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Order of the President of the People's Republic of China

No. 58

The Export Control Law of the People's Republic of China, adopted at the 22nd Meeting of the Standing Committee of the Thirteenth National People's Congress of the People's Republic of China on October 17, 2020, is hereby promulgated, and shall come into force as of December 1, 2020.

Xi Jinping

President of the People's Republic of China

October 17, 2020

Export Control Law of the People's Republic of China

(Adopted at the 22nd Meeting of the Standing Committee of the Thirteenth National People's Congress on October 17, 2020)

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Chapter I

General Provisions

Article 1 This Law is enacted for the purposes of safeguarding national security and interest, performing nonproliferation and other international obligations, and strengthening and regulating export control.

Article 2 This Law shall apply where the state exercises control on the export of dual-use items, military products, nuclear and other goods, technologies, services related to safeguarding national security and interest or performing nonproliferation and other international obligations (hereinafter collectively referred to as the "controlled items").

For the purposes of the preceding paragraph, "controlled items" include technical materials and other data related to the items.

For the purposes of this Law, "export control" means the prohibitive or restrictive measures taken by the state against the transfer of controlled items from the territory of the People's Republic of China to overseas and the provision of controlled

items by a citizen, legal person, or unincorporated organization of the People's Republic of China to a foreign organization or foreigner.

For the purposes of this Law, "dual-use items" means goods, technologies, and services that may be used either for civil purposes or for military purposes or to contribute to an increase in military potential, especially to design, develop, produce or use weapons of mass destruction and their means of delivery.

For the purposes of this Law, "military products" means the equipment, special production equipment, and other related goods, technologies, and services used for military purposes.

For the purposes of this Law, "nuclear" means nuclear materials, nuclear equipment, non-nuclear materials used by reactors, as well as related technologies and services.

Article 3 Export control shall adhere to the holistic view of national security, safeguard international peace, balance security and development, and improve administration and services in relation to export control.

Article 4 The state shall implement unified rules for export control, formulating control lists, schedules and catalogues (hereinafter collectively referred to as "the control list"), and practicing export licensing, among others.

Article 5 The departments of the State Council and the Central Military Commission that undertake export control functions (hereinafter collectively referred to as the "state export control authorities") shall be in charge of the export control work as mandated by their duties and responsibilities. Other relevant departments of the State Council and the Central Military Commission shall undertake the export control-related work as mandated by their duties and responsibilities.

The state shall establish a mechanism to coordinate among the above mentioned departments in major issues concerning export control. The state export control authorities and the relevant departments of the State Council shall work closely and enhance information sharing.

The state export control authorities shall, in conjunction with the relevant departments, establish an advisory mechanism for experts' advice on export control.

The state export control authorities should issue sector-specific guidelines for export control at appropriate times, guiding exporters to establish and improve their internal compliance programs for export control and operate in accordance with laws and regulations.

The relevant departments of people's governments in provinces, autonomous regions, and municipalities directly under the Central Government shall undertake export control-related work in accordance with relevant laws and administrative regulations.

Article 6 The state shall strengthen international cooperation in export control and participate in developing international rules on export control.

Article 7 An exporter may, in accordance with the law, establish or join a chamber of commerce, association, or any other self-regulatory organization in a given sector.

Any such chamber of commerce, association, or self-regulatory organization shall comply with laws and administrative regulations, provide its members with export control-related services in accordance with its articles of association, and play a coordinating and self-regulatory role.

Chapter II

Control Policies, the Control List and Control Measures

Section 1

General Rules

Article 8 The state export control authorities shall, in conjunction with relevant departments, formulate export control policies among which those on major issues shall be submitted to the State Council or both the State Council and the Central Military Commission for approval.

The state export control authorities may assess the destination countries or regions to which controlled items are exported, identify the risk level, and take control measures based on the assessment.

Article 9 The state export control authorities shall, in accordance with the provisions of this Law and other relevant laws and administrative regulations, as well as export control policies and prescribed procedures, formulate and revise the list of controlled items for export in conjunction with relevant departments, and publish the list in a timely manner.

For the purposes of safeguarding national security and interest or performing nonproliferation and other international obligations, the state export control authorities may, upon the approval of the State Council or both the State Council and

the Central Military Commission, impose temporary control on goods, technologies or services outside the control list, and make an announcement thereon. The term of such temporary control shall not exceed two years. By the time the term of temporary control expires, an assessment shall be made in a timely manner and, based on the assessment result, a decision shall be made whether to terminate the temporary control, extend the period of the temporary control, or include the items subject to the temporary control in the export control list.

