PRC Customs Law

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Adopted at the 19th Session of the Standing Committee of the Sixth National People's Congress on January 22, 1987; amended for the first time in accordance with the Decision on Amending the Customs Law of the People's Republic of China adopted at the 16th Session of the Standing Committee of the Ninth National People's Congress on July 8, 2000; amended for the second time in accordance with the Decision on Amending the Customs Law of the People's Republic of China adopted at the Sixth Session of the Standing Committee of the Twelfth National People's Congress on June 29, 2013; amended for the third time in accordance with the Decision on Amending the Customs Law of the People's Republic of China adopted at the 22nd Session of the Standing Committee of the Twelfth National People's Congress on November 4, 2016; amended for the fourth time in accordance with the Decision on Amending the Customs Law of the People's Republic of China adopted at the 28th Session of the Standing Committee of the Thirteenth National People's Congress on April 29, 2021
Effective: July 1, 1987; latest amendment effective April 29, 2021

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of safeguarding state sovereignty and national interests, strengthening customs supervision and control, promoting economic and trade exchanges and scientific and technological cultural exchanges with foreign countries, and ensuring the construction of socialist modernization.

Article 2 — The Customs of the People's Republic of China is the state organ responsible for the supervision and control over the entry and exit of means of transport, goods, travellers' luggage, postal items, and other articles, the collection of customs duties and other taxes and fees, the investigation and suppression of smuggling, the compilation of customs statistics, and the handling of other customs operations.

Article 3 — The General Administration of Customs shall be established under the State Council to exercise unified administration of the customs establishments throughout the country. The state shall set up customs establishments at the ports open to foreign countries and at the places and localities where customs supervision and control is necessary for the business of entry into and exit from the territory. The subordination of one customs establishment to another shall not be restricted by administrative divisions. Customs establishments shall exercise their functions and powers independently in accordance with the law and shall be responsible to the General Administration of Customs.

Article 4 — The state shall set up special police units at the General Administration of Customs, which shall be responsible for the investigation and suppression of smuggling crimes within the jurisdiction of the customs establishments, and shall be equipped with special police equipment for the investigation of smuggling crimes. The special police units for the investigation of smuggling crimes shall, in accordance with the provisions of the Criminal Procedure Law of the People's Republic of China, perform the functions and duties of investigation, detention, execution of arrest, and preliminary examination. Customs shall exercise the powers that are vested by this Law in the people's police of the public security authorities when performing the above-mentioned functions and duties relating to the investigation of smuggling crimes.

Article 5 — The state shall implement a joint inspection system, with unified inspection of entry and exit, so as to facilitate customs clearance.

Article 6 — Customs may exercise the following powers: (1) inspect the means of transport entering or leaving the territory, and inspect the goods and articles entering or leaving the territory; detain those that are in violation of this Law or other relevant laws or administrative regulations; (2) examine the identity documents of persons entering or leaving the territory; interrogate persons suspected of violating this Law or other relevant laws or administrative regulations, and investigate their illegal activities; (3) examine and copy contracts, invoices, account books, bills, records, documents, business correspondence, audio and video products, and other materials relating to the means of transport, goods, and articles entering or leaving the territory; detain those that are suspected of being involved in the means of transport, goods, and articles entering or leaving the territory in violation of this Law or other relevant laws or administrative regulations; (4) within the customs surveillance zone and the specified coastal or border areas within the vicinity of the customs office, inspect the means of transport suspected of being used in smuggling, and the places suspected of concealing smuggled goods and articles, and search the bodies of persons suspected of smuggling; detain the means of transport, goods, and articles suspected of being involved in smuggling and the persons suspected of smuggling upon approval by the director of a regional customs office or the director of a customs office subordinated to and authorized by the regional customs office; the period of detention of a person suspected of smuggling shall not exceed 24 hours, and under special circumstances, it may be extended to 48 hours; (5) pursue and seize the means of transport or persons that defy and escape from customs surveillance and control in the customs surveillance zone and the specified coastal or border areas within the vicinity of the customs office, and bring them back for handling; and (6) be equipped with weapons for the performance of their duties.

