

Foreign Trade Law of the People's Republic of China

(Adopted at the Seventh Meeting of the Standing Committee of the Eighth National People's Congress on May 12, 1994, for the purpose of developing foreign trade, vindicating the foreign trade order, and promoting the sound development of the socialist market economy.

Article 2 In this Law, foreign trade refers to import and export of commodities and technology as well as international service trade.

Article 3 The competent department of foreign economic relations and trade of the State Council shall be in charge of the national foreign trade according to this Law.

Article 4 The State shall pursue a unified scheme of foreign trade, and uphold according to law a fair and free foreign trade order.

The State shall encourage the development of foreign trade, bring the initiative of the local authorities into full play, and guarantee the independent operational rights of the foreign trade operators.

Article 5 The People's Republic of China shall, in conformity with the principle of equality and mutual benefit, promote and develop trading relationship with other countries and regions.

Article 6 In the respect of foreign trade, the People's Republic of China shall, according to the principle of reciprocity, adopt

national treatment.
adopts discriminative
measures to the People's
Republic of China
corresponding measures

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Article 8

information such as the market quotations, the prices of commodities and the customer's situation, etc. The commissioning and commissioned parties shall conclude a commission contract, in which the rights and obligations of both parties shall be specified.

Article 14 Foreign trade operators shall, in accordance with the provisions of the competent department of foreign economic relations and trade of the State Council, submit to the competent departments documents and records relating to their foreign trade business. The competent departments shall keep the trade secrets for the provider.

Chapter III Import and Export of Commodities and Technology

Article 15 Subject to provisions otherwise stipulated in the relevant laws and regulations, the State shall permit free import and export of commodities and technology.

Article 16 The State may impose restrictions on the import or export of the commodities and technology coming under the following categories:

- (1) those the import or export of which needs to be restricted in the light of the national security or the social and public interests;
- (2) those the export of which needs to be restricted in consideration of the shortage in domestic market or for a significant protection of the resources which may be exhausted in the country;
- (3) those the export of which needs to be restricted in consideration of the market capacity of the destination country or region;
- (4) those the import of which needs to be restricted for the purpose of building or speeding up the building of the specific domestic industry;
- (5) those agricultural, stock or fishery products in any form whose import needs to be restricted;
- (6) those the import of which needs to be restricted for the purpose of ensuring the international financial standing of the State and/or in consideration of the balance between international income and expenditure of the state; and
- (7) those the import or export of which shall be restricted according to the provisions of any international treaty or agreement concluded or acceded to by the People's Republic of China.

Article 17 The State shall prohibit the import or export of the commodities and technology coming under the following categories:

- (1) those which will endanger the national security or those which

are prejudicial to the social and public interests;

(2) those which must be prohibited from import or export in need of protecting human life or health;

(3) those which will destroy the ecological environment; and

(4) those which shall be prohibited from import or export according to the provisions of any international treaty or agreement concluded or acceded to by the People's Republic of China.

Article 18 The competent department of foreign economic relations and trade of the State Council shall, jointly with other departments concerned of the State Council and according to the provisions of Article 16 and 17 of this Law, formulate, adjust and publish a list of commodities and technology whose import or export shall be restricted or prohibited.

The competent department of foreign economic relations and trade of the State Council may, by itself or jointly with other departments concerned of the State Council, with the approval of the State Council, make a decision at the last moment to restrict or prohibit the import or export of certain specific commodities and technology which fall in categories listed in Article 16 and 17 of this Law but are not included in the list as mentioned in the preceding paragraph.

Article 19 Those commodities whose import or export is restricted shall be administered by a quota or license system; those technology whose import or export is restricted shall be administered by a license system.

The commodities and technology which are administered with a quota or license system may be imported or exported only after the competent department of foreign economic relations and trade of the State Council has, by itself or jointly with other departments concerned of the State Council, permitted in accordance with the provisions of the State Council .

Article 20 Import and export quotas shall be allotted on the principle of benefit, impartiality, openness and fair competition and in the light of the situations of the applicants such as the achievements and capacity Mdepartm of f eco e

on, those laws or regulations shall be applied.

