

Ministry of Commerce, People's Republic of China

No. 5 Circular, 2015

**Measures on the Management of Turn-key Foreign Technical Assistance Projects
(Draft)**

Source: Department of Treaty and Law, Ministry of Commerce, People's Republic of China

Issued by: Ministry of Commerce, People's Republic of China

No.: No. 5 Circular, 2015

Date of Issue: 9 December 2015

The Measures on the Management of Turn-key Foreign Technical Assistance Projects (draft) was approved in the 61st general affairs meeting of the Ministry of Commerce (hereinafter "MOFCOM") on 9 December 2015 and it is hereby publicized and will go into effect since 8 January 2016.

Minister Gao Hucheng
9 December 2015

Chapter I General Provisions

Article 1.

The Measures is enacted to strengthen the management of turn-key foreign technical assistance projects, ensure project quality and improve aid effectiveness, in accordance with relevant laws and administrative regulations.

Article 2.

The turn-key projects in the Measures refer to the assistance projects, financed by China's foreign assistance funds, through organizing or guiding the whole or part of the stages of construction, instalment and test-production, to supply a complete set of equipment and project facilities for production and life and public services, and provide long-term quality assurance and matching technical services when the projects are completed.

Article 3.

The turn-key projects follow the management models of either constructed by the Chinese side or constructed by the recipient side.

The term “constructed by the Chinese side” refers to the management model in which the Chinese government, entrusted by the recipient, takes charge of, part or the whole of the process of the survey, engineering, construction and debugging of a turn-key project, provides the complete set of equipment and engineering facilities to the recipient for production and life and public services purposes and provides long-term quality assurance and matching technical services upon the project completion.

The term “constructed by the recipient side” refers to the management model in which the recipient, supported by the Chinese government’s aid funds and technical support, takes charge of, the whole or the main parts of the process of the survey, engineering, construction and debugging of a turn-key project, and undertakes operation and maintenance responsibilities upon the project completion; and the Chinese government conducts external supervision of the project constructed by the recipient side.

In both models, specific division of tasks between the recipient and the Chinese side will be decided according to the principle of reasonable division of labor.

Article 4.

MOFCOM is responsible for the establishment, management and supervision of the turn-key projects.

The management agency of the project is in charge of the implementation, supervision and management of the turn-key project in accordance with the Measures; and receives supervision and inspection from MOFCOM.

Article 5.

The Economic and Commercial agency of the Chinese Embassy or Consulate (General) in the recipient country shall assist MOFCOM in handling inter-governmental affairs related to the turn-key project and is responsible for overseas supervision of the implementation of the turn-key project.

Article 6.

Provincial departments in charge of commerce shall assist MOFCOM in the management of the turn-key project.

Chapter 2 Implementation models of the Projects constructed by the Chinese Side

Article 7.

The projects constructed by the Chinese side follow the implementation models of “project management plus construction general contracting” and the enterprise contract management responsibility system.

The project management company and the construction general contracting company shall respectively undertake the assignments of professional investigation, engineering survey, engineering at various stages, project management and construction works according to different contracting models and undertake corresponding legal responsibilities.

Article 8.

The turn-key projects in general adopts the “procurement – construction” contracting model (hereinafter referred to as the P – C mode), namely, the project management company undertakes the professional investigation, engineering survey, project engineering and in-depth engineering (hereinafter referred to in combination as survey and engineering) and the entire process project management tasks; the general contracting company undertakes the detailed construction engineering and the general contracting assignments of engineering construction.

Article 9.

For turn-key projects which simultaneously meet all of the following prescribed conditions, the “engineering – procurement – construction” contracting model (hereinafter referred to as the EPC) can be used, namely, the project management company undertakes project management tasks in the whole process; and the general contracting company undertakes survey and engineering, detailed construction engineering and the general contracting tasks of the engineering construction:

- a. Clearly drafted project technical specifications, to provide accurate technical description of the deliverables and the project implementation results;
- b. To organize the review and acceptance according to published technical standards or regulations;
- c. The project schedule is under control and has a clear prediction of start and end time;
- d. Clear investment limits, to directly estimate based on empirical data and the feasibility study;
- e. Cost risks are controllable, and the implementing company can reasonably bear the expected risks in the project implementation process.

The turn-key project EPC contracting model is primarily applied to production projects, infrastructure projects with simple technologies or equipment installation projects without complex engineering.

Article 10.

The company that undertakes the survey and engineering of the turn-key project shall be responsible for the quality, progress, safe production and investment control of the survey and engineering and detailed construction engineering.

The general contracting company of the turn-key project shall be responsible for the quality, progress, safe production and long-term quality assurance and matching technical services when the project is completed.

The company that undertakes the management of the turn-key project shall coordinate, control and manage the project's survey and engineering, detailed construction engineering and the entire construction process, and shall bear joint responsibility for the quality, progress, safe production and investment control involved.

Chapter 3 Management of Procurement of Projects constructed by the Chinese Side

Article 11.

The project management agency will select the general contracting company and the project management company within the scope of companies eligible for implementing foreign assistance projects accredited by MOFCOM, and in accordance with the procurement regulations of foreign assistance projects.

MOFCOM may select the general contracting company and the project management company for the turn-key project according to China's regional development policies.

Article 12.

The project management agency shall simultaneously determine the project engineering programme or management programme when deciding on the project management company; if necessary, it can determine the project management company after the engineering programme is decided.

Prior to signing the contract, the bid-winning project management company shall submit to the project management agency a professional liability insurance, with MOFCOM as the beneficiary and covering the scope of its contracting liability, and undertake the insurance premiums.

Article 13.

When the P-C contracting model is used, the project management agency, when deciding on the general contracting company, shall organize the procurement in accordance with the detailed engineering document compiled by the project management company.

When the EPC contracting model is used, the project management agency, when deciding on the general contracting company, shall organize the procurement in accordance with the general contracting bid-invitation programme compiled by the project management company. The bid-invitation programme shall at least include: project technical programme (including the functionality, quantitative indicators and matching engineering standards, quality levels, performance indicators and implementation methods), technical standards or procedures of review and acceptance, project schedule requirements, the technical specifications of main equipment and materials, project estimates, investment estimate and special risk factors that may occur at the construction stage of the project.

The winning general contracting company, before signing the contract, shall submit to the project management agency, the professional liability insurance and the project quality defect liability insurance with MOFCOM as the beneficiary and covering the scope of its contracting liability, and undertake the insurance premiums.

Article 14.

When deciding on the general contracting company, the project management company shall coordinate with the project management agency to formulate the qualification examination and bid-invitation programme, provide the matching technical document, conduct technical review and clarification of the bid-invitation document and the matching technical document, organize and recommend the winning and designated company to commit to addressing inquiries and provide advices on the conditions for winning the bid.

The project management company, shall comply with the principles of avoiding the conflict of interest, full disclosure, caution and discretion in the bid-invitation process, and undertake liability for the advices provided and include in the scope of the professional liability.

Article 15.

For the turn-key project that requires at least two primary technical qualifications, the companies which meet all qualifications for the primary technology can bid

independently; they can also form a consortium to bid collectively. Each party of the consortium shall no longer bid alone or form a consortium with other bidders to join the bid.

The management agency shall specify the conditions to form the consortium in the project bid-invitation document. Among the conditions, the leading unit of the consortium shall meet the qualifications of foreign assistance project implementation company.

Article 16.

On behalf of MOFCOM, the project management agency shall issue the notification letter on assignments to be implemented in the turn-key project to the winning company.

With the notification letter, the company handles the entry and exit of the project technical staff and the inspection and customs clearance of equipment and materials, construction machinery and equipment and living materials.

Article 17.

The winning company shall not transfer-contract the assignments within the scope of responsibilities, nor separate-contract the key or primary assignments or split them into several parts and subcontract.

If the successful bidder subcontracts the non-critical or non-primary tasks beyond its technical qualifications to other professional technical units, the substance of the subcontract, selection of the subcontractor and the amount of the subcontract shall be stated clearly in the bidding document, as a part of winning conditions and shall be included in the contract.

Once the subcontracting approach is decided, it shall not be changed. The winning company shall sign the subcontract in line with the subcontracting approach specified in the bidding document and file on record with the project management agency. If there is a need to change or add subcontracting, it shall be processed in accordance with contract changing procedures.

