

China - Import and Export Commodity Inspection, 1989

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Law of the People's Republic of China on Import and Export Commodity Inspection 1
(Adopted at the Sixth Meeting of the Standing Committee of the Seventh National People's Congress on February 21, 1989 and promulgated by Order No. 14 of the President of the People's Republic of China on February 21, 1989, and effective as of August 1, 1989)

Chapter I - General Provisions 2

Article 1 3

This Law is enacted with a view to strengthening the inspection work of import and export commodities, ensuring the quality of import and export commodities, protecting the lawful rights and interests of the parties involved in foreign trade, and promoting the smooth development of economic and trade relations. 4

Article 2 5

The State Council establishes the State Administration of Import and Export Commodity Inspection (hereinafter referred to as the State Administration of Commodity Inspection) which shall be in charge of the inspection work of import and export commodities for the whole country. The local import and export commodity inspection authorities (hereinafter referred to as the commodity inspection authorities) set up by the State Administration of commodity inspection shall be responsible for the inspection work of import and export commodities in regions under their jurisdiction. 6

Article 3 7

The commodity inspection authorities and the other inspection organizations designated by the State Administration of Commodity Inspection and the commodity inspection authorities shall, in accordance with this Law, perform inspection on import and export commodities. 8

Article 4 9

The State Administration of Commodity Inspection shall, in the light of the development of trade, make, adjust and publish the List of Import and Export Commodities Subject to Inspection Enforced by the Commodity Inspection Authorities (hereinafter referred to as the List of Commodities). 10

Article 5

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Import and export commodities which are included in the List of Commodities and/or those subject to inspection by the commodity inspection authorities under other laws or administrative rules/regulations must be inspected by the commodity inspection authorities or the inspection organizations designated by the State Administration of Commodity Inspection and the commodity inspection authorities. No import commodities as specified in the preceding paragraph, which have not undergone inspection shall be permitted for sale or use; and no export commodities as specified in the preceding paragraph, which have not undergone inspection or have been found substandard after inspection can be permitted for export. Import and export commodities specified in the first paragraph of this Article may be exempted from inspection upon the application of the receivers and consignors and through the examination approval by the State Administration of Commodity Inspection.

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Article 6

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Inspection on import and export commodities performed by the commodity inspection authorities shall cover: quality, specifications, quantity, weight, packing and requirements for safety and sanitation/hygiene. Import and export commodities governed by the compulsory standards or the inspection standards which must be complied with as provided by the laws or administrative rules/regulations shall be inspected in accordance with such compulsory standards or the inspection standards. In the absence of such stipulations, import and export commodities shall be inspected in accordance with the inspection standards agreed upon the foreign trade contract stipulations.

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Article 7

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Import and export commodities and inspection items subject to inspection by other inspection organizations under the laws and administrative rules/regulations shall be inspected in accordance with the provisions of the relevant laws and administrative rules/regulations.

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Article 8

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The State Administration of Commodity Inspection and the commodity inspection authorities shall collect and provide the relevant departments with information about inspection on import and export commodities.

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Chapter II - Inspection of Import Commodities

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Article 9

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For import commodities which are subject to inspection by the commodity inspection

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authorities in accordance with this Law, the receivers must make registration for import commodities with the commodity inspection authorities located at the discharging port or the station of arrival. Import commodities which are included in the List of Commodities shall be checked and released by the Customs upon presentation of the seals of the commodity inspection authorities affixed on the Customs declaration.

Article 10

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For import commodities which are subject to inspection by the commodity inspection authorities in accordance with this Law, the receivers shall apply to the commodity inspection authorities for inspection in place and within the time limit specified by the commodity inspection authorities. The commodity inspection authorities shall accomplish the procedures for inspection within the time limit of filing claims prescribed in the foreign trade contracts and issue the inspection certificates.

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Article 11

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For import commodities beyond those subject to inspection by the commodity inspection authorities in accordance with this Law, which are not found up to the standards in quality, or damaged, or short in weight or quantity, if the issuance of the inspection certificates by the commodity inspection authorities for the claim is necessary, the receivers shall apply to the commodity inspection authorities for the issuance of inspection certificates.

