

对外援助管理办法（草案）（征求意见稿）

Measures for the Administration of Foreign Aid (Draft)¹

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第一章 总则

Chapter 1 General Provisions

第一条 为维护和促进我国与发展中国家的友好合作关系，规范对外援助管理，提高对外援助效果，中华人民共和国商务部（以下简称商务部）依据有关法律、行政法规，制定本办法。

Article 1 In order to uphold and promote friendly relations and cooperation between China and developing countries, to regulate the administration of foreign aid, and to increase the effectiveness of foreign aid, the Ministry of Commerce of the People's Republic of China (hereinafter referred to as MOFCOM) has formulated these Measures in accordance with the relevant laws and administrative regulations.

第二条 本办法所称对外援助是指中华人民共和国政府（以下简称中国政府）向受援方提供的含有政府赠与成分的援助及其他带有援助性质的互利合作活动。

Article 2 The term Foreign Aid as mentioned in these Measures refers to aid by the government of the People's Republic of China (hereinafter referred to as the Chinese government) to the aid recipients, which contains government grant elements as well as other mutually beneficial cooperation activities with aid character.

第三条 中国政府对外援助的受援方主要包括：与我国已经建立外交关系且有援助需要的发展中国家；发展中国家的国际或区域性组织。

在有人道主义紧急或特殊需要的情况下，发达国家或尚未与我国建立外交关系的发展中国家也可作为临时受援方。

Article 3 The main recipient of Chinese government's foreign aid are: developing countries that have already established diplomatic relations with China and that for the time being are experiencing development needs; international or regional organizations of developing countries.

In case humanitarian emergencies or special demands, developed countries or developing countries that haven't yet established diplomatic relations with China can temporary become aid recipients.

¹ Shangwubu 商务部 [Ministry of Commerce], "Shangwubu guanyu "Duiwai yuanzhu guanli banfa (cao'an)" (zhengqiu yijian gao) gongkai zhengqiu yijian" 商务部关于《对外援助管理办法（草案）》（征求意见稿）公开征求意见, [MOFCOM seeks public opinion on "Foreign Aid Management Measures (Draft)"], April 18, 2014. <http://tfs.mofcom.gov.cn/article/as/201404/20140400556051.shtml>.

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第四条 中国政府对外援助致力于减轻与消除受援方贫困，促进受援方的经济发展和社会进步，增强受援方自主发展能力，巩固我国与受援方的友好关系和合作。

Article 4 Chinese government's foreign aid is committed to easing and eliminating poverty, promoting economic development and social progress, building up self-development capacity of recipient countries, and strengthening friendly relations and cooperation between China and recipient countries.

第五条 中国政府对外援助遵循以下基本原则：

- （一）主权平等，互不干涉内政；
- （二）促进受援方的自主发展和可持续发展；
- （三）量力而行，尽力而为；
- （四）形式多样，注重实效。

Article 5 Chinese government's foreign aid adheres to the following basic principles:

- (1) Equality in sovereignty and mutual non-interference in domestic affairs
- (2) Promoting independent development and sustainable development
- (3) Acting according to one's capability while striving for the best
- (4) Diversity in forms while focusing on actual effects

第六条 商务部依照本办法对中国政府对外援助实施归口管理。

Article 6 In compliance with these Measures, MOFCOM is the designated body to implement foreign aid on behalf of the Chinese government.

第七条 商务部及其指定机构负责对外援助工作的公务人员、管理人员在履行对外援助工作职责时，必须切实维护国家利益和保守国家秘密，严格遵守与对外援助相关的法律法规、规章制度和工作纪律的各项规定。

Article 7 When performing their foreign aid work duties, civil servants and managerial staff of MOFCOM and its designated bodies in charge of foreign aid work must effectively protect national interests, guard national secrets, strictly abide by the laws and regulations on foreign aid and all stipulations on work discipline.

第八条 商务部建立中国政府对外援助统计制度，收集、汇总和编制对外援助统计资料。

Article 8 MOFCOM shall set up the Chinese government's foreign aid statistics system; and gather, compile and formulate foreign aid statistical data.