The winning company shall directly sign the labor contract with the Chinese project technical staff dispatched to the project, form labor contract relations, safeguard the legitimate rights and interests of Chinese project technical personnel, and refrain from labor subcontracting.

The winning company is encouraged to locally subcontract and implement or hire the recipient to undertake the non-primary project component suitable for local implementation in the recipient country, and file for record with the project management agency the subcontracting affairs and contracts. The winning company which organizes local subcontracting or hire locally shall abide by relevant laws and regulations in the recipient country and improve the management, technical guidance and technology transfer of the subcontracting.

Chapter 4 Management of the Projects constructed by the Chinese Side

Article 18.

MOFCOM is responsible for the review and approval of the feasibility study and project proposal of the projects constructed by the Chinese side and handling the project formulation.

After the project is established, the project management agency shall organize the project implementation and management within in the purview of the intergovernmental agreement, and the feasibility study and the project proposal ratified by MOFCOM.

Article 19.

The engineering of the projects constructed by the Chinese side in general includes three stages, respectively: programme engineering, detailed engineering and construction details engineering; and two engineering preparation stages, respectively: professional survey and project survey.

Article 20.

The company that undertakes survey engineering assignments, shall form a professional team, formulate work plans and safeguard measures, submit to the project management agency for record, and complete the survey engineering assignments in accordance with the bidding commitment and contract agreement. The engineering work shall follow the principles of standardization and applicability, overall planning, function-prioritized, the matching of investment, technological innovation, environmental-friendly, convenience to maintenance and repair friendly and sustainability.

Article 21.

The company that undertakes survey engineering assignments, shall compile and improve the project engineering in accordance with the project proposal.

The project engineering shall be in conformity with the project proposal, the content and scope, technical specifications and standards and in-depth requirements shall be specified in the contract by the project management agency.

When internally reviewed or reviewed and confirmed by the project management company, the project engineering document shall be submitted to the project management agency for record.

Article 22.

The company that undertakes survey engineering assignments, shall organize professional investigations, make due preparation prior to the investigations, study and summarize opinions from the recipient and put forward recommendations during the professional investigations, coordinate with the project management agency in conducting external consultations on the project engineering programme, and accept the guidance and supervision from the project management agency.

The company that undertakes the survey and engineering assignments, shall compile a professional investigation report after the investigation is completed. The professional investigation outcome document to be submitted to external parties shall be regulated by the project management agency.

Article 23.

On the basis of completing the programme engineering and the professional inspection, and thorough technical communication and preparation with the recipient at the technical level, the project management agency shall determine with the recipient the programme engineering and sign the project external implementation agreement or memo with the recipient.

In case of failure to sign the external implementation agreement with the recipient at the technical investigation phase, the project management agency may first sign the survey and engineering memo with the recipient, determine the engineering programme, and agree on the division of labor during the survey and engineering process and then sign the external implementation agreement or memo with the recipient.

Article 24.

The company which undertakes the project survey and engineering tasks shall be responsible for the engineering survey of the construction site and promptly submit the construction survey report to the project management agency prior to the launch of the project follow-up engineering.

The company which undertakes the project survey and engineering tasks shall decide on the project construction site and compile the engineering survey programme within the scope of the construction border, and fully adopt necessary technical measures like exploration, measurement and testing in engineering survey, and compile the engineering survey report in line with the industrial requirements, to fully and accurately reflect the topography, geology and hydrology of the construction site as the technical basis for the next-stage project engineering work.

Article 25.

The company which undertakes the project survey and engineering tasks shall be in charge of detailed engineering.

The detailed engineering shall comply with the programme engineering requirements, to enable the project management agency to organize the bid invitation for the general contracting of the engineering, or to accurately compile the construction budget estimate, and the technical specifications and standards, and the requirements for the depth of the engineering document shall be stipulated by the project management agency in the contract.

Article 26.

The project management company shall conduct self-inspection or review of the detailed project engineering and the emphasis shall include:

- a. To confirm the engineering content conforms with the approved project proposal, the programme engineering consulted and agreed with the external party and the results of the engineering survey;
- b. To confirm the depth of the engineering is in line with the contract and there is no major omission;
- c. To confirm the engineering technical specifications and standards are accurately applied;
- d. To confirm the matching construction volume and the investment estimate meet the requirements for follow-up implementation or the construction bid-invitation;
- e. To confirm the technical specification document on the main equipment and materials are complete and clear, can be used as the basis to select the type of equipment and materials and there are no irregularities like designated products or designated products in disguised forms.

The company which undertakes project survey and engineering tasks shall, according to the review opinions of the project management company, modify the detailed engineering and submit to the project management company for review and approval.

If the external implementation agreement has provisions on the recipient reviewing the detailed engineering, the project management company shall submit the detailed engineering document self-examined or reviewed and approved to the recipient for review and complete necessary procedures for external review and examination.

The project management company shall, upon the completion of the above-mentioned internal review and external review processes of the detailed engineering, submit the finally reviewed and approved detailed engineering document to the project management agency for record.

Article 27.

The general contracting company shall conduct the detailed construction engineering based on the detailed engineering document.

The detailed construction engineering shall comply by the detailed engineering regulations, form the basis for accurately compiling the construction volume list, the construction budget estimate and the construction organization engineering, meeting the need for the selection of type and procurement of the engineering materials and the production of the non-standard equipment and components; and form the basis for construction, installment and construction review and acceptance; and the requirements for the depth of the engineering document shall be determined by the project management company and the general contracting company.

The detailed construction drawing programme can be developed according to the stages of the construction progress and shall form the basis for directly guiding the construction after the management company's review and approval.

Article 28.

The project management company shall set up the on-site management team in order to conduct the site management of the project. The on-site management team consists of professional engineering technical personnel respectively in charge of engineering management, construction supervision, quality and safety control, and external coordination, and is capable of approving the construction drawing on the site, conducting the whole-process quality and safety supervision, and coordinating the contract fulfillment with the recipient on behalf of the project management agency. Among them, the team leader shall acquire the senior professional technical title on engineering consultancy, or the qualification of the registered architect of level two and above, or the practitioner's qualification for construction supervision and engineering

project management experience. The dispatch of the site management team personnel of the project management company shall be submitted by the project management company to the project management agency for approval and reported to the Economic and Commercial agency of the Chinese Embassy and the Consulate (General) in the recipient country for record.

The general contracting company shall set up a domestic logistics team and a construction technical team, respectively responsible for domestic support services and site construction organization and management for the project. The construction technical team shall at least consist of the team leader, the chief engineer, the quality assurance personnel, the safety personnel and other relevant professional engineering technical personnel; and among them, the team leader shall acquire the qualification of the registered architect of level two and above and engineering project management experience, the quality assurance personnel and the safety personnel shall acquire the post practitioner's qualification accredited by the domestic department in charge of construction and relevant working experience. The list of the team leader of the construction technical team and the main personnel shall be submitted by the general contracting company to the project management company for approval and submitted to the project management agency and the Economic and Commercial agency of the Chinese Embassy and the Consulate (General) in the recipient country for record.

The project site project management team and the construction technical team shall adopt the leader responsible system.

Article 29.

At the preparation phase prior to the project construction, the project management company shall, jointly with the general contracting company, organize the technical disclosure meeting before the construction, clarify technical issues, synergize management procedures and arrange the preparation for the construction. The technical disclosure meeting shall be chaired by the project management company, participated by the main engineering personnel, the site management team, the main technical and management persons in charge of the domestic logistics team and the construction technical team, and monitored by the representative dispatched by the project management agency.

The meeting memo of the technical disclosure meeting shall be submitted to the project management agency for record.

Article 30.

The general contracting company shall, according to the consensus on the technical disclosure prior to the construction, modify and improve the construction organization engineering based on the winning bid document and the special plans on logistics guarantee, procurement supplies, quality, progress and safety guarantee, and submit to the project management company for approval.

The project management company shall, according to the consensus on the technical disclosure prior to the construction and the construction organization engineering and special plans compiled by the general contracting company, improve the project management plan and submit it, along with the finally approved construction organization plan and special plans to the project management agency for record.

Article 31.

The general contracting company is responsible for the procurement and transportation of the machinery and facilities and equipment and materials needed for the construction, and receives the supervision of the project management company.

