PRC Foreign Trade Law

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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, maintaining the order of foreign trade, protecting the lawful rights and interests of foreign trade operators, and promoting the sound development of the socialist market economy.

Article 2 — This Law shall apply 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 competent foreign trade authority under the State Council shall be in charge of foreign trade throughout the country in accordance with this Law.

Article 4 — The state shall implement a unified foreign trade system, encourage the development of foreign trade, safeguard a fair and free foreign trade order, and protect the lawful rights and interests of foreign trade operators.

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

Article 6 — 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 contracting parties or acceding parties, or on the basis of the principles of mutual benefit and reciprocity, grant most-favored-nation treatment and national treatment to the other party.

Article 7 — Where any country or region adopts discriminatory prohibitions, restrictions, or other similar measures against the People's Republic of China in respect of trade, the People's Republic of China may, on the basis of the actual circumstances, adopt corresponding measures against such country or region.

Chapter II — Foreign Trade Operators

Article 8 — For the purposes of this Law, "foreign trade operator" means a legal person, other organization, or individual that has completed the record-filing formalities for foreign trade operators in accordance with the law and engages in foreign trade business activities. The scope of foreign trade operators engaging in foreign trade business activities shall be determined in accordance with the law.

Article 9 — Foreign trade operators engaged in the import and export of goods or technologies shall file records with the competent foreign trade authority under the State Council or its authorized institutions, unless otherwise provided for by laws, administrative regulations, or the competent foreign trade authority under the State Council. The specific measures for record filing shall be formulated by the competent foreign trade authority under the State Council. Where foreign trade operators fail to complete the record-filing formalities in accordance with the provisions, the customs shall not handle the declaration and inspection formalities for the import and export of goods.

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Article 10 — Those engaged in international trade in services shall comply with the provisions of this Law and other relevant laws and administrative regulations. Those engaged in the contracting of overseas construction projects or overseas labor service cooperation shall have the corresponding qualifications or qualifications. The specific measures shall be formulated by the State Council.

Article 11 — The state may implement state trading administration over the import and export of some goods. The import and export of goods under state trading administration shall only be operated by authorized enterprises, unless the state permits the import and export of some quantities of goods under state trading administration to be operated by enterprises not so authorized. The catalogues of goods under state trading administration and the authorized enterprises shall be determined, adjusted, and published by the competent foreign trade authority under the State Council in conjunction with other relevant authorities under the State Council. Where the import and export of goods under state trading administration in violation of the provisions of the first paragraph of this Article is carried out, the customs shall not release the goods.

Article 12 — Foreign trade operators may accept the entrustment of others to handle foreign trade business on behalf of the principals within the scope of their business operations. Foreign trade operators entrusted to handle foreign trade business shall truthfully provide the principals with relevant business information such as market trends, commodity prices, and customer information. The principals and the entrusted persons shall enter into an entrustment contract, agreeing on the rights and obligations of both parties.

Article 13 — Foreign trade operators shall, in accordance with the provisions of the competent foreign trade authority under the State Council or other relevant authorities under the State Council, submit documents and information relating to their foreign trade business activities to the relevant authorities. The relevant authorities shall keep confidential the trade secrets of the operators they come to know.

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 competent foreign trade authority under the State Council may, on the basis of the need to monitor the import and export of goods, implement automatic import and export licensing for some goods subject to free import and export and shall publish the catalogues thereof. Where the consignee or consignor of goods subject to automatic import and export licensing submits the application for automatic licensing before going through the customs declaration formalities, the competent foreign trade authority under the State Council or its authorized institutions shall grant the license; where the license is not granted, the competent foreign trade authority under the State Council or its authorized institutions shall explain the reason. The import and export of goods subject to automatic import and export licensing where the automatic import and export licensing formalities have not been completed shall not be permitted by the customs.

