

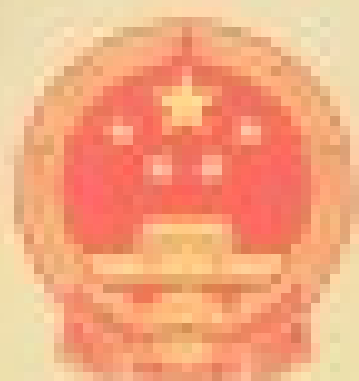


中华人民共和国海关法

Customs Law of the People's
Republic of China

中国法制出版社

China Legal Publishing House



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(1987年1月22日第六届全国人民代表大会常务委员会第十九次会议通过 根据2000年7月8日第九届全国人民代表大会常务委员会第十六次会议《关于修改〈中华人民共和国海关法〉的决定》修正)

目 录

- 第一章 总 则
- 第二章 进出境运输工具
- 第三章 进出境货物
- 第四章 进出境物品
- 第五章 关 税
- 第六章 海关事务担保
- 第七章 执法监督
- 第八章 法律责任
- 第九章 附 则

第一章 总 则

第一条 为了维护国家的主权和利益，加强海关监

Customs Law of the People's Republic of China

(Adopted at the 19th Meeting of the Standing Committee of the Sixth National People's Congress on January 22, 1987, and amended in accordance with 《Decision Regarding the Amendment (of Customs Law of the People's Republic of China)》 passed at the 16th Meeting of the Standing Committee of the Ninth National People's Congress on July 8, 2000.)

Contents

Chapter I	General Provisions
Chapter II	Inward and Outward Means of Transport
Chapter III	Inward and Outward Goods
Chapter IV	Inward and Outward Articles
Chapter V	Customs Duties
Chapter VI	Guarantee of Customs Affairs
Chapter VII	Supervision Over Law Enforcement
Chapter VIII	Legal Responsibility
Chapter IX	Supplementary Provisions

Chapter I General Provisions

Article 1 This Law is formulated for the purpose of

督管理，促进对外经济贸易和科技文化交往，保障社会主义现代化建设，特制定本法。

第二条 中华人民共和国海关是国家的进出关境（以下简称进出境）监督管理机关。海关依照本法和其他有关法律、行政法规，监管进出境的运输工具、货物、行李物品、邮递物品和其他物品（以下简称进出境运输工具、货物、物品），征收关税和其他税、费，查缉走私，并编制海关统计和办理其他海关业务。

第三条 国务院设立海关总署，统一管理全国海关。

国家在对外开放的口岸和海关监管业务集中的地点设立海关。海关的隶属关系，不受行政区划的限制。

海关依法独立行使职权，向海关总署负责。

safeguarding State sovereignty and interests, strengthening supervision and control by the Customs, promoting exchanges with foreign countries in economic affairs, trade, science, technology and culture, and ensuring socialist modernization.

Article 2 The Customs of the People's Republic of China shall be the State organ responsible for supervision and control over everything entering and leaving the Customs territory (hereinafter referred to as inward and outward persons and objects). The Customs shall, in accordance with this Law and other related laws and administrative regulations, exercise supervision and control over the means of transport, goods, travellers' luggage, postal items and other articles entering or leaving the territory (hereinafter referred to as inward and outward means of transport, goods and articles), collect Customs duties and other taxes and fees, uncover and suppress smuggling, work out Customs statistics and handle other Customs operations.

Article 3 The State Council shall set up the General Customs Administration which shall exercise unified administration of Customs establishments throughout the country.

The State shall set up Customs establishments at ports open to foreign countries and regions and at places which call for concentrated Customs operations of supervision and control. The subordination of one Customs establishment to another shall not be restricted by administrative divisions.

Customs establishments shall exercise their functions and powers independently in accordance with the law, and shall be responsible to the General Customs Administration.

