

# Law of the People's Republic of China on the Hainan Free Trade Port

## **Order of the President of the People's Republic of China**

No. 85

The Law of the People's Republic of China on the Hainan Free Trade Port, adopted at the 29th Meeting of the Standing Committee of the Thirteenth National People's Congress of the People's Republic of China on June 10, 2021, is hereby promulgated, and shall go into effect as of the date of promulgation.

Xi Jinping

President of the People's Republic of China

June 10, 2021

## **Law of the People's Republic of China on the Hainan Free Trade Port**

*(Adopted at the 29th Meeting of the Standing Committee of the  
Thirteenth National People's Congress on June 10, 2021)*

## **Contents**

**Chapter I** General Provisions

**Chapter II** Trade Liberalization and Facilitation

**Chapter III** Investment Liberalization and Facilitation

**Chapter IV** Fiscal and Taxation Systems

**Chapter V** Eco-environmental Protection

**Chapter VI** Industrial Development and Talent Support

**Chapter VII** Comprehensive Measures

**Chapter VIII** Supplementary Provisions

## **Chapter I**

### **General Provisions**

#### **Article 1**

This Law is enacted for the purpose of building a high-standard Hainan Free Trade Port with Chinese characteristics to promote the formation of a new model for reform and opening up at a higher level, establish new systems for the open economy, and promote the smooth, healthy and sustainable development of the socialist market economy.

## **Article 2**

The state establishes the Hainan Free Trade Port on the whole island of Hainan, and shall develop free trade port policies and institutions step by step and in stages to realize liberalization and facilitation of trade, investment, cross-border capital flows, personnel entry and exit, and transport to and from the free trade port, and to ensure the safe and orderly flow of data. The development and administration of the Hainan Free Trade Port shall be bound by this Law. In the absence of any provisions in this Law, the provisions of other relevant laws and regulations shall apply.

## **Article 3**

The Hainan Free Trade Port shall be developed with Chinese characteristics by drawing on international experience, focusing on Hainan's strategic status and giving full play to Hainan's strengths. In the course reform and innovation shall be encouraged and risk prevention strengthened. The new philosophy of innovative, coordinated, green, open and shared development shall be applied, a holistic approach to national security adopted, high-quality

development adhered to, and the people's place at the core upheld. This will be done to achieve economic prosperity, improve social etiquette and civility, maintain an eco-friendly living environment and see that the people lead a happy life.

#### **Article 4**

The Hainan Free Trade Port shall be developed with a focus on promoting trade and investment liberalization and facilitation, supported by the free, orderly, safe and convenient flow of different production factors across the border and a modern industrial system, and guaranteed by a special taxation arrangement, an efficient social governance system and a sound legal system, with continuous improvements made to ensure a law-based, international-oriented and convenient business environment and a fair, integrated and efficient market.

#### **Article 5**

The strictest systems for eco-environmental protection shall be implemented in the Hainan Free Trade Port with priority given to ecological protection and in pursuit of green development. Better

systems and mechanisms for ecological conservation shall be developed and a national pilot zone for ecological conservation shall be established in the Hainan Free Trade Port.

### **Article 6**

The state establishes a leadership mechanism for the development of the Hainan Free Trade Port to coordinate the major policies and issues concerning its development. The departments in charge of development and reform, finance, commerce, financial regulation, customs and taxation under the State Council and other State Council departments shall guide and promote the development of the Hainan Free Trade Port in accordance with their respective duties and responsibilities. The state establishes an administrative system compatible with the development of the Hainan Free Trade Port and develop new regulatory models. Hainan provincial authorities shall effectively fulfill their responsibilities and strengthen their leadership and organization, to promote the development of the Hainan Free Trade Port with all their strength.

### **Article 7**

The state supports the establishment and development of the Hainan

Free Trade Port, and shall support Hainan provincial authorities in exercising the decision-making power over carrying out reform in accordance with the requirements of the Central Government and the provisions of laws. The State Council and its relevant departments shall, in timely manner, authorize or entrust the people's government of Hainan Province and its relevant departments to exercise relevant administrative powers in accordance with the practical needs for the develop of the Hainan Free Trade Port.

