Port Law of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

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Adopted at the 3rd Session of the Standing Committee of the 10th National People's Congress on June 28, 2003; amended for the first time in accordance with the Decision on Amending Seven Laws Including the Port Law of the PRC adopted at the 14th Session of the Standing Committee of the 12th National People's Congress on April 24, 2015; amended for the second time in accordance with the Decision on Amending Eleven Laws Including the Accounting Law of the PRC adopted at the 30th Session of the Standing Committee of the 12th National People's Congress on November 4, 2017; amended for the third time in accordance with the Decision on Amending Fifteen Laws Including the Law on the Protection of Wildlife of the PRC adopted at the 6th Session of the Standing Committee of the 13th National People's Congress on October 26, 2018

Effective: January 1, 2004

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of strengthening port administration, maintaining port safety and operational order, protecting the lawful rights and interests of the parties, and promoting port construction and development.

Article 2 — This Law shall apply to the planning, construction, maintenance, operation, and management of ports and the relevant activities thereof.

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Article 3 — "Port" as used in this Law means a water area and land area having the function of water-land transportation and transfer of passengers and cargo, with corresponding dock facilities, composed of a certain scope of water area and land area. Ports may be composed of one or more port areas.

Article 4 — The State Council and the relevant local people's governments at or above the county level shall incorporate port construction and development into the national economic and social development plans and arrange necessary funds for the construction, maintenance, and management of public port infrastructure in accordance with the law.

Article 5 — The State encourages domestic and foreign economic organizations and individuals to invest in port construction and operation in accordance with the law, and protects the lawful rights and interests of investors.

Article 6 — The administrative department of communications under the State Council shall be in charge of the national port administration. The port administrative departments established by the local people's governments shall be in charge of port administration within their respective administrative regions in accordance with this Law and the relevant provisions. The relevant departments of the people's governments at or above the county level shall, within their respective functions and duties, be responsible for the relevant port administration work in accordance with the law.

Chapter II — Port Planning and Construction

Article 7 — Port planning shall be prepared based on the requirements of the national economic and social development and the needs of national defense construction, embodying the principles of rational utilization of coastline resources, compliance with urban and rural planning, and integrated development with the shipping network, and shall be linked with the overall land use planning, overall urban planning, river basin planning, flood control planning, marine function zoning, overall planning for water transport resources, and other relevant plans. Port planning includes port layout planning and port overall planning.

Article 8 — Port layout planning refers to the planning of port distribution. Port layout planning shall be prepared by the administrative department of communications under the State Council upon soliciting opinions from the relevant departments of the State Council and the relevant military authorities, and submitted to the State Council for approval before promulgation and implementation. The specific measures for the preparation of port layout planning nationwide shall be formulated by the administrative department of communications under the State Council.

Article 9 — Port overall planning refers to the specific planning of a port for a certain period, including the water areas and land areas of the port, the division of port areas, throughput capacity, and the number of berths, the nature of functions, the scope of port waters, and the allocation of land for port use. Port overall planning shall be prepared by the port administrative department after soliciting opinions from the relevant departments and the relevant military authorities and submitted for approval in accordance with the following provisions: (1) the overall planning of major ports along the coastline shall be submitted by the people's government of the province, autonomous region, or municipality directly under the Central Government to the State Council for approval after soliciting opinions from the administrative department of communications under the State Council; (2) the overall planning of other ports shall be submitted by the people's government of the province, autonomous region, or municipality directly under the Central Government for approval, or submitted for approval in accordance with the procedures prescribed by the people's government of the province, autonomous region, or municipality directly under the Central Government. Upon approval, the port overall planning shall be published, except for confidential content.

Article 10 — Port construction shall comply with the port planning. No construction of port facilities or other facilities within the port water areas and land areas as designated in the port planning shall violate the port planning.

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Article 11 — Port construction projects shall be subject to environmental impact assessment in accordance with the law. The safety facilities, environmental protection facilities, and the main project of a port construction project shall be designed, constructed, and put into use simultaneously.

Article 12 — The use of land for port construction projects shall be subject to approval in accordance with the law. The examination, approval, and use of sea areas for port construction projects shall be conducted in accordance with the law. The approval of sea area use for port construction projects shall be linked with the approval of port construction projects.

Article 13 — For the construction of port facilities within the port planning area, if port waters and land areas have not been designated or the designated port waters and land areas are insufficient, the people's government that approved the port planning shall, in accordance with the port planning and development needs, designate the port waters and land areas in a timely manner and announce them.

