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China finalized export control regulations for dual-use items

In brief

» China has unveiled its revamped regulations on dual-use items (DUIs) export controls, set to take effect on 1 December 2024.

» These new regulations bring some improvements to export licensing rules, introduce a monitoring list mechanism, and provide clear guidelines on the scope of extraterritorial control.

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In detail

The State Council of China has issued the finalized version of the "*Regulations on Dual-Use Items Export Control*", which will come into effect on 1 December 2024. These Regulations were subject to public consultation for two years, beginning in April 2022. This newsletter provides a summary of some significant revisions introduced in the finalized version.

A. Relaxation for multiple-use licensing

A multiple-use license, unlike a single-use license, offers exporters the convenience of making repeated shipments of dual-use items (DUIs) to the same end-users for up to three years. The draft Regulations required applicants to have at least two years of experience in exporting DUIs, but the finalized version has removed this criterion, focusing instead on compliance. Additionally, the validity of a multiple-use license has been extended from two years to three years.

B. Simplified registration for license-free exports

The new Regulations unveil a streamlined registration process for exporting DUIs that do not require an export license. This encompasses the re-export of DUIs to their countries of origin, initially brought to China for purposes such as repair, testing, inspection, or exhibition. Additionally, it includes the export of civil aircraft parts destined for offshore repairs.

C. Clarified ineligible situations

The Regulations unequivocally stipulate that the following exporters are ineligible to apply for a multiple-use license or to register for license-free export:

1. Exporters or their personnel facing criminal charges for DUI export violations;
2. Exporters or their personnel having incurred penalties in the past five years for DUI export violations;
3. Wholly-owned Chinese subsidiaries, offices, or branches of a foreign parties sanctioned by China; or
4. Any other circumstances as specified by the commercial authorities under the State Council.

Consequently, these exporters are required to obtain a single-use export license for each shipment.

D. Monitoring list for non-compliant importers

The new Regulations have established a monitoring list for foreign importers or end-users who fail to meet deadlines for end-user or end-usage verification.

Chinese exporters selling DUIs to entities on this list are prohibited from obtaining multiple-use licenses or license-free registrations. They may apply for a single-use license, provided they submit a risk assessment report and a compliance commitment.

E. Clarified extraterritorial control

Extraterritoriality in foreign trade laws refers to the application of a country's laws beyond its borders. The Regulations clarify that the transfer outside China of the following items is also governed by the same rules:

a) DUIs made overseas containing, integrating or blended with specified China-made DUIs;
b) DUIs made overseas using specified China-originated technology; or
c) China-originated DUIs.

WTS China observation

The Regulations provide three facilitation measures for DUI export: single-use licenses, multiple-use licenses, and license-free registrations. Notably, the multiple-use license assessment prioritizes the establishment of a comprehensive export control compliance system. Companies engaged in frequent DUI exports should consider developing a robust compliance framework to take advantage of multiple-use licenses. This approach can effectively eliminate concerns about significant delays in export shipments due to the licensing process.

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