

## Annex 1 How is “Private” Defined in the People’s Republic of China?

In analyzing how private enterprises in the People’s Republic of China (PRC) are faring, an immediate obstacle is to understand how the term “private” is used in the country. For example, the term “nonstate” in the PRC denotes a larger category than “private,” since the former category encompasses urban and rural collectively owned enterprises. The latter are known famously as the township and village enterprises (TVEs), which fueled rapid industrial growth in rural PRC and absorbed millions of surplus farm workers. In the data for the PRC TVEs are classified outside the state sector, and yet cannot be considered part of the private sector in a strict sense of the word. To complicate things further, many essentially “private” firms have embraced collective ownership. They made themselves “collectives” by sharing ownership with local governments in order to obtain the security and privileges that those governments extend to collective firms. In recent years, as the climate for private enterprise improved, many of these pseudo-collectives increasingly sought to take off their “red hat.” Ambiguous ownership was no longer attractive to managers of firms; clarifying property rights and control of firms was not always easy though.<sup>1</sup>

### Getihu

Another complication concerns the 26 million or so individual businesses recognized in a set of State Council regulations in 1981 known as *getihu* (个体户), which is a diminutive of *gongshang hu* (工商个体户) and denotes a single industrial and commercial proprietor. These individual businesses cannot employ more than eight people and are commonly referred to as individual-employed or self-employed. Although *getihu* businesses are owned by private individuals or households, they are not legally considered as enterprises, and are therefore excluded from the official definition of private enterprises.

### *Siying qiye*

According to the “Regulations for Classifying Registration and Licensing of Enterprises by Ownership,” issued by the State Administration for Industry and Commerce together with the National Bureau of Statistics, the category privately owned enterprises is one of the eight categories of wholly domestically funded enterprises (see Table A1).<sup>2</sup>

These privately owned enterprises, or *siying qiye* (私营企业), as a category, became an independent business category in the “Tentative Stipulations on Private Enterprises” in 1988, where privately owned enterprises were defined as “for-profit organizations that are owned by individuals and employ more than eight people.”

---

<sup>1</sup> See, for example, Bai, Chong-En, David D. Li and Yijiang Wang, “Thriving on a Tilted Playing Field: China’s Non-State Enterprises in the Reform Era,” CREDPR Working Paper No. 95, March 2001.

<sup>2</sup> The regulation is attached to this Annex.

*Siying qiye* can take many forms—sole proprietorships, partnerships, limited liability companies, and shareholding cooperatives. There are different requirements for registered capital and numbers of shareholders associated with these forms of private ownership.

Sole proprietorships, or wholly individually owned private enterprises (私营独资企业), are private enterprises registered under the “Provisional Regulations for Private Enterprises” issued by the State Administration for Industry and Commerce in 2000. They are legally recognized as enterprises and thus differ from *getihu*. However, they are not companies in the legal sense because the owner of each is usually a single natural person with unlimited liability for the firm.

Partnerships (私营合伙企业) are similar to sole proprietorships in that they are owned by natural persons sharing unlimited liability for the enterprise; in other words, they are not companies. They are registered under the “Law Governing Enterprises under Partnership” and “Methods for Registration by Partnership.”

Private limited liabilities companies (私营有限责任公司) and private shareholding corporations (私营股份有限公司) are limited liability companies registered under the “Company Law” and “Provisional Regulations for Private Enterprises.” The latter requires either a single owner, or five or more owners.

Confusion arises when legal definitions conflict with the true ownership structure and control over companies’ operations. There are enterprises that are effectively privately owned and operated, without being formally classified as *siying qiye*. Many distinctions between these enterprises and the official *siying qiye* are artificial.