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Article 7 — All localities and authorities shall support the exercise of functions and powers by the customs authorities in accordance with the law, and shall not illegally interfere with the law enforcement activities of the customs.

Article 8 — All means of transport, goods, and articles entering or leaving the territory shall enter or leave the territory through the places where customs offices are established; under special circumstances, they may, upon approval by the State Council or an authority authorized by the State Council, temporarily enter or leave the territory through places where no customs office is established, provided that the customs formalities shall be completed in accordance with the provisions of this Law.

Article 9 — Unless otherwise provided for, the declaration of import and export goods and the payment of customs duties may be handled by the consignees and consignors of the import and export goods on their own, or by customs brokers that have completed the registration formalities with the customs. The consignees and consignors of import and export goods and customs brokers that handle the declaration formalities in accordance with the law shall complete the registration formalities with the customs in accordance with the law.

Article 10 — Customs brokers shall not illegally make declarations on behalf of others or go beyond the scope of their approved business operations.

Article 11 — Consignees and consignors of import and export goods and customs brokers shall be responsible for the truthfulness and legality of the declaration documents submitted to the customs in accordance with the law.

Article 12 — Where customs establishes and performs its duties in accordance with the law, the relevant entities and individuals shall truthfully answer inquiries and provide cooperation, and shall not obstruct customs; where customs personnel commit violent resistance to customs enforcement, the public security authorities and the armed police units shall provide assistance.

Article 13 — Customs shall establish a system for reporting and dealing with acts in violation of this Law. Any entity or individual shall have the right to report to customs any act of evading customs supervision and control or otherwise violating this Law. Customs shall keep the reporters confidential and shall reward the entities or individuals that have made outstanding contributions to the reporting or investigation and suppression of violations.

Chapter II — Inward and Outward Means of Transport

Article 14 — When a means of transport arrives at or departs from the place where a customs office is established, the person in charge of the means of transport shall make a truthful declaration to the customs, submit the relevant documents for examination, and accept customs supervision and inspection. A means of transport staying at the place where a customs office is established shall not depart from the place without the permission of the customs. Before a means of transport moves from one place where a customs office is established to another place where a customs office is established, it shall complete the formalities and be subject to supervision and control by the customs in accordance with the provisions of the customs.

Article 15 — An inward means of transport shall, before entering the territory, make a truthful declaration of its arrival to the customs at the place of entry; an outward means of transport shall, before leaving the territory, make a truthful declaration of its departure to the customs at the place of exit.

Article 16 — When an inward or outward means of transport carries goods or articles, it shall truthfully declare the same to the customs and accept customs supervision and inspection. The loading and unloading of import and export goods and articles on and from a means of transport, and the embarking and disembarking of inward and outward passengers, shall be subject to customs supervision and control.

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Article 17 — Customs shall inspect inward and outward means of transport. When conducting inspections, customs may, when it deems necessary, require the person in charge of the means of transport to open the compartments, rooms, and doors of the means of transport; where the means of transport is suspected of being used for carrying smuggled goods or articles, the customs may require the person in charge to open the parts of the means of transport that may conceal smuggled goods or articles, and may remove or dismantle the parts that may conceal smuggled goods or articles.

Article 18 — Where an inward means of transport has entered the territory but has not completed the customs formalities at the customs office at the place of entry, or an outward means of transport has completed the customs formalities at the customs office at the place of exit but has not left the territory, it shall proceed along the route designated by the competent transport authority; where the competent transport authority has not designated a route, the customs shall designate the route.

Article 19 — The entry and exit of vessels and aircraft that are means of transport arriving from or departing for abroad, and the entry and exit of vessels and aircraft that are means of transport staying at the customs and carrying inward and outward goods and articles, shall be subject to customs supervision and control, and the relevant customs formalities shall be completed.

Article 20 — An inward or outward means of transport shall not, without the permission of the customs, transfer or divert the goods or articles carried by it to another means of transport.