The quality inspection and port inspection and clearance of the equipment and materials procured and shipped within China's customs and taxation border, shall abide by relevant foreign assistance materials inspection and clearance management provisions.

The project management company shall, according to the project management plan, adopt supervision measures like witness sampling, witness inspection and in-factory production supervision.

Article 32.

The project management company and the general contracting company shall jointly conduct the site preparation before the construction takes place.

The general contracting company shall promptly transfer the construction site to the recipient, complete the construction of temporary facilities and connect with civil works for engineering purposes, and organize the first batch of engineering technical personnel, engineering machinery, equipment and materials to be dispatched to the construction site.

The project management company shall provide matching support, promptly dispatch the site management team and supervise the construction site preparation by the general contracting company.

Article 33.

In conjunction with the general contracting company, the project management company shall urge the recipient country to fulfill the responsibilities stipulated in the governmental agreement and the foreign implementation agreement, and provide support to the recipient in addressing relevant technical issues.

When the recipient dispatches the site representative, the project management company shall consult with the recipient on the role and responsibilities of the site representative and establish the site working mechanism.

Article 34.

The project management company shall, in accordance with the application to commence the construction submitted by the general contracting company, confirm that all preparatory work prior to the construction is completed, and all required personnel, facilities and materials and construction machinery and equipment are in the site, and all conditions to commence the construction work are met, and inform the recipient in a written form, and in the meantime report to the project management agency and the Economic and Commercial agency of the Chinese Embassy and the Consulate (General) in the recipient country for the record. The order of commencement of work is the basis for formally calculating the project contract duration.

Article 35.

The project management company shall conduct supervision of all facilities and materials, and construction machinery and equipment in the construction site.

All facilities and materials, and construction machinery and equipment in the construction site shall be reported by the general contracting company to, and signed off by the project management company and the proof of the quality in compliance with the engineering requirements shall be provided.

When facilities and materials and construction machinery and equipment signed off and are in the construction site, need to exist the construction site due to reasonable grounds, the general contracting company shall report to the project management company for approval.

All facilities and materials shall be safely stored and orderly managed by the general contracting company, and conduct testing according to the testing procedures or standards prior to use. The specimen of the testing block, the testing component and materials pertinent to the main-body or the structural safety shall be taken under the site

supervision of the project management company and sent to a certified testing unit for testing. Those untested or unqualified shall not be used.

Facilities and materials and construction machinery and equipment not in compliance with the engineering requirements and quality standards or those not signed off, the general contracting company shall ship them out of the construction site in accordance with the requirements of the project management company.

Article 36.

The project management company shall oversee all the personnel from the general contracting company who enter the construction site.

The general contracting company shall submit the list of personnel entering or exiting the construction site to the project management company for review and approval. The leader of the construction technical team and the key management personnel, the special operations personnel and the high-risk operations personnel shall acquire relevant practitioners' qualifications and perform the job with a certificate; all engineering technical personnel shall have a labor relationship with the general contracting company.

The general contracting company shall manage the management personnel and the engineering technical personnel entering into the construction site, establish and improve the post education and training system, urge them to comply with local laws and regulations and foreign affairs discipline, protect their legitimate rights and interest like personal and property safety, livelihood security, human dignity and religious belief and solve labor disputes according to laws and regulations.

Article 37.

The project management company is responsible for supervising the whole construction process of the general contracting company, and jointly undertakes the responsibility of project quality, progress, safety and investment control with the general contracting company.

The project management company shall promptly review and approve the construction engineering and other special plans and special construction adjustment programme submitted by the general contracting company and monitor the site construction in accordance with the approved plan.

The project management company is in charge of the review and approval of detailed construction engineering and supervise the general contracting company to construct in accordance with the engineering plan.

The project management company shall supervise the general contracting company to strengthen the process management, enforce the technical disclosure, self-examination of the process and hand-over examination process prior to the implementation of various processes, ensure that the previous process is completed before entering the next step and conduct stand-by supervision of the construction of concealed works and key parts.

The project management company shall monitor the general contracting company in conducting daily quality self-examination of the itemized construction works and promptly conduct the review and acceptance of the quality of partitioned and itemized construction works, the measurement and verification of engineering workload and approve the request to transfer contract price funds at key junctures.

The project management company shall supervise the general contracting company in fulfilling the GB/T19000 and GB/T50430 quality system standards, the GB/T24000 environmental management system standard and the GB/T28000 occupational health and safety standards, develop and implement the standard assurance plans in advance, establish and improve the system to fulfill the standard, and effectively implement the phased review and process monitoring of the standard fulfillment.

The project management company shall supervise the sub-contracting of the general contracting company, and if it detects the general contracting company is transfer-contracting or sub-contracting in violation of the provisions of the Measures, it shall promptly stop and rectify until suspend the construction and report to the project management agency.

The project management company shall establish and improve the regular meeting system with the general contracting company and the site representative of the recipient, and promptly study and resolve major technical issues or foreign coordination issues in the construction process.

The project management company issue written instructions and notices to the general contracting company to fulfill process monitoring management responsibilities, and can issue verbal instructions and require a reply within 48 hours in emergencies. For instructions and notices from the project management company, the general contracting company shall implement with no hesitation, and disputes and loss which may have occurred shall be resolved through the project dispute settlement mechanism established by the project management agency afterwards.

The project management company shall regularly submit the work briefs to the project management agency. When serious quality and safety incidents or emergencies which may affect the project implementation occur, a special report shall be submitted.

Article 38.

In the construction process, if errors are detected in approved engineering documents, construction organization engineering, special plan and special construction programme or it is impossible to reach the original technical goals following the original technical path, the project management company and the general contracting company may conduct technical consultations and make alterations.

The technical consultation programme shall be proposed by the general contracting company, and after it is approved by the project management company, the two sides shall sign the technical consultation memo for confirmation. The project management company shall not go beyond its authority and authorize any consultation items which may lead to any change in the contract conditions, nor shall it approve other consultation items which only intends to simplify or reduce the engineering workload, which may lower the engineering standard or affect the function, which may lead to compensation claim or dispute or those lack technical necessities. The project management company shall promptly submit the technical consultation memo to the project management agency for record.

For technical consultation items which go beyond the authorization of the project management contract and the general contracting contract, the project management company shall propose review opinions and submit to the project management agency.

Article 39.

The general contracting company shall conduct necessary technical guidance and post training for the management and maintenance personnel dispatched by the recipient during the project construction process, familiarize them with the operation of relevant equipment, the repair and maintenance requirements for main equipment and materials, methods of replacing the easily worn-out parts, to equip the recipient with the basic capability to operate, maintain and manage after the project is completed.

The project management company shall supervise and guide the general contracting company in fulfilling the technical training responsibility during the construction process.

Article 40.

In the construction process, the project management company shall, under the guidance of the project management agency, communicate with the recipient to implement the external implementation agreement on behalf of the project management agency.

In case of major issues like substantive changes or disputes in implementing the external implementation agreement, the project management company shall formulate the response plan according to the actual situation, and consult with the recipient after it is submitted to and reviewed and approved by the project management agency.

The project management company shall conduct the external consultation in a written form and have it properly preserved.

The general contracting company shall support the project management company in consulting with the recipient and be subject to the coordination of the project management company.

Article 41.

Together with general contracting company, the project management company shall submit the interim review and acceptance request to the project management agency one month in advance, and jointly sign off and submit the self-examined interim report.

The project management agency is responsible for organizing the interim review and acceptance and the review and acceptance experts shall provide the interim review and acceptance report. The interim report which qualifies the project shall be the basis for confirming the phased completion of agreed goals in the contract and the approval for proceeding with follow-up construction.

Without affecting the interim review and acceptance, upon the approval of the project management company, the general contracting company may moderately advance the follow-up construction.

Article 42.

Together with general contracting company, the project management company shall submit the final review and acceptance request to the project management agency one month in advance, and jointly sign off and submit the self-examined final report.

The project management agency is responsible for organizing the project completion review and acceptance and the expert group shall provide the final review and acceptance report. The final review and acceptance report which qualifies the project shall be the basis for confirming the completion of agreed goals in the contract and the approval for proceeding with external technical review and acceptance and hand-over procedures.

Article 43.

The general contracting company shall base on the detailed construction drawing approved by the project management company, in combination with the technical consultations and adjustments in the construction process, and the actual review and acceptance results, compile the project completion drawing to truly reflect the final results of the physical works.

