

China - Foreign Trade Law, 1994

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Contents

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)	1
Chapter I General Provisions	1
Article 1	1
Article 2	1
Article 3	1
Article 4	1
Article 5	1
Article 6	1
Article 7	2
Chapter II Foreign Trade Operators	2
Article 8	2
Article 9	2
Article 10	2
Article 11	3
Article 12	3
Article 13	3
Article 14	3
Chapter III Import and Export of Goods and Technologies	3
Article 15	3
Article 16	3
Article 17	4
Article 18	4
Article 19	4
Article 20	4
Article 21	5
Chapter IV International Service Trade	5
Article 22	5
Article 23	5
Article 24	5
Article 25	5
Article 26	6
Chapter V Order of Foreign Trade	6
Article 27	6
Article 28	6

Contents

Article 29	6
Article 30	6
Article 31	6
Article 32	7
Chapter VI Promotion of Foreign Trade	7
Article 33	7
Article 34	7
Article 35	7
Article 36	7
Article 37	7
Chapter VII Legal Liability	8
Article 38	8
Article 39	8
Article 40	8
Article 41	8
Chapter VIII Supplementary Provisions	9
Article 42	9
Article 43	9
Article 44	9
Metadata	10
SiSU Metadata, document information	10

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Chapter I General Provisions 2

Article 1 3

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

Article 2 5

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

Article 3 7

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

Article 4 9

The State shall institute a uniform system of foreign trade and safeguard 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. 10

Article 5 11

The People's Republic of China promotes and develops trade relations with other countries and regions in accordance with the principle of equality and mutual benefit. 12

Article 6 13

The People's Republic of China in foreign trade grants the most favored nation treatment and the national's treatment to other signatories or acceding parties on the basis 14

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

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Where a country or a region adopts prohibitive, restrictive or other similar measures that are discriminative in nature against the People'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.

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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 persons or other organizations engaged in the operative activities of foreign trade in accordance with the provisions of this Law.

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Article 9

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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 having 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 regulations. The measures for the implementation of the provisions of the preceding paragraph shall be formulated by the State Council. 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.

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Article 10

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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.

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Article 11

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Foreign trade operators shall in accordance with law enjoy full autonomy in their management and shall be responsible for their own profits and losses.

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Article 12

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

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Article 13

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Organizations or individuals without permits for foreign trade business 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.

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Article 14

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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 material pertinent to their foreign trade business to the relevant departments. The departments concerned shall keep business secrets for such providers.

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Chapter III Import and Export of Goods and Technologies

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Article 15

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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.

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Article 16

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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

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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

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

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Article 18

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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.

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Article 19

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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.

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Article 20

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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

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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 21

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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.

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Chapter IV International Service Trade

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Article 22

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

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Article 23

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

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Article 24

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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.

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Article 25

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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.

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Article 26

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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.

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Chapter V Order of Foreign Trade

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Article 27

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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.

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Article 28

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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.

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Article 29

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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.

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Article 30

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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.

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Article 31

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Where imported products receive subsidies of any form directly or indirectly from countries of exportation, thus causing substantial damage or threat of substantial damage

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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

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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.

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Chapter VI Promotion of Foreign Trade

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Article 33

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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.

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Article 34

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

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Article 35

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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.

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Article 36

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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.

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Article 37

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

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Chapter VII Legal Liability

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Article 38

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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.

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Article 39

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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

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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.

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Article 40

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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.

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Article 41

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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'

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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.

Chapter VIII Supplementary Provisions 92

Article 42 93

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. 94

Article 43 95

This Law shall not apply to the separate customs areas in the People's Republic of China. 96

Article 44 97

This Law shall go into effect on July 1, 1994. 98

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