Article 14 — The construction of port facilities shall comply with the mandatory standards for project construction. Port construction project survey, design, construction, and supervision shall be undertaken by units with corresponding qualifications in accordance with the law, and shall comply with the relevant laws, regulations, and rules on bidding and tendering and the provisions of the State on port construction management.

Article 15 — Upon completion of a port construction project, an acceptance inspection shall be conducted in accordance with the relevant provisions of the State. Only the project that has passed the acceptance inspection may be put into use.

Article 16 — The construction and maintenance of public port infrastructure shall mainly be funded by the government, and the State encourages various types of investors to invest in the construction and operation of public port infrastructure in accordance with the law. The construction and maintenance of specialized port facilities such as cargo terminals and passenger terminals shall be funded and constructed by the port operators themselves, unless otherwise agreed by the relevant parties.

Article 17 — The port investors and operators and the port facilities and equipment shall comply with the provisions of the laws, regulations, and rules on port operation and safety management.

Article 18 — For the construction of port facilities within the port planning area, the construction project approval authority shall solicit the opinion of the port administrative department when examining and approving the project. The construction of port facilities shall not affect the normal functions of port passages and navigation.

Chapter III — Port Operation

Article 19 — Port operation includes port cargo handling, lighterage, and storage, port passenger transport services, and towing and barge services in port waters. Port operation shall comply with the provisions of this Law and other relevant laws and administrative regulations.

Article 20 — Port operators shall have the conditions suitable for the port operation they undertake, including fixed business premises, certain equipment and facilities, professional technicians and managerial personnel, a sound management system, and other conditions as prescribed by laws and regulations. The specific conditions for port operation shall be formulated by the administrative department of communications under the State Council.

Article 21 — Where any entity or individual undertakes port operation, it shall apply to the port administrative department for a port operation permit, register with the administrative department for industry and commerce in accordance with the law, and may engage in port operation only after obtaining the permit. The port administrative department shall, within 30 days from the date of receiving the application, examine the applicant's conditions; if the applicant meets the conditions, it shall issue a port operation permit; if the

applicant fails to meet the conditions, it shall not issue the permit and shall notify the applicant in writing of the reasons.

Article 22 — Port operators shall comply with the provisions of the State on port charges. Port charges shall be fixed by the port operators in accordance with the law. The port operators shall make public the items and rates of port charges and shall not overcharge or undercharge.

Article 23 — Port operators shall provide fair and good services for passengers and cargo owners. Passengers and cargo owners shall comply with the port management system and accept the management of the port operators. Port operators shall not compel others to accept their port services, nor shall they compel others to accept designated operators' services.

Article 24 — Port operators shall not engage in the following activities: (1) forcing others to accept their port services; (2) restricting or excluding other port operators from engaging in business activities by unfair means; (3) implementing monopoly acts such as manipulating market prices or dividing the market; or (4) otherwise violating the provisions of laws and administrative regulations.

Article 25 — Port operators shall provide emergency rescue services. In case of natural disasters, accidents, or other emergencies at the port, port operators shall obey the unified dispatch and command of the port administrative department and other relevant departments, and promptly take measures to organize rescue.

Article 26 — Port operators shall report statistical data on port production and operation to the port administrative department in accordance with the relevant provisions of the State. The port administrative department shall organize the collection, collation, and analysis of port production and operation information and provide information services.

Article 27 — Port operators shall have the port operation permit inspected by the port administrative department in accordance with the provisions. The port operation permit shall not be altered, transferred, rented, or lent.

Article 28 — Where a port operator changes the fixed business premises, equipment, and facilities, or other licensed items, the port operator shall go through the formalities for alteration of the permit in accordance with the law. Where a port operator ceases operation or terminates operation, the port operator shall go through the formalities for cancellation of registration in accordance with the law.

Article 29 — Port operators shall maintain port facilities in accordance with the State regulations, regularly inspect, maintain, and repair them to keep the facilities in good technical condition. Where port facilities are found to have safety hazards, they shall promptly eliminate them; if they cannot be eliminated, they shall cease operation and report to the port administrative department.

Article 30 — The handling of dangerous goods at the port shall be subject to the provisions of the State on the safety management of dangerous goods. The port operators shall comply with the provisions of the State on dangerous goods management when handling dangerous goods, and may engage in such operations only after approval by the port administrative department in accordance with the law. The port administrative department shall, when examining and approving the handling of dangerous goods by port operators, verify whether the applicants have the safety operating conditions for handling dangerous goods, and shall not approve those that fail to meet the conditions.

Article 31 — Port operators shall handle goods in accordance with the operating procedures and standards, ensure the quality of operations, prevent pollution of the environment, and protect the safety of goods. Where damage or loss of goods is caused during port operation, the port operators shall bear liability for compensation in accordance with the law.

