



上海外高桥保税区条例

Regulations on Shanghai Waigaoqiao
Free Trade Zone



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(1996年12月19日上海市第十届人民代表大会常务委员会第三十二次会议通过) (1)

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(Adopted by the 32nd Session of the Standing Committee of the 10th Shanghai Municipal People's Congress on December 19, 1996)..... (11)

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第一章 总 则

第一条 为了扩大对外开放,发展国际贸易,促进经济繁荣,根据国家有关法律、法规,借鉴国际自由贸易区通行规则,结合本市实际情况,制定本条例。

第二条 经国务院批准设立的上海外高桥保税区(以下简称保税区,对外译称自由贸易区),位于上海市浦东新区的外高桥地区,是设有隔离设施的实行特殊管理的经济贸易区域。

货物可以在保税区与境外之间自由出入,免征关税和进口环节税,免验许可证件,免于常规的海关监管手续,国家禁止进出口和特殊规定的货物除外。

第三条 保税区主要发展进出口贸易、转口贸易、加工贸易、货物储存、货物运输、商品展示、商品交易以及金融等业务。

第四条 保税区由上海市人民政府(以下简称市人民政府)领导,海关实施海关业务监管。

第五条 保税区内的企业、机构、个人及其相关的经济活动,必须遵守本条例。

第六条 保税区内投资者的合法权益受法律保护。

第二章 管理与服务机构

第七条 上海外高桥保税区管理委员会(以下简称管委会)是市

人民政府的派出机构,统一管理保税区的行政事务,实行独立核算的财政收支管理。

管委会主任由市人民政府任命。

第八条 管委会行使以下职责:

(一)负责法律、法规和本条例在保税区的实施,制定和发布保税区的具體管理规定;

(二)制订保税区的发展规划和产业政策,经市人民政府批准后组织实施;

(三)负责保税区的计划、规划、国有资产、投资、对外经济贸易、财政、地方税务、统计、工商行政、公安、劳动人事、外事、运输、基础设施、土地房产、环境保护、环境卫生、公用事业等方面的管理工作;

(四)协调保税区内海关、国家税务、金融、商品检验等部门的工作;

(五)市人民政府授予的其他职权。

前款第(三)项行政管理工作中涉及核发证照的,由市有关主管部门委托管委会的相关行政管理部门办理。

第九条 保税区海关对保税区实施特殊的监管方式:对保税区与境外之间进出的货物、物品以及保税区内流转的货物实行备案、稽核制度;对保税区与国内非保税区(以下简称非保税区)之间进出的货物、运输工具、物品实施常规的监督管理。

第十条 外高桥港区与保税区实行一体化管理,由港口管理机构负责港口管理。

第十一条 受管委会委托的保税区开发公司,应当承担保税区内市政建设和管理,为保税区企业、机构提供服务。

第十二条 保税区可以依法设立报关、检验、劳务、公证、律师等机构,为保税区企业、机构提供服务。

第三章 企业设立

第十三条 投资者依照法律、法规和本条例,可以申请在保税区设立企业。

禁止在保税区内设立污染环境、危害国家安全或者损害社会公共利益的项目。

第十四条 投资者在保税区设立外商投资企业,应当向管委会提出申请。管委会应当在收到齐全、合法的申请文件(以下简称申请文件)之日起二十日内,会同有关部门作出是否批准的决定,在作出批准决定之日起三日内,由管委会的工商行政管理部门发给营业执照。

投资者在保税区设立其他企业,应当向管委会的工商行政管理部门提出申请。管委会的工商行政管理部门应当会同有关部门,在收到申请文件之日起十五日内作出是否核准登记的决定。对核准登记的,发给营业执照。

