Foreign Trade Law of the People’s Republic of China

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

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Article 1. This Law is enacted for the purposes of expanding opening-up, developing foreign trade, maintaining foreign trade order, protecting the lawful rights and interests of foreign trade operators, and promoting the sound development of the socialist market economy.

Article 2. This Law applies to foreign trade and the protection of trade-related intellectual property rights. For the purposes of this Law, “foreign trade” means the import and export of goods and technologies, and international trade in services.

Article 3. The State Council department in charge of foreign trade shall be responsible for the administration of foreign trade nationwide in accordance with this Law.

Article 4. The State shall implement a unified foreign trade system, encourage the development of foreign trade, and safeguard fair and free foreign trade order.

Article 5. The People’s Republic of China shall, on the principle of equality and mutual benefit, promote and develop trade relations with other countries and regions, conclude or accede to regional economic and trade agreements such as customs union agreements and free trade area agreements, and participate in regional economic organizations.

Article 6. In the field of foreign trade, the People’s Republic of China shall, in accordance with any international treaty or agreement it has concluded or acceded to, grant the other contracting party or participant most-favored-nation treatment, national treatment, or other treatment, or shall grant the other party most-favored-nation treatment, national treatment, or other treatment on the basis of reciprocity and mutual benefit.

Article 7. Where any country or region adopts discriminatory prohibitions, restrictions, or other similar measures against the People’s Republic of China in trade, the People’s Republic of China may, as the circumstances require, adopt corresponding measures against such country or region.

Chapter II — Foreign Trade Operators

Article 8. For the purposes of this Law, “foreign trade operator” means a legal person, other organization, or individual that has completed industrial and commercial registration or other practice formalities in accordance with law and engages in foreign trade business activities in accordance with the provisions of this Law and other relevant laws and administrative regulations.

Article 9. Those engaged in international trade in services shall comply with the provisions of this Law and other relevant laws and administrative regulations. Entities engaged in foreign labor service cooperation shall possess the corresponding qualifications. The specific measures shall be formulated by the State Council.

Article 10. The State may implement state trading administration over the import and export of certain goods. The import and export of goods subject to state trading administration may only be handled by authorized enterprises, except where the State permits a certain quantity of goods subject to state trading administration to be imported or exported by non-authorized enterprises. The catalogue of goods subject to state trading administration and the catalogue of authorized enterprises shall be determined, adjusted, and published by the State Council department in charge of foreign trade in conjunction with other relevant departments of the State Council. Where any person, in violation of paragraph 1 of this Article, imports or exports goods subject to state trading administration without authorization, the Customs shall not release such goods.

Article 11. A foreign trade operator may accept the entrustment of others to handle foreign trade business on its behalf within the scope of its business operations.

Article 12. A foreign trade operator shall, in accordance with the provisions formulated by the State Council department in charge of foreign trade or other relevant departments of the State Council in accordance with law, submit to the relevant departments documents and materials relating to its foreign trade business

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activities. The relevant departments shall keep the trade secrets of the provider confidential.

Chapter III — Import and Export of Goods and Technologies

Article 13. The State shall permit the free import and export of goods and technologies, except as otherwise provided for by any law or administrative regulation.

Article 14. The State Council department in charge of foreign trade may, based on the need to monitor import and export conditions, implement automatic import and export licensing for certain freely importable and exportable goods and publish the catalogue thereof. Where an application for automatic licensing is filed by the consignee or consignor prior to completing customs declaration formalities for goods subject to automatic licensing, the State Council department in charge of foreign trade or a body authorized by it shall grant the license; where the automatic licensing formalities have not been completed, the Customs shall not release the goods. For the import or export of technologies that may be freely imported or exported, contract filing and registration formalities shall be completed with the State Council department in charge of foreign trade or a body authorized by it.

