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【法规标题】 中华人民共和国对外贸易法(2004 修订) [Effective]

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【本法变迁史】

[中华人民共和国对外贸易法\[19940512\]](#)
[中华人民共和国对外贸易法\(2004 修订\)\[20040406\]](#)

Order of the President of the People's Republic of China
(No. 15)

[The Foreign Trade Law of the People's Republic of China](#) was amended and adopted at the eighth meeting of the Standing Committee of the Tenth National People's Congress on April 6, 2004. [The amended Foreign Trade Law of the People's Republic of China](#) is hereby promulgated for effect as of July 1, 2004.

Hu Jintao, President of the People's Republic of China
April 6, 2004

[Foreign Trade Law of the People's Republic of China](#)
(Adopted at the seventh meeting of the Standing of the Eighth National People's Congress on May 12, 1994; amended at the eighth meeting of the Standing Committee of the Tenth National People's Congress on April 6, 2004.)

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中华人民共和国主席令
(第 15 号)

#\$(相关资料:[法律 3 篇](#)[行政法规 3 篇](#)[部门规章 628 篇](#)[司法解释 3 篇](#)[其他规范性文件 1 篇](#)[地方法规 50 篇](#)[裁判文书 10 篇](#)[修订沿革相关论文 57 篇](#)[实务指南](#))

《[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

[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)

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Chapter I General Provisions

Article 1 The present Law is enacted for the purpose of broadening the opening to the outside world, developing foreign trade, maintaining the order of foreign trade, protecting the lawful rights and interests of the foreign trade business operators, and promoting the healthy development of the socialist market economy.

Article 2 The present Law applies to foreign trade and the protection of foreign-trade-related intellectual property.

The term "foreign trade" as mentioned in the present law refers to the import and export of goods, technology, and the international trade of services.

Article 3 The administrative department of the State Council in charge of foreign trade shall take charge of the nationwide foreign trade according to the present Law.

Article 4 The state practices a uniform system of foreign trade, encourages the development of foreign trade, and maintains an order of fair and free foreign trade.

Article 5 The People's Republic of China promotes and develops foreign trade relations with other countries and regions, concludes or accedes to regional economic and trade agreements such as customs or tariff union agreements, free trade zone agreements, etc., and joins regional economic organizations according to the principle of equality and reciprocity.

Article 6 In the field of foreign trade, the People's Republic of China grants, according to the international treaties and agreements it concluded or acceded to, most-favored-nation treatment or national treatment to other contracting parties or members, or grants most-

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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。
#\$（相关资料:[修订沿革相关论文 2 篇](#)）

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。#\$（相关

favorable-nation treatment or national treatment to its counterparts according to the principle of mutual benefit and reciprocity.

资料:[修订沿革实务指南](#))

Article 7 For any country or region that takes discriminatory banning, restriction or other acts against the People's Republic of China in terms of trade, the People's Republic of China shall be entitled to adopt, in accordance with the actual circumstances, corresponding measures against them.

Chapter II Foreign Trade Business Operators

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。

#\$ (相关资料:[修订沿革实务指南](#))

Article 8 The term "foreign trade business operator" as mentioned in the present Law refers to any legal person, other organization, or individual, that has handled industrial and commercial registration or other formalities for business operation and is engaged in the foreign trade business activities according to the provisions of the present Law and other relevant laws and administrative regulations.

Article 9 Any foreign trade business operator that is engaged in the import and export of goods or technology shall be registered for archival purposes with the administrative department of foreign trade of the State Council or the institution entrusted thereby, unless it is otherwise provided for by any law, administrative regulation or the foreign trade department of the State Council. The specific measures for archival registration shall be formulated by the foreign trade department of the State Council. Where any foreign trade business operator that fails to file for archival registration according to relevant provisions, the customs may not handle the procedures of customs declarations and release of the import or export goods.

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。#\$ (相关资料:[修订沿革相关论文 1 篇实务指南](#))

Article 10 Anyone who is engaged in international service trade shall abide by the present Law and other relevant laws and administrative regulations.

An entity that is engaged in the overseas contracting of engineering projects or overseas labor cooperation shall have lawfully obtained corresponding competence or qualifications. The specific measures shall be formulated by the State Council.

