

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

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(Adopted at the Sixth Meeting of the Standing Committee of the Seventh National People's Congress on February 21, 1989, and amended according to the Decision on Amending the Law of the People's Republic of China on Import and Export Commodity Inspection of the 27th Meeting of the Standing Committee of the Ninth National People's Congress on April 28, 2002)

Chapter 1 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 licensed by the State Administration for Commodity Inspection shall perform the inspection of import and export commodities by 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 State Administration for Commodity Inspection shall formulate and adjust the Catalog of Import and Export Commodities Subject to Compulsory Inspection (hereinafter referred to as the Catalog), and shall promulgate and implement the Catalog.

Article 5 The import and export commodities which are listed in the Catalog shall be inspected by the commodity inspection authorities. 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 as prescribed in the first paragraph of this Article of which those meet the conditions for exemption of inspection provided for by the State may be exempted from inspection upon the examination and approval of the State Administration for Commodity Inspection through an application from a consignee or consignor.

Article 6 The compulsory inspection of import and export commodities refers to the assessment of whether the import and export commodities listed in the Catalog meet

the compulsory requirements of the State technological criterion. The assessment procedures shall include: sampling, inspecting and checking; evaluating, validating and qualification guaranteeing; registering, recognizing and approving, and the combination of them.

Article 7 The import and export commodities listed in the Catalog shall be inspected according to the compulsory requirements of the State technological criterion; and in event there are no the requirements of State technological criterion, they shall be formulated timely according to law, and the relevant foreign standards designated by the State Administration for Commodities Inspection may be referred to before the formulation.

Article 8 The inspection bodies licensed by the State Administration for Commodity Inspection may handle the appraisal in import and export commodity inspection as entrusted by parties involved in foreign trade or foreign inspection bodies.

Article 9 The import and export commodities or inspection items that shall be inspected by other inspection bodies as provided for by laws and administrative regulations shall be dealt with according to the provisions of the relevant laws and administrative regulations.

Article 10 The State Administration for Commodity Inspection and the commodity inspection authorities shall promptly collect information on the inspection of import and export commodities and make it available to the relevant circles. The functionary of the State Administration for Commodity Inspection and the commodity inspection authorities shall bear the obligation of keeping the commercial secrets they know when performing the duties of inspection of import and export commodities.

Chapter 2 Inspection of Import Commodities

Article 11 For the import commodities which are subject to compulsory inspection by the commodity inspection authorities in accordance with this Law, the consignee or his agent shall report for inspection to the commodity inspection authorities located at the place of customs declaration. The customs shall check and release the commodities on the basis of the certificates of customs clearance issued by the commodities inspection authorities.

Article 12 For import commodities which are subject to inspection by the commodity inspection authorities in accordance with this Law, the consignee or his agent shall accept the inspection of the import commodities 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 period as uniformly prescribed by the State Administration for Commodity Inspection.

Article 13 If import commodities other than those which are subject to compulsory inspection by the commodity inspection authorities in accordance with 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 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 a complete set of equipments 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, dispatch inspection personnel to take part in such inspection and supervision.

Chapter 3 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 Commodities Inspection. The export commodities subject to the compulsory inspection in accordance with this Law shall be checked and released by the Customs upon presentation of the certificate of customs clearance issued by the commodity inspection authorities.

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 An enterprise manufacturing packings for dangerous export goods must apply to the commodity inspection authorities for a test of the performance of such packings. An enterprise producing dangerous export goods must apply to the same authorities for a test of the use of packings. No permission shall be granted for the export of dangerous goods kept in the packings that have not passed a test.

Article 18 For vessel holds or containers used for carrying perishable foods, the carrier or the organization using the containers shall apply for inspection before loading. No permission shall be granted for loading and shipment until the relevant conditions are met.

Chapter 4 Supervision and Administration

Article 19 The commodity inspection authorities shall, according to the provisions of the State, make a random inspection on the import and export commodities which are not subject to the compulsory inspection by the commodity inspection authorities in accordance with this Law. The State Administration for Commodity Inspection may publicize the result of the random inspection or circulate a notice about it to the relevant departments.

Article 20 The commodity inspection authorities may, for the convenience of foreign trade, make supervision over the quality supervision, administration and inspection of the export commodities listed in the Catalog before they leave the factory.

Article 21 The agent handling the procedures for declaration for inspection on behalf of the consignee or the consignor of the import and export commodities shall register with the commodity inspection authorities; and shall submit the trust deed to the commodity inspection authorities when handling the procedures.

Article 22 The State Administration for Commodity Inspection may, according to the relevant provisions of the State, entrust competent inspection organizations at home and abroad with the inspection and test of import and export commodities after examining their qualifications.

Article 23 The State Administration for Commodity Inspection and the commodity inspection authorities shall exercise supervision over the import and export commodity inspection and test conducted by the inspection bodies licensed by the State Administration for Commodity Inspection, and may make a random inspection on the commodities that have been inspected by such bodies.

Article 24 The State Administration for Commodity Inspection shall, according to the uniform certification system of the State, carry out the certification administration for the relevant import and export commodities.