Chapter IV — Port Safety and Supervision

Article 32 — The port administrative department shall supervise and inspect the implementation of this Law, exercise supervision over and conduct inspection of port safety, port planning, and port operation order, and impose administrative penalties on violations of port laws and regulations in accordance with the law. Port supervisors and inspectors shall show their administrative law enforcement certificates when performing their duties. Port operators and relevant entities and individuals shall accept the supervision and inspection conducted by the port administrative department in accordance with the law and shall not refuse or obstruct such supervision and inspection.

Article 33 — The port administrative department shall formulate plans for emergency rescue in case of accidents endangering port safety, and organize regular drills. When accidents endangering port safety occur, the port administrative department shall promptly organize rescue.

Article 34 — The port administrative department shall supervise and inspect the safety conditions of port operators handling dangerous goods. If a port operator is found to no longer meet the safety conditions, the port administrative department shall revoke the approval for handling dangerous goods.

Article 35 — The port operators shall formulate emergency rescue plans for port operation accidents, and organize regular drills. When port operation accidents occur, the port operators shall promptly organize rescue and immediately report to the port administrative department and other relevant departments.

Article 36 — Port operators shall install safety monitoring facilities at the port operation sites in accordance with the law. The installation and use of port safety monitoring facilities shall comply with the relevant laws and regulations and shall not infringe upon the lawful rights and interests of others.

Article 37 — The port administrative department shall, in accordance with the law, establish and improve the port safety production responsibility system and the port safety management system, strengthen safety management, and implement safety production measures.

Article 38 — Port facilities shall comply with the compulsory standards of the State on port safety and operation safety. Port operators shall ensure that port facilities comply with the State's safety technical specifications.

Article 39 — The navigation channels, anchorages, turning basins, and other port public facilities in port waters shall be kept unobstructed, free of obstacles, and in accordance with the prescribed navigation standards. The port administrative department shall regularly inspect the channels and anchorage conditions of port waters. If any obstruction or damage is found, it shall promptly remove the obstruction or repair the damage.

Article 40 — No entity or individual may dump silt, garbage, or other waste into port waters, nor may it conduct any activities that affect channel safety, such as aquaculture or planting in port waters. No entity or individual may conduct sand excavation, earth borrowing, quarrying, blasting, or other activities within port waters that endanger port safety, unless necessary for port construction and safety.

Article 41 — The construction of bridges, underwater pipelines, tunnels, cables, and other facilities within port waters shall be subject to the approval of the port administrative department and the maritime safety administration in accordance with the law. Upon completion, the relevant authorities shall notify the port administrative department of the acceptance inspection results.

Article 42 — The port operators shall daily clean the port operation sites and maintain the port environment in accordance with the provisions on environmental protection. The port operators shall not discharge pollutants into port waters or land areas in violation of the provisions on environmental protection.

Article 43 — Port operators shall, in accordance with the relevant provisions of the State, formulate preventive measures for public health emergencies and unexpected safety accidents, and be equipped with corresponding facilities, equipment, and supplies. When public health emergencies and unexpected safety accidents occur, the port operators shall take effective measures to prevent the spread of hazards and

immediately report to the relevant departments.

Article 44 — Vessels entering and leaving the port shall comply with the port regulations on navigation and berthing management. The entry and exit of vessels into and from the port shall be handled by the maritime safety administration in accordance with the law. Vessels carrying dangerous goods entering and leaving the port shall comply with the provisions of the State on the safety management of dangerous goods.

Chapter V — Legal Liability

Article 45 — Where any entity or individual engages in port operation without obtaining a port operation permit in accordance with the law, the port administrative department shall order it to cease the illegal operation and confiscate the illegal gains; if the illegal gains are 100,000 yuan or more, a fine of not less than two times but not more than five times the illegal gains shall be imposed concurrently; if there are no illegal gains or the illegal gains are less than 100,000 yuan, a fine of not less than 50,000 yuan but not more than 200,000 yuan shall be imposed.

Article 46 — Where a port operator fails to comply with the provisions of the State on dangerous goods management in the course of operations, the port administrative department shall order it to make corrections and impose a fine of not less than 50,000 yuan but not more than 100,000 yuan; if the circumstances are serious, the approval for handling dangerous goods shall be revoked, and the revocation of the port operation permit shall be recommended to the license-issuing authority.

Article 47 — Where a port operator forcibly provides services to another person or compels another person to accept the services of a designated operator, the port administrative department shall order it to make corrections and may impose a fine of not less than 10,000 yuan but not more than 50,000 yuan; if the circumstances are serious, the port operation permit may be revoked by the original license-issuing authority.

