

## Law of the People's Republic of China on Ports

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Order of the Chairman of the People's Republic of China

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The Law of the People's Republic of China on Ports, which was adopted at the Third Session of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on June 28, 2003, is hereby promulgated, and shall come into force on January 1, 2004.

Hu Jintao

Chairman of the People's Republic of China

June 28, 2003

Law of the People's Republic of China on Ports

(Adopted at the Third Session of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on June 28, 2003)

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Chapter I General Provisions

Article 1 The present Law is enacted with a view to strengthening the administration of ports, maintaining the safety and business order of ports, protecting the lawful rights and interests of the parties, and promoting the construction and development of ports.

Article 2 Whoever engages in port planning, construction, maintenance, business operation, management and the related activities shall be governed by the present Law.

Article 3 Port mentioned in the present Law means an area composed of a certain scope of water area and land area, which has the functions for vessels to enter and exit, to berth, to anchor, for passengers to embark and disembark, and for goods to be loaded and unloaded, lightered, stored, etc., and which has the corresponding wharf facilities.

A port may be composed of one or more port areas.

Article 4 The State Council and the relevant local people's government at the county level or above shall embody the requirements on development and planning of ports in the plans on national economy and social development, and lawfully protect and reasonably utilize port resources.

Article 5 The State encourages domestic and foreign economic organizations and individuals to lawfully invest to construct and operate ports, and protects the lawful rights and interests of the investors.

Article 6 The administrative department of communications under the State Council shall be in charge of the affairs on ports throughout the country.

The administration by the local people's government of the ports within its own jurisdiction shall be determined in accordance with the provisions of the State Council on port administration system.

In accordance with the port administration system determined in the preceding paragraph, for any port under the administration of the people's government of the city or county where the port is located, the people's government of the city or county shall determine a department to specifically administer it; for any port under the administration of the people's government of the province, autonomous region or municipality directly under the Central Government, the people's government of the province, autonomous region or municipality directly under the Central Government shall determine a department to specifically administer it.

The departments determined in accordance with the preceding paragraph to specifically administer ports are hereinafter uniformly referred to as the administrative department of port.

## Chapter II Port Planning and Construction

Article 7 A port planning shall be worked out in light of the requirements on national economy and social development as well as the needs in national defense building, embody the principle of reasonably utilizing coastline resources, conform to the planning of urban system, and be connected and in line with the overall planning on land utilization, the overall city planning, the planning of river valleys, the planning on prevention and control of floods, the divisions of maritime functions, the development planning on transportation by water and the development planning on other methods of transportation as well as other relevant planning prescribed in laws and administrative regulations.

The department that works out the port planning shall invite experts to hold a demonstration, and an appraisal on environmental influence shall be made in accordance with the law.

Article 8 Port planning includes distribution planning of ports and overall planning of a port.

Distribution planning of ports means the distribution planning concerning ports, including the distribution planning of ports nationwide and of ports in provinces, autonomous regions and municipalities directly under the Central Government.

Overall planning of a port means the specific planning of one port during a certain period, including the scope of water area and land area of the port, the division of port areas, the handling capacity and the types of vessels to the port, the nature and functions of the port, the use of the water area and land area, the construction of port facilities and the use of coastline, the allocation of the land for construction use, as well as the order of construction by stages, etc.

The overall planning of a port shall conform to the distribution planning of ports.

Article 9 The distribution planning of ports nationwide shall be worked out by the administrative department of communications under the State Council after it has sought opinions from the relevant department under the State Council and the relevant military organ, and be submitted to the State Council for approval before promulgation and implementation.

The distribution planning of ports in a province, autonomous region or municipality directly under the Central Government shall be worked out upon the arrangement by the people's government of the province, autonomous region or municipality directly under the Central Government according to the distribution planning of ports nationwide, and be submitted to the administrative department of communications under the State Council for its opinions. If the administrative department of communications under the State Council fails to render any amendment opinion at the expiry of 30 days as of the receipt of the materials for opinions, the distribution planning of ports shall be promulgated by the relevant people's government of the province, autonomous region or municipality directly under the Central Government for implementation; if the administrative department of communications under the State Council considers that the said planning does not conform to the distribution planning of ports nationwide, it shall, within 30 days as of the receipt of the materials for opinions, render its amendment opinions; if the people's government of the relevant province, autonomous region or municipality directly under the Central Government does not agree to the amendment opinions, it shall report to the State Council for decision.

