



Environmental Laws & Regulations in China and Rules of WTO

(A Chinese-English Version 汉英对照文本)

中国环保法规与世贸组织规则

国家环境保护总局政策法规司 编



光明日报出版社

D 922.629

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Environmental Laws & Regulations in China and Rules of WTO

Edited by
Department of Policy and Law
State Environmental Protection Administration

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内容简介

环境法规和贸易规则具有相互影响。本书以汉英双语对照形式,集中收录了中国现行对贸易、投资、建设项目等具有直接和间接影响的环境法律、法规和其他规范性文件,世界贸易组织协定中对环境保护具有影响的各项规则;同时还摘要收录了有关国际环境条约中的贸易条款,以及中国加入世界贸易组织法律文件中的环境保护规定。

本书由国家环境保护总局政策法规司编纂和组织翻译,可以作为国际贸易和投资者了解和遵守中国环境法规的指南,同时也是国内环保系统和有关各界理解和运用世贸组织规则,特别是其中环境保护相关规定的重要工具书。

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图书在版编目(CIP)数据

中国环保法规与世贸组织规则/国家环境保护总局政策法规司编.北京:光明出版社,2002.3

ISBN 7-80145-494-4/D·26

I. 中… II. 国… III. 环境保护-法规-世贸组织规则-中国
IV. D922.689

中国版本图书馆 CIP 数据核字(2001)第 070437 号

☆

光明日报出版社出版发行
(北京永安路 106 号)

邮政编码:100050

新华书店北京发行所经销

北京凌奇印刷有限责任公司印刷

※

889×1194 1/16 印张 100 字数 268 千字

2002 年 3 月 第 1 版 2002 年 3 月 第 1 次印刷

印数 1-5 000 册

定价:430.00 元

《中国环保法规与世贸组织规则》

(汉英对照文本)

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译 校 汤理智 宋 英 周庆昌
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Environmental Laws & Regulations in China and Rules of WTO

Chinese-English Version

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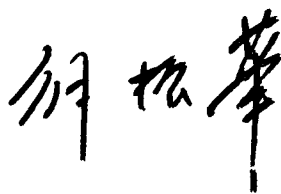
历经 15 年的艰苦谈判，中国终于在 2001 年 12 月加入了世界贸易组织。环境保护和贸易自由化之间有着重大而密切的关系。在可持续发展这一共同理念指导下，环保法规与贸易措施应该而且可以实现相互协调和支持。

中国已经制定了一系列环境法律法规，其中有相当多的规定与国际贸易和投资直接或者间接相关。世贸组织的非歧视原则、市场准入原则、透明度原则、法制统一等基本原则，以及“环境例外”、发展中国家差别和优惠待遇等规定，已经并正在融入中国环境法的制定和实施中。

为了适应中国加入世界贸易组织的进程，促进中国环境法律法规的广泛传播和理解，为遵守和实施世贸组织有关环境保护的规则提供便利，国家环保总局政策法规司组织编纂了汉英双语对照的《中国环保法规与世贸组织规则》。

我相信，本书的适时出版，有利于增强中国环境法规的公开性和透明度，便于外商和国际投资者了解并遵守中国环境法规；同时也有利于增进国内有关各界对世贸组织规则特别是环境保护相关规定的理解和把握，促进中国与世界各国在贸易和环境领域的交流与合作。

国家环境保护总局局长

A handwritten signature in black ink, consisting of three characters: '解' (Xie), '振' (Zhen), and '华' (Hua), written in a cursive style.

二〇〇二年二月六日

PREFACE

After 15 years of arduous negotiations, China has finally acceded to the World Trade Organization (WTO) in December 2001. There exists a profound and close relationship between environmental protection and trade liberalization. Under the common goal of sustainable development, environmental regulations and trade measures should be coordinated with each other and could also be mutually supportive.

Thus far, China has formulated a fairly comprehensive system of environmental laws and regulations. Many provisions in these laws and regulations directly or indirectly pertain to or affect trade in goods, services and investment. Fundamental principles such as non-discrimination, market access, transparency, uniform application, and provisions regarding environmental exceptions and differential and more favorable treatment for developing countries, have been integrated or are being integrated into the formulation and implementation of various Chinese environmental laws.

With the aim of responding to China's landmark accession to the WTO, promoting broader dissemination and understanding of Chinese environmental laws and regulations, facilitating compliance with and implementation of relevant rules in the WTO provisions, the Department of Policy and Law of the State Environmental Protection Administration has prepared this bilingual English-Chinese compilation entitled "Environmental Laws & Regulations in China and Rules of WTO."

