

IMPORT AND EXPORT COMMODITY INSPECTION LAW

Law of the People's Republic of China on Import and Export Commodity Inspection

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Chapter I

General Provisions

Article 1 This Law is enacted with a view to improving the inspection of import and export commodities, regulating inspection of import and export commodity, protecting public interests and the legitimate rights and interests of the parties involved in foreign trade, and promoting the smooth development of China's economic and trade relations with other countries.

Article 2 The State Council shall establish an administration for import and export commodity inspection (hereinafter referred to as the State administration for commodity inspection, in short), which shall be in charge of the inspection of import and export commodities throughout the country. The local import and export commodity inspection authorities set up by the State administration for commodity inspection (hereinafter referred to as the commodity inspection authorities, in short) shall be responsible for the inspection of import and export commodities within the regions under their jurisdiction.

Article 3 The commodity inspection authorities and the inspection bodies permitted by the State administration for commodity inspection shall, in accordance with law, perform the inspection of import and export commodities.

Article 4 The import and export commodities shall be inspected in adherence to the principles of protecting human health and safety, animal and plant life and health, and the environment; preventing deceptive practices and preserving security of the State. The State administration for commodity inspection shall compile and readjust the catalogue of import and export commodities

subject to compulsory inspection (hereinafter referred to as the Catalogue, in short) and publish it for implementation.

Article 5 The inspection of the import and export commodities which are listed in the Catalogue shall be conducted by the commodity inspection authorities.

No import commodities specified in the preceding paragraph that are not inspected may be said or used; and no commodities specified in the preceding paragraph that fail to pass the inspection may be exported.

Among the import and export commodities specified in the first paragraph of this Article, those that meet the requirements for exemption from inspection, as prescribed by the State, may be exempted from inspection, if the consignee or consignor files an application and the application is approved by the State administration for commodity inspection after examination.

Article 6 By compulsory inspection of import and export commodities is meant the conformity assessment as to whether the import and export commodities included by decision in the Catalogue meet the compulsory requirements of the technical regulations of the State.

The procedures for conformity assessment include: sampling, testing and inspection; evaluation, verification and assurance of conformity; and registration, accreditation and approval as well as their combinations.

Article 7 The import and export commodities which are listed in the Catalogue shall be inspected in accordance with the compulsory requirements of the technical regulations of the State. With regard to those commodities for which compulsory requirements of the technical regulations of the State have not yet been formulated, such requirements shall be formulated in time according to law. Before their formulation, those commodities may be inspected with reference to the relevant foreign standards designated by the State administration for commodity inspection.

Article 8 The inspection bodies permitted by the State administration for commodity inspection may provide inspection and survey services in respect of the import and export commodities as entrusted by parties involved in foreign trade or by foreign inspection bodies.

Article 9 Import and export commodities or items subject to inspection by other inspection bodies, as provided for by laws or administrative rules and regulations, shall be inspected in accordance with the provisions of relevant laws or administrative rules and regulations.

Article 10 The State administration for commodity inspection and the commodity inspection authorities shall, without delay, collect information on the inspection of import and export commodities and make it available to the relevant quarters.

The staff members of the State administration for commodity inspection and the commodity inspection authorities shall have the obligation to keep the commercial secrets of which they become aware in the course of fulfilling their duties of inspection of import and export commodities.

Chapter II

Inspection of Import Commodities

Article 11 For import commodities which are subject to inspection by the commodity inspection authorities, as provided for by this Law, the consignee or his agent shall apply for inspection to the commodity inspection authorities located at the place he makes Customs declarations. The Customs

shall check and release the commodities on the strength of the Documents for Customs Clearance issued by the commodity inspection authorities.

Article 12 For import commodities which are subject to inspection by the commodity inspection authorities, as provided for by this Law, the consignee or his agent shall, in the places and within the time limit specified by the commodity inspection authorities, accept inspection of the import commodities conducted by the commodity inspection authorities. The commodity inspection authorities shall complete the inspection and issue an inspection certificate within the time limit specified uniformly by the State administration for commodity inspection.

Article 13 Where the consignee of the import commodities other than those that are subject to inspection by the commodity inspection authorities, as provided for by this Law, finds that the import commodities do not meet the relevant quality requirements, are damaged or are short on weight or quantity, he shall apply to the commodity inspection authorities for inspection and the issuance of an inspection certificate if such a certificate is necessary for claiming compensation,.