Article 10 The overall planning of a port shall be worked out by the administrative department of port after it has sought opinions from the relevant department and the relevant military organ.

Article 11 The overall planning of a major port of important location, with large handling capacity, and of wide influence to economic development shall be approved and promulgated for implementation by the administrative department of communications under the State Council jointly with the people's government of the relevant province, autonomous region or municipality directly under the Central Government after it has sought opinions from the relevant department under the State Council and the relevant military organ. The directory of the major ports shall be determined and promulgated by the administrative department of communications under the State Council after it has sought opinions from the relevant department under the State Council.

The people's government of the province, autonomous region or municipality directly under the Central Government shall, after seeking opinions from the administrative department of communications under the State Council, determine the overall planning of the important ports in the region. The overall planning of an important port shall be approved and promulgated for implementation by the people's government of the province, autonomous region or municipality directly under the Central Government after it has sought opinions from the administrative department of communications under the State Council.

The overall planning of the ports other than those prescribed in the preceding two paragraphs shall be promulgated for implementation after being approved by the people's government of the city or county where the port is located, and shall be submitted to the people's government of the province, autonomous region or municipality directly under the Central Government for record.

The overall planning worked out by the administrative department of port under the people's government of the city or county concerning a port prescribed in Paragraph 1 or 2 of the present article shall, prior to the submission for approval, be examined and consented to by the people's government at the same level.

Article 12 The amendment of a port planning shall be made according to the procedures for making the port planning.

Article 13 If the deep water coastline of a port needs to be used for the construction of port facilities within the port area under the overall planning, it shall be approved by the administrative department of communications under the State Council jointly with the economic comprehensive macro-control department under the State Council; if the non-deep water coastline needs to be used for the construction of port facilities, it shall be approved by the administrative department of port. However, if the coastline of a port needs to be used in a project approved by the State Council or the economic comprehensive macro-control department under the State Council for construction, no approval formalities for using the coastline need to be separately gone through.

The standards for the deep water coastline of a port shall be formulated by the administrative department of communications under the State Council.

Article 14 The construction of a port shall conform to the port planning. No port facilities shall be constructed in violation of the port planning.

Article 15 For a port construction project that must be approved by the relevant organ in accordance with the provisions of the State, approval formalities shall be gone through in accordance with the relevant provisions of the State, and the relevant standards and technical norms of the State shall be complied with.

For the construction of a port engineering project, the environmental influence appraisal shall be carried out in accordance with the law.

The safety facilities and environmental protection facilities of a port construction project must be designed, constructed and put into use simultaneously with the major engineering project.

Article 16 The use of land and water area for the construction of a port shall be subject to the relevant laws and administrative regulations on land administration, use and administration of sea area, river course administration, channel administration, protection and administration of military facilities as well as other relevant laws and administrative regulations.

Article 17 The work site of dangerous goods and the special place for sanitary disinfection at a port shall conform to the overall planning of the port and the relevant requirements of the State on safe production, fire prevention, inspection and quarantine as well as environmental protection. The distance of such a site or place to a densely populated area or to the passenger transport facilities of the port shall conform to the provisions of the relevant department under the State Council; it may not be constructed until the relevant formalities have been gone through in accordance with the law, and the administrative department of port has granted the approval.

Article 18 The navigation mark facilities and other auxiliary facilities shall be constructed simultaneously with the port, and must be put into use on time.

The construction of the work facilities for the relevant administrative institution within a port shall conform to the overall planning of a port, and the construction expenses shall not be apportioned from among the business operators of the port.

Article 19 After a project on construction of port facilities is completed, it may not be put into use until it has been inspected as qualified in accordance with the relevant provisions of the State.

The ownership of port facilities shall be determined in accordance with the relevant legal provisions.

Article 20 The relevant people's government at the county level or above shall guarantee the input of necessary funds for the construction and maintenance of such port infrastructures as public channels, breakwaters, anchorages, etc. The specific measures shall be prescribed by the State Council.

