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**Decree 22 of the Ministry of Labor and Social Security
Of the People's Republic of China**

The document, Regulations on Collective Contracts, has been adopted by the Ministry of Labor and Social Security at its 7th Plenary Meeting on December 30, 2003, and is henceforth promulgated and shall come into effect on May 1, 2004.

Minister: Mr. ZHENG Silin

January 20, 2004

Regulations on Collective Contracts

Chapter I General Provisions

Article 1 These Regulations are established in accordance with the Labor Law of the People's Republic of China and the Trade Union Law of the People's Republic of China and have as their purpose to protect the legal rights and interests of the employee and the employing entity by regulating the acts of collective negotiation and of concluding collective contracts.

Article 2 These Regulations are applicable to all enterprises and institutions applying enterprise-like management systems (from hereon: "employing entities") within the territory of the People's Republic of China in their collective negotiations and concluding collective contracts with their employees.

Article 3 The term "collective contract" used in these Regulations refers to a written agreement concluded through collective negotiation between the employing entity and its employees in conformity with the stipulations of the relevant laws, regulations and rules on the subjects of wage, hours of work, rests and holidays, labor safety and health, vocational training, insurance and welfare; the term "subject-specific collective contract" refers to a subject-specific written agreement concluded through collective negotiation in conformity with the relevant laws, regulations and rules between the employing entity and its employees on a specific subject.

Article 4 The conclusion of collective contracts or subject-specific collective contracts between the employing entity and its employees, and the making of any

decision on the relevant matters, should be done through collective negotiations. The principal form of collective negotiation is a negotiating conference.

Article 5 When holding collective negotiations for the purpose of concluding a collective contract or a subject-specific collective contract, the following principles should be observed:

- (1) Abiding by the laws, regulations and rules and any other stipulations by the State;
- (2) Mutual respect and negotiation on equal basis;
- (3) Honesty and good faith, and fairness and cooperation;
- (4) Keeping in mind the legal rights and interests of both parties;
- (5) No extremist behavior allowed.

Article 6 The collective contracts and subject-specific collective contracts concluded in conformity with the present Regulations shall be legally binding on both the employing entity and all of its employees.

The working conditions and wages and other treatment in labor contracts concluded between the employing entity and the individual employees shall not be lower than that which are stipulated in the collective contracts or subject-specific collective contracts.

Article 7 The labor protection administrations at the county level and above shall monitor the collective negotiation, conclusion, and performance of collective contracts between the employing entities and their employees within their respective jurisdiction. They shall also be responsible for reviewing the relevant collective contracts and subject-specific collective contracts.

Chapter II The Contents of the Collective Negotiation

Article 8 To conclude a collective contract or subject-specific collective contract, the two sides of the collective negotiation may carry out collective negotiation on one or more of the following subjects:

- (1) Wages;
- (2) Hours of work;
- (3) Rests and holidays;
- (4) Labor safety and health;
- (5) Supplementary insurance and welfare;
- (6) Special protection for women workers and under-age workers;
- (7) Vocational skill training;
- (8) Supervision of labor contracts;
- (9) Rewards and punishments;
- (10) Layoffs;
- (11) The duration of the collective contract;
- (12) Procedures for modifying and canceling the collective contract;
- (13) Negotiated settlements in case of dispute regarding the performance of the collective contract;
- (14) Liabilities for collective contract violations;
- (15) Any other subject on which the two sides consider necessary to negotiate.

Article 9 Subjects to be negotiated under “wages”:

- (1) The employing entity’s wage levels, system of wage distribution, wage standards and pattern of wage distribution;
- (2) Ways in which wages are to be paid;
- (3) Extra and prolonged hours of work, criteria for subsidies and allowances, and the distribution of bonuses;
- (4) Adjustment of wages;
- (5) Wage levels during trial periods, sick leaves and leaves of absence;
- (6) Payment of wages (living allowances) in special situations;
- (7) Other matters concerning the distribution of wages.

Article 10 Subjects to be negotiated under “hours of work”:

- (1) The system of hours of work;
- (2) Extra hours of work and prolonged hours of work;
- (3) Hours of work for special job types;
- (4) Standards for job quotas.

Article 11 Subjects to be negotiated under “rests and holidays”:

- (1) Daily hours of rest, weekly days of rest and annual holidays;
- (2) The rests and holidays for employees who are unable to apply the standard system of hours of work;
- (3) Other holidays.

Article 12 Subjects to be negotiated under “labor safety and health”:

- (1) The system of responsibility designation in labor safety and health;
- (2) Working conditions and safety-related technical measures;
- (3) Rules on safe operations;
- (4) Criteria for issuing labor protection items;
- (5) Periodical health checkups and occupational health checkups.