## Shareholding Cooperatives

For instance, there are a relatively small number of shareholding cooperative enterprises (股份合作企业) that are collectively owned by employees of the enterprises. These enterprises are, in effect, an intermediate stage, as the formerly collectively owned enterprises transition themselves into private ownership. As a consequence, for many of them, the exact distribution of asset ownership is uncertain because a portion of their start-up assets used to be collectively owned. Although they are not legally *siying qiye*, they are self-governed and solely responsible for salaries and dividend payouts.

## Shareholding Corporations

Shareholding corporations (股份有限公司), which are publicly listed on the stock exchange, comprise a category of domestic enterprises separate from *siying qiye*. Theoretically, they should be considered as one form of private ownership, as long as the state is not a majority shareholder.

## Foreign-funded Enterprises

These are enterprises that have foreign (including Hong Kong, China; Macau; and Taipei, China) investors or operate with foreign partners are a dynamic sector of the PRC economy. Many of them should be considered part of the private sector, since foreign investors frequently hold the

control rights, especially for the wholly foreign-funded enterprises. But since the official *siying qiye* are, by definition domestically owned, they exclude such foreign-owned private enterprises. Additional complexity arises when the foreign investors lack a controlling stake in these enterprises. (For instance, foreign-funded shareholding corporations require a minimum of only 25% foreign-owned registered capital.) Depending on the ownership shares, these enterprises can be state-controlled, local-government controlled (if the Chinese partner is a collective), or private. However, statistical reporting on foreign-funded firms usually fails to distinguish those controlled by the state. As a result, double counting can occur.

As this discussion shows, the definition of what comprises the private sector is less clear-cut than a casual observer might suspect. Moreover, official statistics are compiled in a manner that makes analysis difficult. For instance, the *China Statistical Yearbook* reports employment and industry data using different categorizations of ownership types; gross domestic product is broken down to reflect the primary-secondary-tertiary sectors, but not ownership types. There is a need for precision, therefore, in identifying what can be quantified.

As a final example, Figure A1 below shows how the indicator for total gross industrial output (GIO) varies according to how broadly one defines PRC's private sector. Irrespective of how the private sector is measured, one striking feature is the declining share of the (residual) state-owned sector—it has fallen from two-thirds of total gross industrial output in 1985 to considerably less than one-third in 1999. The share of collectives has been fairly stable over the period, meaning that the other striking feature is the extraordinary growth in the activity of private firms of all types—from next to nothing in 1985, their share in total gross industrial output was rapidly approaching half in 1999.

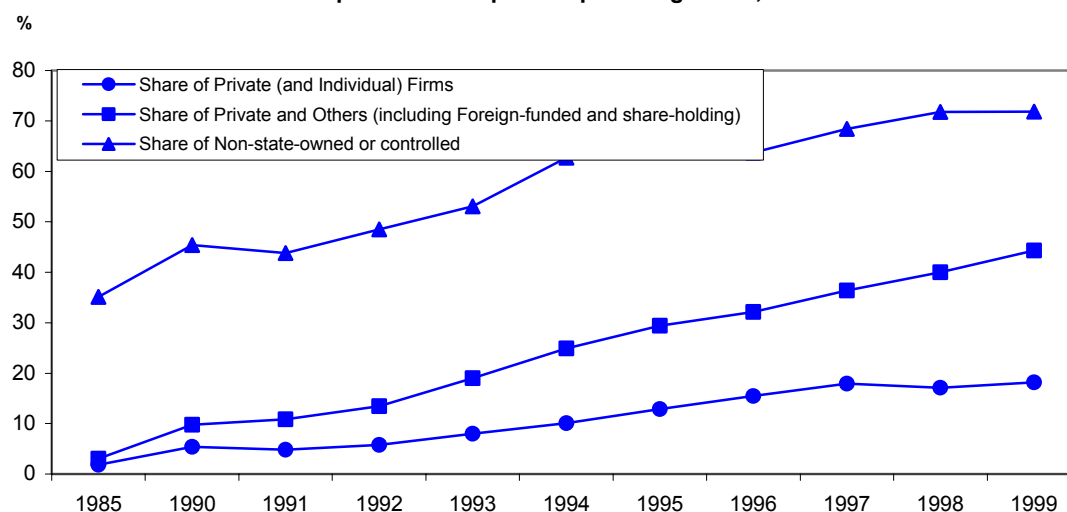
**Table A1. Classification of Enterprises by Ownership**

