
REGULATION OF THE PEOPLE'S REPUBLIC OF CHINA ON THE ADMINISTRATION OF THE IMPORT AND EXPORT OF GOODS

The Interim Regulation of the People's Republic of China on the License of Import of Goods which was promulgated by the State Council on January 10, 1984, the Interim Measures on the Administration of Export Commodities which was ratified by the State Council on December 21, 1992 and issued by the MOFTEC on December 29, 1992, the Interim Measures on the Administration of the Import of Machinery and Electrical Equipments which was jointly issued by the State Economic and Trade Commission and the MOFTEC on October 7, 1993, the Interim Measures on the Administration of Quotas for the Import of General Commodities which was ratified by the State Council on December 22, 1993 and jointly issued by the State Development Planning Commission and the MOFTEC on December 29, 1993, and the Interim Measures on the Administration and Management of Imported Goods which was ratified by the State Council on June 13, 1994 and jointly issued by the MOFTEC and the State Development Planning Commission on July 19, 1994 shall be concurrently repealed.

The present Regulation shall take effect as of January 1, 2002.





CONTENTS:

Chapter I General Provisions

Chapter I General Provisions

Article 1

The present Regulation has been enacted according to the relevant provisions of the Foreign Trade Law of the People's Republic of China (hereinafter referred to as the Foreign Trade Law) for the purpose of standardizing the administration of the import and export of goods, maintaining the order of import and export of goods and promoting the healthy development of foreign trade..

Article 2

The present Regulation shall be observed in the importation of goods to within the customs boundary of the People's Republic of China or exportation of goods to beyond the customs boundary of the People's Republic of China..

Article 3

The state exercises uniform administration over the import and export of goods..

Article 4

The state allows the free importation and exportation of goods and maintains the fairness and orderliness of the import and export of goods according to law.

Unless it is clearly provided in laws or administrative regulations to forbid or restrict the import or export of goods, no entity or individual may establish or maintain prohibitive or restrictive measures over the import or export of goods..

Article 5

The People's Republic of China grants the most-favored-nation treatment or national treatment to other contracting parties or member states to the international treaties or pacts that it has concluded or acceded to, or grants the most-favored-nation treatment or national treatment to its counterparts according to the principle of mutual benefit and reciprocity..

Article 6

Any country or region that takes discriminatory prohibitive or restrictive measures or other similar measures against the People's Republic of China in terms of the import or export of goods, it may, according to the specific situations, take corresponding measures against such country or region..

Article 7

The department of the State Council in charge of foreign trade and economic cooperation (hereinafter referred to as the foreign trade department of the State Council) takes charge of the import and export of goods within the whole country according to the provisions of the Foreign Trade Law and the present Regulation.

The relevant departments of the State Council shall, on the basis of the functions and duties as determined by the State Council, be responsible for the administration of the import and export of goods according to the provisions of the present Regulation.

Chapter II Administration of Import of Goods
Section I Goods Prohibited from Importation

Article 8

In any of the circumstances as provided in Article 17 of the Foreign Trade Law, the goods concerned shall be prohibited from importation.

If there are relevant provisions in other laws or regulations on prohibiting the importation of goods, such provisions shall be abided by.

The list of goods prohibited from importation shall be formulated, adjusted and promulgated by 1/9 the foreign trade department of the State Council in collaboration with other relevant departments of the State Council..

Article 9

No goods that are prohibited from importation may be imported.

Section II Goods Limited in Importation

Article 10

In any of the circumstances as provided in Clauses 1, 4, 5, 6, and 7 of Article 16 of the Foreign Trade Law, the goods concerned shall be limited in importation.

Where there are provisions in other laws or regulations on limiting the importation of goods, such provisions shall be abided by.

The list of goods limited in importation shall be formulated, adjusted and promulgated by the foreign trade department of the State Council in collaboration with other relevant departments of the State Council.

The list of goods limited in importation shall be promulgated at least 21 days prior to the implementation thereof; where the circumstances are urgent,

it shall be promulgated at no later than the day of implementation..

