

Export control law issued

Contacts

China

Martin Ng
Managing Partner
martin.ng@wts.cn
+ 86 21 5047 8665 ext.202

Ened Du
Senior Manager
ened.du@wts.cn
+ 86 21 5047 8665 ext.215

Sissi Shen
Senior Consultant
sissi.shen@wts.cn
+ 86 21 5047 8665 ext.220

In brief

- » China's "Export Control Law" has come into effect on 1 December 2020, giving China more room to safeguard national security and interests.

Feedback

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In Detail

On 17 October 2020, China's top legislature promulgated the "Export Control Law", enhancing in China's export control legislation, and improving the legislative system. The new law takes effect from 1 December 2020. The purpose and the focus of the law is to "safeguard the national security and interests". China may, in light of the actual situation, take reciprocal measures against any country or region, which has abused the export control measures to endanger China's national security and interests. The main content of the law is as follows:

1. Controlled items

The export controlled items under the "Export Control Law" are classified into four categories:

- a) Dual-usage items (items capable for usage in both civil and military areas);
- b) Military products;
- c) Nuclear; and
- d) Other goods, technologies, services related to national security and interests.

2. Centralized control system

China adopts a centralized export control system, by means of control lists, directories, catalogues, or export permits, etc.

a) Control lists, directories or catalogues

The state adopts a listing approach over export control items, which may come in two forms:

- A control list issued by the responsible authority governing export control;
- A temporary control list to be issued when necessary (with a duration of maximum two years).

b) Export permits

- Controlled importers and end-users

Exporters are not allowed to trade with those importers and end-users named in the control lists. However, under certain special circumstances, the exporters may apply for a concession, subject to the approval by the authority in charge of the export control.

Further, the importers and end-users can apply to the state's export control authority for removing them from the control list, if satisfying the conditions.

- Controlled items

Exporters are required to apply for an export permit from the state's export control authority in advance for exporting any controlled items or temporarily controlled items named on an export control list, which covers goods, technologies or services that may bear the following risks:

- Endangering national security and interests;
- To be used in the design, development, production or operation of weapons capable of mass destruction, or for their means of delivery; or
- To be used for terrorist purposes.

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3. Strengthening supervision and management

The "Export Control Law" has carried two sections: "Supervision and Administration"(chapter 3) and "Legal Liability"(chapter 4), which stipulate the supervision, the management functions and the responsibility of the authority governing the export control, the obligations of enterprises and individuals, and the penalty over illegal activities. They are formulated for strengthening the risk management over end-users and end-usage, and emphasizing the requirements on the establishment of a compliance system in enterprises.

WTS observation

Compared with its draft version released for public consultation earlier, the law's final version has further strengthened the control over "technical documentation and relevant data".

The new law has further enhanced the administration of end-users and end-usage of controlled items, empowered the enforcement authority with a stronger export control capability, and intensified the penalty measures.

Enterprises are urged to keep a close eye on the export control lists issued by the export control authority, and establish an internal compliance system for export control.

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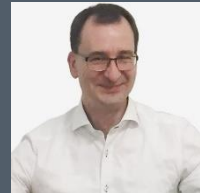
China Contact

Martin Ng
Managing Partner
martin.ng@wts.cn
+ 86 21 5047 8665 ext.202



Germany Contact

Ralf Dietzel
Partner
ralf.dietzel@wts.de
+49 (0) 89 28646 1745



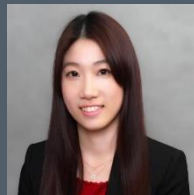
Ened Du
Senior Manager
ened.du@wts.cn
+ 86 21 5047 8665 ext.215



Xiaolun Heijenga
Partner
xiaolun.heijenga@wts.de
+ 49-69-1338 456 320



Sissi Shen
Senior consultant
sissi.shen@wts.cn
+ 86 21 5047 8665 ext.220



WTS China Co., Ltd.
Unit 031,29F,Hang Seng Bank Tower ,No.1000 Lujiazui Ring Road,
Pudong New Area, Shanghai, 200120 PRC
T: +86 21 5047 8665
F: +86 21 3882 1211
www.wts.cn
info@wts.cn



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