Wholly Domestically Funded	Foreign-Funded <sup>1</sup>
State owned (国有企业)	Joint ventures with domestic firms (合资经营企业)
Collectively owned (集体企业)	Cooperatives with domestic firms (合作经营企业)
Shareholding enterprises based on a collective system (股份合作企业)	Shareholding corporations (外资股份有限公司)
Joint ventures of domestically owned firms (国有联营企业)	Wholly foreign funded (独资经营公司)
Limited liability companies (有限责任公司)	
Shareholding corporations (股份有限公司)	
Privately owned (私营企业)	
Others (其他企业)	

Note: These include enterprises invested by foreign investors and investors from Hong Kong, China; Macau; and Taipei, China. Although the regulation makes this distinction between these two groups of investors, for the purpose of this study, these firms are analyzed as one category. For all practical purposes, these firms face similar policies and regulations and share many common characteristics.

Sources: State Administration for Industry and Commerce and National Bureau of Statistics website.

**Figure A1.a Share of Various Definitions of Private Sector in Total Gross Industrial Output in the People's Republic of China, 1985-1999**



Note: Since the *China Statistical Yearbook 2001* does not report the 2000 total gross industrial output data by ownership, this figure covers only the period until 1999.

## Annex 1a

### Regulations for Classifying Registration and Licensing of Enterprises by Ownership State Administration for Industry and Commerce and National Bureau of Statistics 28 August 1998

#### 1. Wholly domestically funded enterprises

##### 1.1 State-owned enterprises

- All the assets are owned by the state;
- An economic organization registered under the “Regulation Governing Registration of Enterprises as a Legal Person in the People’s Republic of China”;
- Not a corporation or a company;
- Not include wholly state funded companies under limited liabilities category.

##### 1.2 Collectively owned enterprises

- All the assets are owned by the collective;
- An economic organization registered under the “Regulation Governing Registration of Enterprises as a Legal Person in the People’s Republic of China”.

##### 1.3 Shareholding enterprises based on a collective system

- An economic organization with collective nature;
- Shareholders are employees of the enterprise;
- Started up also by using a proportion of public assets;
- Self governed, solely responsible for own profits and loss and paid with salary plus dividends.

##### 1.4 Joint-venture enterprises

- Jointly invested by two or more enterprises or institutions as legal persons or from different ownership;
- On voluntary, equality, and mutual benefit basis.

##### 1.5 Limited liability companies

- Registered under the “Regulation Governing Registration of Companies in the People’s Republic of China”;
- Jointly invested by two or more but less than 50 shareholders;
- Shareholders hold liabilities limited by the shares they invested;
- The company holds liabilities to its debts against all its assets;
- This category consists of wholly state funded companies and other types:
  - o Wholly state funded companies are those invested solely by an investment institution empowered by the state or by an entity empowered by the state;
  - o Other limited liability companies that are not included in the above category.

##### 1.6 Shareholding limited liability companies

- Registered under the “Regulation Governing Registration of Companies in the People’s Republic of China”;
- All registered capital equals amount of shares;

- Raise capital through issuing stocks
- Shareholders hold liabilities limited by the shares they invested;
- The company holds liabilities to its debts against all its assets;

