

Measures for the Administration of Foreign Aid

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Public Consultation Version – Not Yet in Force

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<http://china-aid-blog.com/2018/11/20/cidca-issues-measures-for-the-administration-of-foreign-aid-draft/>

On 13 November 2013, China's new aid agency CIDCA issued the draft of the **Measures for the Administration of Foreign Aid**. The draft has adapted a substantial part of the 2014 Aid Measures of the Ministry of Commerce (MOFCOM), that was then in charge of Chinese foreign aid. At the same time, it clearly shows where the aid competencies of CIDCA go beyond the ones MOFCOM had.

In the text and my translation below, the text parts that were taken over from the 2014 MOFCOM as marked in black, **the new additions are marked in red**. (Comments are welcome.)

	对外援助管理办法(征求意见稿) 2018-11-13	Measures for the administration of foreign aid (request for public comments) 13.11.2018
	第一章 总 则	Chapter I General Provisions
1	第一条 为加强对外援助的战略谋划和统筹协调, 规范对外援助管理, 提升对外援助效果, 依据有关法律、行政法规制定本办法。	Art. 1 To strengthen strategic planning and overall coordination of foreign aid ^[2] , to standardize the administration and to improve the effectiveness ^[3] of foreign aid, these measures are enacted in accordance with the relevant laws and administrative regulations.
2	第二条 本办法所称对外援助是指使用政府对外援助资金(以下简称援外资金)向受援方提供经济、技术、物资、人才和管理等支持的活动。	Art. 2 For the purpose of these Measures, "foreign aid" means the use of government funds for foreign aid (hereinafter referred to as "Foreign aid funds") to provide economic, technical, material, personnel, management and other support to aid recipients.

3	<p>第三条 对外援助的受援方主要包括与中华人民共和国已经建立外交关系且有接受援助需要的发展中国家以及发展中国家为主的国际或区域性组织。在人道主义援助等紧急或特殊情况下，发达国家或与中华人民共和国无外交关系的发展中国家也可作为受援方。</p>	<p>Art. 3 Foreign aid recipients mainly include developing countries that have established diplomatic relations with the People's Republic of China and are in need of aid, as well as international or regional organizations of developing countries. Humanitarian aid or [aid] in other exceptional circumstances may be provided to developed or developing countries that do not have diplomatic relations with the People's Republic of China.</p>
4	<p>第四条 对外援助应尊重受援国主权、不干涉受援国内政，致力于减轻与消除受援方贫困，改善受援方民生和生态环境，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，巩固和发展与受援方的友好合作关系，推动共建“一带一路”战略实施，推动构建合作共赢的新型国际关系，推动打造人类命运共同体。</p>	<p>Art. 4 Foreign aid shall respect the sovereignty of recipient countries, not interfere in recipient countries' internal affairs, help reduce and eliminate poverty of aid recipients, improving the livelihood and ecological environment of aid recipients, promote the economic development and social progress of aid recipients, enhancing the self-development capacity of aid recipients, consolidate and develop friendly cooperation relationships between aid recipients [and China], promote the joint implementation of "Belt and Road" strategy,[4] usher in a new type of international relations featuring win-win cooperation,[5] and promote the building of a community of common destiny.</p>

5	<p>第五条 国家国际发展合作署(以下简称国际发展合作署)归口管理对外援助工作, 负责拟订对外援助战略方针、规划、政策; 起草对外援助法律法规草案和部门规章; 统筹协调援外重大问题并提出建议; 统筹协调对外援助和对外人道主义紧急援助; 研究和推进援外方式改革, 研究改革措施并推动落实; 编制对外援助方案和计划, 编制援外项目年度预决算; 确定对外援助项目, 并监督评估对外援助项目实施情况; 组织开展对外援助国际交流合作。</p>	<p>Art. 5 Foreign aid shall be put under centralized management of China's Agency for Development and International Cooperation (hereinafter referred to as CIDCA). [CIDCA] shall be responsible for drafting of foreign aid strategies, plans and policies; drafting foreign aid laws and regulations, and departmental rules; planning and coordinating major foreign aid questions and giving suggestions; planning and coordinating foreign aid and humanitarian emergency assistance; researching and advancing reform of foreign aid modes, researching measures promoting their implementation; compiling foreign aid programs and plans, compiling annual budgets and final accounts for foreign aid projects; ensuring implementation of foreign aid projects, as well as supervising and evaluating foreign aid projects; organizing the carrying out of international exchange and cooperation on foreign aid.</p>
	<p>各相关部门(以下统称各援外执行部门)按分工承担对外援助的具体执行工作。</p>	<p>All relevant departments (hereinafter referred to as "aid implementing departments") shall undertake the concrete execution of foreign aid work on the basis of divided responsibilities.</p>
	<p>驻外使领馆(团)协助国际发展合作署办理与对外援助有关的政府事务, 与受援方沟通援助需求并进行政策审核, 负责援外项目实施的境外监督管理。</p>	<p>Chinese embassies and consulates shall assist CIDCA in handling foreign aid related intergovernmental affairs, communicate with recipients about their aid needs and conduct policy reviews, and be responsible for on-the-ground supervision and administration of the execution of foreign aid projects.</p>
	<p>第六条 国际发展合作署会同有关部门建立对外援助部际协调机制, 统筹协调对外援助重大问题。</p>	<p>Art. 6 CIDCA shall, in conjunction with relevant departments, establish an interdepartmental aid coordination mechanism in order to plan and coordinate major foreign aid issues.</p>

