



Update China Desk

China Law Brief

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English Version

Few bureaucracy, more liberalization: State Council's Sixth Resolution on Abolition of Administrative Approvals Sixth Resolution on Abolition of Administrative Approval

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Deregulation Decision: Resolution on Abolition of Administrative Procedures for Review and Approval of Economic Projects

On 23 September 2012 the Chinese State Council adopted the Sixth Resolution on Abolition of Administrative Procedures for Review and Approval of Economic Projects ("Deregulation Decision"), which entered into force on the same day. According to this Decision, plenty of economic activities that were previously subject to approval shall be from then on exempted from such administrative review and approval. Not only domestic companies but also foreign investors will benefit from such deregulation measures.

The First Deregulation Decision of the Chinese State Council has been adopted in 2002. The Background was that China made commitment under the framework of accession to the WTO to amend laws, to reform administration, to open market and to implement liberalization. Shortly before China joined in the WTO on 10 December 2001, the State Council adopted on 18 October 2001 the Resolution on the Reform of the Administrative Review and Approval, which gives the legal basis for the follow-up "Deregulation Decisions".

From 2002 to 2010, the State Council issued five Deregulation Decisions. Such decisions are mostly made of two parts. The first part exempts specified economic activities from the approval requirement. The second part shifts the responsibility for the review and approval from a higher administrative authority to a lower administrative body, in the most cases from central ministries to provincial authorities. As regards the areas of economic activities, the decisions cover all business related matters, in particular the access to certain industry sectors, the taxation collection and preferential treatment, the customs as well as the certification of service or product.

Background: WTO Access, Law Amendment and Administrative Reform

Content Structure of Deregulation Decisions

Such deregulation measures have significantly simplified foreign investment in China and promoted their access to the Chinese market. For instance, until 2007 were foreign investment in construction and architecture, printing, shipping companies, as well as trading companies still subject to approval by the Ministry of Commerce. According to the Fourth Deregulation Decision 2007 the approval competence shifted to authorities of the provinces, which makes the approval more efficient by shortening procedure. Another example is the establishment of representative offices of a foreign shipping company, which was abolished.

The current Sixth Decision releases from the administrative approval, *inter alia*, the establishment of representative offices of foreign road transportation companies and foreign securities and stock exchange institutions, the export quotas of "Foreign-Invested Enterprises" as well as the issue of working capital changes of foreign bank branches. As regards the foreign investment in urban planning, advertising agencies, ocean shipping, express post services, insurance brokerage, online retailing and Sino-Foreign joint ventures hospitals, the approval competence shifted from the central government to the provinces.

Impact on Foreign Investment

Sixth Deregulation Decision

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