#### 1.7 Private enterprises

- A profit-seeking economic organization that is invested by natural persons or its shares are owned natural persons and based on employment of labor;
- Consisting of following entities:
  - o Wholly individually owned private enterprise:<sup>3</sup> an unlimited enterprise registered under the “Provisional Regulations for Private Enterprises”,<sup>4</sup> invested by a single natural person who holds unlimited liabilities for the debt of the enterprise and based on employment of labor;
  - o Private enterprises under partnership: an unlimited enterprise registered under the “Law Governing Enterprises under Partnership” and “Methods for Registration by Partnership”, jointly invested, managed, profit and loss sharing by two or more natural persons who hold unlimited liabilities for the debt of the enterprise and based on employment of labor;
  - o Private limited liabilities companies: a limited company registered under the “Company Law” and “Provisional Regulations for Private Enterprises” and invested by a single natural person or jointly by two or more natural persons;
  - o Private shareholding limited liabilities companies: a limited company registered under the “Company Law” and “Provisional Regulations for Private Enterprises” and invested by a single natural person or jointly by 5 or more natural persons.

Other enterprises: Enterprises that are not included in the above categories.

## **2. Enterprises invested by investors from Hong Kong, China; Macau; and Taipei,China**

### 2.1 Joint venture enterprises

- Registered under the “Law for Enterprises Jointly Invested by Chinese and Foreign Enterprises in the People’s Republic of China”;
- Invested jointly by investors from mainland PRC and investors from Hong Kong, China; Macau; and Taipei,China, in accordance with shares specified in the contract;
- Share in the profits and losses based on the percentages specified in the contract.

### 2.2 Cooperative enterprise

- Registered under the “Law for Cooperative Enterprises Established by Chinese and Foreign Enterprises in the People’s Republic of China”;
- Invest and operate in accordance with the agreement or conditions specified in a cooperative contract;
- Share profits and losses based on the contract.

### 2.3 Wholly funded enterprises

<sup>3</sup> By law, they can not be called companies; the word “company” can not appear in their names.

<sup>4</sup> On 13 January 2000, after the establishment of the “Law Governing Wholly Individually Funded Enterprises”, the State Administration for Industry and Commerce issued “Methods Governing Wholly Individually Funded Enterprises”, which became the legal basis for registration of this type of enterprises.

- Registered under the “Law for Foreign Funded Enterprises”;
  - Invested solely by enterprises from Hong Kong, China; Macau; and Taipei,China.
- 2.4 Shareholding limited companies
- Established with the approval of Foreign Economy and Trade Ministry in accordance with the state regulations;
  - Equity shares of Hong Kong, China; Macau; and Taipei,China investors in the registered capital exceed 25%. If less than 25%, such companies are classified under the category of wholly domestically funded companies.
- 3. Enterprises invested by foreign investors**
- 3.1 Joint venture enterprises
- Registered under the “Law for Enterprises Jointly Invested by Chinese and Foreign Enterprises in the People’s Republic of China”;
  - Invested jointly by investors from the PRC and foreign investors in accordance with shares specified in the contract;
  - Share profits and losses based on the shares specified in the contract.
- 3.2 Cooperative enterprise
- Registered under the “Law for Cooperative Enterprises Established by Chinese and Foreign Enterprises in the People’s Republic of China”;
  - Invest and operate in accordance with the agreement or conditions specified in a cooperative contract;
  - Share profits and losses based on the contract.
- 3.3 Wholly funded enterprises
- Registered under the “Law for Foreign Funded Enterprises”;
  - Invested solely by foreign enterprises.
- 3.4 Share holding limited companies
- Established with the approval of Foreign Economy and Trade Ministry in accordance with the state regulations;
  - Equity shares of foreign investors in the registered capital exceed 25%. If less than 25%, such companies are classified under the category of wholly domestically funded companies.
- 4. Individual businesses**<sup>5</sup>
- Registered under the “Provisional Regulations Governing Individual Industrial and Commercial Households in Urban and Rural Areas” and its implementation methods issued afterwards;
  - Not an enterprise.

---

<sup>5</sup> This category was supplemented on 11 January 1999 to cover individual industrial and commercial households (*getigonghu*) that are not enterprises.

**Figure A1.b Summary of Laws and Regulations for Wholly Domestically Funded Enterprises and Businesses**

