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Joint EU - China Handbook on Export Control of Dual-Use Items

VOLUME 1

HANDBOOK ON EXPORT CONTROL OF DUAL-USE ITEMS IN CHINA



An EU project implemented by BAFA.

Handbook on Export Control of Dual-Use Items and Related Technologies in China

All information published in this Handbook is authentic in Chinese.
English is provided for reference only.

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Abbreviations

AG	Australia Group
ASEAN	The Association of South Asian Nations
BWC	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (Biological and Toxin Weapons Convention)
CTBT	Comprehensive Nuclear-Test-Ban Treaty
CTBTO	Comprehensive Nuclear-Test-Ban Treaty Organization
CWC	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention)
ECS	Export Compliance System
EU	the European Union
GAC	General Administration of Customs
IAEA	International Atomic Energy Agency
ICP	Internal Compliance Program
MOFCOM	Ministry of Commerce
MTCR	Missile Technology Control Regime
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
NSG	Nuclear Suppliers Group
OEWG	Open-Ended Working Group
OPCW	Organization for the Prohibition of Nuclear Weapons
PoA	Program of Action
PRC	People's Republic of China
SALW	Small arms and light weapons
SASTIND	State Administration of Science, Technology and Industry for National Defense
UK	United Kingdom
UN	United Nations
US	United States of America
WA	Wassenaar Arrangement
WMD	Weapon(s) of mass destruction
WTO	World Trade Organization

Part I
China's Nonproliferation Policy and Practices

Chapter I

China's Non-Proliferation Policy and Measures

The proliferation of weapons of mass destruction (WMD) and their means of delivery are currently a prominent issue in international politics and security. On the one hand, nations have attached greater importance to non-proliferation. Consensus has been deepened and cooperation has been constantly expanded in this regard. On the other hand, some regional hot issues regarding non-proliferation remain hard to resolve. With economic globalization, scientific and technological developments, it is more difficult to prevent proliferation of sensitive items and technologies. Therefore, the international community cannot ignore the risks that some non-state actors, especially terrorists might illegally acquire, transport WMD-related materials.

To prevent the proliferation of WMD and their means of delivery is conducive to the preservation of international and regional peace and security, and serves the common interests of the international community. Through protracted and unremitting efforts, the international community has established a relatively complete international non-proliferation regime, which has played a positive role in preventing and slowing down the proliferation of WMD and their means of delivery, and in safeguarding regional and international peace and security.

Economic globalization and the rapid advancement of science and technology, while providing the international community with opportunities for cooperation and development, have also brought about many new challenges. At present, traditional and non-traditional security factors are increasingly interwoven, with the latter being steadily on the rise. Countries are linked more

closely to each other in security matters, and such interdependence is continually deepening. It is an inevitable demand of the times to strengthen international cooperation and seek common security for all countries.

In April 2004, the United Nations Security Council unanimously adopted Resolution 1540, which calls on all states to take measures to strengthen domestic control and export control with a view to preventing the acquisition of WMD and related materials and technologies by non-state actors and present a report to Security Council on the implementation of the resolution. China supports the United Nations to play its due role in nonproliferation and acknowledges the Resolution 1540's important contributions to enhancing the international consensus and cooperation on non-proliferation, and preventing the non-state actors from acquiring WMD and their means of delivery and related materials.

Over the years, with its strong sense of responsibility, China has gradually formulated a whole set of non-proliferation policies and put in place a fairly complete legal framework on non-proliferation and export control. It has taken positive and constructive measures to promote the international non-proliferation process with concrete actions, thus making significant contribution to safeguarding and promoting international and regional peace and security.

I. China's Basic Stand on Non-Proliferation

China has always stood for the complete prohibition and thorough destruction of all kinds of WMD, including nuclear, biological and chemical weapons, and resolutely opposed the proliferation of such weapons and their means of delivery. China does not support, encourage or assist any country in developing WMD and their means of delivery.

The fundamental objective of non-proliferation is to safeguard and promote international and regional peace and security, and all relevant measures should be conducive to attaining this goal. The proliferation of WMD and their means of delivery have its complicated root causes and it is closely related to the international and regional security environment. To pursue the universal improvement of international relations, to promote the

democratization of such relations and to settle regional security issues in a fair and reasonable manner will help international non-proliferation efforts.

China firmly supports international non-proliferation efforts, and at the same time pays high attention to international and regional peace and stability. China stands for the realization of the objectives of non-proliferation through peaceful means and supports gradual improvement of the international non-proliferation regime and export controls of individual countries. On the other hand, proliferation issues must be settled through dialogue and international cooperation.

Universal participation of the international community is essential in non-proliferation efforts. To have the understanding and support of the overwhelming majority of the international community, it is highly important to ensure a fair, reasonable and non-discriminatory non-proliferation regime. Both the improvement of the existing regimes and the establishment of new ones should be based on universal participation and democratic decision-making process through a democratic process. Unilateralism and double standards must be abandoned, and greater importance should be attached and full play given to the role of the United Nations.

Given the dual-use nature of many of materials, equipment and technologies in the nuclear, biological, chemical and aerospace fields, it is important that all countries shall, in implementing their non-proliferation policies strike a proper balance between nonproliferation and international cooperation for peaceful use of the relevant high technologies. In this connection, China maintains that, it is necessary to guarantee the rights of all countries, especially the developing countries, to utilize dual-use scientific and technological achievements subject to full compliance with the non-proliferation. On the other hand, it is also necessary to prevent any country from engaging in proliferation activities under the pretext of peaceful use.

II. Active Participation of International Non-Proliferation Efforts

Over the years, China has extensively participated in the construction of the multilateral non-proliferation regimes and actively promoted their continual improvement and development. China has signed all international treaties related to non-proliferation, and joined most of the relevant international organizations.

In the nuclear field, China joined the International Atomic Energy Agency (IAEA) in 1984, and voluntarily placed its civilian nuclear facilities under IAEA safeguards. It acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in 1992. China actively took an active part in the negotiations of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) at the Conference on Disarmament in Geneva and made important contributions to the conclusion of the treaty. China was also among the first countries to sign CTBT in 1996. China became a member of the Zangger Committee in 1997. China signed the Additional Protocol to the Agreement between China and IAEA for the Application of Safeguards in China in 1998, and in early 2002 formally completed the domestic legal procedures necessary for the entry into force of the Additional Protocol, thus becoming the first Nuclear-Weapon State to complete the relevant procedures. China has actively participated in the work of the IAEA, the Preparatory Commission for the CTBTO and other related international organizations. It has supported the IAEA's contribution to the prevention of potential nuclear terrorist activities, and took an active and constructive part in amending the Convention on the Physical Protection of Nuclear Materials. In May 2004, China became a member of the Nuclear Suppliers Group (NSG).

China consistently supports the efforts of the non-nuclear-weapon states in establishing nuclear-weapon-free zones, has already signed and ratified all the relevant protocols which have been opened for signature of all nuclear-weapon-free zone treaties, including the protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of

Tlatelolco), the South Pacific Nuclear-Free Zone Treaty (Treaty of Rarotonga), and the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba). China has reached agreement with the ASEAN countries on relevant issues under the Protocol of the Treaty on the Southeast Asia Nuclear-Weapon-Free Zone. China supports the Treaty on a Nuclear Weapon-Free Zone in Central Asia and its protocols signed by Central Asian countries, and supports the establishment of a nuclear-weapon-free zone in the Middle East.

In the biological field, China has always strictly observed its obligations under the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC) since its accession in 1984. As from 1988, it has, on an annual basis, submitted to the United Nations the declaration data of the confidence-building measures for the BWC in accordance with the decision of its Review Conferences. China has also enthusiastically contributed to the international efforts aimed at enhancing the BWC effectiveness, and actively participated in the negotiations on the protocol to the BWC and in international affairs related to the BWC.