### **Article 8**

The Hainan Free Trade Port shall establish a comprehensive, scientific, and effective governance system, promote the reform of government agencies and the transformation of their functions, standardize government services, strengthen the mechanisms for preventing and resolving social conflicts, and develop a smarter social governance system based on collaboration, participation, and common interests. The state advances the reform and innovation of the administrative divisions in the Hainan Free Trade Port by optimizing the layout and structure of the administrative divisions.

## **Article 9**

The state supports the Hainan Free Trade Port in taking the initiative to adapt to developments in international economic and trade rules and the trends in global economic governance reform, and in carrying out international exchanges and cooperation.

## **Article 10**

The Hainan Provincial People's Congress and its Standing Committee may, in accordance with this Law, formulate regulations on trade, investment, and related administrative activities (hereinafter referred to as the Hainan Free Trade Port regulations) in light of the actual conditions and needs of the Hainan Free Trade Port and under the provisions of the Constitution and the basic principles of laws and administrative regulations, and shall implement these regulations within the Hainan Free Trade Port .

The Hainan Free Trade Port regulations shall be submitted to the Standing Committee of the National People's Congress and the State Council for the record. Explanations shall be given for the circumstances and reasons justifying any deviation in the Hainan Free Trade Port regulations from the provisions of laws or

administrative regulations. Where the Hainan Free Trade Port regulations involve matters that shall be governed by laws of the National People's Congress and its Standing Committee or by administrative regulations of the State Council in accordance with the law, the said regulations shall be submitted to the Standing Committee of the National People's Congress or the State Council for approval before entering into force.

## **Chapter II**

### **Trade Liberalization and Facilitation**

#### **Article 11**

The state establishes a customs supervision system for the special zone of the Hainan Free Trade Port, which features the whole-island special customs operations in Hainan Island. A secure and convenient management system for trade in goods that allows free entry and exit of goods shall be established, and the administrative measures for trade in services shall be optimized, to realize trade liberalization and facilitation on the basis of effective regulation/supervision in accordance with the law (qianyi).



## **Article 12**

The Hainan Free Trade Port shall build port infrastructure to a high standard and strengthen control over the public health and safety, bio-safety, food safety, and commodity quality and safety at the ports.

## **Article 13**

Goods and articles may enter or exit freely between areas outside the borders of China's mainland and the Hainan Free Trade Port under the supervision of the customs in accordance with the law, except those on the lists of goods and articles prohibited or restricted for import or export in the Hainan Free Trade Port. The lists mentioned in the preceding paragraph shall be made by the department in charge of commerce under the State Council in conjunction with other relevant State Council departments and the Hainan provincial authorities.

## **Article 14**

For goods entering other customs area of China (hereinafter referred

to as “China’s mainland”) from the Hainan Free Trade Port, the relevant formalities shall be handled in accordance with import regulations in principle. Articles entering China’s mainland from the Hainan Free Trade Port shall be subject to supervision and management in accordance with relevant regulations. Simplified import administration shall be applied to the means of transport from the Hainan Free Trade Port to China’s mainland. Goods, articles, and means of transport entering the Hainan Free Trade Port from China’s mainland shall be managed in accordance with the regulations on domestic shipment. Specific measures for the movement of goods, articles, and means of transport between the Hainan Free Trade Port and China's mainland shall be formulated by the relevant departments under the State Council in conjunction with the Hainan provincial authorities.

### **Article 15**

All market entities are free to engage in trade in goods and related activities in the Hainan Free Trade Port in accordance with the law. The customs shall conduct efficient supervision and administration with less intervention. In the Hainan Free Trade Port there shall be no

limits on the storage period for import and export goods and the places of storage may be freely chosen, provided that the requirements for environmental protection and production safety are met.

### **Article 16**

The Hainan Free Trade Port shall implement policies on customs clearance facilitation with simplified process and formalities for the movement of goods. Except for goods subject to inspection and quarantine or license management in accordance with the law, the customs shall release goods entering the Hainan Free Trade Port in accordance with relevant regulations, so as to facilitate customs clearance for market entities.

### **Article 17**

The Hainan Free Trade Port shall implement a system of negative list for cross-border trade in services and shall implement corresponding systems for payments and capital transfers. Cross-border trade in services outside the scope of the negative list shall be managed according to the principle of equal treatment for

domestic and cross-border trade in services. The negative list for cross-border trade in services of the Hainan Free Trade Port shall be made by the department in charge of commerce under the State Council in conjunction with other relevant State Council departments and the Hainan provincial authorities.

