Export Control Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of safeguarding national security and interests, fulfilling non-proliferation and other international obligations, and strengthening and regulating export control.

Article 2 — The State shall implement export control over the export of controlled items such as dual-use items, military products, nuclear items and other goods, technologies and services relating to safeguarding national security and interests and fulfilling non-proliferation and other international obligations. For the purposes of the preceding paragraph, "controlled items" includes the technical data and other data relating to the controlled items. The export control provided for in this Law shall not apply to items exported from the separate customs territories of the People's Republic of China.

Article 3 — Export control shall adhere to the overall national security concept, safeguard international peace, coordinate security and development, and improve the export control management and services.

Article 4 — The State shall implement a unified export control system, and promote the formulation of export control policies and regulations through overall planning and coordination.

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Article 5 — The departments of the State Council in charge of export control (hereinafter referred to as the "national export control administrative departments") shall, in accordance with the division of functions and duties, be responsible for the administration of export control. Other relevant departments of the State Council shall be responsible for the relevant work of export control within the scope of their respective functions and duties. The State shall establish an export control coordination mechanism to coordinate major export control matters. The national export control administrative departments and the relevant departments of the State Council shall closely cooperate, strengthen information sharing, and jointly do a good job of export control.

Article 6 — The State shall strengthen international cooperation in export control and participate in the formulation of international rules for export control.

Article 7 — Export operators shall conduct their operations in accordance with the law and international practice, and shall not harm national security or interests. Export operators shall establish and improve internal compliance systems for export control, and operate in a lawful and standardized manner. The national export control administrative departments shall provide necessary facilitation for the establishment and operation of internal compliance systems for export control by export operators.

Article 8 — The national export control administrative departments shall, in conjunction with the relevant departments, formulate and adjust the catalogues or lists of controlled items (hereinafter collectively referred to as the "control lists") and publish them in a timely manner. The national export control administrative departments may, in accordance with the law, implement temporary control over goods, technologies and services other than those in the control lists.

Chapter II — Control Lists and Control Measures

Article 9 — The State shall formulate and adjust the control lists based on the following factors:

(1) the requirements for safeguarding national security and interests;

(2) the performance of non-proliferation and other international obligations; and

(3) the actual situation of the development of foreign political and economic relations.

Article 10 — The control lists shall specify the types and names of the controlled items.

The national export control administrative departments shall, in conjunction with the relevant departments, be responsible for formulating and adjusting the control lists.

Article 11 — The national export control administrative departments may, in accordance with the law, prohibit the export of relevant controlled items, or prohibit the export of relevant controlled items to specific destination countries or regions, specific organizations or individuals. The national export control administrative departments may, in accordance with the law, impose the following control measures on the export of controlled items:

(1) export licensing;

(2) restriction on the quantity of exports;

(3) export record-filing; or

(4) other measures as prescribed by law.

Article 12 — Where export operators apply for a license for the export of controlled items, they shall submit an application to the national export control administrative departments with the relevant documents. The national export control administrative departments shall examine the application in accordance with the law and make a decision. Export operators shall present the license issued by the national export control administrative department when going through the formalities for the export of controlled items. The national

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export control administrative departments shall strengthen the administration of controlled items through the use of information technology and other means. For the export of controlled items that are simple, the relevant departments may simplify the licensing procedures.

Article 13 — The national export control administrative departments shall, in accordance with the law, conduct a review of the end-user and end-use of controlled items, and shall verify the relevant information relating to the end-user and the end-use. The end-user and end-use of controlled items shall be consistent with the content verified by the national export control administrative departments. Where the end-user or end-use of controlled items changes, the export operator or importer shall immediately report the same to the national export control administrative departments in accordance with the relevant provisions of the State. Where the national export control administrative departments find, through review, any of the following circumstances, they shall not grant a license:

(1) endangering national security and interests;

(2) being used to design, develop, produce or use weapons of mass destruction and their means of delivery; or

(3) being used for terrorist purposes.

Article 14 — The national export control administrative departments may take temporary control measures, not exceeding two years, over goods, technologies and services other than those in the control lists. Where, upon expiry of the period of temporary control, a decision is made to extend the period or include them in the control lists, the relevant provisions on the control lists shall apply.

Article 15 — Where an exporter knows or should know that the export of goods, technologies and services other than those in the control lists may endanger national security or interests, or may be used to design, develop, produce or use weapons of mass destruction and their means of delivery, or may be used for terrorist purposes, the exporter shall, in accordance with the provisions of the national export control administrative departments, apply to the national export control administrative departments for a license. Where the exporter is unable to determine whether the export of goods, technologies and services falls under the circumstances specified in the preceding paragraph, it may consult the national export control administrative departments, which shall respond in a timely manner.

Article 16 — Export operators shall retain, in accordance with the provisions, the relevant documents relating to the export of controlled items for at least five years.

