

COMPASS

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中國進出口商品貿易適用的非關稅措施

Non-tariff Measures on Foreign Commodity Trade in China

中

國政府對進出口貿易實施從三個方面管理：(一)對進出口物的管理，包括貨物、貨物容器、包裝物、進出境運輸工具；(二)對人的管理，對象包括收貨人、發貨人、代理人、運輸公司、報關公司、報關員的監管；(三)對因支付進出口貨物而發生跨境資金流動的監督和管理。

進出口商品分類

禁止類進出口商品

商務部先後公佈了5批禁止進口商品目錄。禁止進口商品還包括：根據《中華人民共和國固體廢物污染環境防治法》規定的不允許進口的廢物，根據《中華人民共和國進出境動植物檢疫法》規定的不允許進口的動植物及其制品。此外，海關亦禁止侵犯知識產權商品進口。

收貨人不得聲明放棄已進境的禁止類限制廢棄物，亦不能放棄造成環境污染的貨物。無法退運的，由海關或有關主管部門監督銷毀或妥善處理，收貨人需承擔銷毀或處理費用。收貨人不詳的，由承運人擔銷。

限制類商品

限制類商品適用的非關稅措施主要有配額與許可證兩種。配額適用於中國政府實施數量限制管理的商品，不實施數量限制管理的商品，實施許可證管理，商務部分別每年發布下年度的〈出口許可證管理商品目錄〉與〈進口許可證管理商品目錄〉。2005年實施進口許可證管理的商品有3種：監控化學品、易制毒化學品、消耗臭氧層物質。

自由進出口類貨物

不在禁止類限制商品目錄之內的



The Chinese Government exercises legal jurisdiction over foreign trade in the following aspects: (1) goods moving across the Chinese border, containers, packing materials for the goods, and the transportation means moving across the border; (2) the persons engaged in foreign trade including the consignor, the consignee, the transportation company and the declaration agent; (3) the supervision and control over the flow of funds arising from the cross-border settlement for trading in goods.

Classifications of commodities

Goods of the prohibited category

The MOC has so far announced 5 batches of imported goods belonging to the prohibited category. Goods falling into the prohibited categories also include goods banned from importation under the PRC Law for the Prevention of Environmental Pollution by Solid Wastes, and the

animals, plants and their products under the PRC Law for the Quarantine of Animals and Plants. In addition, the Chinese customs imposes a ban on the import and export of goods that infringe on IP rights.

The consignee shall not waive its right to claim the imported wastes that are banned from import, nor shall they waive the right to goods that cause pollution to the environment. In case that the shipment cannot be returned, the Chinese customs or relevant governing administrative departments shall supervise the destruction and proper handling of the said goods. The consignee is required to bear the costs of destruction or handling. If the information of the consignee is incorrect, the carrier shall bear the costs.

Goods of the restricted category

Restricted goods are subject to non-tariff measures of quotas and

商品是自由進出口類商品，其進出口不受限制。但由於監測貨物進口情況的需要，中國政府對自由進口貨物實施自動進口許可管制。

申請自動進出口許可證，進口商需要提供申請表，採購合同，表示其核准經營範圍的工商營業執照。自動進口許可證的有效期為6個月。沒有《自動進口許可證》收貨人不能辦理外匯核銷、海關亦不會放行有關商品。

免證進口貨物

貨樣、廣告樣本、外商投資企業進口的投資設備免領進口許可證。

暫時進口貨物在提供稅款等值按金或認可擔保後，收貨人亦免領進口許可證。暫時進口貨物範圍包括文藝演出、進行工程施工、講學等運入境內的各種物資和設備。但是，對無線電器材、應實施動植物檢疫、藥品檢驗、食品衛生檢驗的貨物，應提交有關部門的進出境許可證明。

商品認證、檢驗及檢疫

中國國家質量監督檢驗檢疫總局、國家認證認可監督管理局在全國進出口口岸執行下列檢驗檢疫職能：進出口商品檢驗檢疫(包括品質、安全衛生、數量及重量鑑定)、防止詐騙、質量認證、商品鑑定測試、簽發包括普惠制度下的商品產地來源證明，屬於檢驗檢疫範圍的商品列在《進出口商品檢驗檢疫目錄》。

未經商品檢驗檢疫機關發給「通關單」表示合格證明的商品，海關不予放行。商品檢驗檢疫措施同樣適用於保稅區與境外其他國家(地區)，出口加工區與境外其他國家(地區)的進出口商品。

強制性認證

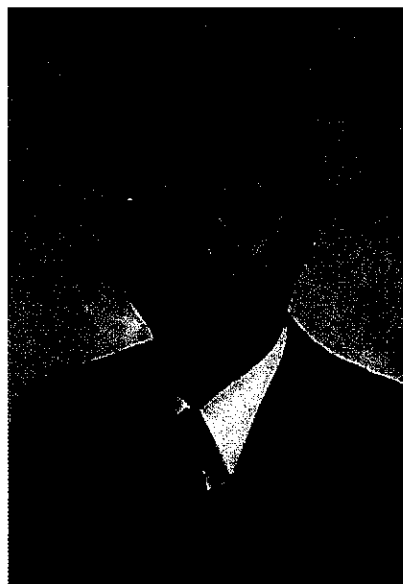
中國政府根據需要，對涉及安全、衛生等重要的進出口商品及其生產企業實施進口安全質量許可制度和出口質量許可制度。中國《強制性質量認證條例》規定，對危及人類健康、人身安全、動植物生命、安全以及環境保護的進口商品都需要通過強制性的安全質量認證。列入《強制性質量認證商品目錄》的商品，未能通過認證及獲得CCC認證證書的，不允許生產、銷售及使用。

licensing requirement. Quotas apply to goods that are subject to quantity restrictions while licenses apply to goods that are not subject to quantity restriction. Every year the Ministry of Commerce announces the official "Catalogs of goods subject to the administration of import and export licenses" that apply in the following year. In 2005, imported goods for which import licenses are required under the restrictive category include the following 3 categories: chemicals subject to state supervision and control, chemicals for drug-making, and halogenated derivatives of acrylic hydrocarbons.

