

Order No. 58 of

**State Administration for Quality Supervision, Inspection, and Quarantine
of the People's Republic of China
Ministry of Commerce of the People's Republic of China
State Administration for Industry and Commerce of the People's Republic of China**

The “Measures for Administration of Import and Export Commodity Inspection and Appraisal Institutions”, which has been reviewed and adopted at the administrative meeting of the State Administration for Quality Supervision, Inspection, and Quarantine held on October 18, 2002 and approved by the Ministry of Commerce and the State Administration for Industry and Commerce, is now promulgated and shall go into effect as of January 1, 2004.

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**Measures for Administration of Import and Export
Commodity Inspection and Appraisal Institutions**

Chapter One General Provisions

Article 1

These Measures are formulated in accordance with the “Law of the People's Republic of China on Import and Export Commodity Inspection” and regulations for the implementation of the Law in order to strengthen the administration of import and export commodity inspection and appraisal institutions, keep the order of fair competition in the import and export commodity inspection and appraisal market, protect the legitimate rights and interests of import and export trade parties, and promote the successful development of foreign trade.

Article 2

These Measures are applicable to the licensing, supervision, and administration of institutions engaged in import and export commodity inspection and appraisal businesses within the territory of the People's Republic of China.

Article 3

Import and export commodity inspection and appraisal institutions described in these Measures refer to Chinese import and export commodity inspection and appraisal institutions, as well as joint venture, joint cooperation, and exclusively foreign invested import and export commodity inspection and appraisal institutions and branch offices (hereinafter referred to as foreign invested import and export commodity inspection and appraisal institution) that are established in accordance with the state's relevant laws, regulations, and stipulations of these Measures, licensed by the State Administration for Quality Supervision, Inspection, and Quarantine (hereinafter referred to as the State Administration for Quality Inspection), received assignments by those involved in foreign trade, Chinese and foreign inspection institutions, and other related organizations, and engaged in import and export commodity inspection and appraisal businesses.

Article 4

Chinese import and export commodity inspection and appraisal institutions must receive approval from the State Administration for Quality Inspection and go through industry and commerce registration procedures as required by law before practicing import and export commodity inspection and appraisal businesses.

Foreign invested import and export commodity inspection and appraisal institutions must receive approval from the State Administration for Quality Inspection and the Ministry of Commerce, and go through industry and commerce registration procedures as required by law before practicing import and export commodity inspection and appraisal businesses.

Unlicensed and unregistered import and export commodity inspection and appraisal institutions shall not assume assigned import and export commodity inspection and appraisal businesses.

Article 5

Import and export commodity inspection and appraisal institutions shall abide by laws, regulations, and relevant stipulations of the State Administration for Quality Inspection, shall practice import and export commodity inspection and appraisal businesses in the identity of a third party in an independent, just manner, and shall assume corresponding legal responsibilities.

Article 6

The State Administration for Quality Inspection, the Ministry of Commerce, and the State Administration for Industry and Commerce exercise administration, based on their respective responsibilities, to import and export commodity inspection and appraisal institutions in accordance with law.

Chapter Two: Establishment of Chinese Import and Export Commodity Inspection and Appraisal Institutions

Article 7

An investor applying to establish a Chinese import and export commodity inspection and appraisal institution shall conform to the following requirements:

(1) The investor or investing party shall be an independent, third-party institution engaged specifically in inspection and appraisal businesses in China in accordance with law for more than 3 years;

(2) The investor shall have a registered capital in equivalent RMB of not less than 350,000 US dollars;

(3) The investor shall have inspection qualifications and technical resources corresponding to the engaged inspection and appraisal businesses, and shall have fixed residence/office, inspection site, and corresponding business scale;

(4) The institution shall have set up a quality management system that conforms to relevant and general requirements.

(5) The professional technicians engaged in inspection and appraisal work shall have obtained practice qualification in accordance with relevant stipulations of the State Administration for Quality Inspection. The number of professional technicians who have obtained practice qualification shall not be less than 2/3 of the total number of employees in the institution.

(6) The institution shall meet other requirements stipulated in accordance with laws and administrative regulations.

Article 8

The application for the establishment of Chinese import and export commodity inspection and appraisal institution shall be submitted to inspection and quarantine bureaus directly subordinate to local government. The application passed preliminary review shall be submitted to the State Administration for Quality Inspection for approval.

Large-scale enterprises under the administration of relevant departments of the State Council applying for the establishment of Chinese import and export commodity inspection and appraisal institutions shall submit their applications directly to the State Administration for Quality Inspection upon approval of competent authorities.