Article 21 — Where an inward or outward means of transport cannot continue its journey to the destination due to force majeure and makes a temporary stop at a place where no customs office is established, or jettisons, unloads, or picks up goods or articles, the person in charge of the means of transport shall immediately report the same to the customs office in the vicinity.

Chapter III — Import and Export Goods

Article 22 — Customs supervision and control over import and export goods means that customs shall supervise and control the import goods from the time they enter the territory until the customs formalities are completed, and the export goods from the time they are declared to the customs until they leave the territory. During the period of customs supervision and control, the owner, custodian, or carrier of the goods shall not open, pick up, deliver, transfer, replace, or modify the marks or numbers of the goods, or use the goods for other purposes, without the permission of the customs.

Article 23 — The consignee of import goods and the consignor of export goods shall make a truthful declaration to the customs and submit the relevant documents required for the inspection of the import and export permits and the relevant documents and certificates for examination. Goods that are subject to import and export restrictions shall not be released without the issue of the import and export permits by the relevant authorities, except as otherwise provided for by law or administrative regulations.

Article 24 — The consignee of import goods shall make a declaration to the customs within 14 days from the date of the declaration of the arrival of the means of transport; the consignor of export goods shall, unless otherwise specifically permitted by the customs, make a declaration to the customs 24 hours before the goods are loaded. Where the consignee of import goods fails to make a declaration to the customs within the time limit provided for in the preceding paragraph, a fine for delayed declaration shall be collected by the customs.

Article 25 — The declaration of import and export goods may be made in paper form or in electronic data form. Where the consignee and consignor of import and export goods are required to complete the customs formalities on their own, they shall complete the registration formalities with the customs in accordance with the law. The duration of the registration shall be subject to the provisions of the customs.

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Article 26 — Customs shall, after accepting the declaration and examining the declaration documents, inspect the import and export goods on the basis of the declaration documents. Where the import and export goods shall be subject to inspection, the consignee and consignor of the import and export goods shall be present at the inspection site and be responsible for moving the goods and opening and restoring the packing of the goods. Customs may inspect or re-inspect the goods or take samples without the presence of the consignee or consignor, where it deems necessary, and the keeper of the goods shall be present and provide cooperation.

Article 27 — Unless otherwise provided for, the consignee and consignor of import and export goods shall pay the customs duties or provide security before the customs releases the goods.

Article 28 — Where the consignee of import goods has not made a declaration to the customs within three months from the date of the declaration of the arrival of the means of transport, the goods may be taken over and sold by the customs in accordance with the law. The proceeds from the sale shall, after deducting the expenses for transport, loading and unloading, storage, and the customs duties and other taxes and fees, be refunded to the consignee within one year from the date of the sale of the goods upon application by the consignee; where the goods are not permitted to be imported by the state, they shall be handed over to the customs for handling in accordance with the law, and no refund shall be given. Where the goods are not claimed within the time limit, the proceeds from the sale shall be turned over to the state treasury after deducting the expenses for transport, loading and unloading, storage, and the customs duties and other taxes and fees.

Article 29 — Import and export goods may be kept in the customs warehousing or other places permitted by the customs after being declared. Import and export goods may be transported to another customs office for the completion of customs formalities after the completion of the customs formalities at the customs office at the place of entry or the place of exit, provided that they comply with the requirements of customs supervision and control, and the customs formalities may also be completed at the customs office at the place of entry or the place of exit.

Article 30 — Goods under customs supervision and control shall not be mortgaged, pledged, or retained without the permission of the customs. The consignee and consignor of import and export goods and the keeper of the goods shall keep the goods properly during the period of customs supervision and control.

Article 31 — Customs shall supervise and control the bonded goods, goods granted with reduction of or exemption from customs duties and taxes, and goods temporarily entering or leaving the territory within the specified period in accordance with the law. Without the permission of the customs and the payment of the customs duties and taxes, the above-mentioned goods shall not be sold or transferred, nor shall their use be changed. Where the specified period expires, the goods shall be transported out of the territory or undergo the relevant formalities in accordance with the provisions.