第四条 国家在海关总署设立专门侦查走私犯罪的公安机构，配备专职缉私警察，负责对其管辖的走私犯罪案件的侦查、拘留、执行逮捕、预审。

海关侦查走私犯罪公安机构履行侦查、拘留、执行逮捕、预审职责，应当按照《中华人民共和国刑事诉讼法》的规定办理。

海关侦查走私犯罪公安机构根据国家有关规定，可以设立分支机构。各分支机构办理其管辖的走私犯罪案件，应当依法向有管辖权的人民检察院移送起诉。

地方各级公安机关应当配合海关侦查走私犯罪公安机构依法履行职责。

第五条 国家实行联合缉私、统一处理、综合治理的缉私体制。海关负责组织、协调、管理查缉走私工作。有关规定由国务院另行制定。

各有关行政执法部门查获的走私案件，应当给予行政处罚的，移送海关依法处理；涉嫌犯罪的，应当移送

Article 4 In the General Customs Administration, the State shall set up a public security organ specially investigating crimes of smuggling and staffed with the full-time anti-smuggling police for investigation, detention, carrying out arrest and preparatory examination of cases of smuggling crimes in its charge.

When performing the duty of investigation, detention, carrying out arrest and preparatory examination, Public Security Organ of the Customs for Smuggling Crime Investigation shall comply with the provisions of 《The Criminal Procedure Law of the People's Republic of China》.

Public Security Organ of the Customs for Smuggling Crime Investigation may set up sub-organs in accordance with the relevant provisions of the State. In dealing with a criminal smuggling case in its charge, a sub-organ shall transfer and prosecute according to law the case to a people's procuratorate having jurisdiction thereof.

Local public security organs at all levels shall cooperate with Public Security Organ of the Customs for Smuggling Crime Investigation to perform their duties according to law.

Article 5 The State shall apply an anti-smuggling system of joint suppression, unified handling, and comprehensive governance. The Customs shall take charge of organizing, coordinating and administering the work of smuggling investigation and suppression. The State Council shall draw up further rules.

The cases of smuggling, which are ferreted out by relevant administrative departments of law enforcement and should be given a disciplinary sanction, shall be transferred to the Customs for proper handling in accordance with the law; those suspected of involvement

海关侦查走私犯罪公安机构、地方公安机关依据案件管辖分工和法定程序办理。

第六条 海关可以行使下列权力：

（一）检查进出境运输工具，查验进出境货物、物品；对违反本法或者其他有关法律、行政法规的，可以扣留。

（二）查阅进出境人员的证件；查问违反本法或者其他有关法律、行政法规的嫌疑人，调查其违法行为。

（三）查阅、复制与进出境运输工具、货物、物品有关的合同、发票、账册、单据、记录、文件、业务函电、录音录像制品和其他资料；对其中与违反本法或者其他有关法律、行政法规的进出境运输工具、货物、物品有牵连的，可以扣留。

（四）在海关监管区和海关附近沿海沿边规定地区，检查有走私嫌疑的运输工具和藏匿走私货物、物品嫌疑的场所，检查走私嫌疑人的身体；对有走私嫌疑的运输工具、货物、物品和走私犯罪嫌疑人，经直属海关关

in the crime, to Public Security Organ of the Customs for Smuggling Crime Investigation and local public security organs which shall handle these matters based on jurisdiction and division of labour and on the legal procedure of the case.

Article 6 A Customs establishment shall exercise the following powers:

(1) to check inward and outward means of transport and examine inward and outward goods and articles; to detain those entering or leaving the territory in violation of this Law or other relevant laws and administrative regulations;

(2) to examine the papers and identifications of persons entering or leaving the territory; to interrogate those suspected of violating this Law or other relevant laws and administrative regulations, and investigate their illegal activities;

(3) to examine and make copies of contracts, invoices, book accounts, bills, records, documents, business letters and cables, audio and video products and other materials related to the inward and outward means of transport, goods and articles; to detain those related to the means of transport, goods and articles entering or leaving the territory in violation of this Law or other relevant laws and administrative regulations;

(4) to search, within a Customs surveillance zone and the specified coastal or border area in the vicinity of a Customs establishment, means of transport suspected of involvement in smuggling, and storage places suspected of concealing smuggled goods and articles, and to search persons suspected of smuggling. Upon the approval of the director of a direct Customs establishment

长或者其授权的隶属海关关长批准，可以扣留；对走私犯罪嫌疑人，扣留时间不超过 24 小时，在特殊情况下可以延长至 48 小时。

在海关监管区和海关附近沿海沿边规定地区以外，海关在调查走私案件时，对有走私嫌疑的运输工具和除公民住处以外的有藏匿走私货物、物品嫌疑的场所，经直属海关关长或者其授权的隶属海关关长批准，可以进行检查，有关当事人应当到场；当事人未到场的，在有见证人在场的情况下，可以径行检查；对其中有证据证明有走私嫌疑的运输工具、货物、物品，可以扣留。

海关附近沿海沿边规定地区的范围，由海关总署和国务院公安部门会同有关省级人民政府确定。

（五）在调查走私案件时，经直属海关关长或者其授权的隶属海关关长批准，可以查询案件涉嫌单位和涉

or the director authorized by him of a subordinate Customs establishment, means of transport, goods and articles suspected of involvement in smuggling, and suspected criminal smugglers may be detained. Such detention of suspected criminal smugglers shall not exceed 24 hours and, under special circumstances, may be extended to 48 hours.