Article 16 — The state may restrict or prohibit the import or export of relevant goods or technologies for the following reasons: (1) where it is necessary to restrict or prohibit the import or export for safeguarding national security, public interest, or public morality; (2) where it is necessary to restrict or prohibit the import or export for protecting the health or safety of human beings, the life or health of animals or plants, or the environment; (3) where it is necessary to restrict or prohibit the import or export for implementing measures relating to the import or export of gold or silver; (4) where the export is restricted or prohibited due to a serious shortage of domestic supply or for the conservation of exhaustible natural resources; (5) where the import is restricted or prohibited due to the limited market capacity of the importing country or region; (6) where the export is restricted or prohibited due to the chaotic order of export operations; (7) where it is necessary to restrict or prohibit the import or export for establishing or accelerating the establishment of a particular domestic industry; (8) where it is necessary to restrict the import of agricultural, animal husbandry, or fishery products in any form; (9) where it is necessary to restrict the import for safeguarding the

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international financial position of the state and the balance of international payments; (10) where it is necessary to restrict or prohibit the import or export in accordance with the provisions of laws or administrative regulations; or (11) where it is necessary to restrict or prohibit the import or export in accordance with the provisions of international treaties or agreements concluded or acceded to by the People's Republic of China.

Article 17 — The state shall exercise security control over the import and export of goods and technologies relating to fissionable or fusionable materials or the materials from which they are derived, and the import and export of goods and technologies relating to arms, ammunition, or other military supplies. The state may, in times of war or for the maintenance of international peace and security, adopt any necessary measures relating to the import and export of goods and technologies.

Article 18 — The competent foreign trade authority under the State Council shall, in conjunction with other relevant authorities under the State Council, formulate, adjust, and publish catalogues of goods and technologies the import or export of which is restricted or prohibited in accordance with the provisions of Articles 16 and 17 of this Law. The competent foreign trade authority under the State Council may, on its own or in conjunction with other relevant authorities under the State Council, upon approval by the State Council, temporarily decide to restrict or prohibit the import or export of particular goods or technologies beyond the catalogues provided for in the preceding paragraph within the scope of Articles 16 and 17 of this Law.

Article 19 — The import and export of goods subject to import or export restrictions shall be subject to quota or licensing administration; the import and export of technologies subject to import or export restrictions shall be subject to licensing administration. The import and export of goods and technologies subject to quota or licensing administration shall not be carried out without the permission of the competent foreign trade authority under the State Council or with the joint permission of the competent foreign trade authority under the State Council and other relevant authorities under the State Council in accordance with the provisions of the State Council. The state may implement tariff quota administration over some imported goods.

Article 20 — Quotas for the import and export of goods shall be allocated by the competent foreign trade authority under the State Council or other relevant authorities under the State Council within their respective functions and duties, on the basis of the import and export performance, production capacity, and other conditions of the applicants, and in accordance with the principles of efficiency, fairness, openness, and fair competition. The specific measures for quota allocation shall be formulated by the State Council.

Article 21 — The state shall implement a commodity assessment system for the import and export of goods, carry out assessment on the basis of the relevant provisions of laws or administrative regulations, and deal with the assessment results in accordance with the law.

Article 22 — The state shall implement an origin administration system over the import and export of goods. The specific measures shall be formulated by the State Council.

Article 23 — The import and export of cultural relics, wild animals and plants, and the products thereof shall be governed by the provisions of relevant laws and administrative regulations where there are special provisions in the relevant laws and administrative regulations.

Chapter IV — International Trade in Services

Article 24 — The People's Republic of China shall, in accordance with the commitments it has made in the international treaties or agreements it has concluded or acceded to, grant market access and national treatment to other contracting parties or acceding parties in international trade in services.

Article 25 — The state may restrict or prohibit the relevant international trade in services on the basis of the following reasons: (1) where it is necessary to restrict or prohibit for safeguarding national security, public

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interest, or public morality; (2) where it is necessary to restrict or prohibit for protecting the health or safety of human beings, the life or health of animals or plants, or the environment; (3) where it is necessary to restrict for establishing or accelerating the establishment of a particular domestic service industry; (4) where it is necessary to restrict for safeguarding the balance of international payments of the state; (5) where it is necessary to restrict or prohibit in accordance with the provisions of laws or administrative regulations; or (6) where it is necessary to restrict or prohibit in accordance with the provisions of international treaties or agreements concluded or acceded to by the People's Republic of China.

