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Working Party on the Accession of China

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COMMUNICATION FROM CHINA

The following communication concerning China's trade regime, dated 20 March 2000, is being circulated to members of the Working Party at the request of the People's Republic of China.

With a view to facilitating the process of the Working Party on China, the Chinese Delegation has the honour to submit to the WTO Secretariat the following documents concerning China's trade regime:

1. An updated version of Memorandum on China's Trade Regime;
2. A comprehensive list of China's relevant laws and regulations.

It should be noted that the examination of China's trade regime had already been completed at the 11th Session of GATT Working Party on China in 1992. It is therefore for the purpose of transparency that the Chinese Delegation submits this updated version of Memorandum on China's Trade Regime. This updated Memorandum should serve to help Members of the Working Party on China to better understand the development and progress of China's economic and trade system, and to facilitate drafting of the factual part of the draft Report of the Working Party on China.

The list of China's relevant laws and regulations is being provided in full text, the vast majority of which are accompanied by English translations. It should be noted that, should there be any discrepancies between the original Chinese text and the English translation, the Chinese text shall prevail.

Memorandum on China's Foreign Trade Regime
(Revised Edition)
March 2000

TABLE OF CONTENTS

1. Basic features of China's economy

China has a territory of 9.6 million square kilometres and a population of 1.25 billion as of the end of 1998 and nearly 70% of which dwell in the rural area. In 1999, the Gross Domestic Product (GDP) of China totaled RMB 8.2054 trillion yuan (approximately equal to US$990 billion). In 1998, the net per capita income for rural residents was RMB 2,160 yuan (approximately US$260), and the per capita dispensable income for urban dwellers was RMB 5,425 yuan (approximately US$655).

China's foreign trade has been developing rapidly in recent years. In 1999, total imports and exports of goods reached US$360.65 billion, of which exports stood at US$ 194.93 billion, and imports, $165.72 billion. China's export value in 1998 accounted for 3.4% of the world's total.

2. China's economic reform

Since 1979, China has been progressively reforming its economic system. The objective of the reform is to establish and improve the socialist market economy, in which market forces play a fundamental role in allocation of resources under the macro-economic regulation by the State and the economic activities follow the law of value and adapt to the interplay of supply and demand. The economy has achieved higher efficiency through market price mechanism and competition.

The reform package introduced in 1994 covering banking, finance, taxation, investment, foreign exchange and foreign trade sectors has brought about major breakthroughs in China's establishment of socialist market economy. In this process, the operational mechanism of state-owned enterprises was transformed under the principle of "clear definition of property rights and responsibilities, separation of government from enterprise, and scientific management". Efforts were made to create a modern enterprise system for the state-owned sector, and the latter is gradually getting on the track of growth through independent operation, responsible for its own profits and losses. A nation-wide unified and open market system is taking shape with closer integration of urban and rural markets as well as domestic and overseas markets. The role of government in economic regulation is gradually transformed. An improved macroeconomic regulatory system has emerged with indirect means playing a central role in the management and market forces playing a fundamental role in the allocation of resources. The new tax and financial system has been established and is functioning effectively, separating the policy financing from commercial financing and enhanced role of the central bank in financial regulation and supervision. The exchange rate of the Chinese currency Renminbi has been unified and remained stable. Renminbi has already been made convertible on current accounts. With further liberalization of prices, the absolute majority of consumer and producer products are now subject to market prices. Market now plays a much more significant role in boosting supply and meeting demand. There is an increased awareness of the need for risk management of investment and financial activities, and the avenues for corporate fund-raising have been much broadened.

China intends to continue the reforms in the following aspects:

(1) Reform of the state-owned enterprises

The reform has been intensified to enable the large and medium-sized state-owned enterprises to establish a system of modern enterprise, under which they will become independent legal entities and players in market competition that are responsible for their own survival and development.

(2) Develop and improve the market system

The market mechanism as characterized by market-determines-prices should be further enhanced. Currently, prices of most products and services are determined by market forces, except for an extremely limited number of products and services whose prices are subject to government regulation. Financial market and productions input market for land, labor, technology and information, etc. should be actively cultivated and standardized so as to form a national unified and open market system. Market rules should be formulated and improved upon for enhanced market regulation and supervision, standardized order of circulation, opposing monopoly and combating unfair competition.

(3) Transform the role of government

In accordance with the principle of separation of government from enterprise, the role of government has undergone major changes. The future function of government in economic management should genuinely shift to formulation and execution of macro-regulatory policies, development of infrastructure and creation of a fine environment for economic development. Functions that should not be performed by the government will be further transferred to enterprises, market and social network. The key for improving the macro-regulatory system is to establish a mechanism that enables the mutual assistance and balance of planning, banking and finance, and the more effective coordination of comprehensive macroeconomic policies and optimizing the use of economic leverages.

(4) Standardize and improve the mechanism of distribution and speed up the reform of the social security system

The basic distribution system of "to each according to his work" and the co-existence of multi-forms of distribution shall be upheld and improved upon. Legal means, distribution policies and social security measures shall be used to coordinate distribution between urban and rural areas, different regions and industries as well as different social groups. The reform of pension, unemployment and healthcare insurance system should be accelerated to foster the faster development of a multi-layer social security structure encompassing social security, social relief, social welfare, mutual assistance, and individual savings as means of security.

(5) Accelerate drafting of economic legislation

The reform and opening-up should proceed simultaneously with the development of the legal system to ensure closer coordination among decision-making in the areas of reform, development and legislature work. High priority should be given to economic legislation so as to guide, promote and safeguard the healthy development of the socialist market economy through means of law.

3. China's foreign trade reform

As a component of China's economic restructuring, the foreign trade reform has achieved breakthroughs in the following aspects: uniformity of trade policies, fair competition and self-responsibility for profits and losses, and establishment of a foreign trade administration system and operational system that conform to international practice. The foreign trade reform currently has the following specific features: improved policy of export promotion that meets the needs of market economy and complies with international practice. For example, export credit and export credit insurance are introduced; there is much less direct administrative intervention in foreign trade, and the mandatory plan has been replaced by market forces; the Foreign Trade Law and its supportive rules and regulations have been enacted, as a result, foreign trade is regulated mainly by indirect means such as economic and legal instruments. The criteria of applying for foreign trading rights by all types of enterprises have been significantly eased, and the manufacturing enterprises or institutes of scientific research have obtained trading rights. The laws and regulations on administration of import and export commodities have been amended and improved to bring about greater uniformity and transparency in foreign trade policies and administration. The number of tariff and non-tariff measures has been gradually reduced, resulting in significant drop in the scope and number of import items that are subject to administrative regulation. Trade-related intermediary service industries are taking shape. The government is de-linked from enterprises, and efforts have been made to create a fair environment of competition in which enterprises are genuinely independent players, responsible for their own profits and losses. China's foreign trade regime is already under a market-oriented mechanism.

Currently, China is deepening the foreign trade reform in the light of the requirements for building the socialist market economy and the objectives of the reform are:

(1) Gradually lower the overall tariff level to the average of the WTO developing Members.

(2) Further enhance the uniformity of foreign trade policies.

(3) Strengthen the development of trade-related legal system and seek early enactment of necessary laws and regulations, and improve transparency of foreign trade policies.

(4) Within 3 years after entry into WTO, the approval system for foreign trading rights will be phased out, and import and export trade will be fully liberalized.

(5) According to the bilateral agreements that China has concluded with relevant WTO Members and also the terms of the WTO Accession Protocol, China will further reduce the scope of quantitative restrictions for greater market access.