Article 21 The relevant people's government at the county level or above shall take measures to arrange for the construction of the facilities of channel, railway, highway, water supply and drainage, electricity supply, and communication, etc., which are auxiliary to the port.

### Chapter III Business Operation of Ports

Article 22 Whoever intends to engage in the business operation of a port shall apply in writing to the administrative department of port for obtaining the permit for business operation of port, and shall make industrial and commercial registration in accordance with the law.

The administrative department of port shall, when granting the permit for business operation of port, comply with the principles of publicity, impartiality and fairness.

The business operation of a port includes the business operation of the wharf and of other port facilities, the business operation of port passenger transport services, the loading, unloading, lightering and storage of goods within the port area as well as the business operation of port tugs, etc.

Article 23 Whoever intends to obtain the permit for business operation of port shall have a fixed business place, the facilities, equipment, professionals and managers suitable for his business, and shall meet other conditions prescribed in laws and regulations.

Article 24 The administrative department of port shall, within 30 days as of the receipt of the written application prescribed in Paragraph 1 of Article 22 of the present Law, make a decision in accordance with the law on whether to grant the permit. If it decides to grant the permit, it shall issue the permit for business operation of port; if it decides not to grant the permit, it shall notify the applicant in writing and inform the reason thereof.

Article 25 Whoever intends to operate the port tally business shall obtain the permit in accordance with the provisions. When granting the permit for port tally business operation, the principles of publicity, impartiality and fairness shall be complied with. The specific measures shall be prescribed by the administrative department of communications under the State Council.

A port tally business operator shall run the tally business impartially and accurately; and shall not concurrently engage in the business of loading and unloading goods or the business of storage prescribed in Paragraph 3 of Article 22 of the present Law.

Article 26 A business operator of port must, when engaging in business activities, abide by the relevant laws and regulations, and the relevant provisions of the administrative department of communications under the State Council on port working rules, and shall lawfully perform the obligations stipulated in the contract, and provide the clients with fair and good services.

An operator engaging in port passenger transport services shall take effective measures to guarantee the safety of the passengers, and provide the passengers with rapid and convenient services, as well as maintain a good environment for the passengers to wait for the ship.

The business operator of port shall, in accordance with the relevant laws and regulations on environmental protection, take effective measures to prevent and control the pollution and harmfulness to the environment.

Article 27 A business operator of port shall arrange in priority for the work on the goods and articles for emergency, those for provision of relief from disasters and those greatly needed in national defense building.

Article 28 A business operator of port shall announce at its business place the items and rates of the fees for its services; otherwise, such services shall not be provided.

If the business operational fees of a port are subject to government-guided price or government-set price in accordance with the law, the business operator of port shall implement the provisions.

Article 29 The State encourages and protects fair competition in the activities of business operation of port.

A business operator of port shall not commit any monopoly act or unfair competition act, and shall not force others by any means to accept the port services it provides.

Article 30 The business operators of port shall truthfully provide the statistical documents required by the administrative department of port in accordance with the Statistics Law of the People's Republic of China and the relevant administrative regulations.

The administrative department of port shall, in accordance with the relevant provisions of the State, report in good time the statistical documents submitted by the business operators of port to the superior department, and maintain commercial secrets for the business operators of port.

Article 31 The lawful rights and interests of the business operators of port are protected by law. No entity or individual shall apportion expenses from among the business operators of port or violate the law to charge any fees, or illegally interfere in the decision-making power of the business operators of port on management affairs.

#### Chapter IV Port Safety and Supervision

Article 32 The business operator of port must, in accordance with the Production Safety Law of the People's Republic of China and other relevant laws and regulations as well as the relevant working rules of the administrative department of communications under the State Council on port safety, strengthen the management on safe production, set up and improve the rules and systems on liabilities for safe production, improve the conditions for safe production, take effective measures to guarantee safe production, so as to ensure the safe production.

A business operator of port shall make a scheme on meeting emergencies from its own accidents on dangerous goods, the scheme on emergency evacuation and rescue of passengers in case of any major accident on production safety, as well as the scheme on preventing natural disasters in accordance with the law, and shall guarantee and arrange for the implementation.

