



# Contemporary Chinese Legal System

**Dr. Haihong Liu, SISU**  
**Spring Semester, 2016-2017**

# Schedule

Week	Date	Topic
1	Feb 23	No Class
2	March 2	Topic 1: Chinese legal system in general-Chinese Legal Culture and Traditions
3	March 9	Topic 1 Chinese legal system in general - Experience of Law in PRC
4	March 16	Topic 2: Chinese Constitutional Law & Rule of Law-Chinese Constitution
5	March 23	Topic 2: Chinese Constitutional Law & Rule of Law-Legal Institutions and the Administration of Justice and Law
6	March 30	Topic 2: Chinese Constitutional Law & Rule of Law-Sources of Law and Law-making
7	April 6	Topic 3: Chinese laws in operation-public law
8	April 13	Topic 3: Chinese laws in operation- civil law
9	April 20	Topic 3: Chinese laws in operation-Business law
10	April 27	Topic 3: Chinese laws in operation-Foreign Trade & Investment law
11	May 4	Internship: Visit the legal department of a multinational company in Shanghai (The time may be changed)
12	May 11	Topic 4: Dispute Resolutions
13	May 18	Topic 5-Implementation and Enforcement of Law

**I. Sources of Public law**

**II. Administrative Law illustrated with  
case analysis**



# Public Law v. Private Law



中华人民共和国

People's Republic of China



外国人就业证

ALIEN EMPLOYMENT

PERMIT

## Public Law

- Relationship between individuals
- Constitutional law
- Criminal law
- Administrative law
- Labor law

## Private Law

- Relationship between individual and state
- Civil law
- Contract law
- Property law
- Commercial law

Home

# DATABASE OF LAWS AND REGULATIONS

## Constitution And The Related Laws ►

Civil And Commercial Laws

Social Law

Administrative Law

Economic Law

Criminal Law

Procedural And Nonprocedural Laws

Administrative Regulations

## ■ Constitution and the Related Laws

- Decision of the Standing Committee of the National People's Congress on Empowering the Macao Special Administrative Region to Exercise Jurisdiction over the New Campus of the University of Macao on Hengqin Island
- Decision of the Standing Committee of the National People's Congress on Revising Certain Laws
- Decision of the Standing Committee of the National People's Congress on Annulling Some Laws
- Rules of Procedure for the Standing Committee of the National People's Congress of the People's Republic of China
- Decision of the Standing Committee of the National People's Congress on Amending the Rules of Procedure for the Standing Committee of the National People's Congress of the People's Republic of China
- Decision of the First Session of the Eleventh National People's Congress on the Plan for Restructuring the State Council

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# Administrative Reform

- **1、organization reform (机构改革)**
- **2、Functioning reform (政府自身建设)**





# 1、organization reform

## 政府机构改革

- **To suit the market economy**
- **function shift**
- **administration according to law**
- **Improvement of sense of service**
- **Improvement of quality of civil servants**