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Article 12

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For some important commodities and complete sets of equipment in large size, the receivers shall, in accordance with the agreement stipulations of the foreign trade contracts, conduct initial inspection and supervision over manufacturing or loading in the exporting countries before shipment. The relevant competent departments shall strengthen the supervision. The commodity inspection authorities, when deemed necessary, may dispatch inspection personnel to take part in the work of inspection and supervision.

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Chapter III - Inspection of Export Commodities

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Article 13

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For export commodities which are subject to inspection by the commodity inspection authorities in accordance with this Law, the consignors shall apply to the commodity inspection authorities for inspection in place and within the time limit specified by the commodity inspection authorities. The commodity inspection authorities shall accomplish the procedures for inspection and issue inspection certificates without delaying

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the prescribed time for shipment. Export commodities which are included in the List of Commodities shall be checked and released by the Customs upon presentation of the inspection certificates or the releasing notices issued by the commodity inspection authorities or the seals of the commodity inspection authorities affixed on the Customs declaration.

Article 14

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Export commodities, for which the inspection certificates and releasing notices have been issued by the commodity inspection authorities, shall be declared for export within the time limit specified by the commodity inspection authorities. Those failing to meet the time limit shall be applied for reinspection* accordingly.

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Article 15

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Enterprises manufacturing packagings* for dangerous export goods must apply to the commodity inspection authorities for performance testing. Enterprises producing dangerous export goods must apply to the commodity inspection authorities for inspection of the use of packagings. Dangerous goods with packagings which have not undergone inspection/testing or do not conform to the requirements after testing/inspection are not allowed for export.

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Article 16

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For vessel holds or containers used for carrying perishable food, the carriers or container stuffing organizations must, before shipment, apply to the commodity inspection authorities for inspection. Those without undergoing inspection or found not in conformity with the technical conditions for shipping shall not be permitted to carry the food.

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Chapter IV - Supervision and Administration

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Article 17

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The commodity inspection authorities may make random inspection on import and export commodities beyond those subject to inspection by the commodity inspection authorities in accordance with this Law. Those export commodities, if judged substandard after random inspection, shall not be permitted to be exported.

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Article 18

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The commodity inspection authorities, when and where deemed necessary, may assign inspection personnel to manufacturers of export commodities which are included in the

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List of Commodities to take part in supervision over the quality inspection work of export commodities before they leave the factories.

Article 19

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The commodity inspection authorities may undertake the quality certification work of import and export commodities on the basis of the agreements signed between the State Administration of Commodity Inspection and foreign bodies concerned, or upon the entrustment by the foreign bodies concerned. Import and export commodities qualified shall be allowed to attach the corresponding quality certification marks.

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Article 20

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The State Administration of Commodity Inspection and the commodity inspection authorities shall, on the basis of necessity of the inspection work accredit qualified inspection organizations/bodies both at home and abroad, through examination, to undertake the assigned inspection work of import and export commodities.

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Article 21

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The State Administration of Commodity Inspection and the commodity inspection authorities shall exercise supervision over the import and export commodity inspection work of the inspection organization on commodities inspected by them.

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Article 22

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The State, when deemed necessary, shall institute the quality license system for important import and export commodities and their manufacturers. The specific measures thereof shall be drawn up by the State Administration of commodity Inspection in conjunction with the relevant competent department under the State council separately.

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Article 23

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The commodity inspection authorities and the inspection organization designated by them as well as other inspection organizations/bodies approved by the State Administration of Commodity Inspection, may handle superintending and surveying services of import and export commodities upon entrustment by parties involved in foreign trade or by foreign inspection bodies. Scope of superintending and surveying services of import and export commodities shall cover: survey of quality, quantity, weight and packing of import and export commodities, inspection damage in respect to general/particular average to cargoes, inspection of container cargoes while stuffing or unstuffing,* damage

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survey of import cargoes, inspection of technical conditions for shipping exports, measurement of dead tonnage, issuance of certificates of origin and/or value of products and other superintending and surveying services.