第九条 商务部制订统一的中国政府对外援助标识，负责标识的使用和管理，并享有标识的有关知识产权。

Article 9 MOFCOM shall work out a unified logo for Chinese government's foreign aid, it shall be responsible for its application and management, as well as own its intellectual property rights.

第二章 援外政策规划

Chapter 2 Foreign Aid Policy Planning

第十条 商务部会同国务院有关部门结合我国对外总体战略制定对外援助中长期政策规划，经批准后执行。

Article 10 MOFCOM shall, in conjunction with the relevant departments of the State Council, and in line with China's overall foreign strategy, formulate a middle and long term foreign aid policy planning, which shall be carried out upon approval.

第十一条 商务部会同国务院有关部门根据对外援助中长期政策规划和受援国经济社会发展规划，制定中期（5 年）国别援助指导意见，经批准后执行。

Article 11 MOFCOM shall, in conjunction with the relevant departments of the State Council, in accordance with the middle and long term foreign aid policy planning and the recipient country's economic and social development plan, formulate middle term (5 years) Country Assistance Guiding Opinions, which shall be carried out upon approval.

第十二条 商务部建立对外援助项目储备制度。

国务院有关部门、省级人民政府、各驻外使领馆根据对外援助中长期政策规划和国别援助指导意见，在各自职责范围内向商务部报送拟纳入对外援助范围的意向性储备项目。

商务部负责搜集、审核和确定具体国别的对外援助储备项目，并按照项目准备的成熟程度实行滚动管理，作为编制对外援助资金计划和年度预算以及组织对外援助项目立项的依据。

Article 12 MOFCOM shall establish a foreign aid project reserve system.

The relevant departments of the State Council, provincial level people's governments, and all embassies and consulates abroad shall, in accordance with the middle and long term foreign aid policy planning and the Country Assistance Guiding Opinions, within the scope of their respective responsibilities, provide MOFCOM with draft recommendations to be included in the foreign aid related project reserve.

MOFCOM shall be responsible for collecting, accessing and deciding upon country-specific foreign aid reserve projects, as well as managing [the projects] on a rolling basis based on the level of maturity of the project reserve, and planning and allocating of foreign aid funds and yearly budgets to foreign aid project lists.

第三章 对外援助资金

Chapter 3 Foreign aid funds

第十三条 对外援助资金包括无偿援助、无息贷款和优惠贷款三种类型。

Article 13 Foreign aid funds include three types: grants, interest-free loans and concessional loans.

第十四条 无偿援助是指中国政府向受援方提供的无偿赠与性质的援助资金。

无偿援助主要用于受援方在减贫、民生、社会福利、公共服务以及人道主义等方面的援助需求。

Article 14 Grants refer to aid funds given by the Chinese government to the recipients as a gratis donation.

Grants are mainly used for poverty reduction, improving people's livelihood, social welfare, public services as well as various humanitarian aid requirements.

第十五条 无息贷款是指中国政府向受援方直接提供的零利息政府贷款资金。

无息贷款应在规定的使用期内安排使用完毕。

无息贷款的已使用额应由受援方在规定的偿还期内以现汇、可变现商品或其他约定方式偿还。

无息贷款主要用于受援方在公共基础设施和工农业生产等方面的援助需求。

Article 15 Interest-free loans refer to zero-interest government grant funds directly provided by the Chinese government to the recipients.

Interest-free loans should be disbursed within a fixed usage period.

After disbursing, the interest-free loans should be repaid within an agreed repayment term using a convertible currency, realizable commodities or other agreed means.

Interest-free loans are used mainly for development requirements in areas like public infrastructure and industrial and agricultural production.

第十六条 优惠贷款是指中国政府通过政策性金融机构对外提供的具有政府援助性质、含有赠与成分的中、长期优惠贷款援助。优惠贷款本金由金融机构自筹，优惠利率与商业利率之间的利息差额由中国政府从援外费中支付。

优惠贷款应在规定的使用期内安排使用完毕。

优惠贷款的已使用额应由受援方在规定的偿还期内以约定方式向偿还。

优惠贷款主要用于支持受援国有经济效益的生产型项目、较大规模的基础设施建设、提供大宗机电产品和成套设备。

Article 16 Concessional loans refer to external aid provided by the Chinese government through policy banks, possessing the characteristics of governmental aid and consisting of grant elements and middle and long term concessional loans. The capital for concessional loans is raised independently by the [policy] banks; the difference between the preferential interest rate and the commercial interest rate is compensated by the Chinese government out of foreign aid budget.