Article 9

In the application for the establishment of Chinese import and export commodity inspection and appraisal institutions, the following documents shall be submitted to inspection and quarantine bureaus directly subordinate to local government as well as the State Administration for Quality Inspection:

(1) Application documents for the establishment of import and export commodity inspection and appraisal institution;

(2) Pre-approved Notice for the name of institution issued by industry and commerce administration authority;

(3) Right of use or ownership certificate documents for the residence/office and inspection site;

(4) Inspection qualification and technical capacity certificates;

(5) Quality management documents;

(6) Testimonial of engagement for more than 3 years as a third-party in inspection and appraisal businesses in China in accordance with law;

(7) Credit certificates and (copy of) identification certificates of legal representatives of investing parties;

(8) Copy of qualification certificates obtained by professional technicians engaged in inspection and appraisal work;

(9) Other documents as required by laws and regulations and stipulated by the State Administration for Quality Inspection.

Article 10

The State Administration for Quality Inspection shall review the submitted documents and may conduct review on site if necessary.

The State Administration for Quality Inspection shall complete review within 90 working days and shall make approval or disapproval decisions. The "Import and Export Commodity Inspection and Appraisal Institution Qualification Certificate" shall be issued to approved applicants. Explanations for rejection shall be provided to disapproved applicants.

Article 11

An applicant applying for the establishment of Chinese import and export commodity inspection and appraisal institution shall take the license document and the “Import and Export Commodity Inspection and Appraisal Institution Qualification Certificate” issued by the State Administration for Quality Inspection to industry and commerce administration authority for registration process in accordance with law.

Chapter Three: Establishment of Foreign Invested Import and Export Commodity Inspection and Appraisal Institutions

Article 12

An investor applying to establish a foreign invested import and export commodity inspection and appraisal institution shall conform to the following requirements:

(1) The foreign investor of the foreign invested import and export commodity inspection and appraisal institution shall be a legitimate institution registered independently and engaged in inspection and appraisal businesses in the home country for more than 3 years;

(2) The Chinese investor or investing party of the joint venture or joint cooperation import and export commodity inspection and appraisal institution shall be an independent, third-party institution engaged specifically in inspection and appraisal businesses in China in accordance with law for more than 3 years;

(3) The investor shall have a registered capital of not less than 350,000 US dollars;

(4) The investor shall have inspection qualifications and technical resources corresponding to the engaged inspection and appraisal businesses, and shall have fixed residence/office, inspection site, and multi-national operating capabilities;

(5) The institution shall have set up a quality management system that conforms to relevant and general requirements.

(6) The professional technicians engaged in inspection and appraisal work shall have obtained practice qualification in accordance with relevant stipulations of the State Administration for Quality Inspection. The number of professional technicians who have obtained practice qualification shall not be less than 2/3 of the total number of employees in the institution.

(7) The institution shall meet other requirements stipulated in accordance with laws and administrative regulations.

Prior to December 11, 2003, it is temporarily not allowed foreign capitals to take major shares in an import and export commodity inspection and appraisal institution. Prior to December 11, 2005, it is temporarily not allowed establishment of import and export commodity inspection and appraisal institution of foreign exclusive investment.

Article 13

Chinese investors applying for the establishment of joint venture or joint cooperation import and export commodity inspection and appraisal institution shall submit the application to inspection and quarantine bureaus and commerce authorities directly subordinate to local government. The application passed preliminary review shall be submitted to the State Administration for Quality Inspection for approval.

Large-scale enterprises under the administration of relevant departments of the State Council serving as Chinese investors shall submit their applications directly to the State Administration for Quality Inspection upon approval of competent authorities.

The application for the establishment of import and export commodity inspection and appraisal institution of foreign exclusive investment shall be submitted to inspection and quarantine bureaus and commerce authorities directly subordinate to local government. The application passed preliminary review shall be submitted to the State Administration for Quality Inspection for approval.

Article 14

In the application for the establishment of import and export commodity inspection and appraisal institutions of foreign investment, the following documents shall be submitted to inspection and quarantine bureaus directly subordinate to local government as well as the State Administration for Quality Inspection:

- (1) Application documents for the establishment of import and export commodity inspection and appraisal institution;
- (2) Pre-approved Notice for the name of institution issued by industry and commerce administration authority;
- (3) Feasibility Study Report signed by investing parties;
- (4) Inspection qualification and technical capacity certificates;
- (5) Quality management documents;
- (6) Right of use or ownership certificate documents for the residence/office and inspection site;

(7) Testimonials from local governments or relevant authorities on the engagement of over 3 years inspection and appraisal businesses by investing parties in their home countries;

(8) Credit certificates and (copy of) identification certificates of legal representatives of investing parties;

(9) Copy of qualification certificates obtained by professional technicians engaged in inspection and appraisal work;

(10) Other documents as required by laws and regulations.

Article 15

The State Administration for Quality Inspection shall review the submitted documents and may conduct review on site if necessary.

