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REGULATIONS FOR THE AUTONOMOUS RIGHT OF THE ENTERPRISES
WITH FOREIGN INVESTMENT TO EMPLOY PERSONNEL, THE WAGES AND
SALARIES, AND THE EXPENSES FOR INSURANCE AND WELFARE BENEFITS
FOR STAFF MEMBERS AND WORKERS

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TEXT:

The following provisions are hereby formulated in order to implement the Provisions of the State Council Regarding the Encouragement of Foreign Investment, guarantee the right of autonomy of Enterprises with Foreign Investment in the hiring of personnel, and to appropriately determine the wages and insurance and welfare expenses for staff and workers from the Chinese party:

(1) On the Right of Autonomy of Enterprises with Foreign Investment in the Hiring of Personnel.

(a) An Enterprise with Foreign Investment may, in accordance with its production and operation requirements, determine on its own the organizational structure and personnel system, and, with the assistance of the labor and personnel department in its locality, recruit and employ staff and workers on its own through an examination and selection process in which only the best (qualified) are hired.

In the event that engineering and technical personnel or operation and management personnel needed by the Enterprise with Foreign Investment are not available in the locality, the Enterprise with Foreign Investment may, after the labor and personnel department in the province, autonomous region or municipality directly under the Central Government where it is located has consulted with and obtained the consent of the labor and personnel department in the district concerned, recruit outside the locality.

(b) With respect to the engineering and technical personnel, operation and management personnel and technical workers whom Enterprises with Foreign Investment have decided to hire after examination, the original units of which such personnel are in employment shall actively give their support and permit their transfer. In the event of any dispute, the labor and personnel department in their locality shall adjudicate.

(c) Senior management personnel designated by the Chinese party to work in Enterprises with Foreign Investment should be persons who are well oriented in existing policies, technically competent, know how to manage, ready to accept new challenges and who can cooperate and work together with the Foreign Investors. The relevant departments shall support them in their work and generally shall not transfer them to other jobs during their term of office. In the event that they must be transferred, the consent of the Board of Directors should be obtained.

(d) With regard to personnel who are not qualified for their posts after having completed the prescribe probationary or training period, and personnel who have become redundant as a result of changes in the production or technical conditions of the Enterprise with Foreign Investment, the enterprise may dismiss them. Staff and workers who have violated the rules and regulations of the enterprise and thereby caused certain bad consequences can, in accordance with the seriousness of the case, be given different penalties up to that of discharge.

(2) On the Wages, Insurance and Welfare Expenses of Staff and Workers.

(a) The wage levels of the staff and workers in an Enterprise with Foreign Investment will be determined by the Board of Directors on the principle that it should not less than 120% of the average wages of the staff and workers of state-owned enterprises with similar conditions, of the same trade and in the same locality; such levels shall be adjusted gradually according to the economic performance of the enterprise. Enterprises with good economic performance may give bigger wage raises; those with poor economic performance may give smaller or no raises.

(b) An Enterprise with Foreign Investment shall make payments to the retirement and pension fund and unemployment insurance fund for staff and workers from the Chinese party in accordance with the stipulations of the people's government in the locality. The insurance and welfare benefits of staff and workers during their employment shall be made in accordance with relevant stipulations of the Chinese Government concerning state-owned enterprises; expenses required therefor shall be disbursed from the costs and expenses of the enterprise strictly in accordance with the facts.

(c) Enterprises with Foreign Investment shall make payments to the housing subsidy fund in accordance with the stipulations of the people's government in locality. The Chinese party to the enterprise shall use such fund to subsidize the costs of the building and purchase of housing for staff and workers.

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