Foreign Trade Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of expanding the opening up to the outside world, developing foreign trade, safeguarding the order of foreign trade, protecting the legitimate 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 foreign 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 department in charge of foreign trade of the State Council shall be responsible for the administration of foreign trade throughout the country in accordance with this Law.

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

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, and conclude or accede to such international treaties and agreements as tariff union agreements and free trade zone 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 the international treaties and agreements it has concluded or acceded to, grant most-favored-nation treatment and national treatment to other parties, or shall, on the principle of reciprocity and mutual benefit, grant most-favored-nation treatment or national treatment to other parties.

Article 7 — Where any country or region adopts prohibitive, restrictive or other similar discriminatory trade measures against the People's Republic of China, the People's Republic of China may, in light of the actual circumstances, take 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, unincorporated organization or individually-owned business that has completed the record-filing for foreign trade operators in accordance with the law and is engaged in foreign trade business operations.

Article 9 — Foreign trade operators engaged in the import and export of goods or technologies shall complete the record-filing with the department in charge of foreign trade of the State Council or the authority authorized by it. Where laws, administrative regulations or decisions of the State Council provide otherwise, those provisions shall prevail. The specific measures for record-filing shall be formulated by the department in charge of foreign trade of the State Council. Where a foreign trade operator fails to complete the record-filing formalities in accordance with the provisions, the Customs shall not process the declaration or release formalities for the import or export of goods.

Article 10 — Engagement in international trade in services shall comply with the provisions of this Law and other relevant laws and administrative regulations. Engagement in foreign project contracting or foreign labor cooperation shall be subject to the relevant provisions of the State Council concerning the qualification or approval of the entity concerned.

Article 11 — The State may implement state trading over the import and export of certain goods. The import and export of goods subject to state trading may only be carried out by authorized enterprises, provided that the State allows the import or export of certain quantities of goods subject to state trading to be carried out by non-authorized enterprises. The catalogue of goods subject to state trading and the authorized enterprises shall be determined, adjusted and published by the department in charge of foreign trade of the State Council in conjunction with other relevant departments of the State Council. Where the provisions of the preceding paragraph are violated by importing or exporting goods subject to state trading without authorization, the Customs shall not grant release.

Article 12 — Foreign trade operators may accept the entrustment of others to conduct business operations as agents within their scope of business.

Article 13 — Foreign trade operators shall, in accordance with the provisions of the department in charge of foreign trade of the State Council or other relevant departments of the State Council, submit documents and materials relating to their foreign trade business operations and the statistical data relating to foreign trade. The relevant departments shall keep the trade secrets of the providers confidential.

Chapter III — Import and Export of Goods and Technologies

Article 14 — The State shall permit the free import and export of goods and technologies, except as otherwise provided for by laws or administrative regulations.

Article 15 — The department in charge of foreign trade of the State Council may, on the basis of the need to monitor the import and export of goods, implement an automatic import and export licensing system over certain goods subject to free import and export and shall publish the catalogue thereof. Where the goods under the automatic import and export licensing catalogue are being declared to the Customs, the consignee or consignor of the goods for import or export that are subject to automatic licensing shall, before going through the Customs declaration formalities, submit an application to the authority entrusted by the department in charge of foreign trade of the State Council; if the authority fails to raise an objection, the automatic licensing shall be deemed to have been granted.

Article 16 — The State may restrict or prohibit the import or export of goods or technologies for the following reasons:

(1) for safeguarding national security, public interest or public morals;

(2) for protecting human health or safety, protecting animal or plant life or health, or protecting the environment;

(3) for implementing measures relating to the import or export of gold or silver;

(4) where the domestic supply is deficient or for conserving exhaustible natural resources;

(5) where the market capacity of the importing country or region is limited;

(6) where there is chaos in the export business order;

(7) for establishing or accelerating the establishment of a particular domestic industry;

(8) for protecting the agricultural, animal husbandry or fishery products in any form;

(9) for safeguarding the country's international financial position and the balance of international payments; or

(10) in accordance with the provisions of laws or administrative regulations, or as required by international treaties or agreements concluded or acceded to by the People's Republic of China.

Article 17 — The State shall prohibit the import or export of goods or technologies endangering national security or public interest, or for the purpose of protecting human life or health, and shall prohibit or restrict

the import or export of goods or technologies relating to animals or plants under protection or under depletion.

