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# LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA ON PROCESSING TRADE

Adopted by Decree No. 1978 of the Presidium of the Supreme People's Assembly on December 26, 2000

## Chapter 1 Fundamentals

### Article 1 (Objective)

This Law is enacted for the purpose of providing strict guidelines for the processing trade, thereby increasing foreign currency revenues and promoting external economic exchange.

### Article 2 (Principles)

The State shall encourage the processing trade.

Processing trade shall be carried out on the principle of increasing foreign currency earnings by properly selecting the transaction partner, transaction mode and processing indices and estimating processing capacities and demand in the world market, as well as maintaining credit.

### Article 3 (Forms)

Processing trade may take various forms; consignment processing trade whereby the processor receives raw materials, semi-finished goods or components from a foreign enterprise and processes or assembles them as required in exchange for processing charges, and bonded processing trade whereby raw materials, semi-finished goods or components are imported free of customs duties from a foreign enterprise under the supervision of the customs and goods made by processing or assembling them are exported.

### Article 4 (Location)

Processing trade may be carried out in different areas. Bonded processing trade shall, however, be permitted only in a special economic zone such as the Rason Economic and Trade Zone.

### Article 5 (Parties to processing trade)

Processing trade shall be conducted by trading companies of the State or social, cooperative organizations.

Where necessary, a factory or an enterprise may also engage in processing trade. In this case approval thereof shall be obtained from the relevant higher organ.

### Article 6 (Relevant law and regulations)

Matters not provided for in this Law shall be governed by relevant laws and regulations including the Trade Law and the External Economic Contract Law of the DPRK.

Processing trade carried out by foreign-invested enterprises shall be governed by relevant laws and regulations for foreign-invested enterprises.

### Article 7 (Exchange and cooperation)

The State shall promote exchange and cooperation with foreign countries and international organizations in the field of processing trade.

## Chapter 2 Selection and Screening of Projects

### Article 8 (Requirement of project selection)

Selection of a processing trade project is the first stage of the processing trade.

A trading company, factory or enterprise shall select projects with economic and technical potentials and good reputation, projects whose processing capacity can generate good profits, projects that can contribute to the development of science and technology and to the updating of equipment of the unit concerned and projects that are in great demand in the world market.

### Article 9 (Matters requiring agreement before conclusion of contract)

A trading company, factory or enterprise shall, before concluding a contract, reach an agreement in writing with the foreign enterprise selected as the processing trade partner on the items, quantity, term of production, trademark, place of origin, processing charges, method of payment and the like.

### Article 10 (Screening body)

An application for processing trade shall be screened by the central foreign trade guidance organ.

In a special economic zone like the Rason Economic and Trade Zone, the application shall be screened by the Zone management organ.

### Article 11 (Contents of application)

A trading company, factory or enterprise shall submit to the relevant processing trade screening body an application, which shall specify the following:

1. An application for consignment processing trade shall state the name and address of the trading company, factory or enterprise, category of business, name and address of the foreign enterprise, a list of raw materials, semi-finished goods or components to be provided by the foreign enterprise, description and quantities of the products to be processed or assembled, term of production, processing capacity, feasibility study report, processing charges and the data used as the basis of the calculation thereof; and

2. An application for bonded processing trade shall state the name of the bonded area, the name and address of the factory or enterprise to be engaged in bonded processing trade, category of business, processing capacity, a list of raw materials, semi-finished goods or components to be imported, the amount of imports, the items and quantities of the products to be processed, equipment and their technical condition, a profitability study report, a guarantee for exportability and the like.

### Article 12 (Prohibition)

Approval for processing trade shall not be granted to the projects that do not have the capacity to process goods, projects that offer low processing charges and projects that may be detrimental to the national security and public interests.

### Article 13 (Term of screening, notification thereof)

The processing trade screening body shall examine an application for processing trade and notify the applicant of its decision within 15 days of receipt thereof.

## Chapter 3 Conclusion and Performance of Contract

### Article 14 (Obtaining approval before concluding contract)

Proper conclusion and performance of a processing trade contract is an important guarantee for the successful processing trade project.