管委会的工商行政管理部门对审核权限以外的申请,应当报管委会审批。管委会对审批权限以外的申请,应当在收到申请文件之日起十日内转报市主管部门审批。

企业应当在领取营业执照后三十日内办理海关、税务、外汇管理、商品检验等登记手续。

投资者应当按期出资,并履行验资手续。

第十五条 保税区企业应当按照核定的经营范围,依法经营。

企业应当健全统计、财务、会计制度,并建立货物的专门账簿,依法定期向管委会、海关等有关部门报送有关报表。

企业在建设、生产、运营中应当符合环境保护的规定,并依法向管委会办理有关手续。

第四章 经营规则

第十六条 保税区企业可以自由从事保税区与境外之间的贸易,免配额,免许可证,国家另有规定的除外。

保税区企业可以自由从事保税区内贸易。

保税区企业依照国家有关规定,可以从事保税区与非保税区、保税区与国内其他保税区之间的贸易。

保税区企业经国家对外经贸主管部门批准的,可以代理非保税区企业的进出口贸易。

第十七条 国内外企业(包括保税区企业)可以在保税区内举办国际商品展示活动。

保税区企业可以设立商品交易市场,自由参加保税区内进出口商品展销会,从事商品展示、批发等业务;可以自由参加非保税区的进出口商品展销会、博览会。

经批准,保税区企业可以在非保税区开展保税商品展示活动。

第十八条 鼓励国内外企业在保税区内储存货物。货物储存期限不受限制。

企业可以在保税区内对货物进行分级、包装、挑选、分装、刷贴标志等商业性加工。

第十九条 保税区企业生产的产品应当以销往境外为主。

原材料来自境外、产品销往境外的加工项目在区内不受限制,国家产业政策禁止的除外。

经批准,保税区企业可以将境外运入的料件委托非保税区企业加工,也可以接受非保税区企业的委托,开展加工业务。

第二十条 鼓励保税区企业开展国际货物转运、分拨业务。

经批准,保税区企业可以从事通过保税区进出的集装箱运输、货

运代理、船舶代理以及保税运输等业务。

第二十一条 保税区内可以开展其他国际服务贸易。

第五章 出入管理

第二十二条 货物、物品从境外直接运入保税区,或者从保税区直接运往境外,应当向保税区海关备案。影响安全、卫生、环境保护的货物,应当接受法定检验。

货物、物品从保税区运往非保税区视同进口,由非保税区运入保税区视同出口,并办理进出口手续。

从非保税区运入供保税区内使用的机器、设备、零部件、原材料、运输工具、建筑材料及办公用品等,由保税区海关登记放行。

第二十三条 机动车出入保税区,凭管委会的公安部门签发的通行证件在指定的卡口出入,并接受卡口检查站的检查。承运保税货物的货车还应当符合海关规定的监管条件。

第二十四条 国际航行船舶停靠或者驶离外高桥港区码头,应当事先向港口管理机构提出申请,并接受口岸检查。

第二十五条 人员出入保税区,凭管委会的公安部门准予使用的有效证件,在指定的卡口进出。

第二十六条 未经管委会批准的人员不得在保税区内居住。

第六章 金融管理

第二十七条 经国家金融主管部门批准,允许指定外币在保税区内使用。

第二十八条 保税区企业可以按照规定开立外汇现汇帐户。

贸易项目下进出保税区的货物,应当以外币计价结算;区内行政

管理机构的各项规费,应当以人民币计价结算;其余费用可以用外币计价结算,也可以用人民币计价结算。

第二十九条 货物在保税区与非保税区之间进出,由非保税区企业办理出口收汇和进口付汇核销手续。

货物在保税区与境外之间进出,保税区企业不办理外汇核销手续,但须办理国际收支统计申报。

第三十条 经国家金融主管部门或者其授权机构批准,国内外金融机构可以在保税区内设立经营性分支机构,经营有关金融业务。

第三十一条 经国家金融主管部门或者其授权机构批准,保税区分外银行可以经营人民币业务,保税区内外的中外资金融机构可以经营离岸金融、境外融资、对外担保和其他特许业务。

第七章 建设与房地产管理

第三十二条 保税区企业、机构需要使用土地,应当与保税区开发公司签订土地使用转让合同,并向管委会办理土地使用手续。

第三十三条 保税区企业、机构需要建设工程,应当依照法律、法规规定,向管委会的规划管理部门申请建设工程规划许可证。管委会的规划管理部门应当在收到申请文件之日起二十五日内作出是否同意的决定。经审核同意的,发给建设工程规划许可证。

保税区内建设工程管理,依照有关法律、法规办理。

第三十四条 保税区企业、机构应当在建设工程竣工验收合格后三十日内向管委会的房地产管理部门依法申请登记。管委会的房地产管理部门应当在收到申请文件之日起十日内发给房地产权证书。

第三十五条 保税区企业、机构依法取得的房地产可以转让、租赁、抵押,但应当向管委会的房地产管理部门办理登记手续,并依法

纳税。

第三十六条 保税区内的建筑物自交付使用之日起三十日内，业主应当成立物业管理机构，报管委会的房地产管理部门批准后，依法进行物业管理，或者委托其他具备一定资质的物业管理公司进行物业管理。

第八章 税收规定

第三十七条 从境外运入保税区的下列货物、物品，除国家另有规定外，免征关税和进口环节税：

- (一) 进口货物；
- (二) 转口货物；
- (三) 保税区内储存货物；
- (四) 保税区内企业生产所需原材料、零部件、包装物件；
- (五) 保税区内建设项目所需机器、设备和基建物资；
- (六) 保税区内企业、机构自用的机器、设备和合理数量的办公用品、燃料、维修零配件。

