
Foreign Trade Law of People's Republic of China

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(Adopted at the 7th Session of the Standing Committee of the 8th National People's Congress and Promulgated on May 12, 1994 and amended at the 8th Session of the Standing Committee of the 10th National People's Congress and Promulgated on April 6, 2004)

Chapter I Principles

Article 1 This Law is formulated with a view to enlarging opening to the outside world, developing the foreign trade, maintaining the foreign trade order, protecting the legal rights of foreign trade dealers and promoting a healthy development of the socialist market economy.

Article 2 This Law is applicable to foreign trade and intellectual property protection concerning foreign trade.

Foreign trade as mentioned in this Law shall cover the import and export of goods, technologies and the international trade in services.

Article 3 The authority responsible for foreign trade and economic relations under the State Council is in charge of the administration of the foreign trade of the entire country pursuant to this Law.

Article 4 The State shall apply the foreign trade system on a uniform basis, encourage the development of its foreign trade and maintain a fair and free foreign trade order in accordance with law.

Article 5 The People's Republic of China promotes and develops trade ties with other countries and regions, enters into or participates customs unions agreement, free trade zone agreement and other regional economic trade agreement and attends regional economic organisation on the principles of equality and mutual benefit.

Article 6 The People's Republic of China shall, under international treaties or agreements to which the People's Republic of China is a contracting party or a participating party, grant the other contracting parties or participating parties most-favoured-nation treatment or national treatment within the field of foreign trade, or on the principles of mutual advantage and reciprocity, grant the other party most-favoured-nation treatment or national treatment.

Article 7 In the event that any country or region applies discriminatory prohibition, restriction or other like measures against the People's Republic of China in respect of trade, the People's Republic of China may, as the case may be, take counter-measures against the country or region in question.

Chapter II Foreign Trade Dealers

Article 8 Foreign trade dealers as mentioned in this Law shall cover the legal entities, other organisations or individuals engaged in foreign trade dealings and fulfilled industrial and commercial registration or other practice procedures in compliance with the provisions of this Law and other laws and administrative regulations.

Article 9 A foreign trade dealer who intends to engage in the import and export of goods and technologies shall register in the authority responsible for foreign trade and

economic relations under the State Council; but those who are not required to register according to laws, administrative regulations and rules from the authority responsible for foreign trade and economic relations under the State Council need not to register. The detailed measure of registration shall be stipulated by the authority responsible for foreign trade and economic relations under the State Council.

The foreign trade dealer who does not register as required, the Customs shall not permit its customs clearance concerning its imported or exported goods.

Article 10 The foreign trade dealer who intends to engage in the foreign service trade shall comply with this Law and other relevant laws and administrative regulations.

The entity who intends to engage in the foreign construction contract or foreign labour service cooperation shall obtain corresponding qualification. The detailed measure will be stipulated by the State Council.

Article 11 The State may implement state owned trade management upon import and export of some goods. The import and export business of those state owned trade management goods are only allowed to be operated by authorised entity. However, some non-authorisation entities permitted by the State are allowed to be engaged in the import and export business of state owned trade management.

The catalogue of goods and authorised entity of state owned trade management will be confirmed, adjusted and promulgated by the authority responsible for foreign trade and economic relations under the State Council and other relevant authorities.

The Customs will not allow the customs clearance for the entity who violates Clause 1 of this Article and import and export the state owned trade management goods without authorisation.

Article 12 The foreign trade dealer may accept others entrust to deal with foreign trade for others within its own business scope.

Article 13 The foreign trade dealer shall submit documents related to its foreign trade business according to the regulation of the authority responsible for foreign trade and economic relations under the State Council or other relevant authorities under the State Council. The relevant authorities shall keep the trade secrete confidential for the provider.

Chapter III Import and Export of Goods and Technologies

Article 14 The State allows free import and export of goods and technologies except where laws or administrative regulations provided otherwise.

Article 15 For monitoring import and export, the authority responsible for foreign trade and economic relations under the State Council may give some free import and export goods automatic permission and promulgate its catalogue.

For the import and export goods in the automatic permission catalogue, the receiver or the deliverer shall apply for automatic application before customs clearance, the authority responsible for foreign trade and economic relations under the State Council or its authorised organisation shall approve the application. For those who do not apply for the automatic permission, the Customs would not give customs clearance.

For the import and export technologies in the automatic permission catalogue, the receiver or the deliverer shall put contract on record in the department in charge of foreign trade or its authorised organisation.

Article 16 The State may restrict or prohibit the import or export of goods or technologies for following reasons:

- (1) Where the import or export shall be restricted or prohibited in order to safeguard the national security, public interest or public morality;
- (2) Where the import or export shall be restricted or prohibited in order to protect the healthiness and security, to protect the life or healthiness of animal and plant and to protect circumstance;
- (3) Where the import or export shall be restricted or prohibited in order to implement measures concerning the import and export of gold or silver;
- (4) Where the export shall be restricted or prohibited on account of domestic shortage in supply or effective protection of exhaustible domestic resources;
- (5) Where the export shall be restricted due to the limited market capacity of the importing country or region;
- (6) Where the export shall be restricted due to the disorder of export system;
- (7) Where the import shall be restricted in order to establish or accelerate the establishment of a particular domestic industry;
- (8) Where the restriction on the import of agricultural, animal husbandry or fishery products in any form is necessary;
- (9) Where the import shall be restricted in order to maintain the State's international financial status and the balance of international payments;
- (10) Where the import or export shall be restricted or prohibited according to laws and regulations;
- (11) Where, as the international treaties or agreements to which the People's Republic of China is a contracting party or a participating party require, the import or export shall be restricted or prohibited.