Article 26 — The state may exercise security control over international trade in services relating to military supplies and fissionable or fusionable materials or the materials from which they are derived, and international trade in services relating to the import and export of military supplies. The state may, in times of war or for the maintenance of international peace and security, adopt any necessary measures relating to international trade in services.

Article 27 — The competent foreign trade authority under the State Council shall, in conjunction with other relevant authorities under the State Council, formulate, adjust, and publish catalogues of international trade in services the market access of which is restricted or prohibited in accordance with the provisions of Articles 25 and 26 of this Law.

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

Article 28 — The state shall protect intellectual property rights in accordance with the laws and administrative regulations on intellectual property rights in foreign trade activities. Where an imported good infringes upon intellectual property rights and endangers foreign trade order, the competent foreign trade authority under the State Council may adopt measures such as prohibiting the import of the good manufactured by the infringer, prohibiting the export of the good, or prohibiting the import and export of the good for a certain period of time.

Article 29 — Where an intellectual property right holder abuses its intellectual property rights or engages in acts that impede or restrict fair competition, such as refusing to license its intellectual property rights to the counterparty of the transaction under reasonable terms, reaching an exclusive grant-back arrangement, or imposing conditions that impede the fair competition order, the competent foreign trade authority under the State Council may adopt necessary measures to eliminate the harm or the threat of harm.

Article 30 — Where a country or region fails to grant national treatment to the legal persons, other organizations, or individuals of the People's Republic of China in the protection of intellectual property rights, or fails to provide adequate and effective protection for the intellectual property rights originating from the People's Republic of China, the competent foreign trade authority under the State Council may, in accordance with the provisions of this Law and other relevant laws and administrative regulations, and on the basis of the international treaties or agreements concluded or acceded to by the People's Republic of China, adopt necessary measures in the foreign trade activities relating to such country or region.

Chapter VI — Foreign Trade Order

Article 31 — In foreign trade business activities, monopolistic acts that endanger the fair competition of the market shall not be committed. Where any monopolistic act is committed in foreign trade business activities and endangers the fair competition of the market, it shall be dealt with in accordance with the provisions of the relevant laws and administrative regulations on anti-monopoly. Where any monopolistic act as provided for in the preceding paragraph endangers the foreign trade order, the competent foreign trade authority under the State Council may adopt necessary measures to eliminate the harm.

Article 32 — In foreign trade business activities, unfair competition acts such as selling commodities at an unfairly low price, colluding in bidding, making false advertising, or engaging in commercial bribery shall not

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be committed. Where any unfair competition act is committed in foreign trade business activities, it shall be dealt with in accordance with the provisions of the relevant laws and administrative regulations on anti-unfair competition. Where any unfair competition act as provided for in the preceding paragraph endangers the foreign trade order, the competent foreign trade authority under the State Council may adopt necessary measures such as prohibiting the operator from importing and exporting the relevant goods and technologies to eliminate the harm.

Article 33 — In foreign trade activities, the following acts shall not be committed: (1) forging or altering marks of origin of import and export goods, or forging, altering, or trading certificates of origin of import and export goods, import and export licenses, certificates of import and export quotas, or other documents of import and export; (2) defrauding export tax refunds; (3) smuggling; (4) evading certification, inspection, and quarantine inspection as provided for by laws or administrative regulations; (5) other acts in violation of the provisions of laws or administrative regulations. The competent foreign trade authority under the State Council may publish the list of operators that commit the acts provided for in the preceding paragraph.

Article 34 — In foreign trade activities, foreign trade operators shall comply with the provisions of the state on foreign exchange control; where foreign exchange settlement or sale is involved, foreign exchange settlement or sale shall be carried out in accordance with the relevant provisions of the state.