Article 18 — The department in charge of foreign trade of the State Council shall, in conjunction with other relevant departments of the State Council, formulate, adjust and publish catalogues of goods and technologies whose import or export is restricted or prohibited in accordance with Articles 16 and 17 of this Law. The department in charge of foreign trade of the State Council may, independently or in conjunction with other relevant departments of the State Council, upon approval by the State Council, decide to restrict or prohibit the import or export of particular goods or technologies not included in the catalogues prescribed in the preceding paragraph on a temporary basis within the scope of Articles 16 and 17 of this Law.

Article 19 — Goods whose import or export is restricted shall be subject to quota and/or licensing control. Technologies whose import or export is restricted shall be subject to licensing control. Goods and technologies subject to quota and licensing control may be imported or exported only after approval by the department in charge of foreign trade of the State Council or by the department jointly with other relevant departments of the State Council, or upon approval by the relevant departments in accordance with the provisions of the State Council.

Article 20 — The import and export quotas for goods shall be allocated by the department in charge of foreign trade of the State Council or other relevant departments of the State Council within their respective functions and duties on the principles of openness, fairness, impartiality and efficiency. The specific measures shall be formulated by the State Council.

Article 21 — With respect to cultural relics, wildlife, plants and the products thereof whose import or export is prohibited or restricted by other laws or administrative regulations, the provisions of the relevant laws and administrative regulations shall apply.

Chapter IV — International Trade in Services

Article 22 — The People's Republic of China shall, in the field of international trade in services, grant market access and national treatment to other parties in accordance with the international treaties and agreements it has concluded or acceded to.

Article 23 — The State may restrict or prohibit international trade in services for the following reasons:

(1) for safeguarding national security, public interest or public morals;

(2) for protecting human health or safety, protecting animal or plant life or health, or protecting the environment;

(3) for establishing or accelerating the establishment of a particular domestic service industry;

(4) for safeguarding the balance of international payments;

(5) in accordance with the provisions of laws or administrative regulations; or

(6) as required by international treaties or agreements concluded or acceded to by the People's Republic of China.

Article 24 — The State may take any necessary measures to safeguard national security with respect to international trade in services relating to military affairs, fissionable or fusionable materials or the materials from which such materials are derived, or trade in services conducted during wartime or in time of international emergency for the purpose of safeguarding international peace and security.

Article 25 — The department in charge of foreign trade of the State Council shall, in conjunction with other relevant departments of the State Council, formulate, adjust and publish a catalogue of international trade in services in accordance with Articles 23 and 24 of this Law and other relevant laws and administrative

regulations.

Chapter V — Protection of Foreign Trade-Related Intellectual Property Rights

Article 26 — The State shall protect intellectual property rights relating to foreign trade in accordance with the laws and administrative regulations on intellectual property rights. Where the imported goods infringe upon intellectual property rights and jeopardize the order of foreign trade, the department in charge of foreign trade of the State Council may take such measures as prohibiting the import of the infringing goods produced or sold by the infringer for a certain period, and other measures.

Article 27 — Where a foreign trade operator engages in activities infringing upon intellectual property rights and jeopardizing the order of foreign trade, the department in charge of foreign trade of the State Council may order the operator to make rectification within a prescribed time limit. If the operator fails to make rectification within the time limit, the department in charge of foreign trade of the State Council may take measures such as prohibiting the operator from engaging in import or export business relating to the infringement for a certain period.

Article 28 — Where intellectual property rights holders in other countries or regions fail to grant national treatment to the intellectual property rights of legal persons, unincorporated organizations or individuals of the People's Republic of China, or fail to provide adequate and effective protection for the intellectual property rights originating from the People's Republic of China, or engage in acts of obstructing the foreign trade of the People's Republic of China with respect to intellectual property rights, the department in charge of foreign trade of the State Council may, in accordance with the provisions of this Law and other relevant laws and administrative regulations and in light of the actual circumstances, take necessary measures against such countries or regions.

Chapter VI — Foreign Trade Order

Article 29 — Foreign trade operators shall operate independently and assume sole responsibility for their profits and losses in their foreign trade activities, shall comply with the relevant provisions of the State on foreign exchange control, and refrain from the following conduct:

(1) forging or falsifying marks of origin of import or export goods, or forging, falsifying or trading in certificates of origin, import or export licenses, certificates of import or export quotas, or other certificates for import or export;

(2) defrauding export tax refunds;

(3) smuggling;

(4) evading certification, inspection or quarantine as provided for by laws or administrative regulations; or

(5) other acts in violation of the provisions of laws or administrative regulations.