Article 17 The State may take any necessary measure to safeguard the national securities for the import and export of goods and technologies related to fission material, fusion material and other material derived from these materials and import and export of weapon, ammunition and other military supplier.

To safeguard the world peace and securities during the wartime, the State may take any necessary measures on the import and export of goods and technologies.

Article 18 The authority responsible for foreign trade and economic relations under the State Council shall, in collaboration with the relevant authorities under the State Council and in accordance with the provisions of Article 16 and Article 17 of this Law, formulate, adjust and publish the list of goods and technologies whose import or export are subject to restrictions or prohibitions.

Upon the approval of the State Council the authority responsible for foreign trade and economic relations under the State Council may, within the framework of Article 16 and Article 17, independently or in collaboration with the relevant authorities under the State Council determine, on a temporary basis, to impose restriction or prohibition on the import or export of particular goods or technologies not included in the list mentioned in the preceding paragraph.

Article 19 Goods whose import or export is restricted shall be subject to quota and licensing control; technologies whose import or export is restricted shall be subject to licensing control.

Import or export of any goods and technologies subject to quota and licensing control will be effected only with the approval of the authorities responsible for foreign trade and economic relations under the State Council or the joint approval of the foregoing authorities and other authorities concerned under the State Council in compliance with the provisions of the State Council.

The State may restrict the import of some goods by tariff quota.

Article 20 Import and export quotas of goods and tariff quotas shall be distributed on the basis of the principles of transparency, fairness, impartiality and efficiency by the authority responsible for foreign trade and economic relations under the State Council or the relevant authorities under the State Council within their respective responsibilities. The detailed measures are to be regulated by the State Council.

Article 21 The State shall implement a uniform goods quality evaluation system in accordance with the relevant laws and administrative regulations to certify, inspect, and quarantine goods for import and export purposes.

Article 22 The State shall monitor the place of origin of import and export goods. The State Council will issue the detailed measures in this regard.

Article 23 Where the import or export of cultural relics, wildlife animals, plants and the products thereof are prohibited or restricted by other laws or administrative regulations, the provisions of the laws and regulations in question shall be observed.

Chapter IV International Trade in Services

Article 24 With respect to international trade in services, the People's Republic of China, pursuant to the commitments made in international treaties or agreements to which the People's Republic of China is a contracting party or a participating party, grants the other contracting parties and participating parties market access and national treatment.

Article 25 The authority responsible for foreign trade and economic relations under the State Council and other relevant authorities under the State Council are responsible for the administration of international trade in services in accordance with this Law and other relevant laws and administrative regulations.

Article 26 The State may restrict or prohibit international trade in the relevant services on the basis of any of the following considerations:

- (1) To restrict or to prohibit international trade in services in order to safeguard national security, public interest, or public morality;

- (2) To restrict or to prohibit international trade in services in order to protect human health or safety, to protect the life or health of animals and plants, and to protect the environment;
- (3) To restrict international trade in services in order to establish or accelerate the establishment of a particular domestic service industry;
- (4) To restrict international trade in services in order to maintain the State's balance of international payments;
- (5) Other restrictions or prohibitions provided in the relevant laws and administrative regulations;
- (6) Other restrictions or prohibitions in accordance with international treaties and agreements to which the People's Republic of China is a contracting or participating party.

Article 27 The State may adopt any measures necessary as regards international trade in services relating to the military, or fission or fusion materials or any materials derived thereof to protect national security.

The State may adopt any necessary measures as regards international trade in services in times of war, or to preserve international peace and security.

Article 28 The authority responsible for foreign trade and economic relations under the State Council and other relevant authorities under the State Council shall draft, revise and promulgate the market entry catalogue for international trade in services in accordance with Article 26 and Article 27 of this Law, and in accordance with other relevant laws and regulations.

Chapter V Protection of Intellectual Property Rights in Foreign Trade

Article 29 The State shall protect intellectual property rights in foreign trade in accordance with the relevant intellectual property right laws and administrative regulations.

Where the import of goods infringes upon intellectual property rights, and harms the foreign trade order, the authority responsible for foreign trade and economic relations under the State Council may adopt measures such as prohibiting the import of goods related to those manufactured or distributed by persons infringing upon intellectual property rights.

Article 30 Where an intellectual property right holder prevents the licensee under the intellectual property right license from effectively questioning the intellectual property right as set out in the licensing agreement, or imposes a catch-all license, or sets out an exclusive return-of-license condition in the license agreement; and where such conduct causes harm to fair competition in foreign trade, the authority responsible for foreign trade and economic relations under the State Council may adopt necessary measures to eliminate any such harm.

Article 31 Where other countries or regions did not provide legal persons, other organisations or individuals of the People's Republic of China with the national treatment with respect to the protection of intellectual property rights, or where such countries or regions could not provide sufficient protection of intellectual property rights for goods, technology, and the provision of services originated in the People's Republic of China, the authority responsible for foreign trade and economic relations under the State Council may adopt necessary trade measures with respect to the countries or regions in question in

accordance with this Law and other relevant laws and administrative regulations, as well as international treaties and agreements to which the People's Republic of China is contracting or participating party.

Chapter VI Foreign Trade Order

Article 32 One may not infringe upon the relevant anti-monopoly laws and administrative regulations to engage in monopoly activities in foreign trade.

Any monopoly activity in foreign trade that causes harm to fair competition in the market place shall be dealt with in accordance with the relevant anti-monopoly laws and administrative regulations.