The State Administration for Quality Inspection shall complete review within 90 working days and shall make approval or disapproval decisions. Explanations for rejection shall be provided to disapproved applicants.

Article 16

Applicants applying for the establishment of import and export commodity inspection and appraisal institutions of foreign investment shall take the license document issued by the State Administration for Quality Inspection to the Ministry of Commerce for institution establishment application, and shall submit the following documents:

(1) License document for the establishment of import and export commodity inspection and appraisal institutions of foreign investment issued by the State Administration for Quality Inspection;

(2) Application document for the establishment of import and export commodity inspection and appraisal institution;

(3) Comment of approval from local commerce competent authorities or competent department of the State Council governing large-scale enterprises on the application of establishment of import and export commodity inspection and appraisal institutions of foreign investment;

(4) List and Letter of Appointment of member of board of directors;

(5) Project plan for the application of establishment of import and export commodity inspection and appraisal institution of foreign exclusive investment.

(6) Credit certificates, (copy of) registration certificates, and (copy of) identification certificate of legal representatives of investing parties;

(7) Feasibility Study Report, contracts, and bylaws signed by investing parties;

(8) Other documents as required by laws and regulations.

Article 17

The Ministry of Commerce shall review the submitted documents and shall make approval or disapproval decisions within 90 working days. The foreign investment enterprise approval certificate shall be issued to approved applicants. Explanations for rejection shall be provided to disapproved applicants.

Article 18

Applicants of import and export commodity inspection and appraisal institution of foreign investment shall take the license document issued by the Ministry of Commerce and other relevant documents to industry and commerce administrative authorities for registration.

Article 19

An import and export commodity inspection and appraisal institution of foreign investment registered at industry and commerce administrative authorities shall receive an “Import and Export Commodity Inspection and Appraisal Institution Qualification Certificate” from the State Administration for Quality Inspection before accepting assignments for import and export commodity inspection and appraisal businesses within the approved business scope.

Chapter Four: Supervision and Administration

Article 20

In the occurrence of significant events such as merge, separation or transfer of shares in an import and export commodity inspection and appraisal institution, new application shall be submitted in accordance with these Measures.

Article 21

In the event of changes of contents concerning the “Import and Export Commodity Inspection and Appraisal Institution Qualification Certificate”, the import and export commodity inspection and appraisal institution shall submit application to the State Administration for Quality Inspection to change the qualification certificate. In the event of bankruptcy, dismissal,

and closedown, the import and export commodity inspection and appraisal institution shall go through qualification certificate cancellation procedures at the State Administration for Quality Inspection.

Article 22

Inspection and quarantine bureaus directly subordinate to the State Administration for Quality Inspection is responsible for routine supervision and administration of import and export commodity inspection and appraisal institutions and shall, if necessary, work together with local commerce competent authorities, local industry and commerce administrative authorities, or other relevant authorities to exercise supervision and inspection.

Article 23

The supervision and administration of import and export commodity inspection and appraisal institutions shall include routine inspections and annual review, which mainly cover:

- (1) The report-for-approval procedures regarding the establishment and change of such institutions;
- (2) Capital or investing amount;
- (3) Business practice status;
- (4) Inspection qualifications and technical capabilities;
- (5) Management and internal control;
- (6) Qualifications of the employed;
- (7) Abidance by relevant laws, regulations, and stipulations of these Measures in business activities.

Article 24

The “Import and Export Commodity Inspection and Appraisal Institution Qualification Certificate” expires in 3 years. Import and export commodity inspection and appraisal institutions shall make request to the State Administration for Quality Inspection to change for a new certificate within 3 months before the expiry date.

Article 25

Import and export commodity inspection and appraisal institutions shall, prior to May 30th of each year, provide inspection and quarantine bureaus directly subordinate to local authorities and the State Administration for Quality Inspection with accurate information such as business report and financial statement of the previous year, annual inspection report made by industry and commerce administration authorities, annual auditing report, and qualification certificates of the employed. The information provided must be true, complete, and accurate.

The State Administration for Quality Inspection shall affix annual review seal on the duplicate of qualification certificates of institutions that have passed annual review.

Article 26

The State Administration for Quality Inspection and its directly subordinated inspection and quarantine bureaus shall exercise review and qualification inspection (specific measures will be formulated separately) to personnel engaged in inspection and appraisal businesses in import and export commodity inspection and appraisal institutions. In the event of change of personnel engaged in inspection and appraisal businesses, the import and export commodity inspection and appraisal institution shall report to local inspection and quarantine bureau for the record within 15 working days after the change. Those employed personnel who have obtained practice qualification shall not practice in other inspection and appraisal institutions.