### **Chapter III**

#### **Investment Liberalization and Facilitation**

##### **Article 18**

The Hainan Free Trade Port shall implement investment liberalization and facilitation policies by adopting an approval system with minimum requirements for investment, improving the system for investment promotion and protection, strengthening protection of property rights, ensuring fair competition, and fostering an open, transparent and predictable investment environment. The Hainan Free Trade Port shall fully liberalize investment access, except for those sectors subject to approval by the state involving national security, social stability, redlines for

ecological protection, and major public interests, etc.

### **Article 19**

The Hainan Free Trade Port shall implement an administration system of pre-establishment national treatment plus negative lists for foreign investment. The negative lists for foreign investment access exclusively applicable to the Hainan Free Trade Port shall be made by the relevant departments under the State Council in conjunction with the Hainan provincial authorities, and be issued upon the approval of the State Council.

### **Article 20**

The state relaxes regulation of market access in the Hainan Free Trade Port. The special list (special measures) for relaxed regulation of market access in the Hainan Free Trade Port shall be determined by the relevant departments under the State Council in conjunction with the Hainan provincial authorities. The Hainan Free Trade Port shall implement investment facilitation measures focusing on process supervision and management and gradually implement a system of market access upon commitment. The specific measures

thereof shall be formulated by Hainan provincial authorities in conjunction with relevant departments under the State Council.

### **Article 21**

The Hainan Free Trade Port shall, in accordance with the principles of convenience, efficiency and transparency, streamline process, increase efficiency, and improve government services; establish systems facilitating the establishment, operation, and withdrawal of market entities; and optimize bankruptcy procedures. The specific measures thereof shall be formulated by the Hainan Provincial People's Congress and its Standing Committee.

### **Article 22**

The state protects the investment, earnings and other legitimate rights and interests of natural persons, legal persons, and unincorporated organizations in the Hainan Free Trade Port in accordance with the law, and strengthen the protection of small and medium-sized investors.

### **Article 23**

The state protects the intellectual property rights of natural persons, legal persons, and unincorporated organizations in the Hainan Free Trade Port in accordance with the law, and shall facilitate intellectual property rights creation and application as well as enhance relevant management and service capabilities, shall establish sound mechanisms such as supervision through classified credit management and sanctions for dishonesty in the field of intellectual property rights, and shall punish infringement of intellectual property right in strict accordance with the law.

#### **Article 24**

A unified, open, competitive and orderly market system shall be established in the Hainan Free Trade Port, where fair market competition shall be protected through enhancing the fundamental position of the policies on competition, implementing a review system for fair competition, and strengthening and improving law enforcement in anti-monopoly and anti-unfair competition. All market entities in the Hainan Free Trade Port shall enjoy equal treatment in accordance with the law in terms of obtaining access licensing, business operations, access to factors of production, standard-setting, preferential policies, etc. The specific measures

thereof shall be formulated by the Hainan Provincial People's Congress and its Standing Committee.

## **Chapter IV**

### **Fiscal and Taxation Systems**

#### **Article 25**

During the establishment and development stage of the Hainan Free Trade Port, the Central Government shall give appropriate financial support to the Hainan Free Trade Port according to its actual situation and the changes in its taxation system. The Hainan provincial authorities are encouraged to issue local government bonds to finance project development in the Hainan Free Trade Port within the quota approved by the State Council. Hainan provincial authorities shall set up a government-guided investment fund for the development of the Hainan Free Trade Port, which is operated in a market-oriented manner.

#### **Article 26**

The Hainan Free Trade Port may independently decide to reduce or



exempt the payments to government-managed funds, or defer the collection of such payments in accordance with development needs, except for those related to an ecological compensation.

### **Article 27**

A taxation system that meets local needs shall be established for the Hainan Free Trade Port, in line with the direction of national tax reform and under the principles of a simple and reasonable tax structure, full optimization of all elements, significant reduction of tax burden, clear revenue attribution, and balancing of revenue and expenditure. To introduce island-wide special customs operations, taxes and fees such as the value-added tax, consumption tax, vehicle purchase tax, urban maintenance and construction tax, and education surcharge shall be consolidated, and sales tax shall be levied on goods and services for retails. After island-wide special customs operations are implemented, the taxation system shall be further simplified. The department of finance under the State Council, in conjunction with other relevant State Council departments and the Hainan provincial authorities, shall formulate a specific plan for the simplification of the taxation system in time.

