1, 2006), enterprises engaged in the project cost consulting business shall obtain the Qualification of Project Cost Consulting Enterprises, and engage in the project cost consulting business within the permitted scope under their qualifications. The Qualification of Project Cost Consulting Enterprises comprises of Grade A and Grade B classifications.

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Qualification of Urban Planning

According to the Administrative Measures for the Qualification of Urban Planning Units Supervision (城市規劃編制單位資質管理規定) issued by the former Ministry of Construction (effective on March 1, 2001), enterprises engaged in urban planning units shall obtain the Certificate for Urban Planning Qualification, and shall conduct urban planning business within the permitted scope under such certificate. The Qualification of Urban Planning Enterprises comprises of Grade A, Grade B and Grade C classifications.

REGULATIONS IN RELATION TO OUR BUSINESS ACTIVITIES OVERSEAS

While we, as a PRC-incorporated company, are subject to and in compliance with the relevant PRC regulations applicable to our business, we may also be subject to local regulatory oversight in the geographical markets in which we operate. Prior to entering into a new geographical market, we would conduct appropriate due diligence on the regulatory environment and framework of that market and relevant jurisdiction, and ensure that we would be in compliance with the applicable regulations. In the case of our International Engineering Contracting Business, project owners would also request for and examine our appropriate qualifications during the bidding process to ensure that we have the appropriate qualification as an engineering contractor to undertake the underlying projects. We believe that the engineering contracting industry is not a highly regulated industry and we were not required to apply for any local qualifications or make any application with the local governments in order to undertake engineering contracting work overseas during the Track Record Period. As at the Latest Practicable Date, we have complied with all applicable regulations in relation to our business activities overseas in all material respects. See also “Risk Factors – Risks relating to our business and the industries in which we operate – We conduct a large part of our business in foreign countries and regions that are subject to foreign economic, regulatory, social and political uncertainties” for more details.