A trading company, factory or enterprise shall obtain an approval for the application for processing trade before concluding a processing trade contract with a foreign enterprise.

#### Article 15 (Contents of contract)

A consignment processing trade contract shall specify the names of the parties to the contract, description and quantities of raw materials, semi-finished goods and components, description and quantities of products to be processed or assembled, trademark, name of origin, term of production, range of processing charges and method of payment, as well as providing for liabilities, indemnities and settlement of disputes. A bonded processing trade contract shall state the names of the parties, description, quantities, specification, quality and prices of the goods traded, as well as providing for the method of delivery, and liabilities.

#### Article 16 (Customs registration)

A trading company, factory or enterprise shall make customs registration within 5 days of concluding a processing trade contract.

#### Article 17 (Performance of contract, contract performance guarantee)

The parties to a processing trade contract shall carry out the contract faithfully.

A trading company, factory or enterprise may require the foreign enterprise to provide security for the fulfillment of a contract.

#### Article 18 (Claim for penalty or indemnity)

A party to a processing trade contract may claim a penalty or indemnity in cases where:

1. Performance of the contract is delayed or rejected without any valid reasons;
2. Packaging, quality or quantity does not satisfy the terms of the contract;
3. Processing charges are not paid or the payment for the goods is not made in time as prescribed in the contract; or
4. Other breach of the contract has occurred.

#### Article 19 (Refusal to take over processed or assembled goods, penalty)

Where products processed or assembled are not packaged according to the terms of the contract or where they are processed or assembled by using substitute raw materials, semi-finished goods or components, the foreign enterprise may demand them to be re-packaged or refuse to take them over. In this case, the trading company, factory or enterprise shall bear the resulting expenses on its own account and pay a penalty for breach of contract.

#### Article 20 (Charging penalty, storage expenses)

Where a foreign enterprise fails to take over the processed or assembled products in time, a trading company, factory or enterprise may charge a penalty or storage expenses.

Upon elapse of 3 months since the expiration of the term during which the processed or assembled goods are to be taken over, the goods may be sold or disposed of.

#### Article 21 (Modification of contract, notification thereof)

The parties to a processing trade contract may modify the provisions and term of the contract through consultation. In this case, modified items shall be notified to the processing trade screening body concerned.

#### Article 22 (Confidentiality)

A trading company, factory or enterprise shall hold in confidence the technology provided by the foreign enterprise under the contract.

## Chapter 4 Operation of a Processing Trade Project

### Article 23 (Observance of operational rules)

Establishment of proper operational rules is an important requirement of a processing trade. Trading companies, factories or enterprises engaged in processing trade shall carry out their business activities in compliance with the rules established by the State.

### Article 24 (Permission for import of materials, exemption from customs duties)

A trading company, factory or enterprise may receive or import from a foreign enterprise raw materials, semi-finished goods, packaging materials, machinery and equipment and supplies for managerial work that are necessary for processing trade. In this case, permission thereof shall not be sought and customs duties not payable.

### Article 25 (Submission of a list of required materials, provision thereof)

A trading company, factory or enterprise shall submit to its higher institution a list of required domestic labour, raw materials, power, water, packaging materials and funds that are necessary for the processing work.

The higher institution shall review the list and take measures to supply them by including them in the national plan or the Zone plan.

### Article 26 (Contract of consignment processing)

Where an enterprise is incapable of processing some special parts due to lack of its processing capacity, processing thereof may be commissioned to other factory or enterprise, or a foreign-invested enterprise or a foreign enterprise. In this case, a contract shall be concluded.

### Article 27 (Obligatory payment to the State, exemption from payment of depreciation)

A trading company, factory or enterprise shall make a payment due to the State out of the revenue earned from processing trade.

No depreciation shall be payable with respect to machinery, equipment, vehicle and other fixed assets that are provided by the contract partner and are used for the purpose of processing trade.