## **Article 28**

After island-wide special customs operations are implemented and the taxation system is simplified, the Hainan Free Trade Port shall implement catalogue management with respect to import dutiable products. No import duties shall be levied on products outside the catalogue entering the Hainan Free Trade Port. The catalogue of import dutiable products shall be produced by the department of finance under the State Council in conjunction with other relevant State Council departments and the Hainan provincial authorities. Before island-wide special customs operations are implemented and the taxation system is simplified, the import duties import value-added tax and import consumption tax on certain imported goods shall be exempted. Export duties shall be levied on export dutiable products exiting from the Hainan Free Trade Port.

## **Article 29**

Import duties shall be levied on goods entering China's mainland from the Hainan Free Trade Port as imports in principle. However, import duties shall be exempted for goods produced by the

enterprises in encouraged industries if such goods do not incorporate imported materials and parts or if they incorporate imported materials and parts but are processed in the Hainan Free Trade Port and their value increases by a specific percentage as a result. The specific measures thereof shall be formulated by the relevant departments under the State Council in conjunction with the Hainan provincial authorities. The value-added tax and consumption tax collected on goods entering the Hainan Free Trade Port from China's mainland shall be rebated in accordance with the relevant regulations of the State Council. Before island-wide special customs operations are implemented and the taxation system is simplified, the import duties, the import value-added tax and the import consumption tax shall be exempted for duty-free articles that are purchased and taken delivery of by tourists when departing from the island in accordance with relevant regulations. After island-wide special customs operations are implemented and the taxation system is simplified, the tax administration measures for goods moving between the Hainan Free Trade Port and China's mainland shall be formulated by the relevant departments under the State Council in conjunction with the Hainan provincial authorities.

### **Article 30**

Preferential enterprise income tax treatment shall be granted to eligible enterprises registered in the Hainan Free Trade Port. Individual income tax preference shall be given to eligible individuals in the Hainan Free Trade Port.

### **Article 31**

A sound, efficient and unified system for tax collection and administration as well as related services shall be established in the Hainan Free Trade Port, which provides effective, informatized, international-standard-meeting, and easy-to-access services. The Hainan Free Trade Port shall actively participate in international cooperation in the area of tax collection and administration, improve the standard for and efficiency of tax collection and administration as well as related services, and protect the legitimate rights and interests of taxpayers.

## **Chapter V**

### **Eco-environmental Protection**

## **Article 32**

Improvements shall be made to the eco-environmental assessment and monitoring system of the Hainan Free Trade Port and an eco-environmental access list be formulated to prevent pollution and protect the environment. Improvements shall be made to the property rights system for natural resources and the system of paid use of natural resources of the Hainan Free Trade Port to promote economical and efficient resource use.

## **Article 33**

The establishment of spacial planning system for the Hainan Free Trade Port shall be accelerated, under which tailored regulatory and control measures for different uses of natural ecological space shall be adopted, redlines for ecological conservation be strictly observed, a system of protected natural areas mainly consisting of national parks be formed, and green urbanization and the development of a beautiful countryside be promoted. The marine environment of the Hainan Free Trade Port shall be strictly protected, and sound interregional mechanisms for ecosystem protection and restoration

and for pollution prevention and control based on land-marine coordination shall be established.

#### **Article 34**

The Hainan Free Trade Port shall adopt a stricter environmental-safety-related entry management system, strengthen inspection and quarantine capacity building, prevent the invasion of alien species, and prohibit the import of solid waste from abroad. The Hainan Free Trade Port shall improve its capacity for the treatment and disposal of hazardous waste such as medical waste, enhance its capacity for emergency preparedness and response to eco-environmental emergencies, and strengthen ecological risk prevention and control.

#### **Article 35**

A sustainable market-oriented compensation mechanism for ecological protection shall be established in the Hainan Free Trade Port, and it will be led by the government with the participation of enterprises and all other sectors of society. A mechanism for realizing the value of ecosystem products shall also be established to

encourage the use of market mechanisms to promote eco-environmental protection and achieve sustainable development.

