

中华人民共和国  
对外经济法规选编

第二集

SELECTION OF  
FOREIGN ECONOMIC LEGISLATION OF  
THE PEOPLE'S REPUBLIC OF CHINA  
VOLUME II

CHINA GUANGDONG INTERNATIONAL ECONOMIC & TECHNICAL CORPORATION  
GUANGDONG CADRES' COLLEGE OF ECONOMIC ADMINISTRATION

# 中华人民共和国 对外经济法规选编

(汉英对照)

## 第二集

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# 《中华人民共和国对外经济法规选编》

## 第二集

### 编辑说明

随着我国对外开放政策的进一步贯彻执行，涉外经济关系在迅速发展，学习和运用对外经济法规在国际经济技术合作工作中具有十分重要的现实意义。为了适应这一新形势下的工作需要和涉外经济法的教学要求，我们合编了这本（汉英对照）《中华人民共和国对外经济法规选编》第二集。本书编入近两年来我国颁布的主要对外经济法规，其中还包括深圳、广州、厦门、大连、天津等经济特区和对外开放城市的有关对外经济法规。

本书采用汉、英文逐条对照编排方法，即使粗通英语者，亦便于临场查阅，易懂实用。可供各级政府的经委、外经贸委、外贸机构、政法部门，各经济特区、对外开放港口城市的有关部门，有涉外经济、技术、贸易关系的企业，和经贸、法律工作者在对外经济技术合作、外贸洽谈和解决涉外经济纠纷时使用。亦是各大专院校的法律专业、外贸专业和经济管理专业的师生和科研人员在教学、科研工作中的必备工具书。

本书是一九八四年广东省经济管理干部学院编辑的（汉英对照）《中华人民共和国对外经济法规选编》（第一集）

的续集，两集包括了我国现行的主要对外经济法规。本书由中国广东国际经济技术合作公司经理部方允斌同志和广东省经济管理干部学院经济管理系林继颐同志负责英文和中文的编辑校审工作。今后还将继续选编（汉英对照）有关我国的涉外经济法规和联合国有关国际经济贸易法规，作为国际经济技术合作工作和涉外经济法教学的参考。

**编 者**

一九八五年七月于广州

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# 中华人民共和国涉外经济合同法

(一九八五年三月二十一日第六届  
全国人民代表大会常务委员会第十次会议通过)

## FOREIGN ECONOMIC CONTRACT LAW OF THE PEOPLE'S REPUBLIC OF CHINA

(Adopted at the Tenth Session of the Standing Committee of  
the National People's Congress on March 21, 1985)

### 第一章 总 则

#### Chapter 1 General Provisions

**第一条** 为了保障涉外经济合同当事人的合法权益，促进我国对外经济关系的发展，特制定本法。

**Article 1** The Law is enacted with a view to protecting the lawful rights and interests of the concerned parties to foreign economic contracts and promoting the development of China's foreign economic relations.

**第二条** 本法的适用范围是中华人民共和国的企业或者其他经济组织同外国的企业和其他经济组织或者个人之间订立的经济合同（以下间称合同）。但是，国际运输合同除外。

**Article 2** This Law applies to economic or trade contracts (hereinafter referred to as Contracts), but exclusive of international transport contracts, concluded between enterprises or other economic organizations of the People's Republic of China and foreign enterprises and other economic organizations or individuals.

**第三条** 订立合同，应当依据平等互利、协商一致的原则。

**Article 3** Contracts should be made in conformity with the principles of equality and mutual benefit, and of achieving unanimity through consultations.

**第四条** 订立合同，必须遵守中华人民共和国法律，并不得损害中华人民共和国的社会公共利益。

**Article 4** Contracts must be made in accordance with the law of the People's Republic of China and should not be prejudicial to the public interests of society of the People's Republic of China.

