

Measures for Administration of the Import of Mechanical and Electronic Products

Chapter 1 General Provisions

Article 1 With a view to boost sound development of foreign trade, implement state industrial policies and maintain market order, these measures are formulated in accordance with relevant laws and administrative regulations including the *Foreign Trade Law of The People's Republic of China* and the *Regulation of the People's Republic of China on the Administration of the Import and Export of Goods*.

Article 2 The mechanical and electronic products hereof (including used mechanical and electronic products) refer to mechanical equipment, electric equipment, means of transportation, electronic products, electric appliances, instruments and meters, metal products as well as their components and parts. See appendix for the specific scope of mechanical and electronic products.

The used mechanical and electronic products hereof refer to mechanical and electronic products in any conditions as follows: (1) used (excluding equipment tested and adjusted before use) yet with basic functions and certain use-value; (2) unused yet exceeding the quality guarantee period (not warranty period); (3) unused yet with obviously tangible depreciation of some parts due to long time storage; (4) mixed assembling of new and used parts; (5) with renovation.

Article 3 These Measures shall be applicable to the import of mechanical and electronic products to the People's Republic of China.

Article 4 Import of mechanical and electronic products shall comply with provisions of Chinese laws, administrative regulations and technical standards concerning safety, sanitation and environmental protection etc.

Article 5 The Ministry of Commerce (hereafter referred as MOFCOM) is responsible for national administration of the import of mechanical and electronic products. The National Office for Import and Export of Mechanical and Electronic Products is set up under the MOFCOM.

Mechanical and electronic import and export offices in all provinces, autonomous regions, municipalities directly under the central government, cities under separate state planning, open coastal cities and special economic zones as well as those in relevant departments of the State Council (hereafter referred as local and departmental mechanical and electronic offices) are consigned by the MOFCOM to be responsible for the administration of the import of mechanical and electronic products in their areas or departments.

Article 6 The state implements classified administration for mechanical and electronic products, namely, three classes of forbidden import, restrictive import and free import.

For the need of import supervision, some mechanical and electronic products under free import category are subject to automatic import license.

Chapter 2 Forbidden Import

Article 7 Mechanical and electronic products in any of the following conditions shall be forbidden from import:

- (1) Import shall be forbidden for maintenance of state security, social public interests or public morality;
- (2) Import shall be forbidden for protection of human health or safety, life or health of fauna and flora, and environment;
- (3) Import shall be forbidden according to provisions of other laws and administrative regulations;
- (4) Import shall be forbidden according to provisions of international treaties and conventions that concluded or participated by the People's Republic of China.

Article 8 The MOFCOM together with the General Administration of Customs (hereafter referred as GAC) and the General Administration of Quality Supervision, Inspection and Quarantine (hereafter referred as GAQSIQ) etc. shall formulate, adjust and promulgate the *Catalogue of Mechanical and Electronic Products under Forbidden Import Category*.

The used mechanical and electronic products exceeding the stated quality guarantee periods are jointly listed in the said catalogue by the state in accordance with the degrees they may bring harm to the state security, social public interests as well as safety, sanitation, health and environmental protection.

Chapter 3 Restrictive Import

Article 9 Mechanical and electronic products in any of the following conditions shall be restricted from import:

- (1) Import shall be restricted for maintenance of state security, social public interests or public morality;
- (2) Import shall be restricted for protection of human health or safety, life or health of fauna and flora, and environment;
- (3) Import shall be restricted for establishment or promotion of establishment of Chinese specific industries;
- (4) Import shall be restricted for guarantee of international financial status and international

payments equilibrium of the state;

- (5) Import shall be restricted according to provisions of other laws and administrative regulations;
- (6) Import shall be restricted according to provisions of international treaties and conventions that concluded or participated by the People's Republic of China.

Article 10 The MOFCOM together with the GAC and the GAQSIQ shall formulate, adjust and promulgate the *Catalogue of Mechanical and Electronic Products under Restrictive Import Category*. The mechanical and electronic products under restrictive import category are subject to quota and license administration.