Article 13 Subjects to be negotiated under “supplementary insurance and welfare”:

- (1) Categories and scopes of supplementary insurances;
- (2) Basic welfare system and welfare facilities;
- (3) Extensions in periods of medical treatment and related benefits;
- (4) Welfares for the family members of the employees.

Article 14 Subjects to be negotiated under “special protection for women workers and under-age workers”:

- (1) Types of work forbidden to women workers and under-age workers;
- (2) Labor protection for women workers during the periods of menstruation, pregnancy, childbirth and baby feeding;
- (3) Periodical health checkups for women workers and under-age workers;
- (4) The use and registration of under-age workers.

Article 15 Subjects to be negotiated under “vocational skill training”:

- (1) Project planning and annual planning for vocational skill training;
- (2) The drawing and utilization of funds for vocational skill training;
- (3) Measures to safeguard and improve the vocational skill training.

Article 16 Subjects to be negotiated under “supervision of labor contracts”:

- (1) The time of signing the labor contracts;
- (2) Conditions that determine the duration of the labor contract;
- (3) General principles for the modification, cancellation and renewal of labor contracts and the conditions for terminating contracts with undefined duration;
- (4) Conditions for and durations of trial periods.

Article 17 Subjects to be negotiated under “rewards and punishments”:

- (1) Labor discipline;
- (2) The system of performance evaluation, reward and punishment;
- (3) Procedures for reward and punishment.

Article 18 Subjects to be negotiated under “layoffs”:

- (1) Plans for the layoff;
- (2) Procedures for the layoff;
- (3) The implementation of the layoff and criteria for compensations.

Chapter III Delegates for the Collective Negotiation

Article 19 The term “delegate for the collective negotiation” (from hereon: “negotiating delegate”) in these Regulations refers to the person designated through legal procedures and is authorized to take part in the collective negotiation on behalf of the interests of his own side.

There shall be equal numbers of delegates for each side of the collective negotiation. The number of delegates for each side shall be no less than 3 and among them 1 shall be designated as the chief delegate.

Article 20 The negotiating delegates representing the employees shall be selected by the enterprise trade union. In case where no enterprise trade union has been established, the negotiating delegates shall be nominated by the employees through a democratic procedure and with the approval of at least half of the employees.

The post of chief delegate representing the employees shall be served by the president of the enterprise trade union. The president may, by writing, entrust another negotiating delegate to be the chief delegate on his behalf. If the presidency is vacant, the post of chief delegate shall be served by the principal person in charge of the trade union. In case where there is no trade union established, the chief delegate representing the employees shall be designated through democratic election among the negotiating delegates.

Article 21 The negotiating delegates representing the employing entity shall be designated by the legal representative of the employing entity. Their chief delegate shall be assumed by the legal representative of the entity himself or by any other executive in the management entrusted by him in writing.

Article 22 The duration of the mandate of the negotiating delegates shall be determined by the parties that they represent.

Article 23 The chief delegates of both sides of the collective negotiation may entrust, in writing, professionals from outside the entity to act as negotiating delegates on his own team. The number of entrusted professionals on each team shall not exceed one-third of the number of the negotiating delegates on the team.

The post of the chief delegate shall not be entrusted to persons from outside the entity.

Article 24 It is not allowed to have the same person acting, in the same negotiation, both as the negotiating delegate representing the employing entity and the negotiating delegate representing the employees.

Article 25 The negotiating delegate shall have the following mandate:

- (1) Take part in the collective negotiation;
- (2) Receive inquiries from people of his own side, make timely report to his own side on the progress of the negotiation and solicit comments from them;
- (3) Provide information and material relevant to the collective negotiation at hand;
- (4) Take part, on behalf of his own side, in the settlement of disputes during the collective negotiation;
- (5) Monitor the performance of the relevant collective contract or subject-specific collective contract;
- (6) Other responsibilities stipulated in laws, regulations and rules.

Article 26 The negotiating delegate should safeguard the normal production and orderly work of the entity and shall not resort to such acts as threat, bribery or cheating.

The negotiating delegate should guard all commercial secrets of the employing entity that have come to his knowledge during the collective negotiation.

Article 27 The participation in the collective negotiation of negotiating delegates from within the enterprise shall be counted as normal work.

Article 28 If the labor contract of a negotiating delegate representing the employees is expired during his mandate as negotiating delegate, the term of his contract shall be automatically extended up to the end of his mandate as negotiating delegate. With the exception of one of the following situations, the employing entity shall not terminate his labor contract:

- (1) Serious violation of the labor discipline or the rules and regulations legally established by the employing entity;
- (2) Serious dereliction of his duty, embezzlement or causing serious damage to the interests of the employing entity;

(3) Pursued by law for penal offenses.

The employing entity shall not, without legitimate justification, change the job post of the negotiating delegate representing the employees during his mandate as negotiating delegate.