Article 10 For the purposes of safeguarding national security and interest or performing nonproliferation and other international obligations, the state export control authorities may, upon the approval of the State Council or both the State Council and the Central Military Commission, work with relevant departments to ban the export of certain controlled items, or the export of certain controlled items to a specific destination country or region, or a specific organization or individual.

Article 11 Exporters of controlled items shall comply with provisions of this Law and other relevant laws and administrative regulations. Where it is provided by law that accreditation is required for exporting a controlled item, such accreditation shall be obtained first.

Article 12 The state shall adopt a licensing system for the export of controlled items.

For export of controlled items set forth in the export control list or items subject to temporary control, an exporter shall file an application for a license with the state export control authorities.

For export of goods, technologies and services other than those on the control list and those subject to temporary control, an exporter shall file an application for a license with the state export control authorities if it knows, should know, or has been notified by the state export control authorities that the relevant goods, technologies and services may pose any of the following risks:

- (1) Endangering national security or interest;
- (2) Being used to design, develop, produce or use weapons of mass destruction and their means of delivery; and
- (3) Being used for terrorism.

Where an exporter is unable to determine whether the goods, technologies or services to be exported fall within the scope of controlled items set forth hereby and consults the state export control authorities, the latter shall respond in a timely manner.

Article 13 The state export control authorities shall review an exporter's application for exporting a controlled item to decide whether or not to grant an approval, by taking into full consideration the following factors:

- (1) National security and interest;
- (2) International obligations and commitments;
- (3) The type of export;
- (4) The sensitivity of the controlled item;
- (5) Destination country or region of the export;
- (6) The end user and end use of the exported item;
- (7) The relevant credit records of the applicant exporter; and
- (8) Other factors set forth by laws and administrative regulations.

Article 14 Where an exporter has established an internal compliance program for export control which runs effectively, the state export control authorities may grant facilitation to the exporter, such as a general license for the export of controlled items. Specific measures shall be formulated by the state export control authorities.

Article 15 An exporter shall submit to the state export control authorities certificates about the enduser and end use, which shall be issued by the end user or the relevant government agency of the country or region where the end user is located.

Article 16 The end user of a controlled item shall undertake not to change the end use of the relevant controlled item or transfer it to any third party without consent of the state export control authorities.

Where an exporter or importer discovers that there may be a change of end user or end use, the exporter or importer shall immediately report to the state export control authorities according to applicable provisions.

Article 17 The state export control authorities shall establish rules for the management of risks related to end users and end uses of controlled items, conduct assessment and inspection on end users and end uses, and strengthen end user and end use management.

Article 18 The state export control authorities shall establish the restricted namelist of importers and end users who fall under any of the following circumstances:

- (1) Violating the end user and end use management requirements;
- (2) May endanger national security or interest; or
- (3) Using any controlled item for terrorism.

With respect to importers and end users included in the control list, the state export control authorities may take necessary measures such as prohibiting or restricting the trade of controlled items, or ordering a suspension of exporting the relevant controlled items.

An exporter shall not trade with any importer or end user on the control list. Where an exporter does need to trade with such an importer or end user under special circumstances, the exporter may file an application with the state export control authorities.

Where an importer or end user on the control list, after taking proper measures, no longer falls into the circumstances specified in the first paragraph, it may apply to the state export control authorities to be removed from the control list. The state export control authorities may, according to actual situation, decide whether to remove the importer or end user from the control list.

Article 19 Where a consignor of exported goods or agent for customs declaration exports controlled goods, the consignor or agent shall submit the license issued by the state export control authorities to the Customs for inspection and go through formalities of customs declaration according to the relevant provisions of the State.

Where a consignor of exported goods fails to submit the license issued by the state export control authorities to the Customs for inspection, the Customs, with evidence showing that the exported goods may fall within the scope of export control, shall question the said consignor and may request the state export control authorities to organize identification, and shall handle the matter in accordance with law based on the result of the identification conclusion. The exported goods shall not be released during the identification or questioning.

Article 20 No organization or individual may provide agency, freight, delivery, customs declaration, third-party e-commerce trading platform, financial or any other service for an exporter when the exporter is conducting activities violating the export control laws.

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Section 2

Administration of Export of Dual-use Items

Article 21 When filing an application for the export of a dual-use item with the state export control authorities on dual-use items, an exporter shall truthfully submit the relevant materials according to provisions of laws and administrative regulations.

Article 22 The state export control authorities on dual-use items shall handle applications for the export of dual-use items, and shall decide whether to approve or disapprove such applications within the statutory time period after reviewing the applications either independently or in conjunction with the relevant departments in accordance with this Law and other relevant laws and administrative regulations. Where the decision to approve an application is made, an export license shall be issued by the license issuing authority.