The completion drawing shall be compiled promptly in Chinese and foreign languages in the construction process, and shall not be supplemented after the project is completed. The completion drawing shall be stamped by the general contracting company with a “completion” sign, signed off by the leader of the technical construction team the drawer, and signed off by the project management team leader upon the review and approval of the project management company.

Article 44.

The general contracting company shall be responsible for compiling the project maintenance and use manual, and the project management company shall conduct supervision and review and approval of the compiling work. The maintenance and use manual shall be included within the range of completion review and acceptance of the project management agency.

The maintenance and use manual shall be compiled in Chinese and the foreign languages, and ensure the content is complete and accurate and shall not substitute the manual with the product introduction.

Article 45.

After the completed project has passed the review and acceptance, the project management agency shall request the project management company to organize the external technical review and acceptance according to the external implementation agreement with the recipient, and sign the external technical review and acceptance memo after both sides have confirmed that the project construction agreed in the external implementation agreement has been completed.

After the external technical review and acceptance, the project management agency, on behalf of MOFCOM, shall promptly handle the intergovernmental hand-over procedures with the recipient. The project completion drawing and the maintenance and use manual shall be used as an appendix to the intergovernmental hand-over procedures.

After the intergovernmental hand-over procedures are completed, the project management agency shall promptly submit a project completion report to MOFCOM.

Article 46.

Except for the operational management of the completed project in charge by the recipient, the general contracting company shall provide long-term technical support to the completed and handed-over project.

For completed projects which requests necessary assistance and cooperation support from the Chinese side by the recipient, MOFCOM may consult and agree on with the recipient at the project establishment stage and include provisions in the project establishment agreement and the external implementation agreement, and the project management agency shall include within the range of general contract and organize the implementation.

For long-term technical support beyond the assistance cooperation, the general contracting company shall stipulate with the recipient in the commercial contract on the cooperation content, the duration of services, the implementation programme and the bearing of costs prior to the project completion and hand-over.

Chapter 5 Quality Management of the Projects constructed by the Chinese Side

Article 47.

The project management company and the general contracting company shall jointly undertake the quality responsibility according to the Measures and the contract agreement, and the project management agency is responsible for the supervision management of implementing the quality responsibility.

Article 48.

MOFCOM shall develop and publish the Guiding Catalogue of the Main Equipment and Materials in Foreign Assistance Turn-key Projects (hereinafter referred to as “the catalog of main equipment and materials”), and determine the policy guidance and recommendation principles in providing the main equipment and materials of turn-key projects externally, based on market reputation, supply guarantee and overseas service capabilities.

The Catalogue is used to guide the feasibility study and the establishment of turn-key projects.

Article 49.

The company which undertakes the engineering survey tasks shall bear the following obligations:

- a. To undertake the engineering survey within the range of the technical qualifications legally obtained, shall not transfer-contract or sub-contract illegally;
- b. To organize the construction survey according to the relevant national technical specifications and standards combined with relevant special technical requirements from the recipient, and take charge of the quality assurance of the engineering survey outcome;
- c. On the basis of survey, measurement and on-site testing and in-house testing, compile the engineering survey outcome document according to the engineering characteristics;
- d. To ensure the survey document is complete and accurate and meets the needs of the engineering, construction and soil treatment, and is signed off by registered practitioner.

Article 50.

The company which undertakes the project programme engineering, detailed engineering and construction detailed drawing engineering tasks shall undertake the following obligations:

- a. To undertake construction engineering within the range of the technical qualifications legally obtained, shall not transfer-contract or sub-contract illegally;
- b. To organize the construction engineering according to the engineering survey outcome document and the engineering principles stipulated in the Measures, ensure the engineering document is signed off by the registered practitioner and shall be responsible for the engineering document;
- c. To conduct phased engineering according to the provisions in the intergovernmental project establishment agreement and within the range of the feasibility study approved by MOFCOM and the project proposal, ensure the phased engineering document conforms with the provision of the previous-stage engineering document and the depth of the engineering document meets relevant requirements;
- d. To ensure the engineering document is complete and accurate and there is no un-engineered substance or replacement of specifications or album for the engineering;
- e. Technical indicators of the equipment, materials and components and fittings chosen in the engineering document, like the specification, model and function, shall be specified and the quality shall be in conformity with the standards stipulated in China or the recipient and agreed in the contract. Except for materials, special equipment and production lines with special requirements, no products or suppliers shall be designated or designated in a disguise form through the engineering.

Article 51.

The general contracting company shall undertake the following obligations:

- a. To undertake project construction tasks within the range of the technical qualifications legally obtained, shall not transfer-contract or sub-contract illegally;
- b. To organize construction according to the approved detailed construction drawing, the construction organization engineering and the construction technical standards agreed in the contract, combined with special technical requirements by the recipient;
- c. To fully adopt GB/T19000 and GB/T50430 quality system standards and GB/T24000 environmental management system standard throughout the construction process, and establish and improve the assurance system and quality responsibility system to implement the standards;
- d. To procure and supply equipment and materials and construction machinery and equipment according to the construction engineering and contract agreement and conduct quality assurance, and handle inspection and customs inspection and clearance procedures for foreign assistance materials according to laws and regulations;
- e. To set up and improve the construction process inspection and testing system and inspect the equipment and materials according to the technical standard stipulated by the engineering and the contract agreement;
- f. To conduct rigorous process management in the construction process and promptly repair the quality issues detected in the construction process or failed to pass the review and inspection.

Article 52.

Except for quality issues due to improper use by the recipient, the general contracting company shall undertake the no-defect quality assurance responsibility throughout the whole reasonable period of use, for completed projects within its contracting responsibilities.

The period of the project no-defect quality assurance starts from the date when the project management agency completes the review and acceptance and completes the external technical review and acceptance procedures; the minimum year of the quality assurance for partitioned and itemized construction works under normal conditions of use shall abide by t China's national standard or the mandatory provisions of recipient's laws and regulations (whichever period is longer applies); where there are no provisions in China's national standards or the recipient's laws and regulations, the project management agency and the general contracting company shall agree upon in the contract.

The general contracting company shall issue the no-defect quality assurance when submitting the project completion review and acceptance application to the project

management agency, and clarify the scope of the no-defect quality assurance of each part and equipment and materials, the duration of assurance and the relevant warranty responsibilities, develop and implement relevant quality warranty plans, and maintain the quality warranty team in the site for at least two years after completion, ensure the supply and timely arrival of the matching materials such as human resources needed for rework or repair during the quality warranty period, and bear the full costs incurred from the quality maintenance.

Chapter 6 Schedule Management of the Projects constructed by the Chinese Side

Article 53.

MOFCOM is responsible for determining the duration of project construction at the project establishment phase. Once the project construction duration is determined, it shall not be changed freely.

If the recipient requests to shorten the project construction period, MOFCOM shall integrate the setting of a special construction period and the corresponding acceleration measures and extra investment in the project establishment scope and consult and decide with the recipient.

MOFCOM is conducting the management by objectives (MBO) of the project management agency, according to the project construction duration throughout the project implementation process; the project management agency shall, through the procurement process, conduct the contract process management of the duration of the project management company and the general contracting company that undertakes survey engineering and construction.

Article 54.

The project management company and the company which undertakes survey and engineering tasks shall jointly bear the responsibility for controlling the progress of the survey and engineering.

The company that undertakes the survey and engineering shall include the external factors which may affect the progress of the survey and engineering within the range of progress control of the survey and engineering, and proactively take measures to enhance external communication and coordination and responses to risks when necessary, to ensure the survey and engineering tasks are completed according to the contract schedule.

The project management company shall conduct self-inspection or supervisory control of the survey and engineering, and promptly study or help to solve the outstanding issues which affect the progress of survey and engineering.

Article 55.

The project management company and the general contracting company shall jointly bear the responsibility for controlling the progress of the project construction.

The general contracting company shall include the external factors which may affect the construction progress within the range of progress control of the construction duration, and proactively take measures to enhance external communication and coordination and responses to risks when necessary, to ensure the construction is completed according to the contract schedule when the recipient is not supportive or in case of risk elements.

Article 56.

When the project survey and engineering and construction fails to progress as agreed, due to the owner's liabilities or force majeure stipulated in the Measures, and the relevant company responsible has taken necessary measures, the project management agency can adjust the contract schedule with the relevant company.