Article 25 The commodity inspection authorities may undertake the quality certification of import and export commodities on the basis of agreements signed between the State Administration for Commodity Inspection and the foreign bodies concerned or upon entrustment by the foreign bodies concerned. They may permit the use of quality certification marks on import and export commodities that have been given quality certification.

Article 26 The commodity inspection authorities shall, in accordance with this Law, carry out the certification administration of the import and export commodities subject to the license system, check the certificates and verify whether the certificates and the commodities are consistent with each other.

Article 27 The commodity inspection authorities may, when necessary, place commodity inspection marks or sealings on import and export commodities proved to be up to standard through inspection.

Article 28 In event 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, to those at the next higher level or to the State Administration for Commodity Inspection. The conclusion on re-inspection shall be made without delay by the commodity inspection authorities or the State Administration for Commodity Inspection that has accepted the application for re-inspection.

Article 29 In event a party refuses to accept the conclusion made by the commodity inspection authorities or those at the next higher level, or the punishment decision of the commodity inspection authorities, he may apply for administrative reconsideration according to law, either may he bring a lawsuit.

Article 30 When performing duties, the State Administration for Commodity Inspection and the commodity inspection authorities shall abide by laws and protect the interests of the State, strictly enforce the law and accept the supervision according to their legal powers and procedures. The State Administration for Commodity Inspection and the commodity inspection authorities shall, according to the needs of performance of their duties, strengthen the construction of their teams to equip the functionary of commodity inspection with high political level and competency for their work. The functionary of commodity inspection shall accept business training and examinations regularly, and may take the posts and execute the duties only after passing the examinations. The functionary of commodity inspection shall be devoted to their duties, serve in a cultured manner, abide by the professional ethics, and not abuse their powers or seek for their own interests.

Article 31 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 carried out by their functionary. The duties of the posts within the commodity inspection authorities responsible for accepting the inspection applications, inspecting, issuing the certificates and releasing shall be defined definitely, and shall be separated from each other and restrict each other.

Article 32 Any entity or individual shall have the right to charge against or impeach the illicit acts or the acts against the disciplines of the State Administration for Commodity Inspection, the commodity inspection authorities and the functionary thereof. The organs that receive the charges and impeaches shall investigate and punish the acts without delay according to the division of their powers and duties, and shall keep secret for the persons filing the charges and impeaches.

Chapter 5 Legal Responsibility

Article 33 In event anyone, in violation of the provisions of this Law, purposely markets or uses import commodities which are subject to compulsory inspection by the commodity inspection authorities without having such commodities inspected, or purposely exports export commodities which are subject to compulsory inspection by the commodity inspection authorities without having such commodities inspected and proved up to standard, the illegal gains shall be confiscated by the commodity inspection authorities, and a fine of not less than 5% but not more than 20% of the value of the commodities shall be imposed on; if a crime has been constituted, the criminal responsibilities shall be investigated for.

Article 34 In event anyone, in violation of the relevant provisions of this Law, purposely engages in the appraisal operations for import and export commodity inspection without the approval of the State Administration for Commodity Inspection, the commodity inspection authorities shall order him to stop the illegal operations, confiscate the illegal gains and impose on him a fine of not less than 1 time but not more than 3 times of the illegal gains.

Article 35 In event anyone imports or exports the commodities that are mixed with mess and fake matters, the fake commodities that are taken as real ones and the substandard commodities that are taken as good ones, or imitates the disqualified

import and export commodities as the qualified ones, the commodity inspection authorities shall order him to stop the imports or exports, confiscate the illegal gains and impose on him a fine of not less than 50% but not more than 3 times of the value of the commodities; if a crime has been constituted, the criminal responsibilities shall be investigated for.

Article 36 In event anyone falsifies, remakes, trades or steals the certificates or documents, seals or stamps, marks, sealing or quality certification marks, he shall be investigated for the criminal responsibility; if the circumstances are not serious enough for criminal punishments, the commodity inspection authorities shall order the offender to correct his acts, confiscate his illegal gains and impose on him a fine below the amount equivalent to the value of the commodities.

Article 37 In event the functionary of the State Administration for Commodity Inspection, or the commodity inspection authorities, in violation of the provisions of this Law, divulge the commercial secrets they know, they shall be given administrative punishments, and the illegal gains shall be confiscated if there is any; if a crime has been constituted, the criminal responsibility shall be investigated for.

Article 38 In event a functionary of the State Administration for Commodity Inspection or of the commodity inspection authorities who abuses his power and intentionally create difficulties, commits irregularities for the benefit of his relatives or friends, falsifies inspection results or fails to conduct inspection and issue a certificate within the time limit, he shall be given administrative sanction; if a crime has been constituted, his criminal responsibility shall be investigated according to law.

Chapter 6 Supplementary Provisions

Article 39 The commodity inspection authorities and other inspection organizations shall collect fees according to the relevant provisions of the State for carrying out inspection or performing inspection appraisal services in accordance with the provisions of this Law.

Article 40 The State Council shall formulate the Regulations for the Implementation according to this Law.

Article 41 This Law shall come into force on August 1, 1989.