When investigating a smuggling case beyond a Customs surveillance zone and the specified coastal or border area in the vicinity of its own establishment, a Customs establishment may, upon the approval of the director of a direct Customs establishment or the director authorized by him of a subordinate Customs establishment, search the means of transport suspected of involvement in smuggling and storage places suspected of concealing smuggled goods and articles, except for the dwelling place of a citizen. The person concerned shall be present. Provided a witness is present, a Customs establishment shall be entitled to effect such examination without the presence of the person concerned and may detain the means of transport, goods, articles suspected of involvement in smuggling, as proved by the evidence.

The scope of the specified coastal or border area in the vicinity of a Customs establishment shall be defined by the General Customs Administration and the public security department under the State Council in conjunction with the relevant provincial people's governments;

(5) when investigating a smuggling case, a Customs establishment may, upon the approval of the director of a direct Customs establishment or the director authorized by him of a

嫌人员在金融机构、邮政企业的存款、汇款。

（六）进出境运输工具或者个人违抗海关监管逃逸的，海关可以连续追至海关监管区和海关附近沿海沿边规定地区以外，将其带回处理。

（七）海关为履行职责，可以配备武器。海关工作人员佩带和使用武器的规则，由海关总署会同国务院公安部门制定，报国务院批准。

（八）法律、行政法规规定由海关行使的其他权力。

第七条 各地方、各部门应当支持海关依法行使职权，不得非法干预海关的执法活动。

第八条 进出境运输工具、货物、物品，必须通过设立海关的地点进境或者出境。在特殊情况下，需要经过未设立海关的地点临时进境或者出境的，必须经国务院或者国务院授权的机关批准，并依照本法规定办理海关手续。

subordinate Customs establishment, enquire the deposits and remittances with financial institutions and post offices placed by units or persons suspected of involvement in smuggling cases;

(6) Customs officers may chase means of transport or persons defying and escaping from Customs supervision and control to places beyond a Customs surveillance zone or the specified coastal or border area in the vicinity of a Customs establishment and bring them back to be properly dealt with;

(7) a Customs establishment may be provided with arms for the performance of its duties. Rules governing the carrying and use of arms by Customs officers shall be drawn up by the General Customs Administration jointly with the public security department under the State Council and reported to the State Council for approval; and

(8) other powers a Customs establishment shall exercise, as provided for by laws and administrative regulations.

Article 7 Local authorities and sectors shall support the Customs in exercising its functions and powers according to law, and shall not interfere in the law enforcement activities by the Customs.

Article 8 All inward and outward means of transport, goods and articles shall enter or leave the territory at a place where there is a Customs establishment. If, under special circumstances, they have to enter or leave the territory at a place without a Customs establishment as a matter of contingency, permission shall be obtained from the State Council or an organ authorized by the State Council, and Customs formalities shall be duly completed in accordance with this Law.

第九条 进出口货物，除另有规定的外，可以由进出口货物收发货人自行办理报关纳税手续，也可以由进出口货物收发货人委托海关准予注册登记的报关企业办理报关纳税手续。

进出境物品的所有人可以自行办理报关纳税手续，也可以委托他人办理报关纳税手续。

第十条 报关企业接受进出口货物收发货人的委托，以委托人的名义办理报关手续的，应当向海关提交由委托人签署的授权委托书，遵守本法对委托人的各项规定。

报关企业接受进出口货物收发货人的委托，以自己的名义办理报关手续的，应当承担与收发货人相同的法律责任。

委托人委托报关企业办理报关手续的，应当向报关企业提供所委托报关事项的真实情况；报关企业接受委托人的委托办理报关手续的，应当对委托人所提供情况的真实性进行合理审查。

第十一条 进出口货物收发货人、报关企业办理报