I believe that the timely publication of this book will contribute to enhancing the openness and transparency of the Chinese environmental laws and regulations, so as to enhance familiarity and compliance with Chinese environmental laws and regulations by foreign businesspersons and other investors. I also believe that this publication will help increase the general public's understanding and application of key WTO provisions, particularly those rules that affect environmental protection, so as to promote further exchanges and cooperative programs between China and other countries in the field of trade and environment.

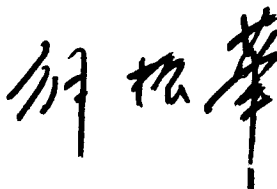
Xie Zhen Hua

Minister

State Environmental

Protection Administration

February 6, 2002



编辑说明

为适应市场经济体制和加入 WTO 的进程,中国在过去几年中,对环境保护法律、行政法规、部门规章及其他规范性文件进行了修订、补充和全面清理。在此基础上,我们选择对投资、贸易等具有直接和间接影响的环保法规,组织译为英文;同时,我们还摘选了 WTO 有关协定中与环境保护密切相关的部分规则,将其结集为《中国环保法规与世贸组织规则》,并以汉英双语文本形式出版。

一、文本内容

全书分为四编,共收录各类法律文件 200 余篇,收录日期截止 2002 年 2 月底。

第一编为中国环境保护法规,集中收录了环境保护的各项主要法律、行政法规、部门规章及其他规范性文件。此外,还收录与环境保护相关的产业和投资政策、环保产品与环保技术的政策性文件,以及宪法、刑法、民法和贸易、投资、税收等法律中的环境保护条款。该编共收文 150 余篇。

第二编为国际环境条约中的贸易措施规定,收录了中国批准或签署的主要多边环境协定(MEAs)中的贸易措施规定,以及其他有关重要国际环境法律文件中关于环境与贸易的规定。该编共收文近 20 篇。

第三编为中国入世法律文件中的环境保护规定,收录了全国人大常委会关于中国加入 WTO 的决定、WTO 多哈会议关于接纳中国加入的决定和中国加入 WTO 的议定书,并摘录了该议定书各附件中有关环保产品的关税减让表和环境服务贸易具体承诺减让表,同时还摘录了 WTO 中国加入工作组报告书中的环保内容。该编共收文 12 篇。

第四编为世贸组织规则与环境保护,收录了该组织的各主要法律文件,包括马拉喀什协定、关税及贸易总协定 1947/1994,并摘录了其中有关环境保护的规定;此外还全文收录了《关于服务贸易与环境的决定》、《关于贸易与环境的决定》等决定。该编共收文 20 篇。

EDITORS' NOTES

To adapt to the market-economy system and the obligations set forth in World Trade Organization (WTO) agreements, China has reviewed relevant environmental statutes, regulations and other regulatory instruments. As a result of this review, China has repealed, revised and drafted a number of these laws and regulations in recent years. In this regard, the editors have collected key environmental laws that pertain to or affect trade in goods, services and investment, directly or indirectly, and have arranged for the translation of these laws and regulations from Chinese into English. Additionally, the editors selected WTO provisions of key relevance for environmental protection regimes and then included these with the selection of key Chinese environmental laws and regulations. Together, the editors entitled the bilingual collection "**Environmental Laws & Regulations in China and Rules of WTO**".

1. Contents of Texts

The compilation is composed of four parts, including almost 200 legal documents. The compilation covers laws & regulations issued during the period December 1989 to February 2002.

Part I: Environmental Laws and Regulations in China. Approximately 150 environmental regulatory instruments, including major environmental laws adopted by the National People's Congress or its Standing Committee, administrative regulations approved by the State Council, ministerial regulations adopted by the national environmental authority, and other regulatory documents, are included within this Part. Additionally, relevant policies on industrial development, policies on trade and investment that affect environmental protection initiatives, policy documents on environmental products and technology, and environment-related provisions in the Constitution, Criminal Law, Civil Law and other laws on trade, investment and taxation, are also included in this Part.

Part II: Trade-related Provisions in Multilateral Environmental Agreements (MEAs). Trade-related measures from nearly 20 major MEAs, which have been ratified or signed by China, have been included in this Part.

Part III: Environment-related Provisions in the Legal Instruments on China's Accession into WTO. The Decision, the Protocol and its major annexes and the Report of the Working Group on China's Accession into WTO, are included, and the environment-related provisions in the schedule on trade in goods, schedule of specific commitments on services are also excerpted. This part has collected 12 documents.