II. SPECIAL ECONOMIC ZONES AND OPEN CITIES IN CHINA

Since 1979 China has established a number of zones and areas where more open policies are applied. They include 5 Special Economic Zones (SEZs), 14 coastal open cities, 6 open cities along the Yangtze River, 21 provincial capital cities and 13 inland boundary cities. These areas enjoy greater flexibility in utilizing foreign capital, introducing foreign technology and conducting economic cooperation overseas.

With the continuous development of China's reform and opening-up, a nation-wide pattern of opening to the outside world has basically taken shape. Those special policies are no longer applied to the above-mentioned areas, and some of those policies are now extended to the whole country. At present, foreign investors are entitled to the following preferential treatments in these areas:

(1) Foreign-invested enterprises located in SEZs or the Economic and Technical Development Zones of open coastal cities are entitled to a corporate income tax rate of 15%. Legitimate profits remitted abroad by foreign investors are exempted from income tax. (Note: foreign-invested enterprises not located in SEZs or the Economic and Technical Development Zones of open coastal cities are subject to the normal income tax of 33%.)

(2) The preferential income tax rate of 15% is applicable to technology- intensive or knowledge-intensive items or projects with foreign investment of over US$30 million.

(3) The preferential income tax rate of 15% is applicable to foreign-invested enterprises that operate in the fields of energy, transport and port construction.

The establishment of SEZs and other special economic areas is approved by the State Council. There is no plan to set up any new special economic zone.

China applies a system of socialist market economy whereas all the foreign-invested enterprises across the country and state-owned firms within SEZs operate under market mechanism. In 1999, foreign trade volume of SEZs accounted for nearly one fifth of the nation's total. The national laws and regulations on taxation are applicable to SEZs in a uniform manner. Laws and regulations on patent, copyright, trade mark and bankruptcy applied to state-owned enterprises in SEZs conform to laws and regulations as applied in other parts of China.

III. IMPORT AND EXPORT REGIME

1. Foreign trade plans

China no longer maintains foreign trade plans. Trade entities across the country conduct import and export business on their own account in light of market demands.

The Chinese Government annually formulates plans of national economic and social development, including expected growth rates and forecast of national economy, GDP, budget and foreign trade. The development plans have to go through deliberation and passage by the National People's Congress on an annual basis and then be published for implementation. The plans also include expected annual growth rate and forecast for foreign trade.

2. China's foreign exchange administration system

(1) Major government agencies administrating foreign exchange and financial institutions operating foreign exchange business

China is one of the member countries of International Monetary Fund (IMF). On 1 December 1996, China formally accepted the obligations of Article VIII, Sections 2, 3, and 4 of the IMF's Articles of Agreement, removing exchange restrictions on current account transactions, and hence Renminbi has become fully convertible under current account.

As a state bureau affiliated with the People's Bank of China (PBC), the State Administration of Foreign Exchange (SAFE) is the administrative organ empowered to regulate foreign exchange in accordance with law. Its main functions are:

(a) Design and implement the BOP statistical system in accordance with the international conventions, design and organize the implementation of the reporting system, collect the BOP data, and compile the BOP statements;

(b) Analyze the BOP situation, propose the policy suggestion to the BOP, undertake the research on the capital and financial account convertibility;

(c) Design the regulations on foreign exchange market, monitor the market discipline; cultivate and develop the market; analyze and forecast the market force; make proposals to PBC on exchange rate policy;

(d) Design the regulations on the current account regulations, monitor the exchange under current transactions in accordance with the regulations; regulate the management on foreign exchange accounts in China;

(e) Monitor the transactions, inflow and outflow of capital and financial account in accordance with the related regulations;

(f) Manage the foreign exchange reserves in accordance with the rules;

(g) Design the administrative regulations and rules and inspect the domestic entities' implementation of the regulations and penalize the illegal activities;

With the approval of PBC, wholly state-owned commercial banks, policy banks, joint stock commercial banks, foreign banks, Chinese-foreign joint venture banks and non-bank financial institutions within the territory of China may operate foreign exchange business within the approved scope of their business. According to the division of work over financial supervision, PBC and SAFE exercise supervision over the foreign exchange business operated by the financial institutions.

(2) Foreign exchange allocation mechanisms

The purpose of China's foreign exchange reform is to gradually reduce administrative intervention and increase the role of market forces. Before 1978, the forex administration in China was highly centralized, under which the central government was responsible for all forex receipts and payments in accordance with plans. Since 1979, the forex retention system was applied in China, and on this basis, the business of foreign exchange swap was gradually cultivated and developed, thus introducing market mechanism into the domain of forex distribution. In early 1994, the forex retention and surrender system was terminated, and the official RMB exchange rates was unified with the (forex swap) market rates. The banking exchange system was adopted and a nation-wide unified inter-bank forex market was established, thus realizing the conditional convertibility of Renminbi under current account. Since the second half of 1996, foreign investment enterprises (FIEs) were also incorporated into the banking exchange system, and then the remaining exchange restrictions on current account were eliminated. At the end of that year, the Article VIII of IMF agreement was smoothly accepted, hence realizing the full convertibility of Renminbi under current account.

Under current system, China administrates foreign exchange transactions primarily in light of following principles:

(a) Elimination of foreign exchange payment under current account. For their foreign exchange payment under current account, domestic entities (including FIEs) could purchase forex with RMB at market exchange rates from designated banks or debit their forex accounts directly upon presentation of valid documents. The payments such as pre-payment, commission and etc., exceeding the proportion or limit, the entities could purchase forex from the banks upon bona fide test by SAFE. Foreign exchange for personal use by individuals may be purchased directly from the banks upon valid documents within the limit. For amounts exceeding the limit, individuals could purchase forex from the banks upon the presentation of valid documents to SAFE for bona fide test.

(b) A system of forex sales with the banks is applied to current account receipts. The current account forex receipts of domestic establishments, except those permitted to retain in forex accounts, should be repatriated promptly into China and be sold to the designated banks at the market rates. All FIEs are allowed to open forex settlement accounts and retain their current account forex receipts within the limit. Some of the Chinese-funded enterprises that meet certain criteria may also open forex settlement accounts with the designated banks to retain current account forex receipts within the limit.

(c) A clearance system for forex payment for import and forex receipt from export is adopted. Since 1, 1991, China began to adopt a clearance system of forex receipt for export and from 1 August 1994, China started the clearance system of forex payment for import. The former means that SAFE certifies the corresponding forex receipt following the export, while the latter refers to the clearance of imported products by the SAFE after the payment has been made. The clearance system of forex receipt from export and forex payment for import has become an important means in monitoring the flow of forex for import and export, conducting bona fide test of receipt and payment under the current account and to preventing loss of forex and impact of illegal capital flow.

(3) Exchange rates system

Since the unification of exchange rates on 1 January 1994, China has begun to adopt a single and managed floating exchange rate regime based on demand and supply of the market. PBC publishes the reference rates of RMB against US dollar, HK dollar and Japanese yen based on the weighted average prices of foreign exchange transactions during the previous day's trading. The buying and selling rates of RMB against US dollar on the inter-bank forex market can fluctuate within the range of 0.3% on either side of the reference rate. As for HK dollar and Japanese yen, the range is 1% on either side of the reference rates. The designated foreign exchange banks may deal with their clients at the listed rate they set up within the stipulated range. The listed exchange rate of US dollar can not be 0.15% higher or lower than the reference rate, and those for HK dollar and Japanese yen can not exceed the reference rate by 1%. The middle rates for other foreign currencies are based on the rates of RMB against US dollar and cross-exchange rates of other foreign currency on international market. The buying and selling rate can not exceed 0.5% of the middle rate.