Article 33 The administrative department of port shall lawfully make the scheme on meeting emergencies from port accidents on dangerous goods which might endanger the public benefits, the scheme on emergency evacuation and rescue of passengers in case of any major accident on production safety, as well as the scheme on preventing natural disasters, set up and improve the system on meeting emergencies from and carrying out rescues for major port accidents on production safety.

Article 34 A vessel entering or exiting a port shall, in accordance with the relevant laws and administrative regulations on the safety of traffic by water, report to the maritime administrative institution. The maritime administrative institution shall, after the receipt of the report, inform the administrative department of port in time.

A vessel that carries dangerous goods to enter or exit a port shall, in accordance with the provisions of the administrative department of communications under the State Council, report the name,

feature, and packing of the dangerous goods as well as the time of entry or exit to the maritime administrative institution. The maritime administrative institution shall, after the receipt of the report, make a decision on whether to consent within the time prescribed by the administrative department of communications under the State Council, notify the reporter, and inform the administrative department of port. However, for specified vessels, or vessels in specified navigation line or carrying specified goods, the report may be made regularly.

Article 35 Whoever loads or unloads dangerous goods or unloads dangerous goods by lightering within a port shall, in accordance with the provisions of the administrative department of communications under the State Council, report the name, feature, and packing of the dangerous goods as well as the time and place of work to the administrative department of port. The administrative department of port shall, after the receipt of the report, make a decision on whether to consent within the time prescribed by the administrative department of communications under the State Council, notify the reporter, and inform the maritime administrative institution.

Article 36 The administrative department of port shall conduct supervision and inspection on the safe production at the ports in accordance with the law, and make special inspections on the wharfs where passengers embark and disembark densely and where goods are loaded and unloaded in a large quantity, or the wharfs for particular purposes; and shall, if finding any hidden trouble on safety during inspection, order the person/port under inspection to eliminate it immediately or within a time limit.

The departments responsible for supervision of safe production and other relevant departments shall, in accordance with the laws and regulations, conduct supervision and inspection on the safe production at ports within their respective scope of duties.

Article 37 It is prohibited to engage in breeding or planting activities within the water area of a port.

No one shall engage at a port in excavation, exploration or other activities that might endanger the port safety; if, due to the needs in such aspects as project construction, etc., and the excavation or exploration is indeed necessary to be carried out, the party concerned must take corresponding safe protection measures, and report to the administrative department of port for approval; if the excavation or exploration must be approved by the maritime administrative institution as required in the relevant laws and administrative regulations on the safety of traffic by water, it shall be reported to the maritime administrative institution for approval.

It is prohibited to dump soil or gravel to the water area of a port, or to violate the relevant laws and regulations on environmental protection to discharge poisonous or harmful substance that exceeds the prescribed standards.

Article 38 For any construction project of building a bridge, an underwater tunnel, a hydropower station, etc., which might affect the hydrological conditions of the port, the department responsible for approving the project shall, before examination and approval, seek opinions from the administrative department of port.

Article 39 In accordance with the relevant laws and administrative regulations on the safety of traffic by water, if a vessel entering or exiting a port has to be piloted, it shall apply to the pilotage institution for pilotage. The specific measures for pilotage shall be prescribed by the administrative department of communications under the State Council.

Article 40 When the passengers are held up or the goods are overstocked, and thus causing a jam to the port, the administrative department of port shall timely take effective measures to direct the flow of vessels in the port; the people's government of the city or county where the port is located may, when necessary, directly take measures to direct the flow of vessels at the port.

Article 41 The administrative department of port shall arrange for the formulation of the articles of association of the port it administers, and announce them to the public.

The contents of the articles of association of a port shall include the statements on the geographical position of the port, conditions of the channel, depth of the water at the port, mechanical facilities, loading and unloading capacity, etc., as well as the specific measures for the port to implement the relevant laws and regulations on port administration and the relevant provisions of the administrative department of communications under the State Council.

Article 42 The administrative department of port shall, according to its powers and duties, supervise and inspect the enforcement of the present Law.