Part IV: Rules of WTO Agreements Affecting Environmental Protection. Roughly 20 WTO provisions, including the General Agreement on Tariffs and Trade (1994) and provisions from major WTO/GATT agreements are included in this Part, along with the full texts of certain major Decisions on trade and environment.

2. Legal Effect of the Different Linguistic Texts

In accordance with the Law of the People's Republic of China on the National Written and Spoken Language, the Chinese language is the legally binding language. As a result, the Chinese government only deems authentic the original-language version of Chinese environmental laws and regulations. The English texts of the Chinese environmental laws and the administrative regulations collected in this book have ever been reviewed respectively by the Commission of Legislative Affairs of the

二、语言文本的效力

根据《中华人民共和国通用语言文字法》，汉语为中国法定通用公务用语文字，因此中国环境法律法规的汉语文本是标准文本。本书所收环境法律和行政法规的英译文本，分别采用了全国人大常委会法制工作委员会和国务院法制办公室审定的文本，环境部门规章的英译文本为国家环保总局政策法规司组织翻译，供对照之用。

根据世界贸易组织的规定，英文文本是其中的作准文本，中文译本供对照之用。其中，有关世贸组织协定和中国入世法律文件的中文译本采用了对外贸易经济合作部的译本。

三、特别鸣谢

本书编纂得到了国务院法制办公室环保司和译审司、对外贸易经济合作部条法司的指导；北京中绿垂地环境技术开发有限公司提供了部分资助，在此一并致谢。

我们愿向国内各位译校者慎重致谢，他们均为国内著名大学的法学教授或语言专家，正是由于他们的贡献，本书的译校才得以顺利完成。

我们还愿特别提及美国律师事务所 Beveridge & Diamond, P. C. 的合伙人、比较环境法专家 Richard J. Ferris 先生，英国律师事务所 Sullivan & Cromwell 律师、环境法专家 Benjamin Liebman 先生，荷兰 Leiden 大学法学院中国环境法专家 Benjamin van Rooij 先生。他们为本书英文译本的审校提供了宝贵的协助，在此谨向他们表示感谢。

本书是国家环境保护总局政策法规司组织编译的第一本汉英对照的中国环境保护法规汇编，受时间和经验的限制，错误在所难免，以后将适时予以修正、增补和更新。

国家环境保护总局政策法规司

Standing Committee of the NPC and the Office of Legislative Affairs of the State Council. The translation of environmental ministerial regulations from Chinese into English is organized by the Department of Laws and Regulations of the State Environmental Protection Administration for the convenience of comparison. For the purpose of compliance with the Chinese environmental laws and regulations, the readers are strongly advised to refer to the Chinese versions thereof.

As for the WTO agreements included in this compilation, the English texts thereof are authentic. Therefore, the Chinese translations of these agreements are provided for informational purposes. The Chinese texts of the WTO agreements and the legal documents on China's accession into WTO are based on texts provided by the Ministry of Foreign Trade and Economic Cooperation (MOFTEC).

3. Acknowledgements

During the process of compilation, we received valuable guidance from the Environmental Protection Department of the Office of Legislative Affairs of the State Council and the Department of Treaty and Law of MOFTEC. The Beijing China-Green Tredi Environmental Technology Development Co. Ltd. provided part of the financial support for this publication.

We would like to thank the domestic translators and reviewers, they are all professors of law or linguistic experts from prestigious universities or institutions, it was because their efforts that contributed to the smoothly completion of the related translation and review.

Additionally, we would like to extend our gratitude to a number of experts. In particular, we would like to extend our appreciation to Mr. Richard J. Ferris, a leading expert on comparative environmental law and a partner of the U. S. law firm, Beveridge & Diamond, P. C. in Washington, D. C. . We would also like to extend our thanks to Mr. Benjamin Liebman, a Barrister of the British law firm, Sullivan & Cromwell in London; Mr. Benjamin Van Rooij, an expert on Chinese environmental law in the Law School of Leiden University, Netherlands. Among other things, these experts have provided valuable assistance in reviewing the translated English drafts.

This book is the first bilingual compilation on Chinese environmental laws and regulations organized by the Department of Policy and Laws of the State Environmental Protection Administration. Because of our limited time available for preparation of this compilation, the book may contain unavoidable errors. We apologize in advance for any such oversights and promise to publish a revision in due time.

Department of Policy and Law
State Environmental Protection Administration

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