Regulations on the Administration of Technology Import and Export of the PRC

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Chapter I — General Provisions

Article 1 — These Regulations are formulated for the purposes of regulating the administration of technology import and export, maintaining the order of technology import and export, promoting the development of the national economy and social progress, and safeguarding national economic security.

Article 2 — For the purposes of these Regulations, “technology import and export” means the transfer of technology from outside the territory of China into the territory of China or from the territory of China to outside the territory of China by means of trade, investment, or economic and technical cooperation.

Article 3 — The State shall implement a unified administration system for technology import and export and shall maintain a fair and free technology import and export trade order in accordance with the law.

Article 4 — The State shall encourage the import of advanced and appropriate technology. Technology import and export shall be consistent with the State’s industrial policies, scientific and technological policies, and development strategies, and shall be conducive to promoting scientific and technological progress and technological innovation.

Chapter II — Technology Import

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Article 5 — Technology import shall be classified into three categories: technology that may be freely imported, restricted technology, and prohibited technology. The State shall formulate and adjust the catalog of technologies prohibited or restricted from import.

Article 6 — The import of technologies that fall within the category of restricted technologies shall be subject to license administration. Without a license, such technology shall not be imported.

Article 7 — When applying for a technology import license, the applicant shall submit the technology import contract or other relevant documents to the foreign trade authority under the State Council.

Article 8 — A technology import contract shall not contain the following restrictive clauses, unless otherwise approved:

(1) clauses requiring the technology recipient to accept conditions that are not indispensable to the technology import, including the purchase of unnecessary technologies, raw materials, products, equipment, or services;

(2) clauses requiring the technology recipient to pay royalties for technologies that have expired or been declared invalid;

(3) clauses restricting the technology recipient from improving the imported technology or from using the improved technology;

(4) clauses restricting the technology recipient from sourcing raw materials, parts, components, or equipment from other channels or sources;

(5) clauses restricting the technology recipient from obtaining technologies similar to or competing with the imported technology from other sources; or

(6) clauses unreasonably restricting the channels or markets through which the technology recipient sells products manufactured using the imported technology.

Article 9 — The technology supplying party in a technology import contract shall warrant that it is the lawful owner of the technology provided, or that it has the right to transfer or license the technology.

Article 10 — The technology supplying party and the technology recipient shall agree in the contract on the scope of use of the technology, the sharing of liability for infringement of the lawful rights and interests of a third party by the imported technology, and the attribution of the improved technology.

Chapter III — Technology Export

Article 11 — Technology export shall be classified into three categories: technology that may be freely exported, restricted technology, and prohibited technology. The State shall formulate and adjust the catalog of technologies prohibited or restricted from export.

Article 12 — The export of technologies that fall within the category of restricted technologies shall be subject to license administration. Without a license, such technology shall not be exported.

Article 13 — Where the export of a technology falls within the category of restricted technologies, the applicant shall submit the application form, the technology export contract, the technical description, and other documents to the foreign trade authority under the State Council.

Article 14 — Where the export of a technology affects or may affect national security or public interest, the foreign trade authority under the State Council shall, in conjunction with relevant departments, conduct a review and make a decision.

Chapter IV — Legal Liability

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Article 15 — Where technology is imported or exported without a license in violation of these Regulations, the foreign trade authority under the State Council shall order the violator to make rectification and impose a fine of not less than one time but not more than five times the illegal proceeds. Where there are no illegal proceeds or the illegal proceeds are less than 50,000 yuan, a fine of not less than 10,000 yuan but not more than 100,000 yuan shall be imposed.

Article 16 — Where technology is imported or exported by fraudulent means such as forging, altering, or buying or selling technology import or export licenses, the foreign trade authority under the State Council shall revoke the technology import or export license and impose a fine in accordance with the law. Where the circumstances are serious enough to constitute a crime, criminal liability shall be pursued in accordance with the law.

Article 17 — Where technology is exported in violation of the provisions on technology export control in these Regulations, the relevant provisions of the Export Control Law shall apply.

Chapter V — Supplementary Provisions

Article 18 — The specific measures for the administration of technology import and export shall be formulated by the foreign trade authority under the State Council in conjunction with other relevant departments under the State Council.

Article 19 — These Regulations shall become effective as of January 1, 2002. The Regulations of the People's Republic of China on the Administration of Technology Import Contracts promulgated by the State Council on May 24, 1985 shall be repealed simultaneously.

Disclaimer: This English translation is provided for informational and reference purposes only. It is not an official translation and may contain inaccuracies or omissions. The official Chinese text of the Regulations of the People's Republic of China on the Administration of Technology Import and Export, as published by the State Council, shall prevail in all legal matters. Readers should consult qualified legal professionals for advice on specific situations. Dan Young Business Consultancy makes no representations or warranties as to the accuracy or completeness of this translation and disclaims all liability for any reliance placed upon it.