Article 11

Where there are quantitative limits of the state on the goods limited in importation, the goods shall be subject to the administration of quotas, and other goods limited in importation shall be subject to the administration of licenses.

When importing the goods subject to the administration of quotas in customs tariffs, the provisions of Section IV of the present Chapter shall be followed..

Article 12

The goods limited in importation that are under the administration of quotas shall be subject to the administration of the foreign trade department of the State Council and the relevant economic administrative departments of the State Council (hereinafter referred to as administrative departments of import quotas) on the basis of the functions and duties as provided by the State Council..

Article 13

For the goods limited in importation that are under the administration of quotas, the administrative departments of import quotas shall promulgate the total amount of import quotas for the next year at no later than July 31 of each year.

An applicant of quotas shall apply to the administrative departments of import quotas for the next year between August 1 and 31 of each year.

The administrative departments of import quotas shall allocate the quotas for the next year to the quota applicants before October 31 of each year.

The administrative departments of import quotas may, where it is necessary, make adjustments to the total amount of the year and promulgate it at 21 days prior to its implementation..

Article 14

The quotas may be allocated according to the principle of uniform handling of all applications..

Article 15

Where the quotas are allocated according to the principle of uniform handling of all applications, the administrative departments of import quotas shall decide whether to grant quotas or not within

60 days prior to the prescribed deadline for filing applications..

Article 16

When allocating quotas, the administrative departments of import quotas shall take the following elements into consideration:

1. the performances of the applicant in import;
2. whether the quotas in the past have been fully used;
3. the productive capacity, management scale and the sales of the applicant;
4. the applications filed by new import business operators;
5. the quantity of quotas applied;
6. other elements that need to be considered..

Article 17

An import business operator shall present the quotas certificate issued by the administrative departments of import quotas to the customs offices for handling the formalities of customs declaration and examination.

The relevant economic administrative departments of the State Council shall report such information as the total amount of quotas of the year, the plans of allocation, the issuance of quota certificates, etc to the foreign trade department of the State Council for archivist purposes..

Article 18

A holder of quotas who has not used up its quotas for the year shall return the unused 2/9 quotas to the administrative departments of import quotas prior to September 1 of the current year.

In case it fails to return the unused quotas and fails to use them up by the end of the current year, the administrative departments of import quotas may make corresponding deductions to the quotas of the holder for the next year..

Article 19

For the goods limited in importation that are subject to the administration of licenses, the import business operators shall file applications to the foreign trade department of the State Council or relevant departments of the State Council (hereinafter referred to as the administrative departments of import licenses).

The administrative departments of import licenses shall decide whether to grant a license or not wi-

thin 30 days after receiving the application.

The import business operators shall present the import license issued by the administrative departments of import quotas to the customs office for handling the formalities of customs declaration and examination.

The term "import license" as mentioned in the preceding paragraph shall refer to the various kinds of certificates and documents that are of import nature as provided in laws and administrative regulations..

Article 20

The administrative departments of import quotas and the administrative departments of export licenses shall, on the basis of the provisions of the present Regulation, formulate specific measures of administration so as to clarify the qualifications of the applicant, the departments for accepting applications, the principles and procedures of inspections, etc. and shall promulgate the measures prior to their implementation.

The department for accepting applications shall, as a general rule, be one department.

The documents requested by the administrative departments of import quotas and the administrative departments of import licenses for submission shall be limited to those documents and materials that are necessary for effecting the administration and the departments may not refuse to accept the applications under the pretext of trifle, immaterial mistakes or errors.

Section III Goods Subject to Free Importation

Article 21

The goods subject to free importation shall not be limited..

Article 22

The foreign trade department of the State Council and the relevant economic administrative departments of the State Council may, on the basis of the demand for monitoring the importation of goods, exercise automatic import license administration over some of the goods subject to free importation according to the functions and duties determined by the State Council.

The list of goods that are under automatic import license administration shall be promulgated at no later than 21 days prior to its implementation..

