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China Amends Foreign Trade Law to Expand Countermeasure Toolkit

Eric Carlson, Christopher Adams, and Huanhuan Zhang*

In this article, the authors discuss new amendments to the China's Foreign Trade Law, which significantly expand China's legal toolkit for countering foreign sanctions.

The Standing Committee of the National People's Congress of China (NPC) has passed amendments to the Foreign Trade Law of the People's Republic of China (PRC). Adopted amid an increasingly volatile global trade environment, the revisions signal a shift in emphasis from trade facilitation toward coordination of trade policies with safeguarding China's national security and development interests. The revisions significantly expand China's legal toolkit for countering foreign sanctions, including authorizing trade-related countermeasures against non-Chinese entities and individuals who discontinue "normal transactions" with Chinese companies, allowing broader discretion for trade regulators to adopt countermeasures, and establishing a proactive trade policy assessment mechanism that, to a certain extent, resembles the U.S.'s Section 301 investigation process.

The amended law took effect on March 1, 2026.

Brief History of the PRC Foreign Trade Law

The Foreign Trade Law was first enacted in 1994, providing a fundamental framework for regulating China's foreign trade activities. Under the initial version, foreign trade was tightly controlled and was largely limited to licensed state-owned companies. After joining the World Trade Organization (WTO), China overhauled the Foreign Trade Law in 2004 to align with WTO rules, most significantly to shift from a licensing regime to a registration system for foreign trade operators, and to open foreign trade to private entities. A minor technical update was made in 2016, and in 2022, China removed the registration requirement for foreign trade operators.

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Foreign Trade as National Security

For the first time, China places "maintaining national sovereignty, security, and development interests" ("维护国家主权、安全、发展利益") as a core purpose of the Foreign Trade Law.[1] In prior versions of the law, national security appeared as one of several grounds on which China could restrict foreign trade,[2] while the law's overall design emphasized promoting trade and economic developments. The 2025 revisions elevate security objectives alongside trade promotion objectives. As expressed by China's Ministry of Commerce (MOFCOM), the revisions aim to "coordinate opening-up and security" ("统筹开放和安全").[3] Echoing the security objectives, the 2025 revisions add a new requirement that foreign trade "shall be devoted to serve the economic and social development of the country" ("对外贸易工作应当坚持服务国家经济社会发展").[4] These changes suggest that trade policies may increasingly be viewed through the lenses of national security and China's development interests, and China may be more willing to intervene in trade activities in response to perceived external pressure.

Countermeasures Targeting Foreign Entities and Individuals

The 2025 revisions empower MOFCOM to prohibit and restrict non-Chinese entities and individuals from engaging in China-related imports and exports if they:

- "endanger the sovereignty, security, and development interests of China";
- "violate normal market trading principles, discontinue normal transactions with individuals or organizations in China, and seriously harm the legitimate rights and interests of individuals or organizations in China"; or
- "take discriminatory measures against individuals or organizations in China, and seriously harm the legitimate rights and interests of individuals or organizations in China."[5]

The revisions also prohibit any person or organization from facilitating circumvention of MOFCOM's countermeasures,

including by "acting as an agent, freight forwarding, delivery, customs declaration, warehousing, or providing third-party trading platform services."[6] Violations may trigger administrative penalties, including confiscation of illegal gains, fines, restrictions on engaging in foreign trade, and exposure to potential criminal liabilities.[7]

The triggering circumstances described above are substantially similar to the circumstances that could trigger a designation of a foreign entity or a foreign person to the Unreliable Entity List (UEL), which China created in 2019 to punish foreign companies and individuals who, among other things, discontinue normal transactions with Chinese companies or take discriminatory measures that harm Chinese companies' legitimate rights and interests.[8] Foreign companies designated to the UEL may be subject to a number of countermeasures, including a prohibition on engaging in China-related import and export activities.

The UEL regulations draw their legal basis from the Foreign Trade Law and the National Security Law, with the former providing operational foundations and the latter underpinning the objectives of the UEL mechanism. Earlier versions of the Foreign Trade Law already contained a high-level provision authorizing China to take "corresponding measures" ("相应的措施") against countries and regions that adopt "discriminatory prohibition, restriction, or other similar measures" ("歧视性的禁止、限制或者其他类似措施") against China in trade, but the earlier versions do not expressly authorize MOFCOM to take actions against foreign entities and individuals.[9] The 2025 revisions close this gap and strengthen the statutory basis for entity-level trade countermeasures.

With the codification of entity-level countermeasures, China is strengthening the legal underpinnings for its two overlapping tools for trade-related countermeasures against non-Chinese entities and individuals: (1) the Foreign Trade Law and the UEL mechanism, administered by multiple agencies led by MOFCOM, and (2) the PRC Countering Foreign Sanctions Law administered by China's Ministry of Foreign Affairs.