Article 11 The State may employ the administration of state-run trade to the import and export of some goods. The import and export of the goods subject to the administration of state-run trade can be managed by the authorized enterprises only, with the exception, however, of the goods, which is allowed by the state to be partially imported or exported by unauthorized enterprises. The catalogue of the goods subject to the

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。#\$ (相关资料:[修订沿革相关论文 2 篇实务指南](#))

management of state-run trade and that of authorized enterprises shall be determined, adjusted and published by the foreign trade department of the State Council in collaboration with other relevant departments.

Where anyone who imports or exports, as in violation of Paragraph 1 of the present article, any of the goods subject to the management of state-run trade, the customs may not release the goods.

Article 12 A foreign business operator may accept the entrustment of other people and handle foreign trade businesses on their behalf within its scope of business.

Article 13 A foreign trade business operator shall submit to the relevant departments the documents and materials relating to its foreign trade activities in accordance to the provisions of the foreign trade department of the State Council and those of other relevant departments of the State Council. And the relevant departments shall keep the business secrets of the providers to themselves.

Chapter III The Import and Export of Goods and Technology

Article 14 The state allows the free import and export of goods and technology, unless it is otherwise provided for by any law or administrative regulation.

Article 15 The foreign trade department of the State Council may, where the monitoring of import and export so requires, employ the system of automatic license of import and export to some of the freely imported and exported goods, and publish the catalogue thereof.

For the goods subject to automatic license of import and export, if the consignor or consignee applies for automatic license prior to handling the formalities of customs declaration, the foreign trade department of the State Council and the institutions entrusted thereby shall grant approval. Where it fails to handle the formalities of automatic license, the customs may not release the goods thereunder.

To import or export any technology subject to free import and export, one shall have its contracts registered with the foreign trade administrative department of the State Council or the institution entrusted thereby for archival purposes.

Article 16 The state may restrict or forbid the import or export of relevant goods or technology if:

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、国民待遇等对待，或者根据互惠、对等原则给予对方最惠国待遇、国民待遇等对待。#\$（相关资料：[修订沿革实务指南](#)）

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。#\$（相关资料：[修订沿革](#)）

第二章 对外贸易经营者

1. it is necessary to restrict or forbid the import or export for the purpose of maintaining state security, social public good or public morality;

2. it is necessary to restrict or forbid the import or export for the purpose of protecting human health or security, protecting the life or health of any animal or plant, or protecting the environment;

3. it is necessary to restrict the import or export for the purpose of implementing the measures relating to the import or export of gold or silver;

4. it is necessary to restrict or forbid the export of any of the exhaustible natural resources that are in short supply or subject to effective protection;

5. it is necessary to restrict the export due to the limited market capacity of the destination country or region;

6. it is necessary to export due to the serious disorder of the export business management;

7. it is necessary to restrict the import for the purpose of establishing or accelerating the establishment of a particular domestic industry;

8. it is necessary to restrict the import of any form of product in the agriculture, animal husbandry, or fishing industry;

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。#\$（相关资料：[修订沿革相关论文 1 篇实务指南](#)）

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。#\$（相关资料：[部门规章 2 篇地方法规 6 篇裁判文书 1 篇修订沿革相关论文 1 篇实务指南](#)）

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。#\$（相关资料：[地方法规 2 篇修订沿革实务指南](#)）

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。#\$（相关资料：[相关论文 1 篇](#)[实务指南](#)）

9. it is necessary to restrict the import for the purpose of safeguarding the international financial status of the state or of the international balance of payments;

10. it is necessary to restrict or forbid the import or export under any other circumstance as provided for in any other law or administrative regulation; or

11. it is necessary to restrict or forbid the import or export under any other circumstance as provided for in any international treaty or agreement that China has concluded or acceded to.

Article 17 The state may, for the purpose of defending state security, take any necessary measures for managing the import and export of any matter of fission or fusion or any matter that derives such matter and the import and export of any weapon, ammunition, or any other military supply.

When in war or for keeping international peace and security, the state may take any necessary measures in terms of the import or export of goods or technology.