Concessional loans should be disbursed within an agreed timeframe.

After disbursing, concessional loans it should be repaid within a fixed repayment term using agreed means.

Concessional loans are used mainly to support recipient countries to increase the economic efficiency of production models, large-scale infrastructure construction, provision of large quantity of mechanical and electronic products and complete sets of equipment.

第十七条 商务部与受援方进行提供援助的政府间谈判，签署提供无偿援助、无息贷款的援助协议以及提供优惠贷款的政府框架协议，并组织援助协议的实施。

Article 17 MOFCOM shall carry out intergovernmental consultations on aid provision with the recipient countries, sign the aid agreements on the provision of grants and interest free loans as well as intergovernmental framework agreements on the provision of concessional loans, and organise the implementation of aid agreements.

第四章 对外援助方式

Chapter 4 Foreign aid modes

第十八条 中国政府对外援助主要由商务部通过与受援方的政府间渠道组织实施。

Article 18 Chinese government's foreign aid is organised and implemented mainly through intergovernmental channels between MOFCOM and recipient countries.

第十九条 中国政府对外援助主要采取项目援助的方式。除紧急人道主义和特急特殊需求等少数情况外，一般不向受援方直接提供现汇。

无偿援助或无息贷款项下的援助项目一般由商务部按照本办法规定的项目管理程序具体实施并移交受援方。经商定，部分援助项目也可由商务部与受援方按照分工合作的原则具体实施，或在落实中方外部监控的前提下由受援方按照其国内项目管理程序或国际惯例自主实施。

优惠贷款项下的援助项目由受援方按照其国内项目管理程序或国际惯例组织实施。

Article 19 Chinese government's foreign aid main mode of delivery is program aid. Apart from the rare situations of humanitarian emergencies and extra-urgent special requests, there is generally no direct provision of funds to the recipients.

Grant aid or interest-free loan aid projects generally shall be put into concrete implementation by MOFCOM in accordance with the project administration procedures stipulated in these Measures, and turned over to the recipients. Upon agreement, parts of aid projects can be put into concrete implementation MOFCOM and the recipient collaboratively, or, under the premise of an agreement on external monitoring by the Chinese side, implemented independently by the recipient in accordance with its national project management procedures or international practice.

Concessional loan aid programs shall be implemented by the recipient in accordance with its' national project management procedures or international practice.

第二十条 商务部可与其他国家、国际组织合作组织实施对外援助，开展对外援助领域的交流。

Article 20 MOFCOM may organise and implement foreign aid in cooperation with other countries and international organisations, and conduct exchange [activities] in the area of foreign aid.

第五章 援助项目类型

Chapter 5 Forms of aid projects

第二十一条 中国政府对外援助主要包括成套项目、物资项目、技术援助项目、人力资源开发项目、志愿服务项目等具体项目类型。

商务部制定各类对外援助项目（以下简称援外项目）的管理办法，按照管理办法对援外项目进行管理。

Article 21 Chinese government's foreign aid mainly comprises the following specific forms of projects: complete projects, material goods projects, technical support projects, human resources development projects and voluntary service projects.

MOFCOM shall formulate Measures for the Administration of each kind of foreign aid project, and administer the aid projects in accordance with the Measures for the Administration.

第二十二条 成套项目指主要由中方进行考察、勘察、设计，提供设备材料并派遣工程技术人员组织或指导施工、安装和试生产全过程或其中部分阶段并提供建成后长效质量保证和配套技术合作的援助项目。

成套项目实施采用“项目管理加工程总承包”等管理模式。

Article 22 Compete projects refer mainly to aid projects where investigation, survey and design; supply of equipment materials and dispatching of engineers and technicians, installation and testing of complete production processes or their component phases; as well as provision of long-term quality assurance after construction and complete set technical cooperation are undertaken by the Chinese side.

Implementation of complete projects shall employ management models like the “Engineering, Procurement and Construction” (EPC).

