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China, People's Republic of

Food and Agricultural Import Regulations and Standards

Law on Import and Export Commodity Inspection

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Report Highlights:

This is an UNOFFICIAL English translation of the People's Republic of China Law on Import and Export Commodity Inspection and should be used as a guide only.

Exporters should carefully discuss regulations and their application with Chinese importers to ensure that their interpretation of the regulation is accurate.

Includes PSD changes: No
Includes Trade Matrix: No
Unscheduled Report
Beijing [CH1], CH

This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Beijing, People's Republic of China for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

Summary

The following is the "Law of the People's Republic of China On Import and Export Commodity Inspection." This law was ratified at the Sixth Plenary Session of the Standing Committee of the Seventh National People's Congress on February 21, 1989 and amended in accordance with the decision on amending the "Law of the People's Republic of China On Import and Export Commodity Inspection" on April 28, 2002. This law provides the general framework for Import and Export Commodity Inspection within the People's Republic of China. Chinese national technical standards (GB or GB/T) exist for specific commodities (e.g. fresh and frozen poultry, beverage drink classification, etc.) and often detail inspection procedures and requirements.

The role of the "State Commodity Inspection Department" (mentioned in Article 2) is assumed by the State Administration for Quality, Supervision, Inspection, and Quarantine (AQSIQ). The Catalog mentioned in Article 4 and the inspection waiver mentioned in Article 5 are not available. The "Catalog" and "Inspection Waiver" will be made available once the documents are published and provided to the Foreign Agriculture Service. Again, the following document is an unofficial English translation.

Law of the PRC on Import and Export Commodity Inspection

Chapter One: General Articles

Article 1: This Law is formulated in an effort to tighten inspection of import and export commodities, standardize inspection of import and export commodities, protect the legal rights and interests of all parties involved in importing and exporting goods, and accelerate the smooth development of foreign trade and economic relations.

Article 2: The State Council shall establish an import and export commodity inspection department (hereafter referred to as the "State Commodity Inspection Department"), and give this department the primary responsibility for administering inspection of import and export commodities. Local institutions under the administration of the State Commodity Inspection Department (hereafter referred to as "commodity inspection authorities") shall be responsible for local inspection of import and export commodities within the jurisdiction of each institution.

Article 3: Commodity inspection authorities and other inspection organizations with authorization from the State Commodity Inspection Department shall inspect import and export commodities in accordance with the law.

Article 4: Regarding the inspection of import and export commodities, the State Commodity Inspection Department

shall make, adjust, publish and implement a Catalog of Import and Export Commodities that shall be subject to inspection by commodity inspection authorities (hereafter referred to as the "Catalog") in accordance with the principle of protecting human health and safety, protecting the life and health of animals and plants, protecting the environment, preventing fraud, and protecting national security .

Article 5: Import and export commodities listed in the Catalog shall be inspected by commodity inspection authorities. Import commodities, stipulated in the preceding paragraph, shall be banned from sale and use unless they pass import commodity inspection. Export commodities, stipulated in the preceding paragraph, shall be banned from export unless they pass export commodity inspection.

If import commodities stipulated in the first paragraph of Article 5 conform to the stipulations of the People's Republic of China regarding exemption from import commodity exemption, import commodities stipulated in the first Paragraph of this Article may be exempted from inspection, only after the consignee or shipper of these commodities files an application for inspection exemption and the State Commodity Inspection Department examines and approves the application.

Article 6: Compulsory inspection of import and export commodities refers to activities to assess whether or not commodities listed in the Catalog meet the compulsory requirements of the national technical standards.

Procedures for this assessment include: sampling, testing and inspection; evaluation, verification, and quality assurance checks; registration, certification, and approval; a combination of the aforesaid items.

Article 7: Commodities in the Catalog shall be tested in accordance with the compulsory requirements of the national technical standards. If compulsory requirements for given commodities are not yet available, they shall be formulated in a timely manner, in accordance with the law. Before the formulation of these requirements, the relevant foreign standards designated by the State Administration for Commodity Inspection may be taken with reference to the inspection.

Article 8: The inspection organizations licensed by the State Administration for Commodity Inspection may be entrusted to handle the business of supervising and surveying the import and export commodities by parties involved in foreign trade or by foreign inspection institutions.

Article 9: Commodity inspection or portions of commodity inspections conducted by other testing institutions shall be conducted in accordance with the law or with administrative regulations.

Article 10: The State Commodity Inspection Department and commodity inspection authorities shall collect inspection information on the import and export of commodities and provide relevant inspection information on the import and export of commodities to parties in a timely manner.