Article 32 — Enterprises engaged in processing trade shall register with the customs in accordance with the provisions of the customs. The unit consumption of the materials used in the processing trade shall be filed with the customs. The finished products of the processing trade shall be exported within the specified time limit. Where the imported materials used in the processing trade are products the import of which is subject to state restrictions, the enterprises shall submit the import permits to the customs for examination.

Chapter IV — Customs Duties

Article 33 — Unless otherwise provided for, customs duties shall be levied on goods permitted to be imported or exported and articles permitted to enter or leave the territory in accordance with the provisions of the law and administrative regulations.

Article 34 — The consignee of import goods and the consignor of export goods shall be the persons obligated to pay customs duties. The holder of inbound and outbound articles shall be the person obligated

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to pay customs duties on the articles.

Article 35 — The customs value of import and export goods shall be determined by the customs on the basis of the transaction value of the goods. Where the transaction value cannot be determined, the customs value shall be assessed by the customs in accordance with the law. The customs value of import and export goods shall include the freight and insurance premiums and other expenses of the goods before they arrive at the place of entry within the territory of the People's Republic of China and before they are unloaded at the place of exit, respectively.

Article 36 — Customs duties on import and export goods shall be levied by adopting ad valorem rates, specific rates, or other methods as prescribed by the state. The dutiable value and the tariff classification of import and export goods shall be determined in accordance with the law. The date on which the customs accepts the declaration of import and export goods shall be the date applicable to the tax rate and the exchange rate.

Article 37 — The person obligated to pay customs duties shall pay the customs duties within 15 days from the date of the issue of the customs duty payment notice by the customs. Where the customs duties are not paid within the time limit, a fine for late payment shall be collected by the customs at the rate of 0.05 percent of the overdue customs duty amount per day from the date on which the payment is overdue.

Article 38 — Where the customs duties and taxes on import and export goods are collected by the customs on behalf of the taxation authorities, the relevant provisions on the collection of customs duties shall apply.

Article 39 — Customs duties may be reduced or exempted on the following import and export goods and inbound and outbound articles: (1) goods on which customs duties are reduced or exempted in accordance with the provisions of the law; (2) goods of specific areas, specific enterprises, or for specific purposes on which customs duties are reduced or exempted in accordance with the provisions of the State Council; (3) goods that are temporarily imported or exported; and (4) goods on which the collection of customs duties is temporarily exempted in bonded areas, bonded warehouses, and other places subject to customs supervision and control. Customs duties shall be reduced or exempted on goods that fall within the scope of items (1), (2), or (3) of the preceding paragraph. The reduction of or exemption from customs duties as mentioned in the preceding paragraph shall not be transferred, sold, or used for other purposes without the permission of the customs and the payment of the customs duties.

Article 40 — Where a taxpayer of customs duties or a person that has a legal interest in the customs duties is dissatisfied with the customs determination of the dutiable value, tariff classification, or the determination of the origin, it may apply for administrative reconsideration in accordance with the law. The decision on administrative reconsideration shall be final.

Article 41 — Where the consignee or consignor of import and export goods or the agent thereof discovers that customs duties are overpaid, it may apply to the customs for a refund within one year from the date of payment of the customs duties; where the customs discovers that customs duties are overpaid, it shall immediately refund the overpaid amount. Where the consignee or consignor of import and export goods or the agent thereof discovers that customs duties are underpaid, it shall pay the customs duties within one year from the date of payment of the customs duties. Where the customs discovers that customs duties are underpaid, it shall recover the underpaid customs duties from the taxpayer within one year from the date of payment of the customs duties; however, where the underpayment is caused by the taxpayer's violation of the provisions, the customs may recover the underpaid customs duties within three years.

Chapter V — Customs Security and Surety

Article 42 — Where the time limit for the payment of customs duties is extended upon application, the customs may require the taxpayer to provide security. Where the goods are temporarily imported or exported, or the goods are imported or exported under other special circumstances, the consignee or

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consignor of the import and export goods shall provide security equivalent to the customs duties payable to the customs before the goods are released, and the security may be refunded after the customs duties are paid.