Article 15. The State may restrict or prohibit the import or export of relevant goods or technologies on the basis of any of the following grounds:

(1) Where it is necessary to restrict or prohibit the import or export for the purpose of safeguarding national security, social public interests, or public morals;

(2) Where it is necessary to restrict or prohibit the import or export for the purpose of protecting human health or safety, protecting the life or health of animals or plants, or protecting the environment;

(3) Where it is necessary to restrict or prohibit the import or export for the purpose of implementing measures relating to the import and export of gold or silver;

(4) Where it is necessary to restrict or prohibit the export because the domestic supply is in short supply or for the purpose of effectively protecting exhaustible natural resources;

(5) Where it is necessary to restrict the export because the market capacity of the importing country or region is limited;

(6) Where it is necessary to restrict the export because the export business order is in serious disorder;

(7) Where it is necessary to restrict the import for the purpose of establishing or accelerating the establishment of a particular domestic industry;

(8) Where it is necessary to restrict the import of agricultural, animal husbandry, or fishery products in any form;

(9) Where it is necessary to restrict the import for the purpose of safeguarding the international financial position of the State and the balance of international payments;

(10) Where it is otherwise necessary to restrict or prohibit the import or export in accordance with the provisions of laws or administrative regulations; or

(11) Where it is otherwise necessary to restrict or prohibit the import or export in accordance with the provisions of any international treaty or agreement concluded or acceded to by the State.

Article 16. The State may take any necessary measures in respect of the import and export of goods and technologies relating to fissionable or fusionable materials or the materials from which they are derived, and the import and export relating to arms, ammunition, or other military supplies, for the purpose of safeguarding national security. In time of war or for the maintenance of international peace and security, the State may take any necessary measures in respect of the import and export of goods and technologies.

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Article 17. The State Council department in charge of foreign trade shall, in conjunction with other relevant departments of the State Council, formulate, adjust, and publish catalogues of goods and technologies whose import and export are restricted or prohibited in accordance with Articles 15 and 16 of this Law. With the approval of the State Council, the State Council department in charge of foreign trade may, on its own or in conjunction with other relevant departments of the State Council, temporarily decide to restrict or prohibit the import or export of specific goods or technologies outside any published catalogue within the scope specified in Articles 15 and 16 of this Law.

Article 18. The State shall administer goods whose import or export is restricted by means of quotas, licensing, or other methods, and shall administer technologies whose import or export is restricted by means of licensing. Goods and technologies subject to quota and licensing control shall not be imported or exported unless permission is granted by the State Council department in charge of foreign trade or by the said department in conjunction with other relevant departments of the State Council in accordance with the provisions of the State Council. The State may implement tariff rate quota administration over certain imported goods.

Article 19. Quotas and tariff rate quotas for import and export goods shall be allocated by the State Council department in charge of foreign trade or other relevant departments of the State Council within their respective scopes of functions and duties, based on the principles of openness, fairness, impartiality, and efficiency. The specific measures shall be formulated by the State Council.

Article 20. The State shall implement a unified commodity conformity assessment system and shall, in accordance with the provisions of relevant laws and administrative regulations, conduct certification, inspection, and quarantine inspection of import and export goods.

Article 21. The State shall apply a system of origin administration to import and export goods. The specific measures shall be formulated by the State Council.

Article 22. Where other laws or administrative regulations provide for the prohibition or restriction of the import and export of cultural relics, wildlife animals, plants, and products thereof, such provisions shall prevail.

Chapter IV — International Trade in Services

Article 23. In the field of international trade in services, the People’s Republic of China shall, in accordance with the commitments made under the international treaties or agreements it has concluded or acceded to, grant market access and national treatment to other contracting parties or participants.

Article 24. The State Council department in charge of foreign trade and other relevant departments of the State Council shall administer international trade in services in accordance with the provisions of this Law and other relevant laws and administrative regulations.