Section 3

Administration of Export of Military Products

Article 23 The state shall practice a monopoly system for the export of military products. An exporter shall first be accredited for the export of military products and operate within the business scope of accreditation.

Such accreditation shall be granted by the state export control authorities on military products upon review.

Article 24 An exporter of military products shall, according to the control policies and the nature of the products to be exported, apply to the state export control authorities on military products for review and approval of the export of said products as well as the specific export programs and contracts.

The export of major military products as well as the specific export programs and contracts shall be subject to review by the state export control authorities on military products in conjunction with relevant departments and thereafter be submitted to the State Council and the Central Military Commission for approval.

Article 25 Before exporting military products, the exporter shall apply to the relevant export control department of the state on military products for a license to export the military products.

When exporting military products, the exporter shall submit to the Customs the license issued by the relevant export control department of the state on military products for inspection and go through formalities of customs declaration according to the relevant provisions of the state.

Article 26 An exporter of military products shall authorize an approved military export transport company to transport the military products to be exported and provide other related services. Specific measures shall be formulated by the state export control authorities on military products in conjunction with the relevant departments.

Article 27 An exporter or a scientific research or production entity of military products that intends to participate in an international military product exhibition shall apply for approval with the state export control authorities on military products in accordance with relevant procedures.

Chapter III

Article 28 The state export control authorities shall conduct supervision and inspection on the export of controlled items in accordance with the law.

The state export control authorities may take the following measures when investigating suspected violations of this Law:

- (1) Entering the place of business of the party under investigation or any other relevant premise for inspection;
 - (2) Questioning the party under investigation, or any interested party or other relevant organization or individual, and requiring them to explain the matters under investigation;
 - (3) Consulting and making copies of the relevant documentation, agreements, account books, business correspondence and other documents and materials of the party under investigation or any interested party or other relevant organization or individual;
- Inspecting the means of transport used for export, stopping the loading of suspected items, or ordering the return of the items that have been illegally exported;
- (5) Sealing up or seizing items involved in a case; and
 - (6) Checking the bank account of the party under investigation.

The measures set forth in Subparagraph (5) or (6) of the preceding paragraph shall be taken with the written approval of the person in charge of the state export control authorities.

Article 29 The state export control authorities shall perform their duties in accordance with the law, and the relevant departments of the State Council, local people's governments and their relevant departments shall provide assistance.

Where the state export control authorities, independently or in conjunction with relevant departments, conduct an inspection or investigation in accordance with law, the relevant organizations and individuals shall cooperate and may not refuse to accept or obstruct the inspection or investigation.

The state organs and their staff members conducting an inspection or investigation shall have the obligation to keep confidential any state secret, trade secret, personal privacy or personal information that has come to their knowledge during the investigation.

Article 30 For the purposes of strengthening the administration of the export of controlled items and preventing the risks of violating the laws about the export of controlled items, the state export control authorities may take measures such as holding admonitory talks and issuing warning letters.

Article 31 Any organization or individual shall have the right to report any suspected violation of this Law to an export control department of the state, and the export control administrative department of the state receiving such a report shall handle the matter in a timely manner in accordance with the law and shall keep the informant confidential.

Article 32 The state export control authorities shall, in accordance with international treaties concluded or acceded to or based on the principle of equality and mutual benefits, conduct cooperation and exchange in export control with other countries or regions and international organizations.

Any organization or individual within the territory of the People's Republic of China shall comply with the relevant laws when providing export control-related information to parties overseas, and no organization or individual shall provide such information where it may endanger national security or interest.

Chapter IV

Legal Liabilities

Article 33 An exporter that engages in the export of a controlled item without accreditation thereof shall be given a warning and be ordered to cease the illegal act, with any illegal gains therefrom confiscated, and shall be fined not less than five times but not more than ten times the illegal turnover if the illegal turnover is 500,000 yuan or more, or not less than 500,000 yuan but not more than five million yuan if there is no such illegal turnover or the illegal turnover is less than 500,000 yuan.

Article 34 An exporter that commits any of the following acts shall be ordered to cease the illegal act, with any illegal gains therefrom confiscated, and shall be fined not less than five times but not more than ten times the illegal turnover if the illegal turnover is 500,000 yuan or more, or not less than 500,000 yuan but not more than five million yuan if there is no such illegal turnover or the illegal turnover is less than 500,000 yuan. If the circumstances are serious, the exporter shall be ordered to cease business operation for rectification, or even be discredited for the export of relevant controlled item:

- (1) Exporting any controlled item without a license;
- (2) Exporting a controlled item beyond the scope set forth in the export license; and

Exporting an item that is prohibited to export.

