

Translation



The following document, issued in 2012, describes how various regulations both allow and limit the participation of private Chinese companies and investors in the PRC defense industry.

Title

Implementation Opinions on Encouraging and Channeling Private Capital into the Defense Science and Technology Industry

关于鼓励和引导民间资本进入国防科技工业领域的实施意见

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To all relevant organizations:

In order to put into practice the spirit of *Certain Opinions of the State Council on Encouraging and Channeling the Healthy Development of Private Investment* ([2010] No. 13), and to encourage and channel private capital into defense S&T industrial fields, and taking into consideration the realities of the defense S&T industry, the following implementation opinions have been formulated:

I. Principles and fields for encouraging and channeling private capital into the defense S&T industry

1. In accordance with the requirements of the development path of military-civil fusion (军民融合) with Chinese characteristics, we must further enlarge the fields and scope for the entry of private capital (民间资本) into the defense S&T industry, refine policies and measures for encouragement and channeling, and promote the development of weapons and equipment and the defense S&T industry. Upholding the principles of positive encouragement, correct guidance, equal treatment, and ensuring security, we should attract and encourage private capital to enter defense S&T industry fields, practice equal treatment of private investment entities (民间投资主体) and state-owned defense industry enterprises in terms of permission

to enter, competition for tasks, tax incentives, etc., strengthen security, secrecy, supervision, and management, and ensure the security of state secrets.

2. Defense S&T industry fields for private capital to enter include: Scientific research and production of weapons and equipment, defense S&T industry investment and construction, defense industry enterprise reorganization and restructuring, and development of dual-use technology.

II. Allow private enterprises (民营企业) to participate, in accordance with relevant regulations, in undertaking weapons and equipment scientific research and production tasks

3. We should vigorously promote competitive equipment procurement, and attract qualified private enterprises to undertake weapons and equipment scientific research and production tasks. Entry criteria for the equipment market should be set scientifically, the work of revising the Catalog of Weapons and Equipment Scientific Research and Production Subject to Licensing should be accelerated, and the scope of licensing-based management should be optimized and announced to the public. We should accelerate the coordination and linking of the weapons and equipment scientific research and production licensing system, the qualification examination system for equipment manufacturers, and the secrecy qualification examination and certification system for weapons and equipment scientific research and production units, establish a coordinated review and certification management mechanism, and shorten review and certification cycles.

4. Private enterprises can undertake weapons and equipment scientific research and production tasks through cooperation with defense industry units, and can also undertake such tasks independently. Methods such as open tendering can be employed to encourage private enterprises to participate in competition for equipment procurement projects and supporting tasks that do not directly involve national security or military secrets, have modest investment amounts, are highly universal in nature, or for which there are relatively many qualified equipment makers.

III. Encourage private capital to enter defense S&T industry investment and construction fields

5. Private capital should be encouraged to enter investment and construction in defense S&T industry-related fields in accordance with the *Guidance Catalog of Fields for Social Investment¹ in Defense-Related Science, Technology and Industry (Unclassified Category)*. As long as the Catalog's requirements are met, there should be no restriction on the proportion of private capital investment.

¹ Translator's note: The Chinese term 社会投资, translated literally as "social investment," and its synonyms 社会资本 "social capital" and 社会资金 "social funding," refer to any source of funding outside of government budget outlays. These terms encompass investment by private individuals and private institutions. However, investment from state-funded entities such as state-owned enterprises (SOEs), including state-run banks, also falls under the umbrella of "social capital" or "social funding."

6. The channels and methods for private capital participation in defense S&T industry investment and construction shall be implemented in accordance with *Interim Measures for the Approval and Records Management of Defense Science and Technology Industry Social Investment Projects*. In particular, for unclassified (开放类) projects in which investment is done entirely by private capital, the recording system shall be followed, and project units must submit a recordation application form. For unclassified projects that have both government investment and private investment, implementation shall be in accordance with *Interim Provisions on the Administration of Fixed Asset Investment in the Defense Science and Technology Industry*.

IV. Guide and support private capital's orderly participation in the reorganization and restructuring of defense industry enterprises

7. Private capital should be allowed to participate in the shareholding reform of defense industry enterprises in accordance with the *Guiding Opinions of the Commission of Science, Technology and Industry for National Defense (COSTIND), the National Development and Reform Commission (NDRC), and the State-owned Assets Supervision and Administration Commission (SASAC) on Promoting the Shareholding Reform of Defense Industry Enterprises*.

8. Where private capital is introduced in the reorganization and restructuring of defense industry enterprises, implementation must be in accordance with SASAC's *Guiding Opinions on Actively Introducing Private Investment in the Restructuring and Reorganization of State-owned Enterprises*. In particular, where weapons and equipment and their scientific research and production capacity are involved, the opinion of the State Administration of Science, Technology and Industry for National Defense (SASTIND) and the [People's Liberation Army; PLA] General Armament Department must be sought.

V. Encourage private capital participation in developing dual-use technology

9. Private capital should be encouraged to participate in developing dual-use technology and products, and in government-organized conversion of defense technology into civilian use and dual-use technology development projects.

10. For government-organized conversion of defense technology into civilian use and dual-use technology development projects, applications should be submitted to SASTIND. In particular, where matters of national defense intellectual property ownership are involved, units applying for projects must seek and obtain approval from SASTIND and from the intellectual property management departments of the General Armament Department. Specific procedures shall follow the relevant measures.

VI. Strengthen private investment services, guidance and standardized management

11. We should establish and improve the public service platform for military-civil integration (军民结合), and broaden channels for military-civilian information exchange. A weapons and equipment procurement information announcement system shall be established. Equipment procurement information and related policies and regulations, standards and specifications, and procedures for participating in the competitive bidding process, will be

issued, regularly and in a targeted manner, based on the area of specialization and level of classification of the scientific research and production tasks undertaken by the private enterprises.

12. Where private enterprises participate in weapons and equipment scientific research and production tasks, they shall apply to obtain weapons and equipment scientific research and production licenses and equipment manufacturing unit qualifications, in accordance with the *Measures for the Implementation of the Scientific Research and Production Licensing of Arms and Equipment* and *Provisions on the Administration of the Qualification Examination for PLA Equipment Manufacturing Units*.

13. Private enterprises that enter defense S&T industry fields shall strengthen awareness of secrecy, establish and improve their systems for protecting classified information, and carry out their responsibility to protect classified information. In particular, private enterprises that apply to take on classified weapons and equipment scientific research and production tasks shall obtain the corresponding secrecy qualifications in accordance with the *Measures for the Administration of Secrecy Qualification Examination and Certification of Weapons and Equipment Scientific Research and Production Units*.

14. Private enterprises that take on weapons and equipment scientific research and production tasks shall consciously accept the supervision and inspection of the relevant government and military departments, and ensure the completion of weapons and equipment research, production and construction tasks. Those who violate management provisions will be held accountable in accordance with relevant laws and regulations. Honors and awards for private enterprises that have made outstanding contributions will be carried out based on the principle of equal treatment.

15. In these *Opinions*, the private capital encouraged to enter related fields is limited to domestic capital only, and does not include foreign investment or investment from Hong Kong, Macau or Taiwan.

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