Chapter V - Legal Responsibility 52

Article 24 53

In case an applicant for inspection of import and export commodities disagrees with the inspection results made by the commodity inspection authorities, he may apply to the original commodity inspection authorities, or to the higher commodity inspection authorities, or even to the State Administration of Commodity Inspection for reinspection. The conclusion for reinspection shall be made by the commodity inspection authorities or by the State Administration of Commodity Inspection, which have accepted the reinspection. 54

Article 25 55

The commodity inspection authorities and the inspection organization designated by them as well as other inspection organizations/bodies approved by the State Administration of Commodity Inspection, may handle superintending and surveying services of import and export commodities upon entrustment by parties involved in foreign trade or by foreign inspection bodies. Scope of superintending and surveying services of import and export commodities shall cover: survey of quality, quantity, weight and packing of import and export commodities, inspection damage in respect to general/particular average to cargoes, inspection of container cargoes while stuffing or unstuffing, damage survey of import cargoes, inspection of technical conditions for shipping exports, measurement of dead tonnage, issuance of certificates of origin and/or value of products and other superintending and surveying services. 56

Chapter V - Legal Responsibility 57

Article 26 58

Anyone, who in violation of the provisions of this Law, purposely markets or uses import commodities which are included in the List of Commodities, or subject to included by the commodity inspection authorities in accordance with the other laws or administrative rules/regulations without applying for inspection, or purposely exports export commodities which are included in the List of Commodities or subject to inspection by the commodity inspection authorities in accordance with the other laws and administrative rules/regulations without applying for inspection, or exports export commodities found not up to standard, shall be fined by the commodity inspection authorities. If the circumstances are serious and caused heavy economic losses, the personnel directly 59

responsible shall be prosecuted according to the provisions of Article 187 of the Criminal Law. Anyone, who in violation of the provision of Article 17 of this Law, purposely exports substandard commodities found during random inspection by the commodity inspection authorities, shall be punished under the provisions of the preceding paragraph.

Article 27

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If falsifying, or remaking of the commodity inspection certificates/documents, seals/stamps, marks, sealings and quality certification marks constitutes a crime, the personnel directly responsible shall be prosecuted according to the provisions of Article 167 of the Criminal Law; if the circumstances are minor, he shall be fined by the commodity inspection authorities.

Article 28

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In case a party does not agree with the penalty given by the commodity inspection authorities, he may, within 30 days after the day he receives notice of the penalty, apply to the commodity inspection authorities which have made the punishment decision or to the higher commodity inspection authorities or even to the State Administration of Commodity Inspection for reconsideration. If the party disagrees with the decision of the reconsideration, he may bring a suit before a people's court within 30 days after the day he receives notice of the reconsideration decision. If the party does not apply for reconsideration or does not bring a suit, or fails to comply with the punishment decision within the prescribed period, the commodity inspection authorities which have made the punishment decision shall apply to a people's court for compulsory execution.

Article 29

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disciplinary sanction or investigation for criminal responsibility in accordance with the Criminal Law shall, depending on the seriousness of the circumstances, be taken on those functionaries of the State Administration of Commodity Inspection and the commodity inspection authorities, and the inspection personnel of the inspection organization designated by the State Administration of Commodity Inspection or the commodity inspection authorities, who abuse their power, practice graft, falsify inspection results, or neglect their duties, delay in inspection and issuance of certificates.

Chapter VI - Supplementary Provisions

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Article 30

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The commodity inspection authorities and other inspection organizations shall, in carrying out the inspection or superintending and surveying services in accordance with this

Law, collect fees according to the relevant provisions. The provisions for collecting fees shall be drawn up by the State Administration of Commodity Inspection in conjunction with the competent departments under the State Council.

Article 31

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The regulations for the implementation of this Law shall be formulated by the State Administration of Commodity Inspection and shall come into force after being submitted to and approved by the State Council.

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Article 32

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This Law shall go into effect on August 1, 1989. The Regulations on the Inspection of Import and Export Commodities of the People's Republic of China promulgated by the State Council on January 28, 1984 shall be invalidated on the same day.

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