Article 30 — In foreign trade activities, foreign trade operators shall not practice unfair competition by committing any of the following acts:

(1) selling commodities at an unreasonably low price;

(2) colluding with another party in a bidding process;

(3) publishing false advertisements;

(4) engaging in commercial bribery; or

(5) other acts of unfair competition.

Foreign trade operators committing any of the acts of unfair competition shall be dealt with in accordance with the provisions of the laws and administrative regulations on anti-unfair competition. Where any of the

acts prescribed in the preceding paragraph jeopardizes the order of foreign trade, the department in charge of foreign trade of the State Council may take such measures as prohibiting the operator from engaging in import or export business activities relating to the relevant goods or technologies for a certain period.

Article 31 — In foreign trade activities, the following acts are prohibited:

(1) committing fraud, counterfeiting, commercial bribery, or other acts of unfair competition;

(2) engaging in monopolistic conduct in violation of the provisions of the Anti-Monopoly Law; or

(3) disrupting the order of foreign trade by any means, such as false publicity or unfair pricing.

Article 32 — In foreign trade activities, foreign trade operators shall not engage in any of the following acts endangering national security or public interest:

(1) conducting import or export of goods or technologies that jeopardize national security;

(2) making false statements to obtain permits or approvals; or

(3) other acts jeopardizing national security or public interest.

Chapter VII — Foreign Trade Investigation

Article 33 — The department in charge of foreign trade of the State Council may investigate the following matters that have an impact on foreign trade in accordance with the law:

(1) the impact of the import and export of goods and technologies and international trade in services on the domestic industry and its competitiveness;

(2) trade barriers in relevant countries or regions;

(3) matters for which it is necessary to investigate and determine whether foreign trade relief measures should be taken in accordance with the law, such as anti-dumping, countervailing or safeguard measures;

(4) acts circumventing foreign trade relief measures;

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

(6) matters relating to the protection of foreign trade-related intellectual property rights; and

(7) other matters having an impact on the order of foreign trade that require investigation.

Article 34 — The department in charge of foreign trade of the State Council may issue an announcement to initiate an investigation on its own or upon the application of a party concerned. The department in charge of foreign trade of the State Council may conduct investigations by means of issuing questionnaires, holding hearings, conducting on-site investigations, entrusting investigations and other means.

Article 35 — The relevant State Council departments and local governments shall cooperate and provide assistance when the department in charge of foreign trade of the State Council conducts investigations. When conducting an investigation, the department in charge of foreign trade of the State Council shall keep confidential the trade secrets of the parties concerned.

Chapter VIII — Foreign Trade Relief

Article 36 — The State may take foreign trade relief measures such as anti-dumping, countervailing and safeguard measures in accordance with the law to safeguard the order of foreign trade and protect the domestic industries.

Article 37 — Where a product imported from another country is dumped into the Chinese market at a price lower than its normal value, thereby causing or threatening to cause material injury to an established domestic industry, or materially retarding the establishment of a domestic industry, the State may take

anti-dumping measures in accordance with the law.

Article 38 — Where a product imported from another country or region has received a specific subsidy, thereby causing or threatening to cause material injury to an established domestic industry, or materially retarding the establishment of a domestic industry, the State may take countervailing measures in accordance with the law.

Article 39 — Where a substantial increase in the import of a product causes or threatens to cause serious injury to a domestic industry producing a like or directly competitive product, the State may take safeguard measures in accordance with the law.

Article 40 — Where the increase in the import of services causes or threatens to cause injury to a domestic service industry, the State may take necessary relief measures in accordance with the law.

Article 41 — Where a country or region restricts or prohibits the import of products or services from the People's Republic of China in violation of international treaties or agreements, the department in charge of foreign trade of the State Council may, in accordance with the law, take corresponding measures against such country or region.

Chapter IX — Foreign Trade Promotion

Article 42 — The State shall formulate strategies for foreign trade development, establish and improve foreign trade promotion mechanisms, and promote the development of foreign trade.