Article 18 The foreign trade administrative department of the State Council may, in collaboration with any other relevant department of the State Council, formulate, adjust and publish catalogues of goods and technology restricted or forbidden from import or export according to the provisions of Article 16 or 17 of the present Law.

The foreign trade administrative department of the State Council may, independently or in collaboration with any other department of the State Council, make provisional decisions, upon the approval of the State Council and within the scope of Articles 16 and 17 of the present Law, on restricting or forbidding the import or export of certain goods or technology that are not found in the catalogue as mentioned in the preceding paragraph.

Article 19 The state adopts the system of quota, license, etc, to the goods subject to import or export restrictions, while adopts the system of license to the technologies restricted or prohibited from import or export.

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。#\$（相关资料：[修订沿革](#)[实务指南](#)）

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。#\$（相关资料：[裁判文书 1 篇](#)[修订沿革](#)）

第三章 货物进出口与技术进出口

For the goods and technologies subject to the administration of quota or license, they cannot be imported or exported unless it has been approved by the foreign trade department of the State Council independently or in collaboration with other departments of the State Council.

The state may practice tariff quota administration to some of the import goods.

Article 20 The quotas and tariff quotas for the import and export goods shall be distributed by the foreign trade department of the State Council or other relevant departments of the State Council within their respective duties in accordance with the principles of openness, fairness, impartiality, and efficiency. The specific measures shall be made by the State Council.

Article 21 The state practices a uniform system of commodity quality assessment, and makes authentications, inspections, and quarantines to the import and export commodities according to the provisions of relevant laws and administrative regulations.

Article 22 The state applies the administration system of origin to the import and export goods. The specific measures shall be formulated by the State Council.

Article 23 With regard to cultural relics, wild animals or plants, and the products thereof, if it is restricted or prohibited by any law or administrative regulation from import or export, the provisions of such laws and administrative regulations shall apply.

Chapter IV International Service Trade

Article 24 The People's Republic of China opens, in accordance with its commitments made in the international treaties and agreements of international service trade that it has concluded or acceded to, its market to the other contracting parties or members and grants them with the national treatment.

Article 25 The foreign trade department of the State Council and other relevant departments of the State Council may, according to the present Law or any other relevant law or administrative regulation, administer the

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。#\$（相关资料:[地方法规 1 篇修订沿革实务指南](#)）

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。#\$（相关资料:[地方法规 5 篇相关论文 1 篇实务指南](#)）

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；

trade of international services.

Article 26 The state may restrict or prohibit the trade of relevant international services if:

1. it is necessary to restrict or prohibit it for the sake of maintaining state security, social public good or public morality;

2. it is necessary to restrict or prohibit it for the purpose of protecting human health or security, protecting the life or health of any animal or plant, or protecting the environment;

3. it is necessary to restrict it for the purpose of establishing or accelerating the establishment of a certain domestic service industry;

4. it is necessary to restrict it for the purpose of ensuring the balance of international payments of the state;

5. it is necessary to restrict or prohibit it for any other reason as provided for in any law or administrative regulation; or

6. it is necessary to restrict or prohibit it for any other reason as provided for in any international treaty or agreement that China has concluded or acceded to.

Article 27 For the military-related trade of international services and the international service trade of any matter of fission or fusion or any matter that derives such matter, the state may take any necessary measures to safeguard the security of the state.

When in war or for keeping international peace and security, the state may take any necessary measures regarding the international service trade.

Article 28 The foreign trade department of the State Council formulates, adjusts, and publishes, in collaboration with other relevant departments of the State Council, market entry catalogues of the international service trade in accordance with the provisions of Articles 26 and 27 of the present Law and other relevant laws and administrative regulations.

Chapter V Foreign-trade-related Intellectual Property Protection

（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。[#\\$（相关资料:部门规章 1 篇地方法规 1 篇裁判文书 1 篇修订沿革相关论文 1 篇实务指南）](#)

Article 29 The state protects the intellectual property relating to foreign trade in accordance with relevant laws and administrative regulations concerning intellectual property.

Where any of the import goods violates any intellectual property right and, at the same time, endangers the foreign trade order, the foreign trade department of the State Council may take such measures as prohibiting the import of the relevant goods that the infringer has produced or sold for a certain period of time.