	第七条 国际发展合作署制定统一的对外援助标识，负责标识使用的监督管理。	Art. 7 CIDCA shall establish a unified foreign aid logo, and shall be responsible for the supervision and administration of its use.
	第二章 对外援助政策规划	Chapter II Planning of Foreign Aid Policies
	第八条 国际发展合作署负责对外援助的顶层设计，拟订对外援助的战略方针，经批准后执行。	Art. 8 CIDCA shall be responsible for the top-level design of foreign aid, drafting of foreign aid strategies, and implement them upon approval.
8	第九条 国际发展合作署负责制定对外援助中长期政策规划，经批准后执行。	Art. 9 CIDCA shall be responsible for preparing medium and long-term foreign aid policy plans, and execute them upon approval.
	第十条 国际发展合作署会同有关部门制定分国别援助政策，作为对外提供援助的主要政策依据。	Art. 10 CIDCA shall, in conjunction with relevant departments, formulate country-specific aid policies, that shall serve as the main policy basis for foreign aid provision.
	第十一条 国际发展合作署拟订对外援助年度计划和总体方案，经批准后实施。	Art. 11 CIDCA shall draft foreign aid annual plans and overall programs, and implement them upon approval.
	第十二条 国际发展合作署研究对外援助方式的改革措施，并推动改革措施落实。	Art. 12 CIDCA shall conduct research on steps for the reform of foreign aid modes, and drive the practical implementation of those report steps.
	第十三条 国际发展合作署制定统一的对外援助管理制度。	Art. 13 CIDCA shall draw up a unified foreign aid management system.
	第十四条 国际发展合作署负责拟订对外援助协议，与受援方进行谈判，以中国政府名义签署提供援助的协议。	Art. 14 CIDCA shall be responsible for drawing up foreign aid agreements, conduct negotiations with recipient countries, and sign agreements in the name of the Chinese government.

	第十五条 国际发展合作署制定对外援助国际交流合作政策，与其他国家或国际组织开展援助交流合作，代表中国政府参与发展领域的政策对话和沟通。	Art. 15 CIDCA shall formulate a policy for international exchange and cooperation on foreign aid, conduct aid exchange and cooperation with other countries and international organizations, and participate in development policy dialogues and communicate on behalf of the Chinese government.
	第三章 对外援助资金管理	Chapter 3: Management of Foreign Aid Funds
	第十六条 国际发展合作署归口管理对外援助资金规模和使用方向。	Art. 16 The management of foreign aid funds scope and use shall be put under centralized management of CIDCA.
12	第十七条 对外援助资金主要包括无偿援助、无息贷款和优惠贷款三种类型。	Art. 17 Foreign aid funds shall mainly include the three types, grant aid, interest-free loans and concessional loans.
	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。	Grant aid shall be mainly used for aid recipients' needs in areas such as poverty reduction, livelihood, social welfare, public services and humanitarian issues.
	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。	Interest-free loans shall be mainly used for aid recipients' needs in areas such as public infrastructure or industrial and agricultural production.