The supervision and inspection officers of an administrative department of port may, when conducting supervision and inspection in accordance with the law, have the right to know the relevant information from the inspected entity and the relevant persons, and may consult and copy the relevant documents.

The supervision and inspection officers shall keep confidential for the commercial secrets they know from inspection.

The supervision and inspection officers shall, when conducting supervision and inspection, show the law enforcement certificate.

Article 43 The supervision and inspection officers shall make written records on the time, place, contents of the supervision and inspection, the problems found and the settlement thereof, which shall be signed by the supervision and inspection officers and the responsible person of the inspected entity; if the responsible person of the inspected entity refuses to sign on the written records, the supervision and inspection officers shall record the case in the file, and report to the administrative department of port.

Article 44 The inspected entities and the relevant persons shall accept the supervision and inspection carried out by the administrative department of port in accordance with the law, truthfully provide the relevant information and documents, and shall not refuse the inspection or conceal or falsely report the relevant information and documents.

## Chapter V Legal Liabilities

Article 45 In case of any of the following acts, the local people's government at the county level or above or the administrative department of port shall order the violator to make a correction within a time limit; if the violator fails to make a correction within the time limit, the organ making the decision on ordering for the correction within a time limit may apply to the people's court to compulsorily demolish the illegally built facilities; and may impose a fine of not more than 50,000 Yuan:

- (1) violating the port planning to construct a port, a wharf or other port facilities;
- (2) without being approved in accordance with the law, using the coastline of a port to construct port facilities.

If the approval department for construction projects approves any construction project in violation of port planning, the directly responsible persons in charge and other directly liable persons shall be imposed upon administrative sanctions in accordance with the law.

Article 46 Whoever constructs a work site of dangerous goods or a special place for sanitary disinfection at a port without being approved in accordance with the law, or constructs a work site of

dangerous goods or a special place for sanitary disinfection with the distance from a densely populated area or from the passenger transport facilities at the port not conforming to the provisions of the relevant departments under the State Council, the administrative department of port shall order him to cease the construction or use and to make a correction within a time limit, and may impose a fine of not more than 50,000 Yuan.

Article 47 Whoever, without authorization, puts into use the loading and unloading facilities or the passenger transport facilities at a wharf or port which are not inspected as qualified, shall be ordered by the administrative department of port to cease the use and to make a correction within a time limit; he may be imposed upon a fine of not more than 50,000 Yuan in addition.

Article 48 In case of any of the following acts, the administrative department of port shall order the violator to cease the illegal business operation, and confiscate the illegal proceeds; if the illegal proceeds are no less than 100,000 Yuan, a fine of twice or more but 5 times or less of the illegal proceeds may be imposed in addition; if the illegal proceeds are less than 100,000 Yuan, a fine of not less than 50,000 Yuan but not more than 200,000 Yuan may be imposed:

- (1) engaging in the business operation of port without obtaining the permit for business operation of port in accordance with the law;
- (2) operating the port tally business without being permitted in accordance with the law;
- (3) a port tally business operator concurrently engages in the business of loading and unloading goods or the business of storage.

In case of the act in Item (3) of the preceding paragraph, if the case is serious, the relevant competent department shall suspend the violator's permit for port tally business operation.

Article 49 If a business operator of port does not arrange in priority for the work on the goods and articles for emergency, those for provision of relief from disasters and those greatly needed in national defense building, it shall be ordered by the administrative department of port to make a correction; if it causes serious consequences, its permit for business operation of port shall be suspended.

Article 50 If a business operator of port violates the relevant laws and administrative regulations to commit any monopoly act or unfair competition act in its business activities, it shall bear the legal liabilities in accordance with the relevant laws and administrative regulations.

Article 51 If a business operator of port violates Article 32 of the present Law on safe production, it shall be punished in accordance with the law by the administrative department of port or other department lawfully assuming the duties on supervision of safe production; if the case is serious, its permit for business operation of port shall be suspended by the administrative department of port, and its main responsible persons shall be imposed upon sanctions in accordance with the law; if a crime is constituted, the operator's criminal liabilities shall be investigated for.

Article 52 If a vessel entering or exiting a port fails to report to the maritime administrative institution in accordance with Article 34 of the present Law, it shall be punished by the maritime administrative institution in accordance with the relevant laws and administrative regulations on the safety of traffic by water.