The relevant company shall propose the contract schedule adjustment programme, and submit to the project management agency after it has been reviewed and approved by the project management company. The project management agency shall sign a supplementary contract with the company to adjust the contract schedule.

When the contract schedule adjustment goes beyond the prescribed period stipulated in the external implementation agreement, the project management agency shall sign a supplementary external implementation contract with the recipient.

Article 57.

During the project construction period, except in the following cases, the general contracting company shall not voluntarily suspend the construction of part or the whole of the project:

- a. Failure to continue the construction due to the owner's liability or the force majeure stipulated in the Measures;
- b. The Need to suspend part or the whole of the construction in response to serious safety incidents;
- c. Continuation of the construction may lead to bigger loss when survey and engineering or construction quality issues are detected.

The general contracting company shall promptly submit the partial suspension or suspension request to the project management company, state the reasons and the time or conditions to restore the construction, and suspend the construction after approval.

During the pause, the general contracting company shall protect and put in custody part or the whole of the construction work to prevent from deterioration, loss or damage.

When the construction conditions restore, the general contracting company shall promptly submit the request for restoring the construction, and restore the construction upon approval.

The project management company may also proactively issue the stop-work order to the project management company to fulfill the project management responsibility and specify the reasons for pausing the construction, and the time or conditions to restore the construction.

The project management company shall report to the project management agency for record the construction work which has completely shut down or has paused for more than seven days.

Chapter 7 Investment Management of the Projects constructed by the Chinese Side

Article 58.

MOFCOM and the project management agency are responsible for conducting the management by objective (MBO) on the limit value and the progressive investment control throughout the project implementation process, according to the approved project investment limit.

Under special circumstances, if there is a need to adjust the investment limit, MOFCOM shall re-approve following the original project establishment procedures.

Article 59.

At the preparation stage of the project, MOFCOM shall review and determine the project investment estimate according to the project feasibility study and the project proposal, and add a certain proportion of risk reserve based on this, and determine the project investment limit. The risk reserve is used for supplementing the need for increasing the investment due to responsibilities unrelated to the project management company or the general contracting company during the project implementation process. MOFCOM is in charge of approving the use of the risk reserve.

The adjustment coefficient of the risk reserve is determined by comprehensive elements like the political security in the recipient country and the project location, the ability of the recipient in fulfilling the division of labor between the Chinese and the recipient sides, the degree of complexity of the project technology and the project implementation method. Refer to Appendix I for detailed determination measures.

Article 60.

The company which undertakes the project programme engineering shall compile the project investment estimate based on the programme engineering and report to the project management agency for record. The investment estimate shall be controlled within the range of the investment pre-estimate.

The project investment estimate shall abide by the following principles:

- a. To cover all costs needed for project construction;
- b. To ensure the investment matches the proposed construction works;
- c. To ensure all indirect costs are in line with the standard stipulated by MOFCOM;
- d. To make a reasonable estimate of the unforeseeable elements and the inflation risks during the project implementation process.

Article 61.

For projects which follow the P - C contracting method, the project management company shall prepare the investment estimate based on the engineering document, and report to the project management agency for record. For projects which follow the EPC contracting method, the general contracting company shall prepare the investment estimate based on the engineering document and industrial requirements, and report to the project management agency for record.

The investment estimate shall be controlled within the range of the investment pre-estimate, and be in line with the detailed engineering, and shall scientifically determine major economic and technical indicators like the unit project cost, the total cost of the equipment and materials, the amount of materials, the amount of labor per unit, the international and local transportation insurance premium, the comprehensive unit labor cost and the project duration.

Article 62.

The project investment is composed of five parts, respectively: the survey and engineering expenses, project management fees, the pre-project engineering fees,

construction and installment engineering fees and engineering independent fees. See table 2 for the special composition of the project investment.

Article 63.

The physical workload or the workload involved in the project investment shall be calculated mainly following the fixed expense method, and the fixed expense of the investment is determined by the project management agency at the engineering stage. The workload or the unit price of the workload shall be determined in accordance with relevant foreign assistance provisions and truly reflect the market price.

The project budget (amended) shall be respectively calculated in RMB, USD and the local currency and shall use RMB as the final pricing unit. The exchange rate between RMB and USD shall follow the selling price of USD published by the Bank of China when the budget is being made or amended, and the local currency is calculated by the buying price of the USD of the Central Bank of the recipient country against the local currency.

Chapter 8 Safe Production Management of the Projects constructed by the Chinese Side

Article 64.

The project management company and the general contracting company shall jointly undertake safe production responsibilities stipulated in the Measures and the contract agreement. The project management agency is responsible for supervising the implementation of safe production responsibilities.

The project safe production management shall follow the principle of "safety first and focus on prevention".

Article 65.

The company which undertakes project survey tasks shall abide by the mandatory standards of the Chinese side and the mandatory regulations of the engineering survey related laws and regulations of the recipient country, and conduct engineering survey, ensure all the engineering survey documents provided are true and accurate and meet the requirements of safe production. When conducting the survey, the responsible company shall abide by the survey operation processes, and take measures to ensure all pipelines, facilities and surrounding buildings and structures are safe.

Article 66.

The company which undertakes the project programme engineering, detailed engineering and detailed construction engineering tasks, shall ensure the engineering is in line with the results of the engineering survey and the technical specifications and standards stipulated in the contract, in compliance with China's national standards and the mandatory regulations on construction safety in the recipient's laws and regulations, and there are no unreasonable engineering which may lead to safety accidents.

If the project engineering uses new technologies, new techniques and new materials, the responsible company shall ensure the reliability and safety of the new technology, technique and material, and propose technical measures to guarantee the production safety and prevent safe production accidents in the project engineering.

For key parts and special structures like the concealed works and the main structure of the project, the responsible company shall determine the engineering programme based on modelling safety test or strict calculations.

For the maintenance, retrofitting and expansion and demolition works, the responsible company shall determine the engineering programme based on the identification of the original building or the structural safety of the structure.

The responsible company shall develop a specific chapter on safety in the detailed engineering document, and clarify: requirements for safety protection measures on the construction site and adjacent facilities and pipelines; special technical requirements for construction machinery and equipment for safe construction; safe technical measures for largely dangerous parts and aspects in the partitioned and itemized works.

Article 67.

The general contracting company shall establish and improve the safe production rules and regulations and operational processes in the project construction process and fulfill the safe production responsibility system.

The general contracting company shall set up the production safety management institution within the construction technical team, and set up the safe production leading group headed by the leader of the construction technical team, to be in charge of on-site safe production.

The general contracting company shall equip the construction technical team with the safety personnel. The safety personnel shall acquire the post qualifications stipulated in the Measures, receive professional training on the foreign assistance management system and enforcing the occupational health and safety management systems and

standards prior to taking up the post, and fulfill the post responsibilities like the supervising the fulfillment of the safe production system, organizing safe production education and regular and specific safety inspection.

The general contracting company shall, under the guidance of the construction organization and engineering approved by the project management company, organize the construction according to the stipulated construction specifications and standards. Special safety production programmes with the safety calculation results attached shall be compiled prior to the construction for partitioned and itemized construction works with higher risks and the parts or processes prone to safe production incidents on the construction site; if necessary, experts shall be organized to discuss and review and approve safe construction programmes.

The general contracting company organize the safe construction technical disclosure prior to the construction, implement safe production technical requirements and record the technical disclosure.

The general contracting company shall establish and improve the management system of the special operations equipment in the construction site including vertical transportation and lifting, rigorously manage the safety testing of the special operations equipment, standardize the review and acceptance procedures after the installment and debugging, and regularly conduct inspection and maintenance, and set up the maintenance management files.

The general contracting company shall take proper safety precautionary measures, procure, rent and use protective equipment and objects, construction machinery and equipment in conformity with safety standards and strictly manage the distribution of the safety protective equipment and the examination, repair and maintenance of construction machinery and equipment, and standardize the use of the safety warning signs in the construction site.

The general contracting company shall improve the fire prevention management in the construction site, develop and implement the fire prevention operational procedures, equip the fire prevention facilities and equipment and standardize the use of fire prevention signs.