Article 23

The import of goods that are under automatic import license administration shall be allowed..

Article 24

When importing the goods that are under automatic import license administration, the import business operators shall, prior to handling the formalities of customs declaration, file an application to the foreign trade department of the State Council or the relevant economic administrative departments of the State Council for automatic import licenses.

The foreign trade department of the State Council or the relevant economic administrative departments of the State Council shall issue automatic import licenses immediately after receiving the applications; if the circumstances are special, the time space shall no longer than 10 days.

The import business operators shall present the automatic import license issued by the foreign trade department of the State Council or the relevant economic administrative departments of the State Council to the customs offices for handling the formalities of customs declaration.

Section IV Goods under the Administration of Tariff Quotas

Article 25

The list of goods that are under the administration of tariff quotas shall be formulated, adjusted and promulgated by the foreign trade department of the State Council in collaboration with the relevant economic administrative departments of the State Council..

Article 26

For the goods imported within the tariff quotas, the tariffs shall be levied according to the rates within the quotas; for the goods imported beyond the tariff quotas, the tariffs shall be levied 3/9 according to the rates beyond the quotas..

Article 27

The administrative departments of import quotas shall publicize the total amount of quotas for the next year between September 15 and October 14 of each year.

An applicant for quotas shall file its applications to the administrative departments of import quotas between October 15 and October 30 of each year..

Article 28

The tariff quotas may be allocated according to the principle of uniform handling of all applications..

Article 29

Where the tariff quotas are allocated according to the principle of uniform handling of all applications, the administrative department of import quotas shall decide whether to grant quotas or not before December 31 of each year..

Article 30

The import business operators shall present its certificate of tariff quotas issued by the administrative departments of import tariff quotas to the customs offices for handling the formalities of customs declaration and examination of the goods within the tariff quotas.

The relevant economic administrative departments of the State Council shall submit in a time way such information as the total amount of tariff quotas for the year, the plans of allocation and the issuance of certificates of tariff quotas, etc. to the foreign trade department of the State Council for archivist purposes..

Article 31

A holder of tariff quotas who has not used up its quotas for the year shall return the unused quotas to the administrative departments of import quotas prior to September 15 of the current year.

In case it fails to return the unused quotas and fails to use them up by the end of the current year, the administrative departments of import quotas may make corresponding deductions to the quotas of the holder for the next year..

Article 32

The administrative departments of import quotas shall, on the basis of the provisions of the present Regulation, formulate specific measures of administration so as to clarify the qualifications of the applicant, the departments for accepting applications, the principles and procedures of inspections, etc. and shall promulgate the measures prior to their implementation.

The department for accepting applications shall, as a general rule, be one department.

The documents requested by the administrative departments of import quotas for submission shall be limited to those documents and materials that

are necessary for effecting the administration and the departments may not refuse to accept the applications under the pretext of trifle, immaterial mistakes or errors.

Chapter III Administration of the Export of Goods
Section I Goods Prohibited from Exportation

Article 33

In any of the circumstances as provided in Article 17 of the Foreign Trade Law, the goods concerned shall be prohibited from exportation.

If there are relevant provisions in other laws or regulations on prohibiting the importation of goods, such provisions shall be abided by.

The list of goods prohibited from exportation shall be formulated, adjusted and promulgated by the foreign trade department of the State Council in collaboration with other relevant departments of the State Council..

Article 34

No goods that are prohibited from exportation may be exported.

Section II Goods Limited in Exportation

Article 35

In any of the circumstances as provided in Clauses 1, 2, 3, and 7 of Article 16 of the Foreign Trade Law, the goods concerned shall be limited in exportation.

Where there are provisions in other laws or regulations on limiting the exportation of goods, such provisions shall be abided by.

The list of goods limited in exportation shall be formulated, adjusted and promulgated by the foreign trade department of the State Council in collaboration with other relevant departments of the State Council.

The list of goods limited in exportation shall be promulgated at least 21 days prior to the implementation thereof; where the circumstances are urgent, it shall be promulgated at no later than 4/9 the day of implementation..

