



## CUSTOMS LAW OF THE PEOPLE'S REPUBLIC OF CHINA

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### CHAPTER I GENERAL PROVISIONS

[Article 1] This Law has been formulated with a view of safeguarding national sovereignty and interests, strengthening Customs control, promoting exchanges in the areas of economy, trade, science, technology and culture with foreign countries and protecting the construction of socialist modernization.

[Article 2] The Customs of the People's Republic of China is a state organ responsible for the control over inbound and outbound activities through the Customs territory. The Customs shall, in accordance with this Law and other related laws and regulations, exercise control over the inbound and outbound means of transport, goods, traveller's luggage, and postal items and other articles (hereinafter referred to as inbound and outbound means of transport, goods and articles); collect Customs duties and other taxes and fees; prevent smuggling; compile Customs statistics and deal with other Customs affairs.

[Article 3] The State Council establishes the Customs General Administration to govern uniformly all Customs in the country.

The State establishes the customs at the ports open to foreign countries and other localities where Customs affairs are concentrated. Administratively Customs offices are not subordinate to the government administration of various levels.

The local Customs shall perform its functions and exercise its powers independently and be accountable only to the Customs General Administration.

[Article 4] The Customs is invested with the following powers:

- (1) To check the inbound and outbound means of transport, examine inbound and outbound goods and articles; to detain those in violation of this Law or other related laws and regulations;
- (2) To verify the papers and identifications of inbound and outbound personnel; to interrogate those suspected of violating this Law or other related laws and regulations, and to investigate their illegal activities;
- (3) To examine or make copy of contracts, invoices, accounts, bills, records, documents, business letters, tape recordings, video recordings and other data which are related to the inbound and outbound means of transport, goods and articles; to detain those connected with the means of transport, goods and articles which are involved in violations of this Law or other laws and regulations;
- (4) To search the means of transport suspected of smuggling and storage places suspected of concealment of smuggled goods and to search those persons suspected of smuggling within the Customs surveillance zone and specified border and coastal areas near a Customs office. Upon the approval of the director of the Customs house, to detain the suspected smuggler and hand him over to the judicial organ. The duration of detention shall not exceed 24 hours under normal circumstances, but it may be extended to 48 hours in special cases.

The range of the specified border and coastal areas shall be defined by the Customs General Administration in conjunction with the Ministry of Public Security and provincial governments concerned.

- (5) To pursue and seize those inbound and outbound means of transport, or persons defying and escaping from Customs control, the pursuit of which may be continued beyond the Customs surveillance zone or the specified nearby border and coastal areas so that the transport means or persons in question may be booked and dealt with according to the proper procedures.
- (6) The Customs may be provided with fire arms for performing its duty. The rules governing the bearing and using of fire arms by the Customs officer shall be drawn up by the Customs General Administration in conjunction with the Ministry of Public Security and approved by the State Council.

[Article 5] All inbound and outbound means of transport, goods, articles shall enter or leave the country at places (points) where a Customs office is located. Where temporary inbound or outbound passage at a place without a Customs office is requested in a special case, permission shall have to be obtained from the State Council or a department empowered by the State Council and the Customs formalities shall be followed in accordance with relevant provisions of this Law.

[Article 6] Unless otherwise provided for, all import and export goods shall be declared and their duties paid by declaration units which have been registered with the Customs or by enterprises authorized to engage in import or export business. The declarants of the above-mentioned units and enterprises shall be tested and approved by the Customs.

The Customs formalities concerning declaration and duty payment of inbound and outbound articles may be fulfilled by the owner or other person entrusted by the owner as his agent.

The agent entrusted for Customs declaration purposes shall abide by all provisions of this Law applicable to the owner.

[Article 7] All Customs officers shall abide by the laws and regulations, enforce the law justly, be loyal to their duties and perform them in a manner as befits a public service.

No units or individuals shall obstruct the Customs in performing its duties.

Where such obstruction occurs while the Customs officer performs his duty, the public security organs and the troop of the People's Armed Police responsible for such matters shall provide assistance.

## CHAPTER II INBOUND AND OUTBOUND MEANS OF TRANSPORT

[Article 8] When inbound and outbound means of transport call at or intend to leave a place where a Customs office is located, the carrier shall make an accurate declaration, lodge or present papers and documents to the Customs and be subject to Customs control.