In the chemical field, China made positive contributions to the negotiation and conclusion of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC). It signed the Convention in 1993 and deposited its instrument of ratification in 1997. Since the CWC came into force, China actively supports to the work of the Organization for the Prohibition of Chemical Weapons (OPCW), and has earnestly fulfilled the CWC. China has set up the National Authority for the implementation of its obligations under the CWC, and timely submitted initial and annual declarations of all kinds on schedule and in their entirety. By the end of December 2012, China had received more than 300 on-site inspections by the OPCW.

In the missile field, China supports the international community in its efforts to prevent the proliferation of missiles and related technologies and materials, and adopts a positive and open attitude toward all international

proposals for strengthening the missile non-proliferation mechanism. In this connection, China has constructively participated in the work of the United Nations Group of Governmental Experts on Missiles in all its aspects.

China attaches importance to the role of the present multilateral export control mechanisms in the non-proliferation field, and has actively conducted dialogues and exchanges with those mechanisms with a view to drawing upon beneficial experiences thereof.

China has joined the Zangger Committee and the Nuclear Suppliers Group (NSG), and has formally applied for the membership of the Missile Technology Control Regime (MTCR), and keeps contact and exchanges with the MTCR, the Wassenaar Arrangement and the Australia Group through several sounds of dialogues and consultations.

At present, the scope and practice of the export control of China in the fields of nuclear, biological, chemical items and missiles are generally consistent with those of the above-mentioned regimes. China will continue to strengthen the dialogue and exchange with those export control regimes with a view to improving respective export controls.

China attaches importance to international exchange and cooperation in the area of nonproliferation and export control. With a view to learning from each other, China maintains constant dialogue and communication with the European Union (EU), the United States of America (US) and other countries, organizations and multinational export control regimes.

China has cosponsored inter sessional meetings on non-proliferation and disarmament with other countries within the framework of the ASEAN Regional Forum, and taken part in discussions on biological security and counter-biological terrorism.

Among various exchanges on non-proliferation and export control between China and its counterparts, the cooperation between China and the EU set a successful example. In 2004, China and the EU issued the "Joint

Declaration on Non-proliferation and Arms Control", recognizing each other as strategic partners in the field of non-proliferation and identifying export control as a priority for cooperation. Over the past 9 years, China and the EU have, on the basis of equality, cooperation and mutual benefit, steadily promoted exchange and cooperation, which not only consolidated mutual consensus, on non-proliferation, but also further deepened export control exchange. These efforts further enriched the China–EU Strategic Partnership, and made significant contributions to international non-proliferation cooperation.

III. China's Export Control System

The effective export control serves as an important means to pursue the non-proliferation goal. Effective export control of materials, equipment and technologies that could be used in the development and production of WMD and their means of delivery constitutes an important part of a country's implementation of its international non-proliferation obligation, and an important guarantee for the success of the international non-proliferation efforts. As a country with certain sci-tech and industrial capabilities, China is well aware of its nonproliferation responsibility. After years of endeavor, the Chinese Government has adopted rigorous measures both on the internal administration and export control of sensitive items and technologies in light of the evolving situation.

China has completed a transition in its non-proliferation export control from an administrative pattern to one based on law. The Chinese Government continues to strengthen the legal system to bolster nonproliferation in the principle of rule of law to ensure the effective enforcement of its non-proliferation policy.

The export control regulations Chinese Government has promulgated and implemented include "Regulations of the People's Republic of China on Control of Nuclear Export", "Regulations of the People's Republic of China on Export Control of Nuclear Dual-Use Items and Related Technologies", "Regulations of the People's Republic of China on Export Control of Dual-Use

Biological Agents and Related Equipment and Technologies", "Regulations of the People's Republic of China on the Administration of Controlled Chemicals, Measures on Export Control of Certain Chemicals and Related Equipment and Technologies", "Regulations of the People's Republic of China on Export Control of Missiles and Missile-related Items and Technologies", "Regulations of the People's Republic of China on the Administration of Arms Export" , "Catalogue of Dual-use Items and Technologies Subject to Import and Export License" and other regulations. All these regulations spell out in detail penal measures for illegal exports.

The Chinese Government has made continuous efforts to improve its control system in light of the changing situation and international obligations. For instance, in January 2006, the Chinese Government promulgated the "Measures on Administration of Import License of Dual-Use Goods and Technology", and updated "Catalogue of Dual-use Items and Technologies Subject to Import and Export License" annually. In May 2009 the Chinese Government promulgated "Measures on General License for Export of Dual-Use Items and Technology", optimizing the measure of administration and improving efficiency of working. To fulfill its obligations under the NSG, China amended the "Regulations of the PRC on the Control of Nuclear Export" and "Regulations of the PRC on the Control of Nuclear Dual-Use Items and Related Technologies Export" in November 2006 and January 2007 respectively. In June 2007, China amended The Control List of Nuclear Dual-Use Items and Related Technologies. Taking into consideration its national conditions and the practice of the AG, the Chinese Government amended the Control List of the "Regulations of the PRC on the Export Control of Dual-Use Biological Agents and Related Equipment and Technologies" in July 2006. In consideration of the practical needs of nonproliferation export control, since September 2006, the Chinese Government has adopted temporary control over the export of all graphite products, requiring licenses for the export of all related products.

China attaches great importance to studying the current international standards of non-proliferation export control. Integrating the multinational export control mechanism and the valuable experience of other countries with its own national conditions, China has widely adopted the current international standards and practices and vigorously strengthened and improved its own export control system. By formulating and enforcing a series of laws and regulations, China has established a complete system for the export control of nuclear, biological, chemical, missile and other sensitive items and technologies, and all military products. This system provides a sufficient legal basis and mechanism guarantee for the better attainment of the non-proliferation goal. This export control system has embraced the following practices:

Export Registration System All exporters of sensitive items or technologies must be registered with the competent departments of the central government. Without such registration, no entity or individual is permitted to engage in such exports. Only designated entities are authorized to handle nuclear exports and the export of controlled chemicals and military products. No other entity or individual is permitted to go in for trade activities in this respect.

Licensing System It is stipulated that the export of sensitive items and technologies shall be subject to examination and approval by the competent departments of the central government on a case-by-case basis. No export is to be carried out until a license is granted. The holder of an export license must engage in export activities strictly as prescribed by the license within its validity. If any export item or contents are changed, the exporter must return the original license and apply for a new one. When exporting the above-mentioned items and technologies, an exporter shall provide the export license to the Customs, go through the Customs formalities as stipulated by the Customs Law of the People's Republic of China, and the relevant control regulations and measures, and shall be subject to supervision and control by the Customs.

End-User and End-Use Certification An exporter of sensitive items and technologies is required to provide a certificate specifying the end-user and the

end-use, issued by the end-user that imports them. The end-user must specify the end-user and end-use of the imported items and technologies in the certificate, and definitely guarantee that without permission from the Chinese Government, it shall not use the imported items and technologies for purposes other than the certified end-use, or transfer it to a third party other than the certified end-user without the prior consent of the Chinese Government.

Lists of Control Method China has drawn up detailed control lists of sensitive items, equipment and technologies. In the nuclear, biological and chemical fields, the relevant lists cover virtually all of the materials and technologies included in the control lists of the Zangger Committee, the NSG, the CWC, and the AG. In the missile field, the scope of the Chinese list is generally the same as the Technical Annex of the MTCR. In the arms export field, the Chinese Government also drew on the experience of the relevant multilateral regimes and practice of other countries when it first formulated and issued the arms export control list in 2002. The Chinese Government makes timely adjustments to these lists in light of actual conditions.

