

PEOPLE'S REPUBLIC OF CHINA

Provisions of the Criminal Law

Article 114 of the Criminal Law sentences an individual who "... spreads pathogens of infectious disease, poisonous or radioactive substances or substances, or uses other dangerous means to endanger public security, but causes no serious consequence ..." to no less than three years but no more than ten years in prison. There is a penalty of ten years prison, life or capital punishment for causing fires, floods or explosions, for disseminating poisonous or radioactive substances or contagious-disease pathogens, for employing other dangerous means to cause serious injury or death or major damage to private or public property. Posing a danger to the public security "by stealing or seizing firearms, ammunition or explosive articles, or stealing or seizing poisonous or radioactive substances or contagious-disease pathogens" entails a penalty of three to ten years prison, life imprisonment or the death penalty in serious cases. Paragraph 2 of Article 125 punishes a person who illegally manufactures, trades, transports, or stores pathogens thereby endangering public safety. Finally, Article 291(I) of the Criminal Law provides that those who provoke "a serious disturbance of the social order by disseminating false explosive, poisonous or radioactive substances or contagious-disease pathogens, or fabricates threats or information concerning explosives or biological or radioactive agents, or knowingly disseminates fabricated threats or messages" will be punished with criminal detention or public surveillance or at least five years prison when the act caused serious consequences.

Supplying weapons to terrorists is a crime. The Criminal Law and other Regulations on Administrative Penalties for Public Security subject a person to criminal punishment or administrative sanctions for illegal possession or carrying of firearms, ammunition, explosives, fatal toxic agents or radioactive materials. Laws and regulations on exports and imports, such as the List of Articles Prohibited from Import and Export by Customs of the People's Republic of China prohibits the import and export of various goods including various types of weapons, deadly poisons, and animals, plants and their by-products with hazardous germs or pests.

Organizing or leading a terrorist organization is punished with ten years to life in prison, and active participation in such a group entails three to ten years prison. Other kinds of participation entail up to three years prison, criminal detention or public surveillance. Financing terrorist organizations or committing terrorist acts is punished with up to five years prison, criminal detention or public surveillance, or the deprivation of political rights and punitive fines, regardless of where the crime is committed. "When the circumstances or the case are serious, such individuals are to be sentenced to not less than five years of fixed-term imprisonment, and are to be subject to punitive fines or confiscation of property." An aggravated offense -- when the aforesaid is done by plundering or stealing or seizing firearms, ammunition and explosives from State organs, military or police personnel or the people's militia -- is punished with at least ten years in prison, a life sentence or the death penalty.

To penalize money-laundering activities, the Criminal Code "stipulates that whoever commits any of the acts listed below for the purpose of concealing or withholding the source or nature of what one knows to be the illegal gains of narcotics crimes, underworld organized crimes or crimes of smuggling, or to be the profits produced by such crimes, is to have the aforementioned illegal gains or profits confiscated and is to be sentenced to not more than five years of fixed-term imprisonment or criminal detention, and is to be additionally or exclusively sentenced to a fine of not less than 5 per cent and not more than 20 per cent of the amount of money so laundered." Aggravated circumstances warrant a sentence of five to ten years in prison and 5 to 20 per cent of the amount of money laundered.

The Criminal Law also applies to Chinese citizens who commit crimes abroad, but offenses entailing no more than up to three years imprisonment "may be overlooked." Foreign residents of China who commit crimes abroad are subject to the Chinese Criminal Code if they target the

People's Republic of China or its citizens, if their acts are not punishable where they were committed.

Controls Applicable to Biology

Two Safety Administration Regulations promote research and development in the area of agricultural biological genetic engineering and biotechnology with a view also to strengthening safety administration and preventing possible hazards caused by genetic engineering, to guaranteeing public health of common citizens, preventing environmental pollution and maintaining ecological balance. They detail safety control measures and legal responsibilities related to genetic engineering work. Safety Administration Implementation Regulation No. 7 on Agricultural Biological Genetic Engineering, 1996 promotes research and development in the area of agricultural biological genetic engineering with a view also to strengthening safety administration and preventing possible hazards caused by genetic engineering. Safety Administration Regulation No. 17 on Genetic Engineering, 24 December 1993 promotes research and development of biotechnology in China while guaranteeing public health of common citizens, preventing environmental pollution and maintaining ecological balance.

China has established a List of Dual-Purpose Biological Products and Affiliated Equipment and Technologies Subject to Export Controls. The PRC has imposed a strict licensing system and requires that any individual or entity obtain permission to export dual-use biological products. A business operator engaged in export of Biological Products is subject to registration. The acceptor of any Biological Product must guarantee that the Biological Product will not be used for the purpose of biological weapons, will only be used for the declared ultimate purpose, and will not be given to a third party except the declare ultimate end user. To export a Biological Product, an application must be filed in accordance to the Export Control. The State Council decides within 15 workdays whether to approve the application. If the export would impose a significant impact on security on the state or social good, then the foreign trade department must disapprove the application. Any person who unlawfully exports a Biological Product shall be subject to criminal liabilities according to the provisions in the Criminal law concerning "crimes of smuggling, illegal business operations, divulging state secrets or other crimes." Anyone who forges a certificate of approval is subject to criminal liabilities. An individual or entity who has a certificate of approval but uses the Biological Product for unlawful means will be fined 20-100,000 yuan, and the permit will be suspended.