第三十八条 从保税区运往境外的货物，免征关税，国家另有规定的除外。

经保税区出口的货物，依照国家有关出口退税的规定予以退税。

第三十九条 从保税区运往非保税区的货物，除国家另有规定外，参照国家货物进口的规定，征收关税和进口环节税。

第四十条 保税区企业生产供区内销售或者运往境外的产品，免征生产环节税。对销往非保税区的产品征收产品的生产环节税，按照产品所含境外料、件的比例征收关税、进口环节税。

第四十一条 保税区生产性企业按百分之十五税率计征企业所得税。经营期在十年以上的，从开始获利的年度起，第一年和第二年

免征企业所得税,第三年至第五年减半征收企业所得税。

第四十二条 保税区贸易、仓储等非生产性企业,按百分之十五税率计征企业所得税。经营期在十年以上的,从开始获利的年度起,第一年免征企业所得税,第二年至第三年减半征收企业所得税。

第四十三条 除第三十七条至第四十二条规定外,其他经营活动依照国家和本市对浦东新区的税收规定执行。

第九章 劳动管理

第四十四条 保税区企业可以根据生产经营需要,自行确定机构设置、人员编制,依法确定职工招聘条件、工资标准和分配形式。

企业应当实行劳动合同制。

第四十五条 保税区企业应当依照国家和本市有关规定,做好劳动安全卫生工作;对职工实行社会保险,保障职工的合法权益。

第十章 法律责任

第四十六条 保税区企业、机构、个人违反本条例规定,应当予以行政处罚的,由管委会的有关行政管理部门或者海关等部门按照各自职责依法处罚。

第四十七条 管委会和其他机关工作人员玩忽职守、滥用职权、徇私舞弊的,由其所在单位或者上级机关给予行政处分;构成犯罪的,依法追究刑事责任。

第四十八条 当事人对管委会的有关行政管理部门或者海关等部门的具体行政行为不服的,可以依照《行政复议条例》或者《中华人民共和国行政诉讼法》的规定,申请行政复议或者提起行政诉讼。

第十一章 附 则

第四十九条 香港、澳门、台湾地区的投资者和在国外定居的中国公民在保税区设立企业以及保税区与香港、澳门、台湾地区之间的经济贸易活动,参照本条例执行。

第五十条 本条例的具体应用问题由市人民政府负责解释。

第五十一条 本条例自 1997 年 1 月 1 日起施行。

Regulations on Shanghai Waigaoqiao Free Trade Zone

(Adopted by the 32nd Session of the Standing Committee of the
10th Shanghai Municipal People's Congress on December 19, 1996)

Chapter I General Provisions

Article 1

With a view to further opening up to the outside world, developing international trade and promoting economic prosperity, the present Regulations are hereby formulated in accordance with the relevant State laws and regulations, in the light of international practices with regard to free trade zones and with due consideration given to the actual circumstances in Shanghai.

Article 2

Established with the approval of the State Council, Shanghai Waigaoqiao Free Trade Zone (hereinafter referred to as the Free Trade Zone) is situated in Waigaoqiao district of Pudong New Area of Shanghai. It is a zone for economic and trade activities with enclosure facilities where special administration is exercised.

Goods may be freely carried in or out between the Free Trade Zone and outside Chinese mainland territory, exempt from customs duties and import-related taxes and free from inspection of licenses and routine supervision procedures of the Customs, except for imports and exports prohibited and goods specially designated by the State.

Article 3

The Free Trade Zone mainly develops businesses such as import and export trade, entrepot trade, processing trade, storage and transport of goods, exhibition and transaction of commodities, financial services, etc..

Article 4

The Shanghai Municipal People's Government (hereinafter referred to as the Municipal People's Government) has authority over the Free Trade Zone and the Customs exercises supervision

and control over customs proceedings.

Article 5

Enterprises, institutions, individuals and their respective economic activities in the Free Trade Zone must abide by the present Regulations.

Article 6

The legitimate rights and interests of investors in the Free Trade Zone shall be protected by law.

Chapter II Administration and Service Agencies

Article 7

Shanghai Waigaoqiao Free Trade Zone Administrative Committee (hereinafter referred to as the Administrative Committee) is the agency of the Municipal People's Government that shall keep unified control over administrative affairs of the Free Trade Zone and manage financial revenues and expenditures as an independent accounting unit.

The Municipal People's Government shall appoint the director of the Administrative Committee.