Article 11 The used mechanical and electronic products under state restrictive import category are called as specified used mechanical and electronic products.

The MOFCOM together with the GAC and the GAQSIQ shall formulate, adjust and promulgate the *Catalogue of Import of Specified Used Mechanical and Electronic Products*.

Specific used mechanical and electronic products are subject to import license administration.

Article 12 The *Catalogue of Mechanical and Electronic Products under Restrictive Import Category* and the *Catalogue of Import of Specified Used Mechanical and Electronic Products* shall be promulgated 21 days before implementation. In urgent circumstances, the date of promulgation shall not be later than that of implementation.

Article 13 The mechanical and electronic products under restrictive import category of quotation administration shall be administrated according to the provisions of relevant measures for import quotation administration of goods issued by the State Council.

Article 14 For the mechanical and electronic products subject to import license administration, local and departmental mechanical and electronic offices shall submit application materials of import entities to the MOFCOM after verification. The MOFCOM shall verify the application materials and make decision whether issue the *Import License of People's Republic of China* (hereafter referred as *Import License*) within 20 days. Import entities shall handle clearance procedures according to provisions of customs against the *Import License*.

To import the specified used mechanical and electronic products, import entities shall handle clearance procedures according to provisions of customs with the *Import License* and the *Customs Clearance Form of Entry of Goods* (mark "file of import of used mechanical and electronic products" in Remark column) issued by state inspection and quarantine agencies.

Article 15 The MOFCOM and the GAC shall formulate and promulgate the *Measures for Implementation and Administration of Import License of Mechanical and Electronic Products*. The

MOFCOM, together with the GAC and GAQSIQ shall formulate and promulgate the *Measures for Administration of Specified Used Mechanical and Electronic Products*.

Chapter 4 Automatic Import License

Article 16 To monitor the import of mechanical and electronic products, the state implements automatic import license to some mechanical and electronic products under free import category.

Article 17 The MOFCOM, together with the GAC and the GAQSIQ, formulate, adjust and promulgate the *Catalogue of Automatic Import License of Mechanical and Electronic Products*. The *Catalogue of Automatic Import License of Mechanical and Electronic Products* shall be promulgated no later than 21 days of the date of implementation.

Article 18 To import the mechanical and electronic products subject to automatic import license, import entities shall apply and obtain the Automatic Import License of the People's Republic of China (hereafter referred as Automatic Import License) from the MOFCOM or local and departmental mechanical and electronic offices before transaction of clearance procedures, and handle clearance procedures according to provisions of customs against the *Automatic Import License*.

To import the used mechanical and electronic products listed in the catalogue of automatic import license of mechanical and electronic products (excluding specified used mechanical and electronic products), import entities shall handle clearance procedures according to provisions of customs with the *Automatic Import License* and the *Customs Clearance Form of Entry of Goods* (mark "file of import of used mechanical and electronic products" in Remark column) issued by state inspection and quarantine agencies.

Article 19 The MOFCOM and the GAC formulate and promulgate the *Measures for Implementation of Automatic Import License of Mechanical and Electronic Products*.

Chapter 5 Monitoring and Supervision of Import

Article 20 The MOFCOM is responsible for taking statistics, analysis and monitoring of national import of mechanical and electronic products.

Local and departmental mechanical and electronic offices shall submit their statistics data and materials of the import of mechanical and electronic products to the MOFCOM according to the provisions of national statistics systems.

Article 21 If there is any abnormality of import of mechanical and electronic products by monitoring, the MOFCOM shall notify relevant departments in a timely manner and carry out investigation according to laws.

Article 22 The MOFCOM and local and departmental mechanical and electronic offices can

undertake inspections on import of mechanical and electronic products under restrictive import category according to laws. Import entities shall cooperate and assist the inspections and inspection departments shall keep business secrets for the import entities.