All inbound and outbound means of transport that stop or berth at a place where a Customs office is located shall not depart without prior approval by the Customs.

Before any inbound or outbound means of transport intends to move from one Customs point to another, requirements for Customs control shall be met, Customs formalities shall be followed and any deviation to foreign territory before it is cleared by the Customs is prohibited.

[Article 9] Inbound means of transport pending declaration to the Customs after entering the territory and outbound means of transport pending to leave the territory after being cleared by the Customs shall both move along the route specified by the competent communications organs or the Customs in case the communications organs have no such specification.

[Article 10] The time of arrival or departure, the place of stay, any moving during their stay and the time for loading or discharging the cargoes or articles of all inbound and outbound vessels, trains and aircraft shall be notified in advance to the Customs by the carrier or related communications and transport units.

[Article 11] The loading and discharging of inbound and outbound cargoes and articles, the embarking and disembarking of inbound and outbound passengers from or to the means of transport shall be carried out under Customs control.

Upon the completion of loading or discharging of such goods and articles, the carrier shall submit to the Customs the delivery receipt and records containing the actual situation.

Articles carried by the person embarking or disembarking the inbound and outbound means of transport shall be declared to the Customs accurately and subject to Customs examination.

[Article 12] While the inbound or outbound means of transport is being searched by the Customs, the officer in charge of the carrier shall be present and the hatches of holds and the doors of cabins, rooms and vehicles shall remain open as required by the Customs. In case that smuggling is suspected, the compartment where smuggled goods may be stored shall be dismantled and the goods or materials shall be removed.

Where deemed necessary, the Customs may dispatch officers to perform duties on board the means of transport and the officer in charge of the carrier shall render the necessary assistance or facilities.

[Article 13] Inbound means of transport of foreign registry and outbound means of transport of domestic registry shall not have their ownership transferred or used for other purposes before having gone through the Customs formalities and their Customs duties paid.

[Article 14] Where inbound and outbound vessels and aircraft are also engaged in transport of goods or passengers within the territory of China, Customs approval shall be obtained and requirements for Customs control shall be satisfied.

Inbound or outbound means of transport that change over to transport inside the territory of China shall go through the Customs formalities before hand as required.

[Article 15] Coastal vessels, fishing boats and special ships engaged in operation on sea shall not carry, exchange, purchase, or transfer the ownership of inbound or outbound goods and articles without prior Customs approval.

[Article 16] Where an inbound or outbound vessel or aircraft is forced to call or land at places without a Customs office, or jettison or discharge goods at such places owing to force majeure, the officer of the carrier in charge shall report the matter to the nearby Customs without delay.

### CHAPTER III INBOUND AND OUTBOUND GOODS

[Article 17] All the following goods shall be subject to Customs control: import goods from the time of entering the territory of China till the completion of the Customs formalities, export goods from the time the Customs declaration is made right up to the time of leaving the territory, and goods in transit, transshipment and through shipment from the time they enter the territory up to the time they leave the territory.

[Article 18] The consignee for import goods and consignor for export goods shall make an accurate declaration, submit the import or export license and the relevant papers and documents to the Customs. Without an import or an export license, goods subject to import or export control by the State shall not be released. Details shall be specified by the State Council.

Declaration with the Customs shall be made by the consignee for import goods within 14 days after the inbound means of transport declares its arrival and, unless specially approved by the Customs, 24 hours before loading for export goods by the consignor.

Where the consignee of import goods fails to declare with the Customs within the time limit mentioned above, a fee for delayed declaration shall be charged by the Customs.

[Article 19] All import and export goods shall be subject to Customs examination. While goods are being examined by the Customs, the consignee for import goods or consignor for export goods shall be present and responsible for moving the goods, opening and restoring the package. Where deemed necessary, the Customs may examine, re-examine the goods or take samples in the absence of the consignee or consignor. Upon the application of the consignee or consignor and being approved by the Customs General Administration, import or export goods may be exempted from examination.

[Article 20] Unless specially approved by the Customs, import and export goods shall be released only upon endorsement by the Customs after duties have been paid or a proper guarantee has been submitted.