Chapter IV International Service Trade

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

Article 23 In regard of international service trade, the People's Republic of China shall, according to the promise made in the international treaties or agreements which she has concluded or acceded to, accord market access and the national treatment to the other signatories and acceding parties of the treaties or agreements.

Article 24 The State may impose restrictions on some international service trade for the purpose of

- (1) safeguarding the national security or the social and public interests;
- (2) protecting the ecological environment;
- (3) building or speeding up the building of any certain domestic service trade;
- (4) ensuring the balance between the foreign exchange income and expenditure of the State; or
- (5) other purposes prescribed by laws or regulations.

Article 25 The State shall impose prohibitions on the international service trade coming under the following categories:

- (1) those which will endanger the national security or whose which are prejudicial to the social and public interests;
- (2) those which are contrary to the international obligations of the People's Republic of China; and
- (3) those which are prohibited by any other law or regulations.

Article 26 The competent department of foreign economic relations and trade and other departments concerned of the State Council shall, in accordance with the provisions of this Law and other relevant laws and regulations, conduct administration on international service trade.

Article 34 The State shall develop foreign trade by taking foreign trade promotion measures such as import and export credit, export drawback and others.

Article 35 Foreign trade operators may establish and join Chamber of Commerce of Importers and Exporters according to law.

A Chamber of Commerce of Importers and Exporters shall abide by laws and regulations, and conduct coordination and direction over the foreign trade activities of its members, provide consulting service, convey to the government departments the proposals of its members concerning the promotion of foreign trade and take vigorous action to promote foreign trade according to its constitution.

Article 36 The Chinese organization for the promotion of international trade shall, according to its constitution, develop foreign connections, hold exhibitions, provide information and consulting service, and take other action to promote foreign trade.

Article 37 The State shall promote and give aid to the development of foreign trade of the national autonomous localities and undeveloped regions.

Chapter VII Legal Responsibility

Article 38 Those who smuggle goods whose import or export is restricted or prohibited shall, when the circumstances are serious enough to constitute a crime, be prosecuted for the criminal responsibility in accordance with the Supplementary Provisions Concerning the Punishment of the Crimes of Smuggling, and, when it does not constitute a crime, be punished in accordance with the provisions of the Customs Law. The competent department of foreign economic relations and trade of the State Council may in addition revoke their business permit of foreign trade.

Article 39 Those who forge or alter certificates of origin or licenses of import or export shall be prosecuted for the criminal responsibility in accordance with the provisions of Article 167 of the Criminal Law; those who traffic certificates of origin or licenses of import or export, or traffic forged or altered certificates of origin or licenses of import or export, shall be prosecuted for the criminal responsibility by applying mutatis mutandis the provisions of Article 167 of the Criminal Law.

Where the offender is an organization, that organization shall be

sentenced to a fine, while the directly responsible person in charge and other directly responsible person shall be prosecuted for the criminal responsibility in accordance with, or by applying *mutatis mutandis*, the provisions of Article 167 of the Criminal Law. The competent department of foreign economic relations and trade of the State council may in addition revoke its business permit of foreign trade.

Those who know well that the import or export license is forged or altered and import or export goods thereby shall be punished in accordance with the provisions of Article 38 of this Law.

Article 40 Those who, in violation of the provisions of this Law, import or export technology whose import or export is prohibited or restricted, shall, when the circumstances are serious enough to constitute a crime, be prosecuted for the criminal responsibility by applying *mutatis mutandis* the provisions of the Supplementary Provisions Concerning the Punishment of Crimes of Smuggling.

Article 41 Any foreign trade functionary who neglects his duties, engages in malpractice out of personal considerations or abuses his power shall, when the circumstances are serious enough to constitute a crime,

Article 44 This Law shall become effective on July 1, 1994.

Annex: The Relevant Article of the Criminal Law

Article 167 Whoever forges, alters, steals, forcibly seizes or destroys the official documents, certificates or seals of state organs, enterprises, institutions or people's organizations shall be sentenced to a fixed-term imprisonment of not more than three years or to a fine.