

China - Foreign Trade Law, 1994

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**Foreign Trade Law of the People’s Republic of China
(Adopted at the Seventh Meeting of the Standing Committee of the Eighth National People’s Congress on May 12, 1994, promulgated by Order No.22 of the President of the People’s Republic of China on May 12, 1994, and effective as of July 1, 1994)**

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2 **Chapter I General Provisions**

3 **Article 1**

4 This Law is formulated with a view to developing foreign trade,
maintaining the order of foreign trade and promoting a sound de-
velopment of the socialist market economy.

5 **Article 2**

6 Foreign trade as used in this Law refers to the import and export of
goods and technologies, and the international service trade.

7 **Article 3**

8 The competent department in charge of foreign economic rela-
tions and trade under the State Council shall be in charge of the
work of foreign trade throughout the country in accordance with
this Law.

9 **Article 4**

10 The State shall institute a uniform system of foreign trade and safe-
guard a fair and free foreign trade order in accordance with law.
The State shall encourage the development of foreign trade, bring

into play the initiative of localities and ensure the independence of
management of foreign trade operators.

Article 5

11

The People's Republic of China promotes and develops trade rela- 12
tions with other countries and regions in accordance with the prin-
ciple of equality and mutual benefit.

Article 6

13

The People's Republic of China in foreign trade grants the most 14
favored nation treatment and the national's treatment to other
signatories or acceding parties on the basis of the international
treaties and agreements that China has signed or acceded to,
or to the other party under the principle of mutual benefit and
reciprocity.

Article 7

15

Where a country or a region adopts prohibitive, restrictive or other 16
similar measures that are discriminative in nature against the Peo-
ple's Republic of China in trade, the People's Republic of China
may, in the light of the actual conditions, adopt corresponding
counter-measures against such a country or region.

Chapter II Foreign Trade Operators

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Article 8

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Foreign trade operators as used in this Law refer to the legal per- 19
sons or other organizations engaged in the operative activities of
foreign trade in accordance with the provisions of this Law.

20 **Article 9**

21 Foreign trade operators handling the import and export of goods
or technologies must satisfy the following conditions, and obtain
the permission from the competent department in charge of foreign
economic relations and trade under the State Council: (1) having
their own names and organizational structures; (2) having clear-
cut business scopes of foreign trade; (3) having Premises, funds
and professionals needed for the foreign trade business they are
engaged in; (4) having fulfilled the required performance of hav-
ing necessary sources of goods for import and export in the case
of entrusting others to handle imports and exports; and (5) other
conditions provided by laws and administrative rules and regula-
tions. The measures for the implementation of the provisions of
the preceding paragraph shall be formulated by the State Coun-
cil. Enterprises with foreign investment shall be free from obtaining
the permission as stipulated in the first paragraph of this Article,
if they, in accordance with the laws and administrative rules and
regulations governing enterprises with foreign investment, import
non-productive goods for their own uses, or necessary equipment,
raw materials and other goods for their production, or export their
own products.

22 **Article 10**

23 The establishment of the international service trading enterprises
and organizations and their business activities shall comply with the
provisions of this Law and other relevant laws and administrative
rules and regulations.

24 **Article 11**

25 Foreign trade operators shall in accordance with law enjoy full au-

tonomy in their management and shall be responsible for their own
profits and losses.

Article 12

Foreign trade operators shall, in conducting foreign trade activities,
honor contracts, ensure product quality and improve after-sale ser-
vice.

Article 13

Organizations or individuals without permits for foreign trade busi-
ness may entrust foreign trade operators within China to conduct
foreign trade businesses on their behalf within the business scope
of the trustees. The foreign trade operators who are entrusted to
conduct foreign trade business shall truthfully provide the trustors*
with market information, commodity prices, information about
clients and other relevant business information. The trustors* and
trustees shall conclude a trusteeship contract in which the rights
and obligations of both parties shall be specified.

Article 14

Foreign trade operators shall, in accordance with the provisions of
the competent department in charge of foreign economic relations
and trade under the State Council, present documents and mate-
rial pertinent to their foreign trade business to the relevant depart-
ments. The departments concerned shall keep business secrets
for such providers.

Chapter III Import and Export of Goods and Technologies

Article 15

The State shall allow free import and export of goods and technologies, however, except as otherwise provided for in laws or administrative rules and regulations.