[Article 21] Where the consignee fails to declare with the Customs within 3 months from the date of declaration of the means of transport concerned, the goods shall be taken over and sold off by the Customs. The balance of the proceeds of the sale after deduction of expenses for transport, loading and discharging, storage, duties and taxes, may be returned to the consignee within one year upon application. If a claim is not made within the time limit, the money shall be turned over to the State Treasury.

For inbound goods, which are proven to have been misdischarged or over-discharged, after being verified by the Customs, the necessary procedures for their reshipment back to the original destination or for their import shall be undertaken by the officer of the carrier in charge of the means of transport which carried them or the consignee or the consignor of the goods within 3 months from the date of discharging from the means of transport. The duration, when necessary, may be extended another 3 months upon Customs approval. If the formalities are not accomplished with the time limit, the goods shall be disposed of by the Customs in accordance with the preceding provision.

In case that the above-mentioned goods are not suitable for storage over a long period of time, they shall be disposed of before the time limit by the Customs according to the actual situation.

Import goods abandoned by the consignee or the owner with a statement to that effect shall be taken over and sold off by the Customs, and the proceeds of such sale, after

deducting the expense for transport, discharge, and storage, shall be turned over to the State Treasury.

[Article 22] Goods that are imported or exported on a temporary basis and approved by the Customs shall be taken out of or into the territory within 6 months. In special cases, this time limit may be extended upon Customs approval.

[Article 23] The operation of the storage, processing, assembling and consignment sales of the bonded goods shall be approved by the registered with the Customs.

[Article 24] Customs formalities for import goods shall be completed by the consignee at the place where the goods entering the territory and for export goods, by the consignor, at the place where the goods leave the territory.

Upon the application of consignee or consignor, and being approved by the Customs, formalities for import goods may be completed at the place of destination, and for export goods, at the place of departure, provided that these places have a Customs office. The transport of such goods from one Customs to another shall comply with the Customs control requirements. When deemed necessary, such conveyance shall be done under the escort of a Customs officer.

Where goods entering or leaving the territory by electric cable, pipeline or other specific modes of transport, the business units concerned shall make the declaration with the designated Customs and complete the Customs formalities at regular intervals.

[Article 25] All transit, transshipment and through-shipment goods shall be declared with the Customs at the place where they enter the territory or are shipped out of the territory within the specified time limit.

Where deemed necessary, the Customs may examine such goods.

[Article 26] Without Customs approval, goods under Customs control shall not be opened, picked up, delivered, conveyed, replaced, repacked, mortgaged or transferred, and their identifications or marks shall not be changed by any unit or person.

Seals affixed by the Customs shall not be opened or broken by any person without Customs authorization.

The manager of warehouses and places which store the goods under Customs control shall fulfill the formalities of keeping an account for the receipt and delivery in accordance with the Customs provisions.

The storage of goods under Customs control at a place outside the Customs surveillance zone shall be approved by the Customs and subject to Customs control.

[Article 27] Rules governing the inbound and outbound containers, rules governing the salvage of inbound and outbound goods and sunken ships, rules governing import and export goods under small-scale border trade and rules governing other inbound and outbound goods not specified in this Law shall be drawn up by the customs

General Administration independently or in conjunction with the relevant department under the State Council.

#### CHAPTER IV INBOUND AND OUTBOUND ARTICLES

[Article 28] Inbound and outbound luggage carried by individuals and inbound and outbound articles sent by post shall be for personal use, in reasonable quantities and subject to Customs control.

[Article 29] All inbound and outbound articles shall be accurately declared with the Customs by the owner, and be subject to Customs examination.

Seals affixed by the Customs shall not be opened or broken by any person without authorization.

[Article 30] The loading, unloading, conveyance and transit of inbound and outbound mail bags shall be subject to Customs control, and a covering way bill shall be lodged with the Customs by the units engaged in postal service.

The units engaged in postal service shall inform the Customs in advance of the time for the opening and sealing of international mail bags; the Customs shall dispatch officers to the spot to exercise control over the bags in time.

[Article 31] Inbound and outbound articles sent by post shall be delivered or handed over only after they have been examined and released by the Customs.

[Article 32] Inbound or outbound articles registered with the Customs and temporarily exempted from Customs duty upon approval shall be brought out or into the territory again by the person on his own.

