



Prepared by: **WHITE & CASE**

IFRC COVID-19 Emergency Decree Research: People's Republic of China (Mainland)

White & Case Team: Min Pang, He Chen, Jingjia Zhang, Yuning Zhou

Please note that COVID-19 situation changes on a daily basis, policies are expected to change accordingly. Below answers are based on policies and regulations published by Chinese central and local governments on March 18, 2020.

1. Is there coordination between state and non-state actors, e.g. through a national emergency response mechanism?

Yes. The PRC Emergency Response Law encourages non-state actors to “provide materials, funds, technical support and donations to the people's governments in the work on the response to emergency incidents”¹. In face of COVID-19, Chinese provincial and municipal governments set up working groups of epidemic prevention and control and work with non-state actors such as Red Cross Society of China (RCSC) and China Charity Federation (CCF). Many regional governments announce to receive donations of funds and medical supplies from the public through regional branches of RCSC and CCF.

2. Is there mention of the role of Red Cross (RC) or humanitarian actors? In what areas/sectors? What responsibilities are ascribed to RC?

The humanitarian organizations in China such as RCSC, CCF and other non-profit charity foundations play an active role during the COVID-19 outbreak. Those organizations mainly provide logistic and medical support, which include initiating donations, recruiting volunteers, distributing supplies and advocating precautionary measures etc. They are responsible to publicize and update the application of donations and conduct humanitarian aids subject to relevant laws (e.g. PRC Charity Law, PRC Emergency Response Law).

For example, the staff and volunteers of RCSC supported healthcare workers and assisted with patient care. RCSC purchased and deployed specialized ambulances to Wuhan, the epicenter of this outbreak. Also, RCSC helped families of people who tragically lost their lives while working to save the lives of others by cash grant.²

3. Are there exceptions to travel restrictions that will facilitate the movement of RC/humanitarian relief teams and/or aid across borders? What (if any) quarantine requirements or other conditions are attached?

There is no general travel ban in China, and Chinese citizens and foreigners are treated equally. Local governments adopt preventive measures based on local situations, including temperature taking, home quarantine and/or centralized quarantine.³

Different quarantine measures:

- Beijing: All passengers (including Chinese residents) who arrive at Beijing Capital International Airport are required to undergo a 14-day quarantine at designated hotels.⁴ Wuhan, Shanxi adopt the same requirement.
- Shanghai: All passengers (including Chinese residents) travelling from the following countries/regions, by direct or transit flight, are required to undergo a 14-day quarantine at home or at designated hotels: South Korea, Italy, Iran, Japan, France, Spain, Germany, United States, United Kingdom, Switzerland, Sweden, Belgium, Norway, Netherlands and Austria.⁵ Hainan and Heilongjiang adopt similar requirement.
- Other cities: All passengers (including Chinese residents) travelling from abroad are required to undergo a 14-day quarantine at home or at designated hotels. Guangzhou adopts this measure.

4. Are there exceptions to quarantines, curfews and other restrictions on movement that allow RC/humanitarian organizations access to vulnerable populations (including for psychosocial or non-medical aid)?

There is no exception.

5. Have any special legal facilities or exemptions been put in place for the importation of medical aid or other relief items or personnel (International Disaster Response Law)? What (if any) quarantine requirements or other conditions are attached?

Yes, China's State Taxation Administration, Ministry of Finance, and General Administration of Customs together introduced various measures that aim to speed up and facilitate the importation of medical aid and relief items used for containing the spread of the novel coronavirus.⁶

- Duties are exempted for materials and goods imported directly by Health Department for use in the prevention and control of the pandemic. Such imported materials and goods will be released by China customs upon registration, allowing the relevant administration procedures for tax exemption to be completed at a later date.
- The government also expanded the scope of exemption for import duties, import value-added tax and consumption tax for goods that will be donated to the cause of disease prevention and control. There has been a regulation that relieves import duties for goods donated for charitable purposes since 2015, and the newly implemented rules expand the existing regulation in three ways.⁷ Firstly, it expands the scope of goods covered under the regulation to include supplies such as disinfectant, protective equipment, ambulances, epidemic prevention vehicles, disinfection vehicles and emergency command vehicles. Secondly, it expands the scope of eligible persons or entities qualified to claim such exemption to include relevant domestic government departments, enterprises, social organizations, individual and foreign citizens, as well as domestic proceeding trade enterprises donating goods from overseas. Thirdly, the said regulation expands the eligible beneficiaries accepting the donated goods under the regulation to include any entities designated as eligible by provincial civil affairs departments.⁸

Besides tax exemptions, other measures were introduced by the Ministry of Commerce to further facilitate the importation of medical supplies. On the press conference held on February 22 by the Joint Prevention and Control Mechanism⁹, representative of the Ministry of Commerce reveals that the country has imported over 5 Billion RMB worth of medical supplies through various trade methods, of which 1.37 Billion were masks and 15.533 Million were protective clothing.¹⁰ Efforts by the Ministry of Commerce focus on three areas:

- To promptly guide local departments to effectively serve import businesses and strength communication and coordination, expanding the volumes of supplies to be imported in accordance with actual needs of various regions;
- To facilitate the work of industry organizations and import/export chambers of commerce, collecting and arranging information of foreign medical suppliers and providing such information to local departments in a timely manner;
- To assist the work of cross-border e-commerce businesses which have abundant overseas channels, information coverage and extensive logistical capabilities to fulfill the needs for medical supplies within China.

