Import and Export Commodity Inspection Law of the PRC

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Amended in accordance with the Decision on Amending the Import and Export Commodity Inspection Law of the People's Republic of China adopted at the 27th Meeting of the Standing Committee of the Ninth National People's Congress on April 28, 2002; amended in accordance with the Decision on Amending Twelve Laws including the Import and Export Commodity Inspection Law of the People's Republic of China adopted at the 3rd Meeting of the Standing Committee of the Twelfth National People's Congress on June 29, 2013; amended in accordance with the Decision on Amending Four Laws including the Metrology Law of the People's Republic of China adopted at the 29th Meeting of the Standing Committee of the Twelfth National People's Congress on December 27, 2017; amended in accordance with the Decision on Amending the Import and Export Commodity Inspection Law of the People's Republic of China adopted at the 29th Meeting of the Standing Committee of the Thirteenth National People's Congress on April 29, 2021

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Chapter I — General Provisions

Article 1 — This Law is enacted with a view to strengthening the inspection of import and export commodities, regulating the inspection of import and export commodities, protecting the public interests, the lawful rights and interests of the parties involved in foreign trade, and promoting the smooth development of foreign economic relations and trade.

Article 2 — The State Council shall establish an administrative department for import and export commodity inspection ("the State commodity inspection authority"), which shall be in charge of the inspection of import and export commodities throughout the country. The commodity inspection authorities and their local agencies set up by the State commodity inspection authority ("the commodity inspection authorities") shall be responsible for the inspection of import and export commodities within their respective jurisdictions.

Article 3 — The commodity inspection authorities and other inspection bodies designated or approved by the State commodity inspection authority in accordance with the law shall, in accordance with this Law, carry out inspection of import and export commodities.

Article 4 — Import and export commodity inspection shall follow the principles of protecting human health and safety, protecting the life and health of animals and plants, protecting the environment, preventing fraud, and safeguarding national security. The State commodity inspection authority shall formulate and adjust a catalogue of import and export commodities subject to compulsory inspection ("the Catalogue") and publish the same.

Article 5 — Import and export commodities listed in the Catalogue shall be inspected by the commodity inspection authorities. No import commodity listed in the Catalogue may be sold or used without undergoing inspection; and no export commodity listed in the Catalogue may be exported without undergoing inspection and being found to be up to standard through inspection. Import and export commodities listed in the Catalogue may, if complying with the conditions prescribed by the State, be exempted from inspection upon the application of the consignee or consignor and the examination and approval by the State commodity inspection authority.

Article 6 — Compulsory inspection of import and export commodities refers to the conformity assessment activities of verifying whether the import and export commodities listed in the Catalogue comply with the compulsory requirements of the State's technical norms. Conformity assessment procedures shall include: sampling, testing, and inspection; assessment, verification, and assurance of conformity; registration, accreditation, and approval; and combinations of the above.

Article 7 — Import and export commodities listed in the Catalogue shall undergo inspection in accordance with compulsory requirements of the State's technical norms; where no compulsory requirements of the State's technical norms exist, inspection shall be conducted with reference to the standards designated by the State commodity inspection authority. Where other laws or administrative regulations provide otherwise, those provisions shall prevail.

Article 8 — Inspection bodies approved by the State commodity inspection authority may accept the entrustment of foreign trade parties or foreign inspection bodies to carry out inspection and testing of import and export commodities, and may carry out inspection and testing of import and export commodities listed in the Catalogue on behalf of the commodity inspection authorities.

Article 9 — Where laws or administrative regulations provide that import or export commodities shall be inspected by other inspection bodies, such provisions shall be followed.

Article 10 — The State commodity inspection authority and the commodity inspection authorities shall collect information on the inspection of import and export commodities in a timely manner. The relevant departments shall cooperate with the commodity inspection authorities and provide prompt assistance when the latter exercises their functions according to law.

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Chapter II — Inspection of Import Commodities

Article 11 — Import commodities subject to compulsory inspection under this Law shall be declared for inspection to the commodity inspection authorities at the place of declaration by the consignee or the agent thereof. The consignee or the agent thereof shall accept the inspection of the import commodities by the commodity inspection authorities at the place and within the time limit designated in the inspection and quarantine joint notice. The commodity inspection authorities shall complete the inspection within the time limit uniformly prescribed by the State and issue inspection certificates therefor.

Article 12 — Where a consignee of an import commodity subject to compulsory inspection declares for inspection to the commodity inspection authorities at a place other than the place of declaration, it shall comply with the conditions prescribed by the State commodity inspection authority and the port commodity inspection authority at the place of declaration shall handle the necessary formalities.

Article 13 — For import commodities other than those subject to compulsory inspection, the consignee shall, if discovering that the import commodity does not comply with the contract, make an application to the commodity inspection authorities for inspection and issuance of a certificate within the warranty or claim period stipulated in the contract.