Article 30 In case any intellectual property right holder commits any of the acts of hindering the licensee from questioning the validity of the intellectual property right involved in the license agreement, conducting forced package license, or providing exclusive selling back conditions in the license agreement, etc. and, at the same time, endangers the fair competition order of foreign trade, the foreign trade department of the State Council may take necessary measures to eliminate such danger.

Article 31 Where any country or region fails to grant national treatment to the legal persons, other organizations, or individuals of the People's Republic of China in the protection of intellectual property rights, or fails to provide sufficient and effective intellectual property protection to the goods, technologies or services whose origin is the People's Republic of China, the foreign trade department of the State Council may, according to the present Law or any other law or administrative regulation, and according to the international treaties or agreements that the People's Republic of China has concluded or acceded to, take necessary measures against the trade with the said country or region.

Chapter VI Foreign Trade Order

Article 32 No one may, in the business activities of foreign trade, implement any act of monopolization against the relevant anti-monopolization laws or administrative regulations.

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。#\$(相关资料:[裁判文书1篇](#)[相关论文1篇](#)[实务指南1篇](#))

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。#\$(相关资料:[地方法规1篇](#)[修订沿革实务指南](#))

Anyone who carries out any monopolizing act in its foreign trade business activities shall be dealt with in accordance with the relevant anti-monopolization laws and administrative regulations. If any of the illegal acts as described in the preceding paragraph endangers the foreign trade order at the same time, the foreign trade department of the State Council may take necessary measures to eliminate the harm.

Article 33 No one may, in the business activities of foreign trade, conduct such unfair competition acts as selling commodities at unjustified low prices, colluding bid invitation and tendering for bid, disseminating false advertisements, or offering commercial bribes, etc.

Anyone who conducts any unfair competition act in its foreign trade business activities shall be dealt with in accordance with the relevant laws and administrative regulations regarding counteracting unfair competition. If any of the illegal acts as described in the preceding paragraph endangers the foreign trade order at the same time, the foreign trade department of the State Council may take such measures as prohibiting the business operator involved from importing or exporting relevant goods or technologies so as to eliminate the said illegal act.

Article 34 No one may, in foreign trade activities, commit any of the following:

1. Forging or altering the marks of origin of the import or export goods; forging, altering or trading the certificates of origin, the licenses of import or export, the certificates of import or export quotas of the import or export goods, or any other certification documents of import or export;

2. Cheating for export refunds;

3. Smuggling;

4. Evading inspections and quarantines as provided for by any law or administrative regulation; or

5. Committing any other violation of law or administrative regulation.

Article 35 All foreign trade business operators shall abide by the provisions of the state regarding foreign exchange administration in their

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。#\$(相关资料:[地方法规 3 篇修订沿革实务指南](#))

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。

#\$(相关资料:[地方法规 1 篇修订沿革实务指南](#))

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。#\$(相关资料:[实务指南](#))

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。#\$(相关资料:[实务指南](#))

foreign trade business activities.

Article 36 Anyone who violates the present Law and endangers the foreign trade order shall be made public by way of announcements made by the foreign trade department of the State Council.

Chapter VII Foreign Trade Investigation

Article 37 In order to maintain the foreign trade order, the foreign trade department of the State Council may investigate into the following matters by itself or jointly with other relevant departments of the State Council in accordance with the laws and administrative regulations:

1. The impact of the import or export of goods or technology or international service trade on domestic industries and the competitiveness thereof;
2. The trade barriers of relevant countries or regions;
3. The matters that need to be investigated into for the purpose of determining whether it is necessary to take such foreign trade relief measures as antidumping, countervailing, or safeguard measures, etc.;
4. The evasion of trade relief measures;
5. The matters of foreign trade that concern the security or interest of the state;
6. The matters that need to be investigated into for the purpose of implementing Article 7, Paragraph 2 of Article 29, Article 30, Article 31, Paragraph 3 of Article 32, and Paragraph 3 of Article 33; and
7. Any other matter that need to be investigated into as a result of affecting the foreign trade order.

Article 38 When a foreign trade investigation is initiated, an announcement shall be issued by the foreign trade department of the

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。#\$（相关资料：[修订沿革实务指南](#)）

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。#\$（相关资料：[修订沿革实务指南](#)）

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。#\$（相关资料：[修订沿革实务指南](#)）

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

State Council.

