

**China - Provisions of Administration on
Border Trade of Small Amount and
Foreign Economic and Technical
Cooperation of Border Regions, 1996**

MOFTEC

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Provisions of Administration on Border Trade of Small Amount and Foreign Economic and Technical Cooperation of Border Regions (Promulgated by the Ministry of Foreign Trade Economic Cooperation and the Customs General Administration on March 29, 1996)

Chapter 1 - General Provisions

Article 1

With a view to strengthening and standardizing the administration on border trade of small amount and foreign economic and technical cooperation of border regions, preserving the normal operating order for border trade of small amount and technical cooperation of border regions, and promoting the healthy and steady development of border trade, the present provisions are formulated according to the Circular of the State Council on Circular of the State Council on Certain Questions of Border Trade.

Article 2

The regions (hereinafter referred to as “the Border Regions”)which may conduct border trade of small amount and foreign economic and technical cooperation of border regions stipulated in the present Provisions refer to border counties (cities and banners) which are linked with neighboring countries with land frontier and the administrative areas of open border cities approved by the State Council. The list of counties (cities and banners)in the Border Regions is presented as “Appendix 1”.

Article 3

The national macro regulatory provisions concerning the administration of border trade of small amount and foreign economic and technical cooperation in border regions shall be studied and formulated by the Ministry of Foreign Trade and Economic Cooperation(hereinafter referred to as MOFTEC)in collaboration with other relevant departments under the State Council.

Chapter 2 - Border Trade of Small Amount

Article 4

Border trade of small amount stipulated in present Provisions is defined as the trade activities, which are done through the border land ports designated by the state and conducted by the enterprises in the Border regions which have been accredited with the right to do border trade of small amount(hereinafter referred to as “enterprises doing

border trade of small amount”),with the enterprises in the border regions and other trading organizations in the neighboring countries.

Article 5

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With regard to the commodities originated from the neighboring countries imported through the border ports designated by the state, the import duties and the import value-added taxes as well as consumption tax shall be deducted by 50% against the national tariff in the first 3 years of the Ninth Five-year Plan(1996-1998),with the exception of tobaccos, liquors, cosmetics and other commodities on which such duties and taxes shall be fully levied according to the state regulations. The list of above-mentioned commodities will be published by the Customs General Administration.

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Article 6

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The enterprise doing border trade of small amount shall be examined and approved, according to the stipulations formulated by MOFTEC, by the local departments in charge of foreign trade and economic cooperation of the provinces, autonomous regions in border regions within the framework of the numbers approved by MOFTEC. The list of such enterprises shall be sent to MOFTEC for verification and be copied by MOFTEC to the Customs General Administration and relevant departments under the State Council for record.

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Article 7

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The total number of enterprises doing border trade of small amount shall be approved and determined according to the following principles:

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1.MOFTEC shall, in light of the GNP foreign trade volume and the actual situations of the border provinces and autonomous regions, determine the total number of border trade enterprises for small amount business.

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2.The foreign trade companies, barter trade companies, border trade companies and manufacturing enterprises which import and export by themselves, accredited with the right of import and export by MOFTEC and have registered in the industrial and commercial departments in the border regions, are entitled to do border trade of small amount within their approved business lines.

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Article 8

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The pre-condition for an enterprise to be accredited with the right to do border trade of small amount is that it shall be a legal person registered in the industrial and commercial authorities in the border regions. Besides, it shall also meet the following requirements:

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- 1.Its registered capital shall not be less than RMB 500,000 yuan; 22
- 2.It shall occupy a fix operation site and have sufficient facilities and capital to do border trade; 23
- 3.It shall set up complete operational organizations and has qualified business personnel. 24

Article 9 25

The order trade enterprises for small amount business in every province and autonomous region in border regions shall conduct its border trade business in the places of their registration or through the neighboring open land ports which have been approved by the state. These ports shall include 4 ports of cargo passage for border trade and regional trade approved by the State Council, i.e. Jiangshan, Qisha, Shitoubu and Guozishan. 26