Countermeasures in Addition to Trade Restrictions

In addition to restricting or banning imports and exports, the 2025 revisions permit the Chinese government to take unspecified

"other necessary measures" ("其他必要的措施").[10] This catch-all authorization increases regulatory flexibility for Chinese authorities but may create additional uncertainty for companies doing business in or with China, depending on how it is applied in practice.

Broader Discretion in Initiating Countermeasures

The 2025 revisions broaden scenarios in which China can exercise discretion in initiating countermeasures and may enable China to react more swiftly. First, the revisions add catch-all language allowing China to restrict imports and exports, or to take other measures that China considers necessary.[11] Second, the revisions permit China to take "any necessary measures" ("任何必要的措施") related to imports and exports of goods, technologies, and services during "other emergencies in international relations" ("国际关系中的其他紧急情况") in addition to war or for maintaining international peace and security.[12] The revisions do not define what may constitute an "emergency in international relations" contemplated by the law, but the recent dispute surrounding Netherlands' intervention in Dutch chipmaker Nexperia to the detriment of Chinese company Wingtech, illustrates how quickly China can deploy trade restrictions and how disruptive they can be to globalized supply chains.[13]

Third, the revisions authorize China to adopt "corresponding measures" ("相应措施") outside the framework of WTO and other trade-related treaties when it is deemed that the treaty dispute settlement mechanism "cannot work properly" ("无法正常运转") or where treaty objectives are "impeded" ("无法实现").[14] The former appears to be directly prompted by the dysfunction of the WTO Appellate Body, the second-instance panel of the WTO's dispute settlement system that delivers binding ruling on member state disputes. The change suggests that China may defend its interests more vigorously, rather than waiting indefinitely for a final WTO verdict. The latter appears to be additional catch-all language that provides China with additional legislative flexibility in determining when a countermeasure is necessary and what countermeasure is appropriate.

Proactive Trade Policy Assessment Similar to U.S. Section 301 Investigation

On December 3, 2025, MOFCOM issued an internal rule titled "Implementation Measures for the Compliance of Trade Policies" ("贸易政策合规工作实施办法"), which requires policymakers to assess whether proposed trade policies are consistent with WTO rules and China's trade commitments before implementation.[15] Notably, the rule requires local governments to report to MOFCOM any violation of WTO rules by other WTO member states, and after confirming a violation, MOFCOM may file a concern with the WTO and carry out consultations to protect Chinese companies' legitimate rights and interests.[16] Separately, the Foreign Trade Law now authorizes MOFCOM to assess other countries' trade policies "as needed" ("根据需要"),[17] and to take countermeasures against countries and regions that adopt trade-related discriminatory measures against China.[18] Taken together, these developments suggest that China may take a more proactive approach to identifying and responding to foreign trade measures that China considers discriminatory or unfair. Although not identical, the overall posture of the assessment mechanism appears similar the U.S.'s Section 301 process (i.e., a government-led assessment that can result in retaliatory trade actions).

Trade Adjustment Assistance

The 2025 revisions permit local governments to establish trade adjustment assistance (TAA) programs consistent with WTO rules to stabilize industrial and supply chains in response to trade-related risks and changes in trade environment.[19] While this change is not framed as a countermeasure tool, its inclusion in China's foundational foreign trade statute suggests a deliberate effort to institutionalize an internal shock absorber that strengthens Chinese industrial and supply chain resilience and preserve policy room to respond to, and withstand, potential future trade frictions and external restrictions.[20]

Notes

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1. See Foreign Trade Law (2025), Art 1: "The present Law is enacted in accordance with the Constitution for the purpose of promoting the high-level opening to the outside world, enabling high-quality development of foreign trade, maintaining the order of foreign trade, protecting the lawful rights and interests of the foreign trade business operators, promoting the healthy development of the socialist market economy, and maintaining national sovereignty, security and development interests." ("为了推进高水平对外开放，推动对外贸易高质量发展，维护对外贸易秩序，保护对外贸易经营者合法权益，促进社会主义市场经济健康发展，维护国家主权、安全、发展利益，根据宪法，制定本法。")

2. E.g., Foreign Trade Law (2022), Art 15 (providing that China may restrict or prohibit imports or exports of goods and technologies on a certain specified grounds, including for maintaining national security).

3. See the Minister of Commerce's explanation of the 2025 revisions presented to the NPC, http://www.npc.gov.cn/npc/c2/c30834/202512/t20251227_450726.html.

