

Enforcement Rules of the Foreign Trade Act

Amended March 18, 2005, (94)-Mou-09400513942

Article 1

These Rules are enacted pursuant to Article 36 of the Foreign Trade Act (hereinafter referred to as the Act).

Article 2

The terms "foreign country", "other country" and "counter-part country" as used in the Act include any separate customs territory designated under the World Trade Organization.

Article 3

The measure to temporarily suspend export/import or other necessary measures to be taken by the competent authority under Article 6 of the Act shall be reported to the Executive Yuan at the time of publication for forwarding to the Legislative Yuan within one month from the date of publication for approval.

Article 4

The necessary measures to be taken by the competent authority under Article 6 of the Act against any specific country or territory or any specific goods include restrictions on quantities, prices, qualities, specifications, payment methods, and ways of exportation or importation of the goods exported or imported and may also include a request on the Ministry of Finance to exercise its power of imposing special tariffs in accordance with applicable laws.

Article 5

The terms "international treaty" or "agreement" mentioned in subparagraph 5, Paragraph 1, Article 6; the Proviso in Paragraph 1, Article 11; Paragraphs 1 and 2, Article 16; and the Proviso in Item 2, Article 20.2 of the Act refer to:

1. Any treaty or agreement signed by this country with any foreign country; and
2. Any convention or agreement signed and approved under any multilateral

organization in which this country is a participant; in case this country is not a participant therein, the convention or agreement mutually recognized and complied with by countries in general.

Article 6

To expand foreign trade relationship, the competent authority shall hold, or participate in, bilateral or multilateral economic and trade cooperation conferences and sign, based on economic and trade development situation or need, with specific countries or territories arrangements or agreements which are helpful to enhance bilateral economic and trade relationship.

Article 7

The ban and control against specific countries or territories under Article 5, the temporary suspension of export/import of goods or other necessary measures under Article 6, the restrictions provided in the proviso in Paragraph 1 of Article 11, the administration of export/import of strategic hi-tech goods provided in Article 13, the quotas with or without charges or other appropriate measures taken under Article 16, and the import relief provided in Article 18 of the Act shall all be announced by public notices and implemented from the date of publication or any other designated date.

Article 8

An exporter or importer may still export or import goods, if prior to the date of publication or the designated date stated in Article 7:

1. The exporter or importer has already obtained an export or import permit which is still within valid period; or
2. The importer has already applied for opening of an L/C and the L/C has been opened or payment for goods has already been remitted, or goods have already been shipped out from a foreign country for importation, as can be established by supporting documents; or
3. The exporter has received an L/C opened by a bank in a foreign country or already collected payment for goods, as can be established by supporting documents.

In respect of supporting documents of Item 2 and 3 of the preceding paragraph, the nomenclature or quantity of goods shall be filled out.

Article 8.1

To manage trade and collect statistics under the Act, the Bureau of Foreign Trade (BOFT) of the MOEA may use the Customs Import Tariff Code as the classification framework to compile our Import and Export Commodity Classification schedule.

Article 9 (deleted)

Article 10

In respect of export/import of goods, if quotas with or without charges are required under Paragraph 1, Article 16 of the Act, BOFT may take any of the following actions:

1. To issue and allocate quotas by itself or jointly with authorities concerned.
2. To entrust financial institutions, trade associations, or juristic persons with the administration of quota.
3. To designate a government operated trading organization to import such goods for resale through tendering procedures.
4. To handle the matter in other manners designated or approved by the competent authority.

Article 11 (deleted)

Article 12

Proceeds received from the distribution of quotas with charge shall be turned to the Treasury unless otherwise approved by the Executive Yuan.

Operational expenditures spent by organizations entrusted with quota administration shall be compensated by BOFT through its budgetary procedure except those spent on the administration of quota of which proceeds are not turned to the Treasury.

Article 12-1

Illegal transshipment as mentioned in subparagraph 2, Paragraph 4, Article 16 of the Act means that the origin of exporting products which are subject to quota restriction is not our country, but export to countries or areas where import restraints are

enforced under the quota of our country. Evasion of investigation means that the exporter/importer, as required by the measures stipulated in Paragraph 6 of Article 16 of the Act, fails to keep the production materials and documentation or refuses either to submit the said materials and documentation or to cooperate in the investigation.

Overseas processing as mentioned in subsection 5 of Paragraph 3 of Article 16 of the Act means that raw materials or semi-finished products are processed abroad into products which are subject to quota restriction, after which processing these products are re-imported into our country for re-export under the quota of our country, or the products are exported directly from the overseas processing places under the quota of our country.

Article 13

The term of "other countries" as used in subparagraph 1, Article 17 of the Act shall mean any country or territory which has a multilateral or bilateral protection treaty or agreement on intellectual property rights with this country.

Article 14

In an investigation of injuries by the competent authority under Article 19 of the Act, determination of substantial injury, threat of substantial injury, or substantial retardation to establishment of domestic industry concerned shall be based on the same criteria on which the Ministry of Finance determines to impose countervailing or anti dumping duties under Article 67 and Article 68 of the Customs Law as to whether there is substantial injury, threat of substantial injury, or substantial retardation of establishment of domestic industry concerned under Article 69 of the same Law.

Article 15

To promote foreign trade, the competent authority may handle by itself or entrust China External Trade Development Council, other relevant organizations, juristic persons, or trade associations with the following matters:

1. To develop promotional plans for economic and trade matters with specific countries or territories.
2. To investigate and remove foreign trade barriers to this country.

3. To assist in responding to foreign complaints on trade matters against this country.
4. To promote the assistance system of enterprise marketing.
5. To promote the identification system of fine product.
6. To establish presences for trade affairs in specific countries or territories.
7. To train trade negotiation and promotion personnel.
8. To hold or participate in international exhibitions.
9. To praise in public local importers/exporters or foreign purchasers of local products for their excellent performance.
10. To assist local exporters/importers and overseas Chinese firms in trade promotion.
11. To increase other activities helpful to promotion of external trade.

Article 16 (deleted)

Article 17

The trade promotion service fee collectable under Paragraph 1, Article 21 of the Act shall be paid by concerned exporter/importer within fourteen days from the date of issuance of a payment request statement.

In collection of the above said trade promotion service fee, the customs shall include the fee into duty request statement and collect it together with import duties if it is for goods imported or collect it after sailing of the shipping vessel. if it is for goods exported.

Article 18 (deleted)

Article 19 (deleted)

Article 20

The use freezing mentioned in Paragraph 3 of Article 29 of the Act means the suspension of assignment or exchange of quota, application for temporary quota, and export licensing of using quota.

Article 21

Pursuant to subparagraph 1 or 2, Paragraph 1, Article 30 of the Act, in respect of suspension or reinstating of the right of an exporter/importer, BOFT may entrust the customs to handle such cases.

Article 22

Trade affairs to be handled by BOFT in an Export Processing Zone or a Science-based Industrial Park or a Free Port or an Agricultural Technology Park may be entrusted to the administrative office of such Zone or Park or administrative authority.

Article 23

These Rules shall come into force from the date of promulgation.