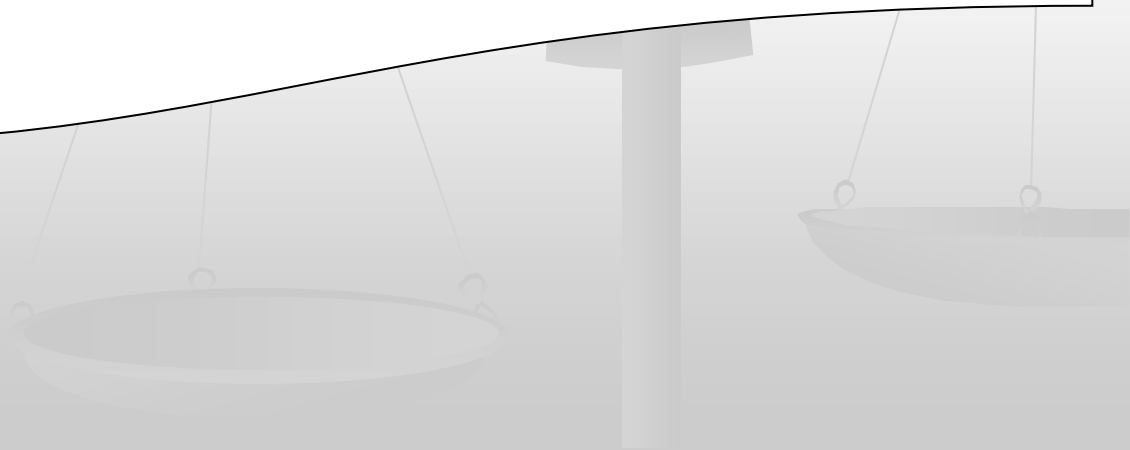
## 2、Functioning reform

- **Function shift**
- **Administration philosophy**
- **Quality improvement**



## Function of Government

Function: exercise state power  
administer the public affairs



## Concept of Administrative Function

World Development Bank 《世界银行发展报告》

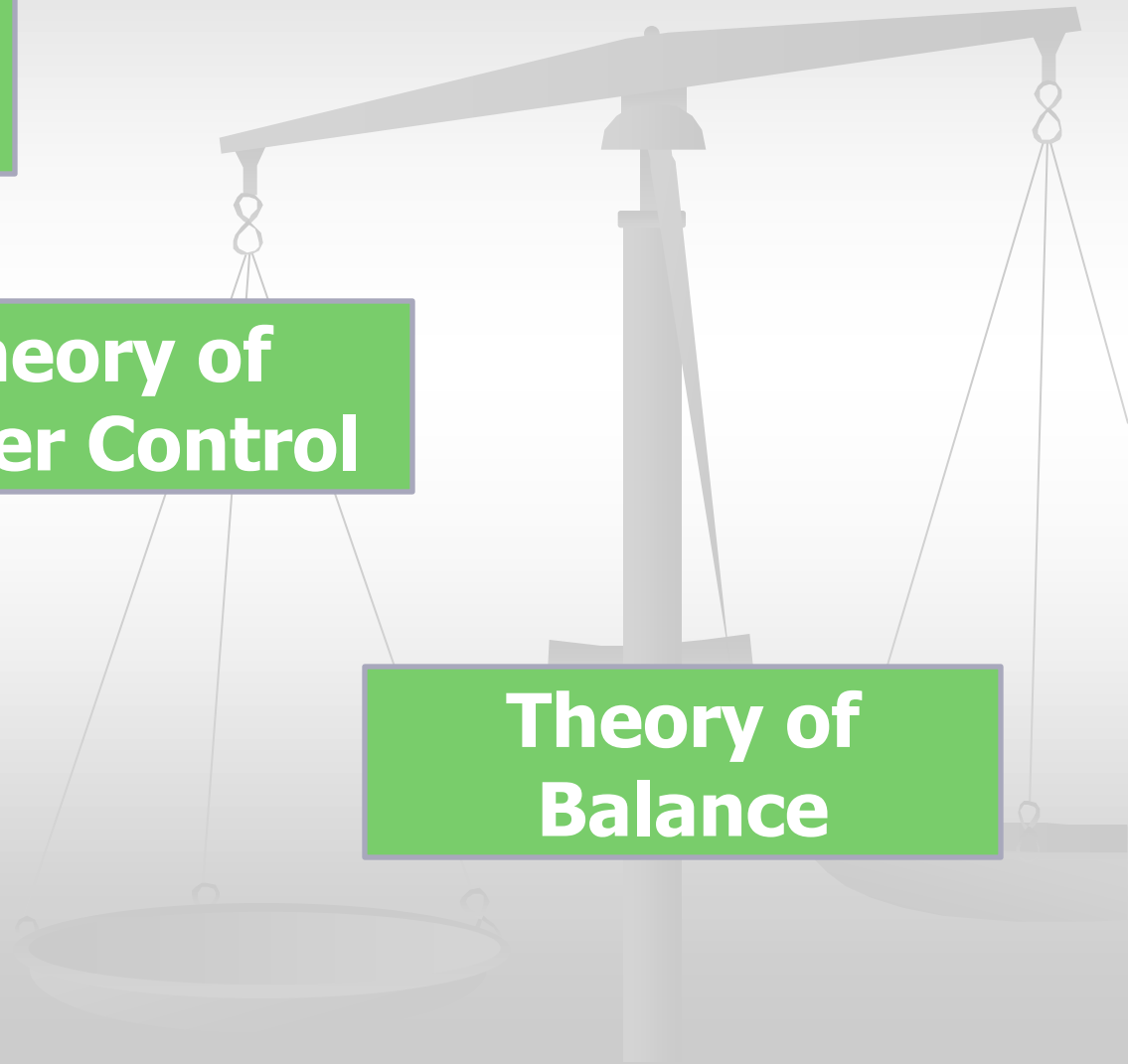
- 1. Basic function: providing public goods**
- 2. Intermediate function: solve externality**
- 3. Active function: coordinating private activities, re-allocating social wealth**

