

(Sept. 19, 1922, ch. 346, §1, 42 Stat. 849.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Sept. 19, 1922, ch. 346, 42 Stat. 849. The Act (except sections 21 to 27) is classified to this chapter. Sections 21 to 27 of the Act amended title II of the Revenue Act of 1921, which was repealed by section 1100 of the Revenue Act of 1924 (43 Stat. 352).

§ 142. Definitions

When used in this chapter, unless the context otherwise indicates—

(a) The term “person” includes individual, partnership, corporation, and association;

(b) The term “China” means (1) China including Manchuria, Tibet, Mongolia, and any territory leased by China to any foreign government, (2) the Crown Colony of Hong Kong, and (3) the Province of Macao;

(c) The terms “China Trade Act corporation” and “corporation” mean a corporation chartered under the provisions of this chapter;

(d) The term “Federal district court” means any Federal district court, and the United States District Court for the District of Columbia;

(e) The term “Secretary” means the Secretary of Commerce; and

(f) The term “registrar” means the China Trade Act registrar appointed under section 143 of this title.

(Sept. 19, 1922, ch. 346, §2, 42 Stat. 849; June 25, 1936, ch. 804, 49 Stat. 1921; Treaty Jan. 11, 1943, 57 Stat. 767; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107.)

CODIFICATION

Words “the United States Court for China” deleted from definition of “Federal district court” under the authority of Treaty between the United States and the Republic of China, 57 Stat. 767, which was signed in Washington, Jan. 11, 1943, ratified by the United States Senate on Feb. 11, 1943, ratified by the President on May 4, 1943, and ratified by the Republic of China on Feb. 4, 1943, by which the United States relinquished all extraterritorial jurisdiction and rights in China.

Congress by private act Dec. 22, 1944, ch. 691, 58 Stat. 1086, provided for the relief of certain former employees of the United States Court for China for the period of July 1, 1942 to May 20, 1943, on which date the Court ceased to exist.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted “United States District Court for the District of Columbia” for “district court of the United States for the District of Columbia”.

Act June 25, 1936, substituted “district court of the United States for the District of Columbia” for “Supreme Court of the District of Columbia”.

§ 143. Registrar; designation; station; supervision by Secretary of Commerce

The Secretary of Commerce may authorize such Foreign Service officer as Secretary of State shall make available to perform duties of China Trade Act Registrar under his direction. The official station of the registrar shall be in China at a place to be designated by the Secretary. All functions vested in the registrar by this chapter shall be administered by him under the supervision of the Secretary; except that

upon appeal to the Secretary in such manner as he shall by regulation prescribe, any action of the registrar may be affirmed, modified, or set aside by the Secretary as he deems advisable.

(Sept. 19, 1922, ch. 346, §3, 42 Stat. 850; 1939 Reorg. Plan No. II, §1(d), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1431.)

TRANSFER OF FUNCTIONS

Secretary of Commerce may authorize such Foreign Service officer as Secretary of State shall make available to perform duties of China Trade Act Registrar under direction of Secretary of Commerce to conform to 1939 Reorg. Plan No. II, set out in the Appendix to Title 5, Government Organization and Employees.

Responsibilities of Secretary of Commerce with regard to China Trade Act Registrar are exercised by Deputy Assistant Secretary for International Commerce in Domestic and International Business Administration of the Department of Commerce, with the power of redelegation.

§ 144. China trade corporations

(a) Incorporation

Three or more individuals (hereinafter in this chapter referred to as “incorporators”), a majority of whom are citizens of the United States, may, as hereinafter in this chapter provided, form a District of Columbia corporation for the purpose of engaging in business within China.

(b) Articles of incorporation

The incorporators may adopt articles of incorporation which shall be filed with the Secretary at his office in the District of Columbia and may thereupon make application to the Secretary for a certificate of incorporation in such manner and form as shall be by regulation prescribed. The articles of incorporation shall state—

(1) The name of the proposed China Trade Act corporation, which shall end with the legend, “Federal Inc. U.S.A.”, and which shall not, in the opinion of the Secretary, be likely in any manner to mislead the public;

(2) The location of its principal office, which shall be in the District of Columbia;

(3) The particular business in which the corporation is to engage;

(4) The amount of the authorized capital stock, the designation of each class of stock, the terms upon which it is to be issued, and the number and par value of the shares of each class of stock;

(5) The duration of the corporation, which may be perpetual or for a limited period;

(6) The names and addresses of at least three individuals (a majority of whom, at the time of designation and during their term of office, shall be citizens of the United States), to be designated by the incorporators, who shall serve as temporary directors; and

(7) The fact that an amount equal to 25 per centum of the amount of the authorized capital stock has been in good faith subscribed to.