Article 35 — The competent foreign trade authority under the State Council may announce to the public the violations of this Law committed by foreign trade operators.

Chapter VII — Foreign Trade Investigation

Article 36 — The competent foreign trade authority under the State Council may conduct investigations into the following matters in order to maintain the foreign trade order: (1) the impact of the import and export of goods and technologies and international trade in services on domestic industries and their competitiveness; (2) trade barriers of relevant countries or regions; (3) matters that require investigation to determine whether foreign trade relief measures such as anti-dumping, countervailing, or safeguard measures should be adopted in accordance with the law; (4) acts of evading foreign trade relief measures; (5) matters relating to national security and interests in foreign trade; (6) matters that require investigation to implement the provisions of Articles 28, 29, 31, and 32 of this Law; and (7) other matters affecting the foreign trade order that require investigation.

Article 37 — The competent foreign trade authority under the State Council shall publish announcements for the initiation of foreign trade investigations. The investigations may be conducted by means of written questionnaires, hearings, on-site investigations, entrustment of investigations, and other methods. The competent foreign trade authority under the State Council shall, on the basis of the investigation results, make investigation reports or decisions on the handling of the cases, and publish announcements.

Article 38 — The relevant entities and individuals shall provide cooperation and assistance in the foreign trade investigations. The competent foreign trade authority under the State Council and the staff members of other relevant authorities under the State Council and their staff members shall keep confidential the trade secrets they come to know in the course of the foreign trade investigations.

Chapter VIII — Foreign Trade Remedies

Article 39 — Where a product from a country or region is dumped into the market of the People's Republic of China at a price lower than its normal value and causes or threatens to cause material injury to an already established domestic industry, or materially retards the establishment of a domestic industry, the state may adopt anti-dumping measures to eliminate or mitigate such injury, threat of injury, or retardation.

Article 40 — Where a product from a country or region is imported into the market of the People's Republic of China and the export of the product is directly or indirectly subsidized by the exporting country or region,

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causing or threatening to cause material injury to an already established domestic industry, or materially retarding the establishment of a domestic industry, the state may adopt countervailing measures to eliminate or mitigate such injury, threat of injury, or retardation.

Article 41 — Where the substantial increase in the import of a product causes or threatens to cause serious injury to the domestic industry that produces like or directly competitive products, the state may adopt safeguard measures to eliminate or mitigate such injury or threat of injury and provide necessary relief to the domestic industry.

Article 42 — Where the increase in the import of a product from a country or region causes or threatens to cause disruption to the domestic market of a like or directly competitive product, or restricts the trade of a product from a third country or region, the state may adopt necessary measures such as limiting the import of the product to eliminate or mitigate such disruption or restriction.

Article 43 — Where a third country restricts the import of a product from the People's Republic of China and causes or threatens to cause a diversion of trade of the product into the market of the People's Republic of China, the state may adopt necessary measures to restrict the import of the product.

Article 44 — Where a country or region violates the provisions of the international treaties or agreements concluded or acceded to by the People's Republic of China, causing the People's Republic of China to lose or suffer damage to the interests it is entitled to under the treaties or agreements, or impeding the realization of the objectives of the treaties or agreements, the government of the People's Republic of China shall have the right to request the relevant country or region to adopt corresponding remedial measures, and may, in accordance with the international treaties or agreements concluded or acceded to by the People's Republic of China, suspend or terminate the performance of relevant obligations.

Article 45 — The competent foreign trade authority under the State Council shall, in accordance with the provisions of this Law and other relevant laws, conduct the investigation and determination of foreign trade remedies such as anti-dumping, countervailing, and safeguard measures.

Chapter IX — Promotion of Foreign Trade

Article 46 — The state shall formulate foreign trade development strategies and establish and improve the mechanism for the promotion of foreign trade. The state shall establish and improve foreign trade financial service systems, and establish foreign trade development funds and risk funds in accordance with the provisions of the state.