Where any infringing activity mentioned in this provision has caused harm to the foreign trade order, the authority responsible for foreign trade under the State Council may adopt any necessary measures to eliminate such harm.

Article 33 In foreign trade activities, one may not engage in unfair low pricing, collusion in tendering, making misleading public statements, commercial corruption and other unfair competition activities.

Unfair competition activities in foreign trade shall be dealt with in accordance with the relevant unfair competitions laws and regulations.

In regard to any unlawful conduct mentioned in this provision that harms the foreign trade order, the authority responsible for foreign trade under the State Council may adopt measures such as prohibiting the import or export of the relevant goods or technology of the infringing persons in question.

Article 34 The following conducts are prohibited in foreign trade activities:

- (1) Forgery or distortion of the country of origin symbol for import and export goods; forgery, distortion or trading of certificates of country of origin, import or export license, import or export quota certificate, or other import or export certification documents;
- (2) Defrauding refunded tax on exports;
- (3) Smuggling;
- (4) Avoiding certifications, inspections and quarantines provided for by law and administrative regulations;
- (5) Other acts contrary to the provisions of laws and administrative regulations.

Article 35 In foreign trade activities, foreign trade dealers shall abide by the relevant State regulations on the administration of foreign exchange.

Article 36 The authority responsible for foreign trade under the State Council may make a public statement about any operation that contravenes this Law and that causes harm to the foreign trade order.

Chapter VII Foreign Trade Investigation

Article 37 In order to preserve the foreign trade order, the authority responsible for foreign trade and economic relations under the State Council may, on its own or jointly with other relevant departments under the State Council, conduct investigations in respect of the following matters in accordance with the laws and administrative regulations:

- (1) The effect of imported or exported goods and technologies and international trade in services on domestic industries and their competitiveness;
- (2) Trade barriers of other countries or regions;
- (3) Matters requiring investigation in order for the authorities to make a determination as to whether to adopt antidumping, countervailing or protective measures, or other foreign trade remedies in accordance with the law;
- (4) Evasion of trade remedies;
- (5) Foreign trade matters that are relevant to national security or national interest;
- (6) Matters requiring investigation in the execution of Article 7, Clause 29(2), Article 30, Article 31, Clause 32(3), and Clause 33(3) of this Law;
- (7) Other matters affecting the foreign trade order that require investigation.

Article 38 The authority responsible for foreign trade and economic relations under the State Council is responsible for issuing a public statement signalling the commencement of a foreign trade investigation.

Foreign trade investigations may be conducted in the forms of written questionnaires, hearings, onsite investigations, entrusted investigations, and etc.

Based on the results of the investigation, the authority responsible for foreign trade and economic relations under the State Council shall put forward an investigation report or issue a ruling, and shall issue a public statement in this regard.

Article 39 The relevant institutions and individuals shall provide their cooperation and assistance in foreign trade investigations.

The authority responsible for foreign trade and economic relations under the State Council and other departments under the State Council and their staff have a duty of confidentiality with respect to any confidential information of the state or any commercial secrets made known to them during, or resulting from foreign trade investigations.

Chapter VIII Foreign Trade Remedies

Article 40 The State may adopt reasonable foreign trade remedial measures based on the results of foreign trade investigations.

Article 41 Where goods originated in other countries or regions have entered into the Chinese market by way of dumping at lower than their market value, and which caused substantial damage or threaten to cause substantial damage to established domestic industries, or constitute a substantial encumbrance with respect to the establishment of domestic

industries, the State may adopt antidumping measures to eliminate or reduce the damage or the threat of damage, or the encumbrance in question.

Article 42 Where goods originated in other countries or regions are exported into a third country at lower than their market value, and which caused substantial damage or threaten to cause substantial damage to established domestic industries, or constitute a substantial encumbrance with respect to the establishment of Chinese domestic industries, and upon receiving an application from Chinese domestic enterprises in this regard, the authority responsible for foreign trade and economic relations under the State Council may enter into discussions with the third country, and requesting the third country to adopt adequate measures in this regard.

Article 43 Where goods imported into China have directly or indirectly received any form of targeted subsidy from the exporting country or region, and where such actions have caused substantial damage or threaten to cause substantial damage to Chinese domestic industries, or constitute a substantial encumbrance with respect to the establishment of Chinese domestic industries, the State may adopt countervailing measures to eliminate or to reduce the damage or threat of damage, or the encumbrance in question.

Article 44 Where a sharp increase in the volume of imported goods has caused serious harm or threatens to cause serious harm to domestic industries that manufacture the same kind of goods, or goods that compete directly with imported goods, the State may adopt necessary protective measures to eliminate or reduce the damage or threat of damage in question, and may provide necessary support to the domestic industries in question.

Article 45 Where an increase in services provided in China by service providers of other countries or regions has caused damage or threatens to cause damage to domestic industries providing the same kind of service or services that are in direct competition with the service provided by the foreign service providers, the State may adopt the necessary remedies to eliminate or to reduce the damage or threat of damage.

Article 46 Where a sharp increase in the volume of a type of imported goods in China is caused by import restrictions set by a third country, and such increase in volume has caused damage or threatens to cause damage to Chinese domestic industries, or constitutes an encumbrance with respect to the establishment of Chinese domestic industries, the State may adopt the necessary remedies to restrict the import of the type of goods in question.