第二十三条 物资项目指主要由中方采购并向受援方提供一般性生产、生活物资、技术性产品或单项设备，必要时承担相应安装、调试、操作指导和培训等配套技术服务的援助项目。

物资项目实施应以确保所供物资的功能质量和及时到货为核心，解决所供物资在合理使用期限内的技术服务。

Article 23 Material goods projects refer mainly to aid projects where general produce, commodities, technical products or individual equipment are procured by the Chinese side. If needed, [the Chinese side] provides complete technical services such as relevant installations, adjustments, operational instructions and training.

The core of the implementation of material goods projects is ensuring the functional quality of the supplied equipment and its timely delivery, resolving the provision of technical services for the supplied materials within a reasonable timeframe.

第二十四条 技术援助项目指中方通过综合采用人力、设备、智力等手段帮助受援方实现某一特定技术目标的援助项目。

技术援助项目实施应突出中方的软实力优势，在具体援助方案方面贯彻技术成熟、形式多样、经济实用等原则。

Article 24 Technical aid projects refer to aid projects where the Chinese side is helping the recipient realising specifically designated technical objectives with comprehensive use of means such as manpower, equipment and knowledge.

The implementation of technical aid projects should project the superiority of Chinese soft power, and in concrete implementation adhere to the principles like technical maturity, variety in forms and economic practicality.

第二十五条 人力资源开发合作项目是指中方为受援方官员和技术人员提供各种形式的学历学位教育、中短期研修、人员交流以及高级专家服务的援助项目。

人力资源开发合作项目实施突出中方的优势专业和特色主题，推行分类培训模式，培养符合发展中国家需求的人才。

Article 25 Human resources development cooperation projects refer to aid projects where the Chinese side is offering to the officials and technical personnel of the recipient countries various kinds of academic degrees, short and medium term advanced study and training courses, personnel exchange and senior expert services.

The implementation of human resources development cooperation projects shall project Chinese side's professional superiority and distinct characteristics, promote the "classification training"³ model, and train talents according to the requirements of developing countries.

第二十六条 志愿服务是指中方选派志愿人员到发展中国家或地区从事公益性服务的援助项目。

Article 26 Volunteer services refer to aid projects where the Chinese side sends volunteers to developing countries or regions in order to engage in the provision of public services.

第六章 援外项目立项

Chapter 6: Initiation of foreign aid projects

第二十七条 商务部负责援外项目立项并制定相应的援外项目立项管理制度。

Article 27 MOFCOM shall be responsible for the initiation of foreign aid programs as well as developing a corresponding project initiation management system.

第二十八条 除紧急人道主义等特急特殊情况外，拟安排立项的援外项目应当从已经基本探讨成熟的援外储备项目中确定。

拟安排立项的援外项目在立项前必须经过充分的可行性研究和论证，形成可行性研究成果文件。

Article 28 Apart from the rare situations of humanitarian emergencies and extra-urgent special requests, new projects shall be selected out of already mature reserve projects.

Before initiation, proposed foreign aid projects must undergo a comprehensive feasibility study and impact assessment, with the results of the feasibility study presented in a written report.

第二十九条 商务部应当组织力量对可行性研究成果文件从政策符合性、技术可行性和投资合理性等方面进行综合审核，并在审核通过后在可行性研究成果文件的基础上形成立项建议。

Article 29 MOFCOM shall organise ensure a comprehensive examination of the feasibility study results report with regard to policy conformity, technical feasibility and appropriate use of financial resources, and after examination, based on the feasibility study results report, draft an initiation proposal.

第三十条 援外项目审批立项应当相应确定立项的技术内容、投资限额、援助资金安排和预算安排。

Article 30 The foreign aid project examination and approval [document] shall correspondingly define the technical content, size of investment, aid funds planning and budget calculation.

第三十一条 援外项目审批立项后，商务部应当与受援方正式商签立项协议。办理立项协议的具体方式应当在立项审批时确定。

在援外项目实施过程中涉及对立项协议内容进行重大变更或调整的，应当另行办理补充立项协议。

³ 类培训模: Classification training, refers to the different categories of posts with different training of civil servants. In accordance with the civil service job categories in accordance with the nature of the position, characteristics and management, integrated into management, professional technical and administrative enforcement.