Article 43 — The provisions of the Guarantee Law of the People's Republic of China shall apply to the security of customs duties. The types of security that may be used as customs duty security are: (1) Renminbi or convertible foreign currency; (2) bills of exchange, promissory notes, checks, bonds, and certificates of deposit; (3) letters of guarantee issued by banks or non-bank financial institutions; and (4) other property or rights recognized by the customs in accordance with the law.

Article 44 — Where the person obligated to pay customs duties fails to pay the customs duties within the prescribed time limit and does not provide security, the customs may adopt the following tax preservation measures: notify in writing the bank or other financial institution where the taxpayer has opened an account to freeze the taxpayer's deposits of an amount equivalent to the customs duties payable; or seize or seal up the taxpayer's commodities or other property of a value equivalent to the customs duties payable. Where the taxpayer fails to pay the customs duties within the prescribed time limit, the customs may notify in writing the bank or other financial institution where the taxpayer has opened an account to deduct the customs duties from the taxpayer's deposits, or sell the seized, sealed-up, or detained commodities or other property in accordance with the law, using the proceeds from the sale to offset the customs duties. When the customs adopts tax preservation measures and compulsory enforcement measures, it shall protect the lawful rights and interests of the taxpayer.

Chapter VI — Customs Supervision

Article 45 — Customs shall exercise supervision and control over the enterprises engaged in import and export trade, bonded zones, export processing zones, bonded warehouses, bonded factories, and other enterprises subject to customs supervision and control. Customs shall exercise supervision and control over the places, warehouses, and vessels relating to the entry and exit of goods at the ports open to foreign countries. Customs shall, in accordance with the law, inspect the import and export goods, the inward and outward means of transport, and the bonded goods, and may keep the relevant account books and documents.

Article 46 — Customs may exercise the following powers in exercising supervision and control: (1) inspect, re-inspect, and take samples of the import and export goods; (2) inspect the account books and documents relating to the import and export goods; (3) seal up the account books and documents that are suspected of being involved in violations; and (4) inquire about the deposit accounts of the enterprises suspected of being involved in violations.

Article 47 — Enterprises engaged in foreign trade shall, in accordance with the law, keep the account books, accounting vouchers, customs declaration forms, and other relevant information in accordance with the provisions, and keep them properly.

Article 48 — Customs shall, on the basis of the needs of customs supervision and control, verify the import and export goods with the relevant enterprises. The relevant enterprises shall truthfully provide the relevant information and the relevant documents and shall not refuse.

Article 49 — The customs shall keep confidential the trade secrets of the enterprises that they come to know in the course of customs supervision and control and shall not disclose them.

Article 50 — Customs may exercise the right of pursuit and seizure of the means of transport or persons that defy and escape from customs supervision and control in the customs surveillance zone and the specified coastal or border areas within the vicinity of the customs office in accordance with the law, and bring them back for handling. Customs may be equipped with weapons for the performance of their duties. The rules for the carrying and use of weapons by customs personnel shall be formulated by the General Administration of

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Customs in conjunction with the public security authority under the State Council and submitted to the State Council for approval.

Chapter VII — Legal Liability

Article 51 — Where the consignee or consignor of import and export goods or the agent thereof makes a false declaration to the customs, the customs may impose a fine. Where the false declaration constitutes smuggling, the customs shall confiscate the smuggled goods and articles and the illegal gains, and may also impose a fine; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 52 — Where any of the following acts is committed, the customs shall confiscate the smuggled goods and articles and the illegal gains, and may also impose a fine of not more than the equivalent value of the smuggled goods and articles; where a crime is constituted, criminal liability shall be pursued in accordance with the law: (1) transporting, carrying, or mailing into or out of the territory goods or articles the import or export of which is prohibited by the state, or goods or articles the import or export of which is restricted by the state, without lawful proof; (2) transporting, carrying, or mailing goods or articles into or out of the territory without the permission of the customs, resulting in the evasion of customs supervision and control, and the tax payable by the goods or articles reaches the standard for constituting smuggling; or (3) selling bonded goods or specific goods granted with reduction of or exemption from customs duties and taxes within the territory without the permission of the customs and without paying the customs duties and taxes payable.