The general contracting company shall, in conformity with the safety requirements, reasonably choose the construction site and set up temporary production and living facilities, and implement the GB/T28000 occupational health and safety standard in the construction process, establish and improve the guarantee system to implement the

standard, and continue to take the identification, risk assessment and risk control measures to sources of hazards against the occupational health and safety.

Article 68.

The project management company and the general contracting company shall provide personal accident insurance for its own Chinese personnel dispatched overseas to implement project assignments, the insurance liability and conditions are subject to Chinese laws and regulations, and shall cover main risks in conducting overseas assignments and bear the insurance premium.

The project management company and the general contracting company shall provide personal accident insurance for foreign technical personnel and labor service personnel hired overseas to undertake project assignments, the insurance liability and conditions are subject to the recipient country's laws and regulations and bear the insurance premium.

Chapter 9 Risk management of the projects constructed by the Chinese Side

Article 69.

MOFCOM shall establish a risk-taking mechanism for technical assistance projects based on market principles, clearly define the risk factors in the projects, regulate the responsibilities of the major risk-taker and improve the matching liability insurance and project insurance system.

Article 70.

Risk factors involved in the projects mainly include political and diplomatic risks, the owner's liability risks, force majeure risks, engineering programme change risks and operational risks. Political and diplomatic risks and the owner's liability risks which have occurred during the project implementation period are undertaken by MOFCOM through contract replenishment. The force majeure risks are jointly borne by MOFCOM (with a maximum of covering the project insurance premiums) and the relevant company. The engineering change risks and operational risks are borne by the relevant company.

Article 71.

MOFCOM shall follow the principles of "policy support and market-based operation" and establish a sound project matching project insurance and liability insurance system.

The project insurance is used to share force majeure risks, and the company liable is the corpus of insure, the company liable and MOFCOM jointly benefit from the insurance,

and the insurance premium is borne by MOFCOM. Force majeure risks which exceed the project insurance shall be borne by the relevant company liable.

The professional liability insurance is used to undertake professional liabilities in project survey engineering and project management, and the company liable is the corpus of insure, MOFCOM is the beneficiary of the insurance, and the insurance premium is borne by the relevant company liable.

The project quality defect insurance is used to undertake no-defect guarantee liability of the quality of the project, and the company liable is the corpus of insure, MOFCOM is the beneficiary of the insurance, and the insurance premium is borne by the company liable.

Specific insurance programmes are separately stipulated by MOFCOM.

Article 72.

When political and diplomatic risks and the owner's liability risks occur during the project implementation period, the company liable shall promptly put forward the application of the contract value and the compensation within the contract duration within 60 days when the risk has occurred, in accordance with the actual loss and the contract agreement, explain the reason, the party liable and the basis for the quotation, and submit to the project management agency upon review of the management company.

The project management agency shall conduct a review of the materials, in accordance with the authenticity, reasonability of the quotations, the compliance of the reasons, and submit to MOFCOM for review and approval, and these shall be stipulated in a supplementary contract signed with the relevant company upon MOFCOM's approval. When necessary, the project management agency shall go to the scene to verify the situation.

Without proper reasons, if the company fails to apply for compensation within 60 days when the risk has occurred, the project management agency will no longer accept the application, and the relevant loss shall be borne by the company liable.

**Chapter 10 Management of Technical Materials of the Projects constructed by the
Chinese Side**

Article 73.

Within the scope of contracting responsibilities, the project management company and the general contracting company, shall be responsible for collecting and collating technical materials in accordance with the Measures and the contract, and handing over

the complete set of technical materials to the project management agency within 60 days after the project is reviewed and accepted and the external hand-over procedure is completed.

Article 74.

The project technical materials are divided into five categories, respectively: the survey and engineering documents, construction documents, completion documents, inspection and acceptance documents and project management documents five parts.

Among these materials, the management liability of the survey and engineering documents shall be borne by the company that undertakes the survey and engineering assignments; the management liability of the construction documents and completion documents shall be borne by the general contracting company; the management liability of the review and acceptance documents and the project management documents shall be borne by the project management company.

Article 75.

The project management company and the general contracting company shall, in accordance with the project schedule, collect and collate project technical materials, to ensure the classification is accurate, the materials are complete information, the documents are legible, the documentation is detailed and comprehensive and does not include unfinished business, the materials truly and completely reflect the actual project situation, and are traceable.

No unit or individual shall forge, alter, withdraw or deliberately damage the project technical materials.

Article 76.

The duration of the project technical materials shall be determined in accordance with the reasonable using period stipulated in the project engineering, and in which the completion document shall be kept permanently.

Article 77.

MOFCOM shall establish the project technical materials database, and commission the relevant project management agency to be in charge of the management of the technical materials database. MOFCOM is responsible for supporting the construction and management of the technical materials database.

The project management agency shall strengthen the standardized management and security protection of the technical materials database, improve the level of informationization and submit a special report to MOFCOM on the management of the technical materials database on a yearly basis.

Chapter 11 Review and Inspection of the Projects constructed by the Chinese Side

Article 78.

The engineering inspection and acceptance of the project comprises interim and final review and acceptance, and is organized and implemented by the project management agency.

When the main-body of the project is completed according to the engineering requirements, has passed self-assessment and the inspection by the project management company, relevant technical materials are collated in accordance with the relevant provisions of the Measures, an interim inspection and acceptance will be organized when the project management company and the general contracting company jointly submit a formal request to the project management agency.

When all project works have been completed according to engineering requirements, the main process equipment or matching equipment, after completing the intermodal loading test run, has achieved the functional requirements or formed the production capacity and relevant technical materials have been collated in accordance with the relevant provisions in the Measure, the completion review and acceptance will be organized when the project management company and the general contracting company jointly submit a formal request to the project management agency.

If the project which has submitted the review and acceptance request, fails to obtain the qualifications for the interim or completion review and acceptance on the site, the project management agency shall not organize the review and acceptance.

For technically simple projects with an investment within 50 million RMB, the project management agency may choose not to dispatch a team from China to conduct interim inspection and acceptance.

Article 79.

The project management agency shall select the consulting and advisory organization qualified by MOFCOM to form an expert group to review and accept the project on the site, and the specific composition of the team group is determined by the project management agency.

The team leader shall have the senior technical title or qualifications of the relevant technical expertise, and project management or quality management experience; and the team members shall have the intermediate technical titles or qualifications and professional working experiences, are familiar with the project review and acceptance standards or relevant construction technical specifications. Members of the review and acceptance team shall not have a conflict of interest with the project management company or the general contracting company which may therefore affect the fairness of the review and acceptance.

Article 80.

Before the review and acceptance organized by the project management agency, the projects shall be divided into five levels, respectively: the construction project, the single construction work, the unit construction work, the partitioned construction work and the itemized construction work, and quality check shall be completed accordingly and eligibility shall be confirmed.

- a. A construction project refers to an overall project constructed following an overall engineering, composed of one or several single construction works, and the quality check and confirmation will be done by the project management company based on the self-check of the general contracting company.
- b. The single construction work refers to the work with an independent engineering document, and can independently play the functions and demonstrate the effectiveness of the construction work upon completion, and the quality check and confirmation will be done by the project management company based on the self-check of the general contracting company.
- c. The unit construction work refers to part of a single construction work, and in general a project is divided into two unit construction works, respectively, the engineering construction and the equipment installment, and the quality check and confirmation will be done by the project management company based on the self-check of the general contracting company.
- d. The partitioned construction work is part of a unit construction work, and generally categorized according to different parts of the construction or professional types of work, and the quality check and confirmation will be done by the general contracting company based on its self-check and then reviewed and confirmed by the project management company.
- e. The review and acceptance of the itemized construction work is part of the partitioned construction work and is mainly categorized according to professional types of work, and the quality check and confirmation will be done by the general contracting company based on its self-check and then reviewed and confirmed by the project management company.

Article 81.

The review and acceptance of the project shall be judged in accordance with the inter-governmental project agreement, the foreign implementation agreement, the internal project implementation contract and the bid-invitation and bidding pledges, the project engineering document and the review and acceptance standards on the construction quality stipulated in the contract and the review and acceptance results will be rated according to the rating methods stipulated in the Measures.

The results of the review and acceptance are divided into three ratings: good, qualified and disqualified.