Article 53 Whoever loads or unloads dangerous goods or unloads dangerous goods by lightering within a port without reporting to the administrative department of port in accordance with the law and being consented to shall be ordered by the administrative department of port to cease the work, and be imposed upon a fine of not less than 5,000 Yuan but not more than 50,000 Yuan.

Article 54 Whoever engages in breeding or planting activities within the water area of a port shall be ordered by the maritime administrative institution to make a correction within a time limit; if he fails

to make a correction within the time limit, his breeding or planting facilities shall be compulsorily dismantled, and the dismantling expenses shall be borne by himself; and he may be imposed upon a fine of not more than 10,000 Yuan.

Article 55 Whoever engages at a port in excavation, exploration or other activities that might endanger the port safety without being approved in accordance with the law, or dumps soil or gravel to the water area of a port, shall be ordered by the administrative department of port to cease the illegal acts, and to eliminate the hidden dangers on safety caused therefrom within a time limit; if he fails to eliminate the said hidden dangers within a time limit, it shall be eliminated compulsorily, and the expenses caused therefrom shall be borne by the violator; and a fine of not less than 5,000 Yuan but not more than 50,000 Yuan may be imposed; if, in accordance with the relevant laws and administrative regulations on the safety of traffic by water, the violator is to be punished by the maritime administrative institution, such provisions shall be complied with; if a crime is constituted, he shall be investigated for criminal liabilities.

Article 56 If the administrative department of communications, the administrative department of port or the maritime administrative institution, etc. does not perform its duties in accordance with the law, and commits any of the following acts, its directly responsible persons in charge and other directly liable persons shall be imposed upon administrative sanctions in accordance with the law; if a crime is constituted, they shall be investigated for criminal liabilities:

(1) illegally approving the use of the coastline of a port in the construction of port facilities, illegally approving the construction of work site of dangerous goods or special place for sanitary disinfection at a port, or illegally approving a vessel to enter or exit a port by carrying dangerous goods, illegally approving the loading or unloading of dangerous goods or the unloading of dangerous goods by lightering within a port;

(2) granting the permit for business operation of port or the permit for port tally business operation to an applicant failing to satisfy the statutory conditions;

(3) after finding a business operator of port or a port tally business operator who has obtained the operational permit no longer satisfies the statutory conditions for permit, not timely suspending its permit;

(4) not performing its duties of supervision and inspection in accordance with the law, and not investigating, in accordance with the law, the acts of constructing a port, a wharf or other port facilities in violation of the port planning, the acts of engaging in business operation of port or port tally business without being permitted in accordance with the law, the acts of not abiding by the provisions on the administration of safe production, the acts endangering the work safety at a port, and other acts in violation of the present Law.

Article 57 If an administrative organ illegally interfere in the decision-making power of the business operators of port on management affairs, it shall be ordered by its superior administrative organ or supervision organ to make a correction; if it apportioned properties from among the business operators of port or illegally charges any fees from them, it shall be ordered to return such properties and fees; if the case is serious, the directly responsible persons in charge and other directly liable persons shall be imposed upon administrative sanctions in accordance with the law.

## Chapter VI Supplementary Provisions

Article 58 For the ports open to vessels sailing on international navigation lines, the relevant people's government of the province, autonomous region or municipality directly under the Central Government shall, in accordance with the relevant provisions of the State, negotiate with the relevant department under the State Council and the relevant military organ for consent, and then report them to the State Council for approval.

Article 59 The responsibility to administer fishery ports shall remain with the fishery administrative department under the people's government at the county level or above. The specific administrative

measures shall be prescribed by the State Council.

Fishery ports mentioned in the preceding paragraph mean the artificial ports or natural harbors specially serving fishery production, for fishery vessels to berth, to take shelter from the wind, load and unload the catch from fishing, or to supplement goods and articles needed in fishing, including the special fishery wharfs at comprehensive ports, the special fishery water areas and the anchorages specially used for fishing vessels.

Article 60 The measures on construction and administration of military ports shall be prescribed by the State Council and the Central Military Commission.

Article 61 The present Law shall come into force on January 1, 2004.