(c) Prohibited transactions

A China Trade Act corporation shall not engage in the business of discounting bills, notes, or other evidences of debt, of receiving deposits, of buying and selling bills of exchange, or of issuing bills, notes, or other evidences of debt, for circulation as money; nor engage in any

other form of banking business; nor engage in any form of insurance business; nor engage in, nor be formed to engage in, the business of owning or operating any vessel, unless the controlling interest in such corporation is owned by citizens of the United States, within the meaning of section 50501 of title 46.

(d) Capital stock requirements

No certificate of incorporation shall be delivered to a China Trade Act corporation and no incorporation shall be complete until at least 25 per centum of its authorized capital stock has been paid in cash, or, in accordance with the provisions of section 148 of this title, in real or personal property which has been placed in the custody of the directors, and such corporation has filed a statement to this effect under oath with the registrar within six months after the issuance of its certificate of incorporation, except that the registrar may grant additional time for the filing of such statement upon application made prior to the expiration of such six months. If any such corporation transacts business in violation of this subdivision of this section or fails to file such statement within six months, or within such time as the registrar prescribes upon such application, the registrar shall institute proceedings under section 154 of this title for the revocation of the certificate.

(Sept. 19, 1922, ch. 346, § 4, 42 Stat. 850; Feb. 26, 1925, ch. 345, §§ 1-5, 43 Stat. 995; June 25, 1938, ch. 696, § 1, 52 Stat. 1195.)

CODIFICATION

In subsec. (c), "section 50501 of title 46" substituted for "section 2 of the Shipping Act, 1916, as amended" on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, section 8(b) of which enacted parts A and B of sub-title V of Title 46, Shipping.

AMENDMENTS

1938—Subsec. (b)(5). Act June 25, 1938, amended par. (5) generally.

1925—Act Feb. 26, 1925 amended subsecs. (a), (b)(6), (7), and (c), and added subsec. (d).

EFFECTIVE DATE OF 1938 AMENDMENT

Act June 25, 1938, provided that the amendment shall apply to all China Trade Act corporations created after the date of enactment of the act.

§ 144a. Incorporation fee for perpetual existence

Any China Trade Act corporation existing on June 25, 1938, may make its existence perpetual only upon application to the Secretary of Commerce to amend its charter in that respect and upon payment of a fee equivalent to the incorporation fee. Upon receipt of such application and the payment of such prescribed fee, the Secretary shall approve such application and the charter of the corporation shall be amended accordingly.

(June 25, 1938, ch. 696, § 2, 52 Stat. 1196.)

CODIFICATION

Section was not enacted as part of the China Trade Act, 1922, which comprises this chapter.

§ 145. Certificate of incorporation

The Secretary shall, upon the filing of such application, issue a certificate of incorporation

certifying that the provisions of this chapter have been complied with and declaring that the incorporators are a body corporate, if (a) an incorporation fee of \$100 has been paid him; (b) he finds that the articles of incorporation and statements therein conform to the requirements of, and that the incorporation is authorized by, this chapter; and (c) he finds that such corporation will aid in developing markets in China for goods produced in the United States. A copy of the articles of incorporation shall be made a part of the certificate of incorporation and printed in full thereon. Any failure, previous to the issuance of the certificate of incorporation, by the incorporators or in respect to the application for the certificate of incorporation, to conform to any requirement of law which is a condition precedent to such issuance, may not subsequent thereto be held to invalidate the certificate of incorporation or alter the legal status of any act of a China Trade Act corporation, except in proceedings instituted by the registrar for the revocation of the certificate of incorporation.

(Sept. 19, 1922, ch. 346, § 5, 42 Stat. 850.)

§ 146. General powers of corporation

In addition to the powers granted elsewhere in this chapter, a China Trade Act corporation—

(a) Shall have the right of succession during the existence of the corporation;

(b) Shall have a corporate seal and may, with the approval of the Secretary, alter it;

(c) May sue and be sued;

(d) Shall have the right to transact the business authorized by its articles of incorporation and such further business as is properly connected therewith or necessary and incidental thereto;

(e) May make contracts and incur liabilities;

(f) May acquire and hold real or personal property, necessary to effect the purpose for which it is formed, and dispose of such property when no longer needed for such purposes;

(g) May borrow money and issue its notes, coupon or registered bonds, or other evidences of debt, and secure their payment by a mortgage of its property; and

(h) May establish such branch offices at such places in China as it deems advisable.

(Sept. 19, 1922, ch. 346, § 6, 42 Stat. 851; Feb. 26, 1925, ch. 345, § 6, 43 Stat. 996.)

AMENDMENTS

1925—Par. (b). Act Feb. 26, 1925, substituted "Shall" for "May".

TREATY

Par. (h) of this section has been affected by the 1943 Treaty between United States of America and the Republic of China, 57 Stat. 767, in which the United States relinquished all extraterritorial jurisdiction and rights in China. See Codification note set out under section 142 of this title.

§ 146a. Jurisdiction of suits by or against China Trade Act corporation

The Federal district courts shall have exclusive original jurisdiction of all suits to which a China Trade Act corporation, or a stockholder,