Article 36

Where there are quantitative limits of the state on the goods limited in exportation, the goods shall be subject to the administration of quotas, and other goods limited in importation shall be subject to the

administration of licenses..

Article 37

The goods limited in exportation that are under the administration of quotas shall be subject to the administration of the foreign trade department of the State Council and the relevant economic administrative departments of the State Council (hereinafter referred to as administrative departments of export quotas) on the basis of the functions and duties as provided by the State Council..

Article 38

For the goods limited in exportation that are under the administration of quotas, the administrative departments of export quotas shall promulgate the total amount of export quotas for the next year at no later than October 31 of each year.

An applicant of quotas shall apply to the administrative departments of export quotas for the next year between November 1 and 15 of each year.

The administrative departments of export quotas shall allocate the quotas for the next year to the quota applicants before December 15 of each year..

Article 39

The quotas may be allocated directly or by way of invitation for bids..

Article 40

The administrative departments of export quotas shall decide whether to grant quotas within 30 days after receiving the applications and at no later than December 15 of the current year..

Article 41

The export business operators shall present the certificate of quotas issued by the administrative department of export quotas to the customs offices for handling the formalities of customs declaration and examination.

The relevant economic administrative departments of the State Council shall submit such information as the total amount of quotas for the year, the plans for allocation and the issuance of certificates of quotas, etc. to the foreign trade department of the State Council for archival purposes.

Article 42

A holder of quotas who has not used up its quotas for the year shall return the unused quotas to the

administrative departments of export quotas prior to October 31 of the current year.

In case it fails to return the unused quotas and fails to use them up by the end of the current year, the administrative departments of export quotas may make corresponding deductions to the quotas of the holder for the next year..

Article 43

For the goods limited in exportation that are subject to the administration of licenses, the export business operators shall file applications to the foreign trade department of the State Council or relevant departments of the State Council (hereinafter referred to as the administrative departments of export licenses).

The administrative departments of export licenses shall decide whether to grant a license or not within 30 days after receiving the application.

The import business operators shall present the export license issued by the administrative departments of export quotas to the customs office for handling the formalities of customs declaration and examination.

The term "export license" as mentioned in the preceding paragraph shall refer to the various kinds of certificates and documents that are of export nature as provided in laws and administrative regulations..

Article 44

The administrative departments of export quotas and the administrative departments of export licenses shall, on the basis of the provisions of the present Regulation, formulate specific measures of administration so as to clarify the qualifications of the applicant, the departments for accepting applications, the principles and procedures of inspections, etc. and shall promulgate the measures prior to their implementation.

The department for accepting applications shall, as a general rule, be one department.

The documents requested by the administrative departments of export quotas and the administrative departments of export licenses for submission shall be limited to those documents and materials that are necessary for effecting the administration and the departments may not refuse to accept the applications under the pretext of trifling, immaterial mistakes or errors.

Chapter IV State-run Trade and Designated Administration

Article 45

The state may administer the import and export of some goods by way of state-run trade.

The list of goods for import and export under the state-run trade administration shall be formulated, adjusted and promulgated by the foreign trade department of the State Council in collaboration with other relevant economic administrative departments of the State Council..

Article 46

The foreign trade department of the State Council and other relevant economic administrative departments of the State Council shall determine and publicize the list of state-run trade enterprises according to the functions and duties as determined by the State Council..

Article 47

For the goods that are subject to the state-run trade administration, the state may allow non-state-run trade enterprises to import and export some of the goods..

Article 48

The state-run trade enterprises shall provide to the foreign trade department of the State Council on the semi-annual basis such information as the prices for buying or selling the goods subject to the state-run trade administration, etc..

Article 49

The foreign trade department of the State Council may, upon the demand for maintaining the management order of import and export, exercise designated management over some of the goods during certain periods.

The list of goods subject to designated management shall be formulated, adjusted and promulgated by the State Council..