Article 10 27

Every border province and autonomous region may designate one or two border trade enterprises for small amount business, which have the capability and demonstrate export records, to export through designated border ports, commodities produced by its localities and to which the practice of uniform and joint management is applied as stipulated by the state, or to import commodities which have been imported by limited number of companies checked and approved by the state. The list of the above-mentioned enterprises shall be reported to MOFTEC for examination and verification, while MOFTEC shall copy such list to the Customs General Administration and relevant departments under the State Council. 28

Article 11 29

With an exception of the commodities to which the practice of uniform and joint export management is applied and the commodities which have been imported by limited number of companies as being stipulated by the state, border trade of small amount may not be subject to the limitation with regard to the modes of trade and management division. The border trade enterprises for small amount business are entitled to do all kinds of import and export business except for those as stipulated in Article 10. 30

Article 12 31

When border trade enterprises for small amount business export commodities falling in the scope of the commodities which the practice of uniform and joint management is applied to or shall be subject to quota bidding, chemicals both for military and civilian use and chemicals easily manufactured into toxic substance, commodities which 32

shall be exported in limited amount according to the international multilateral or bilateral agreements in which China is pledged to export within set limits, they shall be regulated according to the regulations in force as promulgated by the state.

The varieties of commodities and the annual export quotas in 1996 for commodities, produced by the border provinces and autonomous regions and the practice of uniform and joint management is applied as stipulated by the state, shall be worked out and issued by MOFTEC according to the production volume, export amount and the growth rates of such export in the previous 3 years. In the following years after 1996, such varieties and annual export quotas shall be worked out and issued by MOFTEC in reference to the export volume and growth rate of export in the previous year.

The provisions on the administration of export of border trade for small amount subject to quota bidding with compensation will be formulated separately in the provisions governing quota bidding.

Article 13

The export of commodities subject to quota and license control by border trade enterprises for small amount business, other than those stipulated in the previous Article, shall be free from quota and license control. But such export shall be under macro - regulations by MOFTEC and the State Planning Commission. Within the framework determined by MOFTEC, the customs will check and release the export of commodities, by being submitted the export contracts of the border trade enterprises for small amount business and the documents issued by the competent department of foreign trade and economic cooperation of the border provinces and autonomous regions.

Article 14

Border trade enterprise for small amount business shall by no means allow other enterprises to do border trade of small amount in the names of their own.

Article 15

Border trade enterprises for small amount business shall not import commodities from or export to the third countries through border ports.

Article 16

For the sake of monitoring border trade import and export of small amount, the departments in charge of foreign trade and economic cooperation in all the border provinces and autonomous regions shall strengthen the work of statistics of border trade of small amount and report the import and export of border trade for small amount quarterly to MOFTEC and summarize the overall situation in the previous year to MOFTEC before the end of January of every year.

Article 17 43

The tax repayment policies toward general trade shall be applied to border trade and the procedures for tax repayment shall be handled to that of the general trade. 44

Chapter 3 - Foreign Economic and Technical Cooperation in Border Regions 45

Article 18 46

Foreign economic and technical cooperation defined in the present Provisions is referred to as the contract engineering projects and labor service cooperation projects undertaken by the enterprises in border regions accredited by MOFTEC with the right to conduct foreign economic and technical cooperation with border regions of the neighboring countries (hereinafter referred to as “enterprises in border regions conducting foreign economic and technical cooperation”). 47

Article 19 48

Enterprises conducting foreign economic and technical cooperation 49
shall be submitted to MOFTEC for examination and approval. The bases for approving such enterprises are as follows: 50

1.The foreign economic and technical cooperation companies in border regions approved by MOFTEC shall be entitled to undertake contract engineering projects and labor service cooperation with border regions of the neighboring countries. 51

2.The border regions, where first-class border ports approved by the state are located, may choose one border trade enterprise for small amount business and report to MOFTEC for approval to undertake contract engineering projects and labor service cooperation with border regions of the neighboring countries. 52

Article 20 53

The contracts of contract engineering projects and labor service cooperation concluded by enterprises in border regions conducting foreign economic and technical cooperation with neighboring countries shall be reported to departments in charge of foreign trade and economic cooperation for records. The Approving Document on the Import and Export of Articles for the Purposes of Undertaking Contract Engineering Projects and Labor Service Cooperation in Neighboring Countries(hereinafter referred to as “the Approving Documents”, see Appendix 2 for the sample)shall be applied for. 54

Article 21

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The contracts for one single contract engineering project with contractual value no more than US\$ 1 million and the contracts for one single labor service project involving no more than 100 labor service personnel shall be reported to the department in charge of foreign trade and economic cooperation in border provinces and autonomous regions for records and for application of the Approving Documents. The department in charge of foreign trade and economic cooperation in border provinces and autonomous regions shall summarize and report those contracts to MOFTEC monthly for records.