State Commodity Inspection Department officials and commodity inspection authorities are obligated to keep commercial secrets confidential that they become aware in the course of fulfilling their duties during the inspection of import and export commodities.

Chapter Two: Inspection of Import Commodities

Article 11: Consignees or agents of imported commodities that must be inspected by commodity inspection authorities shall apply for commodity inspection with local commodity inspection authorities in the location at which these consignees or agents go through customs procedures. Customs authorities shall check and clear these commodities based on the clearance certificate issued by the commodity inspection authorities.

Article 12: For imported commodities that must be subject to inspection by the commodity inspection authorities in accordance with this Law, the consignee or its agent shall receive the same authorities' inspection of these commodities in places and within the specified time limit. The commodity inspection authorities shall, within the uniform time limit prescribed by the State Administration for Commodity Inspection, complete inspection, and issue the inspection documents.

Article 13: If a consignee for imported commodities that must be inspected by the commodity inspection authorities finds that the import commodity fails quality standards, or the goods are less than the reported quantity, or the goods are damaged and the consignee requests the commodity inspection authorities to issue a certificate with which the consignee can claim compensation, the consignee shall file an application with the commodity inspection authorities for the certificate.

Article 14: In instances in which crucial commodities or sets of complicated equipment are imported, the consignee should conduct a pre-inspection, manufacturing check, and shipment check in accordance with the stipulations of the purchase contract. The department with administrative responsibility shall tighten supervision accordingly, and commodity inspection authorities may send inspectors to participate if necessary.

Chapter Three: Inspection of Export Commodities

Article 15: Shippers or agents for exported commodities that must be inspected by commodity inspection authorities shall apply for commodity inspection with the local commodity inspection authorities in the location at which the shipper or agent clears customs. The commodity inspection authorities should complete the inspection before the overall inspection deadline as set by the State Commodity Inspection Department and issue a commodity inspection certificate.

Customs authorities shall check and release commodities that must be subject to inspection in accordance with this Law, depending on the clearance certificate issued by the commodity inspection authorities.

Article 16: After commodity inspection authorities issue an inspection certificate for commodities that pass inspection, customs clearance procedures for the export of these commodities shall be completed before the deadline given by the commodity inspection authorities. If the commodities are to be inspected after this deadline, another commodity inspection shall be applied for and completed before the commodities can be exported.

Article 17: Manufacturers of dangerous cargo shall apply to commodity inspection authorities for an assessment of the performance of containers for this cargo. Exporters of dangerous commodities shall apply to the commodity inspection authorities for assessment of the use of the containers that will be used to ship dangerous commodities. Dangerous commodities stored in containers that do not pass assessment are banned from export.

Article 18: When loading ships or containers with food products that spoil easily, the shipper or loading party shall apply to the commodity inspection authorities for an inspection of such food products before loading. Food products

that do not pass inspection are banned from being loaded or shipped.

Chapter Four: Supervision and Administration

Article 19: Commodity inspection authorities may make a random inspection of commodities not included in the catalog, in accordance with national regulations.

The State Commodity Inspection Department may publicize results of random checks or send circular notices to relevant departments.

Article 20: For the convenience of exporters, commodity inspection authorities may conduct in-factory supervision or administer and inspect commodities listed in the catalog.

Article 21: Only agents that have registered with the commodity inspection authorities are allowed to handle the procedures for export commodity inspections. Letters of entrustment shall be presented to the commodity inspection authorities when going through the above procedures.

Article 22: The State Commodity Inspection Department may, in accordance with relevant state government regulations, authorize domestic or foreign testing institutions to provide commodity testing services if these institutions pass an examination and have the requisite qualifications.

Article 23: The State Commodity Inspection Department and the commodity inspection authorities may supervise the commercial activities of authorized institutions that provide commodity testing services and may also conduct random checks of tested commodities.

Article 24: The State Commodity Inspection Department may implement a certificate-based administration system for import and export commodities, in accordance with the unified national certification system.

Article 25: Commodity inspection authorities may assess and certify the quality of export commodities in accordance with agreements with relevant institutions or may assess and certify the quality of export commodities that have been tested by foreign institutions entrusted to do such testing, and may allow the use of quality certification marks on commodities to show that the goods have passed inspection.

Article 26: Commodity inspection authorities shall, in accordance with this Law, supervise import and export commodity inspections on the basis of a license system. Commodity inspection authorities should examine and verify documents and check whether or not documents agree with the actual situation for the commodities.

Article 27: If needed, commodity inspection authorities may use commodity inspection marks or seals for commodities that have passed inspection.