Article 47 Where a country or region that has entered into an economic or trade treaty or agreement with the People's Republic of China has breached the terms set out in the treaty or agreement, where such breach has caused the loss of, or damage to the interests that the People's Republic of China would have enjoyed under the treaty or agreement, or where such breach prevents the realisation of the goals under the treaty or agreement, the Government of the People's Republic of China has the right to demand that the relevant countries or regions adopt adequate remedies in this regard, and may suspend or stop fulfilling its related obligations under the relevant treaty or agreement.

Article 48 The authority responsible for foreign trade and economic relations under the State Council may conduct bilateral or multilateral foreign trade discussions, negotiations, and dispute resolutions in accordance with this Law and other related laws.

Article 49 The authority responsible for foreign trade and economic relations under the State Council shall establish an early warnings system as regards the import and export of goods and technologies, and international trade in services, in order to respond to sudden and abnormal events in foreign trade, and to preserve the stability of national economy.

Article 50 With respect to foreign trade remedies aimed at avoiding the application of this Law, the State may adopt the necessary anti-avoidance measures in this regard.

Chapter IX Promotion of Foreign Trade

Article 51 The State shall formulate foreign trade development strategies, and to establish and improve upon a mechanism for the promotion of foreign trade.

Article 52 The State shall establish and improve financial institutions for foreign trade, and establish funds for foreign trade development and venture funds as the development of foreign trade requires.

Article 53 The State may take import and export credit, export credit insurance, export tax refund, and other foreign trade promotion measures for the purpose of the development of foreign trade.

Article 54 The State shall establish a foreign trade public information service system to provide information service to foreign trade dealers and to other members of the public.

Article 55 The State shall adopt measures to encourage foreign trade dealers to explore the international market, and shall develop foreign trade in various forms such as foreign investment, foreign construction contracts and foreign labour cooperation.

Article 56 Foreign trade dealers may establish or join the relevant trade associations and Chambers of Commerce in accordance with the law.

The relevant associations and Chambers of Commerce shall abide by the relevant laws, administrative regulations, and Articles of Association to provide services to their members on the production, sale, information and training relating to foreign trade, to play a coordinating and self-regulatory role, to submit applications for foreign trade remedies in accordance with the law, to protect the interests of their members and of the industry, and to report to the relevant authorities of the Government the suggestions of their members with respect to foreign trade, and actively promote foreign trade activities.

Article 57 The international trade promotion organization of China shall, in accordance with its Articles of Association, engage in the development of foreign trade relations, sponsor exhibitions, provide information and advisory services and carry out other foreign trade promotional activities.

Article 58 The State shall support and promote the development of foreign trade in respect of small and mid-size enterprises.

Article 59 The State shall support and promote the development of foreign trade in national autonomous areas and economically under-developed areas.

Chapter X Legal Responsibilities

Article 60 With respect to any action in violation of Article 11 of this Law to engage in the unauthorized import or export of goods that are subject to state owned trade management, the authority responsible for foreign trade and economic relations under the State Council may impose a fine of less than RMB50,000; in case of serious breach, the authority responsible for foreign trade and economic relations under the State Council may prohibit the infringing persons from applying for the right to import/ export goods subject to state owned

trade management, or to cancel any authorisation previously given to the infringing persons for the import/ export of other goods subject to state owned trade management for a period of THREE (3) years from the date on which the decision to impose administrative sanctions takes effect.

Article 61 Any activities with respect to the import or export of prohibited goods, or the import or export of restricted goods without authorization shall be dealt with or sanctioned by the Chinese customs authority in accordance with the relevant laws and regulations. And where such activities constitute criminal offences, they shall be subject to criminal prosecution.

The import or export of prohibited technologies or the import or export of restricted technologies without authorization, shall be dealt with or sanctioned in accordance with the relevant laws and regulations; where such conducts are not dealt with by law or regulation, the authority responsible for foreign trade and economic relations under the State Council shall issue a reprimand to ask for the correction of such conducts, to confiscate income derived from the illegal conducts, and to impose a fine of between 100% and 500% of the income derived from the illegal conducts; where no income is derived from the illegal conducts or where the income derived from the illegal conducts is less than RMB10,000, the fine shall be between RMB10,000 and RMB50,000. And where such conducts constitute criminal offences, they shall be subject to criminal prosecution.

The authority responsible for foreign trade and economic relations under the State Council may refuse to process any application for import or export quotas or permit submitted by the infringing persons within THREE (3) years from the date on which the decision to impose administrative sanctions takes effect, or the date on which the verdict with respect to the criminal prosecution takes effect. Alternatively, the authority responsible for foreign trade and economic relations under the State Council may prohibit the infringing persons from engaging in business activities in respect of the import and export of goods for a period of between ONE (1) to THREE (3) years.

Article 62 Any conducts to engage in prohibited international trade in services, or to engage in restricted international trade in services without authorization shall be sanctioned in accordance with the relevant laws and regulations. Where the laws or regulations do not provide for the sanction of such conducts, the authority responsible for foreign trade and economic relations under the State Council shall issue a reprimand and order the correction of such conducts, to order any illegal income confiscated, and to impose a fine of between 100% and 500% of the amount of the illegal income; where there is no illegal income or where the amount of the illegal income is less than RMB10,000, a fine of between RMB10,000 and RMB50,000 shall be imposed. And where such conducts constitute criminal offences, they shall be subject to criminal prosecution.

The authority responsible for foreign trade and economic relations under the State Council may prohibit the infringing persons from engaging in business activities relating to international trade in the relevant services for a period of between ONE (1) year and THREE (3) years from the date on which the decision to impose administrative sanctions takes effect or the date on which the verdict in the criminal prosecution takes effect.