4. Foreign Trade Law (2025), Art 3.

5. See Foreign Trade Law (2025), Art 40 ("国务院对外贸易主管部门可以对有下列情形之一的境外个人、组织，采取禁止或者限制其与中华人民共和国有关的货物、技术进出口以及国际服务贸易等措施：（一）危害中华人民共和国主权、安全、发展利益；（二）违反正常的市场交易原则，中断与中华人民共和国个人、组织的正常交易，严重损害中华人民共和国个人、组织合法权益；（三）对中华人民共和国个人、组织采取歧视性措施，严重损害中华人民共和国个人、组织合法权益。")

6. Id. ("任何个人、组织不得为规避前款规定措施的行为，提供代理、货运、寄递、报关、仓储、第三方交易平台服务等支持、协助、便利。")

7. Foreign Trade Law (2025), Art. 76.

8. See Provisions on the Unreliable Entity List, Art 2: "The State shall establish the Unreliable Entity List System, and adopt measures in response to the following actions taken by a foreign entity in international economic, trade and other relevant activities: (1) endangering national sovereignty, security or development interests of China; (2) suspending normal transactions with an enterprise, other organization, or individual of China or applying discriminatory measures against an enterprise, other organization, or individual of China, which violates normal market transaction principles and causes serious damage to the legitimate rights and interests of the enterprise, other organization, or individual of China. As used in these Provisions, the term 'foreign entity' refers to an enterprise, other organization, or individual of a

foreign country." ("国家建立不可靠实体清单制度，对外国实体在国际经贸及相关活动中的下列行为采取相应措施：（一）危害中国国家主权、安全、发展利益；（二）违反正常的市场交易原则，中断与中国企业、其他组织或者个人的正常交易，或者对中国企业、其他组织或者个人采取歧视性措施，严重损害中国企业、其他组织或者个人合法权益。本规定所称外国实体，包括外国企业、其他组织或者个人。")

9. See, e.g., Foreign Trade Law (2022), Art. 7.

10. Foreign Trade Law (2025), Arts. 18 and 29.

11. See Foreign Trade Law (2025), Art. 18(12): "The state may prohibit or restrict the import or export of relevant goods or technology or take other necessary measures: . . . (12) considering any other circumstance under which it is necessary to prohibit or restrict the import or export of relevant goods or technology or take other necessary measures." ("国家基于下列原因，可以禁止或者限制有关货物、技术进出口，或者采取其他必要的措施：. . . (12) 其他需要禁止或者限制有关货物、技术进出口，或者采取其他必要措施的。") Article 29 contains a similar provision related to trade in services.

12. See Foreign Trade Law (2025), Arts. 19 and 30.

13. MOFCOM imposed export restrictions on chips manufactured by Nexperia's plant in China. MOFCOM subsequently partially lifted the restriction for civilian end-uses.

14. See Foreign Trade Law (2025), Art. 51: "If the dispute resolution mechanisms prescribed in the treaties and agreements cannot work properly so that the interest enjoyable by the People's Republic of China according to the treaty or agreement is lost or injured or the achievement of the objective of the treaty or agreement is impeded, the government of the People's Republic of China may take appropriate measures based on the actual situation." ("有关条约、协定规定的争端解决机制无法正常运转，使中华人民共和国根据该条约、协定享有的利益丧失或者受损，或者条约、协定目标无法实现的，中华人民共和国政府可以根据实际情况采取相应的措施。")

15. The rule was first promulgated by MOFCOM in 2014, and the requirements regarding policy assessment have remained largely the same in the 2025 update. The same requirement is codified in the latest version of the Foreign Trade Law (see Foreign Trade Law (2025), Art. 7).

16. See Implementation Measures for the Compliance of Trade Policies (2025), Art. 12.

17. Foreign Trade Law (2025), Art. 53.

18. See Foreign Trade Law (2025), Art. 7.

19. Foreign Trade Law (2025), Art. 55.

20. TAA is not entirely new in China. The Foreign Trade Law has long included a general provision that the government could provide "necessary support" ("必要的支持") for domestic industries that have suffered from increased imports. Public information suggests that the provision was largely dormant until 2017, when trade frictions between the United States and China

increased. Since 2017, China has been piloting the provision of TAA across the country to Chinese companies facing challenges in international trade, such as those caused by foreign sanctions and intellectual property rights disputes. Chinese companies receiving TAA generally need to demonstrate certain damages caused by imports or trade frictions, e.g., substantial decrease in sales or high employee turnover rate, and the TAA is usually provided in the form of the government subsidizing partial costs of Chinese companies' "self-help" efforts, such as the costs associated with seeking legal support or purchasing marketing services for exploring new business opportunities.