Article 27

While exercising supervision and inspection to import and export commodity inspection and appraisal institutions, the State Administration for Quality Inspection and its directly subordinated inspection and quarantine bureaus may inspect the establishment and execution of management files, as well as the quality of inspection and appraisal work of import and export commodity inspection and appraisal institutions; inspect sample commodities inspected and appraised by the concerned institutions; and may consult and duplicate relevant information of the concerned institutions. Import and export commodity inspection and appraisal institutions must coordinate with such inspections.

Article 28

Inspection and appraisal certificates issued by import and export commodity inspection and appraisal institutions shall be signed by personnel who have obtained required qualifications. The inspection and appraisal results shall be true, objective, and impartial. In the event of discovery of suspected illegal or unlawful behaviors through reports, complaints, or other approaches, the inspection and quarantine authorities may conduct investigation and may reexamine the inspection and appraisal results.

Article 29

The staffs at the State Administration for Quality Inspection and inspection and quarantine bureaus are obligated to keep confidential to the commercial and technical secrets they learnt from performing the duty of licensing, supervising, and administrating import and export commodity inspection and appraisal institutions.

Article 30

The staffs at the State Administration for Quality Inspection and inspection and quarantine bureaus shall not abuse their power to seek private interests.

Article 31

The State Administration for Quality Inspection and its directly subordinated inspection and quarantine bureaus shall set up an information circulation system on the supervision and administration of import and export commodity inspection and appraisal institutions.

Article 32

In the event of violation of these Measures and unauthorized engagement of import and export commodity inspection and appraisal businesses, the directly subordinated inspection and quarantine bureaus shall order such institutions to stop their illegal businesses, confiscate the illegal earnings, and impose fines of one to three times of the illegal earnings.

Article 33

In the occurrence of one of the following behaviors in an import and export commodity inspection and appraisal institution, the State Administration for Quality Inspection may, according to the seriousness of the case, order the institution to make corrections or suspend or cancel the practice license:

(1) The institution fails to carry out relevant businesses within 1 year upon obtaining the “Import and Export Commodity Inspection and Appraisal Institution Qualification Certificate”;

(2) The institution provides false annual reports and other information.

(3) The institution issues false inspection results and testimonials, or the report provided by the institution has substantial mistakes;

(4) The institution fails to follow the stipulations of these Measures to go through related procedures in the event of change of relevant items;

(5) The institution violates other administrative stipulations regarding inspection and appraisal, and disturbs the order of inspection and appraisal;

(6) The institution presumptuously practices businesses beyond the allowed scope without authorization;

(7) The institution presumptuously establishes branch offices without authorization;

(8) The institution provides other inspection and appraisal agencies or personnel with blank inspection and appraisal certificates or reports in the manner of cooperation, assignment, or transfer, and hands over relevant businesses to inspection and appraisal agencies or personnel that are set up without approval from the State Administration for Quality Inspection;

(9) The institution conducts other behaviors in violation of stipulations of these Measures.

Chapter Five: Supplementary Articles

Article 35

The stipulations on foreign invested import and export commodity inspection and appraisal institutions specified in these Measures are applicable to investors from Hong Kong Special Administrative Region, Macau Special Administrative Region, and Taiwan Region who invest to establish import and export commodity inspection and appraisal institutions in other regions of China.

Article 36

The review and approval process to the establishment of branches of import and export commodity inspection and appraisal institutions shall be handled in accordance with the institution establishment procedure.

The establishment of permanent representative offices by foreign inspection and appraisal institutions in the territory of China shall be handled in accordance with relevant regulations upon approval by the State Administration for Quality Inspection.

No permanent representative offices and administrative offices established by foreign inspection and appraisal institutions as well as domestic import and export commodity inspection and appraisal institutions shall be engaged in import and export commodity inspection and appraisal businesses in the territory of China.

Article 37

Import and export commodity inspection and appraisal institutions that are approved to establish prior to the promulgation of these Measures shall apply to the State Administration for Quality Inspection for the re-issuance of the “Import and Export Commodity Inspection and Appraisal Institution Qualification Certificate” within 3 months from the date of promulgation of these Measures, and shall not be engaged in businesses relating to import and export commodity inspection and appraisal in the event of failure to submit the application within the time limit.

Article 38

The State Administration for Quality Inspection, the Ministry of Commerce, and the State Administration for Industry and Commerce are responsible for the explanation of these Measures in accordance with their respective responsibilities.

Article 39

These Measures shall go into effect as of January 1st, 2004. The “Stipulations on the Review and Approval of Establishment of Foreign Invested Import and Export Commodity Inspection and Appraisal Companies” promulgated by the former State Import and Export Commodity Inspection Bureau on October 22, 1996, as well as the “Measures for Supervision and Administration of Import and Export Commodity Inspection and Appraisal Companies” promulgated by the former State Import and Export Commodity Inspection Bureau and the Ministry of Foreign Trade and Economic Cooperation on October 9, 1995, shall be annulled therefrom.