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The contracts for one single contract engineering project with the contractual value more than US\$ 1 million and the contracts for one single labor service project involving more than 100 labor service personnel shall be reported to MOFTEC for records. MOFTEC shall be responsible for the Records (see Appendix 3)

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Article 22

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With regard to the equipment, materials and self-use articles for labor service personnel taken out by the enterprise in border regions for the sake of undertaking contract engineering projects and labor service cooperation in neighboring countries shall, within reasonable range, be free from export quota and license and shall not be limited by management division, except for chemicals both for military and civilian use and chemicals easily manufactured into toxic substance, the commodities subject to quota bidding, and commodities which shall be exported in limited amount by our country according to the international multilateral or bilateral agreements in which China is pledged to export within set limits. The customs offices will check and release such articles, by being produced the contracts reported for records in relevant departments in charge, the list of equipment, materials and self-use articles and the Approving Documents according to stipulations of Article 21.

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Article 23

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With regard to the equipment, materials and self-use articles taken out for the sake of undertaking contract engineering projects and labor service cooperation, which fall in the scope of export commodities subjects and labor service cooperation, which fall in the scope of export commodities subject to export quota bidding, chemicals both for military and civilian use and chemicals both for military and civilian use and chemicals easily manufactured into toxic substance, and commodities which shall be exported in limited amount by our country according to the international multilateral or bilateral agreements in which China is pledged to export within set limits, their contracts shall be submitted to MOFTEC for examination and approval, regardless of their contractual amount. The customs offices will check and release such articles, by being produced the contracts approved by MOFTEC and the list of equipment, materials and self-use articles, Approving Documents and export license.

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Article 24

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The taking-back of materials from neighboring countries under contract engineering projects and labor service cooperation by enterprises of foreign economic and technical cooperation in border regions shall not be limited by management division and shall be imported according to varieties and amount stipulated in the project contracts. The customs offices will release such import by being produced the contracts reported for records in relevant departments in charge and the Approving Documents.

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Article 25

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The goods, which are taken out and back under contract engineering projects and labor service cooperation by enterprises in border regions undertaking foreign economic technical cooperation in neighboring countries, shall be imported and exported through designated border ports.

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Article 26

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The materials made in and exchanged from neighboring countries under contract engineering projects and labor service cooperation by enterprises of foreign economic and technical cooperation in border regions shall be handled according to import duty policies governing border trade for small amount.

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Upon every entry of such materials into the customs territory, the enterprises conducting foreign economic and technical cooperation shall produce the contracts reported for records in relevant departments in charge and the Approving Documents to the customs offices where the projects are reported for records in order to go through import duty deduction formalities. The customs offices, after examination and verification, shall issue within the approved amount the certificates of deducting import duties and inform the customs offices in the import ports to check and release these materials. The customs offices of the import ports shall make remarks on the reverse side of the Approved Documents specifying the actual varieties and quantity of goods imported. When the actual varieties and quantity of goods imported reach the approved scale, the customs offices shall not release imports exceeding the approved quantity.

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Chapter 4 - Supplementary Provisions

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Article 27

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MOFTEC shall impose necessary penalties to those enterprises doing border trade of small amount and enterprises conducting foreign economic and technical cooperation in border regions which violate the Customs Law and the present Provisions and even deprive them from the right to do border trade of small amount or the right to conduct

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foreign economic and technical cooperation according to the seriousness of the violation. The violations shall also be dealt with by the customs offices according to the Customs Law and the Detailed Provisions on the Implementation of Customs Administrative Penalties.