Article 31 When the foreign aid project is approved, MOFCOM shall sign a formal project agreement with the recipient. Detailed modalities of the project implementation shall be determined during the project examination and approval [process]. Major changes or adjustments of the project agreement during the implementation phase of the foreign aid project should be handled in a supplement to the project agreement.

第七章 援外项目实施管理

Chapter 7 Implementation and management of foreign aid projects

第三十二条 对于由中方负责实施的援外项目，商务部可以委托具有专业能力的援外项目管理机构负责组织和管理。

受托管理机构依据商务部有关援外项目管理的规章制度履行对受托项目的管理职责，并接受商务部的监督检查。

Article 32 When the Chinese side bears the responsibility for the implementation of a foreign aid project, MOFCOM can entrust capable foreign aid Project Management Units with the responsibility to organise and manage the foreign aid project.

Entrusted Management Units shall carry out their management responsibilities in accordance with MOFCOM's relevant rules and regulations on the management of foreign aid projects and be subject to MOFCOM's supervision and inspection.

第三十三条 商务部对援外项目实行严格的项目预决算管理，建立健全预算编报、执行、调剂、决算的配套制度。

Article 33 MOFCOM shall exercise strict pre-final accounts management of foreign aid projects and establish and improve budget compilation, implementation, adjustment and final accounting rules.

第三十四条 中方负责实施援外项目的主体应当通过招投标等竞争性方式选定。

参与援外项目招投标的法人或其他组织不得以弄虚作假、相互串通、行贿或其他不正当手段谋取实施援外项目。

援外招投标管理办法由商务部制订并组织实施。

Article 34 Chinese entities in charge of the implementation of foreign aid projects shall be selected through competitive mechanisms like invitation to tender and submission of tender.

Legal persons or other organization taking part in the bidding for foreign aid projects shall not engage in fraud, mutual collaboration, bribery or other illegal means when seeking to when the foreign aid project tender.

Foreign Aid Tender Administration Measures shall be drafted and implemented by MOFCOM.

第三十五条 为实施援外项目，商务部或委托援外项目管理机构与受援方签订援外项目实施合同，明确规定援外项目实施的具体事宜和中、外双方具体的权利义务。

Article 35 For the purpose of implementation of foreign aid projects, MOFCOM or entrusted foreign aid Project Management Units shall sign foreign aid project implementation agreements with recipient countries, and explicitly stipulate concrete arrangements as well as specific rights and obligations for both, Chinese and foreign parties.

第三十六条 对于中方负责实施的援外项目，商务部或委托援外项目管理机构与选定的中方实施主体签订援外项目实施合同，明确规定援外项目组织实施的具体事宜和双方具体的权利义务。

Article 36 When the Chinese side bears the responsibility for the implementation of a foreign aid project, MOFCOM or entrusted foreign aid Project Management Units shall conclude a foreign aid project implementation agreement with designated Chinese implementing entity, and clearly specify the detailed provisions of the foreign aid project implementation as well as specific rights and obligations of both sides.

第三十七条 对于援外项目项下需从国内采购、发运的物资，商务部会同国务院有关部门制定援外出口物资的检验监管和口岸验放办法，并依据办法管理援外物资的出口地检验检疫和口岸验放工作。

从国内采购、发运的援外物资免除出口许可证管理。

Article 37 MOFCOM shall, in cooperation with relevant departments of the State Council, formulate Measures for inspection, supervision and port clearance for the export of foreign aid items that need to be purchased domestically and shipped, and manage the on-site inspections, quarantine and port clearance in accordance with the Measures. Domestically purchased and dispatched foreign aid items shall be exempt from export licensing.

第三十八条 商务部建立援外项目的风险承担机制。

对于中方实施主体在援外项目实施过程中因政治性风险和政策性调整遭受的直接经济损失，商务部按照有关规定办理合同价款调整。

对于中方实施主体在援外项目实施过程中因自然灾害等不可抗力因素造成的直接经济损失，商务部通过健全保险制度转由市场化方式承担。

援外项目实施过程中的其他市场风险由中方实施主体自行承担。

Article 38 MOFCOM shall establish a risk-sharing mechanism for foreign aid projects.

If a Chinese implementing entity, during the implementation of a foreign aid project, suffers direct economic losses due to political risks and policy related adjustments MOFCOM should handle the contract value adjustment in accordance with relevant provisions.