There are no special quarantine requirements or conditions for imported medical supplies or medical personnel.

6. Is the RC (or humanitarian organizations) categorized as 'essential' or 'emergency' services, for the purposes of exemptions to restrictions on business operations and opening hours?

The Red Cross Society of China (RCSC) is a government-controlled charity organization and is considered an “essential” service not subject to the restrictions on business operations and opening hours. Volunteers and employees at RSCS are not subjected to certain restrictions of movement that applied to the general public to allow RCSC to perform its functions during the outbreak.

At the epicenter of the pandemic, Wuhan, Hubei, the Red Cross Society was designated as the only entity authorized to accept public donations.¹¹ Given the initial shortage of medical supplies at almost all hospitals, the Red Cross Society played the essential role of accepting donations and redistributing medical supplies to the frontline. The goal was to avoid confusion, centralize the distribution of donations to ensure equity and allow medical supplies to reach where they were needed the most, and to avoid corruption. However, it was later revealed on Chinese social media that the Wuhan Red Cross suffered a shortage of manpower and was ill-equipped to efficiently distribute donations. Interview footages of piles of donated supplies left in storage was widely circulated online and the Wuhan Red Cross Society received immense criticisms from the general public as a result.¹² After the efficacy of this policy became widely questioned, the Wuhan Municipal Government published a new rule allowing targeted donation, which means that donated goods can be sent directed to medical institutions and hospitals without going through Wuhan Red Cross Society.¹³ A local enterprise specialized in logistic management was later hired to help Red Cross Society manage its warehouse.¹⁴ Across China, the work of Red Cross Societies in all cities and provinces received immense media attention and public scrutiny during the outbreak. Because of strong public demand, officials at the RCSC promised to publish the amount and usage of donated goods through its website regularly to ensure transparency and efficiency.¹⁵

7. What other measures are provided in the emergency decrees? (for governmental actors, for communities, for health workers, etc).

Except for the unprecedented large-scale quarantine and major transportation lockdown of cities and provinces across the country, China has imposed drastic responses to the epidemic spread, among other things:

- Temporary expropriation of private facilities

According to Article 45 of the Law of the People's Republic of China on the Prevention and Treatment of Infectious Diseases (“**Law of Prevention and Treatment of Infectious Disease**”)¹⁶, Article 12 of the Law of the People’s Republic of China on Responses to Emergencies (“**Law of Responses to Emergencies**”)¹⁷ and Article 44 of the Property Law of the

People's Republic of China (“**Property Law**”)¹⁸, in the case of emergency, government and government department reserve the authority to temporarily expropriate private party's property, such as houses, transportation vehicles and/or other facilities/equipment, provided that such expropriated property shall be returned to the property owner in a timely manner after the emergency status is closed and adequate compensations shall be paid to the property owner

Since the COVID-19 outbreak, local government in municipality and provinces in China have expropriated many hotels and private premises to receive patients as well as to serve as isolation areas.¹⁹ In February 2020, Chinese government has managed to build two emergency hospitals in Wuan, Hubei province, using both civilian and military assets and manpower to address the shortage of hospital beds.²⁰

- Trans-provincial deployment of resources

According to Article 45 of the Law of Prevention and Treatment of Infectious Diseases, for the purpose of eliminating epidemic, the State Council has the authority to deploy equipment, human resources and supplies among different provinces and localities when necessary.

Given that Wuhan is hit hardest during this COVID-19 outbreak, the central government of China has mobilized medical personnel and healthcare workers nationwide to be sent to Wuhan after the city was locked down. As of March 1, 2020, there have been more than 30,000 health workers (including volunteers) from 29 provinces and regions having been participating in Wuhan's battle against COVID-19. Apart from Wuhan, other cities and counties in Hubei province have soon paired up with cities and counties outside Hubei province and started receiving pairing assistance from those less severe regions.²¹

- Accreditation to local health administrative departments and chartered agencies to search and inspect suspicious sites and persons

According to Article 54 of the Law of Prevention and Treatment of Infectious Diseases and Article 36 of the Regulations of the People's Republic of China on Urgent Handling of Public Health Emergencies²², health administrative department of the local government above county level and chartered agencies have the authority to enter into suspicious sites to search for evidence and collect samples and other relevant materials in relation to the infectious disease.

After the COVID-19 outbreak, the health administrative departments in many cities have initiated several rounds of carpet inspection over places that have large flow of people, such as grocery markets, hotels, commercial areas, etc.. The local health administrative departments, together with chartered agencies, have been closely monitoring the number of suspected cases and confirmed cases of COVID-19 in communities as well as the turnover of people in likely hazardous areas.²³

8. Have restrictions been adopted or put in place that ban the export of protective medical equipment?

Based on the publicly available information, China has not officially adopted any restrictions on or banned the export of protective medical equipment.