Article 25. The State may restrict or prohibit the relevant international trade in services on the basis of any of the following grounds:

(1) Where it is necessary to restrict or prohibit for the purpose of safeguarding national security, social public interests, or public morals;

(2) Where it is necessary to restrict or prohibit for the purpose of protecting human health or safety, protecting the life or health of animals or plants, or protecting the environment;

(3) Where it is necessary to restrict for the purpose of establishing or accelerating the establishment of a particular domestic service industry;

(4) Where it is necessary to restrict for the purpose of safeguarding the balance of foreign exchange receipts and payments of the State;

(5) Where it is otherwise necessary to restrict or prohibit in accordance with the provisions of laws or administrative regulations; or

(6) Where it is otherwise necessary to restrict or prohibit in accordance with the provisions of any international treaty or agreement concluded or acceded to by the State.

Article 26. The State may take any necessary measures in respect of international trade in services relating to military affairs, and international trade in services relating to fissionable or fusionable materials or the materials from which they are derived, for the purpose of safeguarding national security. In time of war or for the maintenance of international peace and security, the State may take any necessary measures in respect of international trade in services.

Article 27. The State Council department in charge of foreign trade shall, in conjunction with other relevant departments of the State Council, formulate, adjust, and publish catalogues of international trade in services whose market access is restricted or prohibited in accordance with Articles 25 and 26 of this Law and the provisions of other relevant laws and administrative regulations.

Chapter V — Protection of Trade-Related Intellectual Property Rights

Article 28. The State shall protect trade-related intellectual property rights in accordance with the provisions of laws and administrative regulations concerning intellectual property rights. Where an imported good infringes upon intellectual property rights and disrupts the foreign trade order, the State Council department in charge of foreign trade may adopt such measures as prohibiting, within a certain period of time, the import of the relevant goods produced or sold by the infringer.

Article 29. Where any intellectual property right holder commits any of the following acts — preventing the licensee from challenging the validity of the intellectual property rights in the licensing contract, conducting compulsory package licensing, or stipulating exclusive grant-back conditions in the licensing contract — and such acts disrupt the fair competition order in foreign trade, the State Council department in charge of foreign trade may adopt necessary measures to eliminate the harm.

Article 30. Where any country or region fails to grant national treatment to the legal persons, other organizations, or individuals of the People’s Republic of China in intellectual property protection, or fails to provide adequate and effective intellectual property protection for goods, technologies, or services originating from the People’s Republic of China, the State Council department in charge of foreign trade may, in accordance with the provisions of this Law and other relevant laws and administrative regulations, and in accordance with any international treaty or agreement the People’s Republic of China has concluded or acceded to, adopt necessary measures toward trade with such country or region.

Chapter VI — Foreign Trade Order

Article 31. In foreign trade business activities, no person shall engage in monopolistic conduct in violation of the provisions of the anti-monopoly laws or administrative regulations. Where any monopolistic conduct in foreign trade business activities disrupts fair market competition, it shall be dealt with in accordance with the provisions of the anti-monopoly laws or administrative regulations. Where there is a violation as described in the preceding paragraph that disrupts the foreign trade order, the State Council department in charge of foreign trade may adopt necessary measures to eliminate the harm.

Article 32. In foreign trade business activities, no person shall engage in unfair competition conduct such as selling goods at improperly low prices, collusive tendering, publishing false advertising, or commercial bribery. Where any unfair competition conduct is engaged in during foreign trade business activities, it shall be dealt with in accordance with the provisions of the laws or administrative regulations concerning anti-unfair competition. Where there is a violation as described in the preceding paragraph that disrupts the foreign trade order, the State Council department in charge of foreign trade may adopt such measures as

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prohibiting the operator from importing or exporting the relevant goods or technologies to eliminate the harm.

Article 33. In foreign trade activities, no person shall engage in any of the following conduct:

(1) Forging or altering marks of origin of import and export goods; forging, altering, or trading in certificates of origin, import or export licenses, import or export quota certificates, or other import and export certification documents;

(2) Obtaining tax refunds for exports by fraud;

(3) Smuggling;

(4) Evading certification, inspection, or quarantine inspection as required by laws or administrative regulations; or

(5) Other conduct in violation of laws or administrative regulations.