Article 16

The State may restrict the import and export of the goods and technologies under any of the following circumstance: (1) for safeguarding national security or public interests, there is need to restrict imports or exports; (2) due to short supply on domestic market or for effective conservation of exhaustible domestic resources, there is need to restrict exports; (3) due to the limited market capacity in the country or region of destination, there is need to restrict exports; (4) for establishing or speeding up the establishment of a particular domestic industry, there is need to restrict imports; (5) for any form of agricultural, animal husbandry or fishery products, there is necessity to restrict imports; (6) for safeguarding the State's international financial position and ensuring the balance of international receipts and payments, there is need to restrict imports; or (7) under the international treaties or agreements signed or acceded to by the People's Republic of China, there is need to restrict imports or exports.

Article 17

The State shall prohibit the import or export of the goods and technologies falling into any of the following categories: (1) those that

32 endanger national security or public interests; (2) those whose import or export must be prohibited for the protection of human life or health; (3) those that impair ecological environment; or (4) under the international treaties or agreements signed or acceded to by the People's Republic of China, the prohibition of import or export is required.

Article 18

The competent department in charge of foreign economic relations and trade under the State Council shall, in collaboration with other relevant departments under the State Council, formulate, readjust and publicize the catalogue of goods and technologies whose import or export is prohibited or restricted according to the provisions in Articles 16 and 17 of this Law. The competent department in charge of foreign economic relations and trade under the State Council may, independently or jointly with relevant departments under the State Council, subject to the approval of the State Council and within the scope stipulated in Articles 16 and 17 of this Law, specially decide to restrict or prohibit the import or export of specific goods or technologies which are not included in the catalogues specified in the preceding paragraph.

Article 19

Goods under import or export restrictions shall be managed by distributing quotas or issuing licenses; while technologies under import or export restrictions shall be managed by issuing licenses. Goods and technologies managed by distributing quotas or issuing licenses may be imported or exported, as prescribed by the State Council, only with the permission of the competent department in charge of foreign economic relations and trade under the

State Council or together with relevant departments under the State Council.

grant other signatories and acceding parties market access and national treatment according to the commitments made in the international treaties or agreements it has signed or acceded to.

43 **Article 20**

44 Quotas for import and export of goods shall be distributed by the competent department in charge of foreign economic relations and trade under the State Council or by relevant departments under the State Council within their respective functions and responsibilities on the principles of efficiency, impartiality, transparency and fair competition and according to the performance and ability of the applicants in import or export and other conditions. Ways and measures for the distribution of quotas shall be prescribed by the State Council.

Article 24

52
53 The State may restrict international service trade on the basis of any of the following considerations: (1) for safeguarding national security or public interests; (2) for protecting ecological environment; (3) for establishing or speeding up the establishment of a particular domestic service industry; (4) for ensuring the State's balance of international receipts and payments; or (5) other circumstances calling for such restrictions as provided by laws or administrative rules and regulations.

45 **Article 21**

46 In respect of cultural relics, wild animals and plants and their products as well as other goods and merchandise, if their imports or exports are prohibited or restricted under other laws or administrative rules and regulations, the provisions of such laws or administrative rules and regulations shall be applied.

Article 25

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55 The State shall prohibit the international service trade falling into any of the following categories: (1) that endangering national security or public interests; (2) that running counter to the international commitments undertaken by the People's Republic of China; or (3) that prohibited by laws and administrative rules and regulations.

47 **Chapter IV International Service Trade**

48 **Article 22**

49 The State shall promote the progressive development of international service trade.

Article 26

56
57 The competent department in charge of foreign economic relations and trade under the State Council and relevant departments under the State Council shall conduct management of international service trade according to this Law and relevant laws and administrative rules and regulations.

50 **Article 23**

51 The People's Republic of China shall, in international service trade,

Chapter V Order of Foreign Trade

Article 27

Foreign trade operators shall, in their foreign trade activities, conduct business operations according to law, carry out fair competition and shall not commit any of the following acts: (1) counterfeiting, altering, buying or selling certificates of origin, or licenses of import and export; (2) infringing upon the intellectual property rights protected by laws of the People's Republic of China; (3) pushing out competitors by means of unfair competition; (4) fraudulently obtaining tax refund for exports from the State; or (5) other acts violating laws or administrative rules and regulations.

Article 28

Foreign trade operators shall, in their foreign trade activities, use, or settle their accounts of, foreign currency in accordance with relevant regulations of the State.

Article 29

Where due to the increase of imported products, domestic producers of like products or producers manufacturing products directly competitive to the imported ones suffer material damage or threat of material damage, the State may take necessary protective measures to eliminate or reduce such damage or threat of damage.