Article 14 For important import commodities and complete sets of equipment in large size, the consignee shall, in accordance with the terms agreed upon in foreign trade contracts, conduct initial inspection or initial supervision over manufacturing or loading in the exporting country before shipment, over which the relevant competent departments shall tighten their supervision. The commodity inspection authorities may, when necessary, dispatch inspection officials to take part in such inspection and supervision.

Chapter III

Inspection of Export Commodities

Article 15 For export commodities which are subject to inspection by the commodity inspection authorities, as provided for by this Law, the consigner or his agent shall, in the places and within the time limit specified by the commodity inspection authorities, apply for inspection to the commodity inspection authorities. The commodity inspection authorities shall complete the inspection and issue an inspection certificate within the time limit specified uniformly by the State administration for commodity inspection.

For the export commodities that are subject to inspection, as provided for by this Law, the Customs shall check and release the commodities on the strength of the Documents for Customs Clearance issued by the commodity inspection authorities.

Article 16 Export commodities which have passed the inspection conducted by the commodity inspection authorities and for which inspection certificates have been issued shall be declared for export within the time limit specified by the commodity inspection authorities. Re-application for inspection is necessary when the specified time limit expires.

Article 17 An enterprise manufacturing packagings for dangerous export commodities shall apply to the commodity inspection authorities for a test of the performance of such packagings. An enterprise producing dangerous export commodities shall apply to the same authorities for a test of the use of packagings. No permission shall be granted for the export of dangerous commodities kept in packagings which have not passed the test.

Article 18 For vessel holds or containers used for carrying perishable foods, the carrier or the exporter using the vessel holds or containers shall apply for inspection before loading. No permission

shall be granted for loading and shipment until the vessel holds or containers have passed the inspection.

Chapter IV

Supervision

Article 19 For the import and export commodities other than those that are subject to inspection by the commodity inspection authorities, as provided by this Law, the commodity inspection authorities may conduct random inspection in accordance with State regulations.

The State administration for commodity inspection may publicize the results of random inspection or notify the relevant departments of the random inspection.

Article 20 For the convenience of foreign trade, the commodity inspection authorities may, in accordance with State regulations, conduct quality supervision and inspection in respect of the export commodities which are listed in the Catalogue, before they leave the factory.

Article 21 The agent going through the formalities of applying for inspection on behalf of the consignee of import commodities or consigner of export commodities shall register with the commodity inspection authorities. When going through the formalities of applying for inspection, the agent shall submit his letter of authorization to the commodity inspection authorities.

Article 22 The State administration for commodity inspection may, in accordance with the relevant regulations of the State and after examining their qualifications, permit the qualified inspection bodies at home and abroad to undertake the inspection and survey of import and export commodities entrusted to them.

Article 23 The State administration for commodity inspection and the commodity inspection authorities shall, in accordance with law, exercise supervision over the inspection and survey of the import and export commodity conducted by the inspection bodies permitted by the State administration for commodity inspection and may conduct random inspection of the commodities which have been inspected by such bodies.

Article 24 The State administration for commodity inspection shall, in adherence to the unified certification system of the State, have the relevant import and export commodities supervised through certification.

Article 25 The commodity inspection authorities may, on the basis of the agreements signed between the State administration for commodity inspection and the foreign bodies concerned or upon entrustment by the foreign bodies concerned, undertake quality certification of import and export commodities, and permit the use of quality certification marks on the import and export commodities qualified.

Article 26 The commodity inspection authorities shall supervise, through inspection of certificates, over the import and export commodities which are subject to the permit system, as provided for by this Law, examining the certificates and checking whether they conform to the commodities concerned.

Article 27 The commodity inspection authorities may, when necessary, place commodity inspection marks or sealing on the import and export commodities which have passed the inspection.

Article 28 Where an applicant for the inspection of import and export commodities disagrees with the results of inspection presented by the commodity inspection authorities, he may apply for re-

inspection to the same authorities, or to those at the next higher level or up to the State administration for commodity inspection. The commodity inspection authorities or the State administration for commodity inspection which accepts the application for re-inspection shall draw a timely conclusion after re-inspection.

Article 29 Where a party is not satisfied with the conclusion drawn after re-inspection by the commodity inspection authorities or the State administration for commodity inspection, or is not satisfied with the decision on punishment made by the commodity inspection authorities, he may, in accordance with law, apply for administrative reconsideration or bring a suit in a People's Court according to law.

