

# Study on China's Foreign Trade Regulation

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**Abstract:** Foreign trade regulation is the important means to protect and promote the growth of economic. Understand the content and clear the scope of foreign trade regulation is the basis to implement. This paper expounds and analyzes China's foreign trade regulation system and specific content. It points out the mainly realization way that is Customs supervision.

**Keywords:** Foreign Trade Regulation; Foreign Trade Management; Customs supervision; Licence regulation

## 1. Introduction

From June 2009 to May 2010, the United States and other western countries had appealed to the WTO about China restriction some industrial raw materials export. They considered that China's measures had damaged the interests of them and breach China's WTO commitments. But China believed that the relevant policies and measures in line with its WTO commitments. July 5, 2011, WTO distributed the expert group report to the United States and other members. Reported that China restrict on bauxite, coke, fluorspar, magnesium, manganese and other 9 kinds of raw materials export do not conform to WTO requirements. The two sides' dispute involves a current major issue in international trade, a country's foreign trade regulation scope and form, even in fundamentally, if a country has the right to control import and export goods.

China suffered other country's foreign trade regulation more and more frequently. It also can take trade regulation measures what is not contrary to WTO rules to protect the healthy development of export markets. So, it is necessary to take a system analysis on China's current foreign trade regulation, including the content, form, and implementation.

## 2. Content of Foreign Trade Regulation

### 2.1. Foreign Trade Regulation and Foreign Trade Management

Foreign trade regulation also was known as import and export trade regulation; it refers to a government for the country's macro-economic interests, domestic and foreign policy needs, to establish the implementation of various regulation systems, to achieve the micro enterprises management of foreign trade activities. It is a reflection of country foreign economic and trade policies. The main purpose is to restrict import and export goods or prohibit import and export goods, the specific

performance is that government prohibit or restrict the import and export measures to protect and promote domestic production.

Foreign trade management refers to government implement of the various trade policies, systems or measures to achieve the country's macroeconomic benefit and foreign policy needs, in compliance with relevant rules of international trade. In practice, foreign trade management is specific to a country's foreign trade activities in the implementation of the management system, mainly incarnates for the administration; China's "Foreign Trade Law" grants the right to the State Department, specifically by the Customs and other foreign trade administration to implement. The purpose of foreign trade management is to prohibit and restrict goods import and export. In addition, it also includes free import and export management, which is required for statistical and supervision.

We can understand foreign trade management is a manifestation of the executive law enforcement powers; foreign trade regulation is a function that governments follow the relevant rules under the market economic system. Therefore, in theoretical analysis, foreign trade management includes foreign trade regulation.

From the practical view of foreign trade, foreign trade management is a bigger concept than foreign trade regulation. It includes both micro regulation of foreign trade enterprises and macro management of foreign trade field. Government management impacts the micro foreign enterprises, the infection indirect reflects through a series of transmission mechanism, rather than directly acts on the foreign trade enterprises. Foreign trade regulation is a mechanism which government directly acts on micro foreign enterprises through a variety of measures. For example, the government achieves foreign trade regulation through the license management. If the enterprises want to import and export goods, they must obtain the appropriate license first, if not ob-

tained, the Customs will not make release decision, and the goods can not legally import and export.

## 2.2. Foreign Trade Regulation and the WTO

Functions of the WTO is mainly for "open market, institute rule, settle dispute", it implements the basic principle of "no discrimination", "open market" and "fair competition", to reduce tariffs, increase market transparency, and relax foreign trade regulation. It provides a level playing field to eliminate foreign trade barriers. Therefore, the WTO advocates to reduce the foreign trade regulation, and to achieve free trade.

Foreign trade regulation is an important and long-term function of government, it's a good embodiment for countries to protect their national industries and safeguard national sovereignty and interests. Foreign trade regulation must use some non-trade liberalization measures and means. Countries restrict import and encourage export through tariff and non-tariff measures. From the view of economic globalization, foreign trade regulation is not conducive to the development of trade liberalization, or even hinders its development.