“Catch-all” Principle If an exporter knows or should know that there is a proliferation risk, the exporter is required to apply for an export license even if the item or technology is not on the control list. Once such a risk is identified, the licensing agency has the authority to immediately refuse the export license, and terminate the export. Moreover, the competent agencies may also exercise provisional export control on specific items not contained on the relevant control list. When considering an export application or deciding on whether to issue an export license, the export examination and approval department shall make an overall assessment of End-User and End-Use of the item or technology to be exported and risk of proliferation of Weapons of Mass Destruction.

Penalties Exporters who export controlled items or technologies without approval arbitrarily, export items beyond the approved scope, or forge, alter, buy or sell export licenses shall be investigated for criminal liability in accordance with provisions in the Criminal Law of the People’s Republic of

China. For cases that do not constitute crimes, the competent government department(s) shall impose administrative penalties, including warning, confiscation of illicit proceeds, fines, suspension or even revocation of foreign trade licenses.

IV. Strict Implementation of Export Control

Thanks to painstaking efforts over the past years, China has steadily improved and developed its export control laws and regulations, providing a solid legal basis and strong guarantee for better attainment of the government's non-proliferation goals and, at the same time, improving law-enforcement capability of competent governmental agencies. In order to ensure the effective implementation of these laws and regulations, competent Chinese Governmental agencies have devoted a great deal of effort on investigating and handling cases of violation, improving non-proliferation export control organs, publicizing the relevant policies and regulations and conducting education for enterprises.

Export Control Agencies A number of Chinese Governmental agencies get involved in exercising export control. An inter-agency coordinating mechanism with a clear division of responsibility and close coordination has been established among these agencies.

China's nuclear export control is executed by the State Administration of Science, Technology and Industry for National Defense (SASTIND) and MOFCOM, in coordination with other relevant governmental agencies. SASTIND and competent department under the Ministry of National Defense, together with other governmental agencies are in charge of arms control, including the export control of missiles, and facilities and key equipment used directly for the production of missiles.

The export of nuclear dual-use items, dual-use biological agents, certain chemicals, and missile-related dual-use items and technologies for civilian use fall under the control of the MOFCOM, jointly with other competent governmental agencies. Among them, the export of nuclear dual-use items and

missile-related dual-use items and technologies is subject to joint examination by MOFCOM, SASTIND. The export of dual-use biological agents and technologies related to animals and plants is subject to examination by MOFCOM, in consultation with the Ministry of Agriculture if needed. The export of dual-use biological agents and technologies related to humans is subject to examination by MOFCOM, jointly with National Health and Family Planning Commission, in consultation with Ministry of Industry and Information Technology if needed. The export of controlled chemicals is subject to examination by the State Development and Reform Commission, jointly with and MOFCOM. The equipment and technologies related to dual-use biological agents and certain chemicals is subject to examination by the MOFCOM.

The export of sensitive items and related equipment and technologies related to foreign affairs is subject to joint examination by the above-mentioned competent departments and the Ministry of Foreign Affairs. Where the export items entail significant impact on national security and public interests, the competent agencies concerned shall submit the case to the State Council and the Central Military Commission for approval.

The General Administration of Customs (GAC) is responsible for supervision and control of the export of the above-mentioned items and technologies, and it also participates in investigation and handling of cases of illegal exports. The Customs have the authority to question whether the items from the exporters are sensitive items and technologies, and to demand the exporters to comply with regulations and file application to competent government departments either for export license or for relevant certificates proving that the exports are not controlled items.

Special offices, staffed with specialists, have been set up in the abovementioned ministries and commissions to carry out the work of export control.

Publicity for laws and regulations and Educational Outreach for enterprise Immediately after the nonproliferation export control regulations

are published, news releases are announced through the national media, and full texts of the regulations and control lists are published in the professional publications and web sites of the government departments, foreign trade sector and research institutes concerned. The publicity has provided favorable conditions in informing the concerned exporters of the regulations and control lists. Competent departments concerned have also taken positive steps to ensure earnest implementation of the regulations by relevant enterprises and institutions, and to familiarize export enterprises with the contents of the regulations and procedures for export examination and approval by organizing seminars and training courses on these regulations.

Building of the Export Examination System In order to effectively implement the export control regulations, China has established a system involving application, examination and approval, certificate issuance and Customs control, inspection and clearance, and this system applies to all related exporters. MOFCOM and GAC have formulated the Export Licensing Catalogue of Dual-Use Items and Technologies, allocated corresponding customs 10-digit(the first 6-digit is the international prevailing HS Code)HS code to make the commodities on the lists attached to relevant export control regulations, and are doing their best to enhance the government's capability to exercise supervision over export control.

To ensure accurate and scientific decision in the process of license approval, competent authorities have set up an expert supporting system that consists of experts from relevant fields. The Chinese Government has also actively carried out public awareness campaigns to increase the awareness and ensure implementation of the regulations by relevant enterprises and institutions.

The Chinese Government attaches importance to education and training of law enforcement officials for export control, especially those at the grass-roots level, so as to raise their policy awareness and capability to exercise export control according to law. After the release of relevant laws and regulations on export control, MOFCOM carried out comprehensive training programs on

policies, laws and regulations for commerce officials at local levels. In places susceptible illegal export, MOFCOM also frequently holds, special training courses on policies, laws and regulations and law enforcement of export control.

The Customs across the country also frequently, conducted training programs for customs officials as well as customs police across the country on policies, laws, regulations as well as examining skills with regard to the export control of sensitive items and technologies.

Investigation and Handling of Law Violations The Chinese Government adheres to the principle of enforcing the law strictly and punishing all offenders. For any suspected case of illegal export of sensitive items and technologies, competent authorities carry out careful investigation and handle it according to law. Competent authorities have put the entities involved in these cases on a "watch list" so as to prevent the recurrence of similar activities. In May 2004, the Chinese Government established an inter-agency coordinating mechanism for export control and spelt out in detail the duties, division of tasks and work procedures of relevant export control departments in dealing with emergency cases in this respect. This has provided an institutional safeguard for swift and effective handling of such cases.

Conclusion

While having spared no effort to implement the non-proliferation policy, and continued to strengthen and improve non-proliferation laws and regulations and export control mechanism, the Chinese Government is fully aware that the above efforts should proceed in a systematic way and advance step by step.

International non-proliferation efforts must rely on the national policies and measures of all countries, and at the same time the building of national mechanisms is inseparable from the establishment of international non-proliferation standards. China will continue to actively take an active part in international non-proliferation endeavors, and exert great efforts to maintain and strengthen the existing non-proliferation international law system within

the United Nations framework. It will continue to expand consultations and exchanges with the multilateral export control regimes, and continue to play an active role in international discussions related to non-proliferation.

The Chinese Government will continue to keep close contact with and hold consultations with other countries on non-proliferation issues, and is willing to strengthen its exchange and cooperation with all sides in the fields related to export control to keep improving their respective export control systems.

Confronted with the complicated and volatile international security situation, China will join the members of the international community in making contributions to accelerating the development and improvement of the international non-proliferation mechanism and to promoting world peace and stability.

Chapter II

the Legal Framework of China's Export Control

After years of efforts, China has completed a transition in its nonproliferation export control from an administrative pattern to one based on law with relevant measures basically conforming to common international practices. Since the mid-1990s, China has established an export control legal system that covers nuclear, biological, and chemical items as well as missile and other relevant sensitive items, technologies and arms.

I. Nuclear Export

In the nuclear field, China has persisted in exercising stringent control over nuclear exports and nuclear materials. In the control of nuclear materials, since its accession to the IAEA, China has established a “State System for the Accountancy and Control of Nuclear Materials,” and a “Nuclear Materials Security System” that measures up to the requirements of the Convention on the Physical Protection of Nuclear Materials. In 1987, the Chinese Government issued the Regulations on the Control of Nuclear Materials. Under the Regulations it instituted a licensing system for nuclear materials. It designated the department for supervision and control over nuclear materials and defined its duties, the measures for nuclear materials control, the application for, and examination and issuance of, nuclear materials licenses, the management of nuclear materials accounts, the accountancy of nuclear materials, the physical protection of nuclear materials, and relevant rewards and punishments.