	<p>优惠贷款主要用于支持受援方有经济效益的生产型项目、资源能源开发项目、较大规模的基础设施建设、提供大宗机电产品和成套设备。</p>	<p>Concessional loans shall be mainly used for supporting aid recipients' economically efficient productive projects, resource and energy exploration projects, large-scale infrastructure construction, and for provision of large quantities quantity of mechanical and electrical products and complete equipment.</p>
	<p>第十八条 国际发展合作署会同有关部门和机构设立南南合作基金等具有援助性质的基金，并负责管理和使用基金。</p>	<p>Art. 18 CIDCA shall, in conjunction with relevant departments and agencies, set up South-South Cooperation and similar funds with aid characteristics; and shall be responsible for the management and the use of funds.</p>
	<p>第十九条 国际发展合作署负责统筹编制对外援助项目年度预决算，会同财政部按照财政预算相关规定制定援外项目预算管理制度。</p>	<p>Art. 19 CIDCA shall be responsible for planning and compilation of the annual budget and final accounts of foreign aid projects; and shall, in conjunction with Ministry of Finance, set up a foreign aid project budget management system in accordance with relevant budget regulations.</p>
	<p>国际发展合作署和各援外执行部门负责管理本部门对外援助资金，编制本部门执行对外援助项目的年度预决算。</p>	<p>CIDCA and all aid executing departments shall be responsible for the management of their foreign aid funds, and prepare annual budgets and final accounts for foreign aid projects executed by those departments.</p>
34	<p>第二十条 援外资金应当专款专用、单独核算，任何单位和个人不得挪作他用。</p>	<p>Art. 20 Foreign aid funds shall be used for designated purposes only, and be subject to separate accounting. No entity or individual shall misappropriate the funds.</p>
	<p>第四章 对外援助实施管理</p>	<p>Chapter 3: Implementation Management of Foreign Aid Projects</p>

14	第二十一条 对外援助以项目援助实施为主。	Art. 21 Foreign aid shall mainly be implemented in form of project aid.
	在对外紧急人道主义援助等特殊情况下，可向受援方提供现汇援助。	Humanitarian aid or [aid] in other exceptional circumstances may be provided as cash assistance.
15	第二十二条 援外项目主要包括以下类型：	Art. 22 Foreign-aid projects shall be mainly provided in the following forms:
	(一) 成套项目，即通过组织或指导施工、安装和试生产全过程或其中部分阶段，向受援方提供生产生活、公共服务等成套设备和工程设施，并提供建成长效质量保证和配套技术服务的项目；	(1) Complete projects, i.e. through organizing and guiding a complete process or parts of the process of construction, installation and trial production, providing aid recipients with complete equipment and project facilities for areas such as production and living, or public services, as well as providing long-term quality assurance and technical service support.
	(二) 物资项目，即向受援方提供一般生产生活物资、技术性产品或单项设备，并承担必要配套技术服务的项目；	(2) Material projects, i.e. providing aid recipients with ordinary materials for production and living, technical products or single equipment, and undertaking of necessary supporting technical services.
	(三) 技术援助项目，即综合采用选派专家、技术工人或提供设备等手段帮助受援方实现某一特定技术目标的项目；	(3) Technical assistance projects, i.e. comprehensively employing such means as selecting experts and technicians and providing equipment to assist the aid recipient in realizing certain technical objectives.
	(四) 人力资源开发合作项目，即为受援方人员提供各种形式的学历学位教育、研修培训、人员交流、高级专家服务，以及选派志愿人员到受授方从事公益性服务等项目。	(4) Human resource development and cooperation projects, i.e. providing aid recipients with various forms of academic and degree education, advanced studies and training, personnel exchange and senior expert service; as well as selection of volunteers to provide public services in aid recipient countries.

	第二十三条 国际发展合作署制定对外援助项目立项管理办法。对外援助项目应当按办法确定，并按程序批准立项。	Art. 23 CIDCA shall formulate measures for the administration of approval and initiation of aid projects. Decision on foreign aid project shall be made on the basis of the measures, and initiation of projects shall be approved and initiated according to procedures.
19	第二十四条 援外项目立项后，国际发展合作署一般应与受援方商签政府间立项协议。	Art. 24 After a Foreign aid project is approved, CIDCA shall generally sign an intergovernmental project establishment agreement with the aid recipient.
22	第二十五条 各援外执行部门依据立项批准内容组织实施援外项目，对援外项目的安全、质量、功能、进度、资金使用等方面进行监管。	Art. 25 All aid executing departments shall organize the implementation of aid projects according to the approved project description, and supervise the aid projects' safety, quality, functions, process, fund use etc.
	第二十六条 对于地方具有区位、人文、人脉、产业优势的援外项目，国际发展合作署可与地方人民政府合作实施。	Art. 26 On the implementation of aid projects which possess geographical, cultural, people or industrial advantage, CIDCA can cooperate with local people's governments.
23	第二十七条 援外项目可以由中方负责实施、可以由中方与受援方合作实施，也可以由受援方自主实施。	Art. 27 Foreign aid projects can be implemented by the Chinese party, or by Chinese party and recipient party in joint cooperation, or independently by the recipient party. ^[6]
26	第二十八条 援外项目由中方负责实施的，各援外执行部门负责依法通过竞争性方式选定具体项目实施主体。	Art. 28 If the Chinese side bears the responsibility for the implementation of a foreign aid project, all aid executing departments shall be responsible for selecting the specific party to implement the project according to the law and through competitive bidding.
27	第二十九条 援外项目中方实施主体不得将所承担的任务转包或违法分包。	Art. 29 Chinese parties implementing foreign aid projects may not assign or illegally subcontract its responsibilities.

