

Measures of the People's Republic of China for the Examination and Approval of Entry & Exit and the Foreign Cooperative Research on the Application of Genetic Resources of Livestock and Poultry

Promulgation date: 08-28-2008 Department: State Council

Effective date: 10-01-2008 Subject: Commodity Inspection, Animal and Plant Quarantine

Order of the State Council of the People's Republic of China
(No.533)

The Measures of the People's Republic of China for the Examination and Approval of Entry & Exit and the Foreign Cooperative Research on the Application of Genetic Resources of Livestock and Poultry, which were adopted at the 23rd executive meeting of the State Council on August 20, 2008, are hereby promulgated, and shall come into force on October 1, 2008.

Premier Wen Jiabao
August 28, 2008

Measures of the People's Republic of China for the Examination and Approval of Entry & Exit and the Foreign Cooperative Research on the Application of Genetic Resources of Livestock and Poultry

Article 1 In order to strengthen the administration of the entry & exit and the foreign cooperative research on the application of the genetic resources of livestock and poultry, protect and reasonably use the genetic resources of livestock and poultry, prevent the loss of the genetic resources of livestock and poultry and promote the sustainable and healthy development of the stock-breeding industry, these Measures are formulated in accordance with the Stock-breeding Law of the People's Republic of China.

Article 2 Importing the genetic resources of livestock and poultry from overseas as well as exporting or making cooperative research in China on the application of the genetic resources of livestock and poultry that have been listed in the list of the genetic resources of livestock and poultry under protection with overseas institutions or individuals shall be governed by the Stock-breeding Law of the People's Republic of China, and the relevant examination and approval formalities shall be handled in accordance with these Measures.

Article 3 For the purpose of these Measures, the term "livestock and poultry" refers to the livestock and poultry listed in the list of the genetic resources of livestock and poultry which is published in accordance with Article 11 of the Stock-breeding Law of the People's Republic of China.

The term "genetic resources of livestock and poultry" refers to livestock and poultry as well as their generic materials such as germ cells (eggs), embryo, semen and gene substance.

Article 4 To import the genetic resources of livestock and poultry from overseas, the following requirements shall be satisfied:

1. the purposes are clear and the uses thereof are reasonable;
2. the import is in line with the planning for protecting and using the genetic resources of livestock and poultry;
3. the genetic resources are imported from a non-epidemic-stricken area; and
4. the import satisfies the relevant provisions on the entry and exit quarantine for animals and plants and the safety of agricultural transgene organisms, and does not constitute any threat to the domestic genetic resources of livestock and poultry and ecological environment safety.

Article 5 To import the genetic resources of livestock and poultry from overseas, an entity shall file an application with the stockbreeding and veterinary administrative department under the people's government of the local province, autonomous region or municipality directly under the Central

Government, and submit the contract of purchase or donation agreement on the genetic resources of livestock and poultry.

If the imported genetic resources are of breeding livestock or poultry, the following materials shall also be submitted:

1. the license for production and operation of breeding livestock or poultry;
2. a certificate issued by a statutory agency of the export country or region on the pedigree of the breeding livestock or the generations of the breeding poultry; and
3. if the import is the first one of this kind, the materials about the place of origin, distribution, breeding process, ecological features, production performance, major genetic defects and special diseases of the genetic resources of the breeding livestock or poultry.

Article 6 To export the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection, the following requirements shall be satisfied:

1. the purposes are clear;
2. the export is in line with the planning for protecting and using the genetic resources of livestock and poultry;
3. it does not constitute any threat to the production of the breeding industry and the export of livestock and poultry products in China; and
4. the plan on sharing benefits with the state is reasonable.

Article 7 To export the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection, an entity shall file an application with the stockbreeding and veterinary administrative department under the people's government of the local province, autonomous region or municipality directly under the Central Government, and submit the following materials:

1. the contract of purchase or donation agreement on the genetic resources of livestock and poultry; and
2. the plan on sharing the benefits with the state as concluded with the overseas importer.