### **Article 36**

The Hainan Free Trade Port shall implement an accountability system and an assessment and evaluation system for achieving environmental protection targets. The rule shall be adopted that failing to achieve environmental protection targets shall be considered the failure of the annual assessment when the local people's governments at or above the county level conduct such assessments on their departments responsible for environmental supervision and administration and the leaders of these departments, as well as on the people's governments at the next lower level and their leaders. For areas where environmental protection targets have not been attained, approvals of environmental impact assessment documents for projects with an increase in total emissions of major pollutants in these areas shall be suspended for one year. The principal leaders of the local people's government responsible for these failures and of the departments in charge of environmental supervision and administration shall not be promoted to higher

positions or transferred to important posts within one year, and shall be given sanctions in accordance with the law.

### **Article 37**

The Hainan Free Trade Port shall implement a lifelong accountability system for eco-environmental damage. Where serious eco-environmental damage is caused due to disregard of the requirements for scientific development, the principal leaders, the persons directly in charge, and the other persons directly responsible of the local people's governments and their relevant departments shall be strictly held accountable.

## **Chapter VI**

### **Industrial Development and Talent Support**

### **Article 38**

The state supports the Hainan Free Trade Port in establishing an open, eco-friendly, and service-oriented industrial system and in actively developing important industries such as tourism and other modern service industries, high-tech industries, and efficient tropical



agriculture.

### **Article 39**

The Hainan Free Trade Port shall build itself into an international tourism and consumption center, deeply integrate tourism with culture, sports, healthcare, elderly care, and other industries, to foster new forms and models of tourism.

### **Article 40**

The Hainan Free Trade Port shall deepen the opening up of its modern service sector to other parts of China and to the overseas, build itself into an international shipping hub, promote the integrated development of ports, industries and cities, improve the marine service infrastructure, and build an internationally competitive marine service system. High-level foreign universities and vocational schools may set up schools of science, engineering, agriculture and medical science in the Hainan Free Trade Port.

### **Article 41**

The state supports the Hainan Free Trade Port in the development of

major scientific research infrastructure and programs, and establishes a management system for scientific and technological innovations and international scientific and technological cooperation mechanisms, which are in line with the laws of scientific research.

#### **Article 42**

A data flow management system shall be established in the Hainan Free Trade Port in accordance with the law to ensure the safe, orderly, free and convenient flow of data, to protect the data-related rights and interests of individuals and organizations in accordance with the law, to open up communication resources and communication services in an orderly manner, to expand opening up in the field of data, and to promote the development of the data-based digital economy. The state supports the Hainan Free Trade Port in exploring institutional arrangements for regional cross-border data flow.

#### **Article 43**

The Hainan Free Trade Port shall adopt a highly free, convenient

and open transport policy, as well as a more open shipping system and ship management system. The Yangpu China ship registry port shall be built in the Hainan Free Trade Port where a special ship registration system shall be implemented. Airspace control and air route restrictions shall be relaxed in the Hainan Free Trade Port and the allocation of traffic rights resources shall be optimized to improve transportation facilitation and services.

#### **Article 44**

The Hainan Free Trade Port shall deepen the reform of its talent development system and mechanisms, creating new support mechanisms for personnel training, and establishing scientific and reasonable mechanisms introducing, identifying and employing talents, as well as ensuring their benefits and welfare.

#### **Article 45**

An efficient and convenient exit and entry administration system shall be established in the Hainan Free Trade Port by phasing in a visa-free entry policy in a wider range, extending the duration of visa-free stay, optimizing exit and entry inspection, and facilitating

exit and entry customs clearance.

#### **Article 46**

More open policies for talents and their temporary stay and residence shall be adopted in the Hainan Free Trade Port, including a more relaxed policy for temporary exit and entry, implementation of a policy for facilitated work visa application, application of the negative list administration system for foreigners' work permits, and further improvement of the stay and residence system.

#### **Article 47**

The Hainan Free Trade Port shall relax restrictions on overseas personnel taking professional qualification examinations, and implement a one-way accreditation list system for overseas professional credentials.