Article 8

The functions of the Administrative Committee are as follows:

1. To take charge of the implementation of the laws, regulations and the present Regulations in the Free Trade Zone, to formulate and promulgate specific rules for administering the Free Trade Zone;

2. To draw up plans of development planning and industrial policies of the Free Trade Zone and see to the implementation thereof upon approval of the Municipal People's Government;

3. To take charge of administrative work in such aspects as planning, State — owned assets, investment, foreign economic trade, public finance, local taxation, statistics, industrial and commercial administration, public security, labour and personnel, foreign affairs, transportation, infrastructure, land and real estate, environmental conservation and sanitation, and public utilities, etc.;

4. To coordinate the work of such departments as the Customs, State taxation, finance, commodities inspection, etc. in the Free Trade Zone;

5. To perform other functions and powers authorized by the Municipal People's Government.

Where the administrative work listed in Paragraph 3 above involves the examination and issuance of certificates and licenses, the relevant municipal regulatory departments shall entrust corresponding administrative departments of the Administrative Committee to handle such work.

Article 9

The Customs in the Free Trade Zone shall exercise special supervision and control over the Free Trade Zone; putting on file and checking goods and articles moving between the Free Trade Zone and places outside Chinese mainland territory and goods circulating within the Free Trade Zone; routine supervision and control over goods, means of transportation and articles moving between the Free Trade Zone and non-free-trade areas inside Chinese mainland territory (hereinafter referred to as non-free-trade areas).

Article 10

The Waigaoqiao Port Area and the Free Trade Zone shall be under uniform administration and the port authorities shall take charge of the port administration.

Article 11

The Free Trade Zone Development Corporation shall, as authorized by the Administrative Committee, undertake the construction and management of public works in the Free Trade Zone and provide services for the enterprises and institutions in the Free Trade Zone.

Article 12

Agencies for customs declaration, inspection, labour, notarization and lawyer service may be set up according to law by the Free Trade Zone to provide services for the enterprises and institutions in the Free Trade Zone.

Chapter III Establishment of Enterprises

Article 13

Investors may, according to the laws, regulations and the present Regulations, apply for establishment of enterprises in the Free Trade Zone.

Any projects that may cause environmental pollution, endan-

ger national security or damage social public interests shall be prohibited in the Free Trade Zone.

Article 14

Investors who intend to establish foreign-invested enterprises in the Free Trade Zone shall apply to the Administrative Committee. The Administrative Committee shall, jointly with the relevant departments, decide on whether or not to approve within 20 days upon the receiving date of the complete and legally permissible application documents (hereinafter referred to as the application documents) and the industrial and commercial administration of the Administrative Committee shall issue the business license within 3 days upon the approval date.

Investors who intend to establish other enterprises in the Free Trade Zone shall apply to the industrial and commercial administration of the Administrative Committee, which shall, jointly with the relevant departments, decide on whether or not to approve the registration within 15 days upon the receiving date of the application documents and issue business licenses to those approved for registration.

The industrial and commercial administration of the Administrative Committee shall report the applications beyond its authority of examination and approval to the Administrative Committee for examination and approval. The Administrative Committee shall refer the applications beyond its authority of examination and approval to the relevant municipal department for examination and approval within 10 days upon the receiving date of the application documents.

Enterprises shall go through registration procedures for customs, taxation, foreign exchange control and commodity inspection, etc. within 30 days upon the obtaining date of business licenses.

Investors shall make contributions as scheduled and undergo verification of investment.

Article 15

Enterprises in the Free Trade Zone shall operate according to law within their authorized business scopes.

Enterprises shall establish sound statistical, financial and accounting systems, set up special account books for goods and regularly submit relevant reports and statements according to law to the Administrative Committee, Customs and the relevant depart-

ments.

Enterprises shall meet the requirements of environmental conservation in the process of construction, production and operation, and go through required procedures with the Administrative Committee according to law.

Chapter IV Rules on Business Operation

Article 16

Enterprises in the Free Trade Zone may freely carry on trade between the Free Trade Zone and outside Chinese mainland territory, being free from quotas and licenses unless otherwise stipulated by the State.

Enterprises in the Free Trade Zone may freely carry on trade within the Free Trade Zone.

Enterprises in the Free Trade Zone may, according to the relevant State regulations, carry on trade with non-free-trade areas and with other domestic free trade zones or bonded areas.

Enterprises in the Free Trade Zone may, subject to the approval of the department in charge of foreign economic cooperation and trade of the State, act as import and export trade agents for enterprises in non-free-trade areas.

Article 17

Enterprises inside and outside China (including enterprises in the Free Trade Zone) may hold international commodities exhibitions in the Free Trade Zone.

Enterprises in the Free Trade Zone may set up commodities trade markets, freely take part in import and export commodities exhibitions, engage in commodities exhibitions and wholesale businesses in the Free Trade Zone, and may take part in import and export commodities exhibitions and fairs in non-free-trade areas.

Subject to approval, enterprises in the Free Trade Zone may engage in bonded commodities exhibition activities in non-free-trade areas.

Article 18

Enterprises inside and outside Chinese mainland territory are encouraged to store goods in the Free Trade Zone. The storage period shall have no limit.

Enterprises may do processing business of a commercial na-