Persons passing through the territory shall not leave behind the articles they carry in the territory without Customs approval.

[Article 33] Inbound and outbound articles that are abandoned by the owner with a statement, unclaimed for which Customs formalities are not completed within the specified time limit, or postal articles which can neither be delivered nor sent back, shall be disposed of by the Customs in accordance with Article 21 of this Law.

[Article 34] Inbound and outbound articles intended for official or personal use by foreign missions or personnel enjoying diplomatic privileges and immunity shall be dealt with in accordance with the Regulations on Diplomatic Privileges and Immunity of the People's Republic of China.

#### CHAPTER V CUSTOMS DUTIES

[Article 35] Unless otherwise provided for in this Law, Customs duties shall be collected in accordance with the Import and Export Tariff (schedules) on goods permitted to be imported or exported and articles permitted to enter or leave the territory. The Tariff shall be made public.

[Article 36] The consignee of import goods, the consignor of export goods and the owner of inbound and outbound articles are obligatory Customs duty payer.

[Article 37] The obligatory duty payer of import or export goods shall pay the amount levied within 7 days following the date of issuance of the duty memorandum. At the expiration of this time-limit, a fee for delayed payment shall be collected by the Customs. Where the delay exceeds 3 months, the Customs may either instruct the guarantor to pay the duty or sell off the goods for compensation. When deemed necessary, the Customs may request the bank to deduct the amount of duties from the deposits of the guarantor or the obligatory duty payer.

The payment of duty on inbound or outbound articles shall be made by the obligatory duty payer prior to their release.

[Article 38] The price for duty assessment of import goods shall be the normal CIF price, which shall be recognized by the Customs; the price for duty assessment of export goods shall be the FOB price, which shall be recognized by the Customs, minus the export duty. Where the CIF or FOB price can not be ascertained, the price for duty assessment shall be estimated and fixed by the Customs.

[Article 39] Duty reduction or exemption shall be granted for the import and export goods and inbound and outbound articles listed below:

- (1) Advertising matters and trade samples of no commercial value;
- (2) Materials by foreign governments or international organizations;
- (3) Goods suffering damage or loss prior to Customs release;
- (4) Articles of a quantity or value below the fixed limit;
- (5) Other goods and articles enjoying duty reduction or exemption in accordance with the laws and regulations;
- (6) Goods and articles enjoying duty reduction or exemption in accordance with the international treaties to which the People's Republic of China is either a contracting or an acceding party.

[Article 40] Duty reduction or exemption shall be granted to goods imported or exported by the Special Economic Zones and other specified areas, and by Sino-foreign joint ventures, contractual joint ventures and wholly foreign-owned enterprises, and to goods imported or exported for specific purposes, and to materials donated for public welfare. The State Council will specify the exact items and enact rules on such reduction and exemption.

The State Council or the department empowered by the State Council shall also specify the duty reduction or exemption items of small-scale border trade and draw up detailed rules on such reduction or exemption.

[Article 41] All import goods and articles to which duty reduction or exemption is granted in accordance with the preceding article shall be used only in specified areas and enterprises and for specific purposes. They shall not be utilized otherwise unless Customs approval is obtained and duties duly paid.

[Article 44] Upon discovery of a short-or non-payment of Customs duty on import or export goods, or inbound or outbound articles after their release, the Customs shall collect the money payable from the obligatory duty payer within 1 year of the previous duty payment or the release of the goods or the articles. If the short-or non-payment of the duty is due to a breach of the Customs regulations by the obligatory duty payer, the Customs is entitled to recover the unpaid duty within 3 years.

[Article 45] Where an over-levy of duty is discovered, the Customs, shall refund the money without delay; the duty payer is entitled to ask the Customs for the refunding within 1 year of the date of duty payment.

[Article 46] Where the obligatory duty payer is involved in a dispute over duty payment with the Customs, he shall first make the payment of the duty and then apply to the Customs in writing for a reconsideration of the case within 30 days of the issuance of the duty memorandum. The Customs shall reach a decision within 15 days after receipt of the application. In case the obligatory duty payer still has objection against the decision, he is entitled to apply to the Customs General Administration for a reconsideration of the case within 15 days after receipt of the decision. If the decision of the Customs General Administration is still considered unacceptable, the obligatory duty payer may take legal action at the People's Court within 15 days after receipt of the decision.