Article 17 — The national export control administrative departments shall, in accordance with the law, establish control lists of importers and end-users who commit any of the following acts:

(1) violating the requirements for end-users or end-uses;

(2) endangering national security or interests; or

(3) using controlled items for terrorist purposes.

Export operators shall not trade with importers or end-users included in the control lists. Under special circumstances where it is truly necessary to trade, they may apply to the national export control administrative departments.

Article 18 — The national export control administrative departments may take necessary measures, such as prohibiting or restricting the export of controlled items, against any country or region that has abused export control measures to endanger the national security or interests of the People's Republic of China.

Chapter III — Supervision and Administration

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Article 19 — The national export control administrative departments shall supervise and inspect the export control activities of the relevant entities and individuals, and the relevant entities and individuals shall cooperate and provide relevant information and materials.

Article 20 — The national export control administrative departments and the relevant law enforcement departments shall strengthen the building of the export control law enforcement capacity, improve the law enforcement methods, and enhance the law enforcement efficiency.

Article 21 — The national export control administrative departments shall, in conjunction with the relevant departments, establish and improve the internal compliance system for export control, and provide the relevant export operators with guidance and services.

Article 22 — The State shall encourage and guide export operators to establish and improve the internal compliance system for export control, and shall reward export operators that achieve outstanding results in the internal compliance system for export control in accordance with the law.

Article 23 — The national export control administrative departments shall, in accordance with the law, maintain the security of the information relating to the administration of export control obtained when performing their duties, and must not disclose or illegally provide such information to others. In the course of performing their duties, the staff of the national export control administrative departments shall keep confidential the trade secrets they learn of.

Article 24 — Any organization or individual shall have the right to report suspected illegal acts to the national export control administrative departments, and the national export control administrative departments shall promptly handle the reports and keep the identity of the reporters confidential in accordance with the law.

Article 25 — The national export control administrative departments may, in accordance with the law, assess the effectiveness of the export control policy and regularly review the necessity of the relevant control measures.

Chapter IV — Legal Liability

Article 26 — Where an export operator exports controlled items without a license, the national export control administrative department shall order cessation of the illegal act, confiscate the illegal gains, and impose a fine of not less than one time but not more than five times the illegal turnover if the illegal turnover is 500,000 yuan or more. If the illegal turnover is less than 500,000 yuan, a fine of not less than 500,000 yuan but not more than 5,000,000 yuan shall be imposed. If the circumstances are serious, an order shall be issued to suspend business for rectification until the relevant business permits or business licenses are revoked.

Article 27 — Where an export operator exports controlled items to an importer or end-user included in the control lists, the national export control administrative department shall order cessation of the illegal act, confiscate the illegal gains, and impose a fine of not less than ten times but not more than 20 times the illegal turnover if the illegal turnover is 500,000 yuan or more. If the illegal turnover is less than 500,000 yuan, a fine of not less than 5,000,000 yuan but not more than 10,000,000 yuan shall be imposed. If the circumstances are serious, an order shall be issued to suspend business for rectification until the relevant business permits or business licenses are revoked.

Article 28 — Where an export operator engages in any of the following acts, the national export control administrative department shall order rectification, issue a warning and may impose a fine of not more than 100,000 yuan on the entity; and if the circumstances are serious, order the entity to suspend business for rectification until the relevant business permits are revoked:

(1) failing to retain the relevant documents relating to the export of controlled items in accordance with the provisions;

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(2) obstructing the national export control administrative department from conducting supervision and inspection in accordance with the law; or

(3) other acts in violation of this Law.

Article 29 — Where an illegal act under this Law constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 30 — Where a staff member of the national export control administrative department neglects his duties, abuses his power, or engages in malpractice for personal gain, an administrative sanction shall be imposed in accordance with the law. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter V — Supplementary Provisions

Article 31 — The transit, transshipment, through-transport, re-export or shipment of controlled items from the bonded areas, export processing zones and other areas under special customs supervision and bonded supervision premises such as export supervision warehouses shall be subject to the relevant provisions of this Law.

Article 32 — For the purposes of this Law, "controlled items" means goods, technologies, services and other items relating to safeguarding national security and interests and fulfilling non-proliferation and other international obligations, including dual-use items, military products and nuclear items. "Dual-use items" means goods, technologies and services that have both civil and military uses or that contribute to enhancing the military potential, especially those that can be used to design, develop, produce or use weapons of mass destruction and their means of delivery. "Military products" means materials, equipment, special equipment and other items used for military purposes. "Nuclear items" means nuclear materials, nuclear equipment, non-nuclear materials for reactors and related technologies and services as provided for in the relevant laws and administrative regulations. "Export control" means the prohibitive or restrictive measures adopted by the State against the transfer of controlled items from the territory of the People's Republic of China to overseas, and against the provision of controlled items by citizens, legal persons or unincorporated organizations of the People's Republic of China to foreign organizations or individuals.

Article 33 — This Law shall come into force on December 1, 2020.

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