Article 29 The negotiating delegate representing the employees may apply for arbitration by the local labor dispute arbitration committee regarding disputes with the employing entity involving the stipulations of Articles 27 and 28 of these Regulations.

Article 30 The trade union may replace negotiating delegates representing the employees; in case where no trade union has been established, the negotiating delegates representing the employees may be replaced by the agreement of over half of the employees.

The legal representative of the employing entity may replace the negotiating delegates representing the employing entity.

Article 31 If vacancy occurs among the negotiating delegates for reasons of replacement, resignation or force major, the vacancy shall be filled by the a new delegate designated according to these Regulations within 15 days from the day on which the vacancy has occurred.

Chapter IV Procedures for the Collective Negotiation

Article 32 Either side of the collective negotiation may propose in writing to the other side to open collective negotiation for the purpose of concluding a collective contract, a subject-specific collective contract, or any other related matter.

When the proposal for collective negotiation has been made by one side, the other side should give its reply in writing within 20 days upon receiving the proposal. Proposals for collective negotiation shall not be refused without legitimate justification.

Article 33 The negotiating delegates must take the following preparatory measures before entering into the negotiation:

- (1) Familiarize themselves with the laws, regulations, rules and procedures relevant to the subjects of the collective negotiation;
- (2) Familiarize themselves with the information and material relevant to the subjects of the collective negotiation; gather the views of the employing entity and the employees on the positions of the negotiating parties;
- (3) Draft an agenda. The agenda of the collective negotiation may be drafted by the proposing side, or jointly drafted by the representatives designated by the two sides;
- (4) Determine the date, venue and other related matters;
- (5) Jointly designate a non-negotiating delegate to serve as the note-taker of the collective negotiation. The note-taker shall be neutral and fair, and shall remain discrete on behalf of both sides.

Article 34 The negotiating conference shall be chaired alternately by the chief delegates of the two sides, and it shall proceed in the following order:

- (1) Announce the agenda and rules of procedure;
- (2) The chief delegate of one side presents the concrete subjects to be negotiated and his demands; the chief delegate of the other side replies to the demands presented by the first side;
- (3) The two sides expound on their own views on the matters under negotiation; a thorough and extensive discussion ensues;
- (4) The chief delegates of the two sides sum up the discussion. If an agreement is reached, a draft collective contract or draft subject-specific collective contract should be established and signed by the chief delegates of both sides.

Article 35 If no agreement is reached at the collective negotiation or some unforeseen problem has occurred, the two sides may agree to suspend the negotiation. The duration of the suspension and the date, venue and subjects for the next round of negotiation shall be determined through negotiation between the two sides.

Chapter V The Conclusion, Modification, Cancellation and Termination of Collective Contracts

Article 36 The draft collective contract or draft subject-specific collective contract agreed upon by the negotiating delegates of both sides shall be presented to the conference of the employee representatives or to the general assembly of the employees for discussion.

The discussion of the draft collective contract or draft subject-specific collective contract by the conference of the employee representatives or the general assembly of the employees must have the participation of over two-thirds of the employee representatives or employees. Furthermore, the draft collective contract or draft subject-specific collective contract must enjoy the agreement of more than half of the employee representatives or more than half of the employees before it is adopted.

Article 37 Upon the adoption by the conference of the employee representatives or the general assembly of the employees, the draft collective contract or draft subject-specific collective contract shall be signed by the chief delegates of both sides of the collective negotiation.

Article 38 In general, the validity of collective contracts or subject-specific collective contracts is for 1 – 3 years. They are terminated at the end of the term or when the conditions agreed upon by the two sides have been met.

Either side may propose to renew the contract or to conclude a new contract no less than 3 months prior to the end of the term of the collective contract or subject-specific collective contract.

Article 39 The collective contract or subject-specific collective contract may be modified or cancelled, upon the agreement by the two sides.

Article 40 The collective contract or subject-specific collective contract may be modified or cancelled, if one of the following situations has occurred:

- (1) The employing entity is sold, disbanded or bankrupt, thus the performance of the collective contract or subject-specific collective contract has become impossible;

- (2) The factor of force major renders the performance of the collective contract or subject-specific collective contract, or parts of it, impossible;
- (3) The conditions for modifying or canceling the collective contract or subject-specific collective contract have been met;
- (4) Other situations stipulated by the laws, regulations or rules.

Article 41 The modification or cancellation of collective contracts or subject-specific collective contracts shall follow the procedures for collective negotiation stipulated in these Regulations.

Chapter VI The Review of Collective Contracts

Article 42 After the conclusion or modification of the collective contract or subject-specific collective contract, the employing entity shall, within 10 days of the signing by the chief delegates of both sides, submit the agreed text in three identical copies to the labor protection administration for review.