Article 43 — The State shall, in accordance with the needs of the development of foreign trade, establish and improve financial institutions serving foreign trade and establish funds for the development of and risk in foreign trade.

Article 44 — The State shall promote the development of foreign trade through such means as import and export credit, export credit insurance, export tax refunds and other measures for the promotion of foreign trade.

Article 45 — The State shall establish public information service systems for foreign trade and provide foreign trade operators and the public with information services.

Article 46 — The State shall take measures to encourage foreign trade operators to explore the international market, develop foreign trade in the form of outward investment, foreign project contracting, foreign labor cooperation and other forms, and promote the sound development of cross-border e-commerce and other new forms of business.

Article 47 — Foreign trade operators may establish and join relevant chambers of commerce or industry associations in accordance with the law. Relevant chambers of commerce and industry associations shall, in accordance with their articles of association, provide their members with services relating to foreign trade, make suggestions to the relevant government departments, and conduct foreign trade promotion activities.

Article 48 — The organization for the promotion of international trade of China shall, in accordance with its articles of association, engage in external liaison, hold exhibitions, provide information, consultancy and other foreign trade promotion activities.

Article 49 — The State shall support and promote the development of foreign trade in ethnic minority autonomous areas and economically underdeveloped areas.

Chapter X — Legal Liability

Article 50 — Where anyone, in violation of the provisions of this Law, engages in the import or export of goods subject to state trading without authorization, the department in charge of foreign trade of the State Council or other relevant departments of the State Council shall impose a fine of not more than 50,000 yuan.

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If the circumstances are serious, the department in charge of foreign trade of the State Council may, within three years from the date of the administrative penalty decision, refuse to accept the application of the violator for engaging in the import or export of goods subject to state trading, or revoke the authorization already granted to the violator for engaging in the import or export of goods subject to state trading.

Article 51 — Where goods or technologies whose import or export is prohibited are imported or exported, or goods or technologies whose import or export is restricted are imported or exported without authorization, and the case constitutes a crime, criminal liability shall be pursued in accordance with the provisions of the Criminal Law on the crime of smuggling, the crime of illegal business operations, the crime of divulging state secrets or other crimes. If the case does not constitute a crime, the Customs shall impose penalties in accordance with the provisions of the Customs Law. The department in charge of foreign trade of the State Council may also revoke the business license or other qualification certificates of the violator.

Article 52 — Where a foreign trade operator engages in the import or export of goods or technologies by fraudulent means such as forging or falsifying certificates of origin, the department in charge of foreign trade of the State Council shall impose a fine of not more than 50,000 yuan. If the circumstances are serious, the department in charge of foreign trade of the State Council may, within three years from the date of the administrative penalty decision, refuse to accept the application of the violator for engaging in the import or export of goods or technologies, or revoke the business license or other qualification certificates of the violator.

Article 53 — Where a foreign trade operator violates the provisions of this Law by engaging in unfair competition in foreign trade activities, the matter shall be dealt with in accordance with the provisions of the relevant laws and administrative regulations.

Article 54 — Where a staff member of the department in charge of foreign trade of the State Council neglects duties, commits malpractice for personal gain or abuses power, and the case constitutes a crime, criminal liability shall be pursued in accordance with the law. If the case does not constitute a crime, administrative sanctions shall be imposed in accordance with the law. Where a staff member of the department in charge of foreign trade of the State Council takes advantage of his position to demand property from others or illegally accept property from others, thereby seeking benefits for others, and the case constitutes a crime, criminal liability shall be pursued in accordance with the provisions of the Criminal Law on the crime of accepting bribes. If the case does not constitute a crime, administrative sanctions shall be imposed in accordance with the law.

Chapter XI — Supplementary Provisions

Article 55 — Where the laws or administrative regulations provide otherwise for the administration of foreign trade in military goods, fissionable or fusionable materials or the materials from which such materials are derived, or for the administration of the import and export of cultural products, those provisions shall apply.

Article 56 — The State may take any necessary measures against foreign trade in border areas in order to facilitate the development of border trade and the economic prosperity of border areas and border residents.

Article 57 — The separate customs territories of the People's Republic of China shall not apply this Law.

Article 58 — This Law shall come into force on July 1, 1994. The Foreign Trade Law of the People's Republic of China adopted at the 7th Session of the Standing Committee of the Sixth National People's Congress on March 21, 1984 shall be repealed simultaneously.

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