(4) Inter-Bank Forex Market

From 1 January 1994, the Chinese-funded enterprises have withdrawn from the forex swap centers, the designated forex banks have become major participants in the foreign exchange transactions. On April 1, 1994, an inter-bank forex market, i.e., China's Foreign Exchange Trading System was set up in Shanghai and its branches were opened in several cities. Since April 4, China Forex Trading System has been officially put into operation, adopting a system of membership, respective quotation, concentrated trading and forex market settlement. The designated forex banks deal on the inter-bank market according to the working position limit on banking exchange stipulated by SAFE and cover the position on the market. PBC conducts necessary intervention through the central bank's forex open market operating office located at China's forex trading center, according to the macro economic objectives, aiming at regulating market supply and demand and maintaining the stability of RMB exchange rate.

(5) Foreign investment enterprises

After the foreign exchange swap centers were closed down on 1 December 1998, the forex dealing of the FIEs was channelled into the banking exchange system. To encourage foreign direct investment, China grants national treatment to foreign investment enterprises in exchange administration:

(a) FIEs are allowed to open forex settlement accounts to retain receipts under the current account within the maximum amount stipulated by SAFE, and receipts in excess of the maximum amount must be sold to the designated forex banks.

(b) No restrictions are imposed on the payment and transfer of current transactions by FIEs. FIEs could purchase forex from the designated forex banks or debit their forex accounts for any payment under current transactions, upon the presentation of valid documents to the designated forex banks or SAFE for bona fide test.

(c) FIEs could open forex accounts to retain the foreign-invested capital, and they could sell them upon the approval of SAFE.

(d) FIEs could borrow forex directly from domestic and overseas banks. They may borrow and repay the loan on their own without prior approval. But they must register with SAFE afterwards.

(e) Foreign investors of the FIEs could make outward foreign exchange remittance directly from their forex accounts or purchasing from the banks for the fund allocated after liquidation according to law.

(f) FIEs are allowed to reinvest their RMB profits and enjoy the same treatment as the foreign exchange investment.

3. Restrictions on import and export

(1) Generally applicable import and export restrictions

China prohibits import of certain commodities, including various types of weapons, ammunition and explosives, narcotic drugs, poisons, obscene materials, and foodstuffs, medicines, animals and plants are inconsistent with China's standards on food, medical, animals and plants. China also prohibits export of narcotic drugs, poisons, materials containing State secrets, precious and rare animals and plants.

(2) Import and export licensing

Ministry of Foreign Trade and Economic Cooperation (MOFTEC) is the sole competent authority to administrate the licensing system in China. It authorizes the Administrative Bureau of Quota and License (ABQL), the Special Commissioner Offices (SCO) located in 16 provinces and the Commissions of Foreign Economic Relations and Trade (COFTEC) at provincial level or in the autonomous regions, municipalities directly under the central government and those with independent budgetary status to issue import and export licenses according to the stipulated scope of commodities.

(a) Import licensing system

In 1984, the State Council promulgated the "Interim Regulations on Licensing System for Import Commodities", and MOFTEC and the General Customs Administration issued "Detailed Rules for the Implementation of the Interim Regulations on Licensing System for Import Commodities". The Interim Regulations are uniformly implemented throughout China. The import licensing system ensures that the limited foreign exchange resources are used for imports most needed by national economic development and that necessary assistance can be provided to the domestic industries. In 1999, of the total import value of US$ 165.7 billion, imports subject to licensing represented 8.45%, covering US$ 14 billion. MOFTEC decides which products should be subject to import licensing according to the relevant provisions of "Foreign Trade Law".

China's import licensing system is administered without discrimination among countries or regions.

In 1993, China applied import restrictions to 53 product categories. And in 1999, the number has been reduced to 35 with a cut by 34%. These product are: (1) Processed oil; (2) Wool; (3) Polyester fiber; (4) Acrylic fibers; (5) Polyester fillet; (6) Natural rubber; (7) Vehicles tyres; (8) Sodium cyanide; (9) Sugar; (10) Fertilizer; (11) Tobacco and its products; (12) Acetate tow; (13) Cotton; (14) Motor vehicles and their key parts; (15) Motorcycles and their engines and chassises; (16) Colour television sets and TV kinescope; (17) Radios, tape recorders and their main parts; (18) Refrigerators and their compressor; (19) Washing machines; (20) Recording equipment and its key parts; (21) Cameras and their bodies(without lenses); (22) Watches; (23) Air conditioners and their compressor; (24) Audio and video tape duplication equipment; (25) Crane lorries and their chassises; (26) Electronic microscopes; (27) Open-end spinning machines; (28) Electronic colour scanners; (29) Grain; (30) Vegetable oil; (31) Wine; (32) Colour sensitive material; (33) Chemical under supervision and control that are used for chemical weapon; (34) Chemicals used to produce narcotics; (35) Laser disc production facility.

The licensing agencies authorized by MOFTEC issue import license on the basis of import documents submitted by the applicants approved by the competent departments.

The examination and approval of the license takes two to three working days. The license can not be bought, sold or transferred. The import licenses are valid for one year. However, the import licenses spanning two years can only be valid till the end of March the next year at the latest. The import licenses can be extended once, but extension cannot exceed the end of March next year.

In 1999, there are 13 commodity categories which are imported by the foreign trade companies designated by MOFTEC. These categories are as follows: (1) Processed oil (2) Fertilizer (3) Tobacco (4) Vegetable oil (5) Grain (6) Natural rubber (7) Wool (8) Acrylic fibers (9) Sugar (10) Cotton (11) Crude oil (12) Steel (13) Plywood.

Enterprises may apply for import licenses to the Quota and License Administrative Bureau of MOFTEC, or Special Commissioner Offices in 16 provinces, or Commissions on Foreign Economic Relations and Trade of various provinces, autonomous regions, and municipalities directly under the central government and those with independent budgetary status.

(b) Export licensing system

The export licensing system is administered in accordance with the "Interim Procedures for the Export Licensing System". In 1992, there were 143 categories of products subject to export licensing which accounted for 48.3% of the total value of the China's exports. In 1999, the total number of products subject to export licensing has been reduced to 58 categories and 73 items with an export value of US$ 18.5 billion, taking up only 9.5% of the total. The export licenses for these products are issued according to the stipulated commodity scope respectively by Administrative Bureau of Quota and License(ABQL), the Special Commissioner Offices (SCO) located in 16 provinces and the Commissions of Foreign Economic Relations and Trade (COFTEC) of various provinces, autonomous regions, municipalities directly under the central government and those with independent budgetary status. The main criteria to identify the products subject to export licensing is the relevant provisions in the "Foreign Trade Law": 1) to maintain national security or public interests; 2) shortage of supply in the domestic market or for the effective protection of domestic exhaustible resources; 3) limited market capacity of importing countries or regions 4) obligations stipulated in the international treaties and agreements China has concluded or acceded to.

The application for export license must be submitted to the license issuing institutions authorized by MOFTEC together with documents approving the export by the competent departments and other relevant materials (such as the Export Qualification Certificate for the enterprises, export contract and so on). The procedures are the same for all export destinations. Decision on the request for an export license usually takes three working days. The licenses are valid for six months and can be extended once, but will expire at the end of February of the second year at the latest.

Enterprises with foreign investment engaged in exporting products which are not produced by themselves must obtain export licenses if the products are subject to licensing. If the products are not subject to licensing, customs clearance will be given after examination has been made by the Customs on the basis of export contracts and other relevant documents.