### Article 28 (Use of foreign currency earned)

A trading company, factory or enterprise shall use the foreign currency earned from processing trade while depositing it in the relevant bank. In this case prescribed portions of them may be used for the procurement of machinery, equipment, supplies for managerial work and bonus goods and to cover the expenses for trade negotiations, technological exchanges, research and training.

### Article 29 (Prohibited acts)

A trading company, factory or enterprise engaged in processing trade shall not:

1. Misappropriate foreign currency earned or deposit them in a foreign bank;
2. Change or extend the business category or indices without approval;
3. Sell processed or assembled products in the domestic market; and
4. Misappropriate the materials to be processed.

### Article 30 (Notification to customs)

Where a trading company, factory or enterprise wishes to use the materials to be processed for other purposes or sell the processed goods in the domestic market as may be required by the State measure, the matter shall be notified to the relevant customs office after obtaining prior agreement of the other contracting partner.

### **Article 31 (Application for modification of business category, screening thereof)**

Where a trading company, factory or enterprise wishes to change the business category of processing trade, a written application to that effect shall be submitted to the processing trade screening institution.

The screening institution shall review the application and notify the applicant of its decision within 10 days of the receipt thereof.

### **Article 32 (Liabilities)**

Any liabilities incurred in the course of processing trade shall be covered by the trading company, factory or enterprise on its own account.

### **Article 33 (Technical assistance from foreign country)**

A trading company, factory or enterprise may receive technical assistance from a foreign enterprise for the processing and assembling of goods. In this case, a foreign technician may be invited or its technicians and workers sent to a foreign country for technical training according to prescribed procedures.

### **Article 34 (Foreign quality inspector, bringing in or taking out processing equipment)**

A trading company, factory or enterprise may station a quality inspector from a foreign enterprise and bring in or take out processing equipment provided by the foreign enterprise for the purpose of replacement or repair.

### **Article 35 (Term of operation, cancellation of customs registration)**

The term of operation of a processing trade business shall be the same as the term of the processing trade contract.

Where the term of a processing trade contract expires or an approval for processing trade is cancelled for a certain reason, an application shall, within 5 days of the cancellation of approval, be filed with the customs for the revocation of registration.

## **Chapter 5 Guidance and Control of Processing Trade**

### **Article 36 (Requirement)**

Strict guidance and control of processing trade is an important guarantee for the proper implementation of the processing trade policy of the State.

The State shall strengthen its guidance and control of processing trade as required by the developments therein.

### **Article 37 (Guidance organ)**

The Cabinet shall undertake a unified guidance of processing trade.

The Cabinet shall control and guide the work of processing trade through the central foreign trade guidance organ and the management organ of a special economic zone.

### **Article 38 (Preferential treatment)**

Bonus and other preferential treatment shall be granted to trading companies, factories and enterprises that bring great benefits to the State through processing trade.

### **Article 39 (Tightening of customs control)**

The central customs guidance organ shall tighten control as the forms and methods of the processing trade become diversified.

The customs shall, in cooperation with the central foreign trade guidance organ or the management organ of the special economic zones, ensure that materials that have been brought in for processing trade are not misappropriated and processed goods are not sold in the domestic market.

**Article 40 (Suspension of business, cancellation of license, confiscation, fines)**

Where a trading company, factory or enterprise used materials to be processed for other purposes, sold processed goods in the domestic market, misappropriated foreign currencies earned or deposited them in a foreign bank, or changed or expanded the business category, thus causing hindrance to the processing trade, such sanctions as the suspension of operation, cancellation of the approval for processing trade, confiscation of the materials concerned or imposition of fines shall be imposed.

**Article 41 (Administrative or penal liability)**

Officials of the trading company, factory, enterprise, supervisory and control institutions and individual citizens who are responsible for the grave consequences caused through their violation of this Law shall, depending on the gravity of the offence, be liable to administrative or penal liability.

**Article 42 (Settlement of disputes)**

Disputes arising in connection with processing trade shall be settled through consultation.

In case of failure in consultation, the disputes shall be referred to an arbitration body or a court of the DPRK for settlement.