Article 63 Any conduct in breach of Article 34 of this Law shall be sanctioned in accordance with the relevant laws and regulations; where such conduct constitutes a criminal offence, it shall be subject to criminal prosecution.

The authority responsible for foreign trade and economic relations under the State Council may prohibit the infringing persons from engaging in business activities relating to foreign trade for a period of ONE (1) to THREE (3) years from the date on which the

decision to impose administrative sanctions takes effect, or the date on which the verdict in the criminal prosecution takes effect.

Article 64 Within the prohibition period imposed in accordance with Article 61 to Article 63 of this Law, the Chinese customs authority shall not, in accordance with the decision rendered by the authority responsible for foreign trade and economic relations under the State Council, process any import or export goods relating to the foreign trade dealer in question, and foreign exchange departments or designated foreign exchange banks shall not process the related exchange settlement or sale of exchange.

Article 65 In accordance with this Law, personnel serving in the State's foreign trade authorities who commit any neglect of duty, malpractice, irregularities or abuse of power, which constitute criminal offences, shall be subject to criminal prosecutions pursuant to law; as to those offences which do not constitute crimes, administrative sanctions shall apply.

In accordance with this Law, personnel serving in the State's foreign trade authorities who extort property from others with job convenience or illegally accept others' property and seek advantages for them in return and thus commit criminal offences shall be subject to criminal prosecutions; where such conducts do not constitute criminal offences, administrative sanctions shall apply.

Article 66 Where any foreign trade dealers are not satisfied with the concrete administrative measures taken by the authority responsible for foreign trade in accordance with this Law, such persons may bring an administrative appeal in accordance with the law, or bring an administrative lawsuit in the People's Court of China.

Chapter XI Final Provisions

Article 67 The administration of military products, cultural products, and fission and fusion materials or any materials derived thereof, shall abide by the specific laws and regulations applicable thereto.

Article 68 The State applies flexible measures, provides favourable conditions and conveniences to the trade between the towns on the frontier and those towns of neighbouring countries on the frontier as well as trade among border residents. Detailed rules are to be laid down by the State Council.

Article 69 This Law shall not apply to the separate customs territories of the People's Republic of China.

Article 70 This Law shall enter into force as of July 1, 2004.

中华人民共和国对外贸易法

(1994年5月12日第八届全国人民代表大会常务委员会第七次会议通过 2004年4月6日第十届全国人民代表大会常务委员会第八次会议修订)

中华人民共和国主席令

第十五号

《中华人民共和国对外贸易法》已由中华人民共和国第十届全国人民代表大会常务委员会第八次会议于2004年4月6日修订通过，现将修订后的《中华人民共和国对外贸易法》公布，自2004年7月1日起施行。

中华人民共和国主席 胡锦涛
2004年4月6日

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第一章总则

第一条为了扩大对外开放，发展对外贸易，维护对外贸易秩序，保护对外贸易经营者的合法权益，促进社会主义市场经济的健康发展，制定本法。

第二条本法适用于对外贸易以及与对外贸易有关的知识产权保护。

本法所称对外贸易，是指货物进出口、技术进出口和国际服务贸易。

第三条国务院对外贸易主管部门依照本法主管全国对外贸易工作。

第四条国家实行统一的对外贸易制度，鼓励发展对外贸易，维护公平、自由的对外贸易秩序。

第五条中华人民共和国根据平等互利的原则，促进和发展同其他国家和地区的贸易关系，缔结或者参加关税同盟协定、自由贸易区协定等区域经济贸易协定，参加区域经济组织。

第六条中华人民共和国在对外贸易方面根据所缔结或者参加的国际条约、

协定，给予其他缔约方、参加方最惠国待遇、国民待遇等待遇，或者根据互惠、对等原则给予对方最惠国待遇、国民待遇等待遇。

第七条任何国家或者地区在贸易方面对中华人民共和国采取歧视性的禁止、限制或者其他类似措施的，中华人民共和国可以根据实际情况对该国家或者该地区采取相应的措施。

第二章对外贸易经营者

第八条本法所称对外贸易经营者，是指依法办理工商登记或者其他执业手续，依照本法和其他有关法律、行政法规的规定从事对外贸易经营活动的法人、其他组织或者个人。

第九条从事货物进出口或者技术进出口的对外贸易经营者，应当向国务院对外贸易主管部门或者其委托的机构办理备案登记；但是，法律、行政法规和国务院对外贸易主管部门规定不需要备案登记的除外。备案登记的具体办法由国务院对外贸易主管部门规定。

对外贸易经营者未按照规定办理备案登记的，海关不予办理进出口货物的报关验放手续。

第十条从事国际服务贸易，应当遵守本法和其他有关法律、行政法规的规定。

从事对外工程承包或者对外劳务合作的单位，应当具备相应的资质或者资格。具体办法由国务院规定。

第十一条国家可以对部分货物的进出口实行国营贸易管理。实行国营贸易管理货物的进出口业务只能由经授权的企业经营；但是，国家允许部分数量的国营贸易管理货物的进出口业务由非授权企业经营的除外。

实行国营贸易管理的货物和经授权经营企业的目录，由国务院对外贸易主管部门会同国务院其他有关部门确定、调整并公布。

违反本条第一款规定，擅自进出口实行国营贸易管理的货物的，海关不予放行。

第十二条对外贸易经营者可以接受他人的委托，在经营范围内代为办理对外贸易业务。

第十三条对外贸易经营者应当按照国务院对外贸易主管部门或者国务院其他有关部门依法作出的规定，向有关部门提交与其对外贸易经营活动有关的文件及资料。有关部门应当为提供者保守商业秘密。