Article 34. In foreign trade business activities, foreign trade operators shall comply with the provisions of the State concerning foreign exchange administration.

Article 35. Where any person violates the provisions of this Law and disrupts the foreign trade order, the State Council department in charge of foreign trade may make a public announcement.

Chapter VII — Foreign Trade Investigation

Article 36. To maintain the foreign trade order, the State Council department in charge of foreign trade may, on its own or in conjunction with other relevant departments of the State Council, investigate the following matters in accordance with the provisions of laws and administrative regulations:

(1) The impact of the import and export of goods and technologies, and international trade in services, on domestic industries and their competitiveness;

(2) Trade barriers of any relevant country or region;

(3) Matters that need to be investigated to determine whether foreign trade remedy measures such as anti-dumping, countervailing, or safeguard measures should be initiated in accordance with law;

(4) Conduct evading foreign trade remedy measures;

(5) Matters relating to national security interests in foreign trade;

(6) Matters that need to be investigated for the implementation of Article 7, Article 28 paragraph 2, Article 29, Article 30, Article 31 paragraph 3, and Article 32 paragraph 3 of this Law; and

(7) Other matters affecting the foreign trade order that need to be investigated.

Article 37. The initiation of a foreign trade investigation shall be announced by the State Council department in charge of foreign trade by way of a public notice. The investigation may be conducted by means of a written questionnaire, holding a hearing, an on-site investigation, an entrusted investigation, or any other means. The State Council department in charge of foreign trade shall, on the basis of the investigation findings, issue an investigation report or make an adjudication and give a public announcement thereof.

Article 38. Relevant entities and individuals shall provide cooperation and assistance in foreign trade investigations. The State Council department in charge of foreign trade and other relevant departments of the State Council and their staff members shall have the obligation to keep confidential any State secrets and trade secrets that come to their knowledge in the course of foreign trade investigations.

Chapter VIII — Foreign Trade Remedies

Article 39. The State may adopt appropriate foreign trade remedy measures on the basis of the findings of foreign trade investigations.

Article 40. Where a product from any other country or region is dumped into the Chinese market at a price lower than its normal value and causes or threatens to cause material injury to an established domestic industry, or materially retards the establishment of a domestic industry, the State may adopt anti-dumping measures to eliminate or mitigate such injury, threat of injury, or retardation.

Article 41. Where a product from any other country or region is exported to the market of a third country at a price lower than its normal value and causes or threatens to cause material injury to an established domestic industry, or materially retards the establishment of a domestic industry, the State Council department in charge of foreign trade may, at the request of the domestic industry, conduct consultations with the government of such third country and request it to adopt appropriate measures.

Article 42. Where an imported product directly or indirectly receives any form of specific subsidy granted by the exporting country or region and causes or threatens to cause material injury to an established domestic industry, or materially retards the establishment of a domestic industry, the State may adopt countervailing measures to eliminate or mitigate such injury, threat of injury, or retardation.

Article 43. Where a sharp increase in the volume of an imported product causes or threatens to cause serious injury to a domestic industry producing a like or directly competitive product, the State may adopt necessary safeguard measures to eliminate or mitigate such injury or threat of injury, and may provide the necessary support to the industry concerned.

Article 44. Where an increase in the services provided to the People’s Republic of China by service providers of any other country or region causes or threatens to cause injury to a domestic industry providing like or directly competitive services, the State may adopt necessary remedial measures to eliminate or mitigate such injury or threat of injury.

Article 45. Where a sharp increase in the volume of a product entering the Chinese market as a result of import restrictions imposed by a third country causes or threatens to cause injury to an established domestic industry, or retards the establishment of a domestic industry, the State may adopt necessary remedial measures to restrict the import of such product.