Article 30

Where products are imported at prices lower than its normal value,

thereby causing substantial damage or threat of substantial damage to the relevant domestic industries already established, or substantially hindering the establishment of relevant domestic industries, the State may take necessary measures to eliminate or reduce such damage or threat of damage or hindrance.

Article 31

Where imported products receive subsidies of any form directly or indirectly from countries of exportation, thus causing substantial damage or threat of substantial damage to relevant domestic industries already established, or substantially hindering the establishment of relevant domestic industries, the State may take necessary measures to eliminate or reduce such damage or threat of damage or hindrance.

Article 32

When circumstances specified in Article 29, 30 or 31 occur, departments or organs designated by the State Council shall investigate and handle them according to laws or administrative rules and regulations.

Chapter VI Promotion of Foreign Trade

Article 33

The State shall, in light of the needs for the development of foreign trade, set up and improve financial institutions in service of foreign trade and establish development fund and risk fund for foreign trade.

74 **Article 34**

75 The State shall adopt promotional measures to develop foreign trade such as providing credits for import and export and refunding taxes on exports.

76 **Article 35**

77 Foreign trade operators may set up and join import-export chambers according to law. Import-export chambers shall observe laws and administrative rules and regulations, coordinate and direct foreign trade activities of their members according to the articles of associations, provide consultant services, report suggestions of their members concerning the promotion of foreign trade to relevant governmental departments and actively conduct activities for the promotion of foreign trade.

78 **Article 36**

79 China's international trade promotion organizations shall, according to the articles of associations, carry out foreign liaison activities, hold exhibitions, provide information and consultant services as well as other activities for the promotion of foreign trade.

80 **Article 37**

81 The State shall support and promote national autonomous regions and economically under-developed areas to develop foreign trade.

82 **Chapter VII Legal Liability**83 **Article 38**

Whoever smuggles goods whose import and export are prohibited or restricted, if such an act constitutes a crime, shall be investigated for criminal responsibility according to the Supplementary Provisions for the Punishment of the Crime of Smuggling. If such an act does not constitute a crime, the offender shall be punished according to the Customs Law. The competent department in charge of foreign economic relations and trade under the State Council may concurrently revoke their business licenses for foreign trade.

Article 39

Whoever counterfeits or alters certificates of origin or licenses of import and export shall be investigated for criminal responsibility according to the provisions of Article 167

of the Criminal Law. Whoever buys or sells the certificates of origin for import and export or licenses of import and export, or buys or sells counterfeited or altered certificates of origin, or licenses of import and export shall be investigated for criminal responsibility by applying mutatis mutandis the provisions of Article 167 of the Criminal Law. Where a unit commits the crimes specified in the preceding paragraph, it shall be punished with a fine. Persons directly in charge and persons who are held directly responsible in the unit shall be investigated for criminal responsibility according to or by applying mutatis mutandis the provisions of Article 167 of the Criminal Law. The competent department in charge of foreign economic relations and trade under the State Council may concurrently revoke their business licenses for conducting foreign trade. Whoever knowingly uses counterfeited or altered licenses of import

and export to import or export goods shall be punished according to the provisions of Article 38 of this Law.

88 **Article 40**

89 Whoever in violation of this Law imports or exports technologies whose import and export are prohibited or restricted, if such an act constitutes a crime, shall be investigated for criminal responsibility by applying mutatis mutandis the Supplementary Provisions for the Punishment of the Crime of Smuggling.

90 **Article 41**

91 The State functionaries engaged in foreign trade who neglect their duties or practise irregularities for personal gains or abuse their power shall be investigated for criminal responsibility according to law if their acts constitute a crime. If their acts do not constitute a crime, they shall be given administrative sanctions. The State functionaries engaged in foreign trade who by taking advantage of their office extort other persons' money or goods or illegally accept other persons' money or goods so as to seek benefits for such persons shall be investigated for criminal responsibility according to the Supplementary Provisions for the Punishment of the Crime of Corruption and Bribery if their acts constitute a crime. If their acts do not constitute a crime, they shall be given administrative sanctions.

92 **Chapter VIII Supplementary Provisions**

93 **Article 42**

94 The State shall adopt flexible measures and provide favorable

treatment and convenience to the trade between its frontier towns and the frontier towns of bordering countries as well as fairs among the inhabitants of border areas. Specific measures shall be formulated by the State Council.

Article 43

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This Law shall not apply to the separate customs areas in the People's Republic of China.

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Article 44

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This Law shall go into effect on July 1, 1994.

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