# Administrative Law

**Theory of  
Administration**

**Theory of  
Power Control**

**Theory of  
Balance**



# Administrative Law

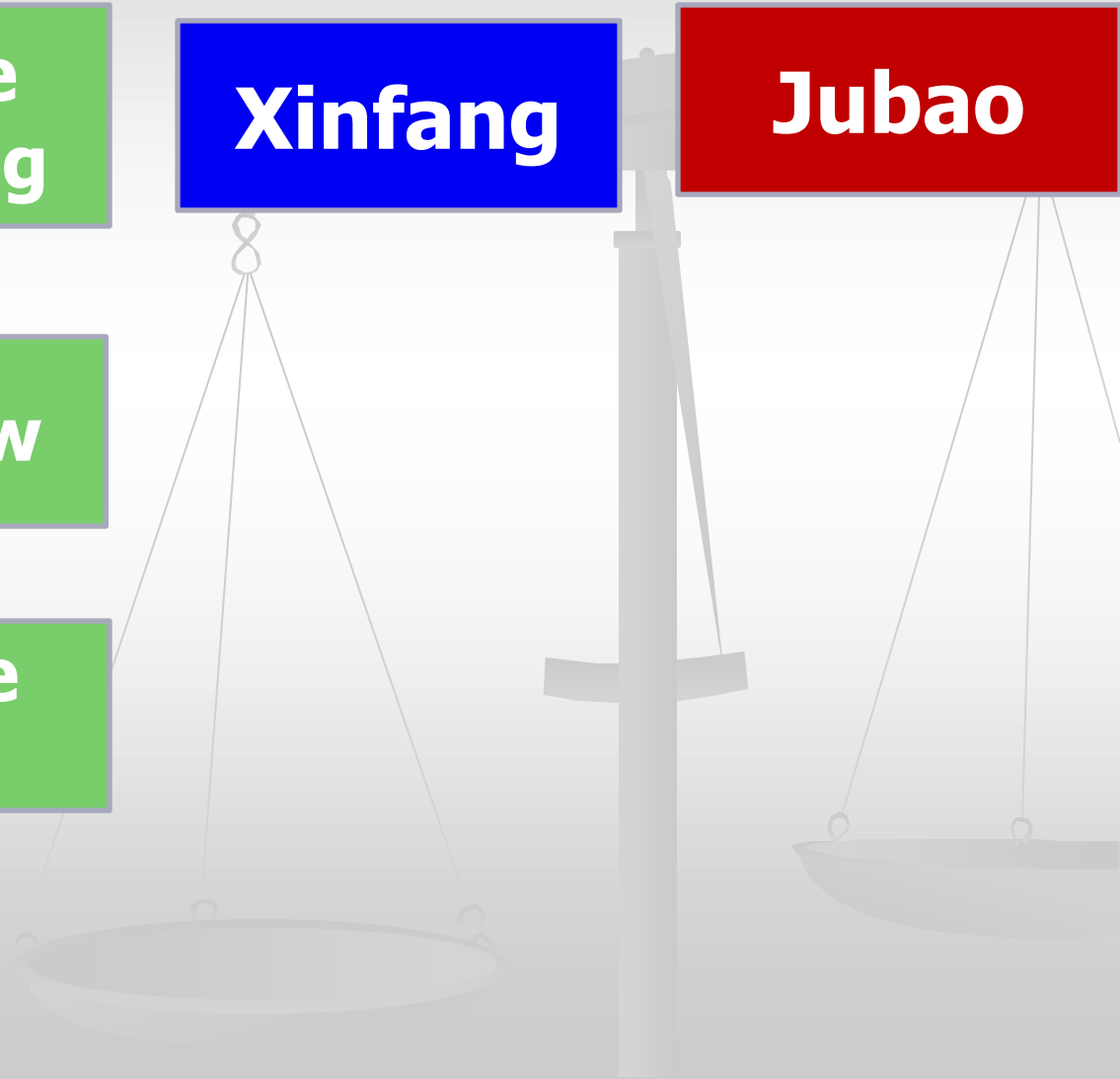
**Administrative  
Decision Making**

**Xinfang**

**Jubao**

**Internal Review**

**Administrative  
Litigation**



# **Administrative Law**



**Administrative Permission Law**

**Law on Administrative Coercive  
Measures**

