Provisions on the Unreliable Entity List of the PRC

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Article 1 — These Provisions are formulated in accordance with the Foreign Trade Law of the People's Republic of China, the National Security Law of the People's Republic of China, and other relevant laws, for the purposes of safeguarding national sovereignty, security, and development interests, protecting the lawful rights and interests of Chinese enterprises, other organizations, and individuals, and maintaining a fair and free international economic and trade order.

Article 2 — The state shall establish a working mechanism for the unreliable entity list (hereinafter referred to as the "working mechanism"). The working mechanism shall be composed of the Ministry of Commerce as the lead authority with the participation of relevant departments. The office of the working mechanism shall be established within the Ministry of Commerce and shall be responsible for daily work. The working mechanism shall take charge of the organization and implementation of the unreliable entity list system.

Article 3 — The working mechanism shall act on the basis of the Unreliable Entity List in accordance with the law. Foreign entities (including foreign enterprises, other organizations, and individuals) shall be included on the Unreliable Entity List and measures shall be taken against them for any of the following conduct in international economic, trade, and related activities:

(1) Endangering China's national sovereignty, security, and development interests; or

(2) Violating the normal principles of market transactions, terminating normal transactions with Chinese enterprises, other organizations, or individuals, or adopting discriminatory measures against Chinese enterprises, other organizations, or individuals, thereby causing serious damage to the lawful rights and interests of Chinese enterprises, other organizations, or individuals.

The working mechanism may decide to include or remove foreign entities from the Unreliable Entity List, or to modify the measures taken against them, in light of actual circumstances.

Article 4 — When the working mechanism decides to include a foreign entity on the Unreliable Entity List, it shall take into account comprehensively the type, nature, extent, and duration of the relevant conduct, the consequences of the conduct, and other factors. A foreign entity may be included on the Unreliable Entity List after investigation by the working mechanism and a decision made thereby.

Where a foreign entity applies to be removed from the Unreliable Entity List, the working mechanism shall make a decision based on actual circumstances.

Article 5 — Before the working mechanism makes a decision on the inclusion of a foreign entity on the Unreliable Entity List, it shall inform the relevant foreign entity of the factual basis and the decision to include it on the Unreliable Entity List, and the relevant foreign entity shall be permitted to state its views and to submit a defense within the prescribed period.

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Where the working mechanism cannot obtain contact with the relevant foreign entity, or the foreign entity refuses to state its views within the prescribed period, the working mechanism may make a decision on the inclusion of the foreign entity on the Unreliable Entity List.

Where the facts on which a decision is based change, and the foreign entity no longer satisfies the conditions for inclusion on the Unreliable Entity List, the working mechanism shall remove the foreign entity from the Unreliable Entity List. Where the foreign entity has rectified its conduct within the prescribed period and taken measures to eliminate the consequences of its conduct, the working mechanism shall remove it from the Unreliable Entity List.

Article 6 — The working mechanism may decide to take one or more of the following measures against a foreign entity included on the Unreliable Entity List:

(1) Restricting or prohibiting the foreign entity from engaging in China-related import or export activities;

(2) Restricting or prohibiting the foreign entity from investing within the territory of China;

(3) Restricting or prohibiting the entry into China of the relevant personnel, means of transportation, goods, or other items of the foreign entity;

(4) Restricting or revoking the work permits, stay permits, or residence permits in China of the relevant personnel of the foreign entity; and

(5) Imposing fines of a corresponding amount based on the seriousness of the circumstances.

The working mechanism may decide, based on actual circumstances, to take corresponding measures against the responsible person and the directly liable persons of the foreign entity included on the Unreliable Entity List.

Article 7 — Where the working mechanism decides to take measures against a foreign entity, the decision shall be made in writing and shall be served on the foreign entity. Announcements may also be made in other appropriate forms.

Article 8 — Where it is necessary to take any of the measures provided for in Article 6 of these Provisions, the relevant departments shall implement the measures individually or jointly in accordance with their statutory duties and division of work.

Article 9 — Enterprises within the territory of China shall, in the course of their business operations, comply with the decisions made by the working mechanism. Where, in the judgment of the working mechanism, enterprises within the territory of China should be aware that a foreign entity has been included on the Unreliable Entity List, the enterprises shall not enter into, perform, or facilitate transactions with the foreign entity in violation of the decisions of the working mechanism unless exempted.

Article 10 — Enterprises within the territory of China may apply to the working mechanism for an exemption from compliance with the decisions of the working mechanism with respect to a foreign entity included on the Unreliable Entity List, and the working mechanism shall make a decision based on actual circumstances.

Article 11 — Where an enterprise within the territory of China fails to perform its obligations under the relevant decisions made by the working mechanism, the working mechanism shall take measures in accordance with the relevant laws and regulations.

Article 12 — Where a foreign entity is dissatisfied with a decision made by the working mechanism, it may apply for administrative reconsideration or institute administrative proceedings in accordance with the law.

Article 13 — The working mechanism may formulate relevant implementation rules in accordance with the law.

Article 14 — These Provisions shall take effect on the date of promulgation.

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