**第五条** 合同当事人可以选择处理合同争议所适用的法律。当事人没有选择的，适用与合同有最密切联系的国家的法律。

在中华人民共和国境内履行的中外合资经营企业合作合同、中外合作经营企业合作合同、中外合作勘探开发自然资源合同，适用中华人民共和国法律。

中华人民共和国法律未作规定的，可以适用国际惯例。

**Article 5** The parties to a foreign trade contract may choose the law applicable to the settlement of disputes

arising over the contract. In the absence of such a choice by the parties concerned, the law of the country which has the closest connection with the contract applies.

The equity or contractual joint venture contracts and the contracts of cooperative exploration and development of natural resources which are performed within the territory of the People's Republic of China must be governed by the law of the People's Republic of China.

In case no relevant provision is stipulated in the law of the People's Republic of China, international practice may apply.

**第六条** 中华人民共和国缔结或者参加的与合同有关的国际条约同中华人民共和国法律有不同规定的，适用该国际条约的规定。但是，中华人民共和国声明保留的条款除外。

**Article 6** When a provision in a certain international treaty, which the People's Republic of China has concluded or participated in, concerning contracts, is different from those stipulated in the law of the People's Republic of China, the provision of the international treaty applies, with the exception of clauses that the People's Republic of China has publicly stated its reservation.

## 第二章 合同的订立

### Chapter II. Formation of Contract

**第七条** 当事人就合同条款以书面形式达成协议并签

字，即为合同成立。通过信件、电报、电传达成协议，一方当事人要求签订确认书的，签订确认书时，方为合同成立。

中华人民共和国法律、行政法规规定应当由国家批准的合同，获得批准时，方为合同成立。

**Article 7** A contract is established when the terms of the contract are agreed upon in writing and signed by the parties to it. However, where an agreement is reached through correspondence by mail, cable or telex and one party requests that a confirmation letter be signed, the contract is established when the confirmation letter is signed.

Contracts subject to approval by the state as stipulated by the law or administrative regulations of the People's Republic of China shall be established only when the approval is granted.

**第八条** 合同订明的附件是合同的组成部分。

**Article 8** All appendices stipulated in a contract are an integral part of that contract.

**第九条** 违反中华人民共和国法律或者社会公共利益的合同无效。

合同中的条款违反中华人民共和国法律或者社会公共利益的，经当事人协商同意予以取消或者改正后，不影响合同的效力。

**Article 9** Contracts that violate the law or the public interests of the People's Republic of China are invalid.

In case where provisions of a contract are found to

be inconsistent with the law or the public interests of the People's Republic of China, the validity of the contract is not derogated after the said provisions are nullified or revised through consultations by the parties to the contract.

**第十条** 采取欺诈或者胁迫手段订立的合同无效。

**Article 10** Contracts concluded by means of fraud or under duress are invalid.

**第十一条** 当事人一方对合同无效负有责任的，应当对另一方因合同无效而遭受的损失负赔偿责任。

**Article 11** The party who is responsible for the invalidity of the contract is obligated to pay the other party concerned a sum equal to the loss arising from the invalidation of the contract.

**第十二条** 合同一般应当具备以下条款：

一、合同当事人的名称或者姓名、国籍、主营业所或者住所；

二、合同签订的时间、地点；

三、合同的类型和合同标的的种类、范围；

四、合同标的的技术条件、质量、标准、规格、数量；

五、履行的期限、地点和方式；

六、价格条件、支付金额、支付方式和各种附带的费用；

七、合同能否转让或者合同转让的条件；

八、违反合同的赔偿和其他责任；

九、合同发生争议时的解决方法；

## 十、合同使用的文字及其效力。

**Article 12** In general, the following terms should be included in a contract.

1) name and address, nationality, place of business or domicile of the parties;

2) date and place where the contract is signed;

3) type of contract, and the kind and scope of the subject matter of the contract;

4) technical conditions, quality, standard, specifications and quality of the subject matter of the contract;

5) time limit, place and method of performance;

6) terms on price, amount and way of payment and various incidental expenses;

7) whether the contract can be assigned of the terms and conditions for assignment;

8) damages and other liabilities for breach of contract;

9) ways for settlement of disputes when disputes arise over contract;

10) language to be used in the contract and its effectiveness.