### **Chapter VII**

#### **Comprehensive Measures**

#### **Article 48**

The State Council may, according to the development needs of the

Hainan Free Trade Port, delegate its powers to examine and approve the conversion of agricultural land into land used for construction purposes and the expropriation of land to the people's government of Hainan province, as well as the power to examine and approve the adjustment to the layout of cultivated land, permanent basic farmland, forest land, and land for construction purposes in the entire province under the conditions prescribed by the state and under the premise of never breaking the important indicators specified in spacial planning of Hainan Province, such as the redlines for ecological protection, the area of permanent basic farmland, the amount of cultivated land and forest land, the total amount of land for construction purposes, and ensuring no degradation of the quality of the said land. The Hainan Free Trade Port shall push forward integrated and coordinated development of urban areas, rural areas and reclamation areas, introduce a new model of land for construction purposes in small towns, and promote the capitalization of reclaimed agricultural land. Use of the sea area in the Hainan Free Trade Port for major national project development shall be guaranteed in accordance with the law.

## **Article 49**

In the course of the development of the Hainan Free Trade Port, cultivated land shall be effectively protected, land administration shall be strengthened, and an intensive and economical land use system and the evaluation standards thereof as well as a system for using the stock land for construction purposes shall be established. Idle land shall be made full use of. Where the right to use a particular lot of land is obtained through transfer and the land is under development, if the project has not been completed over one year after the completion date agreed upon in the assignment contract, an idle land fee shall be collected each year at a certain proportion of the present value of the land assigned before the completion of the project. The specific measures thereof shall be formulated by Hainan provincial authorities.

## **Article 50**

The Hainan Free Trade Port shall maintain that the financial sector serves the real economy. It shall promote financial reform and innovation, and take the lead in implementing policies to open up the financial sector.

### **Article 51**

A cross-border capital flow management system shall be established in the Hainan Free Trade Port that adapts to the needs of high-level trade and investment liberalization and facilitation, capital accounts shall be opened up by stages, full currency convertibility for foreign debts of non-financial companies shall be implemented step by step, and facilitation of cross-border trade settlement shall be promoted, for the furtherance of the free and convenient flow of funds between the Hainan Free Trade Port and the overseas in an orderly manner.

### **Article 52**

The approved financial institutions in the Hainan Free Trade Port may conduct offshore financial business through designated accounts or in specific areas.

### **Article 53**

The Hainan Free Trade Port shall strengthen the development and application of the social credit system and establish mechanisms that encourage honesty and punish dishonesty.

#### **Article 54**

The state supports the exploration of judicial reform compatible with the Hainan Free Trade Port. In the Hainan Free Trade Port, multiple commercial dispute resolution mechanisms shall be established, a centralized trial mechanism for international commercial disputes shall be improved, and resolution of disputes through arbitration, mediation, and other non-litigation means shall be encouraged.

#### **Article 55**

A risk alert, prevention and control system shall be established in the Hainan Free Trade Port to prevent and eliminate major risks. The customs shall be responsible for routine regulation at the ports and other customs surveillance zones, preventing and combating smuggling and exercising follow-up supervision in accordance with the law. The coast guards shall be responsible for investigating and dealing with smuggling at sea. The people's government of Hainan Province shall be responsible for the overall anti-smuggling work within the province, strengthening the control over non-customs areas, and establishing a joint mechanism against smuggling with



other regions. People, goods, articles and means of transport that move between areas outside the borders of China's mainland and the Hainan Free Trade Port and between the Hainan Free Trade Port and China's mainland shall all enter or exit from the port. The security review system for foreign investment shall be implemented in the Hainan Free Trade Port in accordance with the law, and security reviews shall be conducted on foreign investments that affect or may affect China's national security. Order and security in the areas of finance, networks and data, movement of people and public health in the Hainan Free Trade Port shall be maintained through the establishment of a sound financial risk prevention and control system, the implementation of a hierarchical cybersecurity protection system, and the establishment of a risk prevention and control system for the movement of people, a monitoring and alert mechanism for infectious diseases and public health emergencies, and a mechanism for prevention, control, and treatment in case of an outbreak.

## **Chapter VIII**

### **Supplementary Provisions**

## **Article 56**

After this Law goes into effect and before island-wide special customs operations are implemented in the Hainan Free Trade Port, the State Council and its relevant departments and the Hainan provincial authorities may formulate specific transitional measures with regard to the matters provided for herein to advance the development of the Hainan Free Trade Port in accordance with the principles prescribed in this Law and in accordance with their respective duties and responsibilities.

## **Article 57**

This Law shall go into effect as of the date of its promulgation.