If a Chinese implementing entity, during the implementation of a foreign aid project, suffers direct economic losses due to force majeure factors like natural disasters, MOFCOM should handle this in a market-based approach through a sound insurance system.

Other market risks during the process of implementation of foreign aid projects should be borne by Chinese implementing entities themselves.

第三十九条 商务部对援外项目的安全、质量、功能、进度、资金使用等方面进行监督与检查。。

Article 39 MOFCOM shall exercise supervision and inspection of the safety, quality, functioning, progress, and use of funds in foreign aid projects.

第四十条 援外项目实施主体承担援外项目，应当维护国家利益，信守合同，保证质量，完善服务。

Article 40 The implementing entities of foreign aid projects bear the responsibility for foreign aid projects; they should safeguard national interests, abide by contracts, guarantee quality, and improve services.

第四十一条 商务部建立援外项目评估制度，对援外项目实施效果进行评估。。

Article 41 MOFCOM shall establish a foreign aid evaluation system, and implement impact assessment of foreign aid projects.

第四十二条 因外交、国家安全、承担的国际义务等原因，或因不可抗力导致援外项目客观上无法完成时，商务部可中断或终止援外项目。。

未经商务部同意，援外项目的中方实施主体不得擅自中断或终止援外项目实施合同。

Article 42 If a foreign aid project, for diplomatic or national security reasons, due to international obligations or due to force majeure factors, objectively cannot be complement, MOFCOM may suspend or terminate it.

Without the permission of MOFCOM, Chinese implementing entities of foreign aid projects may not suspend or terminate foreign aid project implementation agreements.

第四十三条 援外项目资金应当专款专用、单独核算，任何单位和个人不得以任何理由挪作他用。

Article 43 Foreign aid project funds should be used for the designated purpose only and should be accounted for separately; no entity or individual may use the funds for any other purpose with any excuse.

第八章 援外人员管理

Chapter 8 Management of foreign aid personnel

第四十四条 援外人员是指政府或援外项目的中方实施主体派赴受援国当地执行各类援助任务的工程、技术和管理人员。中方实施主体必须按法律法规的规定与援外人员签订劳动合同，明确劳动工资制度，建立规范的劳动合同关系。

非经商务部批准，援外人员在受援国当地执行援外项目任务期间不得从事其他商务活动。

商务部应要求受援方对援外人员在受援国当地执行援外项目任务给予中方执行政府公务人员应有的礼遇和安全保障。

Article 44 Foreign aid personnel refers to engineers, technical and administrative personnel dispatched by the government or Chinese entities implementing a foreign aid project to recipient countries in order to carry out locally various aid assignments. Chinese implementing entities must sign labour contracts with foreign aid personnel according to the provisions of laws and regulations, and set up a clear labour wage system and a law based labour contract relationship.

Without the ratification of MOFCOM, foreign aid personnel carrying out foreign aid project duties in recipient countries may not be engaged in other commercial activities.

MOFCOM shall request the recipients to render the foreign aid personnel carrying out foreign aid duties in recipient countries with the same courteous treatment and security guarantee as given to the civil servants of the Chinese government.

第四十五条 援外人员在国外执行援外任务期间应认真履行工作职责，确保援外任务顺利完成。援外人员应遵守中国和受援方的法律法规，尊重受援国的风俗习惯。

Article 45 When carrying out foreign aid project duties in a recipient country, the foreign aid personnel shall seriously fulfil work responsibilities and ensure successful completion of the foreign aid assignment.

Foreign aid personnel shall abide by the laws and regulations of China and the recipient, and respect the recipient country's customs and habits.

第四十六条 商务部会同国务院有关部门制定援外人员的基本待遇标准，并建立相应的人身意外伤害保险和救助制度。

援外人员在国外执行援外项目任务期间享有规定的援外人员待遇。负责派遣援外人员的中方实施主体必须按照援外人员待遇有关规定，保证其派遣的援外人员按规定享有援外人员的工作和生活待遇及人身意外伤害保障。

Article 46 MOFCOM shall, in conjunction with the relevant departments of the State Council, develop basic treatment standards for foreign aid personnel, and set up corresponding personal accident insurance and assistance system.

