Regulations of the People's Republic of China on the Control of Nuclear Export

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Promulgated by Order No. 230 of the State Council of the People's Republic of China on September 10, 1997; revised in accordance with the Decision of the State Council on Amending the Regulations of the People's Republic of China on the Control of Nuclear Export (Order No. 480 of the State Council) on November 9, 2006. Effective: November 9, 2006.

Article 1 — These Regulations are formulated for the purposes of strengthening the control of nuclear export, preventing nuclear weapons proliferation, guarding against acts of nuclear terrorism, safeguarding national security and the public interest, and promoting international cooperation in the peaceful use of nuclear energy.

Article 2 — For the purposes of these Regulations, "nuclear export" means the export for trade of, and the transfer by way of gifts, exhibitions, scientific and technological cooperation and assistance of, nuclear materials, nuclear equipment and non-nuclear materials used in reactors, and other items listed in the Nuclear Export Control List (hereinafter referred to as the "Control List"), as well as their related technologies.

Article 3 — The State shall exercise strict control over nuclear export and strictly perform its international obligations of non-proliferation of nuclear weapons.

The State shall strictly restrict the export of proliferation-sensitive nuclear items, such as uranium enrichment facilities and equipment, irradiated fuel reprocessing facilities and equipment, and heavy water production facilities and equipment, as well as their related technologies, and of materials that can be used for nuclear weapons or other nuclear explosive devices.

Article 4 — Nuclear export shall comply with the provisions of the relevant laws and administrative regulations of the State, and shall not impair national security or the public interest.

Article 5 — The examination and licensing of nuclear export shall follow the following criteria:

(1) the government of the recipient undertakes that it will not use the nuclear materials, nuclear equipment or non-nuclear materials used in reactors supplied by China, or the special fissile materials produced through their use, for any nuclear explosive purpose;

(2) the government of the recipient undertakes to take appropriate physical protection measures for the nuclear materials supplied by China and the special fissile materials produced through their use;

(3) the government of the recipient has a valid comprehensive safeguards agreement in force with the International Atomic Energy Agency. This item shall not apply to countries that have concluded a voluntary safeguards agreement with the International Atomic Energy Agency;

(4) the recipient undertakes that it will not, without the prior written consent of the China Atomic Energy Authority, re-transfer to any third party the nuclear materials, nuclear equipment or non-nuclear materials used in reactors supplied by China and their related technologies; where re-transfer is carried out with prior consent, the third party receiving the re-transfer shall assume obligations equivalent to those undertaken in the case of direct supply by China;

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(5) the government of the recipient undertakes that it will not, without the consent of the Government of China, use uranium enrichment facilities or technologies supplied by China, or any facility based on such technologies, to produce enriched uranium with an enrichment level higher than 20 percent.

Article 6 — Nuclear export shall be exclusively operated by the entity designated by the State Council. No other entity or individual may engage in such business.

Article 7 — To export the items listed in the Control List and their related technologies, an application shall be filed with the China Atomic Energy Authority, a nuclear export application form completed, and the following documents submitted:

(1) proof of the applicant's qualification for exclusive operation of nuclear export;

(2) identity documents of the applicant's legal representative, principal business managers and handling personnel;

(3) a copy of the relevant contract or agreement;

(4) the analysis report of the nuclear materials or non-nuclear materials used in reactors;

(5) the end-user certificate;

(6) the guarantee certificate provided by the recipient in accordance with Article 5 of these Regulations; and

(7) other documents required by the examining authority.

Article 8 — The applicant shall truthfully complete the nuclear export application form.

The nuclear export application form shall be uniformly printed by the China Atomic Energy Authority.

Article 9 — Where the matters reported in the nuclear export application form change, the applicant shall promptly apply for amendment, or file a new export application.

Where the applicant discontinues the nuclear export, it shall promptly withdraw the nuclear export application.

Article 10 — The China Atomic Energy Authority shall, within 15 working days from the date of receipt of the nuclear export application form and the documents listed in Article 7 of these Regulations, put forward its examination opinions and notify the applicant. Where the application is approved upon examination, it shall be handled according to the following provisions depending on the circumstances:

(1) where nuclear materials are exported, the application shall be transferred to the Commission of Science, Technology and Industry for National Defense for re-examination, or for re-examination jointly with the relevant departments;

(2) where nuclear equipment or non-nuclear materials used in reactors and their related technologies are exported, the application shall be transferred to the Ministry of Commerce for re-examination, or for re-examination jointly with the Commission of Science, Technology and Industry for National Defense and other relevant departments.