4. Customs tariffs and other charges on import and export

(1) Legal basis and principles of China's tariff policy

The Customs tariff of China is a main charge imposed on imported and exported goods. The purpose of levying tariff is twofold: (a) to regulate import and export so as to promote and support domestic production, and (b) to serve as an important source of revenue for the treasury of the Central Government.

China's tariff policy is to promote the economic reform and opening to the outside world, provide assistance to domestic industry and oppose trade discrimination.

As for the legal basis of China's Tariff Policy, please refer to the list of laws and regulations provided by the Chinese delegation to the WTO Secretariat.

The basic principles for establishing duty rates are as follows:

(a) Duty-free or low duty rates are applied to those imported goods, which are needed for the national economy and the people's livelihood but cannot be produced or sufficiently supplied domestically;

(b) Import duty rates on raw materials are generally lower than those on semi-manufactured or manufactured products;

(c) For parts or components of machinery, equipment and instruments which cannot be produced domestically, or quality of domestic products is not up to high standard, the import duty is lower than the duty on complete products;

(d) Higher duty rates are applied to those products which can be produced domestically or which are not essential for the national economy and the people's livelihood;

(e) A still higher duty is applied to imported products, the equivalent of which can be produced domestically and which need protection;

(f) The majority of products are free of export duty.

(2) Tariff classification and structure

China adopted the Harmonized Commodity Description and Coding System (HS) as from 1 January 1992 and joined the International Convention on the Harmonized Commodity Description and Coding System in the same year. There are 21 sections, 97 chapters and 7066 tariff headings in the Customs Import and Export Tariff of the PRC.

Tariff rates are fixed by the State Council. Partial adjustment to the duty rates is subject to deliberation and final decision by the State Tariff Commission.

China’s current simple average of import duties is 14.44%. Among the 7066 tariff headings, tariff rates for 709 headings is below 5%, those for 2015 is 5%-9%, those for 1356 is 10%-15% and those for 2896 is above 15%.

As for information on tariff rates for specific products and import statistical data for recent years, reference may be made to the data tape and CD-ROM submitted by China to the WTO Secretariat.

There are two columns of import duty rates: general rates and preferential rates. The preferential rates apply to imports originating in countries and regions, with which China has concluded reciprocal tariff agreements, whereas the general rates apply to imports from other sources.

At present, 36 items including tungsten ore, ferrosilicon and some of aluminum products are subject to export duties.

(3) Customs valuation

The overwhelming majority of China's customs duties are *ad valorem* duties. The duty-paying value of imported goods is assessed according to the C.I.F. price based on the normal transaction value. If the transaction value of imported goods cannot be ascertained, the duty-paying value is determined based on the transaction value or computed value of identical or similar goods.

The duty-paying value of exported goods is the F.O.B. price of the goods deducting export tariff.

The Customs Law provides for appeal procedures. In case a person obligated to pay the duty is involved in a dispute over duty payment with the Customs, he may apply to the Customs for a reconsideration of the case. If he rejects the decision, he may sue at the People's Court.

Upon accession to WTO, the Chinese Government is committed to implement the Agreement on the Implementation of Article VII of the General Agreement on Tariffs 1994.

(4) Tariff exemptions

In accordance with international practices and provisions of China’s Customs Law, import duty reductions or exemptions are available for the following goods:

(a) A consignment of goods, on which customs duties are estimated below RMB 10 yuan;

(b) advertising articles and samples, which are of no commercial value;

(c) goods and materials, which are rendered gratis by international organizations or foreign governments;

(d) fuels, stores, beverages and provisions for use en route loaded by any means of transport, which is in transit across the border;

(e) exported goods being replaced;

(f) goods damaged prior to the Customs release;

(g) goods covered by international treaties providing for tariff reductions and exemptions which China has entered into or acceded to;

(h) goods temporarily imported;

(i) goods imported under the processing program;

(j) goods imported costlessly for offset purpose;

(k) domestic- or foreign-funded projects encouraged by the country;

(l) articles for scientific research, education and the disabled.

Imported goods shall be put under the Customs supervision and control. The Customs duty shall be recovered if such goods are sold, transferred or used for other purposes during the time period of supervision and control.

5. Trade remedies

(1) Anti-dumping and countervailing

China has promulgated Anti-dumping and Countervailing Regulations of the PRC.

(2) Safeguard measures

At present, China is going through the legislative procedure of drafting legislations regarding safeguard measures in accordance with the Article 29 of the Foreign Trade Law and the Agreement on Safeguards of the WTO.

IV. OTHER MEASURES PERTAINING TO IMPORT AND EXPORT

1. Price Administration

(1) Domestic price administration system

China currently applies a mechanism of market-based price under macro-economic adjustment. There are presently three types of prices: government price, government guidance price and market-regulated price. The Government price is set by price administration authorities and cannot be changed without the approval by these authorities. The Government guidance price is a more flexible form of pricing. The price administration authorities stipulate either a basic price or a floating ranges. Enterprises can, within the limits of the guidance and taking into account the market situation, make their own decisions on prices. As for market-regulated prices, enterprises are free to fix prices in accordance with supply and demand to the extent permitted by generally applicable laws, regulations and policies concerning prices. Products and services subject to Government pricing are those having a direct bearing on the national economy and the basic needs of people livelihood, including those products scarcely available in China.

As for products presently subject to Government guidance pricing and Government pricing, please refer to Annex 4 of the Protocol of China.

In formulating Government prices and Government guidance prices, the following four elements are taken into account: normal production costs, supply and demand situation, relative government policies and prices of related products. When fixing prices of consumer goods, consideration is given to the limit of consumers' purchasing power.

With deepening of the reform on China's price system, the share of Government prices has dropped substantially and that of market-regulated prices has increased:

(a) In the total volume of social retailing products, the share of Government prices is about 4%, that of Government guidance prices 1.2%, and that of market-regulated prices 94.7%;

(b) In the total volume of agricultural products purchased from farmers, the share of Government prices registers 9.1%, that of Government guidance prices 7.1%, and that of market-regulated 83.3%;

(c) (3) In the total volume of production inputs sales, the share of government prices is 9.6%, that of government guidance prices 4.4%, and that of market-regulated prices 86%;

The share of directly government-controlled prices has been much reduced that it is even smaller than that in major Western market economies. The Chinese Government considers that China's price system is becoming increasingly rationalized, creating a relatively fair marketplace for all enterprises to compete on an equal footing.

(2) Government pricing of imported products

National treatment is applied in the areas of government pricing for all imported goods.

(3) Price administration of products destined for other territories

Export prices are fixed by enterprises without government intervention.

2. Internal taxes and regulations

There are three major types of taxes levied on products and services: (a.) the Value-added Tax (VAT) levied on goods and services for processing, maintenance and assembling; (b.) the Consumption Tax on some selected consumer products; (c.) the Business Tax on providing services, transferring intangible assets and selling real estate.

Both VAT and Consumption Tax are applicable to entities importing goods. VAT and Consumption Tax on imported goods are collected by the Customs at the point of entry.

VAT will be reimbursed once goods are exported and exported goods are exempted from Consumption Tax.

The State Council determines all policies on the tax levy and withdrawal, adjustment of tax types and tax rates (tax value), as well as the tax exemption of Value-added Tax, Consumption Tax and Business Tax. The laws and regulations are interpreted and implemented by the Ministry of Finance and the State Administration of Taxation. Value-added Tax and Consumption Tax are levied and administered by the State competent departments of taxation, while the Business Tax is collected and administered by the local competent departments of taxation.