**Administrative Penalty Law**

**Administrative Reconsideration Law**

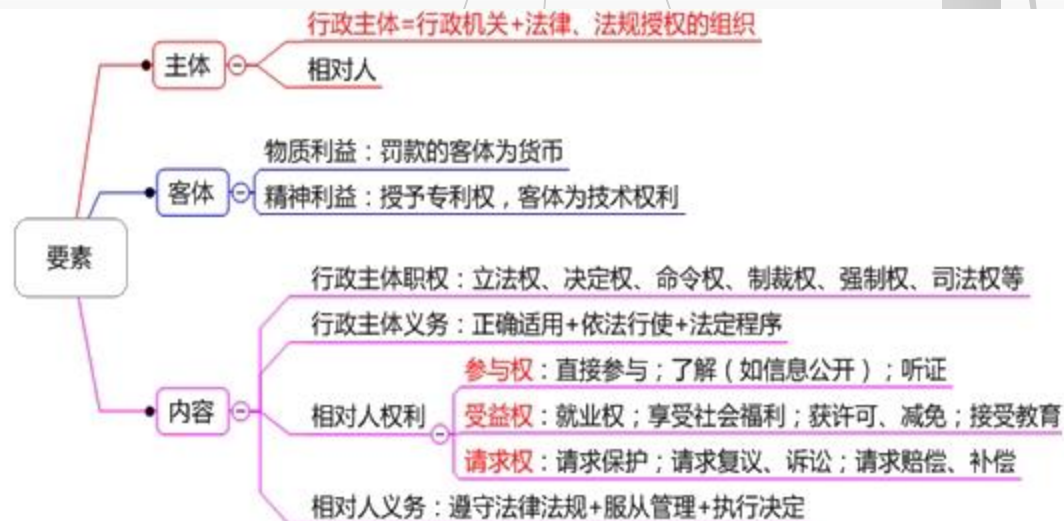
**Administrative Litigation Law**



# Administrative Relationship

Administrations  
1. Administrative organs  
2. Authorized bodies

The Opposing Party



# Is the University public security office the “Administration”?



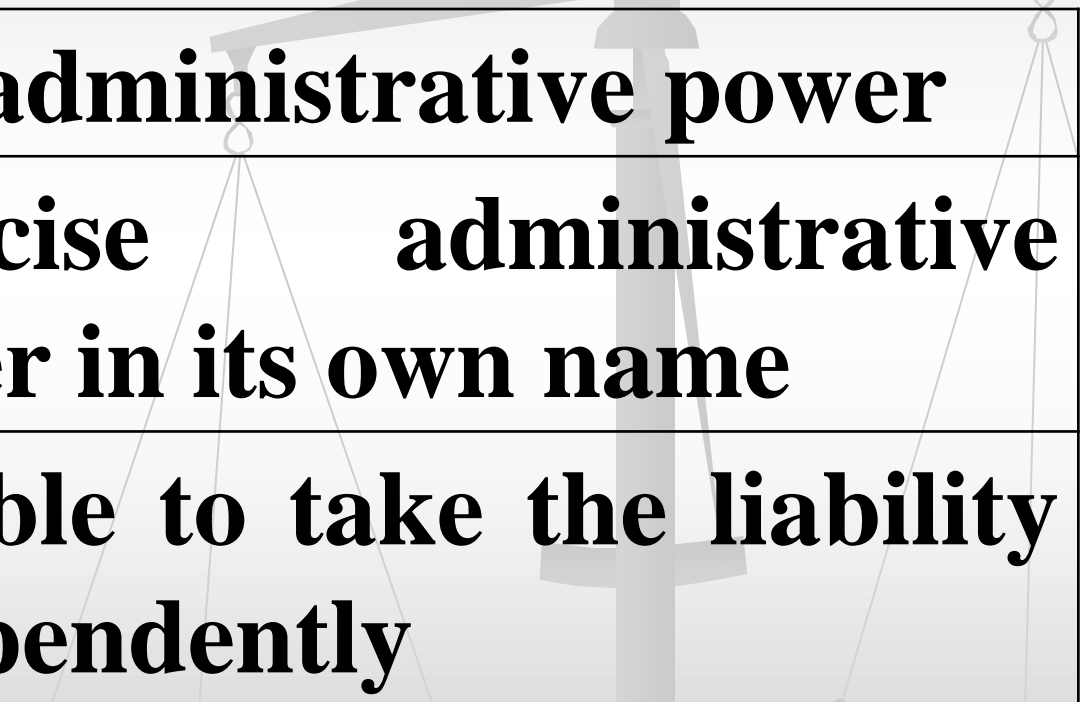
**Is the public security office in the local police bureau the “Administration”?**