**第十三条** 合同应当视需要约定当事人对履行标的承担风险的界限；必要时应当约定对标的的保险范围。

**Article 13** The limits of risks borne by each party for the subject matter to be performed should be specified in the contract depending on the situation, and the range of insurance for the subject matter should also be specified

when necessary.

**第十四条** 对于需要较长时间连续履行的合同，当事人应当约定合同的有效期限，并可以约定延长合同期限和提前终止合同的条件。

**Article 14** With regard to a contract that needs to be performed continuously over a rather long period, the parties shall set the time limit for the contract, and conditions for extending or terminating the contract before expiration.

**第十五条** 当事人可以在合同中约定担保。担保人在约定的担保范围内承担责任。

**Article 15** A guarantee clause may be agreed upon by the parties in the contract. The guarantor assumes the liability within the agreed scope of guarantee.

### **第三章 合同的履行和违反合同的责任**

#### **Chapter III. Performance of Contract and Liabilities for Breach of Contract**

**第十六条** 合同依法成立，即具有法律约束力。当事人应当履行合同约定的义务，任何一方不得擅自变更或者解除合同。

**Article 16** Once established in accordance with law, a contract is legally binding. The parties should fulfill all obligations stipulated in the contract. No party should arbitrarily alter or terminate the contract.

**第十七条** 当事人一方有另一方不能履行合同的确切证据时，可以暂时中止履行合同，但是应当立即通知另一方；当另一方对履行合同提供了充分的保证时，应当履行合同。当事人一方没有另一方不能履行合同的确切证据，中止履行合同的，应当负违反合同的责任。

**Article 17** A party may suspend performance of his obligations when it is proved by conclusive evidence that the other party cannot perform his obligations accordingly, but in so doing the other party must be promptly notified. When the other party provides full guarantee for performing his obligations, contract performance shall be resumed. A party who suspends his performance without furnishing conclusive evidence should assume the liability for breach of contract.

**第十八条** 当事人一方不履行合同或者履行合同义务不符合约定条件，即违反合同的，另一方有权要求赔偿损失或者采取其他合理的补救措施。采取其他补救措施后，尚不能完全弥补另一方受到的损失的，另一方仍然有权要求赔偿损失。

**Article 18** When a party fails to perform, or his performance does not conform to the agreed contractual obligations, namely, the contract is breached, the other party is entitled to ask the party in default to adopt reasonable remedial measures or claim for damages. If the losses suffered by the other party are not paid in full after the remedial measures are taken, that other party



retains the right to claim for damages.

**第十九条** 当事人一方违反合同的赔偿责任，应当相当于另一方因此所受到的损失，但是不得超过违反合同一方订立合同时应当预见到的因违反合同可能造成的损失。

**Article 19** Damages for breach of contract by a party consist of a sum equal to the loss suffered by the other party as a consequence of the breach. However, the damages may not exceed the loss which the party in breach ought to have foreseen at the time of the conclusion of the contract as a possible consequence of breach of the contract

当事人 当事人

**第二十条** 当事人可以在合同中约定，一方违反合同时，向另一方支付一定数额的违约金；也可以约定对于违反合同而产生的损失赔偿额的计算方法。

合同中约定的违约金，视为违反合同的损失赔偿。但是，约定的违约金过分高于或者低于违反合同所造成的损失的，当事人可以请求仲裁机构或者法院予以适当减少或者增加。

**Article 20** The parties may agree upon in a contract that a certain amount of liquidated damages shall be paid to the other party if one party violates the contractual obligations, and may also agree upon a method for calculating the damages arising over such a breach of contract.

The liquidated damages shall be regarded as damages caused by a breach of contract. However, if the fixed amount of the liquidated damages is substantially more or