Article 30 The State administration for commodity inspection and the commodity inspection authorities shall, in the course of performing their duties, abide by laws, safeguard the interests of the State, execute the laws strictly in pursuant to their statutory functions and powers and the statutory procedures, and accept supervision.

The State administration for commodity inspection and the commodity inspection authorities shall, on the basis the requirements for performing their duties according to law, strengthen the building of their contingents and enable their staff members to possess good political and professional qualifications. The staff members engaged in commodity inspection authorities shall receive professional training and appraisal regularly, and only those who pass the appraisal may be assigned to their duties.

The staff members engaged in commodity inspection shall devote themselves to their duties, offer services with civility and observe professional ethics, and refrain from abusing their powers and seeking personal gain.

Article 31 The State administration for commodity inspection and the commodity inspection authorities shall establish a sound system for internal supervision, and conduct supervision and inspection on the execution of laws by their staff members.

The limits of duties and powers of the key posts for accepting applications for inspection, conducting inspection and issuing certificates to release commodities shall be explicitly defined, so that they are separate from each other and are mutually conditioned.

Article 32 Any unit and individual shall have the right to accuse and inform against the violations of laws and rules of discipline committed by the State administration for commodity inspection, the commodity inspection authorities and their staff members. The departments receiving the accusations and information shall, in accordance with law and the division of duties, investigate and deal with them without delay, and shall keep secret for the accusers and informers.

Chapter V

Legal Responsibility

Article 33 Where a person, in violation of the provisions of this Law, sells or uses the import commodities subject to inspection by the commodity inspection authorities, for the inspection of which he fails to file an application and which have not undergone inspection, or exports the commodities for export subject to inspection by the commodity inspection authorities, for the inspection of which he fails to file an application and which fail to pass the inspection, his unlawful gains derived therefrom shall be confiscated by the commodity inspection authorities and, in addition, be fined not

less than five percent but not more than twenty percent of the value of the commodities; and if the violation constitutes a crime, he shall be investigated for criminal responsibility according to law.

Article 34 Where a unit, in violation of the provisions of this Law and without permission by the State administration for commodity inspection, conduct inspection and survey of import and export commodities, the commodity inspection authorities shall order it to desist from the illegal operation; confiscate its unlawful gains derived therefrom and, in addition, impose on it a fine of not less than the amount of, but not more than three times the amount of, the unlawful gains.

Article 35 Where a person imports or exports commodities which are adulterated or mixed with fake commodities, spurious commodities as genuine ones or defective commodities as good ones, or unqualified commodities as qualified ones, the commodity inspection authorities shall order him to desist from importing or exporting commodities, confiscate his unlawful gains derived therefrom and, in addition, impose on him a fine of not less than fifty percent of, but not more than three times the amount of, the value of the commodities; and if the violation constitutes a crime, he shall be investigated for criminal responsibility according to law.

Article 36 Where a person fabricates, adulterates, deals in or steals commodity inspection certificates or documents, seals or stamps, marks, sealing or quality certification marks, he shall be investigated for criminal responsibility according to law; and if the violation is not serious enough for criminal punishment, the commodity inspection authorities shall order him to rectify, confiscate his unlawful gains derived therefrom and, in addition, impose on him a fine of not more than equivalent of commodities value.

Article 37 Where a staff member of the State administration for commodity inspection or the commodity inspection authorities, in violation of the provisions of this Law, divulges the commercial secrets of which he is aware, he shall be given an administrative sanction according to law; his unlawful gains, if any, shall be confiscated; and if the violation constitutes a crime, he shall be prosecuted for criminal responsibility according to law.

Article 38 Where a staff member of the State administration for commodity inspection or the commodity inspection authorities abuses his power, intentionally creates difficulties, engages in malpractices for personal gain, fabricates inspection results or neglects his duty and delays the inspection of commodities and the issuance of certificates, he shall be given an administrative sanction according to law; and if the violation constitutes a crime, he shall be investigated for criminal responsibility according to law.

Chapter VI

Supplementary Provisions

Article 39 The commodity inspection authorities and other inspection bodies that conduct inspection or providing inspection and survey services in accordance with the provisions of this Law shall collect fees according to relevant State regulations.

Article 40 Regulations for the implementation of this Law shall be formulated by the State Council.

Article 41 This Law shall go into effect as of August 1, 1989.

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