3. Technical standards

(1) The principle of compulsory entry-exit inspection and quarantine

According to the provisions of Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Agreement (SPS) of WTO, China applies compulsory inspection and quarantine to the entry-exit commodities concerning the national security, life and health of human beings, animals and plants, environmental protection, and those involving deceptive activities, as well as animals and plants and their processed products.

(2) Standards of inspection and quarantine

Most of China's standards are the same as or equivalent to the international standards.

(3) National treatment on entry inspection and quarantine

China implements the same standards, technical regulations and accreditation procedures of inspection and quarantine to both import goods and domestic goods. There is no discrimination against the imported goods, animals and plants and their processed products.

V. CHINA'S FOREIGN TRADE RELATIONS

1. Bilateral trade and payment agreements

China has entered into bilateral trade and payment agreements with 146 countries and regions.

2. Goods originating in or Destined for Hong Kong, China, Macao, China and Chinese Taipei

China resumed exercise of sovereignty over Hong Kong and Macao respectively in 1997 and 1999. Hong Kong and Macao became two Special Administrative Regions of China. Based on the policy of "One country, Two systems", Hong Kong, China and Macao, China, as China's Separate Customs Territories and Members of WTO, will continue to implement the obligations and enjoy rights of the WTO. For products originating in Hong Kong, China and Macao, China, customs duties are applied at rates equivalent to the rates levied on goods originating in countries enjoying Most-Favored-Nation treatment.

Quotas and licensing are applied only to a certain products exported to Hong Kong and Macao, in particular fresh and frozen food products. Export quotas are allocated under the export licensing system according to the market capacity of Hong Kong and Macao and the export capabilities of China’ s provinces, autonomous regions and municipalities.

Taiwan is part of China's territory. For historical reasons, there have been no direct economic exchanges between China's mainland and Taiwan since the founding of the PRC. At present, there is no direct trade between China's mainland and Taiwan. Tariff is imposed on imports from Taiwan which are transshipped to China's mainland via third party (mainly Hong Kong and Macao) in accordance with relative laws and regulations.

3. Trade with adjacent countries

China's frontier provinces and regions have border trade with India, Nepal, Burma, Vietnam, Laos, the Democratic People's Republic of Korea, Russia, Mongolia, Kazakhstan, Kyrgyzstan, Tajikistan and Pakistan. Currently, there are two major forms of border trade: frontier trafficking among people along the border, and petty sum cash payment trade.

4. Rules of origin

In case an imported product is processed and manufactured in several countries, the country of origin of the product shall be the last country in which the product underwent substantial transformation. Substantial transformation is understood to mean processing which results in a change of the four-digit level tariff classification or in an added value (including all cost-related expenditures) exceeding 30% of the total value. These rules origin are applicable to all imported products. The rules of origin applied for statistical purposes are the same. However, for statistical purposes, the Customs also records countries of consumption and trading countries.

VI. PUBLICATION AND ADMINISTRATION OF TRADE REGULATIONS

1. General sources of information

The Chinese Government regularly issues publications providing information on China's foreign trade system: "Almanac of Foreign Economic Relations and Trade" and "The Bulletin of MOFTEC" published by MOFTEC; "Statistical Yearbook of China", published by the State Statistical Bureau; "China's Customs Statistics"(Quarterly), edited and published by the Customs General Administration.

China's laws and administrative rules and regulations of the State Council relating to foreign trade are all published. So are the regulations issued by Ministries and Commissions. Such laws and regulations are available in the "Bulletin of the State Council", the "Collection of the Laws and Regulations of the People's Republic of China (PRC)" and "MOFTEC Gazette". The administrative regulations and directives relating to foreign trade are also published in MOFTEC's official website (http:// www.moftec.gov.cn) and periodicals.

2. Exchange controls affecting import and export

The State Administration of Foreign Exchange publishes all the valid laws and regulations of foreign exchange control on the website of the State Administration of Foreign Exchange (http://www.safe.gov.cn) and via the news media.

3. Administration of Import and Export

MOFTEC, together with the relevant departments, decides the items and specific quantities of products subject to import and export licensing and make timely adjustment according to the need of the current situation. These information will be published on "International Business" newspaper and "MOFTEC Gazette".

4. Customs tariffs and other charges on import and export

China's customs laws and regulations, import and export duty rates, and customs procedures are published in the "State Council Bulletin" and in the press media, and are available upon request. The procedures concerning application of duty rates, customs value and duty determination, drawback and duty recovery, as well as the procedures concerning duty exemptions and reduction, are also published.

The State Statistics Bureau publishes quarterly customs statistics, calculated according to country of origin and consumption. The Customs General Administration publishes trade figures on the basis of eight-digit H.S. headings.

5. Regulations concerning TBT and SPS

China has set up the TBT and SPS inquiry points of inspection and quarantine which have been notified to the WTO's SPS and TBT Committee.

Laws, regulations, rules, standards and procedures on entry-exit inspection and quarantine have been published in publications such as the "MOFTEC Gazette". The information can also be acquired from the State Administration of Entry-Exit Inspection and Quarantine, or from China's inquiring points of TBT and SPS for inspection and quarantine.

6. Governmental agreements affecting trade policy

The bilateral trade agreements between China and its trading partners and protocols on the exchange of goods negotiated under them are published in "The Treaty Series of the PRC".

7. Enterprises Engaged in Foreign Trade

The "Directory of China's Foreign Economic Relations and Trade Enterprises" and "China's Foreign Trade Corporations and Organizations" are two publications, which identify foreign trade corporations and other enterprises in China engaged in foreign trade.

VII. CHINA'S FOREIGN TRADE REGIME AND THE WTO

China originally assumed contracting party status of GATT by accepting the "Protocol of Provisional Application", dated October 30, 1947. On July 10th, 1986, China submitted formal application for the resumption of its GATT original contracting party status. The Council of GATT established a Working Party in 1987 and began to examine China's resumption of its original GATT contracting party status. China fully participated in the Uruguay Round of Negotiation and signed the Final Act. As WTO succeeded GATT in 1995, China decided to apply for accession to the WTO on November 28th , 1995.

It is of far-reaching significance for China to join WTO which will greatly promote its opening to the outside world and establishment of market economy, and enable China to fully participate in making of the multilateral trade rules as well as conduct trade with WTO Members within a stable and predictable legal framework.

The Chinese Government has an adequate capability to comply with WTO obligations and to exercise WTO rights as provided in the relevant WTO Agreements. The Chinese Government insists that it accedes to WTO as a normal WTO Member, and WTO Members shall take necessary action to ensure the conformity of their laws, regulations and administrative procedures to ensure the full application of WTO rights to China.

In accordance with the Constitution of the PRC, the Standing Committee of the National People's Congress has the power to annul those regulations and administrative decrees issued by both central and local government that contravene the Constitution and laws. The State Council has the power to annul those inappropriate regulations and administrative decrees issued by both central and local government. The Chinese Government considers that these features of the Chinese legal system will ensure an effective and uniform implementation of the obligations resulting from China's accession to WTO.

