



JONES DAY
COMMENTARY

CHINA ISSUES NEW REGULATIONS OPENING THE MARKET FOR CRUDE OIL

The PRC's Regulation on the Administration of the Crude Oil Market (the "Regulation"), which was issued by the Ministry of Commerce ("MOFCOM") on December 4, 2006, came into force on January 1, 2007.

The Regulation was published mainly to fulfill China's WTO commitment to open its crude oil distribution and storage market to foreign investors by the end of 2006. Presently, this profitable market is principally controlled by China Petrochemical Corporation (Sinopec), China National Petroleum Corporation (CNPC), China National Offshore Oil Corporation (CNOOC), and Sinochem Corporation (Sinochem). Now that the Regulation has come into force, foreign companies will be permitted to enter the crude oil sale and storage market as long as they meet the requirements set forth in the Regulation.

According to the Regulation, a licensing system will be implemented to regulate the operation of the domestic crude oil market. Two licenses are available: a crude oil sale license ("Sale License") and a crude oil storage license ("Storage License"). The Sale License and the Storage License together are herein referred to

as "Crude Oil Licenses." The term "crude oil" covers both domestically produced and imported crude oil. MOFCOM remains the government authority in charge of drafting and implementing the relevant laws and regulations as well as supervising their enforcement.

CRUDE OIL SALE LICENSES

Enterprises applying for Sale Licenses must meet the following requirements:

- (1) Long-term and stable supply of crude oil, which means:
 - (a) Being a crude-oil-producing enterprise with a petroleum-mining license approved by the State Council and having production of crude oil; or
 - (b) Having an oil product import license with annual imports of more than 500,000 tons; or
 - (c) Entering into a supply contract for more than one year with enterprises that meet the requirements under (a) or (b) above;
- (2) Being a Chinese legal person with registered capital of no less than RMB 100 million;

- (3) Long-term, stable, and legal channels for the sale of crude oil; and
- (4) Having crude oil storage tanks with capacity of no less than 200,000 cubic meters; the construction of the tanks must comply with city planning and pass the relevant examinations by government authorities.

CRUDE OIL STORAGE LICENSES

Enterprises applying for Storage Licenses must meet the following requirements:

- (1) Being a Chinese legal person with registered capital of no less than RMB 50 million;
- (2) Having crude oil storage tanks with capacity of no less than 500,000 cubic meters; the construction of the tanks must comply with city planning and pass the relevant examinations by government authorities; and
- (3) Having access to pipelines, dedicated railway, road transportation, or port facilities (with capacity of more than 50,000 tons) for transportation of crude oil.

APPLICATION PROCESS

Enterprises applying for Crude Oil Licenses are required to submit the following documents to the relevant government authority:

- (1) Application form.
- (2) Legal documents or material regarding long-term and stable crude oil supply channels (for Sale License only).
- (3) Legal documents or material regarding long-term, stable, and legal crude oil sale channels (for Sale License only).
- (4) Ownership documents for crude oil storage tanks and relevant facilities, and approval or certificates issued by the relevant government authorities for land and resources, safety production, fire safety, environment protection, quality inspection, etc.
- (5) Business license.
- (6) Approval certificate for foreign-invested enterprises.
- (7) Hazardous Chemical Operation Permit issued by the safety supervision department.
- (8) Ownership document for pipelines, dedicated railway, road transportation, or port facilities (with capacity of more than 50,000 tons) for transportation of crude oil (for Storage License).

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- (9) Other documents required by the approval authority.

Applications for Crude Oil Licenses are to be submitted to the department in charge of commerce of the relevant provincial government for preliminary examination, with final approval to be granted by MOFCOM.

The Regulation also stipulates the detailed examination and approval procedures of the government authorities as well as the issuance and amendment of the Crude Oil Licenses. The department in charge of commerce of the relevant provincial government will be responsible for the annual inspection of the Crude Oil Licenses.

CONCLUSION

The Regulation, for the first time, breaks the domination of the distribution of crude oil by major Chinese state-owned companies such as CNPC and Sinopec. After obtaining a Sale License, foreign oil companies will be able to independently sell the crude oil produced in their oil fields in the Chinese domestic market. However, the entry barrier is still relatively high for foreign investment; for example, foreign oil companies may have to make further investments to meet the storage-tank capacity requirement of 200,000 cubic meters. It should also be noted that the Regulation does not provide clarification of the requirement for "long-term, stable, and legal channels for the sale of crude oil," the interpretation of which will be subject to MOFCOM's discretion.

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