- a. Qualified. Rating of the partitioned construction work and below shall be rated in accordance with relevant industrial construction quality review and acceptance standards; only when all partitioned construction works are qualified, can the unit construction work can rated as qualified; only when all unit construction works are qualified, can the single construction work be rated as qualified; only when all single construction works are qualified, can the construction project be rated as qualified.
- b. Good. The quality control materials are complete and the relevant safety and function inspection and the number of the samples tested shall abide by relevant regulations.

For itemized construction works and below, each sampling inspection of the quality inspection project is 100% in compliance with the engineering requirements and the relevant industrial construction quality review and acceptance specifications, each sampling inspection point of the numbered sampling inspection project, more than 90% (more than 95% in the steel structure works) of the actually tested value is within the scope of allowable deviation of the relevant industrial construction quality review and acceptance specifications, and the maximum deviation of the actually tested value does not exceed 1.2 times (1.1 times for steel structure works) of the allowable deviation, the review and acceptance can be rated as good.

When all the sampling inspection of the itemized construction works are qualified and more than 60% are rated good, the itemized construction work can be rated as good. When all the sampling inspection of the itemized construction work of the partitioned construction work are rated qualified and more than 60% are rated good, the partitioned construction work can be rated as good.

When all partitioned construction works of the unit construction work are rated qualified and more than 60% are rated good, and the main structure, the decoration and refurbishing works and the partitioned construction works specified by the project

management agency in the contract are rated good, the rating of the perceptual quality assessment scoring reaches 85% and above, and the unit construction work can be rated good.

When all unit construction works of the single construction work are rated good, and the single construction work can be rated good.

When all single construction works are rated good, and there are no acts of major quality and safety incidents, no major contract breaches or approval in violation of relevant laws and regulations, the construction project can be rated good.

Article 82.

When the quality of itemized construction work does not meet the standards of relevant industrial quality review and acceptance standards, it shall be dealt with promptly, and the quality rating shall be determined according to the following provisions:

- a. The quality level can be re-assessed for the construction work done over again.
- b. The quality can only be assessed as qualified after reinforcement or identified by the statutory testing unit as meeting the engineering requirements.
- c. The quality can be assessed as qualified when identified by the statutory testing unit as failing to meet the original engineering requirements, but approved by the project management company for meeting the structural safety and functioning requirements and hence does not require reinforcement; or the reinforcement changes the contour size or causes permanent defects, by the partitioned construction work shall not be rated good.

Article 83.

The project review and acceptance shall be conducted by the review and acceptance experts in accordance with the following procedures:

- a. Special inspection on contract compliance.

To conduct a special assessment of the contract compliance of the project management company and the general contracting company in quality, progress, safe production and invest control responsibility including the on-site technical negotiations and review and approval of change, the compliance management of personnel and labor.

When serious flaws or problems in contract compliance make it impossible to confirm the quality of the construction works, the review and acceptance shall be discontinued.

- b. Verification of the technical materials of the construction work.

Construction technical materials for the construction works within the scope of complete review and acceptance include: equipment materials, quality certification and testing reports of components and parts; construction test records; construction records; technical review records; concealed construction work review and acceptance records; self-assessment and check records of the quality of partitioned and itemized construction works.

When serious flaws or problems in the management of construction technical materials make it impossible to confirm the quality of the construction works, the review and acceptance shall be discontinued.

c. Re-examination and confirmation.

To re-exam and confirm the concealed part of the accepted construction work or the part which previously passed the interim review and acceptance, if necessary, to conduct damage inspection and testing.

d. Actual testing and inspection.

To combine sampling and verification, perceptual assessment and actual testing and measurement, and conduct the review and acceptance and determine the rating according to the project classification methods. For projects with special needs, the percentage of sampling shall be increased.

e. Draw review and acceptance conclusions.

Taking into comprehensive consideration of the above inspection and acceptance results, in accordance with relevant provisions in the Measures, draw the review and acceptance conclusions following the principles of “collective discussions for reaching consensus”. In special circumstances with reservations but not affecting the review and acceptance conclusions, the reservations shall be fully disclosed in the review and acceptance conclusions

f. Reporting review and acceptance results.

The review and inspection work and results shall be reported comprehensively to the Economic and Commercial agency of the Chinese Embassy and Consulate (General) in the recipient country. When there are serious problems in the review and acceptance process, a special project shall be submitted to the project management agency jointly with the

Economic and Commercial agency of the Chinese Embassy and Consulate (General) in the recipient country.

Article 84.

The review and acceptance expert team shall compile the interim or completion review and acceptance report according to review and acceptance conclusions on the site, and the report shall clearly stipulate the quality rating and the result of specific assessment, and put forward opinions and suggestions on existing problems and follow-up actions.

The review and acceptance report takes effect when signed by all members of the expert team and the leader of the in-situ management team. In general the leader of the construction team and the site personal in charge from the general contracting company shall confirm the report by providing the subsidiary signatures; if there is lack of or refusal to providing the subsidiary signatures, the validity of the above-described report is not affected.

Article 85.

The project general contracting company shall rectify the problems identified during the review and acceptance and in the report in a timely manner.

The expert group shall draw conclusion on the rectifications made during the review and acceptance period and include in the report; rectifications unable to be made during the review and acceptable period, shall be made available by the general contracting company within the prescribed period under the supervision of the project management company, and the rectification results shall be reported to the expert group to draw conclusions.

Chapter 12 Management of the Projects constructed by the Recipient

Article 86.

In order to improve the self-development capacity of the recipient, the China side encourages the recipient to construct the turn-key project or the major tasks of the turn-key project. When the recipient has clear willingness or there are actual difficulties for the Chinese side to construct, turn-key projects which meet the following criteria, in consultation with the recipient, can follow the model of being constructed by the recipient:

- a. The recipient has a sound legal system and management system of bid invitation and bidding;

- b. The recipient has the ability and experience of independent project survey and engineering, or accepts the preparatory work like the feasibility study, survey and engineering completed by the Chinese side, has experience of organization and implementation and is willing to accept external supervision from the Chinese side;
- c. Clear limits of the project investments are set; division of labor, responsibilities and cost-sharing between the Chinese side and the recipient side is clearly defined; risks are controllable.

Article 87.

For the project constructed by the recipient, the recipient will, follow the bid invitation procedures in accordance with relevant laws and regulations, select the company to implement the project within the range of the companies recommended by the Chinese side. Based upon the consultation between the two parties, the recipient may also select the implementation company within the range of companies in the recipient country.

The project management agency shall be responsible for negotiating with the recipient and deciding on the range and conditions of the implementation companies to be recommended by the recipient. After the project management agency consults with the Economic and Commercial agency of the Chinese Embassy and Consulate (General) and industrial institutions in the recipient country, it may decide on the list of the Chinese companies to be recommended to the recipient country according to the technical qualifications, the ability of project implementation and integrity performance, etc.

The Chinese company recommended may form a consortium with a local company in the recipient country or form a professional subcontracting relationship with it.

Article 88.

For the turn-key project constructed by the recipient, the project management agency shall be responsible for signing the project implementation memo with the recipient and regulating the content, technical standards, investment control, supervision representative and supervision procedures and the rights and obligations of both parties.

The project management agency shall select the project management company in accordance with relevant laws and regulations to conduct limited supervision of the implementation of the project constructed by the recipient, and ensure the recipient will complete the project according to the intergovernmental project agreement and implementation memo. The project management company shall compile and implement the project supervision plan and include:

- a. Supervise the technical preparation of the bid-invitation by recipient in accordance with the feasibility study assessed by the Chinese side and the intergovernmental

- project agreement;
- b. Supervise the process of bid invitation and bidding by the recipient, assess the compliance of the bidding procedures and verify the results of the bidding;
- c. Monitor the implementation of the project contract and the quality, progress, safety and investment control of the project and validate the bidding results;
- d. Review the fund transfer request by the recipient;
- e. Make a preliminary review of the request for changing the project implementation submitted by the recipient, conduct preliminary review and put forward recommendations to the project management agency.

In conducting the limited supervision and management, when the project management company detects a violation of contract or regulations is taking place or is about to take place and will lead to serious harm to the project quality, safety and duration, it shall submit rectification recommendations to the recipient in the written form. If the recipient fails to take prompt and effective measures, the project management company shall promptly report to the project management agency and the project management agency may suspend or terminate the review of the request for project fund transfer.

Article 89.