Article 23 Import entities shall not have following acts:

- (1) Import of mechanical and electronic products under forbidden import administration, or import of mechanical and electronic products under restrictive import administration without approval or license;
- (2) Import of mechanical and electronic products under restrictive import administration exceeding the scope of approval and license;
- (3) Forgery, compilation, purchase or sale of certificates for import of mechanical and electronic products (including *Import License* and *Automatic Import License*, similarly hereafter);
- (4) Acquirement of certificates for import of mechanical and electronic products by cheat or other illegal manners.
- (5) Illegal Transference of certificates for import of mechanical and electronic products;
- (6) Application for import does not go through legal procedures;
- (7) Other acts in violation of laws and administrative regulations regarding import of mechanical and electronic products.

Chapter 6 Legal Responsibilities

Article 24 Any import entity having any act provided in Article 23 hereof and constituting a crime shall bear criminal responsibilities according to law. If the act is not enough for criminal punishment, relevant party shall be punished by administrative agencies with rights of administrative penalty such as public security bureaus and customs according to laws.

Article 25 Import entities can apply for administrative reconsideration or institute an administrative procedure against relevant administrative decisions or administrative penalties by state administrative agencies.

Article 26 Where any staff member responsible for administration of import neglects his duties, abuses his power or resorts to cheating for his self purposes, he shall be given penalties by relevant administrative competent authorities depending on seriousness of his mistakes according to relevant provisions; if a criminal is constitute, he shall bear criminal responsibilities.

Chapter 7 Supplementary Provisions

Article 27 Following provisions hereof are applicable in any of the following circumstances:

- (1) Provisions hereof is applicable to priced import equipment under processing trade;

- (2) Non-priced import equipment under processing trade is exempted from import license of mechanical and electronic products except procedures of entry inspection and quarantine for used processing equipment. Non-priced equipment shall be under the supervision of customs for 5 years. If said equipment that still remains in original enterprises for use after expiration of supervising term of customs, said supervision can be released by the enterprise's application to customs and the enterprise do not need to handle import certificates of mechanical and electronic products and go through procedures of entry inspection and quarantine. Said equipment that within the supervising term of customs and applied for release from the supervision of customs in advance by the original using entities or with expired supervising term and not used by the original using entities are subject to provisions hereof.

Import mechanical and electronic products under processing trade for purposes of sale in China, products sold in China or self-use are subject to provisions hereof.

- (3) Provisions hereof are applicable to mechanical and electronic products imported by foreign-invested enterprises for purposes of sale in China or sale in China after processing, and new and used mechanical and electronic products imported by foreign-invested enterprises with their self-possessioned funds beyond their amount of investment.

Provisions hereof are applicable to the new mechanical and electronic products imported by foreign-invested enterprises within their amount of investment, if they are used and within the customs supervising term while the enterprises require to release them from the supervision of customs in advance for purposes of self-use or sale in China. Relevant procedures shall be handled referring to conditions in import. Customs shall handle supervising release procedures against relevant import certificates of mechanical and electronic products and certificates of inspection and quarantine.

- (4) Mechanical and electronic products that entered areas under special customs supervision and customs bonded and supervisory areas from abroad or those entered or exited among areas under special customs supervision and customs bonded and supervisory areas are exempted from import license; while for used mechanical and electronic products, procedures of inspection and quarantine shall be handled and said products shall be under supervision of customs; the provisions hereof are applicable to mechanical and electronic products that enter into outside areas of areas under special customs supervision and customs bonded and supervisory areas (within boundaries of China) from areas under special customs supervision and customs bonded and supervisory areas.

For machinery and equipment that entered areas under special customs supervision from outside of the areas under special customs supervision (within boundaries of China) for purposes of use by enterprises in the said areas, and those required by infrastructure projects in the said areas and transferred to the outside of the said areas, if they are used mechanical and electronic products, the provisions hereof are applicable.