Article 8 To make cooperative research in China on the application of the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection with any overseas institution or individual, the following requirements shall be satisfied:

1. the research purposes, scope and cooperation period are clear;
2. the research is in line with the planning for protecting and using the genetic resources of livestock and poultry;
3. the ownership of intellectual property is clear and the plan on sharing research findings is reasonable;
4. the research does not constitute any threat to the domestic genetic resources of livestock and poultry and ecological environment safety; and
5. the plan on sharing benefits with the state is reasonable.

An entity which makes cooperative research in China on the application of the genetic resources of livestock and poultry with any overseas institution or individual shall be a Chinese education or scientific research institution or an exclusively owned Chinese enterprise which has the corporate status.

Article 9 To make cooperative research in China on the application of the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection with any overseas institution or individual, an entity shall file an application with the stockbreeding and veterinary administrative department under the people's government of the local province, autonomous region or municipality directly under the Central Government, and submit the following materials:

1. a feasibility study report;
2. a cooperative research contract; and

3. the plan on sharing benefits with the state as concluded with the overseas cooperator.

Article 10 It is prohibited to export or make cooperative research in China with any overseas institution or individual on the application of the genetic resources of livestock and poultry which are special in China or newly discovered and not identified yet and those whose export is prohibited by the stockbreeding and veterinary administrative department of the State Council.

Article 11 The stockbreeding and veterinary administrative department under the people's government of a province, autonomous region or municipality directly under the Central Government shall, within 20 workdays after receiving an application for importing, exporting or making cooperative research on the application of the genetic resources of livestock and poultry, finish examining the application and submit its examination opinions together with the application materials to the stockbreeding and veterinary administrative department of the State Council for approval.

Article 12 The stockbreeding and veterinary administrative department of the State Council shall, within 20 workdays after receiving the examination opinions and application materials on importing, exporting or making cooperative research on the application of the genetic resources of livestock and poultry, issue an approval form if the application materials satisfy the conditions prescribed in Article 4, 6 or 8 of these Measures or, if the application materials fail to satisfy the prescribed conditions, notify the applicant in writing and give the reasons therefor. In particular, if it concerns exporting or making cooperative research in China on the application of the genetic resources listed in the list of the genetic resources of livestock and poultry under protection, or importing the genetic resources of livestock and poultry for the first time, the stockbreeding and veterinary administrative department of the State Council shall, within three workdays after receiving the examination opinions and application materials, submit them to the National Commission for the Genetic Resources of Livestock and Poultry for appraisal or examination. The time needed for appraisal or examination shall not be counted in the time limit for examination and approval.

Article 13 If the stockbreeding and veterinary administrative department of the State Council cannot make a decision within 20 workdays, the time limit may be extended for 10 workdays upon the approval of the person in charge of the department. In this situation, the extension reasons shall be notified to the applicant.

Article 14 An approval form for importing or exporting the genetic resources of livestock and poultry shall be valid for six months. To extend the valid period, an applicant shall apply to the original examining and approving organ at least 10 workdays before the expiration date of the form. The valid period may be extended for three months at most.

Article 15 An entity importing the genetic resources of livestock and poultry or exporting the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection shall handle the quarantine formalities upon the strength of the approval form. The customs shall handle the check and release formalities upon the strength of the entry & exit cargos customs clearance form issued by the entry & exit inspection and quarantine department. The entity shall, within 10 workdays from the date of customs clearance, report the quantity of the actually imported or exported genetic resources of livestock and poultry to the stockbreeding and veterinary administrative department of the State Council for archival purposes, which shall send a copy of the relevant materials to the environmental protection administrative department of the State Council on a regular basis.

Article 16 Where an entity which makes cooperative research in China on the application of the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection needs to change the research purposes or scope, the cooperation period, the ownership of intellectual property, the plan on sharing research findings or the plan on sharing benefits with the state in the process of research, it shall go through the examination and approval formalities anew according to the original application procedures.

Article 17 The stockbreeding and veterinary administrative department under the people's government of each province, autonomous region or municipality directly under the Central Government shall make follow-up evaluations on the imported genetic resources of livestock and poultry, organize experts to determine and evaluate their production performance, health status, adaptability and impact on the ecological environment and the local genetic resources of livestock and poultry, and file the determination and evaluation results with the stockbreeding and veterinary administrative department of State Council in a timely manner.