28	<p>第三十条 对于无偿援助和无息贷款项下的援助项目，各援外执行部门一般应与受援方商签援外项目实施协议，明确规定援外项目实施的具体事宜和双方权利义务。</p>	<p>Art. 30 If the aid project is classified as grant aid or interest free loan, generally each aid executing department shall sign a foreign aid project implementation agreement with the aid recipient. [The agreement] shall specify detailed arrangements for the implementation of the foreign aid project as well as rights and obligation of both sides.</p>
29	<p>第三十一条 对于无偿援助和无息贷款项下的援助项目，各援外执行部门一般应与实施主体商签援外项目实施合同，明确规定援外项目组织实施的具体事宜和双方权利义务。</p>	<p>Art. 31 If the aid project is classified as grant aid or interest free loan, generally each aid executing department shall sign a foreign aid project implementation contract with the implementing body. [The contract] shall specify detailed arrangements for the organization and implementation of the foreign aid project as well as rights and obligation of both sides.</p>
30	<p>第三十二条 国际发展合作署会同国务院有关部门建立对外援助出口物资口岸验放机制。</p>	<p>Art. 32 CIDCA shall, in conjunction with relevant departments under the State Council, establish a mechanism for port inspection and release of export materials for foreign aid.</p>
31	<p>除涉及两用物项和技术出口管制的物资外，对外援助物资出口不纳入配额和许可证管理。</p>	<p>Except for the administration of dual-use items and technologies subject to export control, the export of foreign aid materials shall not be included in quota and licensing administration.</p>
43	<p>第三十三条 国际发展合作署配合国务院有关部门制定对外援助人员在外执行援外项目任务期间的基本待遇标准，并建立相应的人身意外伤害保险和救助制度。</p>	<p>Art. 33 CIDCA shall, in conjunction with relevant departments under the State Council, establish basic standards for treatment of foreign aid personnel for the period of execution of foreign aid project duties on the ground, and establish the corresponding personal accident insurance and relief rules.</p>
	<p>第五章 对外援助监督和评估</p>	<p>Chapter 5: Foreign Aid Supervision and Evaluation</p>

	第三十四条 国际发展合作署负责对各援外执行部门组织实施援外项目的情况，以及驻外使领馆(团)履行援外项目境外监管职责情况进行监督和检查。	Art. 34 CIDCA shall bear the responsibility for organizing the implementation of foreign aid projects by respective aid executing departments, as well as for supervising and inspecting how the embassies and consulates fulfill their oversight duties vis-à-vis foreign aid projects on the ground.
	第三十五条 国际发展合作署会同有关部门建立重大项目的监督检查机制，对重大项目的实施情况进行监督。	Art. 35 CIDCA shall, in conjunction with relevant departments, establish supervision and inspection mechanisms for major projects, and implement supervision of the state of their implementation.
35	第三十六条 国际发展合作署建立援外项目评估制度，组织开展常规评估、专项评估和综合评估。	Art. 36 CIDCA shall establish an evaluation system for foreign aid projects, and organize the carrying out of routine evaluations, special evaluations and comprehensive evaluations.
	各援外执行部门组织援外项目自检评价，配合国际发展合作署开展评估工作。	Each foreign aid executing department shall organize self-inspection and evaluation of foreign aid project, and carry out the evaluation work in coordination with CIDCA.
37	第三十七条 国际发展合作署建立对外援助项目实施主体诚信评价体系，对实施主体参与援外项目过程中的行为进行信用评价。	Art. 37 CIDCA shall establish a credit rating system for the parties implementing foreign aid projects, and assess the conduct of such parties in the course of foreign aid projects.
6	第三十八条 国际发展合作署建立全口径对外援助统计制度，收集、汇总和编制对外援助统计资料。	Art. 38 CIDCA shall set up fully-covered statistical rules for foreign aid, and collect, summarize and prepare statistical data on foreign aid.
	各援外执行部门、地方各省级人民政府、各有关企事业单位应按照对外援助统计制度，定期向国际发展合作署报告统计数据及相关信息。	All aid executing departments, all provincial government, all relevant enterprises and public institutions should, in accordance with the foreign aid statistical system, regularly report statistical data and related information.
	第六章 法律责任	Chapter 6: Legal Liability