MARCH 2000

LIST OF LAWS AND REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA (1949-1999)

1. Laws and regulations relating to customs administration

2. Laws and regulations relating to imports and exports

3. Laws and regulations relating to foreign investment

4. Other laws and regulations dealing with economic issues that affect trade

    1. General
    2. Taxation
    3. Foreign exchange administration
    4. Import and export quarantine ad inspection
    5. Intellectual property protection
    6. Agriculture and forestry
    7. Quality and technology supervision
    8. Land administration
    9. Sanitary and medication
    10. Mineral resources

5. Laws and regulations relating to trade in services

    1. Finance
    2. Transportation
    3. Telecommunication
    4. Tourism
    5. Culture
    6. Others

---

1. Laws and Regulations Relating to Customs Administration

1. Customs Law of the People's Republic of China

2. Rules for the Implementation of Administrative Punishments under the Customs Law of the People's Republic of China

3. Regulations of the People's Republic of China on Import and Export Duties

4. Regulations of the People's Republic of China on Customs External Auditing

5. Measures on Customs Supervision and Control over Bonded Zones

6. Interim Provisions on Exemption from Import Duties and Taxes on Articles for Scientific Research and Teaching

7. Interim Provisions on Exemption from Import Duties and Taxes on Articles Used Exclusively for Disabled Persons

8. Measures of the Customs of the People's Republic of China Governing the Levying of Import Duties on Articles of Entry Passengers' Baggage and Personal Postal Parcels (Chinese Text Only)

9. Interim Provisions Concerning Import Duties on Articles Carried into China by Foreigners Permanently Residing in China (Chinese Text Only)

10. Interim Measures of the Customs of the People's Republic of China Concerning Vessel Tonnage Duties

2. Laws and Regulations Relating to Imports and Exports

11. Foreign Trade Law of the People's Republic of China

12. Interim Regulations of the People's Republic of China on the Licensing System for Importing Commodities

13. Regulations of the People's Republic of China on Administration of Contracts for the Import of Technology

14. Rules for the Implementation of the Regulations of the People's Republic of China on Administration of Contracts for the Import of Technology

15. Rules of the People's Republic of China on the Origin of Export Commodities

16. Interim Measures for Administration of Export Goods (Chinese Text Only)

17. Interim Measures for Import Administration of Machinery and Electronics Products

18. Interim Measures for Administration of Operation of Import Goods

19. Regulations of the People's Republic of China on Anti-dumping and Anti-subsidy

20. Regulations of the People's Republic of China on Control of Nuclear Export

21. Regulations of the People's Republic of China on Export Control of Nuclear Dual-Use Items and Related Technologies

22. Regulations of the People's Republic of China on Administration of Controlled Chemicals

23. Interim Provisions on Vesting Private Production Enterprises and Private Scientific Research Academies or Institutes with the Self-operated Import and Export Right

3. Laws and Regulations Relating to Foreign Investment

24. Law of the People's Republic of China on Chinese-foreign Equity Joint Ventures

25. Law of the People's Republic of China on Chinese-foreign Equity Joint Ventures

26. Decision Concerning the Revision of Article 100 in Regulations for the Implementation of the Law of the People's Republic of China on Chinese-foreign Equity Joint Ventures

27. Circular of the State Council Concerning the Revision of the Third Paragraph of Article 86 in Regulations for the Implementation of the Law of the People's Republic of China on Chinese-foreign Equity Joint Ventures

28. Several Provisions Concerning the Investments Made by the Various Parties to Chinese-foreign Equity Joint Ventures

29. Supplementary Provisions to the Several Provisions Concerning the Investments Made by the Various Parties to Chinese-foreign Equity Joint Ventures

30. Interim Provisions Concerning the Period of Joint Operation of Chinese-foreign Equity Joint Ventures

31. Law of the People's Republic of China on Foreign Capital Enterprises

32. Rules for the Implementation of the Law of the People's Republic of China on Foreign Capital Enterprises

33. Law of the People's Republic of China on Chinese-foreign Contractual Joint Ventures

34. Rules for the Implementation of the Law of the People's Republic of China on Chinese-foreign Contractual Joint Ventures

35. Interim Provisions of the State Council of the People's Republic of China on the Administration of Resident Representative Offices of Foreign Enterprises

36. Regulations of the People's Republic of China on the Exploitation of Offshore Petroleum Resources in Cooperation with Foreign Enterprises

37. Regulations of the People's Republic of China Concerning the Exploitation of On-shore Petroleum Resources in Cooperation with Foreign Enterprises

38. Interim Provisions of the State Council of the People's Republic of China on Preferential Treatment for the Construction of Ports and Piers with Chinese and Foreign Joint Investment

39. Interim Provisions of the State Council of the People's Republic of China on Preferential Treatment for the Construction of Ports and Piers with Chinese and Foreign Joint Investment

40. Interim Provisions Concerning Chinese-foreign Cooperation in the Design of Engineering Projects

41. Provisions of the State Council for the Encouragement of Foreign Investment

42. Provisions of the State Council Concerning the Encouragement of Investment in Developing Hainan Island

43. Interim provisions on Administration of Foreign Chambers of Commerce

44. Interim provisions on Guiding the Direction of Foreign Investment

45. Catalogue for the Guidance of Industries for Foreign Investment

46. Measures for Liquidation of Foreign Investment Enterprises

4. Other Laws and Regulations Dealing with Economic Issues that Affect Trade

47. General Principles of the Civil Law of the People's Republic of China

48. Contract Law of the People's Republic of China

49. Guaranty Law of the People's Republic of China

50. Company Law of the People's Republic of China

51. Law of the People's Republic of China Against Unfair Competition

52. Law of the People's Republic of China on the Protection of Consumer Rights and Interests

53. Advertisement Law of the People's Republic of China

54. Pricing Law of the People's Republic of China

55. Law of the People's Republic of China on Tobacco Monopoly

56. Regulations for the Implementation of the Law of the People's Republic of China on Tobacco Monopoly

57. Civil Procedure Law of the People's Republic of China

58. Administrative Procedure Law of the People's Republic of China

59. Law of the People's Republic of China on Administrative Review (Chinese Text only)

60. Arbitration Law of the People's Republic of China

61. Individual Income Tax Law of the People's Republic of China

62. Regulations for the Implementation of the Individual Income Tax Law of the People's Republic of China

63. Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises

64. Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises

65. Law of the People's Republic of China on the Administration of Tax Collection

66. Rules for the Implementation of the Law of the People's Republic of China on the Administration of Taxation Collection

67. Decision of the Standing Committee of the National People's Congress Regarding the Application of Provisional Regulations on Such Taxes as Value-added Tax, Consumption Tax and Business Tax to Enterprises with Foreign Investment and Foreign Enterprises

68. Interim Regulations Concerning Urban Real Estate Taxes

69. Interim Regulations Concerning the Vehicle and Vessel Usage License Plate Tax

70. Interim Regulations of the People's Republic of China on Stamp Tax

71. Provisions Concerning the Payment of Royalties for the Exploitation of Offshore Petroleum Resources

72. Interim Provisions Concerning the Payment of Royalties for Chinese-foreign Cooperative Exploitation of Petroleum Resources on Land

73. Interim Regulations of the People's Republic of China on Value-added Tax

74. Interim Regulations of the People's Republic of China on Consumption Tax

75. Interim Regulations of the People's Republic of China on Business Tax

76. Interim Regulations of the People's Republic of China on Land Appreciation Tax

77. Interim Regulations of the People's Republic of China on Resources Tax

78. Interim Regulations of the People's Republic of China on the Deed Tax

79. Measures for Levying Tax on the Vessel Transportation Revenue of Foreign Companies

80. Regulations of the People's Republic of China on Foreign Exchange Control

81. Provisions on the Sale and Purchase of and payment in Foreign Exchange

82. Interim Provisions for Statistical Monitoring of Foreign Debt

83. Provisions on Administration of Buying and Selling of Spot and Forward Foreign Exchange by Financial Institutions on Clients' Behalf