Preventing the Financing of Terrorism, Money-Laundering and Freezing Assets

The Chinese government controls the sources of terrorist assets through the Law of People's Bank and the Law of Commercial Banks as well as relevant regulations on foreign exchange controls, "management of the renminbi," savings deposits and interim regulations on cash transactions. Money laundering, including such that is related to terrorism, is punishable with up to five years prison or criminal detention and a fine proportional to the amount laundered. Funds and assets involved are to be confiscated. Serious cases entail more serious punishment. Money laundering can consist in providing funds accounts, assisting in the conversion of the property into cash or financial instruments, assisting in the relocation of the funds through transfers or other means of accounts settlement, assisting in the remittance of funds abroad or using other means to disguise or conceal the source and nature of illegal gains obtained through crimes and the proceeds deriving therefrom.

The People's Bank of China established a special anti-money laundering task force to unify leadership and development of operations against money-laundering in the entire Chinese banking system. There are also efforts to revise regulations of cash management and to set up a system to report suspicious cash transactions, as well as an oversight center for financial transactions and payments to prevent money-laundering. Assets, funds and other financial assets and economic resources can be frozen. The prosecutor's office and public security bodies are

entitled to investigate and freeze moneys and illicit proceeds originating from money-laundering and terrorist activities. A court can order inquests, examinations, seizures, expert evaluations and inquiries and freezes as part of their investigations and verification of evidence. Courts can also decide whether to recover, seize or freeze proceeds of unlawful activities and can confiscate assets derived from money-laundering and terrorist activities. China will also freeze assets held with Chinese financial institutions and linked to terrorist acts if a foreign country that has an agreement on legal assistance in criminal matters with China or that is a party to the International Convention for the Suppression of the Financing of Terrorism requests such action.

“China is in the process of developing Measures for the Control of Payment Transactions Reporting” to give financial institutions and their staff clear guidelines on reporting suspicious transactions. In order to ensure that the Chinese territory is not used for the funding of terrorist groups and acts, the central government has ordered Chinese businesses to adhere to UN Security Council decisions and not to engage in any business with the Taliban. Strict controls also apply to any postal contact with Afghanistan. Similarly, in Hong Kong, payments to the Taliban, Osama bin Laden and persons or groups linked to them are prohibited.

Internal and International Cooperation

China’s National Civil Aviation Administration is strengthening air security and civil aviation security to prevent terrorist acts. The Ministry of Public Security has called for the broadening of security inspections, increased passenger searches and baggage inspections for international flights, as well as complete baggage searches of all luggage, including “a total prohibition on knives of any kind” on all flights between the United States and China, especially Beijing and Shanghai.

In response to the anthrax incidents in other countries, customs agencies must intensify their inspections of incoming postal and express-delivery mail as well as passenger baggage from abroad. Customs offices were also ordered to prepare safety equipment and protective gear for its staff and to adapt its working procedures to a broader scope in the fight against terrorism. The Chinese Customs “will cooperate with the World Customs Organization to broaden the scope of combat against terrorism and strengthen international customs cooperation.”

China cooperates with other countries against international terrorism, especially within the framework of the Shanghai Cooperation Organization. China has entered into bilateral agreements for assistance in criminal and judicial matters with 26 countries, including the United States, Russia, the United Kingdom, India and other states. It also cooperates in counter-terrorism activities through the United Nations, Asia-Pacific Economic Cooperation (APEC), the Regional Forum of the Association of South-East Asian Nations (ASEAN) and the Shanghai Cooperation Organization.

The central Chinese government brings together the governments of Hong Kong and Macao twice a year for consultations and coordination for the combat against crime by strengthening cooperation and sharing intelligence and experiences.

After September 11th, 2001 the central government has facilitated discussions between the Chinese government and the United States, Russia and India; exchanges with EU states and Arab countries will soon take place. China recently acceded to the International Convention for the Suppression of Terrorist Bombings and signed the International Convention for the Suppression of the Financing of Terrorism. China is a party to ten of the 12 international anti-terrorist conventions, and signatory to one; it is considering becoming a signatory to the 12th convention.

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2. Criminal Procedure Law
3. National Security Law
4. Regulations on Administrative Penalties for Public Security, Articles 20 et al.
5. Police Law
6. Martial Law
7. Hong Kong: Firearms and Ammunition Ordinance
8. Hong Kong: Weapons Ordinance
9. Law on the Control of Firearms
10. Law on assemblies, marches and demonstrations
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2. Penal Code of Macao, Articles 22, 26, 27, 286, 289
3. Law of People's Bank
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5. Code of Criminal Procedure of Macao
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8. Circular on Large Cash Deposits and Withdrawals of Foreign Exchange by Resident and Non-Resident individuals
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Internal and International Cooperation

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2. Macao Code of Criminal Procedure
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