Article 28

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The people's governments of border provinces and autonomous regions shall, in light of the actual situations in their localities, formulate detailed implementation rules to the present Provisions. The departments in charge of foreign trade and economic cooperation in the border provinces and autonomous regions shall entrust certain organizations with the responsibilities of coordinating and administering the work of foreign economic and technical cooperation of their own provinces or regions. The departments in charge of foreign trade and economic cooperation and the customs offices in the border provinces and autonomous regions shall earnestly strengthen the administration of foreign economic and technical cooperation and firmly crack down smuggling and illegal trading activities in order to safeguard the normal management order of border trade.

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Article 29

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MOFTEC and the Customs General Administration shall be responsible for the interpretation of the present Provisions.

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Article 30

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The present Provisions shall enter into force on April 1, 1996. In case of any divergence between the present Provisions and the former regulations, the present Provisions shall prevail.

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Appendices:

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1. The lists of border counties (cities, banners).

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Heilongjiang Province(18)

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Suifenhe City (its administrative areas), Dongning county, Muling county, Jidong county, Mishan City, Hulin County, Raohe County, Fuyuan County, Tongjiang City, Suibin County, Luobei County, Jiayin County, Heibe City (its administrative areas), Xunke County, Sunwu County, Huma County, Tahe County, Mohe County

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Jilin Province(10)

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Huichun City, Tumen City, Longjing City, Helong City, Antu County, Baishan City (its administrative areas), Fusong County, Changbai Korean Autonomous County, Linjiang City, Ji'an City

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Liaoning Province(4)

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Dandong City (its administrative areas), Dandong Border Economic Cooperation Area, Donggang City, Kuandian County	85
Inner Mongolian Autonomous Region(18)	86
Ejin Banner, Alxa Right Banner, Alxa Left Banner, Urad Rear Banner, Urad Middle Banner, Darhan Muminggan Joint Banner, Siziwang Banner, Eren Hot City, Sonid Right Banner, Sonid Left Banner, Abag Banner, Dong Ujimqin Banner, Horqin Right Wing Front Banner, Xin Barag Right Banner. Manzhouli City, Xin Barag Left Banner, Chen barag Banner, Ergun City	87
Gansu Province(1)	88
Mongolian Autonomous County in North Gansu	89
Guangxi zhuang Autonomous Region(7)	90
Napo County, Jingxi County, Daxin County, Longzhou County, Pingxiang City, Ningming County, Dongxing Economic Development Area	91
Yunnaa Province(26)	92
Gongshan County, Fugong County, Lushui county, Tengchong County, Yingjiang County, Longchuan County, Ruili City, Wanding City, Luxi County, Longling County, Zhenkang County, Gengma County, Cangyuan County, Lancang County, Ximeng County, Menglian County, Menghai, County, Jinghong City, Mengla County, Jiangcheng County, Luchun County, Jinping County, Hekou County, Maguan County, Malipo County, Funing County	93
Tibet Autonomous Regions(18)	94
Rutog County, Gr County, Zanda County, Burang County, Zhongba County, Saga County, Gyirong County, Nyalam County, Tingri County, Dinggye County, Gamba County, Yadong County, Kangmar County, Nagarze County, Lhozhag County, Cona County, Medong County, Zayu County	95
Xinjiang Uygur Autonomous Regions(33)	96
Hotan County, Pishan County, Yecheng County, Tashi Ku'ergan Tajik Autonomous County, Aketao County, Wuqia county, Atushi City, Aheqi County, Wushi County, Wensu County, Zhaosu County, qapqal Xibe Autonomous County, Huocheng County, Yining city, wenquan County, Bole City, Tuoli County, Yumin County, Tacheng City, Emim County, Hoboksar County, Jeminary County, Habahe County, Burqin County, Altay City, Fuhai County, Mulei County, Qinghai County, Qitai County, Mulei County, Barkol County, Yiwu county, Hami City	
2. Sample of the Approving Document on the Import and Export of Articles for the Projects and Labor Service Cooperation with Neighboring Countries(omitted)	98
3. Sample of the Form reporting contracts of contract engineering and labor service cooperation with neighboring countries(omitted)	99

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