Article 47 — The state shall, through import and export credits, export credit insurance, export tax refunds, and other means, promote the development of foreign trade.

Article 48 — The state shall establish a foreign trade public information service system, and provide foreign trade operators and the public with foreign trade information services.

Article 49 — The state shall encourage foreign trade operators to explore the international market, develop foreign trade by means such as outward investment, overseas contracted projects, and overseas labor service cooperation.

Article 50 — The state shall support the development of foreign trade of small and medium-sized enterprises. The state shall encourage enterprises to establish and improve service guarantee systems for foreign trade, and support foreign trade promotion institutions such as chambers of commerce and associations in carrying out foreign trade promotion activities.

Article 51 — Foreign trade operators may establish and join relevant chambers of commerce or associations in accordance with the law. Relevant chambers of commerce and associations shall comply with laws and administrative regulations, coordinate the foreign trade business activities of their members in accordance with their articles of association, provide them with consulting services, report to the relevant government

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authorities the suggestions of their members on foreign trade promotion, and actively carry out foreign trade promotion activities.

Article 52 — Chinese organizations for the promotion of international trade shall, in accordance with their articles of association, carry out external liaison, hold exhibitions, provide information and consulting services, and other foreign trade promotion activities.

Article 53 — The state shall support and promote ethnic autonomous regions and economically underdeveloped areas in developing foreign trade.

Chapter X — Legal Liability

Article 54 — Where the import and export of goods subject to state trading administration is carried out without authorization, the competent foreign trade authority under the State Council or other relevant authorities under the State Council shall impose a fine of not more than RMB 50,000; where the circumstances are serious, the competent foreign trade authority under the State Council may, within three years from the date on which the administrative penalty decision takes effect, refuse to accept the application for engaging in the import and export business of the goods subject to state trading administration, or revoke the authorization granted to the enterprise for engaging in the import and export business of the goods subject to state trading administration.

Article 55 — Where the import and export of goods or technologies the import or export of which is prohibited, or the import or export of goods or technologies the import or export of which is restricted without permission, is carried out, if the act does not constitute a crime, the customs shall deal with the matter and impose punishment in accordance with the provisions of the relevant laws and administrative regulations; the competent foreign trade authority under the State Council may revoke its authorization for foreign trade business.

Article 56 — Where any of the acts provided for in Article 33 of this Law is committed, the customs and other relevant authorities shall impose punishment in accordance with the provisions of the relevant laws and administrative regulations; where the act does not constitute a crime, the competent foreign trade authority under the State Council may revoke the operator's authorization for foreign trade business.

Article 57 — Where the import or export of goods the import or export of which is prohibited or restricted is carried out, which constitutes a crime, criminal liability shall be pursued in accordance with the provisions of the Criminal Law. Where the import and export of goods the import or export of which is prohibited or restricted is carried out, which is insufficient to constitute a crime, the customs shall impose punishment in accordance with the provisions of the Customs Law; the competent foreign trade authority under the State Council may revoke the operator's authorization for foreign trade business.

Article 58 — Where a staff member of the competent foreign trade authority under the State Council neglects his or her duties, engages in malpractice for personal gain, abuses his or her power, or commits other illegal acts, he or she shall be subject to administrative sanctions in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter XI — Supplementary Provisions

Article 59 — Where laws or administrative regulations provide otherwise for the administration of foreign trade in military supplies, fissionable or fusionable materials, or the materials from which they are derived, and the administration of the import and export of cultural products, such provisions shall prevail.

Article 60 — The state shall adopt flexible measures, give preferential treatment, and provide convenience to the border trade between border areas and the border areas of neighboring countries. The specific measures shall be formulated by the State Council.

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Article 61 — This Law shall not apply to the separate customs territories of the People's Republic of China.

Article 62 — This Law shall come into force as of July 1, 2004. The Foreign Trade Law of the People's Republic of China, adopted at the Seventh Session of the Standing Committee of the Eighth National People's Congress on May 12, 1994, shall be repealed simultaneously.

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