# Who is the defendant?



# Administration



<b>Power</b>	<b>Has administrative power</b>
<b>Name</b>	<b>Exercise administrative power in its own name</b>
<b>Liability</b>	<b>Be able to take the liability independently</b>

**Authorization must be according to the laws, regulations and other rules.**

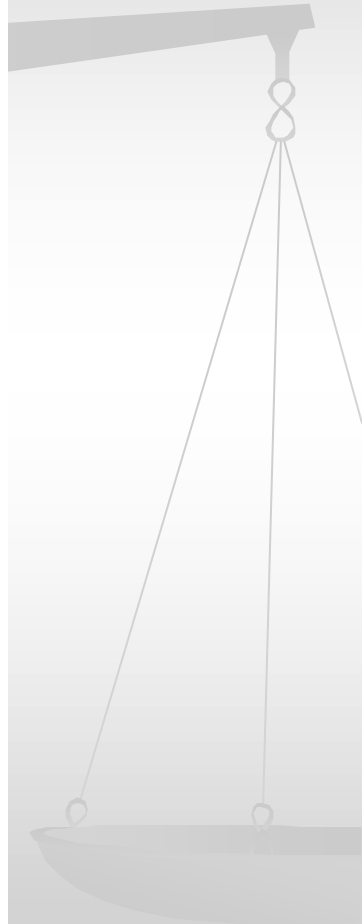
**Authorized bodies include:**

- 1. Public interests enterprises**
- 2. Public institutions**
- 3. Social organizations**
- 4. Mass self-governance organizations**





# Is there a administrative conduct by the local policeman?





# Administrative Coercive Measures



# Administrative Act

Subject	Contents	Procedure
<b>Administrative organs (the entrusted) exercising their powers or duties during the performance of their administrative functions</b>	<b>Unilateral action (action/omission to act) directed to specific matters and the rights and interests of specific persons</b>	<b>Due process</b>

# **Administrative Act**

**Administrative permission/administrative verification**

**Administrative inspection/administrative penalty**

**Administrative compulsory measures/administrative enforcement**

**Administrative collection/administrative expropriation**

**Administrative payment/administrative reward**

**Administrative award/administrative arbitration**

**Administrative contracting/instruction/planning**

# Administrative penalty

Type	Subtype
Freedom	Administrative detention
Conduct	Injunction of stopping operation, Suspension of permit
Property	finances, confiscation
Reputation	warning
others	Created by law and administrative regulation

# Creation of Administrative Penalties

	Types	Rules
Law	Any penalties	Lower level laws shall provide according to provisions of higher level laws
Ad. Reg.	Any penalties except for restriction of freedom	
Local law	Any penalties except for restriction of freedom, cancellation of business permit	
Ad. rules	Warning, fines	
Local rules		