The Commission of Science, Technology and Industry for National Defense and the Ministry of Commerce shall, within 15 working days from the date of receipt of the nuclear export application form, the documents listed in Article 7 of these Regulations and the examination opinions transferred by the China Atomic Energy Authority, put forward their re-examination opinions and notify the applicant.

Where the China Atomic Energy Authority, the Commission of Science, Technology and Industry for National Defense or the Ministry of Commerce needs to extend the examination or re-examination period due to special circumstances, the period may be extended by 15 working days, but the applicant shall be notified.

Article 11 — For nuclear export that has an important impact on national security, the public interest or foreign policy, the China Atomic Energy Authority, the Commission of Science, Technology and Industry for National Defense or the Ministry of Commerce shall, when examining or re-examining, consult the Ministry of Foreign Affairs and other relevant departments; where necessary, it shall be submitted to the State Council for approval.

Where the matter is submitted to the State Council for approval, the time limit prescribed in Article 10 of these Regulations shall not apply.

Article 12 — Where the nuclear export application is approved upon re-examination or examination and approval in accordance with these Regulations, the nuclear export license shall be issued by the Ministry of Commerce.

Article 13 — Where the holder of a nuclear export license changes the items originally applied for export and their related technologies, it shall return the original license and, in accordance with these Regulations, re-apply for and obtain a nuclear export license.

Article 14 — After issuing the nuclear export license, the Ministry of Commerce shall notify the China Atomic Energy Authority in writing.

Article 15 — When carrying out nuclear export, the entity exclusively operating nuclear export shall present the nuclear export license to customs, complete customs formalities in accordance with the provisions of the Customs Law, and accept customs supervision.

Article 16 — Customs may raise queries as to whether the items and technologies exported by the export operator require nuclear export documents, and may require the operator to apply to the Ministry of Commerce for a document certifying whether they fall within the scope of nuclear export control; where they fall within the scope of nuclear export control, a nuclear export license shall be applied for and obtained in accordance with these Regulations.

Article 17 — Where the recipient or its government violates the guarantee made in accordance with Article 5 of these Regulations, or where a danger of nuclear proliferation or nuclear terrorism arises, the Commission of Science, Technology and Industry for National Defense and the Ministry of Commerce, jointly with the Ministry of Foreign Affairs and other relevant departments, shall have the power to decide to suspend the export of the relevant items or related technologies, and shall notify customs in writing to implement the decision.

Article 18 — Where nuclear materials, nuclear equipment or non-nuclear materials used in reactors are exported in violation of these Regulations, penalties shall be imposed in accordance with the provisions of the Customs Law.

Where the relevant technologies listed in the Control List are exported in violation of these Regulations, the Ministry of Commerce shall give a warning and impose a fine of not less than one time but not more than five times the amount of the illegal business; where the amount of the illegal business is less than 50,000 yuan, a fine of not less than 50,000 yuan but not more than 250,000 yuan shall be imposed; where there are illegal gains, the illegal gains shall be confiscated; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 19 — Where a nuclear export license is forged, altered, bought or sold, or is obtained by deception or other improper means, penalties shall be imposed in accordance with the provisions of the relevant laws and administrative regulations; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 20 — Where a staff member of the State involved in nuclear export control neglects his or her duties, engages in malpractice for personal gain or abuses his or her power, and a crime is constituted, criminal liability shall be pursued in accordance with law; where a crime is not constituted, administrative sanctions

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shall be imposed in accordance with law.

Article 21 — The China Atomic Energy Authority, jointly with the Commission of Science, Technology and Industry for National Defense, the Ministry of Commerce, the Ministry of Foreign Affairs, the General Administration of Customs and other relevant departments, may, based on actual circumstances, adjust the Control List and announce the adjustment.

Article 22 — Where an international treaty concluded or acceded to by the People's Republic of China contains provisions different from these Regulations, the provisions of the international treaty shall apply, except for provisions in respect of which the People's Republic of China has declared reservations.

Article 23 — These Regulations shall apply to the export of the items listed in the Control List and their related technologies from customs special supervision areas and bonded premises, such as bonded warehouses, bonded zones and export processing zones.

The transit, transshipment and through transport of the items listed in the Control List and their related technologies shall be handled with reference to these Regulations.

Article 24 — These Regulations shall be effective from the date of promulgation.

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