46	<p>第三十九条 援外项目中方实施主体有下列行为之一的，国际发展合作署和各援外执行部门给予警告，可以并处 3 万元人民币以下罚款，并可以依法公布处罚决定；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：</p>	<p>Art. 39: If a Chinese implementing party of a foreign aid project commits any of the following conduct, CIDCA and each aid executing department shall issue a warning and may impose a fine of less than 30,000 yuan, and publicize the penalty decision in accordance with law. The Chinese party that violates any relevant law or administrative regulation shall be given an administrative penalty in accordance with the provisions of relevant laws and administrative regulations; and if any crime is constituted, it shall be subject to criminal liability in accordance with law.</p>
	<p>(一)将所承担的援外项目任务转包或违法分包的；</p>	<p>(1) if the responsibility for a foreign aid project is transferred or illegally subcontracted;</p>
	<p>(二) 未按援外项目实施合同履行义务或迟延履行义务，影响项目正常实施，造成严重影响不良影响的；</p>	<p>(2) if there is a failure to fulfill obligations according to the foreign aid project implementation contract or if there are delays in the fulfillment of obligations, which affect the normal implementation of the project and cause serious adverse effects.</p>
	<p>(三)挪用援外资金的；</p>	<p>(3) if foreign aid funds are misappropriated;</p>
	<p>(四) 未按规定保证外派援外人员工作和生活待遇及人身意外伤害保障的。</p>	<p>(4) if the work and living allowances of foreign aid personnel sent abroad, or personal accident injury protection are not provided according to regulations.</p>
46	<p>援外项目中方实施主体违反本条规定受到行政、刑事处罚的，自处罚生效之日起二至六年内，不选定其参与援外项目。</p>	<p>If a Chinese implementing party of a foreign aid project is given an administrative or criminal penalty, it shall not be selected to participate in foreign aid projects for two to six years from the date the penalty takes effect.</p>

47	第四十条 国际发展合作署和各援外执行部门的工作人员在对外援助管理中有下列行为之一的，视情节轻重给予相应处分；构成犯罪的，依法追究刑事责任：	Art. 40 If a staff member of CIDCA or a aid executing departments engages in any of the following conduct during foreign aid administration, s/he shall receive corresponding penalty according to the seriousness of the circumstances. If the case constitutes a crime, the criminal liability shall be investigated according to law:
	(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的；	(1) Taking advantage of one's position to extort profit, or illegally accepting the money or for the benefit of other people;
	(二) 滥用职权、玩忽职守或徇私舞弊，致使国家利益遭受损失的；	(2) Misuse of authority, neglect of duty or favoritism, and causing losses to state interests;
	(三)泄露国家秘密的。	(3) Divulging state secrets.
	第七章 附 则	Chapter 7
50	第四十一条 本办法由国际发展合作署负责解释。	Art. 41 These Measures shall be subject to interpretation by CIDCA.
51	第四十二条 本办法自 年 月 日起施行。	Art. 42 These Measures shall come into force on...

[1] The part of the text that is black are the unchanged parts of MOFCOM's 2014 Aid Measures; the numbers on the left indicate which article this was originally in MOFCOM's 2014 aid measures. The text in red is new additions.

[2] Strategic planning and overall coordination is a power MOFCOM didn't have previously.

[3] Increasing aid effectiveness had been a concern in official statements at least since mid 2013, probably even earlier. MOFCOM Aid Measures had already the target of increasing aid effectiveness. The question is: was MOFCOM successful in executing this task – and if not, how is CIDCA better equipped to increase aid effectiveness? What will it need to increase aid effectiveness? Is this a potential field for cooperation with Germany/"traditional" donors?

[4] This can be understood as creating an even closer link between aid, trade and investment.

[5] Quote from the speech by China representative at the 60 Years Bandung Conference anniversary in Jakarta 2015. Also mentioned by Xi Jinping in his speech during 2016 BRICS Summit in 2016: <http://www.yingyushijie.com/exam/detail/id/1460/category/60.html>.

[6] In MOFOM's 2014 Measures, the other options were listed only as an exception.