- (5) Import of mechanical and electronic products in manners of leasing trade, compensatory trade and etc.
- (6) Import of mechanical and electronic products in manners of non-reimbursable assistance, donation or presentation in economic intercourse and etc.

Article 28 Provisions hereof are inapplicable in any of the following circumstances:

- (1) Import of new mechanical and electronic products by foreign-invested enterprises within their amount of investment for purposes of investment and self-use
- (2) Mechanical and electronic products under processing trade which are imported for re-export;
- (3) Mechanical and electronic products supervised by customs which are imported temporarily for re-export or exported temporarily for re-import;
- (4) Samples of mechanical and electronic products to be imported, advertising samples and experimental products; the value of each batch is less than RMB5000;
- (5) Provisions of other laws and administrative regulations.

Article 29 Provisions hereof are applicable to the import of bid-winning mechanical and electronic products in international bidding according to Chinese laws, regulations and provisions of agreements reached with relevant international financial organizations and foreign lending countries.

Article 30 The used mechanical and electronic products listed in the *Catalogue of Used Mechanical and Electronic Products under Forbidden Import Category* are forbidden from import in any way by the state. Mechanical and electronic products under forbidden import category shall not enter areas under special customs supervision and customs bonded and supervisory areas.

For mechanical and electronic products listed in the *Catalogue of Mechanical and Electronic Products under Forbidden Import Category* and produced in China for export, approval of the MOFCOM shall be needed if they need to enter export processing zones for after-sale maintenance. Specific measures shall be formulated separately.

Provisions hereof are applicable to mechanical and electronic products purchased abroad and sent back for self-use by Chinese institutions functioning abroad or overseas enterprises (Chinese is the major shareholder, similarly hereafter). Used mechanical and electronic products listed in the

Catalogue of Mechanical and Electronic Products under Forbidden Import Category yet new when purchased abroad by Chinese institutions functioning abroad or overseas enterprises are allowed to send back for self-use.

Article 31 The power of interpretation hereof rest with the MOFCOM, the GAC and the GAQSIQ. Any inconsistencies of former relevant provisions shall subject to the provisions hereof.

Article 32 These Measures take effect as of May 1, 2008, and meanwhile following regulations are repealed: former *Measures for Administration of the Import of Mechanical and Electronic Products* (decree No.10 [2001] of the Ministry of Foreign Trade, the GAC and the GAQSIQ), the *Detailed Rules for Administration of Automatic Import License of Mechanical and Electronic Products* (Decree No.25 [2001] of the Ministry of Foreign Trade), the *Notice on Promotion of Import of Used Mechanical and Electronic Products* (Guo Jing Mao Ji [1997] No.877), the *Supplementary Notice on Enhancement of Administration of Import of Used Mechanical and Electronic Products* (Guo Jing Mao Ji [1998] No.555), the *Notice on Further Clarification of Issues Concerning the Elimination of Customs Supervision on Non-priced Import Equipment under Processing Trade Provided by Foreign Enterprises* (Shu Fa Fa 2001 No.420), the *Notice on Further Clarification of Issues Concerning the Elimination of Customs Supervision on Non-priced Import Equipment under Processing Trade Provided by Foreign Enterprises* (Shu Fa Fa 2002 No.348), the *Urgent Notice on Issues Concerning Elimination of Supervision on “Non-Priced Equipment”* (Shu Fa Fa [2002] No.1), the *Notice on Clarification of Issues Concerning Administration of Import of Used Mechanical and Electronic Products under Processing Trade by the General Office of the GAC* (Shu Ban Fa [2002] No.211), the *Notice on Restatement of Administration on Import of Used Mechanical and Electronic Products* (Guo Zhi Jian Lian [2001] No.42), and the *Notice on Connection of Filing of Import of Mechanical and Electronic Products and Transaction of Import License* (Zhi Jian Ban Jian Lian [2003] No.279).

**The Ministry of the Ministry of Commerce,
the Ministry of the General Administration
of Customs and the Ministry of the General
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