第三章货物进出口与技术进出口

第十四条国家准许货物与技术的自由进出口。但是，法律、行政法规另有规定的除外。

第十五条国务院对外贸易主管部门基于监测进出口情况的需要，可以对部分自由进出口的货物实行进出口自动许可并公布其目录。

实行自动许可的进出口货物，收货人、发货人在办理海关报关手续前提出自动许可申请的，国务院对外贸易主管部门或者其委托的机构应当予以许可；未办理自动许可手续的，海关不予放行。

进出口属于自由进出口的技术，应当向国务院对外贸易主管部门或者其委托的机构办理合同备案登记。

第十六条国家基于下列原因，可以限制或者禁止有关货物、技术的进口或者出口：

(一)为维护国家安全、社会公共利益或者公共道德，需要限制或者禁止进口或者出口的；

(二)为保护人的健康或者安全，保护动物、植物的生命或者健康，保护环境，需要限制或者禁止进口或者出口的；

(三)为实施与黄金或者白银进出口有关的措施，需要限制或者禁止进口或者出口的；

(四)国内供应短缺或者为有效保护可能用竭的自然资源，需要限制或者禁止出口的；

(五)输往国家或者地区的市场容量有限，需要限制出口的；

(六)出口经营秩序出现严重混乱，需要限制出口的；

(七)为建立或者加快建立国内特定产业，需要限制进口的；

(八)对任何形式的农业、牧业、渔业产品有必要限制进口的；

(九)为保障国家国际金融地位和国际收支平衡，需要限制进口的；

(十)依照法律、行政法规的规定，其他需要限制或者禁止进口或者出口的；

(十一)根据我国缔结或者参加的国际条约、协定的规定，其他需要限制或者禁止进口或者出口的。

第十七条国家对与裂变、聚变物质或者衍生此类物质的物质有关的货物、技术进出口，以及与武器、弹药或者其他军用物资有关的进出口，可以采取任何必要的措施，维护国家安全。

在战时或者为维护国际和平与安全，国家在货物、技术进出口方面可以采取任何必要的措施。

第十八条国务院对外贸易主管部门会同国务院其他有关部门，依照本法第十六条和第十七条的规定，制定、调整并公布限制或者禁止进出口的货物、技术目录。

国务院对外贸易主管部门或者由其会同国务院其他有关部门，经国务院批准，可以在本法第十六条和第十七条规定的范围内，临时决定限制或者禁止前款规定目录以外的特定货物、技术的进口或者出口。

第十九条国家对限制进口或者出口的货物，实行配额、许可证等方式管理；对限制进口或者出口的技术，实行许可证管理。

实行配额、许可证管理的货物、技术，应当按照国务院规定经国务院对外贸易主管部门或者经其会同国务院其他有关部门许可，方可进口或者出口。

国家对部分进口货物可以实行关税配额管理。

第二十条进出口货物配额、关税配额，由国务院对外贸易主管部门或者国务院其他有关部门在各自的职责范围内，按照公开、公平、公正和效益的原则进行分配。具体办法由国务院规定。

第二十一条国家实行统一的商品合格评定制度，根据有关法律、行政法规的规定，对进出口商品进行认证、检验、检疫。

第二十二条国家对进出口货物进行原产地管理。具体办法由国务院规定。

第二十三条对文物和野生动物、植物及其产品等，其他法律、行政法规有禁止或者限制进出口规定的，依照有关法律、行政法规的规定执行。

第四章国际服务贸易

第二十四条中华人民共和国在国际服务贸易方面根据所缔结或者参加的国际条约、协定中所作的承诺，给予其他缔约方、参加方市场准入和国民待遇。

第二十五条国务院对外贸易主管部门和国务院其他有关部门，依照本法和其他有关法律、行政法规的规定，对国际服务贸易进行管理。

第二十六条国家基于下列原因，可以限制或者禁止有关的国际服务贸易：

- (一)为维护国家安全、社会公共利益或者公共道德，需要限制或者禁止的；
- (二)为保护人的健康或者安全，保护动物、植物的生命或者健康，保护环境，需要限制或者禁止的；
- (三)为建立或者加快建立国内特定服务产业，需要限制的；
- (四)为保障国家外汇收支平衡，需要限制的；
- (五)依照法律、行政法规的规定，其他需要限制或者禁止的；
- (六)根据我国缔结或者参加的国际条约、协定的规定，其他需要限制或者禁止的。

第二十七条国家对与军事有关的国际服务贸易，以及与裂变、聚变物质或者衍生此类物质的物质有关的国际服务贸易，可以采取任何必要的措施，维护国家安全。

在战时或者为维护国际和平与安全，国家在国际服务贸易方面可以采取任何必要的措施。

第二十八条国务院对外贸易主管部门会同国务院其他有关部门，依照本法第二十六条、第二十七条和其他有关法律、行政法规的规定，制定、调整并公布国际服务贸易市场准入目录。

第五章与对外贸易有关的知识产权保护

第二十九条国家依照有关知识产权的法律、行政法规，保护与对外贸易有关的知识产权。

进口货物侵犯知识产权，并危害对外贸易秩序的，国务院对外贸易主管部门可以采取在一定期限内禁止侵权人生产、销售的有关货物进口等措施。

第三十条知识产权权利人有阻止被许可人对许可合同中的知识产权的有效性提出质疑、进行强制性一揽子许可、在许可合同中规定排他性返授条件等行为之一，并危害对外贸易公平竞争秩序的，国务院对外贸易主管部门可以采取必要的措施消除危害。