China's nuclear export is handled exclusively by the companies designated by the State Council. China adheres to the following three principles: guarantee for peaceful use only, acceptance of the safeguards of the IAEA, and no retransfer to a third country without the prior consent of the Chinese

Government. The Chinese Government issued the Regulations of the PRC on the Control of Nuclear Export in 1997. Apart from the abovementioned three principles, the Regulations also expound on China's policy of not advocating, not encouraging and not engaging in the proliferation of nuclear weapons, not helping other countries to develop nuclear weapons, not providing any assistance to any nuclear facility not placed under IAEA safeguards, not providing nuclear exports to it, and not conducting personnel and technological exchange or cooperation with it. The Regulations also provide for a rigorous examination system for nuclear export, severe violation punishments and a comprehensive and detailed control list.

In 1998, the Chinese Government promulgated the Regulations of the PRC on the Control of Nuclear Dual-Use Items and Related Technologies Export for the purpose of strengthening export control over nuclear dual-use items. Therein it reaffirms its determination of strictly performing its international nuclear non-proliferation obligations and exercising strict control over the export of nuclear dual-use items and related technologies, and it instituted a licensing system for related exports. It established a registration system for exporters and the procedures for the examination and approval of exports, and defined punishments for violations of the Regulations. The Amendments to the Criminal Law of the PRC adopted in December 2001 designate as criminal offenses such acts as illegally manufacturing, trafficking and transporting radioactive substances, and stipulate corresponding punishments for such offenses.

In January 2004, China wrote to the president of the NSG and the Director General of IAEA respectively for China's application of the membership to the NSG. On 28th of May in the same year, NSG members reached consensus on China's accession to the NSG at the annual plenary conference in Stockholm.

With the developments in the international nuclear field, and for the purpose of better preventing the proliferation of nuclear weapons and nuclear terrorism, Chinese Government promulgated the Decision of the State Council

on Amending the Regulation of the People's Republic of China on the Control of Nuclear Export in November 9, 2006. This Decision further strengthened the control of nuclear export, including the trading export, gifts to and exhibitions in foreign countries or regions, as well as scientific and technological cooperation with and assistance to foreign countries or regions that involve nuclear materials, nuclear equipment, non-nuclear materials used for reactors and other items as well as their related technologies outlined in the Nuclear Export Control List.

Thereafter, China amended the Regulations of the People's Republic of China on Control of Nuclear Dual-Use Items and Related Technologies Export in January 26, 2007, responding to the major changes to international non-proliferation and anti-terrorism situation, and the necessity of improving export control system and regulating the export of sensitive items and technologies. The amended regulations placed control over the trading export, gifts to and exhibitions in foreign countries or regions, as well as scientific and technological cooperation with and assistance to foreign countries or regions, and other ways of transfer that involves the equipment, materials, software and related technologies outlined in the Nuclear Dual-Use Items and Related Technologies Control List

II. Biological and Chemical Export Control

In October 2002, the Chinese Government promulgated the Regulations of the PRC on the Export Control of Dual-Use Biological Agents and Related Equipment and Technologies, and the control list. It instituted a licensing system for the export of dual-use biological agents and related equipment and technologies, and a registration system for the exporters, and established the principle that the relevant exports shall not be used for biological weapon purposes, that without prior consent of the Chinese Government, the dual-use biological agents and related equipment and technologies supplied by China shall not be used for purposes other than the declared end-use, or be retransferred to a third party other than the declared end-user. Besides, the

Regulations also provide strict procedures for export examination and approval and punishments for violations of the Regulations.

In the chemical field, China promulgated its first regulation on export control of chemical weapons in 1995, which are the Regulations of the People's Republic of China on the Administration of the Controlled Chemicals. The aim of the regulation is to apply the international obligations into national legislation. In May 15, 1996, China issued the Controlled Chemicals List according to Regulations of the People's Republic of China on the Administration of the Controlled Chemicals. The List covers: I. chemicals which can be used as chemical weapons; II. chemicals which can be used as precursors for the production of chemical weapons; III. chemicals which can be used as main raw materials for the production of chemical weapons; IV. specific organic chemicals excepting explosives and pure hydrocarbons. China has placed rigid control on export of the chemicals in category I, category II and category III, and established a licensing system for the export of these chemicals.

In March, 1997, China issued the Detailed Rules for the Implementation of the Regulations of the PRC on the Administration of the controlled Chemicals, further strengthened its export control on chemicals.

These regulations designated the department in charge of the supervision of the controlled chemicals and defined its duties, making a detailed classification of the controlled chemicals and exercising strict control over the production, sale, use, import, and export of sensitive chemicals. Under the Regulations, the import and export of the controlled chemicals must be handled by the designated companies. No other company or individual is permitted to engage in import and export of these items. In 1998, the Chinese Government added 10 controlled chemicals to the Controlled Chemicals List. The Amendments to the Criminal Law of the PRC adopted in December 2001 designate as criminal offenses such acts as illegally manufacturing, trafficking,

transporting, stockpiling or using toxic materials, and stipulate corresponding punishments for such offenses.

In October 2002, the Chinese government further promulgated the Measures on the Export Control of Certain Chemicals and Related Equipment and Technologies, and the control list. The Measures are a substantive supplement to the Regulations on the Administration of the Controlled Chemicals, not only adding 10 chemicals to the list, but also providing for the export control of the related equipment and technologies. The Measures provide a licensing system for the export of the materials and technologies on the control list. They require importers to guarantee that the controlled chemicals and related equipment and technologies supplied by China shall not be used for stockpiling, processing, producing or handling chemical weapons, or for producing precursor chemicals for chemical weapons, and that, without the prior consent of the Chinese government, the related materials and technologies shall not be used for purposes other than the declared end-use or be retransferred to a third party other than the declared end-user. The Measures also provide a registration system for exporters and corresponding rules for the examination and approval of such exports, as well as punishments for violations of the Regulations. In general, the export control laws and regulations of China on chemical items have already met the international standard.

III. Missile and Related Items Export Control

In the missile field, China has always taken a prudent and responsible attitude toward the export of missiles and related technologies. The Chinese Government declared in 1992 that it would act in line with the guidelines and parameters of the MTCR in its export of missiles and related technologies. In 1994, it committed itself not to export ground-to-ground missiles featuring the primary parameters of the MTCR — i.e. inherently capable of reaching a range of at least 300 km with a payload of at least 500 kg. In 2000, China further declared that it had no intention to assist, in any way, any country in the development of ballistic missiles that can be used to deliver nuclear weapons,

and that it would formulate and publish regulations on the missile export control and the relevant control list.

In August 2002, the Chinese Government promulgated the Regulations of the PRC on Export Control of Missiles and Missile-Related Items and Technologies, and the control list. The Regulations and the list, in light of the actual situations in China and the prevailing international practice, adopt a licensing system for the export of missiles, items and technologies directly used for missiles, and missile-related dual-use items and technologies. The Regulations provide that the receiving party of the export shall guarantee not to use missile-related items and technologies supplied by China for purposes other than the declared end-use, or retransfer them to a third party other than the declared end-user without the consent of the Chinese Government. They also provide for strict procedures for the examination and approval of such exports, and the punishments for violations of the Regulations.

IV. Arms Export Control

In the arms export field, the Chinese Government promulgated the Regulations of the PRC on the Administration of Arms Export in 1997, and revised them in 2002 in order to strengthen the administration of arms export and to regulate arms export. The Regulations reaffirm the three principles that China has always adhered to in its arms exports, which are being conducive to the capability for just self-defense of the recipient country, no injury to the peace, security and stability of the region concerned and the world as a whole, and no interference in the internal affairs of the recipient country. The Regulations also stipulate that arms export can only be handled by arms trading companies which have obtained the business operations right for arms export, and that arms export shall be subjected to a licensing system.