Article 50

The specific standard and procedures for determining the enterprises to engage in designated management shall be promulgated by the foreign trade department of the State Council before implementation.

The list of enterprises to engage in designated management shall be publicized by the foreign trade department of the State Council..

Article 51

Unless provided in Article 47 of the present Regulation, the enterprises or other organizations that have not been included in the list of state-run trade enterprises and enterprises to engage in designated management may not engage in the import or export of goods that are subject to state-run trade administration and designated management..

Article 52

The state-run trade enterprises and the enterprises to engage in designated management shall carry out their business activities under normal commercial conditions, and may not choose provider according to non-commercial considerations, nor may they reject the entrustment of other enterprises or organizations on the basis of non-commercial considerations.

Chapter V Monitoring of Import and Export and Provisional Measures

Article 53

The foreign trade department of the State Council shall be responsible for the monitoring and appraisal of the import and export of goods, shall report regularly to the State Council about the import and export of goods, and give suggestions..

Article 54

In order to maintain the international balance of payments equilibrium including the occurrence of serious international unbalance of payments or the threat of serious unbalance of payments, or to maintain a level of foreign exchange reserves that is suitable for carrying out the plans of economic development, the state may take provisional restrictive measures with regard to the value or quantity of the goods to be imported..

Article 55

In order to establish or quicken up the establishment of a certain domestic industry, the state may, in case this target cannot be achieved through the incumbent measures, take provisional measures for restricting or prohibiting the import of goods..

Article 56

To take any of the following measures, the state may, when it is necessary, take provisional measures to restrict the import of any form of agricultural products or aquatic products:

1. Taking restrictive measures over the domestic production or sale of the products that are of the same kind or that directly compete with each other;
2. Clearing up, by way of subsidizing consumptions, the domestic superfluous products that are of the same kinds or that directly compete with each other;
3. Limiting the yield of animal products whose production is completely or mainly dependent upon the import of the agricultural products or aquatic products..

Article 57

In any of the following circumstance, the foreign trade department of the State Council may take provisional measures to restrict or prohibit the export of certain goods:

1. It is necessary to restrict or prohibit the export due to the occurrence of abnormalities such as serious natural disasters;
2. It is necessary to restrict the export of goods due to serious disorder of export management;
3. It is necessary to restrict or prohibit the export of goods as pursuant to the provisions of Articles 16 and 17 of the Foreign Trade Law..

Article 58

In case provisional measures are to be taken for restricting or prohibiting the export of goods, the foreign trade department of the State Council shall make public announcements prior to the implementation of the measures.

Chapter VI Promotion of Foreign Trade

Article 59

The state takes the measures like export credit insurance, export credit, export rebates, establishing funds for developing foreign trade, etc. to promote the development of foreign trade.

Article 60

The state takes effective measures to promote the technological innovation and technological development of the enterprises and to enhance the international competition capacity of the enterprises..

Article 61

The state helps the enterprises to exploit the international market by way of providing information consultation services..

Article 62

The business operators that import or export goods may establish or join chambers of commerce for import and export so as to achieve self-disciplinary and coordination..

Article 63

The state encourages the enterprises to actively respond to the discriminatory antidumping, anti-subsidy or safeguard measures of foreign countries so as to protect the lawful rights and interests of the enterprises in normal trade.

Chapter VII Legal Liabilities

Article 64

Any one who imports or exports goods that are prohibited from import or export or imports or exports goods that are limited in importation or exportation without approval or permission shall be subject to investigation for assuming penal liabilities according to the provisions of the Criminal Law on smuggling;

if the activities are not serious enough for assuming criminal liabilities, they shall be punished according to the relevant provisions of the Customs Law, and the foreign trade department of the State Council may revoke their business licenses for foreign trade at the same time..

Article 65

Any one who imports or exports goods that are limited in importation or exportation beyond the scopes approved or permitted shall be subject to investigation for assuming penal liabilities according to the provisions of the Criminal Law concerning the crime of smuggling or the crime of illegal management;

if the activities are not serious enough for assuming criminal liabilities, they shall be punished according to the relevant provisions of the Customs Law, and the foreign trade department of the State Council may suspend or even revoke their business licenses for foreign trade at the same time..