第三十一条其他国家或者地区在知识产权保护方面未给予中华人民共和国的法人、其他组织或者个人国民待遇，或者不能对来源于中华人民共和国的货物、技术或者服务提供充分有效的知识产权保护的，国务院对外贸易主管部门可以依照本法和其他有关法律、行政法规的规定，并根据中华人民共和国缔结或者参加的国际条约、协定，对该国家或者该地区的贸易采取必要的措施。

第六章对外贸易秩序

第三十二条在对外贸易经营活动中，不得违反有关反垄断的法律、行政法规的规定实施垄断行为。

在对外贸易经营活动中实施垄断行为，危害市场公平竞争的，依照有关反垄断的法律、行政法规的规定处理。

有前款违法行为，并危害对外贸易秩序的，国务院对外贸易主管部门可以采取必要的措施消除危害。

第三十三条在对外贸易经营活动中，不得实施以不正当的低价销售商品、串通投标、发布虚假广告、进行商业贿赂等不正当竞争行为。

在对外贸易经营活动中实施不正当竞争行为的，依照有关反不正当竞争的法律、行政法规的规定处理。

有前款违法行为，并危害对外贸易秩序的，国务院对外贸易主管部门可以采取禁止该经营者有关货物、技术进出口等措施消除危害。

第三十四条在对外贸易活动中，不得有下列行为：

(一) 伪造、变造进出口货物原产地标记，伪造、变造或者买卖进出口货物原产地证书、进出口许可证、进出口配额证明或者其他进出口证明文件；

(二) 骗取出口退税；

(三) 走私；

(四) 逃避法律、行政法规规定的认证、检验、检疫；

(五) 违反法律、行政法规规定的其他行为。

第三十五条对外贸易经营者在对外贸易经营活动中，应当遵守国家有关外汇管理的规定。

第三十六条违反本法规定，危害对外贸易秩序的，国务院对外贸易主管部门可以向社会公告。

第七章 对外贸易调查

第三十七条为了维护对外贸易秩序，国务院对外贸易主管部门可以自行或者会同国务院其他有关部门，依照法律、行政法规的规定对下列事项进行调查：

(一) 货物进出口、技术进出口、国际服务贸易对国内产业及其竞争力的影响；

(二) 有关国家或者地区的贸易壁垒；

(三) 为确定是否应当依法采取反倾销、反补贴或者保障措施等对外贸易救济措施，需要调查的事项；

(四) 规避对外贸易救济措施的行为；

(五) 对外贸易中有关国家安全利益的事项；

(六) 为执行本法第七条、第二十九条第二款、第三十条、第三十一条、第三十二条第三款、第三十三条第三款的规定，需要调查的事项；

(七) 其他影响对外贸易秩序，需要调查的事项。

第三十八条启动对外贸易调查，由国务院对外贸易主管部门发布公告。

调查可以采取书面问卷、召开听证会、实地调查、委托调查等方式进行。

国务院对外贸易主管部门根据调查结果，提出调查报告或者作出处理裁定，并发布公告。

第三十九条有关单位和个人应当对对外贸易调查给予配合、协助。

国务院对外贸易主管部门和国务院其他有关部门及其工作人员进行对外贸易调查，对知悉的国家秘密和商业秘密负有保密义务。

第八章对外贸易救济

第四十条国家根据对外贸易调查结果，可以采取适当的对外贸易救济措施。

第四十一条其他国家或者地区的产品以低于正常价值的倾销方式进入我国市场，对已建立的国内产业造成实质损害或者产生实质损害威胁，或者对建立国内产业造成实质阻碍的，国家可以采取反倾销措施，消除或者减轻这种损害或者损害的威胁或者阻碍。

第四十二条其他国家或者地区的产品以低于正常价值出口至第三国市场，对我国已建立的国内产业造成实质损害或者产生实质损害威胁，或者对我国建立国内产业造成实质阻碍的，应国内产业的申请，国务院对外贸易主管部门可以与该第三国政府进行磋商，要求其采取适当的措施。

第四十三条进口的产品直接或者间接地接受出口国家或者地区给予的任何形式的专向性补贴，对已建立的国内产业造成实质损害或者产生实质损害威胁，或者对建立国内产业造成实质阻碍的，国家可以采取反补贴措施，消除或者减轻这种损害或者损害的威胁或者阻碍。

第四十四条因进口产品数量大量增加，对生产同类产品或者与其直接竞争的产品的国内产业造成严重损害或者严重损害威胁的，国家可以采取必要的保障措施，消除或者减轻这种损害或者损害的威胁，并可以对该产业提供必要的支持。

第四十五条因其他国家或者地区的服务提供者向我国提供的服务增加，对提供同类服务或者与其直接竞争的服务的国内产业造成损害或者产生损害威胁的，国家可以采取必要的救济措施，消除或者减轻这种损害或者损害的威胁。

第四十六条因第三国限制进口而导致某种产品进入我国市场的数量大量增加，对已建立的国内产业造成损害或者产生损害威胁，或者对建立国内产业造成阻碍的，国家可以采取必要的救济措施，限制该产品进口。

第四十七条与中华人民共和国缔结或者共同参加经济贸易条约、协定的国家或者地区，违反条约、协定的规定，使中华人民共和国根据该条约、协定享有的利益丧失或者受损，或者阻碍条约、协定目标实现的，中华人民共和国政府有权要求有关国家或者地区政府采取适当的补救措施，并可以根据有关条约、协定中止或者终止履行相关义务。

