

## SOLID WASTE IMPORTS

The revised solid waste management law proposed by MEP is the Circular on Seeking Public Comments on the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution Caused by Solid Waste (Revised Draft). And, according to the announcement of MEP, the deadline for seeking public comments is August 18, 2018.

After preliminary review of this revised draft, the major amendment is made on Clause 25 of the previous solid waste management law. The amended provision, Clause 29, seems to be a total ban on the importation of solid wastes by deleting the notion of solid wastes that can be used as raw material and remaining silent on administration of imported solid wastes. But, we believe it is not entirely true. According to the context of the revised draft and the newly enacted rules by Customs, the scope of the solid wastes is narrowly defined and shall mean the solid wastes that cannot be used as raw material and those that can't be utilized through harmless treatment.

Clause 25 of the previous solid waste management law is as below:

第二十五条 禁止进口不能用作原料或者不能以无害化方式利用的固体废物；对可以用作原料的固体废物实行限制进口和非限制进口分类管理。

国务院环境保护行政主管部门会同国务院对外贸易主管部门、国务院经济综合宏观调控部门、海关总署、国务院质量监督检验检疫部门制定、调整并公布禁止进口、限制进口和非限制进口的固体废物目录。

禁止进口列入禁止进口目录的固体废物。进口列入限制进口目录的固体废物，应当经国务院环境保护行政主管部门会同国务院对外贸易主管部门审查许可。

进口的固体废物必须符合国家环境保护标准，并经质量监督检验检疫部门检验合格。

进口固体废物的具体管理办法，由国务院环境保护行政主管部门会同国务院对外贸易主管部门、国务院经济综合宏观调控部门、海关总署、国务院质量监督检验检疫部门制定

### *Translation*

Clause 25 The State forbids the import of solid wastes that cannot be used as raw material and those that can't be utilized through harmless treatment, and restricts the import of the solid wastes that can be used as raw materials and implements the classification management of non-restricted import thereto.

The environmental protection administrative department of the State Council shall, in conjunction with the foreign trade administrative department and the economic comprehensive macro-control department of the State Council, the General Administration of Customs and the quality supervision, inspection and quarantine department of the State Council, formulate, adjust and publish solid waste catalogues of import-forbidden, import-restricted and non-restricted import.

The import of solid wastes as listed in the catalogue of import-forbidden shall be forbidden. The import of solid wastes as listed in the catalogue of import-restricted shall be examined and approved by the environmental protection administrative department of the State Council in collaboration with the foreign trade administrative department of the State Council.

The imported solid wastes shall comply with state environmental protection standards and be inspected to be qualified by the quality supervision, inspection and quarantine department. The specific measures for the administration of the import of solid wastes shall be formulated by the environmental protection administrative department of the State Council in collaboration with the foreign trade administrative department of the State Council, the economic comprehensive macro-control department of the State Council, the General Administration of Customs and the quality supervision, inspection and quarantine department of the State Council.

The proposed amendment can be found in Clause 29 of the revised draft:

第二十九条 禁止进口固体废物。

#### *Translation*

Clause 29 The State forbids the import of solid wastes.

The definition of the solid wastes in Clause 99 under the revised draft is exactly the same of Clause 88 of the previous solid waste management law, which is read as below:

第九十九条 本法下列用语的含义:

(一) 固体废物,是指在生产、生活和其他活动中产生的丧失原有利用价值或者虽未丧失利用价值但被抛弃或者放弃的固态、半固态和置于容器中的气态的物品、物质以及法律、行政法规规定纳入固体废物管理的物品、物质。

#### *Translation*

Clause 99 For the purposes of this Law, the following terms mean:

(1) "Solid waste" means articles and substances in solid, semi-solid state or gasified in the containers that are generated from the production, living and other activities and have lost their original use values or are discarded or abandoned though haven't yet lost their use values, and any other articles and substances that are included into the administration of the solid wastes according to the provisions of the laws and administrative regulations.

## **EQUIPMENT IMPORTS**

Clause 32 refers to the production equipment that creates the solid wastes. This clause 32 together with any other clauses under the proposed revised law are not intended to restrict or inhibit the importation of recycling equipment. However, according to this clause 32, it may imply that recycling equipment with backward technology may fall into the scope of the list of obsolete production techniques and equipment, and therefore, will be prohibited from importation in the future. The provisions of this clause is exactly the same as the clause 28 of the solid waste management law, which can be read as below:

国务院经济综合宏观调控部门应当会同国务院有关部门组织研究、开发和推广减少工业固体废物产生量和危害性的生产工艺和设备,公布限期淘汰产生严重污染环境的工业固体废物的落后生产工艺、落后设备的名录。

生产者、销售者、进口者、使用者必须在国务院经济综合宏观调控部门会同国务院有关部门规定的期限内分别停止生产、销售、进口或者使用列入前款规定的名录中的设备。生产工艺的采用者必须在国务院经济综合宏观调控部门会同国务院有关部门规定的期限内停止采用列入前款规定的名录中的工艺。

列入限期淘汰名录被淘汰的设备，不得转让给他人使用。

#### *Translation*

The economic comprehensive macro-control department of the State Council shall, jointly with other relevant departments of the State Council, organize the research, development and promotion of the production techniques and equipment that will reduce the discharge and harm of industrial solid wastes, and promulgate the list of obsolete production techniques and equipment that cause severe environmental pollution by industrial solid wastes and thus should be eliminated within the prescribed period.

Producers, sellers, importers or users shall stop producing, selling, importing or using those equipment as included in the list stipulated in the preceding paragraph within the prescribed period which are specified by the economic comprehensive macro-control department of the State Council together with other relevant departments of the State Council. The users of such production techniques shall stop using such techniques as included in the list stipulated in the preceding paragraph within the prescribed period as specified by the economic comprehensive macro-control department of the State Council jointly with other relevant departments of the State Council.

Eliminated equipment included in the catalogue of equipment to be eliminated within the prescribed period shall not be transferred to any other for use.

It is also worth noting that there is only one clause refers to the recycling equipment, that is, clause 26, which is cited as below:

对收集、贮存、运输、利用、处置固体废物的设施、设备和场所，应当加强管理和维护，保证其正常运行和使用。

#### *Translation*

The concerned entity shall strengthen the management and maintenance of facilities, equipment and places for collecting, storing, transporting, utilizing and/or disposing the solid wastes, so as to ensure their normal operation and function.