An investigation may be made by way of written questionnaires, holding hearings, making site investigations, and entrusting other people to make the investigation, etc.

The foreign trade department of the State Council may, based on the result of investigation, put forward an investigation report or make a ruling, and make an announcement for it.

Article 39 Relevant entities and individuals shall offer cooperation and assistance in foreign trade investigations.

The foreign trade department of the State Council and other departments of the State Council as well as the functionaries thereof shall, in the process of foreign trade investigations, be obliged to keep to themselves the state secrets and commercial secrets that they have access to.

Chapter VIII Foreign Trade Relief

Article 40 The state may take appropriate trade relief measures according to the result of foreign trade investigations.

Article 41 In case any of the products of any country or region is dumped into China at an abnormally low price and thus causes substantial injury or the threat of substantial injury to an established domestic industry, or substantially impedes the establishment of a domestic industry, the state may take antidumping measures so as to eliminate or alleviate such injury or threat of injury or impediment.

Article 42 In case any product of any country or region is exported to any third country at an abnormally low price and thus causes substantial injury or the threat of substantial injury to an established domestic industry, or substantially impedes the establishment of a domestic industry, the foreign trade department of the State Council may, as per the request of the corresponding domestic industry, hold negotiations with the government of the third country, and urge it to take appropriate measures.

Article 43 Where any imported product is given, directly or indirectly, any special subsidy by the exporting country or region in any form, and thus causing substantial injury or threat of substantial injury to an established industry, or substantially impeding the establishment of a domestic industry, the state may take countervailing measures so as to eliminate or alleviate such injury or threat of injury or impediment.

Article 44 In case the sharp increase of any imported product brings about

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。#\$(相关资料:[修订沿革实务指南](#))

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。#\$(相关资料:[裁判文书1篇实务指南](#))

any serious injury or threat of serious injury to the domestic industry that produces identical product or directly competing products, the state may take necessary safeguarding measures so as to eliminate or alleviate such injury or threat of injury, and may provide necessary support to the industry concerned.

Article 45 In case the increase of any service provided by any service provider of any country or region to China has caused injury or threat of injury to the domestic industry that provides identical service or directly competing services, the state may take necessary relief measures so as to eliminate or alleviate such injury or threat of injury.

Article 46 In case the import of any product to into China increases sharply as a result of the restriction of import by any third country, and thus causes injury or threat of injury to an established domestic industry, or substantially impedes the establishment of a domestic industry, the state may take necessary measures to restrict the import of the product.

Article 47 Where any country or region that has entered into any economic or trade treaty or agreement with the People's Republic of China violates the treaty or agreement so that the interest enjoyable by the People's Republic of China according to the treaty or agreement is lost or injured or the achievement of the objective of the treaty or agreement is impeded, the government of the People's Republic of China is entitled to demand the country or region concerned to take appropriate measures of relief, and may suspend or terminate the performance of relevant obligations according to the relevant treaties or agreements.

Article 48 The foreign trade department of the State Council is, according to the provisions of the present Law or other relevant laws, responsible for the bilateral or multilateral discussions, negotiations, and dispute settlement.

Article 49 The foreign trade department of the State Council and other relevant departments of the State Council shall establish an emergency prewarning mechanism of the import and export of goods, technology, and international service trade so as to deal with the abrupt or abnormal situations in foreign trade and safeguard the economic security of the state.

Article 50 For the acts of evading the trade relief measures as provided for in the present Law, the state may take necessary anti-evasion measures.

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。

#\$(相关资料:[实务指南](#))

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。#\$(相关资料:[实务指南](#))

Chapter IX Foreign Trade Promotion

Article 51 The state formulates its strategy for foreign trade development, establishes and improves its foreign trade promotion mechanisms.

Article 52 The state establishes and improves its foreign-trade-oriented financial institutions and establishes foreign trade development funds and risk funds according to the demand of foreign trade development.

Article 53 The state employs such foreign trade promotion measures as import and export credit, export credit insurance, export tax refund, etc. to develop its foreign trade.