The labor protection administration shall maintain a record of the submitted collective contract or subject-specific collective contract.

Article 43 The review of collective contracts or subject-specific collective contracts applies the principle of local jurisdiction. The actual extent of the jurisdiction shall be delineated by the labor protection administration of the respective provinces.

The collective contracts of the employing entities under the direct jurisdiction of the central government or those of the employing entities under the jurisdiction of more than one province, autonomous region, or municipality, should be submitted to the Ministry of Labor and Social Security or a provincial labor protection administration for review.

Article 44 The labor protection administration shall review the legality of the following items in any collective contract or subject-specific collective contract submitted to it:

- (1) Whether the subject identities of the two sides of the collective negotiation meet the requirements of the laws, regulations and rules;
- (2) Whether the procedure of the collective negotiation has violated the stipulations of the laws, regulations and rules;
- (3) Whether the provisions of the collective contract or subject-specific collective contract violate any State stipulation.

Article 45 If the labor protection administration finds the collective contract or subject-specific collective contract objectionable, it should, within 15 days of receiving the text, send its “Conclusions of the Review” to the negotiating delegates of both sides. The “Conclusions of the Review” must include the following items:

- (1) The names and addresses of both parties involved in the collective contract or subject-specific collective contract;
- (2) The time of receiving the collective contract or subject-specific collective contract by the labor protection administration;
- (3) Conclusions of the review;

(4) The time when the conclusions were reached.

The “Conclusions of the Review” should bear the official seal of the labor protection administration.

Article 46 After the employing entity and its employees have held collective negotiations on items on which the labor protection administration has raised objections and concluded a new collective contract or subject-specific collective contract, the employing entity shall then submit the text to the labor protection administration for review in conformity with the requirements of Article 42 of these Regulations.

Article 47 If the labor protection administration does not raise any objection within 15 days of receiving the text, the collective contract or subject-specific collective contract shall come into effect.

Article 48 As soon as the collective contract or subject-specific collective contract comes into effect, the negotiating delegates shall, on the day of its coming into effect, announce this fact to all members of their respective sides through appropriate means.

Chapter VII The Settlement of Disputes during the Collective Negotiation

Article 49 If a dispute erupts during the collective negotiation which cannot be settled by the two sides through negotiations, one or both of the two sides involved may apply in writing to the labor protection administration for a mediated settlement; if no application has been sent, the labor protection administration may also undertake the mediated settlement if it deems it necessary.

Article 50 The labor protection administration should organize a tripartite effort, by inviting the trade union and enterprise association of the same level, to settle the disputes erupted during the collective negotiation.

Article 51 The settlement of disputes during collective negotiation applies the principle of local jurisdiction. The actual extent of the jurisdiction shall be delineated by the labor protection administration of the respective provinces.

The disputes during the collective negotiations involving employing entities under the direct jurisdiction of the central government or under the jurisdiction of more than one province, autonomous region, or municipality, should be settled by the provincial-level labor protection administration designated by the Ministry of Labor and Social Security through a tripartite effort including the provincial-level trade union and enterprise association. When necessary, the Ministry of Labor and Social Security may also take steps to assemble the relevant authorities for a settlement.

Article 52 The labor protection administration should conclude its work of mediated settlement within 30 days of admitting the application for the mediated settlement. If the work cannot be concluded at the end of the term, an extension may be allowed. However, the extension shall not exceed 15 days.

Article 53 The mediated settlement of the disputes erupted during the collective

negotiation shall observe the following procedure:

- (1) Admit the application for mediated settlement;
- (2) Investigate the dispute;
- (3) Analyze the case and formulate plans for the mediated settlement of the dispute;
- (4) Carry out mediated settlement;
- (5) Draft the “Agreed Settlement”.

Article 54 The “Agreed Settlement” should clearly state the application for settlement, facts involved in the dispute and the results of the mediation. If there are disagreements between the two sides involved on some subjects under negotiation, it should clearly state the items remaining to be negotiated. The “Agreed Settlement” shall enter into effect upon being signed and stamped by the mediator of the dispute on collective negotiation as well as the chief delegates of both sides involved. Both sides of the dispute are bound by the effective “Agreed Settlement”.

Chapter VIII Additional Provisions

Article 55 If disputes erupt in relation to the performance of the collective contract that cannot be settled through negotiations by the parties involved, the parties may, according to the law, apply before the labor dispute arbitration committee for arbitration.

Article 56 The employing entity refusing without legitimate justification the request of the trade union or employee representative to open a collective negotiation shall be pursued according to the stipulations of the Trade Union Law and the relevant laws and regulations.

Article 57 These Regulations shall come into effect on May 1, 2004. The previous “Regulations on Collective Contracts” promulgated on December 5, 1994 shall be annulled simultaneously.