In November 2002, the Chinese Government issued the Military Products Export Control List as a supplement to the Regulations on the Administration of Arms Export, exercising on list control. For the first time the

List contains a detailed classification of conventional weapons and armaments, constituting a framework structure with the main body of four levels of weapon components, weapon categories, main systems or components of weapons, and the parts and components, technologies and services directly related to the weapon equipment, thus providing a scientific and powerful legal guarantee for strengthening the control of arms export.

China has actively participated in the international effort to combat the illicit trade in Small Arms and Light Weapons (SALW). It has conscientiously implemented the United Nations Program of Action (PoA) on SALW and the International Instrument on Identifying and Tracing Illicit SALW. In 2010, China attended the Fourth Biannual Meeting on SALW and submitted its national report.

To sum up, the scope of control of the aforementioned regulations is basically identical with international practices. For example, in the nuclear field, the control list tallies completely with those of the Zangger Committee and the NSG and will undergo constant updates corresponding to changes made to them. In the biological and chemical field, the lists are basically the same as those of the AG. The missile list also conforms by and large with the annex to the MTCR. In practice, the competent export control agencies of the Chinese Government may also exercise provisional controls over items and technologies not on these lists on an ad hoc basis.

In addition, the Foreign Trade Law of the PRC, the Customs Law of the PRC, the Criminal Law of the PRC, the Administrative Punishments Law of the PRC, the Regulations of the PRC on the Import and Export Control of Goods and the Regulations of the PRC on the Import and Export Control of Technologies also provide a legal basis for China's non-proliferation export control.

As far as the legal base for export control, the Foreign Trade Law of the PRC is the most important one. It provided fundamental basis for export control legislation in China. In particular, Chapter 3 Import and Export of

Goods and Technologies (article 14 – article 18) specified the scope, reasons, general principles in administration of import and export restrictions and prohibitions. The responsibilities and rights of the relevant administrative departments are also included in Chapter 3.

The Foreign Trade Law of the PRC was promulgated in 1994. In 2004, China revised the Law in order to better accommodate the trade mechanisms of the World Trade Organization (WTO). The amendments included the mechanisms for investigation on illegitimate trade activities and trade dispute settlement, more severe punishments and sanctions on illegal trade activities, etc.

After 10 years of development, China's legal system of export control has been improved continuously. A three-tier legal system with systematic laws, administrative regulations and governmental decrees, as well as an administrative mechanism has been established, which is in line with international conventions, United Nations resolutions, multilateral treaties and international practices. While regarding the export control undertaking as a long term and arduous work, Chinese Government makes great efforts in improving export control regulations, and at the same time, continually strengthening export control enforcement capabilities, establishing and optimizing internal mechanisms, promoting the publicity of related laws and regulations and outreach education and training to companies, and strive to make its due contribution to international non-proliferation endeavors.

Chapter III

The Licensing Guidelines for the Export of Dual-Use Items and Related Technologies

In order to safeguard national security and public interests, as well as fulfill its commitments to international treaties and agreements China signed or acceded, the export of dual-use items and technologies is subject to MOFCOM, together with Ministry of Foreign Affairs, Ministry of Industry and Information Technology, Ministry of Environmental Protection, GAC, SASTIND, General Logistics Department and General Armament Department of the People's Liberation Army, and other governmental agencies.

I. The Outline of Dual-Use Items and Technologies Export Control

China exercises export controls on dual-use items and technologies according to laws and regulations, including Foreign Trade Law of the People's Republic of China, Customs Law of the People's Republic of China, Regulations of the People's Republic of China on Control of Nuclear Export, Regulations of the People's Republic of China on Control of Nuclear Dual-Use Items and Related Technologies Export, Regulations of the People's Republic of China on Export Control of Dual-Use Biological Agents and Related Equipment and Technologies, Regulations of the People's Republic of China on the Administration of the Controlled Chemicals, Measures on Export Control of Certain Chemicals and Related Equipment and Technologies, Regulations of the People's Republic of China on Export Control of Missiles and Missile-related Items and Technologies.

1. Definition of Dual-Use Items and Technologies

The term “dual-use items and technologies” used in this Guidelines means items and technologies controlled by the regulations mentioned above. Dual use items and technologies can be used both for civilian and military purposes. MOFCOM, jointly with GAC, formulated and promulgated the “The Catalogue of Dual-use Items and Technologies Subject to Import and Export License Administration” (hereinafter referred to as the Catalogue), and makes regular updates according to actual requirements. It provides practical references to exporters of dual use items and technologies.

2. Administrative Decrees of China’s Dual-Use Items and Technologies Export Control

On the basis of the export control regulations of nuclear, biological, chemical and missile dual-use items and technologies, MOFCOM, jointly with other competent governmental agencies, formulated the administrative decrees on export control, which include The Measures for Administration on Import & Export Licensing of Dual-use Items and Technologies, The Measures on the Administration of Export Registration for Sensitive Items and Technologies, The Measures for the Classification Administration of Civil Aviation Parts Export and The Administrative Measures for the General License for the Export of Dual-Use Items and Related Technologies.

3. Competent Authorities Involved in the Export Control of Dual-Use Items and Technologies in China

MOFCOM who plays a leading role in China’s export control on dual use items and technologies, exercises export control together with other competent authorities such as Ministry of Foreign Affairs, Ministry of Industry and Information Technology, Ministry of Environmental Protection, GAC, SASTIND, General Logistics Department and General Armament Department of the People’s Liberation Army. These agencies established an inter-agency coordinating mechanism. A central-local two-tier administrative pattern was set up with provincial Department of Commerce responsible for receiving license applications and conducting preliminary review.

4. Legal Liabilities for Violation of Export Control Regulations and Administrative Decrees

According to Foreign Trade Law of the People's Republic of China, Customs Law of the People's Republic of China, Regulations of the People's Republic of China on Control of Nuclear Export, Regulations of the People's Republic of China on Control of Nuclear Dual-Use Items and Related Technologies Export, Regulations of the People's Republic of China on Export Control of Dual-Use Biological Agents and Related Equipment and Technologies, Regulations of the People's Republic of China on the Administration of the Controlled Chemicals, Measures on Export Control of Certain Chemicals and Related Equipment and Technologies, Regulations of the People's Republic of China on Export Control of Missiles and Missile-related Items and Technologies, The Measures on the Administration of Export Registration for Sensitive Items and Technologies, The Measures for Administration on Import & Export Licensing of Dual-use Items and Technologies, The Measures for Classification Administration of Civil Aviation Parts Export and The Administrative Measures for the General License for the Export of Dual-Use Items and Related Technologies, an exporter who, in violation of the provisions of these Regulations, based on actual facts, shall be subject to administrative punishments, including returning the cargo on order, warning, confiscation of illegal goods as well as profits, fine or revocation of export registration. In case of a crime, criminal liability shall be prosecuted.

5. Identification of Dual-Use Items and Technologies

Exporter shall check with The Catalogue of Dual-use Items and Technologies Subject to Import and Export License Administration formulated by MOFCOM and GAC on the following website: <http://exportcontrol.mofcom.gov.cn> and confirm whether the goods or technologies to be exported fall in the scope of dual-use items and technologies control. The Catalogue is updated annually and exporters should follow up closely with these updates. It is worth noting that the import and export of any item and technology in the Catalogue, including foreign trade, foreign aid, donation, exhibition, exchange, cooperation, service, maintenance and return, import or export licenses should be applied if or not the item and technology have a HS code.