Article 54 The state establishes a foreign trade public information service system so as to provide information services to the foreign trade business operators and the general public.

Article 55 The state takes measures to encourage foreign trade business operators to explore the international market, and employ diversified means including foreign investment, foreign engineering project contracting, and labor cooperation, etc. to develop its foreign trade.

Article 56 Foreign trade business operators may lawfully establish and join relevant associations and chambers of commerce. Relevant associations and chambers of commerce shall abide by the laws and administrative regulations, and provide, according to their constitutions, services to their members in terms of production, marketing, information, training, etc. relating to foreign trade, plays the role of coordination and self-discipline, makes applications for foreign trade relief measures according to law, defend the interests of their members and the corresponding industry, passes onto the relevant department of the

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。#\$（相关资料:[相关论文](#) [4 篇实务指南](#)）

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。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[相关论文](#)

government the suggestions of their members regarding foreign trade, and conduct foreign trade promotion activities.

Article 57 The Chinese international trade promotion organizations carry out foreign contacts according to their respective constitutions, hold exhibitions, provide information, consultation and conduct other foreign trade promotion activities.

Article 58 The state supports and promotes small and medium-sized enterprises to engage in foreign trade.

Article 59 The state supports and promotes minority ethnic group regions and economically underdeveloped regions to engage in foreign trade.

Chapter X Legal Liabilities

Article 60 Anyone who violates Article 11 of the present Law by unlawfully importing or exporting any of the goods subject to state-run trade without authorization shall be fined up to 50,000 yuan by the foreign trade department of the State Council or other relevant departments of the State Council. If the circumstances are serious, the application of the offender for engaging in the import or export of the goods subject to state-run trade may be turned down for a period of three years as of the day when the decision on administrative sanction takes effect, or the authorization to engage in the import or export of goods subject to state-run trade that has already been granted may be canceled.

Article 61 Anyone who imports or exports any goods that are banned from import or export or unlawfully imports or exports any goods that are restricted from import or export without approval shall be dealt with and punished by the customs office according to relevant laws or administrative regulations. If the offence constitutes any crime, it shall be subject to criminal liabilities.

Anyone who imports or exports any technology that is banned from import or export or unlawfully imports or exports any technology that is restricted

[1 篇实务指南](#))

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。#\$（相关资料:[相关论文](#)
[1 篇实务指南](#)）

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；

from import or export shall be ordered by the foreign trade department of the State Council to correct, and be fined two times up to 5 times the illegal proceeds and the illegal proceeds shall be confiscated. Where there are no illegal proceeds or the illegal proceeds are not as much as 10,000 yuan, it shall be fined 10,000 yuan up to 50,000 yuan. If the offence constitutes any crime, it shall be subject to criminal liabilities. As of the day when the decision on administrative sanction as described in the two preceding paragraphs takes effect, the foreign trade department of the State Council or other relevant departments of the State Council may, within a period of three years, refuse to accept the offender's applications for import or export quotas or licenses, or prohibit the offender from engaging in the import or export of relevant goods or technology within a period of one year up to three years.

Article 62 Anyone who is engaged in any banned international service trade or is unlawfully engaged in any restricted international service trade without approval shall be punished according to relevant laws and administrative regulations. Where it is not provided for in any law or administrative regulation, it shall be ordered by the foreign trade department of the State Council to correct and be fined two times up to five times the illegal proceeds, and the illegal proceeds shall be confiscated. Where there are no illegal proceeds or the illegal proceeds are not as much as 10,000 yuan, it shall be fined 10,000 yuan up to 50,000 yuan. If the offence constitutes any crime, it shall be subject to criminal liabilities. The foreign trade department of the State Council may prohibit the offender from engaging in the business activities relating to international service trade for a period of one year up to three years as of the day when the offender is given an administrative sanction or criminal penalty.

The foreign trade department of the State Council may prohibit the offenders from engaging in the business activities of international service trade for a period of one year up to three years as of the day when the decision on administrative sanction as described in the preceding paragraph takes effect or as of the day when the judgment of criminal punishment takes effect.

Article 63 Anyone who violates Article 34 of the present Law shall be penalized according to relevant laws and administrative regulations. If the offence constitutes any crime, the offender shall be subject to criminal liabilities.

