

## **Regulations of the People's Republic of China on Control of Nuclear Dual-Use Items and Related Technologies Export**

( Promulgated by Decree No. 245 of the State Council of the People's Republic of China on June 10, 1998, and revised in accordance with the Decision of the State Council on Amending the Regulations of the People's Republic of China on Control of Nuclear Dual-Use Items and Related Technologies Export on January 26, 2007)

Article 1 These Regulations are formulated for the purpose of strengthening control of nuclear dual-use items and related technologies export, preventing proliferation of nuclear weapons, protecting against nuclear terroristic acts, promoting international cooperation in peaceful use of nuclear energy, and safeguarding State security and public interests.

Article 2 The term “export of nuclear dual-use items and related technologies” in these Regulations means the trade for export of equipment, materials, software and related technologies included in the Nuclear Dual-Use Items and Related Technologies Export Control List (hereinafter referred to as the Control List), as well as the transfer of such equipment, materials, software and related technologies to other countries and regions by offering them as gifts, holding exhibitions, promoting scientific and technological cooperation, providing assistance or services, and so on.

Article 3 The State shall tightly control the export of nuclear dual-use items and related technologies, strictly perform its international obligations on non-proliferation of nuclear weapons, and prevent nuclear dual-use items and related technologies from being used for nuclear explosions or nuclear terroristic acts.

For the purpose of safeguarding State security and international peace and security, the State may take any necessary measures regarding nuclear dual-use items and related technologies export.

Article 4 The export of nuclear dual-use items and related technologies shall comply with the provisions of the relevant laws and administrative regulations of the State as well as these Regulations, and shall not jeopardize State security and public interests.

Article 5 The State shall practice a licensing control system on the export of nuclear dual-use items and related technologies.

Article 6 The licensing of nuclear dual-use items and related technologies export shall be based on the following guarantees made by the receiving party:

- (1) The receiving party guarantees not to use the nuclear dual-use items and related technologies supplied by China, or any reproductions thereof, for nuclear explosions or for purposes other than the end-use it has declared;
- (2) The receiving party guarantees not to use the nuclear dual-use items and related technologies supplied by

China, or any reproductions thereof in nuclear fuel cycle activities not under International Atomic Energy Agency safeguards. However, this Subparagraph is not applicable to the countries which have concluded voluntary offer safeguards agreements with the International Atomic Energy Agency; and

(3) The receiving party guarantees not to transfer to a third party other than the end-user it has declared the nuclear dual-use items and related technologies supplied by China, or any reproductions thereof, without the consent of the Chinese Government.

Article 7 All exporters of nuclear dual-use items and related technologies shall be registered with the Ministry of Commerce. Without such registration, no organization or individual shall engage in the export of nuclear dual-use items and related technologies. The specific measures for such registration shall be formulated by the Ministry of Commerce.

Article 8 To export nuclear dual-use items and related technologies included in the Control List, the exporter shall apply to the Ministry of Commerce, fill in the export application form of nuclear dual-use items and related technologies (hereinafter referred to as the export application form), and submit the following documents:

- (1) identifications of the applicant's legal representative, principal managers and the persons handling the matter;
- (2) a copy of the contract or agreement;
- (3) technical specifications or testing reports of the nuclear dual-use items and related technologies;
- (4) certificates of the end-user and the end-use;
- (5) the guarantee documents provided for in Article 6 of these Regulations; and
- (6) other documents required by the Ministry of Commerce.

Article 9 Where the nuclear dual-use items and related technologies are exported for an exhibition, Chinese party's own use or inspection and repair abroad and will be transported back within a prescribed time limit, or where they are transported abroad after being imported for inspection and repair, or where they are exported under any other circumstances prescribed by the Ministry of Commerce, the exporter may, upon examination and approval of its application by the Ministry of Commerce, be exempted from submitting the relevant documents provided for in Article 8 of these Regulations.

Article 10 The applicant shall truthfully fill in the export application form.

The export application forms shall be uniformly produced by the Ministry of Commerce.

Article 11 Upon receiving the export application form and the documents provided for in Article 8 of these Regulations, the Ministry of Commerce shall, jointly with the China Atomic Energy Authority, or jointly with the China Atomic Energy Authority and in consultation with the departments concerned, or in consultation with the Ministry of Foreign Affairs if foreign policies are involved therein, examine the application and decide whether to license or not within 45 working days.

Article 12 Where the export of nuclear dual-use items and related technologies has a significant impact on State security, public interests or foreign policies, the Ministry of Commerce shall, jointly with the departments concerned, report the matter to the State Council for approval.

The time limit stipulated in Article 11 of these Regulations shall not be applicable to the export which is subject to approval by the State Council.

Article 13 Where an application for the export of nuclear dual-use items and related technologies is approved after examination, the Ministry of Commerce shall issue a license for the export of nuclear dual-use items and related technologies (hereinafter referred to as the export license).

Article 14 An export license holder who intends to change the nuclear dual-use items and related technologies it originally applied for the export of shall turn in the original export license and file a new application and obtain a new export license in accordance with the relevant provisions of these Regulations.