84. Measures for Administration of the Foreign Exchange Involved in Investment Abroad

85. Measures for Administering Verification of Export Collection of Foreign Exchange

86. Measures Governing the Declaration of Statistics on International Receipts and Payments

87. Measures for Administration of External Guarantee by Institutions within the Chinese Territory (Chinese Text Only)

88. Frontier Health and Quarantine Law of the People's Republic of China

89. Rules for the Implementation of the Frontier Health and Quarantine Law of the People's Republic of China

90. Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine

91. Regulations for the Implementation of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine

92. Law of the People's Republic of China on Import and Export Commodity Inspection

93. Regulations for the Implementation of the Law of the People's Republic of China on Import and Export Commodity Inspection

94. Trademark Law of the People's Republic of China

95. Rules for the Implementation of the Trademark Law of the People's Republic of China

96. Interim Provisions on Claims for Priority in Applying for Registration of Trademarks

97. Patent Law of the People's Republic of China

98. Rules for the Implementation of the Patent Law of the People's Republic of China

99. Regulations on Patent Agency

100. Copyright Law of the People's Republic of China

101. Regulations for the Implementation of Copyright Law of the People's Republic of China

102. Provisions on the Implementation of International Copyright Treaties

103. Regulations for the Protection of Computer Software

104. Regulations of the People's Republic of China on Protection of New Varieties of Plants

105. Regulations of the People's Republic of China on the Customs Protection of Intellectual Property

106. Law of the People's Republic of China on the Protection of Wildlife

107. Regulations of the People's Republic of China for the Implementation of Terrestrial Wildlife Protection

108. Regulations of the People's Republic of China for the Implementation of Wild Aquatic Animal Protection

109 Forestry Law of the People's Republic of China

110. Regulations of the People's Republic of China on Protection of Wild Plants

111. Regulations on Administration of Pesticide

112. Regulations on Administration of Medicine for Animals (Chinese Text Only)

113. Regulations of the People's Republic of China on Administration of Seeds (Chinese Text Only)

114. Regulations on Administration of Breeding Stock and Poultry (Chinese Text only)

115. Regulations on Administration of Fodder and Fodder Additives (Chinese Text only)

116. Metrology Law of the People's Republic of China

117. Rules for the Implementation of the Metrology Law of the People's Republic of China

118. Standardization Law of the People's Republic of China

119. Regulations for the Implementation of the Standardization Law of the People's Republic of China

120. Measures of the People's Republic of China for the Supervision and Administration of Imported Instruments of Measurement

121. Law of the People's Republic of China on Product Quality

122. Regulations of the People's Republic of China on Administration of Product Quality Certification

123. Interim Regulations on Safety Supervision over Boilers and Pressure Receptacles (Chinese Text Only)

124. Land Administration Law of the People's Republic of China

125. Regulations for the Implementation of the Land Administration Law of the People's Republic of China

126. Law of the People's Republic of China on the Administration of the Urban Real Estate

127. Interim Regulations of the People's Republic of China Concerning the Assignment and Transfer of the Right to Use State-owned Land in the Urban Areas

128. Interim Measures for the Administration of the Foreign-Invested Development and Management of Tracts of Land

129. Regulations on Protection of Capital Farmland

130. Pharmaceutical Administration Law of the People's Republic of China

131. Measures for the Implementation of the Pharmaceuticals Administration Law of the People's Republic of China

132. Food Hygiene Law of the People's Republic of China

133. Measures for Control of narcotic Drugs

134. Measures for Control of Psychotropic Drugs

135. Measures for Control of Radioactive Drugs

136. Measures Concerning Administration of Toxic Medicine for Medical Use (Chinese Text Only)

137. Regulations on Administration of Blood Products

138. Regulations Concerning Supervision of Cosmetics Sanitation

139. Regulations on Administrative Protection of Pharmaceuticals

140. Regulations on Protection of Types of Traditional Chinese Medicine

141. Mineral Resources Law of the People's Republic of China

142. Rules for the Implementation of the Mineral Resources Law of the People's Republic of China

143. Decision of the State Council on Revising the Provisions on the Administration of Collection of the Mineral Resources Compensation

144. Measures for Registration Administration of Exploration Blocks of Mineral Resources

145. Measures for Registration Administration of Mineral Resources Exploitation

146. Measures for Control of Transfer of Exploration Rights or Mining Rights

5. Laws and Regulations Relating to Trade in Services

147. Law of the People's Republic of China on the People's Bank of China

148. Law of the People's Republic of China on Commercial Banks

149. Regulations of the People's Republic of China on Administration of Financial Institutions with Foreign Capital

150. Measures of the People's Republic of China on the Control of Carrying the National Currency into and out of China

151. Securities Law of the People's Republic of China

152. Insurance Law of the People's Republic of China

153. Railway Law of the People's Republic of China

154. Maritime Code of the People's Republic of China

155. Civil Aviation Law of the People's Republic of China

156. Highway Law of the People's Republic of China

157. Provisions for the Administration of Civil Aviation Service Sales Agencies

158. Provisions of the People's Republic of China on Administration of the International Goods Shipping Agency Industry

159. Postal Law of the People's Republic of China

160. Rules for the Implementation of the Postal Law of the People's Republic of China

161. Regulations Concerning Radio Administration of the People's Republic of China

162. Regulations on Administration of Travel Agencies

163. Regulations on Administration of Tour Guides (Chinese Text Only)

164. Law of the People's Republic of China on the Protection of Cultural Relics

165. Rules for the Implementation of the Law of the People's Republic of China on the Protection of Cultural Relics

166. Regulations of the People's Republic of China Concerning the Administration of the Protection of Underwater Cultural Relics

167. Regulations on the Administration of Audio-visual Products

168. Regulations on Administration of Films

169. Regulations on Publication Administration

170. Regulations on Administration of the Printing Industry

171. Regulations on Administration of Business Performances

172. Regulations on Radio and Television Administration

173. Law of the People's Republic of China on Lawyers

174. Interim Regulations of the People's Republic of China Concerning Notarization

175. Law of the People's Republic of China on Certified Public Accountants

176. Construction Law of the People's Republic of China

177. Regulations of the People's Republic of China on Certified Public Architects

中华人民共和国有关法规清单

（ 1949--1999 ）

一、海关法规

二、进出口管理法规

三、外资法规

四、影响贸易的其他经济法规

（ 一 ）总类
（ 二 ）税收
（ 三 ）外汇管理
（ 四 ）进出境检疫、检验
（ 五 ）知识产权保护
（ 六 ）农林
（ 七 ）质量技术监督
（ 八 ）土地管理
（ 九 ）卫生医药
（ 十 ）矿产资源