So, whether foreign trade regulation violates the basic principles of the WTO, and whether the WTO members can use foreign trade regulation means and measures. This is exactly the case mentioned in the beginning of this paper to analyze and solve problems. Country's foreign trade regulation measures and the WTO purpose do not fully comply, it reflects that free trade is only an ideal state, it is the goal. In the WTO legal text, it does not prohibit its members to formulate and implement trade regulation, it only provides for reduction of foreign trade regulation measures, and strive to achieve trade liberalization. To this end, the WTO set up policy review mechanism to consider all members trade policies and measures. The members can combine with their own economic and development needs to set and retain foreign trade regulation measures. Through mutual consideration among the members, it encourages members to comply with the WTO rules, and improves transparency and fairness degree.

Therefore, foreign trade regulation is not in contradiction with the WTO. In the economic globalization today, with the escalation of global trade frictions, countries in the implementation of foreign trade regulation measures should comply with WTO rules, and timely adjust their foreign trade regulation measures. The members must gradually reduce and eventually eliminate the foreign trade regulation policies and measures.

## 3. Foreign Trade Regulation Systems

In the previous case, China carried out export number restriction for some industrial raw materials exporting to the U.S. and others, in fact, it's in order to protect

china's ecological environment and ecological resources, it's a "voluntary" export restraint and a kind of direct management measure for foreign trade enterprises. Existing national trade regulation measures have a common characteristic of "prize export and limit import", and its practical implementation and performance: encourage export and restrict import through foreign trade regulation, countries put the emphasis on import regulation. In order to expand exports, countries tend to use more management rather than regulation.

### 3.1. Prohibit Import and Export Regulation

Prohibit import and export regulation refers to the prohibitive import and export goods and technology which are included in "prohibited import of goods catalog", "prohibited export of goods catalog", "China prohibition and restriction import of technology directory", "China prohibition and restriction export of technology directory". The products that listed in the directory, any foreign trade enterprises may import and export. The main purpose of the prohibiting import and export regulation is to protect natural environment, ecological resources, and national security and production safety.

### 3.2. Import and Export License Certificates Regulation

Import and export license certificates regulation is an important content of China's foreign trade regulation system, it is the main way to achieve foreign trade regulation, and it mainly aims at the restricted import and export commodities.

#### 3.2.1 Import and Export Licence Regulation

Import and export licence refers to the certificate for allow goods import and export. The licence is issued by Commerce Ministry Quota Licence Bureau and authorized services. From the view of the meaning definition, import and export licence is only one part of the import and export license certificates. It mainly consists of import and export licence, dual-use items and technology import and export licence. Import and export licence regulation goods import and export must be obtain permit beforehand, otherwise, the goods do not allowed to import and export. From the view of regulation purpose, import and export licence regulation mainly aims at the goods kind regulation, rather than the number regulation.

#### 3.2.2 Import and Export Quota Regulation

Import and export quota regulation mainly applied to the quantitative restriction of import and export goods, in essence, it is the number control of import and export commodities, rather than the kind regulation. Import

and export quota regulation is divided into two types of import quota regulation and export quota regulation.

In the import quota regulation aspect, China has canceled absolute number limitation of imported goods. Now, China only carries out relatively number limited, which is tariff quota regulation. In practice, it is a preferential tariff quota regulation. Within the tariff quota import goods according to the quota tax rate; on contrary, outside the tariff quota import goods according to ordinary tax rate.

In the export quota regulation aspect, combined with the new features of post-crisis era, China can carry out absolute number limitation for the export goods under the premise of no breach the WTO rules. In foreign trade practice, export quota regulation reflects export quota allocation regulation and export quota bidding regulation, different products carry out different regulation measures. For example, the previously mentioned case, the industrial raw materials which reflect the export quota bidding regulation measures.

### **3.2.3 Other License Certificates Regulation**

Other license certificates refer to the license certificates issued by the state corresponding administrative functions within their respective mandates to permit particular type of goods import and export, in addition to the above license certificates. Such as, the waste import licence, the licence must be issued by the National Environmental Protection Ministry before the waste import. Otherwise, the waste can not legally import and export.

