

CHINA

Import and Export Commodity Inspection Law of the People's Republic of China (Revised in 2018)

(中华人民共和国进出口商品检验法 (2018 年修订))

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

(Adopted at the sixth meeting of the Standing Committee of the Seventh National People's Congress on February 21, 1989,)

Table of contents

Chapter 1 General Provisions

Chapter 2 Inspection of Imported Commodities

Chapter 3 Inspection of Exported Commodities

Chapter 4 Supervision and Administration

Chapter 5 Legal Responsibilities

Chapter 6 Supplementary Provisions

Chapter I General Provisions

Article 1 This Law is enacted with a view to strengthening the inspection of import and export commodities, regulating the inspection of import and export commodities, protecting the public interests and the legitimate rights and interests of the parties involved in import and export trade, and promoting the smooth development of China 's economic and trade relations with foreign 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), which shall be in charge of the inspection of import and export commodities nationwide. The local import and export commodity inspection authorities (hereinafter referred to as the commodity inspection

authorities) set up by the State Administration for Commodity Inspection shall be responsible for the inspection of import and export commodities within areas under their jurisdiction.

Article 3 The commodity inspection authorities and other inspection bodies established in accordance with the law (hereinafter referred to as other inspection bodies) shall conduct inspections on imported and exported commodities in accordance with the law.

Article 4 The inspection of import and export commodities shall follow the principles of protecting the health and safety of human beings as well as animals or plants, protecting the environment, preventing frauds and safeguarding national security. The catalog of import and export commodities subject to inspection (hereinafter referred to as the catalogue) shall be established and published and implemented.

Article 5 The import and export commodities listed in the catalogue shall be inspected by the commodity inspection authority.

In event the import commodities fail to be inspected as prescribed in the preceding paragraph, no permission shall be granted for the sale or use of them; and in event export commodities fail to be up to standard through inspection, no permission shall be granted for the export of them.

The import and export commodities specified in the first paragraph of this article, which meet the conditions for exemption from inspection stipulated by the state, may be exempted from inspection upon application by the consignee or consignor, and upon examination and approval by the State Administration for Commodity Inspection.

Article 6 The compulsory inspection of import and export commodities refers to the conformity assessment activities to determine whether the import and export commodities listed in the catalog meet the mandatory requirements of national technical specifications.

Conformity assessment procedures include: sampling, inspection and inspection; assessment, verification and assurance of conformity; registration, accreditation and approval and combinations of these.

For the inspection of import and export commodities specified in the first paragraph of this article, the commodity inspection authority may accept the inspection results of the inspection authority; the State Administration for Commodity Inspection conducts the catalog management for the aforementioned inspection authorities.

Article 7 The import and export commodities listed in the catalogue shall be inspected in accordance with the compulsory requirements of the national technical specifications; if the compulsory requirements of the national technical specifications have not been stipulated, they shall be stipulated in a timely manner in accordance with the law test.

Article 8 Other inspection authorities may accept the entrustment of foreign trade parties or foreign inspection authorities to handle the inspection and appraisal of import and export commodities.

Article 9 Import and export commodities or inspection items that are required to be inspected by other inspection authorities according to laws and administrative regulations shall be handled in accordance with the provisions of relevant laws and administrative regulations.

Article 10 The State Administration for Commodity Inspection and the commodity inspection authority shall timely collect and provide the relevant parties with the information on import and export commodity inspection.

The staff of the State Administration for Commodity Inspection and the commodity inspection authority have the obligation to keep confidential the business secrets they know when performing their duties of import and export commodity inspection.

Chapter II Inspection of Imported Commodities

Article 11 The consignee or its agent of imported commodities that must be inspected by the commodity inspection authority as stipulated in this law shall apply for inspection to the commodity inspection authority at the place of declaration.

Article 12 The consignee or its agent of imported commodities that must be inspected by the commodity inspection authority as stipulated in this Law shall accept the inspection of the imported commodities by the commodity inspection authority in the places and within time limit specified by the commodity inspection authority. The commodity inspection authority shall accomplish the inspection procedure within the period uniformly prescribed by the State Administration for Commodity Inspection and issue an inspection certificate.

Article 13 If import commodities other than those which are subject to compulsory inspection by the commodity inspection authority as stipulated in this Law are found to be not up to the quality standard, damaged or short on weight or quantity, the consignee shall apply to the commodity inspection authority 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 a complete set of equipment in large size, the consignee shall, in accordance with the terms agreed upon in a foreign trade contract, conduct initial inspection or initial supervision over manufacturing or loading in the exporting country before shipment, while the relevant competent departments shall strengthen their supervision. The commodity inspection authorities may, when necessary, send inspection personnel to take part in such inspection and supervision.

Chapter III Inspection of Export Commodities

Article 15 For export commodities which are subject to compulsory inspection by the commodity inspection authorities in accordance with this Law, the consignor or his agent shall apply to the same authorities for inspection in the places and within the time limit specified by them. The commodity inspection authorities shall accomplish the procedures for inspection and issue an inspection certificate within the time limit as uniformly prescribed by the State Administration for Commodity Inspection and issue an inspection certificate.

Article 16 Export commodities inspected and passed by the commodity inspection authorities and for which an inspection certificate has been issued by the same authorities shall be declared for export and shipped out of the country within the time limit specified by the same authorities. Failing to do so within the time limit, reapplication for inspection shall be needed.

Article 17 Enterprises producing packaging containers for the export of dangerous goods must apply to the commodity inspection authority to test the performance of packaging containers. Enterprises producing and exporting dangerous goods must apply to the commodity inspection authority to test for use of packaging containers. Dangerous goods using not tested packaging containers are not allowed to be exported.

Article 18 For cabins and containers of perishable food for export, the carrier or the packing unit must apply for inspection before loading. Those that have not passed the inspection may not be shipped.