Article 35 Where a license for the export of any controlled item is obtained by fraud, bribery, or any other improper means, or is illegally transferred, the licensing shall be revoked, with the export license surrendered and the illegal gains therefrom confiscated, and the violator shall be fined not less than five times but not more than ten times the illegal turnover if the illegal turnover is 200,000 yuan or more, or not less than 200,000 yuan but not more than two million yuan if there is no such illegal turnover or the illegal turnover is less than 200,000 yuan.

Where a license for the export of any controlled item is forged, altered, or traded, the illegal gains therefrom shall be confiscated, and the violator shall be fined not less than five times but not more than ten times the illegal turnover if the illegal turnover is 50,000 yuan or more, or not less than 50,000 yuan but not more than 500,000 yuan if there is no such illegal turnover or the illegal turnover is less than 50,000 yuan.

Article 36 Whoever with the knowledge of an exporter's violation of export control laws still provides the exporter with agency, freight, delivery, customs declaration, third-party e-commerce trading platform, financial, or other services shall be given a warning and be ordered to cease the illegal act, with any illegal gains therefrom confiscated, and shall also be fined not less than three times but not more than five times the illegal turnover if the illegal turnover is 100,000 yuan or more, or be fined not less than 100,000 yuan but not more than 500,000 yuan if there is no such illegal turnover or the illegal turnover is less than 100,000 yuan.

Article 37 An exporter that trades with any importer or end user on the restricted namelist in violation of this Law shall be given a warning and be ordered to cease the illegal act, with any illegal gains therefrom confiscated, and shall be fined not less than 10 times but not more than 20 times the illegal turnover if the illegal turnover is 500,000 yuan or more, or not less than 500,000 yuan but not more than five million yuan if there is no such illegal turnover or the illegal turnover is less than 500,000 yuan. If the circumstances are serious, the exporter shall be ordered to cease business operation for rectification, or even discredited for the export of the relevant controlled item.

Article 38 An exporter that refuses to accept or obstructs an inspection shall be given a warning and fined not less than 100,000 yuan but not more than 300,000 yuan. If the circumstances are serious, the exporter shall be ordered to cease business operation for rectification, or even discredited for the export of the relevant controlled item.

Article 39 From the date when the decision punishing an exporter for violation of this Law comes into force, the state export control authorities may refuse to accept any application for an export license filed by the exporter within five years; and the directly liable person in charge and other directly liable persons may be prohibited from conducting the relevant export operations for five years, or for life, if such persons are held criminally liable for any violation of the export control laws.

The state export control authorities shall, in accordance with the law, include any violation of this Law by an exporter in its credit records.

Article 40 Export control-related violations as set forth in this Law shall be punished by state export control authorities. Where any other law or administrative regulation provides that an export control-related violation shall be punished by the Customs, the Customs shall impose punishment in accordance with this Law.

Article 41 An organization or individual may apply for administrative reconsideration against the decision not to approve imposed thereupon by the state export control authorities. The decision of administrative reconsideration shall be final.

Article 42 Any state functionary engaged in the export control that neglects duty, practices favoritism or fraud, or abuses power shall be imposed with a disciplinary action in accordance with the law.

Article 43 Any export control-related violation as is set forth of this Law which endangers national security or interest shall be punished in accordance with other relevant laws and administrative regulations, in addition to being punished in accordance with this Law.

Whoever, in violation of this Law, exports any controlled item prohibited to be exported by the state or exports any controlled item without a license shall be held criminally liable in accordance with the law.

Article 44 Where any organization or individual outside the territory of the People's Republic of China violates the provisions of this Law on the administration of export control, which endangers the national security and interest of the People's Republic of China, or obstructs the fulfillment of nonproliferation and other international obligations, the organization or individual shall be held legally liable and be punished in accordance with the law.

Chapter V

Supplementary Provisions

Article 45 The transit, transshipment, through shipment, or re-export of controlled items, or the export of controlled items to overseas from areas under special customs supervision such as bonded areas and export processing zones, as well as bonded places under customs supervision such as export supervision warehouses and bonded logistics centers, shall be governed by the relevant provisions of this Law.

Article 46 What is not provided in this Law about the export of nuclear and other controlled items shall be governed by the relevant laws and administrative regulations.

Article 47 The export of military products for overseas military operations, foreign military exchanges, and military assistance, among others, shall be governed by the provisions of relevant laws and regulations.

Article 48 Where any country or region endangers the national security or interest of the People's Republic of China by abusing export control measures, the People's Republic of China may take counter measures against such a country or region according to the actual circumstances.

Article 49 This Law shall come into force as of December 1, 2020.

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