Article 15 When exporting nuclear dual-use items and related technologies, the exporter shall submit the export license to the Customs, complete Customs procedures and be subjected to the Customs supervision and control in accordance with the provisions of the Customs Law.

Article 16 The Customs may raise questions as to whether an exporter needs to apply for a license for the export of nuclear dual-use items and related technologies for the equipment, materials, software and related technologies to be exported, and may also require the exporter to apply to the Ministry of Commerce for certification on whether the equipment, materials, software and related technologies to be exported are within the scope of nuclear dual-use items and related technologies under control. If they are, the exporter shall apply for the said export license in accordance with the provisions of these Regulations. The specific measures in this respect shall be formulated by the General Administration of Customs jointly with the Ministry of Commerce.

Article 17 Where the receiving party contravenes the guarantees it has made in accordance with the provisions of Article 6 of these Regulations, or where a danger of nuclear proliferation or of a nuclear terroristic act appears, the Ministry of Commerce shall suspend or revoke the export license already issued and notify the departments concerned in writing.

Article 18 An exporter shall establish a sound mechanism for internal control of the export of nuclear dual-use items and related technologies, and properly keep contracts, invoices, bills, and business letters and so on for at least five years. The Ministry of Commerce may inspect and copy the related materials.

Article 19 Where an exporter knows or ought to know, or is informed by the Ministry of Commerce, that the equipment, materials, software and related technologies to be exported have nuclear proliferation risks or might be used for nuclear terrorism, the exporter shall be subject to the provisions of these Regulations even if the said

equipment, materials, software and related technologies are not included in the Control List.

Article 20 Upon approval by the State Council, the Ministry of Commerce may, jointly with the departments concerned, temporarily decide to exercise control in accordance with these Regulations over the export of specific nuclear dual-use items and related technologies not included in the Control List.

The export of specific nuclear dual-use items and related technologies provided for in the preceding paragraph shall be subject to license in accordance with the provisions of these Regulations.

Article 21 The Ministry of Commerce shall organize relevant experts to form an advisory committee on control of nuclear dual-use items and related technologies export, which shall to undertake consultation, assessment and accreditation in respect of control of nuclear dual-use items and related technologies export.

Article 22 The Ministry of Commerce may, independently or jointly with the department concerned, investigate and stop any suspected violation of the provisions of these Regulations. When necessary, the Ministry of Commerce may notify the Customs about the equipment, materials, software and related technologies to be exported, and the Customs may inspect and impound the goods which are subject to Customs control. The Ministry of Commerce may seal up or impound the goods which are not in a Customs surveillance zone and are not subject to Customs control. The organizations or individuals involved shall provide cooperation and assistance.

Article 23 An export who, in violation of the provisions of these Regulations, exports nuclear dual-use items shall be penalized in accordance with the provisions of the Customs Law.

Where an exporter, in violation of the provisions of these Regulations, exports technologies related to nuclear dual-use items, the Ministry of Commerce shall give the exporter a warning and impose thereupon a fine of not less than the amount of the illegal turnover but not more than five times that amount; if the illegal turnover is less than 50,000 yuan, the said Ministry shall impose thereupon a fine of not less than 50,000 yuan but not more than 250,000 yuan; and the illegal income, if any, shall be confiscated. If a crime is constituted, criminal liability shall be investigated for in accordance with law.

Article 24 Anyone who counterfeits, alters, buys or sells an export license shall be penalized in accordance with the provisions of relevant laws and administrative regulations; and if a crime is constituted, criminal liability shall be investigated for in accordance with law.

Where an export license is obtained by fraud or any other illegitimate means, the Ministry of Commerce shall revoke such an export license and impose a fine of not less than the amount of the illegal turnover but not more than five times that amount; if the illegal turnover is less than 50,000 yuan, the said Ministry shall impose a fine of not less than 50,000 yuan but not more than 250,000 yuan; and the illegal income, if any, shall be confiscated. If a crime is constituted, criminal liability shall be investigated for in accordance with law.

Article 25 Where a State functionary who exercises control over the export of nuclear dual-use items and related

technologies neglects his duties, commits illegalities for personal gain or abuses his power, he shall be investigated for criminal liability in accordance with law if his act constitutes a crime, or shall be given a sanction in accordance with law if such act does not constitute a crime.

Article 26 The Ministry of Commerce may, jointly with the China Atomic Energy Authority and the departments concerned, make adjustments to the Control List in light of the actual conditions and publish the adjusted list.

Article 27 Where an international treaty that the People's Republic of China has concluded or acceded to contains provisions different from these Regulations, the provisions of the international treaty shall apply, unless the provisions are those on which the People's Republic of China has declared reservations.

Article 28 The provisions of these Regulations shall apply to the export of nuclear dual-use items and related technologies from special Customs surveillance zones such as bonded zones and export processing zones, and from bonded facilities under surveillance such as warehouses under export surveillance and bonded logistic centers.

The transit, transshipment and through-shipment of nuclear dual-use items and related technologies shall be governed with reference to the provisions of these Regulations.

Article 29 These Regulations shall be effective as of the date of promulgation.