In addition, it is stipulated in regulations that, exporters should apply for export licenses for the export of items and technologies if or not they are in the Catalogue, when the exporters know or should know, or are informed by competent authorities, that the items and technologies have the risk of being used in WMD and their means of delivery programs.

II. Dual-Use Items and Related Technologies Export Control Practice

Export licenses of dual-use items and technologies are applied online on the E-platform of dual-use items and technologies import and export control of MOFCOM (hereinafter referred to as “the e-platform”) at http://exctrl.ec.com.cn/tecp/corp_index.jsp.

The basic process of application is as follows:

- ▲ Registration of qualification for dual use items and technologies export
- ▲ Apply for export license
- ▲ Customs clearance

6. Registration of Qualification for Dual-Use Items and Technologies Export

(1) An exporter shall apply for different type of export qualification according to the technical nature of the dual use items and technologies to be exported. Exporters shall apply through the e-platform, and submit the hardcopy of application documents to provincial Departments of Commerce.

(2) Provincial-level Departments of Commerce conduct preliminary review of the applications, and transfer the qualified application to MOFCOM.

(3) MOFCOM formally reply in 10 working days after receiving the application documents, and will issue a reference number online to qualified applications. With this reference number, an exporter may go on to apply for export license of dual-use items and technologies.

7. Application of an Export License of Dual-use Items and Technologies

(1) After registration, an exporter may apply for export license online through the e-platform and at the same time submit hardcopy of application documents to provincial Department of Commerce.

(2) Provincial-level Departments of Commerce review the hardcopy of application, and transfer qualified application to MOFCOM for further examination.

(3) After receiving the hardcopy of the qualified applications documents, MOFCOM re-examine the documents within no more than 45 working days according to relevant regulations, jointly with other competent governmental agencies when necessary. MOFCOM will issue an approval reference number online and provincial Departments of Commerce will issue approval document. With the approval, the exporter applies online to MOFCOM Quota & License Administrative Bureau or MOFCOM-authorized provincial-level authority for issuance of export license.

8. Definition of General License of Dual-Use Items and Technologies

According to The Administrative Measures for the General License for the Export of Dual-Use Items and Related Technologies, a qualified dual-use items and technologies exporter, satisfying certain conditions, may apply for general license approval. General license allows exporters obtain multiple export licenses within its valid period and scope. Exporters with general license still need to obtain export license for each export for customs clearance.

9. Application of General License for Dual-Use Items and Technologies

China imposes strict examination to the application and implementation of general license for dual-use items and technologies. There are strict restrictions on what to export, destination country, end-user and end-use. General license is only being granted to exporters who have implemented a verified effective internal compliance program of dual-use items and technologies.

Exporters shall apply through the e-platform for general license, and submit the hardcopy of application documents to provincial-level

Departments of Commerce, through which qualified applications are transferred to MOFCOM. MOFCOM examine the documents and decide whether an approval will be granted according to relevant regulations.

III. Enquiries on Export Control of Dual-Use Items and Technologies

An exporter may raise enquiries to commerce authorities on the export of dual use items and technologies.

10. When to File Enquiries

An exporter may file an enquiry when it cannot be sure the items and technologies to be exported should fall into the scope of export control or not after checking with the Catalogue, or when Customs raise questions and require the exporter to apply for an export license from commerce authority or obtain a certification stating that the items and technologies to be exported do no subject to export control.

11. The Process of Enquiries

An exporter shall file an enquiry to provincial-level Department of Commerce. The Department of Commerce shall forward its suggestions and report to MOFCOM for review. MOFCOM will organize experts for review according to the nature of enquiry, and issue a formal reply, stating explicitly whether an export license should be applied or not.

Chapter IV

Export control Regulations and Practices of the Chinese Customs

I. Overview of Customs Trade Control

GAC is a government agency that supervises and controls over all arrivals in and departure from the territory of the People's Republic of China. Its essential tasks are customs control, revenue collection, anti-smuggling and foreign trade statistics compilation. It also manages duty collection, customs control, supervision and management of bonded operation, foreign trade statistics compilation, customs inspection, intellectual property rights protection, anti-smuggling, and port administration. The Chinese Customs has a total of 46 regional offices, 600 local Customs offices or agencies, and nearly 4000 Customs clearance control stations. Its total staff is numbered at around 50,000 (including Customs anti-smuggling police).

Taking into account of its macro-economic interests, the needs of domestic and foreign policies as well as the fulfillment of the obligations under international treaties, a government needs to promulgate and implement various kinds of regulations, establish relevant organizations that carry out various activities, with the view to executing effective management and control of the country's foreign trade. Trade management and control is a general term covering all the aforementioned regulations, organizations and activities. At the macro level, trade control means the foreign trade control executed by government. It covers industry, agriculture, commerce, military, environmental protection, public health, tax revenue, quality supervision, finance, foreign exchange, insurance, resource management, information service, and

technology and so on. The corresponding means of national administration include foreign trade operator management system, import and export licensing system, tariff system, foreign exchange payment (import) and foreign exchange receipt (export) management system, trade relief system, market access system, industry development policy, etc. At the micro level, trade control means non-tariff measures, such as import and export licensing system in relation to import and export cargoes as well as technologies.

Customs trade control is an important part of national trade control system. In accordance with Customs Law of The People's Republic of China, promulgated in 1987 and amended in 2000, "In relation to the import and export of goods and articles that are subject to restrictive or prohibitive provisions of the government, The Customs shall carry out supervision and control in accordance with laws, administrative regulations, and provisions of the State Council or the provisions laid down by its departments pursuant to the authorization under laws and administrative regulations." "The importer of imported goods and the exporter of exported goods shall make an accurate declaration to the Customs, and submit to the latter the import or export licensing documents and relevant papers to the Customs for examination. In the absence of import or export licensing documents; goods subject to import or export restrictions by the State shall not be released.", which grant the Customs rights and obligations to carry out trade control and supervision over import and export at ports. Customs trade control means that the Customs takes part in the formulation of national macro-economic policies and the coordination of micro-economy, enforces national trade policies in the process of export and import through formulating relevant regulations and standardizing administrations, and analyzes and evaluates the efficiency of administration by the authority conferred by Customs Law of The People's Republic of China.

In order to safeguard national security and public interests, and to fulfill its international obligations, to regulate the export and to strengthen management, and pursuant to the Foreign Trade Law of The People's Republic of China and related laws and regulations, Customs implement export license

management on the export of nuclear items, nuclear dual-use items and related technologies, missiles and related items and technologies, dual-use biological items and related equipment and technologies, certain chemicals and related equipment and technologies. Measures for the Administration on Import and Export License for Dual-use Items and Technologies, which was jointly published by the MOFCOM and General Administration of Customs (GAC) represents an important regulation with the view to further regulating the control of import and export of dual-use items and technology taking into account of China's overall social and economic development and continuous increase of comprehensive national strength.

Among the various governmental departments related to export control, GAC is responsible for supervising the export of items which include sensitive items and related equipment and technologies, nuclear dual-use items, dual-use biological items, certain chemicals, missile related dual-use items for civilian purposes and nuclear items. GAC also takes parts in handling and investigating the cases breaching export control laws. It shoulders such major responsibilities in the non-proliferation export control:

- On-site interdiction of the export of relevant goods at port;

- Collaboration with competent departments in sample investigation and analysis;

- Investigation of the import and export records of the company or goods involved;

- Reporting the destination of the exported goods that have departed from the port, etc.