¹ Emergency Response Law of the People's Republic of China, Article 34.

² In pictures: Red Cross on the frontline of COVID-19 response in Wuhan, China, IFRC Regional News, 18 February 2020; COVID-19 Working Update, RCSC News, <https://www.redcross.org.cn/html/2020-03/68565.html> (last visited Mar.18, 2020).

³ National Immigration Administration Notice, <https://www.nia.gov.cn/n741440/n741542/c1254705/content.html> (last visited Mar.18, 2020).

⁴ National Immigration Administration Notice, <https://www.nia.gov.cn/n741440/n741542/c1257191/content.html> (last visited Mar.18, 2020).

⁵ PRC State Council Notice, http://www.gov.cn/xinwen/2020-03/17/content_5492365.htm (last visited Mar.18, 2020).

⁶ Announcement of the Ministry of Finance and the General Administration of Taxation of the State Administration of Taxation on the Duty-Free Policy on Imported Materials for the Prevention and Control of COVID-19 (No. 6 of 2020) (《财政部 海关总署 税务总局关于防控新型冠状病毒感染的肺炎疫情进口物资免税政策的公告》(2020年第6号)).

⁷ Announcement of Interim Measures for the Exemption of Import Taxes on Charitable Donated Materials by the Ministry of Finance, General Administration of Customs, and General Administration of Taxation (No. 102 of 2015) (《慈善捐赠物资免征进口税收暂行办法》(财政部 海关总署 税务总局公告 2015年第102号发布)).

⁸ While the above measures focus on facilitating the importation of medical aid and relief items, they were introduced as part of an overall tax reduction regime that aims at supporting efforts of treating the disease, supplying necessities and medical equipment to hospitals and quarantined people, encouraging charitable donations from all segments of society and facilitating the resumption of work and production. For a comprehensive introduction to the tax policies in response to COVID-19, please see “Guidance on Preferential Policies on Taxes and Fees in Response to the Novel Coronavirus Outbreak” (《应对新冠肺炎疫情税费优惠政策指引》), at http://www.gov.cn/xinwen/2020-03/10/content_5489529.htm

⁹ On January 21, 2020, the Chinese government established the Joint Prevention and Control Mechanism of the State Council – a multi-ministerial coordination platform consisting of over 32 departments and ministries to respond to the sudden outbreak of COVID-19. Press conferences were held daily to introduce policy changes and provide status updates to the public.

¹⁰ Press release at <http://www.gov.cn/xinwen/gwylflkjz26/index.htm> (Information provided by Ministry of Commerce Representative Guoyi Xian (洗国义)).

¹¹ Ma Guoqiang, Secretary of the Wuhan Municipal Party Committee, announced this new rule at a press conference on January 27, 2020. Press release at <https://www.redcross.org.cn/html/2020-01/64193.html> (last visited Mar. 20, 2020)

¹² See news article published by BBC China, <https://www.bbc.com/zhongwen/simp/chinese-news-51338241>. See also <http://news.ifeng.com/c/7thdOeoQEUD> (last visited Mar.19, 2020).

¹³ See news article published by Global Times, <https://baijiahao.baidu.com/s?id=1657348928188922790&wfr=spider&for=pc>.

See news article on logistical management of Wuhan Red Cross Society at <http://finance.ifeng.com/c/7tqRv9kTAKS> (last visited Mar. 19, 2020).

¹⁴ See news article on logistical management of Wuhan Red Cross Society at <http://finance.ifeng.com/c/7tqRv9kTAKS> (last visited Mar. 19, 2020).

¹⁵ See news article on how RCSC responded to criticisms at https://www.sohu.com/a/371763411_313745 (last visited Mar.19, 2020).

¹⁶ Full text: <http://english.mofcom.gov.cn/article/lawsdata/chineselaw/200211/20021100050619.shtml>.

¹⁷ Full text: <http://english.mofcom.gov.cn/article/lawsdata/chineselaw/200211/20021100050619.shtml>.

¹⁸ Full text: http://english.www.gov.cn/services/investment/2014/08/23/content_281474982978047.htm.

¹⁹ See <https://baijiahao.baidu.com/s?id=1657183989051887175&wfr=spider&for=pc> (in Chinese) (last visited Mar.20, 2020).

²⁰ See <https://www.washingtonpost.com/world/2020/02/03/chinese-hospital-built-10-days-combat-coronavirus/> (last visited Mar.20, 2020).

²¹ See http://www.xinhuanet.com/english/2020-01/24/c_138731835.htm (last visited Mar.20, 2020).

²² Full text: <http://en.pkulaw.cn/display.aspx?cgid=45727&lib=law>.

²³ See <http://www.taihainet.com/news/xmnews/ldjj/2020-02-05/2352363.html>;

<http://www.beijing.gov.cn/ywdt/gzdt/t1620317.htm>; https://www.sohu.com/a/381429919_114731 (all in Chinese) (last visited Mar. 20, 2020).