Article 46. Where any country or region that has concluded or jointly acceded to an economic and trade treaty or agreement with the People’s Republic of China violates the provisions of such treaty or agreement, thereby causing the loss or impairment of the benefits that the People’s Republic of China is entitled to under such treaty or agreement, or impeding the realization of the objectives of such treaty or agreement, the Government of the People’s Republic of China shall have the right to request the government of the relevant country or region to adopt appropriate remedial measures, and may, in accordance with the relevant treaty or agreement, suspend or terminate the performance of the relevant obligations.

Article 47. The State Council department in charge of foreign trade shall, in accordance with this Law and other relevant laws, conduct bilateral or multilateral consultations, negotiations, and dispute settlement with respect to foreign trade.

Article 48. The State Council department in charge of foreign trade and other relevant departments of the State Council shall establish a pre-warning and emergency response mechanism for the import and export of goods and technologies, and international trade in services, to address any sudden or abnormal situation in foreign trade and safeguard the economic security of the State.

Article 49. The State may take necessary anti-circumvention measures against conduct that evades the foreign trade remedy measures provided for in this Law.

Chapter IX — Foreign Trade Promotion

Article 50. The State shall formulate foreign trade development strategies and establish and improve foreign trade promotion mechanisms.

Article 51. The State shall, on the basis of the needs of foreign trade development, establish and improve financial institutions in the service of foreign trade, and establish foreign trade development funds and risk funds.

Article 52. The State shall develop foreign trade by means of import and export credit, export credit insurance, export tax refunds, and other means of promoting foreign trade.

Article 53. The State shall establish a foreign trade public information service system and provide foreign trade operators and other members of the public with information services.

Article 54. The State shall take measures to encourage foreign trade operators to explore international markets and develop foreign trade by means of foreign investment, foreign engineering project contracting, foreign labor service cooperation, and other forms.

Article 55. Foreign trade operators may establish and join relevant associations or chambers of commerce in accordance with law. Such associations or chambers of commerce shall comply with laws and administrative regulations, provide their members with foreign trade-related services such as production, marketing, information, and training in accordance with their articles of association, play a coordinating and self-disciplinary role, file applications for foreign trade remedy measures in accordance with law, safeguard the interests of their members and the industry, report their members' suggestions concerning foreign trade to the relevant government departments, and carry out foreign trade promotion activities.

Article 56. The organization for the promotion of international trade in China shall, in accordance with its articles of association, conduct external liaison, hold exhibitions, provide information and advisory services, and engage in other foreign trade promotion activities.

Article 57. The State shall support and promote the development of foreign trade by small and medium-sized enterprises.

Article 58. The State shall support and promote the development of foreign trade in ethnic autonomous regions and economically underdeveloped areas.

Chapter X — Legal Liability

Article 59. Where any person, in violation of Article 10 of this Law, imports or exports goods subject to state trading administration without authorization, the State Council department in charge of foreign trade or other relevant departments of the State Council may impose a fine of not more than CNY 50,000. Where the circumstances are serious, the application of the violator to engage in the import and export of goods subject to state trading administration may be denied for a period of three years from the effective date of the administrative penalty decision, or the authorization previously granted to the violator to engage in the import and export of other goods subject to state trading administration may be revoked.

Article 60. Where any person imports or exports goods whose import or export is prohibited, or imports or exports goods whose import or export is restricted without permission, the Customs shall handle and penalize the matter in accordance with the provisions of relevant laws and administrative regulations; where the case constitutes a crime, criminal liability shall be pursued in accordance with law. Where any person imports or exports technologies whose import or export is prohibited, or imports or exports technologies whose import or export is restricted without permission, the matter shall be handled and penalized in accordance with the provisions of relevant laws and administrative regulations; where no provisions exist in laws or administrative regulations, the State Council department in charge of foreign trade shall order the violator to make corrections, confiscate the illegal gains, and impose a fine ranging from one to five times the amount of the illegal gains; where there are no illegal gains or the illegal gains are less than CNY 10,000, a