II. Regulations and Practices of Customs on Dual-use items

1. The Basic Principles of Customs Trade Controls

The guiding policies for Customs export control are as follows: preventing the proliferation of WMD and their means of delivery, safeguarding national security and social public interests, and strictly abiding by international conventions and the international obligations; while upholding the working guideline of "exercise law-based administration, keep the national gateway, serve the economic interests and promote social development". Customs pays great attention to establishing partnership with enterprises, combining the company's accreditations with Customs clearance facilitation measures, implementing classified management over enterprises, and, in accordance with the basic principle of "encouraging law-abiding and self-discipline, punishing violation", improves the accredited enterprises' efficiency of customs clearance, strengthens supervision over the enterprises who may have been involved in smuggling. The Customs continues to optimize the risk analysis mechanisms, improve advance alert and analysis, as well as capabilities against smuggling activities, building the "internal-connected and external communicated" mechanism against smuggling; and carry out trainings and education to improve the awareness of enterprises in terms of law-binding and self-discipline.

On the other hand, enterprises should regulate their business practices, fulfill their obligation of declaration in an active, faithful and standardized normative manner in accordance with related laws, cooperate with the customs in document examination, inspection, sampling, testing, anti-smuggling etc, communicate with the customs and exchange views in time, reduce and dissolve unnecessary custom clearance obstacles, in order to build a healthy customs clearing environment.

2. Departments and Job Functions of GAC

Department of Customs Control and Inspection: Participate in the formulation of sensitive items and technologies export control policies and regulations, lay down the custom operating rules and procedures of non-proliferation export control, compile export license catalogue for dual-use items and related technologies, specify licenses verification management

requirements, sensitive items and technologies export customs clearance regulation, etc., take the lead in international exchange activities in the field of customs control and inspection between Chinese customs and its counterparts.

Department of Duty Collection: Responsible for HS coding and classification to sensitive items and technologies.

Anti-smuggling Bureau: Handling illegal and smuggling cases, dealing with smuggling investigation and intelligence exchanges.

Department of Audit-based Control and Risk Management: Risk management; risk monitoring, enterprise management and inspection.

3. Relevant Laws and Regulations

Article 15 of Regulations of the People's Republic of China on Control of Nuclear Export: When carrying out nuclear export, the designated unit of nuclear export shall submit the nuclear export license to the Customs, complete the Customs procedures and be subject to the Customs control according to the provisions of Customs Law.

Article 15 of Regulations of the People's Republic of China on Export Control of Dual-use Nuclear Items and Related Technologies: An export operator should present the Export License to the Customs office for the export of nuclear dual-use goods and related technologies and should go through Customs procedures and be subject to the supervision and control of the Customs office according to the provisions of the Customs law.

Article 14 of Regulations on Export Control of Dual-use Biological Agents, related Equipment and Technologies: While exporting dual-use biological agents and related equipment and technologies, the exporter shall present the export license to the Customs, complete the customs procedures and accept supervision and control of the Customs in accordance with the provisions of the Customs Law.

Article 14 of Measures on Export Control of Certain Chemicals And Related Equipment And Technologies: While exporting certain chemicals and related equipment and technologies, the exporter shall present the export license to the Customs and complete customs procedures in accordance with the provisions of the Customs.

Article 14 of Regulations of the People's Republic of China on Export Control of Missiles and Missile-related Items and Technologies: While exporting missile-related items and technologies, the exporter shall present the export license to the Customs, complete the customs procedures and accept supervision and control of the Customs in accordance with the provisions of the Customs Law.

Management Catalogue on Dual-use Items and Related Technologies Export Licenses includes:

Import:

Controlled Chemicals, Precursor Chemicals, Radioisotopes (114 ten-bit commodity code)

Export:

Items and technologies listed on Nuclear Export Control List (152 kinds)

Items and technologies listed on Dual-use Nuclear Items and Related Technologies Export Control List (163 kinds)

Items and technologies listed on Dual-use Biological Agents And Related Equipment and Technologies Export Control List (144 kinds)

Items and technologies listed on Manage Catalogue of Controlled Chemicals List (64 kinds)

Items and technologies listed on Measures on Export Control of Certain Chemicals and Related Equipment and Technologies List (37 kinds)

Items and technologies listed on Export Control of Missiles and Missile-related Items and Technologies List (185 kinds)

Precursor Chemicals (58 kinds)

Computers (6 kinds)

4. The Law Enforcement Measures of Customs

In order to effectively perform the functions of export control, China Customs mainly adopts law enforcement measures as follow:

(1) To compile category of Dual-Use Items and Related Technologies Export Control Licensing with HS code jointly with competent governmental agencies, implementing certificate code parameters in customs clearing system with on-site officials receiving automatic e-reminders in the customs clearing system about documents in examination. The Customs classify the goods from the “Catalogue of Dual-Use Items and Related Technologies Export Control Licensing” into two groups, the first of which are the dual-use items and related technologies that corresponds to Customs HS Code. 68.7% of the goods in the Catalogue have their HS code and can be allocated in the system and established a monitoring condition which is notified and maintained from the customs clearing system through inspection criteria. The second group of goods is those that do not have corresponding HS code. Exporters should show their licenses to customs officials when exporting these goods and those who fail to do so will take all the consequences. The Customs is entitled to raise questions to exporters as to whether the goods to be exported belong to the Catalogue. Exporters shall consult with the commercial administrative departments and apply for customs clearance with the reply or licence from those departments. In addition, Customs shall make risk disclosure on the high risk goods when auto reminder failed, according to the risk analysis, on which the on-site officials shall implement key inspection.

(2) Effective export licence customs clearance and on-site targeted inspection

(3) The GAC and MOFCOM shall accomplish electronic data networking and exchange on “Dual-Use Items and Related Technologies Export Control Licensing”, that is MOFCOM transmit the electronic data to GAC, on-site customs shall inspect the actual goods and the licenses at the clearance process, cancels the licenses after the verification and sent the feedback to MOFCOM.

(4) Enterprises Classified Management: The Customs shall set up five management categories of. AA, A, B, C and D in light of the enterprises' performance in observing law, rules and regulations, honest policies, operation situation and the administration of the Customs as well as the record. Enterprises shall be evaluated and classified accordingly and those with a good performance obtain higher level. Different enterprises shall be given individual management measures according to their different management categories, of which category AA and A apply for the enterprises with convenient customs clearance measures, category B applies for the enterprises with regular management measures, category C and D apply for the enterprises with strict inspection measures.

(5) Customs Questioning Process

The Customs has the right to question the exporters on the need to apply for an export licence whether goods and technologies to be exported are at the risk of being used for weapons of mass destruction and their means of delivery, or to determine whether they belong to the Catalogue and ask the exporters to clarify in consultation with the commercial administrative departments. Upon questioning, the Customs shall issue and deliver a "Notice of Questioning Concerning Dual-Use Items and Related Technologies" to the exporters. Goods in question may not be exported for the time being. After the receipt of the notice, exporters shall log an enquiry with MOFCOM and the latter shall decide whether or not to accept it and reply on paper. The reply shall state clearly whether the goods in question need the Dual-Use Items and Related Technologies Export Control License or not and the Customs shall follow the procedures according to the reply.

(6) The Customs Laboratory

If the Customs cannot determine the attributes, ingredients, ingredients' content, structure, quality or specifications of the goods to be imported or exported, the Customs shall take samples of goods and deliver it to Customs Laboratory or an authorized laboratory test agency to give an authentication conclusion.

(7)Using hi-tech examination technology such as container examination equipment and X-ray facility for non-intrusive testing.

5. “Export Licensing Catalogue on Dual-Use Items and Related Technologies”

The latest inclusion of dual-items and related technologies are nuclear (153 kinds), nuclear dual-use items and related technologies (174 kinds), dual-use biological agents and related equipment and technologies(144 kinds), controlled chemicals (65 kinds), related chemical and its equipment and technologies (37 kinds), missiles and related items and technologies (185 kinds), precursor chemicals (60 kinds, of which 17 kinds are exported to Myanmar, Laos, Afghanistan and other designated countries), super computer, mainframe computer, medium computer and minicomputer (6 kinds) and its dual-use items and related technologies.