Article 28: If a commodity inspection applicant has suspicions regarding the results of an inspection, the applicant may file an application with the commodity inspection authorities that conducted this inspection or with the next higher government level asking for another inspection. The commodity inspection authorities that approve the application, or the State Commodity Inspection Department, should issue the result of the second inspection in a timely manner.

Article 29: If a party disagrees with the results of the second inspection conducted by the commodity inspection authorities or disagrees with a punitive decision by the commodity inspection authorities, this party may either apply for an administrative revision in accordance with the law or file a court complaint, in accordance with the law.

Article 30: When fulfilling official duties, the State Commodity Inspection Department and commodity inspection authorities must honor the law, protect national interests, execute the law strictly in accordance with their duties and execute the law by procedures stipulated in the law. The State Commodity Inspection Department and commodity inspection authorities must accept supervision.

The State Commodity Inspection Department and the commodity inspection authorities, in light of the need to fulfill their legal duties, should strengthen development of this group and ensure the excellence of their political stance and professionalism. Commodity inspectors should regularly take professional training and examinations. Only those who pass examinations are allowed to fulfill their duties as commodity inspectors.

Commodity inspectors must be upright, ethical, and abide by the law. Commodity inspectors must provide services in a civilized manner, and abide by professional ethics. Commodity inspectors shall not abuse their power or trade their power for personal gain.

Article 31: The State Commodity Inspection Department and commodity inspection authorities shall establish and complete an internal system to supervise and inspect how commodity inspectors enforce the law.

The duties and power of commodity inspectors who are responsible for processing applications, conducting inspections, and issuing certificates shall be defined in an explicit manner so that these duties and power are separated and so that each checks on the other.

Article 32: Any work unit or individual has the right to file a legal claim or turn in reports of illegal or undisciplined behavior by the State Commodity Inspection Department, commodity inspection authorities and their employees. Institutions that receive such legal claims or reports should investigate and punish those involved in a timely manner, in light of their duties, and should keep confidential information regarding the party who filed the lawsuit or turned in the report.

Chapter Five: Legal Obligations

Article 33: In cases in which one party takes the liberty to sell or use imported commodities or to export commodities that should have been inspected, but, and in violation of the law, were not inspected, by commodity inspection authorities, commodity inspection authorities shall confiscate any illegal income gained from the sale or use and fine this party a sum of between 5% and 20% of the total value of the commodities involved. In such cases, the party shall be held responsible for its legal obligations, if what it did is determined to have been a crime.

Article 34: In cases in which an institution takes the liberty to provide commodity inspection and assessment services without prior authorization from the State Commodity Inspection Department, commodity inspection authorities shall order this institution to stop offering services, confiscate its illegal income, and impose a fine of not less than the amount of the illegal gains but not more than three times thereof.

Article 35: In cases in which a party imports or exports commodities that are adulterated, counterfeit, substandard or unqualified, commodity inspection authorities shall order this party to stop its imports or exports, confiscate all its illegal income, and impose a fine of not less than 50 percent of the value of the commodities involved but not more than three times thereof. Where a crime is committed, the offender shall be prosecuted for criminal liability in accordance with the law.

Article 36: In cases in which a party makes fraudulent commodity inspection documents, stamps, symbols, seals and/or quality certificate symbols, or changes, sells, buys, and/or steals commodity inspection documents, stamps, symbols, seals and/or quality certificate symbols, this party shall be held legally responsible. If what this party did is not serious enough to be considered a crime, commodity inspection authorities shall order this party to correct its mistakes, confiscate its illegal income, and fine this party a sum of no more than the value of the commodities involved in this case.

Article 37: In cases in which employees of the State Commodity Inspection Department and commodity inspection authorities, in violation of the provisions of this Law, release commercial secrets to which they have access, these employees shall be given administrative sanctions. If any employee earns illegal income from this activity, this income shall be confiscated. If what any of these employees did is considered a crime, these employees shall be held legally responsible.

Article 38: In cases in which an employee of the State Commodity Inspection Department or commodity inspection authorities abuse his or her power, create problems for importers and exporters or agents, are engaged in corruption, issue false inspection certificates, or delay the issuance of inspection results due to negligence, this employee shall receive administrative sanction. If what this employee did is considered a crime, this employee shall be held legally responsible.

Chapter Six: Supplementary Rules

Article 39: When commodity inspection authorities and other testing institutions conduct commodity inspections or provide testing or assessment services as stipulated in this Law, they are allowed to charge fees in accordance with relevant regulations.

Article 40: The State Council shall formulate rules for the implementation of this Law.

Article 41: This Law shall take effect from 1 August 1989.