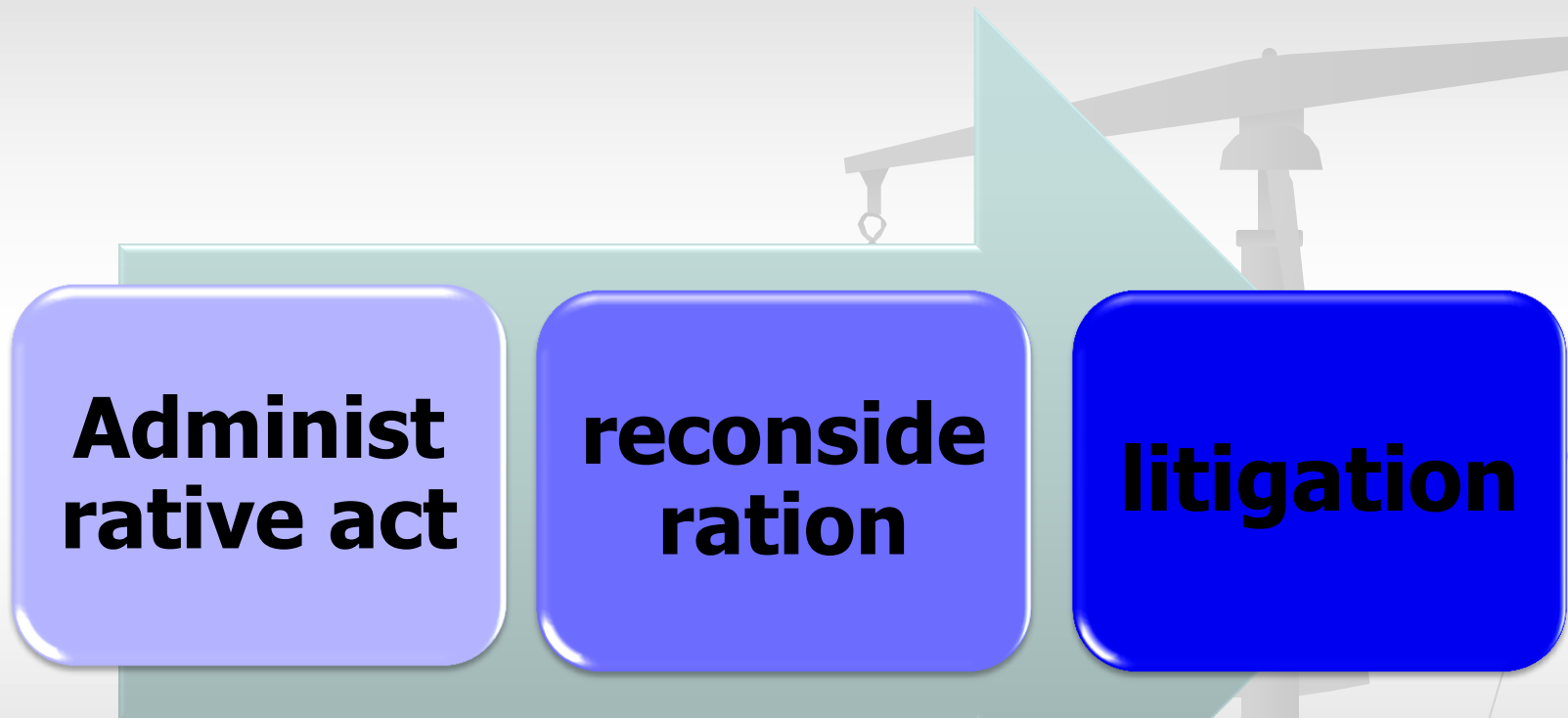
# Public Security Penalty

<b>Public security Police (85%)</b>	<b>State security Police</b>	<b>Prison Police</b>	<b>Judicial police</b>
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**Administration**