## CHAPTER VI LEGAL RESPONSIBILITIES

[Article 47] Any one of the following acts to evade Customs control constitutes a crime of smuggling:

- (1) To transport, carry or send by post into or out of the territory drugs, **weapons** and counterfeit currencies which are prohibited by the State from importation or exportation; to transport, carry or send by post obscene objects into or out of the territory aiming at commercial gain or dissemination, or to transport, carry or send by post out of the territory precious cultural relics which are prohibited by the State from exportation;
- (2) For the purpose of commercial gain, to transport, carry or send by post into or out of the territory the goods or articles which are not listed above but also prohibited by the State from importation or exportation, and goods and articles in relatively large quantities or of relatively high value which are restricted by the State from importation or exportation or subject to Customs duties in accordance with laws and regulations;
- (3) To sell without Customs approval and payment of duties, the bonded goods imported upon special permission or goods enjoying specified duty reduction or exemption in relatively large quantities or of relatively high value.

Any armed smuggling of goods and articles or resistance by violence to Customs examination over smuggled goods and articles constitutes a crime of smuggling, regardless of the quantity or value of the goods and articles involved.

Criminal sanctions imposed by the People's Court on persons guilty of smuggling shall include a fine and confiscation of the smuggled goods and articles, the means of transport carrying them and illegal incomes obtained therefrom.

Where an enterprise, an undertaking, a government department or a social organization commits a crime of smuggling, criminal sanctions shall be imposed on the person in charge and the person directly responsible for the offence by the judicial organ, a fine and confiscation of the smuggled goods and articles, the means of transport carrying them and the illegal incomes obtained therefrom may also be imposed on such unit.

[Article 48] If the smuggled goods and articles involved in one of the acts listed under 2 and 3 of Article 47 of this Law are not large in quantity, nor high in value or where the carrying or sending by post of obscene objects into or out of the territory does not yet constitute a crime of smuggling, the Customs, while confiscating the goods, articles or illegal incomes obtained therefrom, may at the same time impose a fine on the person concerned.

[Article 49] Any of the following acts shall be dealt with as a crime of smuggling and punishable in accordance with the provisions of Article 47 of this Law:

(1) To purchase directly and illegally from the smuggler articles which are prohibited by the State from importation, or to purchase directly and illegally from the smuggler other smuggled goods and articles in relatively large quantities or of relative high value.

(2) To transport, purchase or sell on coastal or territorial waters articles which are prohibited by the State from importation and exportation, or transport, purchase or sell without legal certification goods and articles which are restricted by the State from importation or exportation in relatively large quantities or of relatively high value.

Where an act listed above does not yet constitute a crime of smuggling, the provisions concerning punishments under Article 48 shall be applied.

[Article 50] Any individual who carries or sends by post articles for personal use into or out of the territory in a quantity exceeding the reasonable limit and fails to declare them to the Customs shall be made to pay the duties and a fine.

[Article 51] A penalty may be imposed for any of the following acts which violate the regulations on Customs control:

(1) For a means of transport, to enter or leave the territory at a place without Customs office;

(2) Failure to inform the Customs of the arrival and the departure time of the means of transport and the place of its intended stay or any change of the place during its stay;

- (3) Failure to declare to the Customs accurately the import and export goods and the transit, transshipment and through goods;
- (4) Failure to submit to the checking and examination by the Customs of the means of transport, goods and articles in accordance with relevant regulations;
- (5) For an inbound or outbound means of transport, to load or unload inbound or outbound goods and articles, or to embark and disembark passengers without Customs approval;
- (6) For an inbound or outbound means of transport staying at a place where a Customs office is located, to leave without Customs approval;
- (7) For inbound or outbound means of transport intended from one place having a Customs office to another place having a Customs office, to move out of the territory or to a point in the territory where there is no Customs office before completing the clearance formalities and obtaining the Customs approval.
- (8) For an inbound and outbound means of transport, to engage concurrently in, or change to, water transport within the territory without Customs approval;
- (9) For an inbound or outbound vessel or aircraft which by force majeure stops or lands at a place without a Customs office, or jettisons or discharges the cargo in the territory, to fail to report to the Customs nearby without a valid reason;
- (10) To open, pick up, deliver, forward, replace, repack, mortgage or transfer goods that are under Customs control without Customs approval;
- (11) To open or damage sales affixed by the Customs;
- (12) Violations of other Customs control regulations contained in this Law that result in failure or suspension of Customs control over inbound and outbound means of transport, goods and articles.