Goods under the freely traded category

Goods not included in the above categories are traded freely and are not listed specifically. Goods under the freely traded category are not subject to administrative restrictions except that the importer needs to comply with the automatic licensing requirement for the purpose of statistics compilation.

When applying for an automatic import license, the importer should provide a completed import license application form, the purchase contract, and a copy of the business license showing the relevant scope of business activities. Automatic import licenses are valid for 6 months. In the absence of such licenses, the consignee cannot proceed with statutory requirement for foreign



exchange verification and the customs will not release the goods.

Goods exempted from import licensing

Samples, advertising materials and equipment as capital contribution to foreign investment enterprise are exempted from the import license requirement.

Temporarily imported goods are exempted from import license after the Chinese customs receives security deposit or approved guarantee equal to the amount of import duty and taxes. The scope of temporarily imported goods includes the materials and equipment that are used in China for artistic performance, construction projects, lectures and so on. However, the organiser should separately obtain administrative approval for the importation of wireless equipment, certificate of quarantine for animals and plants, certificate of examination for pharmaceutical products, and health inspection certificate for foods.

Certification, inspection and quarantine

The PRC State Bureau of Inspection and Quarantine for import and export of goods is vested with the authority, at the frontier ports throughout the country, to perform the inspection and quarantine function in the following areas: inspection and quarantine on import and export goods (including quality, safety and sanitation, quantity and weight examination), quality certification, examination and testing, and the issue of certificate of origin, including the "Form A" under the GSP system. The scope of inspection and quarantine includes goods on the "Lists of import and export goods subject to inspection and quarantine".

In the absence of a customs pass issued by the examining body showing that the commodities have passed the inspection and quarantine, the Chinese customs will not release the above commodities to the consignor or the consignee. The commodity inspection and quarantine measures shall also apply to goods moving between Chinese free trade zones and other countries (regions), between Chinese export processing zones and other countries (regions).



報關的單證要求

基本單證有進口或出口報關單，發票，合同，裝箱單，海(陸，空)貨運提單等。附屬證單包括進出口許可證，配額許可證，商品檢驗證書，檢疫證書，外匯核銷單，商務部以外的其他行政部門簽發的進出境許可證，減、免稅證明等。

申報要求

根據中國「海關法」，進出口貨物的收貨人及發貨人是指依法取得《外貿經營證書》及已經辦理海關報關註冊登記的法人和個人，既享有外貿權亦承擔從事外貿活動有關的法定義務。

進出口貨物的收發貨人、受委託的報關企業應當依法如實向海關申報，對申報內容的真實性、準確性、完整性和規範性承擔相應的法律責任。

海關監管

進出口商品買賣關係或對貨物的所有權關係的存在是海關監管的前提，沒有以上的關係，就不存在海關監管。

違反海關監管規定是指當事人實施了違反海關管理相關的法律、行政法規和規章的行為，但不構成走私行為。海關有權對作出違反海關監管規定行為的單位依《海關行政處罰實施條例》予以處罰。■

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China Compulsory Certification (CCC)

The Chinese Government has introduced a safety and quality licensing system for imported goods, and a quality licensing system on exported goods. Goods posing hazards to the human health and safety, the animal life and health are regulated by a compulsory certification system under the China Compulsory Quality Certification Regulations (the CCQC Regulation). In the absence of a CCC mark, no one is permitted to manufacture, sell, or use the goods

license, pass certificate of inspection, certificate of quarantine, foreign exchange verification note, import (export) permits issued by administrative bodies other than the MOC on specific goods, tax exemption or tax reduction certificates.

Customs declaration

The consignor and the consignee as referred in the PRC Customs Law are the corporate and individual holders of FTC, who also have duly completed the registration at the Chinese customs.

The consignor, the consignee and the declaration agents shall make true declarations and assume the legal responsibility for the correctness, accuracy and completeness of the declaration information.

Customs supervision

The existence of a buyer-seller relationship for or legal ownership with the import-export goods forms the base of the customs supervision, which cannot exist independently from the above relationships.

Breaching the rules of customs supervision is defined as the acts of breaking the laws, administrative regulations and rules but such acts do not constitute smuggling behavior. The Chinese customs has the authority to

The consignor, the consignee and the declaration agents shall make true declarations and assume the legal responsibility for the correctness, accuracy and completeness of the declaration information.

that are on the list of the "Catalog for goods subject to CCQC license".

Documents required for customs declaration

General goods - documents include import & export declaration forms, invoices, contracts, packing lists, bill of lading (airway bills), insurance cover notes. Additional documentation includes import license, quota

impose administrative punishment on any person who has breached the rules of customs supervision in accordance with the Implementation Regulations of the PRC Customs Administrative Punishment. ■

The Chinese and English originals were contributed by Mr. Alfred Chan. Mr. Chan is the Director of China Tax & Investment Consultants Ltd and the owner of K K Chan & Company, Certified Public Accountants.