第四十八条国务院对外贸易主管部门依照本法和其他有关法律的规定，进行对外贸易的双边或者多边磋商、谈判和争端的解决。

第四十九条国务院对外贸易主管部门和国务院其他有关部门应当建立货物进出口、技术进出口和国际服务贸易的预警应急机制，应对对外贸易中的突发和异常情况，维护国家经济安全。

第五十条国家对规避本法规定的对外贸易救济措施的行为，可以采取必要的反规避措施。

第九章对外贸易促进

第五十一条国家制定对外贸易发展战略，建立和完善对外贸易促进机制。

第五十二条国家根据对外贸易发展的需要，建立和完善为对外贸易服务的金融机构，设立对外贸易发展基金、风险基金。

第五十三条国家通过进出口信贷、出口信用保险、出口退税及其他促进对

外贸易的方式，发展对外贸易。

第五十四条国家建立对外贸易公共信息服务体系，向对外贸易经营者和其他社会公众提供信息服务。

第五十五条国家采取措施鼓励对外贸易经营者开拓国际市场，采取对外投资、对外工程承包和对外劳务合作等多种形式，发展对外贸易。

第五十六条对外贸易经营者可以依法成立和参加有关协会、商会。

有关协会、商会应当遵守法律、行政法规，按照章程对其成员提供与对外贸易有关的生产、营销、信息、培训等方面的服务，发挥协调和自律作用，依法提出有关对外贸易救济措施的申请，维护成员和行业的利益，向政府有关部门反映成员有关对外贸易的建议，开展对外贸易促进活动。

第五十七条中国国际贸易促进组织按照章程开展对外联系，举办展览，提供信息、咨询服务和其他对外贸易促进活动。

第五十八条国家扶持和促进中小企业开展对外贸易。

第五十九条国家扶持和促进民族自治地方和经济不发达地区发展对外贸易。

第十章 法律责任

第六十条违反本法第十一条规定，未经授权擅自进出口实行国营贸易管理的货物的，国务院对外贸易主管部门或者国务院其他有关部门可以处五万元以下罚款；情节严重的，可以自行政处罚决定生效之日起三年内，不受理违法行为人从事国营贸易管理货物进出口业务的应用，或者撤销已给予其从事其他国营贸易管理货物进出口的授权。

第六十一条进出口属于禁止进出口的货物的，或者未经许可擅自进出口属于限制进出口的货物的，由海关依照有关法律、行政法规的规定处理、处罚；构成犯罪的，依法追究刑事责任。

进出口属于禁止进出口的技术的，或者未经许可擅自进出口属于限制进出口的技术的，依照有关法律、行政法规的规定处理、处罚；法律、行政法规没有规定的，由国务院对外贸易主管部门责令改正，没收违法所得，并处违法所得一倍以上五倍以下罚款，没有违法所得或者违法所得不足一万元的，处一万元以上五万元以下罚款；构成犯罪的，依法追究刑事责任。

自前两款规定的行政处罚决定生效之日或者刑事处罚判决生效之日起，国务院对外贸易主管部门或者国务院其他有关部门可以在三年内不受理违法行为人提出的进出口配额或者许可证的申请，或者禁止违法行为人在一年以上三年以下的期限内从事有关货物或者技术的进出口经营活动。

第六十二条从事属于禁止的国际服务贸易的，或者未经许可擅自从事属于限制的国际服务贸易的，依照有关法律、行政法规的规定处罚；法律、行政法规没有规定的，由国务院对外贸易主管部门责令改正，没收违法所得，并处违法所得一倍以上五倍以下罚款，没有违法所得或者违法所得不足一万元的，处一万元以上五万元以下罚款；构成犯罪的，依法追究刑事责任。

国务院对外贸易主管部门可以禁止违法行为人自前款规定的行政处罚决定生效之日或者刑事处罚判决生效之日起一年以上三年以下的期限内从事有关的国际服务贸易经营活动。

第六十三条违反本法第三十四条规定，依照有关法律、行政法规的规定处罚；构成犯罪的，依法追究刑事责任。

国务院对外贸易主管部门可以禁止违法行为人自前款规定的行政处罚决定生效之日或者刑事处罚判决生效之日起一年以上三年以下的期限内从事有关的对外贸易经营活动。

第六十四条依照本法第六十一条至第六十三条规定被禁止从事有关对外贸易经营活动的，在禁止期限内，海关根据国务院对外贸易主管部门依法作出的禁止决定，对该对外贸易经营者的有关进出口货物不予办理报关验放手续，外汇管理部门或者外汇指定银行不予办理有关结汇、售汇手续。

第六十五条依照本法负责对外贸易管理工作的部门的工作人员玩忽职守、徇私舞弊或者滥用职权，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。

依照本法负责对外贸易管理工作的部门的工作人员利用职务上的便利，索取他人财物，或者非法收受他人财物为他人谋取利益，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。

第六十六条对外贸易经营活动当事人对依照本法负责对外贸易管理工作的部门作出的具体行政行为不服的，可以依法申请行政复议或者向人民法院提起行政诉讼。

第十一章附则

第六十七条与军品、裂变和聚变物质或者衍生此类物质的物质有关的对外贸易管理以及文化产品的进出口管理，法律、行政法规另有规定的，依照其规定。

第六十八条国家对边境地区与接壤国家边境地区之间的贸易以及边民互市贸易，采取灵活措施，给予优惠和便利。具体办法由国务院规定。

第六十九条中华人民共和国的单独关税区不适用本法。

第七十条本法自 2004 年 7 月 1 日起施行。

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http://www.legaldaily.com.cn/bm/2004-04/07/content_89426.htm