### **3.3. Foreign Trade Operator Qualification**

Foreign trade import and export activities must be implemented by the foreign trade operators (foreign trade company) whom obtain the right to operate import and export. Foreign trade operators are implemented on the registration system, which is engaged before foreign trade activities, it must be legally competent in the business registration department. When foreign trade operators obtain qualifications, they can engage in the foreign trade import and export activities.

### **3.4. Entry-exit Frontier Inspection and Quarantine Regulation**

Entry-exit frontier inspection and quarantine regulation system includes import and export commodity inspection system, entry-exit frontier animal and plant quarantine system and border health monitoring system. In order to ensure the quality of import and export commodities, and to protect people's lives and health, the AQSIQ and authorized inspection agencies inspect and quarantine the import and export commodities by law, when the import and export commodities can not reach

the required standard, they can not be imported and exported.

### **3.5. Foreign Exchange Verification Regulation**

China is placing stringent foreign exchange regulation for import and export commodities to prevent evasion and stealing foreign exchange. Foreign trade companies must verify the foreign exchange amount to the China Bank that the export earning and export payment, to achieve the purpose of foreign exchange regulation.

### **3.6. Trade Remedy Measures**

When a country's domestic industries are damaged by dumping, subsidies and excessive growth, the WTO allows its members to adopt anti-dumping, countervailing and safeguard measures to protect domestic industries avoid damage until the damage and threat are eliminated.

### **3.7. Technical Regulation**

Technical regulation refers to the requirement, standard and statute which determine the goods certain characteristics by mandatory or optional measures. Under the influence of the financial crisis, the technical regulation measures are more diverse and flexible, for example, through higher standards of environmental protection to achieve the purpose of import restrictions.

## **4. Realization of Foreign Trade Regulation**

### **4.1. Customs Supervision**

The "Customs Law" said that China Customs is the country's import and export supervision and management institution. In accordance with "Customs Law" and other laws, regulations, Customs supervises import and export commodities. Supervision is the basic function and task of the Customs, the purpose is to ensure the legality of import and export goods.

All import and export commodities must transact appropriate Customs procedure for legally entry-exit frontier. Customs is the direct state agency to implement foreign trade regulation. Customs manages the declaration procedure of import and export goods to achieve the regulation purpose.

### **4.2. Administrative Departments' Collaboration**

"Foreign Trade Law" grants the regulation right for State Department. In foreign trade practice, the right is implemented by Customs and other foreign trade administrative departments. The relevant administrative departments provide several of license certificates in their respective mandates. And then, Customs manages the license certificates to achieve foreign trade regula-

tion. If the import and export goods have legal license certificates, they can be released.

Therefore, the relevant administrative departments should strengthen cooperation. In practice, a commodity often needs to apply for a variety of import and export license certificates, which require foreign trade enterprises run between different administrative departments. If we strengthen coordination of various departments and simplify related procedures, both to meet the needs of modern and efficient Customs clearance, also facilitate the company to save costs and achieve win-win situation.

#### **4.3. Documents, Certificates and Goods Coincident**

For the regulation goods, Customs should release only in the confirmation situation of documents, certificates and goods coincident. The “documents” refer to all kinds of declaration documents; the “certificates” refer to various license certificates and related documents; the “goods” refer to the actual import and export commodities. Only to reach three accords, Customs just recognizes the validity of goods and transacts release procedures.

## **5. Expectations**

For the needs of protection environment and natural resources, government enhances the management measures of natural resources, especially for high pollution, high energy consumption, and consumption of resource-based products. Although it has some impact on domestic and foreign users, it accords the WTO objective of promoting sustainable development, and promoting the healthy development of resource industries. In the WTO framework, China can appeal to the WTO, and make convincing rebuttal evidence; it may modify or even reverse part of the expert group report to reverse the adverse situation.

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