Article 66

Any one who counterfeits or alters or buys or sells certificates of import or export quotas, approval documents, licenses or automatic import licenses shall be subject to assume criminal liabilities according to the Criminal Law concerning the crime of illegal management or the crime of counterfeiting,

altering, buying or selling official documents, certificates, seals of state organs;
if the activities are not serious enough for assuming criminal liabilities, they shall be punished according to the relevant provisions of the Customs Law, and the foreign trade department of the State Council may revoke their business licenses for foreign trade at the same time..

Article 67

In case any business operator of import or export who obtains quotas for the import or export of goods, certification documents or automatic import licenses by deception or other unfair means, the quotas for the import or export of goods, certification documents or automatic import licenses shall be taken back, and the foreign trade department of the State Council may suspend or even revoke their business licenses for foreign trade at the same time..

Article 68

In case any one who violates the provisions of Article 51 of the present Regulation by engaging in the import or export of goods that are subject to state-run trade administration or designated management and thus disrupts the market order and if the circumstances are serious, it shall be subject to assume criminal liabilities according to the provisions of the Criminal Law on the crime of illegal management;

if the activities are not serious enough for assuming criminal liabilities, they shall be given administrative punishments by the administrations for industry and commerce, and the foreign trade department of the State Council may suspend or even revoke their business licenses for foreign trade at the same time..

Article 69

Any state-run trade enterprise or designated management enterprise violates the provisions of Articles 48 and 52 of the present Regulation shall be given a warning by the foreign trade department of the State Council;

if the circumstances are serious, its qualifications as a state-run trade enterprise or designated management enterprise may be suspended or even revoked by the foreign trade department of the State Council..

Article 70

Any staff member engaged in the administration of the import or export of goods that, in the process of performing its functions of administration over the import or export of goods, abuses its power or neglects its duties or accepts or exacts property or money from other people by taking advantage of its functions shall be subject to assuming criminal liabilities according to the provisions of the Criminal Law concerning the crime of abusing power or the crime of neglecting duties or the crime of accepting bribes or other crimes; if the activities are not serious enough for assuming criminal liabilities, it shall be given administrative punishments.

Chapter VIII Supplementary Provisions

Article 71

Any one who refuses to accept the decision of the administrative organs as provided in the present Regulation on the granting of quotas, tariff quotas, licenses or automatic licenses or to accept the decision on determining the qualifications of state-run trade enterprises or designated management enterprises or accept the decision on administrative punishments may plead for administrative reconsideration or institute a lawsuit at the people's court..

Article 72

The provisions of the present Regulation shall not foreclose the taking of measures such as tariff, inspection and quarantine, security, environmental protection, intellectual property, etc. according to the provisions of laws or administrative regulations over the goods imported or exported..

Article 73

The export of goods under export control like nucleus products, nucleus-related civil products, monitored chemical products, military products, etc shall handled according to the provisions of relevant administrative regulations..

Article 74

Where it is necessary to take antidumping, anti-subsidy or safeguard measures against imported goods, the provisions of the Foreign Trade Law and other relevant laws and administrative regulations shall be observed..

Article 75

Where there are otherwise provisions in laws or re-

gulations concerning the import or export of goods of special economic zones like the bonded areas or export processing areas, etc, such provisions shall be observed..

Article 76

The foreign trade department of the State Council shall be responsible for the bilateral or multilateral discussions and negotiations concerning the import and export of relevant goods, and shall be responsible for settling trade disputes..

Article 77

The present Regulation shall take effect as of January 1, 2002.



CPO & Partners (Shanghai) Co.,Ltd.

Yan 'an middle road n.841, Jing 'an District 200040, Shanghai - OOCL Plaza, Floor 26, Suite 2604, 2605
Tel: +86 021 63120097 – www.cpopartners.com – e-mail: shanghai@cpopartners.com