Article 14 — For important import commodities and large complete sets of equipment, the consignee shall, in accordance with the foreign trade contract, make arrangements for pre-shipment inspection, supervision over manufacturing, or supervision over loading in the exporting country or region prior to shipment. The relevant competent departments shall strengthen such supervision. The commodity inspection authorities may, as needed, dispatch inspection personnel to take part in such pre-shipment inspection, supervision over manufacturing, or supervision over loading.

Chapter III — Inspection of Export Commodities

Article 15 — Export commodities subject to compulsory inspection under this Law shall be declared for inspection to the commodity inspection authorities by the consignor or the agent thereof at the place and within the time limit prescribed by the commodity inspection authorities. The commodity inspection authorities shall complete the inspection within the time limit uniformly prescribed by the State and issue inspection certificates therefor. For export commodities subject to compulsory inspection that have passed inspection, the consignor shall, within the time limit prescribed by the commodity inspection authorities, apply to the commodity inspection authorities for issuance of certificates. No export commodity subject to compulsory inspection that has passed inspection may be exported if no certificate is applied for within the prescribed time limit.

Article 16 — For commodities produced by enterprises that have been certified as qualified through the examination of a conformity assessment body approved by the State commodity inspection authority or commodities that have been inspected and certified, the consignor may apply for exemption from inspection under the conditions prescribed by the State commodity inspection authority. The specific measures shall be formulated by the State commodity inspection authority.

Article 17 — Where an enterprise produces export commodities for which packaging receptacles are used for dangerous goods, it shall apply to the commodity inspection authorities for performance testing of the packaging receptacles. Where an enterprise produces dangerous goods for export, it shall apply to the commodity inspection authorities for performance testing of the packaging receptacles. No dangerous goods may be exported if the packaging receptacles fail the testing.

Article 18 — For commodities using containers for shipment, the consignor or the agent thereof shall, prior to loading, apply to the commodity inspection authorities for container inspection. No loading may be carried out without passing such inspection.

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Chapter IV — Supervisory Administration

Article 19 — The commodity inspection authorities may, in accordance with the provisions of the State, carry out random inspection and testing of import and export commodities other than those subject to compulsory inspection, and supervise and administer import and export commodities based on the results thereof. Where the State commodity inspection authority may publish the results of random inspection and testing or notify the relevant departments of the results.

Article 20 — The commodity inspection authorities may, as required for the performance of inspection and supervision over import and export commodities, carry out spot inspection at the place of production, the place of storage, or the place of sale of import and export commodities.

Article 21 — The State commodity inspection authority may, for the purpose of facilitating foreign trade, implement a classified administration system in respect of import and export commodities, formulate and publish the relevant administrative measures, and implement the system through the commodity inspection authorities.

Article 22 — Where an enterprise manufacturing export commodities that are subject to compulsory inspection applies for exemption from inspection, the commodity inspection authorities shall examine the application within the time limit uniformly prescribed by the State commodity inspection authority and carry out verification and spot inspection; if the enterprise passes, it shall be granted exemption from inspection. The specific measures shall be formulated by the State commodity inspection authority.

Article 23 — The commodity inspection authorities may, in accordance with the provisions of the State, carry out conformity assessment in respect of the quality management systems of enterprises producing import and export commodities, and shall grant certification to those enterprises that have passed the assessment. The specific measures for conformity assessment shall be formulated by the State commodity inspection authority after consulting with the relevant competent departments of the State Council.

Article 24 — The commodity inspection authorities may, based on agreements concluded with foreign parties or on entrustment by foreign parties, carry out quality certification of import and export commodities.

Article 25 — Commodity inspection authorities at all levels shall carry out inspection of import and export commodities in accordance with law. The relevant departments shall support and cooperate with the commodity inspection authorities in accordance with their respective functions and duties.

Article 26 — The commodity inspection authorities shall, when carrying out inspection of import and export commodities or random inspection and testing in accordance with law, have the right to seal up and seize any import and export commodity if it is found to be non-conforming and the circumstances are serious.

Article 27 — Commodity inspection personnel shall perform their duties in accordance with law. No entity or individual may obstruct commodity inspection personnel from performing their duties in accordance with law. Entities and individuals subject to inspection shall provide commodity inspection personnel with necessary working conditions and cooperate with their inspection work.

Article 28 — Commodity inspection authorities and their staff shall, when carrying out inspection of import and export commodities, keep confidential the commercial secrets of the parties involved that have come to their knowledge in the course of performing their duties.

Article 29 — Inspection bodies approved or designated by the State commodity inspection authority shall carry out inspection of import and export commodities in accordance with law and shall be subject to supervision. The State commodity inspection authority and the commodity inspection authorities may conduct random inspection and testing of the inspection results of such inspection bodies.

Article 30 — The State commodity inspection authority and the commodity inspection authorities shall establish information systems for import and export commodity inspection, collect relevant data, and provide

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information services.

Article 31 — The parties concerned may apply for re-inspection if they disagree with the inspection results issued by the commodity inspection authorities. The application for re-inspection shall be filed within 15 days from the date of receipt of the inspection results. The re-inspection accepting authority shall make a re-inspection conclusion within 60 days from the date of receipt of the application.