Chapter IV Supervision and Management

Article 19 Commodity inspection authorities shall conduct random inspections in accordance with state regulations on import and export commodities which are not subject to the compulsory inspection by commodity inspection authorities as stipulated in this Law.

The State Administration for Commodity Inspection may publish the results of random inspections or notify them to the relevant administrations.

Article 20 The State Administration for Commodity Inspection may, to facilitate foreign trade, in accordance with state regulations, conduct quality supervision, management and inspection of the export commodities listed in the catalog before leaving the factory.

Article 21 An agent handling the inspection formalities for the consignee and consignor of imported and exported goods shall register with the commodity inspection authority when going through the inspection formalities.

Article 22 The State Administration for Commodity Inspection and the commodity inspection authorities shall supervise the inspection and appraisal business activities on import and export commodities carried out by other inspection agencies in accordance with the law, and may conduct random inspections of the commodities they inspect.

Article 23 The State Administration for Commodity Inspection shall, in accordance with the uniform certification system of the state, conduct certification administration of relevant import and export commodities.

Article 24 The commodity inspection authorities may conduct quality certification of import and export commodities according to the agreement signed between the Administration for Commodity Inspection of the State Council and the foreign bodies concerned or upon entrustment by the foreign bodies concerned, and permit the use of quality certification marks on certified import and export commodities.

Article 25 The commodity inspection authority shall, in accordance with this Law, conduct certification administration of the import and export commodities subject to the licensing system, check the documents, and check whether the commodities comply with the certificates.

Article 26 Commodity inspection authorities may, when necessary, impose commodity inspection marks or seals on imported and exported commodities that have passed the inspection.

Article 27 If the applicant for the inspection of import and export commodities has any objection to the inspection results presented by the commodity inspection authority, he may apply for re-inspection to the same authority or its superior commodity inspection authority or the State Administration for Commodity Inspection. The commodity inspection authority that accepts the re-inspection or the State Administration for Commodity Inspection shall forward the re-inspection conclusion without delay.

Article 28 If the party concerned refuses to accept the re-inspection conclusion made by the commodity inspection authority or the State Administration for Commodity Inspection or the penalty decision taken by the commodity inspection authority, he may apply for administrative reconsideration according to law, or he may file a lawsuit in the people's court according to law.

Article 29 When performing its duties, the State Administration for Commodity Inspection and commodity inspection authority shall abide by the law, safeguard national interests, strictly enforce the law in accordance with their legal powers and procedures and accept supervision.

The State Administration for Commodity Inspection and the commodity inspection authorities shall, according to the needs of performing their duties in accordance with the law, strengthen team building so that the commodity inspection staff have good political and professional level. Commodity inspection staff shall regularly receive business training and examinations, and only after passing the examination they can take up their posts to perform their duties.

Commodity inspection staff shall be loyal to their duties, serve in a civilized manner, abide by professional ethics, and shall not abuse their powers for personal gain.

Article 30 The State Administration for Commodity Inspection and the commodity inspection authorities shall establish and improve the internal supervision system to supervise and inspect the law enforcement activities of their staff.

The duties and powers of the main positions within the commodity inspection authorities responsible for accepting inspection applications, inspections, and issuing certificates and release shall be clearly defined, separated and restricted from each other.

Article 31 Any unit or individual shall have the right to sue and report violations of laws and disciplines committed by the State Administration for Commodity Inspection, the Commodity Inspection Authorities and its staff. The organ that receives the charges or impeaches shall investigate and deal with it in a timely manner according to the division of responsibilities in accordance with the law, and keep the charges and impeaches confidential.

Chapter V Legal Liability

Article 32 In case of violations to this Law by marketing or using imported commodities that must be inspected by commodity inspection authorities without applying for inspection, or exporting export commodities that must be inspected by commodity inspection authorities without passing the inspections, the commodity inspection authority shall confiscate the illegal gains and impose a fine of not less than 5% but not more than 20% of the value of the goods; if a crime is constituted, criminal responsibility shall be investigated according to law.

Article 33 In case import or export commodities are adulterated, faked, shoddy, or unqualified import and export commodities are passed off as qualified ones, the commodity inspection authorities shall order to stop the import or export, confiscate illegal gains and impose a fine of not less than 50% but not more than three times the value of the commodities; if a crime is constituted, the criminal responsibility shall be investigated according to law.

Article 34 Whoever forges, alters, trades in or steals commodity inspection documents, seals, signs, sealing and quality certification marks shall be investigated for criminal responsibility according to the law; if the circumstances do not justify criminal punishment, the commodity inspection authorities shall order the offenders to correct his actions, confiscate their illegal gains, and impose a fine equal to or less than the value of the commodities.

Article 35 If staff members of the State Administration for Commodity Inspection and Commodity Inspection Authorities violate the provisions of this Law and disclose commercial secrets, they shall be given administrative sanctions in accordance with the law. If there is any illegal gain, the illegal gain

shall be confiscated; if a crime is constituted, criminal responsibility shall be investigated according to the law.

Article 36 Staff members of the State Administration for Commodity Inspection and Commodity Inspection Authorities who abuse their powers, deliberately create difficulties, practice favoritism, falsify inspection results, or neglect their duties and delay the issuance of inspection certificates shall be given administrative sanctions according to the law; if a crime is constituted, they shall be investigated according to law criminal responsibility.

Chapter VI Supplementary Provisions

Article 37 Commodity inspection authorities and other inspection agencies conduct inspections and handle inspection and appraisal services in accordance with the provisions of this Law, and charge fees in accordance with relevant state regulations.

Article 38 The State Council shall formulate implementing regulations in accordance with this Law.

Article 39 This Law shall come into force on August 1, 1989.