五、与服务贸易有关的法规

（ 一 ）金融
（ 二 ）交通
（ 三 ）邮电
（ 四 ）旅游
（ 五 ）文化
（ 六 ）其他

一、 海关法规

1、中华人民共和国海关法

2、中华人民共和国海关法行政处罚实施细则

3、中华人民共和国进出口关税条例

4、中华人民共和国海关稽查条例

5、保税区海关监管办法

6、科学研究和教学用品免征进口税收暂行规定

7、残疾人专用品免征进口税收暂行规定

8、中华人民共和国海关关于入境旅客行李物品和个人邮递物品征收进口税办法

9、外国在华常住人员携带进境物品进口税收暂行规定

10、中华人民共和国海关船舶吨税暂行办法

二、 进出口管理法规

11、中华人民共和国对外贸易法

12、中华人民共和国进口货物许可制度暂行条例

13、中华人民共和国技术引进合同管理条例

14、中华人民共和国技术引进合同管理条例施行细则

15、中华人民共和国出口货物原产地规则

16、出口商品管理暂行办法

17、机电产品进口管理暂行办法

18、进口商品经营管理暂行办法

19、中华人民共和国反倾销和反补贴条例

20、中华人民共和国核出口管制条例

21、中华人民共和国核两用品及相关技术出口管制条例

22、中华人民共和国监控化学品管理条例

23、关于赋予私营生产企业和科研院所自营进出口权的暂行规定

三、 外资法规

24、中华人民共和国中外合资经营企业法

25、中华人民共和国中外合资经营企业法实施条例

26、关于《中华人民共和国中外合资经营企业法实施条例》第一百条的修订

27、国务院关于修订《中华人民共和国中外合资经营企业法实施条例》第八十六条第三款的通知

28、中外合资经营企业合营各方出资的若干规定

29、《中外合资经营企业合营各方出资的若干规定》的补充规定

30、中外合资经营企业合营期限暂行规定

31、中华人民共和国外资企业法

32、中华人民共和国外资企业法实施细则

33、中华人民共和国中外合作经营企业法

34、中华人民共和国中外合作经营企业法实施细则

35、中华人民共和国国务院关于管理外国企业常驻代表机构的暂行规定

36、中华人民共和国对外合作开采海洋石油资源条例

37、中华人民共和国对外合作开采陆上石油资源条例

38、中华人民共和国国务院关于中外合资建设港口码头优惠待遇的暂行规定

39、关于外商参与打捞中国沿海水域沉船沉物管理办法

40、中外合作设计工程项目暂行规定

41、国务院关于鼓励外商投资的规定

42、国务院关于鼓励投资开发海南岛的规定

43、外国商会管理暂行规定

44、指导外商投资方向暂行规定

45、外商投资产业指导目录

<u>46、外商投资企业清算办法</u>

四、 影响贸易的其他经济法规

（一）总类

<u>47、中华人民共和国民法通则</u>

<u>48、中华人民共和国合同法</u>

<u>49、中华人民共和国担保法</u>

<u>50、中华人民共和国公司法</u>

<u>51、中华人民共和国反不正当竞争法</u>

<u>52、中华人民共和国消费者权益保护法</u>

<u>53、中华人民共和国广告法</u>

<u>54、中华人民共和国价格法</u>

<u>55、中华人民共和国烟草专卖法</u>

<u>56、中华人民共和国烟草专卖法实施条例</u>

<u>57、中华人民共和国民事诉讼法</u>

<u>58、中华人民共和国行政诉讼法</u>

59、中华人民共和国行政复议法

60、中华人民共和国仲裁法

（二）税收

61、中华人民共和国个人所得税法

62、中华人民共和国个人所得税法实施条例

63、中华人民共和国外商投资企业和外国企业所得税法

64、中华人民共和国外商投资企业和外国企业所得税法实施细则

65、中华人民共和国税收征收管理法

66、中华人民共和国税收征收管理法实施细则

67、全国人民代表大会常务委员会关于外商投资企业和外国企业适用增值税、消费税、营业税等税收暂行条例的决定

68、城市房地产税暂行条例

69、车船使用牌照税暂行条例

70、中华人民共和国印花税暂行条例

71、开采海洋石油资源缴纳矿区使用费的规定

72、中外合作开采陆上石油资源缴纳矿区使用费暂行规定

73、中华人民共和国增值税暂行条例

74、中华人民共和国消费税暂行条例

75、中华人民共和国营业税暂行条例

76、中华人民共和国土地增值税暂行条例

77、中华人民共和国资源税暂行条例

78、中华人民共和国契税暂行条例

79、外国公司船舶运输收入征税办法

（三）外汇管理

80、中华人民共和国外汇管理条例

81、结汇、售汇及付汇管理规定

82、外债统计监测暂行规定

83、金融机构代客户办理即期和远期外汇买卖管理规定

84、境外投资外汇管理办法

85、出口收汇核销管理办法

86、国际收支统计申报办法

87、境内机构对外担保管理办法

(四)进出境检疫、检验

88、中华人民共和国国境卫生检疫法

89、中华人民共和国国境卫生检疫法实施细则

90、中华人民共和国进出境动植物检疫法

91、中华人民共和国进出境动植物检疫法实施条例

92、中华人民共和国进出口商品检验法

93、中华人民共和国进出口商品检验法实施条例

(五)知识产权保护

94、中华人民共和国商标法

95、中华人民共和国商标法实施细则

96、关于申请商标注册要求优先权的暂行规定

97、中华人民共和国专利法

98、中华人民共和国专利法实施细则

99、专利代理条例

100、中华人民共和国著作权法

101、中华人民共和国著作权法实施条例

102、实施国际著作权条约的规定

103、计算机软件保护条例

104、中华人民共和国植物新品种保护条例

105、中华人民共和国知识产权海关保护条例

（六）农林

106、中华人民共和国野生动物保护法

107、中华人民共和国陆生野生动物保护实施条例

108、中华人民共和国水生野生动物保护实施条例

109、中华人民共和国森林法

110、中华人民共和国野生植物保护条例

111、农药管理条例

112、兽药管理条例

113、中华人民共和国种子管理条例

114、种畜禽管理条例

115、饲料和饲料添加剂管理条例

（七）质量技术监督

116、中华人民共和国计量法

117、中华人民共和国计量法实施细则

118、中华人民共和国标准化法

119、中华人民共和国标准化法实施条例

120、中华人民共和国进口计量器具监督管理办法

121、中华人民共和国产品质量法

122、中华人民共和国产品质量认证管理条例

123、锅炉压力容器安全监察暂行条例

（八）土地管理

124、中华人民共和国土地管理法

125、中华人民共和国土地管理法实施条例

126、中华人民共和国城市房地产管理法

127、中华人民共和国城镇国有土地使用权出让和转让暂行条例

128、外商投资开发经营成片土地暂行管理办法

129、基本农田保护条例

（九）卫生医药

130、中华人民共和国药品管理法

131、中华人民共和国药品管理法实施办法

132、中华人民共和国食品卫生法

133、麻醉药品管理办法

134、精神药品管理办法

135、放射性药品管理办法

136、医疗用毒性药品管理办法

137、血液制品管理条例

138、化妆品卫生监督条例

139、药品行政保护条例

140、中药品种保护条例

（十）矿产资源

141、中华人民共和国矿产资源法

142、中华人民共和国矿产资源法实施细则

143、矿产资源补偿费征收管理规定

144、矿产资源勘查区块登记管理办法

145、矿产资源开采登记管理办法

146、探矿权采矿权转让管理办法

五、 与服务贸易有关的法规

（一）金融

147、中华人民共和国中国人民银行法

148、中华人民共和国商业银行法

149、中华人民共和国外资金融机构管理条例

150、中华人民共和国国家货币出入境管理办法

151、中华人民共和国证券法

152、中华人民共和国保险法

（二）交通

153、中华人民共和国铁路法

154、中华人民共和国海商法

155、中华人民共和国民用航空法

156、中华人民共和国公路法

157、民用航空运输销售代理业管理规定

158、中华人民共和国国际货物运输代理业管理规定

（三）邮电

159、中华人民共和国邮政法

160、中华人民共和国邮政法实施细则

161、中华人民共和国无线电管理条例

（四）旅游

162、旅行社管理条例

163、导游人员管理条例

（五）文化

164、中华人民共和国文物保护法

165、中华人民共和国文物保护法实施细则

166、中华人民共和国水下文物保护管理条例

Underwater Cultural Relics

167、音像制品管理条例

168、电影管理条例

169、出版管理条例

170、印刷业管理条例

171、营业性演出管理条例

172、广播电视管理条例

（六）其他

173、中华人民共和国律师法

174、中华人民共和国公证暂行条例

175、中华人民共和国注册会计师法

176、中华人民共和国建筑法

177、中华人民共和国注册建筑师条例