Article 32 — The parties concerned may apply for administrative reconsideration or bring an administrative lawsuit in accordance with law if they disagree with the re-inspection conclusion issued by the re-inspection accepting authority or with the penalty decision, sealing-up, or seizure made by the commodity inspection authorities.

Article 33 — The State commodity inspection authority and the commodity inspection authorities shall, when performing their duties, comply with the provisions of laws and regulations, safeguard the public interest, and observe professional ethics.

Chapter V — Legal Liability

Article 34 — Whoever, in violation of the provisions of this Law, sells or uses an import commodity listed in the Catalogue without undergoing inspection as required shall be ordered by the commodity inspection authorities to cease such sale or use, and the illegal proceeds shall be confiscated. A fine of not less than the value of the commodity but not more than three times the value of the commodity shall be imposed concurrently. If the case constitutes a crime, criminal liability shall be investigated in accordance with law.

Article 35 — Whoever, in violation of the provisions of this Law, exports a commodity listed in the Catalogue without undergoing inspection as required or without passing such inspection shall be ordered by the commodity inspection authorities to cease such export, and the illegal proceeds shall be confiscated. A fine of not less than the value of the commodity but not more than three times the value of the commodity shall be imposed concurrently. If the case constitutes a crime, criminal liability shall be investigated in accordance with law.

Article 36 — Whoever sells or uses an import commodity that has been found non-conforming through random inspection and testing by the commodity inspection authorities shall be punished in accordance with the provisions of Article 34 of this Law.

Article 37 — Whoever exports a commodity that has been found non-conforming through random inspection and testing by the commodity inspection authorities shall be punished in accordance with the provisions of Article 35 of this Law.

Article 38 — Where an enterprise manufacturing export commodities is found through random inspection and testing to be non-conforming and the circumstances are serious, the commodity inspection authorities may revoke the certification of its quality management system.

Article 39 — Whoever provides or uses packaging receptacles for the transport of dangerous goods for export without applying to the commodity inspection authorities for performance testing or without passing such testing shall be ordered by the commodity inspection authorities to cease such provision or use, and a fine of not more than 200,000 yuan shall be imposed.

Article 40 — Whoever loads export commodities using containers without applying to the commodity inspection authorities for inspection or without passing such inspection shall be ordered by the commodity inspection authorities to cease such loading, and a fine of not more than 200,000 yuan shall be imposed.

Article 41 — Where an inspection body approved or designated by the State commodity inspection authority, in violation of the provisions of this Law, forges, alters, or issues false inspection certificates or inspection results, the State commodity inspection authority or the commodity inspection authorities shall order it to make corrections and may, depending on the circumstances, impose a fine of not more than three times the

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illegal proceeds, up to a maximum of 30,000 yuan where there are no illegal proceeds. If the case constitutes a crime, criminal liability shall be investigated in accordance with law. Where an inspection body approved or designated by the State commodity inspection authority, in violation of the provisions of this Law, issues inspection certificates or inspection results beyond the scope of inspection approved or designated, the State commodity inspection authority or the commodity inspection authorities shall order it to make corrections and impose a fine of not more than 30,000 yuan. If the circumstances are serious, the qualification of the inspection body may be revoked.

Article 42 — Whoever counterfeits, alters, purchases, or sells inspection certificates, seals, stamps, labels, seals or quality certification marks of the commodity inspection authorities shall be investigated for criminal liability in accordance with law if the case constitutes a crime. If the case does not constitute a crime, the commodity inspection authorities shall order it to make corrections, confiscate the illegal proceeds, and impose a fine of not more than the equivalent of the commodity value.

Article 43 — Any commodity inspection personnel who, in violation of the provisions of this Law, divulge commercial secrets of the parties concerned obtained in the course of performing their duties shall be given administrative sanctions in accordance with law. If there are illegal proceeds, the illegal proceeds shall be confiscated. If the case constitutes a crime, criminal liability shall be investigated in accordance with law.

Article 44 — Any staff member of the commodity inspection authorities who abuses power, neglects duty, engages in malpractices for personal gain, fabricates inspection results, or issues false inspection certificates shall be given administrative sanctions in accordance with law. If the case constitutes a crime, criminal liability shall be investigated in accordance with law.

Article 45 — Where an importer or exporter entrusts an agent to handle the inspection formalities, it shall submit a power of attorney to the agent and shall be liable for the authenticity and legality of the import and export commodities. The agent shall handle the inspection formalities on the basis of the entrustment of the consignee or consignor, and shall bear the corresponding legal liability.

Chapter VI — Supplementary Provisions

Article 46 — The fees for compulsory inspection of import and export commodities shall be collected in accordance with the relevant provisions of the State.

Article 47 — The State commodity inspection authority shall formulate detailed rules for the implementation of this Law, which shall be implemented after being submitted to and approved by the State Council.

Article 48 — This Law shall be effective as of August 1, 1989. The Regulations of the People's Republic of China on the Inspection of Import and Export Commodities promulgated by the State Council on January 28, 1984 shall be repealed simultaneously.

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