[Article 52] All smuggled goods and articles, the smuggling means of transport employed in the smuggling and the illegal incomes therefrom which are confiscated by the order of the People's Court or by the decision of the Customs together with the fines paid shall be turned over to the State Treasury. It shall be the Customs to deal with and turn over to the State Treasury in accordance with the regulations of the State Council, all smuggled goods and articles and the means of transport confiscated by the order of the People's Court and the decision of the Customs.

[Article 53] Where the person concerned objects to the Customs decision of punishment, he may apply for reconsideration of the case either to the Customs making the decision or to one at a higher level, within 30 days after receipt of the notification of punishment or 30 days after the punishment is made public in case it is impossible to send such notification. If the person concerned finds the decision reached after the reconsideration still unacceptable, he may take his case to the People's Court within 30 days after receipt of the decision. The person concerned may also take his case directly to the People's Court within 30 days after receipt of the

notification of punishment or 30 days after the punishment is made public. If the person concerned refuses to carry out the Customs decision and fails to apply for a reconsideration of the case to the People's Court within the time-limit, the Customs making the decision may confiscate the deposit of the person concerned, sell off his goods, articles and means of transport detained, or apply to the People's Court for an injunction to enforce the execution of the decision.

[Article 54] Any damage to any inbound and outbound goods or articles caused by Customs examination, the actual loss shall be made up by the Customs.

[Article 55] Any criminal responsibility shall be prosecuted in accordance with Article 155 of the Criminal Law of the People's Republic of China in case the Customs personnel divide up the confiscated smuggled goods and articles among themselves.

No Customs personnel shall purchase confiscated smuggled goods and articles. Those who have done so shall be made to return the goods and articles, and may be subject to disciplinary actions.

[Article 56] Disciplinary actions shall be imposed on those Customs personnel who abuse their power and intentionally create difficulties or procrastinate the control and examination; disciplinary or legal actions shall be taken on those who practice graft, neglect their duties or indulge in smuggling, depending on the seriousness of the case.

## CHAPTER VII SUPPLEMENTARY PROVISIONS

[Article 57] Terms used in this Law are defined as follows:

The term "inbound and outbound means of transport" means various vessels, vehicles, aircraft and animals which enter or leave the territory for carrying passengers, goods and articles.

The term "transit, transshipment and through goods" means goods which come from a place outside the territory and pass through the territory en route to a place outside the territory. Among them, "transit goods" are those passing through the territory by land, "transshipment goods" are those only changing the means of transport at a place having a Customs office and without passing through the territory by land, and "through goods" are those carried into and out of the territory by the same vessel or aircraft.

The term "goods under Customs control" means import and export goods enumerated in Article 17 of this Law, transit goods, transshipment goods, through goods, temporary import and export goods, bonded goods and other inbound and outbound goods for which Customs formalities have not been completed.

The term "bonded goods" means goods which have entered the territory with formalities of duty payment being exempted upon Customs approval and will be reshipped out of the territory after being stored, processed or assembled in the territory.

The term "Customs surveillance zone" means exports, railway and highway station, airports, border passes and international postal matter exchanges for which a Customs office is provided, other places where Customs control is conducted and places without a Customs office but have been approved by the State Council as a point of entry or exit.

[Article 58] The customs shall reward individuals or units providing information or assistance which is helpful for the exposing of offences against this Law; the identities of such individuals or units shall be kept strictly confidential by the Customs.

[Article 59] Rules governing the control over the means of transport, goods and articles of other parts of the territory entering or leaving the Special Economic Zones and other specially designated areas shall be enacted by the State Council.

[Article 60] Detailed rules and regulations for the implementation of this Law shall be drawn up by the Customs General Administration and be put into force after being approved by the State Council.

[Article 61] This Law shall enter into force on July 1, 1987, on which date the Provisional Customs Law of the People's Republic of China promulgated on April 18, 1951 shall be abrogated.