**Criminal  
Administration**

# Administrative liability





# Ferrero Trademark Registration



Trademark  
Office

Trademark  
Review  
Board

Court

# General Scope of Administrative Law Suit



**Administration**

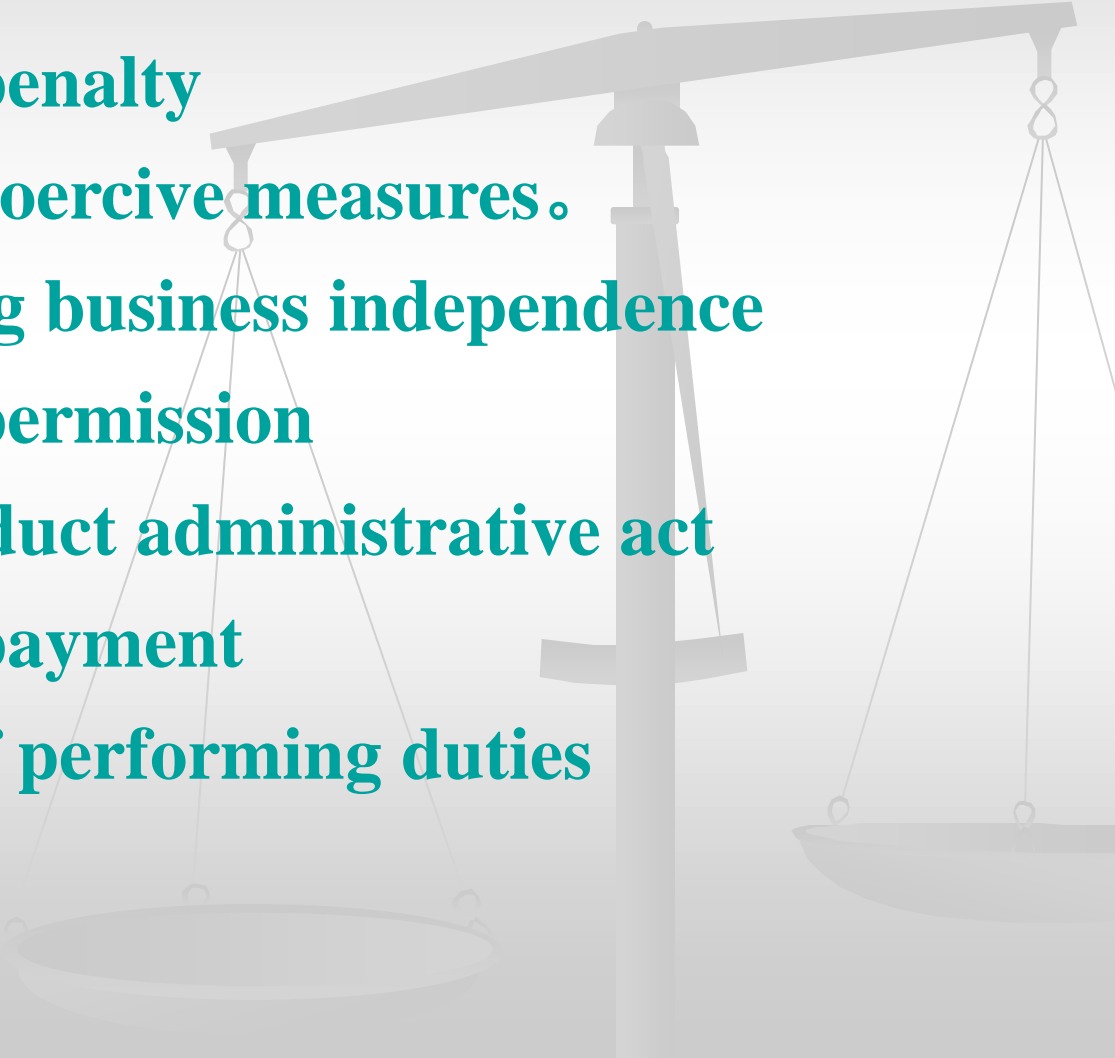
**Illegal administrative act**

**Prejudice of legitimate interests**

# Omission to act by the administration



# Positive List

- 1. Administrative penalty
  - 2. Administrative coercive measures.
  - 3. Cases of violating business independence
  - 4. Administrative permission
  - 5. Omission to conduct administrative act
  - 6. Administrative payment
  - 7. Illegal request of performing duties
- 

# **Theoretical Scope**

1. Administrative award
2. Administrative reward
3. Administrative inspection
4. Administrative contracting
5. Administrative levying and expropriation
6. Administrative verification

## **Scope according to judicial interpretation**

1. Fair competition
2. Anti-dumping, anti-subsidy, .
3. Other cases explicitly included by the reply

# Negative List

## I. Non- administrative act

1. State act
2. Criminal investigation act

## II. Administrative act involving no disposition

1. Administrative mediation
2. Administrative instruction
3. Repetitive disposition.
4. Administrative act in process
5. Partial administrative verification

III. Act involving no specific party

IV. Bilateral act

others







### 假币收缴凭证

#### Receipt for the Seizure of Counterfeit Currency

收缴单位(盖章): 1000 年 10 月 10 日 编号: 1963482  
 Financial institution (stamp): \_\_\_\_\_ Date: \_\_\_\_\_ No.: \_\_\_\_\_

持有人(或交款单位): Seized from: _____			
身份证(或其他有效证件)号码: Identification card or other valid document number of the counterfeit currency holder: _____			
币种: <u>人民币</u> Currency:	券别: <u>壹佰元</u> Denomination:	版别: <u>99版</u> Series:	冠字号码: <u>Q683P36243</u> Counterfeit currency number:
数量: Amount: <u>壹张</u>	(张/枚) (Sheet)	合计金额: Total face value: <u>100</u>	
假币来源及制作方法: The origin of the counterfeit currency and the producing method: <div style="text-align: center; font-size: 1.5em;">自制</div>			
持有人(或交款单位经办人)签字: Signature of the counterfeit currency holder: _____			

经办(cashier): \_\_\_\_\_ 复核(check-up): \_\_\_\_\_

第二联 持有人收存

# Food Safety Administration



< 微信

FARINE



下午11:18

## Farine Official Statement Farine官方声明

3月24日



阅读全文