The foreign trade department of the State Council may prohibit the offenders from engaging in relevant foreign trade activities for a period of one year up to three years as of the day when the decision on administrative sanction as described in the preceding paragraph takes effect or as of the day when the judgment of criminal punishment takes effect.

（三）走私；

（四）逃避法律、行政法规规定的认证、检验、检疫；

Article 64 In case anyone is banned from engaging in relevant foreign trade business according to Articles 61 through 64 of the present Law, the customs shall, during the period of banning, refuse to handle relevant customs inspection and release formalities for the relevant import or export goods of the foreign trade business operator according to the decision of banning made by the foreign trade department of the State Council, and the administrative department of foreign exchange or the designated foreign exchange banks shall refuse to handle relevant foreign exchange settlement and sale.

Article 65 Where any functionary of the department that is responsible for the administration of foreign trade according to the present Law neglects his duties, practices fraud for private benefits or abuses his power so that any crime is committed, he shall be subject to criminal liabilities. If the offence is not so serious as to constitute a crime, he shall be subject to administrative sanctions.

Where any functionary of the department that is responsible for the administration of foreign trade according to the present Law solicits any property from any other person by taking advantage of his position, or unlawfully accepts any property of any other person for the benefit of that person so that any crime is constituted, he shall be subject to criminal liabilities; if the offence is not so serious as to constitute a crime, he shall be subject to administrative sanctions.

Article 66 Where any of the parties concerned of foreign trade business activities is dissatisfied with the concrete administrative act made by the department that is responsible for the administration of foreign trade according to the present Law, it may apply for administrative reconsideration according to law or lodge an administrative action with the people's court.

Chapter XI Supplementary Provisions

Article 67 Where there are different provisions in any law or administrative regulation concerning the administration of the foreign trade of any military matter, any matter of fission or fusion or any matter that derives such matter and concerning the administration of import or export of cultural products, such provisions shall prevail.

Article 68 The state employs flexible measures and grants favorable treatment to and facilitates the trade between the border areas of China and those of neighboring countries as well as the frontier trade between border residents. The specific measures shall be formulated by the State Council.

（五）违反法律、行政法规规定的其他行为。#\$（相关资料:[部门规章 1 篇裁判文书 2 篇修订沿革相关论文 1 篇实务指南](#)）

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。#\$（相关资料:[部门规章 1 篇修订沿革](#)）

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。#\$（相关资料:[相关论文 1 篇](#)）

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

Article 70 The present Law shall come into force as of July 1, 2004.
(Translated by Dr. Chaowu Jin. Email: jinchawu@hotmail.com;
jinchawu@cufe.edu.cn)

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。#\$（相关资料：[相关论文 1 篇](#)
[实务指南](#)）

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。#\$（相关资料：[部门规章 1](#)

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。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[部门规章 1 篇修订沿革实务指南](#)）

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。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[修订沿革实务指南](#)）

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。#\$（相关资料:[修订沿革实务指南](#)）

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。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[部门规章 1 篇实务指南](#)）

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。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[修订沿革实务](#)）

[指南](#))

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。

#\$ (相关资料:[修订沿革相关论文 1 篇实务指南](#))

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。#\$ (相关资料:[部门规章 1 篇实务指南](#))

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。#\$ (相关资料:[实务指南](#))

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。#\$ (相关资料:[修订沿革相关论文 1 篇实务指南](#))

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。#\$ (相关资料:[修订沿革实务指南](#))

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。
#\$(相关资料:[修订沿革](#))

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。
#\$(相关资料:[实务指南](#))

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。#\$（相关资料:[部门规章 1 篇修订沿革实务指南](#)）

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国际服务贸易经营活动。#\$（相关资料:[实务指南](#)）

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。#\$（相关资料:[部门规章 1 篇实务指南](#)）

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。#\$（相关资料:[部门规章 2 篇修订沿革实务指南](#)）

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。#\$（相关资料:[修订沿革](#)）

第六十九条 中华人民共和国的单独关税区不适用本法。#\$（相关资料:[修订沿革](#)）

第七十条 本法自 2004 年 7 月 1 日起施行。
#\$（相关资料:[修订沿革](#)）

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