For the project constructed by the recipient, the project funds shall be directly transferred to the bank account of the implementing company, in accordance with the contract signed between the recipient and the implementing company and the application for fund transfer reviewed and signed by the project management company, and accept supervision and inspection from the relevant management authority on the fund use.

Article 90.

After the project constructed by the recipient is completed, the management company and the recipient shall jointly review and accept the results of the project.

The management company shall promptly urge the recipient to submit the project review and acceptance report and the matching outcome document, and report to the project management agency for the record.

The project management agency is responsible for completing the validation certificate of the project with the recipient.

Article 91.

For the technical assistance project constructed by the recipient side, the project management agency shall conduct the investment target control based on pre-estimated investment decided in the project formulation. The total value of the implementation

contract signed between the recipient and the implementing company shall be controlled within the range of the pre-estimated investment.

In the project implementation, excess of contract costs caused by contract changes and claims shall be borne by the recipient; if the contract price is adjusted and reduced, the disbursement of funds will be conducted in accordance with the reduced contract price.

Article 92.

If the project following the model of constructed by the recipient meets one of the following conditions, the project management agency may not delegate a project management company and shall conduct limited supervision and management through other non-resident measures like fund auditing and inspection tours, etc.:

- a. Unable to dispatch a project management company to the recipient country due to security reasons;
- b. The cost for dispatching the project management company accounts for too large a part of the total project cost.

Chapter 13 Management of Supervision

Article 93.

The project management agency shall organize and implement the project in line with the responsibilities promulgated in the Measures, and fulfill the procedures of filing on record and application and approval to MOFCOM; it shall establish and improve the information reporting system, and submit a progress report to MOFCOM on a monthly basis; in response to major quality, progress, safe production and investment control problems which have occurred during the project implementation, it shall promptly provide a specific report to MOFCOM.

MOFCOM is responsible for supervising and inspecting the project implemented by the project management agency.

Article 94.

The project management agency shall establish the project technicality supervision and inspection system in accordance with the Measures, formulate a stable team of independent experts, according to relevant laws and regulations to conduct special technical supervision of the outcome documents periodically submitted by the project management company and the general contracting company throughout the project implementation process, and the supervision shall focus on safety, the matching of

investment and the consistency of the project goals, timely detecting major technical, safety and loss of investment control issues and take measures to supervise the relevant responsible company to make corrections timely.

Article 95.

The project management agency shall establish the inspection system for major projects, conduct on-site supervision and inspection of the management company and the general contracting company in fulfilling the management system and the complying the contract.

Article 96.

The project management agency shall supervise and manage the domestic and foreign funds of the project implementation company and the general contracting company based on the contract and ensure that the foreign assistance funds are earmarked, separately settled and not misappropriated for other purposes.

Article 97.

The project management agency shall establish a sound project technical dispute settlement mechanism, set up an expert advisory committee, regulate the procedures for advisory, consultation and arbitration for the committee, conduct a third-party review of and arbitrate contract disputes, technical disputes and serious quality and safety disputes between the project management company and the general contracting company in the project implementation process and effectively improve the quality and efficiency of the project technical management.

Article 98.

When a project quality and safety production incident occurs and causes casualties and property losses, the project management agency shall uniformly guide the project management company and the general contracting company to provide emergency rescue and on-site disposal, prevent the incident from scaling-up, protect the incident scene, conduct preliminary investigation and gather evidences, and report to MOFCOM in a timely manner.

The project quality and safety production incidents are handled in accordance to four grades, respectively, general, major, serious and particularly serious.

When a general quality and safety incident occurs, the project management agency shall report to MOFCOM within three calendar days after the incident has occurred. The

project management agency is responsible for handling the incident and making the treatment decision within 30 working days.

When a major or serious quality and safety incident occurs, the project management agency shall report to MOFCOM within 24 hours after the incident has occurred. MOFCOM is responsible for organizing the investigation and treatment of the incident and making the treatment decision within 60 working days. In special circumstances, the time limit can be extended accordingly.

When a particularly serious incident occurs, the project management agency shall report to MOFCOM within 24 hours after the incident has occurred. MOFCOM shall report to the State Council within 24 hours upon receiving the incident report, organize the incident investigation team to conduct investigation and treatment together with relevant department in charge from the State Council, submit the incident investigation report to the State Council within 90 days and enforce the report after the State Council's approval.

Chapter 14 Liabilities

Article 99.

If the turn-key project implementation company conducts one of the following acts, aside from undertaking compensation liabilities regulated in the contract, MOFCOM will issue a warning, and may impose a fine below thirty thousand RMB, and may publicize the decision on punishment according to relevant laws and regulations; if the act violates relevant laws or administrative regulations, administrative penalties shall be given; if it constitutes a crime, criminal responsibility shall be charged with:

- a. Transfer-contracting or illegal subcontracting the undertaken assignments in violation of provisions of the Measures;
- b. Violation of safety production regulations that leads to serious safety production incidents;
- c. Causing project quality incidents or quality hidden danger, and failure to make corrections within the time limit upon the order of MOFCOM;
- d. Leading to loss of control of project investment and leading to loss of state fiscal funds;
- e. Designating directly or in a disguised form a product in the engineering document;
- f. Approval of engineering change(s) leads to deviation in project construction from the agreed project formulation by the Chinese and the recipient sides;
- g. Failure to fulfill or delay in fulfilling the obligations under the contract affects the normal implementation and exerts external adverse effects;
- h. Changing relevant staff and failure to make corrections within the time limit upon MOFCOM's order;
- i. Failure to manage the staff in accordance with law leads to a serious adverse impact;

- j. Misappropriation of foreign assistance project funds in violation of the provisions of the Measures.

The project implementation company, in violation of the first provision of this article and is subject to administrative and criminal penalties, is excluded from participating in other turn-key projects for two to six years from the date of entry into force of the administrative penalty.

Article 100.

If the turn-key project implementation company conducts one of the following acts in the project, procurement process, MOFCOM will issue a warning and may impose a fine below thirty thousand RMB; if the act violates relevant laws or administrative regulations, administrative punishment shall be given; if it constitutes a crime, criminal responsibility shall be charged with:

- a. Use fraudulent methods to obtain unfair competitive advantages;
- b. Collude with other procurement units involved to seek illegal profits;
- c. Maliciously collude with the procurement agency, or bribe or provide improper profits to the procurement agency or peer reviewers;
- d. Make substantive changes to the commitments within the validity period of the procurement.

Article 101.

If the main person in charge of the turn-key project implementation company, or the person in charge of the project or the directly responsible person, fails to abide by laws and regulations and the Measures, MOFCOM will order to make corrections within the time limit; if the failure to make corrections within the time limit leads to serious consequences like serious safety accidents or serious quality accidents, MOFCOM will issue a warning, and may impose a fine below thirty thousand RMB; if the act violates relevant laws or administrative regulations, administrative penalties shall be given accordingly; if its constitutes a crime, criminal responsibility shall be charged with according to relevant laws and regulations.

Article 102.

In the project management and implementation process, if staff from MOFCOM and the foreign assistance project management agency has committed one of the following acts, he or she will receive administrative penalties depending on the seriousness of the misconduct; if the misconduct constitutes a crime, he or she will be charged with criminal responsibility:

- a. Abuse of one's position to seek money and properties, or illegally accepting the other's money and/or property to seek gains for others;
- b. Abuse of one's agency, dereliction of duty or favoritism, and leads to the loss of national interest;
- c. Disclosure of state secrets.

Chapter 13 Supplementary Provisions

Article 103.

Regarding foreign assistance projects under the framework of concessional loans, emergency assistance projects in response to serious natural disasters or force majeure events and assistance projects concerning national security and secrets, if there are other provisions, such provisions shall prevail.

Article 104.

The terms "above" and "below" used in the Measures includes the current number article itself.

Article 105.

Interpretation of the terminology referred to in the Measures is included as the Appendix.

Article 106.

MOFCOM is responsible for the interpretation of the Measures.

Article 107.

The Measures shall go into effect from 8 January 2016. Upon the date of enforcement, the Measures on the Management of Turn-key Foreign Technical Assistance Projects (draft) (No. 18 MOFCOM Circular, 2008) and the Measures on the Safe Production Management of Turn-key Foreign Assistance Projects (draft) (No. 15 MOFCOM Circular, 2006) are simultaneously expired.