When carrying out foreign aid project duties in a recipient country, the foreign aid personnel shall enjoy stipulated foreign aid personnel treatment. Chinese implementing entities responsible for dispatched foreign aid personnel must in accordance with relevant provisions on the treatment of foreign aid personnel guarantee that its dispatched foreign aid personnel enjoys required work and livelihood treatment as well as personal accident insurance.

第九章 法律责任

Chapter 9 Legal responsibility

第四十七条 法人或其他组织违反本办法第三十四条第二款规定的，选定结果无效，商务部给予警告，可以并处 3 万元人民币以下罚款；自行政处罚生效之日起两至五年内，不选定其参与援外项目。违反相关法律、行政法规规定的，依照法律、行政法规的规定给予行政处罚，构成犯罪的，依法追究刑事责任。

Article 47 If a legal persons or another kind of organization violates Article 34 Paragraph 2 of these Measures, and the agreed-upon outcomes cannot be achieved, MOFCOM shall issue a warning, and may concurrently furthermore impose a fine of up to 30,000 RMB. From the day when the administrative penalty has been put into place for two to five years, it will be banned from participation in foreign aid projects. Where it violates any provision of the relevant laws and administrative regulations, it shall be subject to administrative punishments according to the provisions of the relevant laws and administrative regulations, and if any crime is constituted, it shall be subject to criminal liability according to law.

第四十八条 援外项目实施主体有下列行为的，商务部给予警告，可以并处 3 万元人民币以下罚款，自行政处罚生效之日起两至六年内，不选定其参与援外项目。违反相关法律、行政法规规定的，依照法律、行政法规的规定给予行政处罚，构成犯罪的，依法追究刑事责任。

- （一）未按援外项目实施合同的规定完成项目，造成恶劣影响的；
- （二）未按规定给援外人员提供基本工作生活待遇及保险的；
- （三）违反本办法第四十条规定的其他行为；
- （四）违反本办法第四十三条规定挪用援外项目资金的。

Article 48 If an implementing entity of foreign aid projects commits any of the following acts, MOFCOM shall issue a warning, and may concurrently furthermore impose a fine of up to 30,000 RMB. From the day when the administrative penalty has been put into place for two to six years, it will be banned from participation in foreign aid programs. Where it violates any provision of the relevant laws and administrative regulations, it shall be subject to administrative punishments according to the provisions of the relevant laws and administrative regulations, and if any crime is constituted, it shall be subject to criminal liability according to law.

- (1) Not completing a project in accordance with the foreign aid project implementation agreement, and causing adverse effects;
- (2) Not providing basic work and living conditions as well as insurance for foreign aid personnel;
- (3) Other acts in violation of the provisions of Article 40 of these Measures;
- (4) Violation of the provisions of Article 43 on the misappropriation of foreign aid funds.

第四十九条 商务部公务人员、受托管理机构的工作人员在援外管理中有下列行为之一，尚不构成犯罪的，视情节轻重给予相应的行政处分；构成犯罪的，依法追究刑事责任。

- （一）利用职务便利索取他人财物或非法收受他人财物为他人谋取利益；
- （二）滥用职权、玩忽职守或徇私舞弊，致使国家利益遭受损失；
- （三）故意或过失泄露国家秘密。

Article 49 If any official of MOFCOM or an entrusted management unit commits any of the following acts, and a crime is not constituted, the person shall be subject to the corresponding administrative sanction in light of the seriousness of circumstances; where a crime is constituted, it shall be subject to criminal liabilities according to law.

- (1) Asking for or illegally accepting properties of other person by taking advantage of his post to seek interests for such person;
- (2) Abusing power, neglecting duties or practicing favouritism resulting in a harm to national interests;
- (3) Intentionally or negligently divulging state secrets.

第十章 附则

Chapter 10 Supplementary Provisions

第五十条 对外人道主义紧急救灾物资援助管理不适用本办法。
军事援助管理不适用本办法。

Article 50 These Measures do not apply to the management of material assistance for humanitarian emergency relief projects.

These Measures do not apply to the management of military aid.

第五十一条 本办法自公布之日起三十日后生效。

Article 51 These Measures shall be put into effect 30 days after announcement.