Upon finding that any imported genetic resources of livestock and poultry has endangered or may endanger the domestic genetic resources of livestock and poultry or the ecological environment, the stockbreeding and veterinary administrative department of the State Council shall take corresponding security control measures after taking consults with other relevant competent departments.

Article 18 An entity which makes cooperative research in China on the application of the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection with any overseas institution or individual shall, before December 31 of each year, submit materials about the cooperative research to the stockbreeding and veterinary administrative department under the people's government of the local province, autonomous region or municipality directly under the Central Government, which shall give examination opinions and submit the opinions together with the materials submitted by the entity to the stockbreeding and veterinary administrative department of the State Council for archival purposes.

Article 19 Any person who has any interest relations with an entity importing, exporting or making cooperative research with any overseas institution or individual on the application of the genetic resources of livestock and poultry or who has any interest relations with the overseas institution or individual may not be involved in the appraisal or examination of the application or the determination or evaluation of the imported genetic resources of livestock and poultry.

Article 20 Without the approval of the stockbreeding and veterinary administrative department of the State Council, no entity or individual may transfer any information about the genetic resources of livestock and poultry of China (including the genealogy of important livestock and poultry and the genetic resources in specific areas as well as the data, materials and samples thereof) to any overseas institution or individual.

Article 21 Where any functionary of a stockbreeding and veterinary administrative department neglects his duties, abuses his powers or engages in malpractice for personal gains in examining and approving the import, export or cooperative research on the application of the genetic resources of livestock and poultry, the competent authority shall impose a punishment upon him according to law. If any crime is constituted, he shall be subject to corresponding criminal liability.

Article 22 Where any expert who is involved in the evaluation, appraisal or determination prescribed in these Measures, by taking advantage of his position, takes the money or goods presented by any other party, seeks for other proceeds, or gives false opinions, the competent authority shall confiscate the illegal gains and impose a punishment upon him according to law. If any crime is constituted, he shall be subject to corresponding criminal liability.

Article 23 Where any entity, in applying for importing the genetic resources of livestock and poultry or exporting or making cooperative research in China on the application of the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection with any overseas institution or individual, hides the relevant facts or provides false materials, the stockbreeding and veterinary administrative department under the people's government of the relevant province, autonomous region or municipality directly under the Central Government shall give it an admonition, and may not accept its application of the same kind within three years.

Article 24 Where any entity, by such illegal means as fraud and bribery, gets the approval for importing the genetic resources of livestock and poultry or exporting or making cooperative research in China on the application of the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection with any overseas institution or individual, the stockbreeding and veterinary administrative department of the State Council shall cancel the approval decision, confiscate the genetic resources and the illegal gains therefrom and impose a fine of not more than 50,000 yuan but not less than 10,000 yuan, and shall not accept its application of the same kind within 10 years. If any crime is constituted, the entity shall be subject to corresponding criminal liability.

Article 25 Where any entity, without approval, imports the genetic resources of livestock and poultry, makes cooperative research in China on the application of the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection with any overseas institution or individual, or makes cooperative research in China on the application of the newly discovered genetic resources of livestock and poultry which are not identified yet by the National Commission for the Genetic Resources of Livestock and Poultry, it shall be subject to corresponding legal liability under the Stock-breeding Law of the People's Republic of China.

Article 26 Where any entity exports the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection without approval, it shall be subject to corresponding legal liability under the Customs Law of the People's Republic of China. The customs shall transfer the seized genetic resources of livestock and poultry to the stockbreeding and veterinary administrative department under the people's government of the relevant province, autonomous region or municipality directly under the Central Government.

Article 27 Where any entity violates the state confidentiality provisions in exporting or making cooperative research in China on the application of the genetic resources of livestock and poultry listed in the list of the genetic resources of livestock and poultry under protection with any overseas institution or individual, it shall be subject to corresponding legal liability under the Law of the People's Republic of China on Keeping State Secrets.

Article 28 These Measures shall come into force on October 1, 2008.