

Adapting to Change: Understanding China's Updated Export Control Framework for Dual-Use Items

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Since its implementation on 1 December 2020, the *Export Control Law of the People's Republic of China* (the Export Control Law), has established a comprehensive framework for China's export control system. To further streamline this framework, the State Council approved the *Regulations of the People's Republic of China on the Export Control of Dual-Use Items* (the Regulation") on 18 September 2024, which came into effect on 1 December 2024.

The Export Control Law imposes stringent controls on dual-use items, including goods, technologies, and services that serve both civil and military purposes or enhance military capabilities. This is particularly pertinent for items that can be used in the design, development, production, or deployment of weapons of mass destruction and their delivery systems. Additionally, the law encompasses technical materials and other data relating to the dual-use items.

This alert briefly outlines key features of the new Regulations that impacted businesses and individuals should keep top of mind.

UNIFIED LEGAL FRAMEWORK APPLIES TO EXPORT OF DUAL-USE ITEMS

Except for monitored chemicals, the Regulations establish a unified administrative system for regulating the export of dual-use items and replace the previously fragmented regulations governing the export control on dual-use items.

Additionally, China's export control framework relies on various export control lists. The Ministry of Justice and the Ministry of Commerce are currently developing a unified export control list for dual-use items, which will be implemented alongside the Regulations.

WHAT'S NEW?

Under the new regime, export operators no longer need to apply for dual-use item export operator

registration in advance. Instead, they can apply directly for export permits. When applying for an export license for dual-use items, operators must submit documents related to the end user and the intended use(s) of the items. If there is any change in the end user or intended use, the export operator must immediately halt exports, report the change to the competent authorities, and undergo a new verification process.

To ensure proper verification, the Regulations establish a “list of concerned entities” system. This system stipulates that importers and end users who do not cooperate with the regulatory requirements can be included in a list of concerned entities and prohibited from enjoying various licenses.

EXTRATERRITORIAL REACH

The Regulations stipulate that if overseas organizations and individuals transfer or provide certain goods, technologies, and services to specific destination countries, regions, organizations, and individuals outside the People’s Republic of China, they may be required to comply with these Regulations. This includes:

1. Dual-use items manufactured overseas that contain, integrate, or mix specific dual-use items originating from the People’s Republic of China;
2. Dual-use items manufactured overseas using specific technologies and other dual-use items originating from the People’s Republic of China; and
3. Specific dual-use items originating from the People’s Republic of China.

To avoid violations, impacted Chinese enterprises and overseas institutions should conduct comprehensive risk assessments of exported products that fall within the scope of these new Regulations.

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