

THE FOREIGN TRADE LAW OF
THE PEOPLE'S REPUBLIC
OF CHINA

21
中华人民共和国对外贸易法

**THE FOREIGN TRADE LAW
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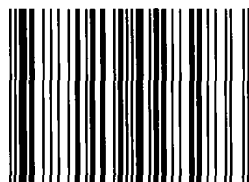
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CHAPTER I

GENERAL PROVISIONS

Article 1 This Law is formulated in order to develop and maintain the order of foreign trade and promote the sound development of the socialist market economy.

Article 2 The term “foreign trade” used in this Law shall mean the import and export of cargoes and technologies, and international service trade.

Article 3 The foreign trade and economic departments under the State Council are in charge of the foreign trade business all over the country in accordance with this Law.

Article 4 The State carries out a unified foreign trade system and maintains a fair and free foreign trade order according to law.

The State encourages the development of foreign trade and the functions of localities in this regard, and safeguards the autonomy of the foreign trade operators.

Article 5 The People’s Republic of China promotes and develops foreign trade relationships with other countries and regions in accordance with the principle of equality and mutual benefit.

Article 6 The People's Republic of China provides most-favored-nation and national treatment its counterpart countries or regions in accordance with the international treaties and agreements on foreign trade concluded or joined by the People's Republic of China or in accordance with the principle of equality and mutual benefit.

Article 7 The People's Republic of China has the right to adopt corresponding measures against any country or region to counter their discriminatory banning, restrictions or other actions affecting Chinese goods in accordance with the actual circumstances.

CHAPTER II

FOREIGN TRADE OPERATORS

Article 8 The term “foreign trade operators” used in this Law means legal persons or other economic organizations which engage in foreign trade business and activities in accordance with the stipulations of this Law.

Article 9 Foreign trade operators who engage in the import and export of cargoes and technologies must attain the following conditions and get approval from the foreign trade and economic departments under the State Council:

(1) Having their own names and organizational structures;

(2) Having a clear business scope of foreign trade;

(3) Having the necessary premises, funds and professional staff to engage in foreign trade business;

(4) Having made the achievements required for entrusting others to handle import and export business or having the necessary sources of cargoes for import and export; and

(5) Other conditions provided for by laws and/or administrative regulations.

The State Council shall formulate measures for the implementation of the preceding provisions.

In accordance with the provisions of the relevant laws

and regulations on foreign-invested enterprises, goods imported not for their production but for their own use, equipment, raw materials and other goods and materials imported for their production, and exported products made by foreign-invested enterprises shall exempt from formality for the stipulated approval in the first paragraph.

Article 10 The establishment of international service trade enterprises and organizations and their business shall be in accordance with the stipulations of this Law and other laws and administrative regulations.

Article 11 Foreign trade operators shall operate independently and be responsible for their own profits and losses in compliance with the law.

Article 12 Foreign trade operators shall abide by contract, ensure the quality of commodities and perfect their after-sales services in carrying out foreign trade business.

Article 13 Organizations or individuals without foreign trade permits may entrust domestic foreign trade operators as agents to carry out foreign trade business within their own business scopes.

Foreign trade operators acting as agents shall provide appropriate information to the entrusting parties such as market prices and status of clients. Entrustors and the entrustees shall sign contracts to stipulate the rights and

obligations of all parties.

Article 14 Foreign trade operators shall submit documents and materials related to their foreign trade business to the relevant departments in accordance with the regulations of the foreign trade and economic cooperation administration departments under the State Council. Such departments shall keep the commercial secret of the foreign trade operators.

CHAPTER III

IMPORT AND EXPORT OF CARGOES AND TECHNOLOGIES

Article 15 The State permits the free import and export of cargoes and technologies except as otherwise stipulated by laws and/or administrative regulations.

Article 16 The State shall restrict the import or export of the cargoes or technologies under any of the following circumstances:

(1) When it is necessary to restrict imports or exports in order to safeguard national security or the well-being of the society;

(2) When it is necessary to restrict exports of domestic resources which are in short supply or near exhaustion;

(3) When it is necessary to restrict exports to countries or regions whose market capacities are limited;

(4) When it is necessary to restrict imports in order to establish or accelerate the development of certain domestic industries;

(5) When it is necessary to restrict the import of products of agriculture, animal husbandry or fisheries in any form;

(6) When it is necessary to restrict imports to maintain the international financial position and balance of the

international payments of the State; and

(7) When it is necessary to restrict imports or exports according to stipulations in international treaties and/or agreements concluded or joined by the People's Republic of China.

Article 17 The State shall prohibit the import or export of cargoes or technologies under any of the following circumstances:

(1) When they are hazardous to national security or the well-being of the society;

(2) When they are hazardous to the life or health of the people;

(3) When they are damaging to the ecological environment; and

(4) When they are prohibited by the stipulations of international treaties or agreements concluded or joined by the People's Republic of China.

Article 18 The foreign trade and economic cooperation administration departments under the State Council shall, together with other relevant departments under the State Council, formulate, adjust and announce the list of the cargoes or technologies the import and/or export of which is restricted or prohibited in accordance with the stipulations of articles 16 and 17 of this Law.

The foreign trade and economic cooperation administration departments under the State Council may, sometimes together with other relevant departments under

the State Council, restrict or prohibit the import and/or export of special cargoes or technologies in addition to those on the list in the preceding paragraph within the scope of the stipulations of articles 16 and 17 of this Law for the time being, with the approval of the State Council.

Article 19 Cargoes the import or export of which is restricted shall be subject to quota or license management. Technologies the import or export of which is restricted shall be subject to license management.

Cargoes and technologies subject to quota or license management can be imported or exported only with the permission and approval of the foreign trade and economic cooperation departments under the State Council or together with other relevant departments under the State Council in accordance with the regulations of the State Council.

Article 20 The foreign trade and economic cooperation departments or other relevant departments under the State Council shall assign the quotas for the import and export of cargoes in accordance with the conditions such as performance and ability of import and export of the applicants in compliance with the principles of efficiency, fairness, openness and fair competition within their own business scopes.

The State Council shall stipulate the specific methods and ways of the assignment of the quotas.

Article 21 For cargoes and articles, including cultural relics, wild animals and plants and their products, if the import or export of which is prohibited or restricted by other laws and/or administrative regulations, the provisions of such laws and/or regulations shall apply.

CHAPTER IV

INTERNATIONAL SERVICE TRADE

Article 22 The State shall promote the development of international service trade step by step.

Article 23 The People's Republic of China shall grant market access and national treatment to other parties who have signed or joined the international treaties or agreements which have also been signed or joined by the People's Republic of China according to the stipulations with regard to international service trade.

Article 24 The State may restrict international service trade for any of the following reasons:

- (1) To safeguard national security or the well-being of the society;
- (2) To protect the ecological environment;
- (3) To establish or accelerate domestic service businesses;
- (4) To maintain the balance of foreign exchange payments of the State; and
- (5) Other restrictions stipulated by laws and/or administrative regulations.

Article 25 The State shall prohibit the international

service trade under any of the following circumstances:

(1) When it is hazardous to national security or the well-being of the society;

(2) When it violates the international obligations borne by the People's Republic of China; and

(3) When it falls under other prohibitions stipulated by laws and/or administrative regulations.

Article 26 The foreign trade and economic cooperation departments and other relevant departments under the State Council shall manage international service trade in accordance with this Law, other laws and administrative regulations.