Article 53 — Where any of the following acts is committed, it shall be punished as smuggling: (1) directly and illegally purchasing goods or articles imported by smugglers from smugglers; (2) transporting, purchasing, or selling goods or articles the import or export of which is prohibited or restricted by the state within inland seas, territorial seas, boundary rivers, or boundary lakes without lawful proof; or (3) transporting, purchasing, or selling goods or articles that are not accompanied by lawful proof within the designated areas along the coast and border.

Article 54 — Where forged or altered import and export licenses are used, the customs shall confiscate the goods and may also impose a fine; where a crime is constituted, criminal liability shall be pursued in accordance with the law. Where import and export licenses are bought or sold, the customs shall confiscate the illegal gains and may also impose a fine; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 55 — Where a person obligated to pay customs duties evades customs duties, the customs shall recover the evaded customs duties and impose a fine of not less than 50 percent but not more than five times the amount of the evaded customs duties; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 56 — Where the customs value and tariff classification declared by the person obligated to pay customs duties are not true, the customs may impose a fine; where the act constitutes smuggling, the customs shall impose punishment in accordance with the law.

Article 57 — Where a customs broker engages in illegal activities in the course of handling the declaration formalities, the customs shall impose punishment in accordance with the law; where the circumstances are serious, the customs may revoke its registration.

Article 58 — Where the person in charge of an inward or outward means of transport commits any of the following acts, the customs shall impose a fine: (1) failing to make a declaration of the inward or outward means of transport to the customs; (2) failing to submit the relevant documents for examination; (3) loading or unloading import and export goods or articles, or embarking or disembarking inward and outward passengers, without the permission of the customs; or (4) transferring or transporting customs-controlled goods without the permission of the customs.

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Article 59 — Where the period of customs supervision and control over the bonded goods, or the goods temporarily imported or exported, or the goods granted with reduction of or exemption from customs duties and taxes expires, and the goods are not transported out of the territory or the relevant formalities are not completed without authorization, the customs may impose a fine.

Article 60 — Customs personnel shall enforce the law impartially, be devoted to their duties, be honest and upright, serve the people with civility, and shall not commit any of the following acts: (1) shielding or conniving at smuggling or colluding with others in smuggling; (2) illegally detaining persons, means of transport, goods, or articles; (3) demanding or accepting bribes by taking advantage of their functions and powers; (4) extorting or demanding property from others; or (5) other acts in violation of the law or discipline. Where customs personnel commit any of the acts listed in the preceding paragraph, sanctions shall be imposed in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter VIII — Supplementary Provisions

Article 61 — For the purposes of this Law, the following terms shall have the following meanings: "customs surveillance zone" means the ports, railway stations, international airports, boundary passes, and international postal exchange offices where customs offices are established, and other places where customs supervision and control is exercised over the entry and exit of goods and articles and where customs offices are established; "specified coastal or border areas within the vicinity of the customs office" means the areas along the coast and border designated by the customs and the public security authorities; and "means of transport" means the vessels, trains, aircraft, road vehicles, and other vehicles used for the transport of persons, goods, and articles entering or leaving the territory.

Article 62 — Customs shall exercise supervision and control over the entry and exit of the luggage and articles carried by crew members and passengers of the means of transport entering or leaving the territory, and the entry and exit of postal items, in accordance with the provisions of this Law and relevant laws and administrative regulations.

Article 63 — The state shall impose special customs supervision and control systems, such as bonded zones and export processing zones, in specific areas. The measures for customs supervision and control in specific areas shall be formulated by the State Council.

Article 64 — Customs may, in accordance with the law, exercise the powers of the public security authorities in the investigation of smuggling cases within the customs surveillance zone and the specified coastal or border areas within the vicinity of the customs office.

Article 65 — The State Council shall formulate implementation regulations for this Law.

Article 66 — This Law shall come into force as of July 1, 1987. The Provisional Customs Law of the People's Republic of China, adopted at the 124th Executive Meeting of the Government Administration Council on March 23, 1951, shall be repealed simultaneously.

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