Article 48 — Where a port operator violates the provisions on port charges by overcharging or undercharging, the price administrative department shall impose penalties in accordance with the law. If the port operator fails to make public the items and rates of port charges, the port administrative department shall order it to make corrections and may impose a fine of not more than 5,000 yuan.

Article 49 — Where a port operator fails to maintain port facilities in accordance with the provisions, the port administrative department shall order it to make corrections and may impose a fine of not less than 10,000 yuan but not more than 30,000 yuan. If the port operator fails to organize or promptly rescue in accordance with the provisions, the port administrative department shall order it to make corrections and may impose a fine of not less than 30,000 yuan but not more than 100,000 yuan.

Article 50 — Where a port operator fails to report statistical data on port production and operation in accordance with the provisions, the port administrative department shall order it to make corrections and may impose a fine of not less than 10,000 yuan but not more than 30,000 yuan.

Article 51 — Where any entity or individual dumps silt, garbage, or other waste into port waters in violation of the provisions of this Law, or conducts sand excavation, earth borrowing, quarrying, blasting, or other activities in port waters in violation of the provisions of this Law, the port administrative department shall order it to cease the violation, eliminate the hazard, and may impose a fine of not less than 5,000 yuan but not more than 50,000 yuan. If the violation constitutes a crime, criminal liability shall be pursued in accordance with the law. Where any entity or individual conducts aquaculture or planting activities in port waters in violation of the provisions of this Law, the maritime safety administration shall order it to cease the aquaculture or planting within a prescribed time limit; if it fails to cease within the time limit, the maritime safety administration shall forcibly remove the aquaculture or planting facilities, and the expenses incurred shall be borne by the violator, and a fine of not more than 10,000 yuan may be imposed.

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Article 52 — Where any entity or individual constructs port facilities or other facilities within the port planning area in violation of the port planning, the port administrative department shall order it to stop the construction or use within a prescribed time limit and may impose a fine of not more than 50,000 yuan. If the violator fails to make corrections within the prescribed time limit, the port administrative department may apply to the people's court for compulsory demolition; the expenses incurred shall be borne by the violator.

Article 53 — Where a port operator engages in port operation after its port operation permit has been revoked in accordance with the law, the port administrative department shall impose penalties in accordance with Article 45 of this Law.

Article 54 — Where any entity or individual damages port facilities and thereby causes property damage to another person, it shall bear liability for compensation in accordance with the law. Where the act constitutes an act against public security administration, the public security authority shall impose a public security administrative penalty; if the act constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 55 — Where a staff member of a port administrative department or other relevant administrative department engages in any of the following acts, the relevant authority shall impose sanctions in accordance with the law; if the act constitutes a crime, criminal liability shall be pursued in accordance with the law: (1) issuing a port operation permit or approving the handling of dangerous goods in violation of the prescribed conditions and procedures; (2) failing to perform the supervision and inspection functions and failing to promptly eliminate hidden dangers or handling accidents in accordance with the law; (3) taking advantage of the position to demand or accept property from another person or seek other improper benefits; (4) other acts of dereliction of duty, abuse of power, or engaging in malpractice for personal gain.

Chapter VI — Supplementary Provisions

Article 56 — The administration of fishing ports shall be subject to the provisions of the State Council.

Article 57 — The administration of military ports shall be subject to the relevant provisions of the State.

Article 58 — For the purposes of this Law, the meanings of the following terms are: (1) "port waters" means the water areas used for port navigation, berthing, operation, and other activities related to ports within the port planning area; (2) "port land areas" means the land areas used for port cargo handling, storage, passenger transport services, and other activities related to ports within the port planning area; (3) "major ports along the coastline" means the ports along the coastline that play an important role in the economic and social development of the region or the whole country and in foreign trade and other aspects; (4) "public port infrastructure" means public facilities such as port breakwaters, fairways, anchorages, navigation marks, and land areas for public use; (5) "port operation" means the provision of port cargo handling, lighterage, and storage services, port passenger transport services, towing and barge services in port waters, and other port business services to ships and cargo owners for consideration.

Article 59 — The specific measures for the implementation of this Law shall be formulated by the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government in accordance with this Law and the actual local conditions.

Article 60 — This Law is applicable to the planning, construction, maintenance, operation, and management of ports in the Hong Kong Special Administrative Region and the Macao Special Administrative Region. The specific measures shall be formulated by the State Council.

Article 61 — This Law shall come into effect on January 1, 2004.

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