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fine ranging from CNY 10,000 to CNY 50,000 shall be imposed; where the case constitutes a crime, criminal liability shall be pursued in accordance with law. Commencing from the effective date of the administrative penalty decision under the preceding two paragraphs or the effective date of the criminal penalty judgment, the State Council department in charge of foreign trade or other relevant departments of the State Council may, for a period of three years, deny the violator's applications for import or export quotas or licenses, or prohibit the violator from engaging in the import and export of the relevant goods or technologies for a period ranging from one to three years.

Article 61. Where any person engages in international trade in services that is prohibited, or engages in restricted international trade in services without permission, penalties shall be imposed in accordance with the provisions of relevant laws and administrative regulations; where no provisions exist in laws or administrative regulations, the State Council department in charge of foreign trade shall order the violator to make corrections, confiscate the illegal gains, and impose a fine ranging from one to five times the amount of the illegal gains; where there are no illegal gains or the illegal gains are less than CNY 10,000, a fine ranging from CNY 10,000 to CNY 50,000 shall be imposed; where the case constitutes a crime, criminal liability shall be pursued in accordance with law. The State Council department in charge of foreign trade may prohibit the violator from engaging in the relevant international trade in services business activities for a period ranging from one to three years commencing from the effective date of the administrative penalty decision or the effective date of the criminal penalty judgment.

Article 62. Where any person violates the provisions of Article 33 of this Law, penalties shall be imposed in accordance with the provisions of relevant laws and administrative regulations; where the case constitutes a crime, criminal liability shall be pursued in accordance with law. The State Council department in charge of foreign trade may prohibit the violator from engaging in the relevant foreign trade business activities for a period ranging from one to three years commencing from the effective date of the administrative penalty decision or the effective date of the criminal penalty judgment.

Article 63. Where any person is prohibited from engaging in relevant foreign trade business activities in accordance with Articles 60 through 62 of this Law, the Customs shall, during the period of prohibition, refuse to process the customs declaration, inspection, and release formalities for the relevant import and export goods of the foreign trade operator in accordance with the prohibition decision made by the State Council department in charge of foreign trade in accordance with law, and the foreign exchange administration department or designated foreign exchange banks shall refuse to process the relevant foreign exchange settlement and sale formalities.

Article 64. Where any staff member of the department responsible for foreign trade administration in accordance with this Law neglects duties, engages in malpractice for personal gain, or abuses power, and the case constitutes a crime, the staff member shall be investigated for criminal liability in accordance with law; where the case does not constitute a crime, administrative sanctions shall be imposed in accordance with law. Where any staff member of the department responsible for foreign trade administration in accordance with this Law takes advantage of their position to extort property from others, or illegally accepts property from others and seeks benefits for them, and the case constitutes a crime, the staff member shall be investigated for criminal liability in accordance with law; where the case does not constitute a crime, administrative sanctions shall be imposed in accordance with law.

Article 65. Where any party to foreign trade business activities is dissatisfied with a specific administrative act taken by a department responsible for foreign trade administration in accordance with this Law, the party may apply for administrative reconsideration or file an administrative lawsuit with a people's court in accordance with law.

Chapter XI — Supplementary Provisions

Article 66. Where separate laws or administrative regulations provide otherwise for the administration of foreign trade relating to military products, fissionable or fusionable materials or the materials from which they are derived, and for the import and export administration of cultural products, such provisions shall prevail.

Article 67. The State shall adopt flexible measures and grant preferences and conveniences in respect of trade between border areas and the border areas of neighboring countries, as well as border resident exchange trade. The specific measures shall be formulated by the State Council.

Article 68. This Law shall not apply to the separate customs territories of the People's Republic of China.

Article 69. This Law shall enter into force as of 1 July 2004.

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