Specifically, they include:

(1). The list of items controlled by Dual-use Items and Related Technologies Export Licenses are nuclear materials, nuclear reactors and specially designed equipment and components, non-nuclear material for nuclear reactors, reprocessing plants irradiated elements and specially designed or manufactured equipment, with in the manufacture of nuclear reactor fuel elements for plants and equipment specially designed or manufactured uranium isotope separation plant and specially designed or manufactured (in addition to analytical instruments) equipment, the production or concentration of heavy water, deuterium and deuterium compounds plant and specially designed or prepared equipment and for fuel fabrication and uranium isotope separation of uranium and plutonium conversion plants and specially designed or manufactured equipment etc.

(2). Nuclear dual-use items and related technologies regulated by Dual-use Items and Related Technologies Export Licenses include industrial equipment, materials, uranium isotope separation equipment and components, heavy water production plant related equipment (Items not listed on the nuclear export control list), the development of nuclear explosive devices

used in test and measurement equipment, parts and other nuclear explosive devices, etc..

According to the article XVII of Regulations of the People's Republic of China on Export Control of Dual-use Nuclear Items and Related Technologies, the State Council approved to implement temporary control towards TBP from April 2003 and implement temporary control measures towards graphite related products from September 1, 2006.

(3). Dual-use biological items and related equipment and technologies regulated by Dual-use Items and Related Technologies Export Licenses include human and zoonotic pathogens, plant pathogens, animal pathogens, toxins and their subunits, genetic material and genetically modified organisms body, dual-use biological equipment and related technology etc. Dual-use Biological Agents and Related Equipment and Technologies Export Control List that was listed items before and was changed by technologies after suit the Regulations on Export Control of Dual-use Biological Agents And Related Equipment And Technologies provisions

(4). The controlled chemicals regulated by Dual-use Items and Related Technologies Export Licenses include chemicals eligibly used as chemical weapons, key precursor of chemical weapons, raw materials for chemical weapons and etc.

(5). The relevant chemicals and concerning facilities as well as technologies regulated by Dual-use Items and Related Technologies Export Licenses include over 10 types of chemicals such as hydrogen fluoride, chemicals production equipment, exclusive detector, and poison supervision system and related technology, and so on.

(6). Missile and relevant items as well as technology regulated by Dual-use Items and Related Technologies Export Licenses include the whole transportation vehicles, power system, guidance of missiles, materials, electronic equipment, control system, warhead, ground equipments, thruster,

software, other components, parts, designs, experiments, production equipments and facilities and related technologies, etc.

According to related regulations and provisions, exporters engaged in the import or export, passing through territory, transfer, or transportation of goods, or any other means of trading should apply from the Ministry of Commerce for license of the import and export of dual-use items and related technologies and apply for customs clearance with the “License for the Import and Export of Dual-use Items and Technologies”. Dual-use items and related technologies from the territory of China into customs specially supervised zones and bonded localities do not need a licence.

When importing or exporting relevant goods, exporters should submit the license to the customs authorities upon which the customs authorities concerned shall handle the formalities of examination and clearance.

Chapter V

Administration of China's Arms Export

In 1997, the Chinese Government promulgated the Regulations of the People's Republic of China on Administration of Arms Export (hereinafter referred to as “the Regulations”). In 2002, the Chinese Government revised the Regulations and issued the Military Products Export Control List as a supplement. Also in that year, the Regulations of the People's Republic of China on Export Control of Missiles and Missile-related Items and Technologies and Export Control List were promulgated. Till then, the transformation of China's arms export control system from administrative management to law-based management had been accomplished. Under the leadership of the State Council and the Central Military Commission, the competent arms export control department of the State exercise unified supervision and administration of arms export throughout the country in accordance with the above regulations and control lists.

In China, only designated entities are authorized to handle military products. The business operation right for arms export shall be examine and approved by the competent arms export department of the State. Only those arms trading companies that have obtained according to the law the business operation right of arms export may engage in arms export activities within the approved scope of business. The State forbids any individual to engage in any arms export business activity. By the end of 2012, there were altogether 12 arms trading companies that had been granted the business operation rights of arms export.

China implements a licensing system for arms export. Proposals for arms control, negotiations with potential buyers for a contract and performance of the contract shall all go through examination and approval by competent arms export department of the State on a case –by-case basis. As for the

transportation of the arms and military equipments, the arms trading company shall apply to the State arms export authorities for arms export license, and then precede transportation and customs clearance with the license. Participation in international arms exhibition shall go through examination and approval from the State arms export authorities, and apply for an export license.

China implements an end-use and end-user certificate mechanism in its arms export administration. When arms export contracts are submitted to competent arms export department of the State for approval, a valid certification document (original copy) certifying end-user and end-use of imported arms issued by the authorized governmental agencies or the military authorities of the recipient country should be attached. China classifies arms export into three categories: direct military equipment exports, export of special production equipment, other materials and technologies, export of missile-related items and technologies. China has specified the format and contents of the end-use and end-user certificates respectively in accordance with different categories, and requests the commitment of the recipient country not to use the arms supplied by China for the purposes other than declared end-use, nor to transfer the arms supplied by China to any third party other than the declared end-user.

China's arms exports strictly adhere to the following principles:

(1) the exports should be conducive to the legitimate self-defence capability of the recipient country;

(2) the exports should not undermine the peace, security and stability of the region concerned and the world as a whole;

(3) the exports should not be used as a means of interfering in the internal affairs of the recipient country. The state competent arms export department of the State implements arms export administration in accordance with the above principles, and taking relevant international obligations into consideration, such as UN Security Council Resolutions on arms embargo when approving an export:

Chinese Government exercises an inter-agency consultation mechanism in its arms export. The competent arms export department should consult, when necessary, with other relevant departments to ensure that the export control process is sound rational and precise. In addition, an evaluation and consultation mechanism for arms exports has been established between the state competent department and Chinese Customs in order to provide the Customs with professional support so as to strengthen supervision over the arms exports.

The state competent arms export department of the State places great importance to the publicity of policies and the outreach efforts to the arms trading companies, and holds training seminars on non-proliferation on a regular basis, publicizing China's arms export policies and regulations and international non-proliferation situations to arms trading companies and military research and production enterprises. Meanwhile, the State arms export department requires arms trading companies and military research and production enterprises to establish a sound internal compliance mechanism based on their own conditions, enforce an accountability system, establish nonproliferation & export control office, which will take charge of publicity of relevant policies and regulations within the company, formulate specific measures to implement non-proliferation policies and regulations, and supervising of company's operations including R&D, manufacturing and management so as to guarantee the fulfillment of its non-proliferation obligations. Communication mechanism has been established between the competent arms export department of the State and related companies. The competent department can answer questions by phone or in person and help to solve problems and brief the recent developments and updates of national policies on arms export and non-proliferation export control.

The Chinese Government attaches great importance to international exchanges in the area of arms export administration. China has actively participated in dialogues with multilateral export control regimes including the Wassenaar Arrangement and the Missile Technology Control Regime, and has

engaged in multilateral and bilateral consultations with countries including the UK, the US, Russia and the EU on successful experience and practices on arms export control and continues to improve its arms export control management.

Chapter VI

Internal Compliance Practices of Chinese Companies

On August 29th 2007, MOFCOM issued a circular “MOFCOM’s Instruction for Exporters of Dual-Use Items and Related Technologies on Establishing Internal Compliance Program (ICP)” (MOFCOM Circular No. 69, 2007). This signified another important step the Chinese Government took towards further perfecting regulations and stipulations and strengthening export controls.

ICP has become an important measure to implement nonproliferation export control policies among present international community. It has been stipulated in China’s export control regulations that “An exporter shall establish and improve an ICP for dual use items and related technologies export”, which serves an explicit requirement for exporters to establish internal control programs. The establishment of such a program will be conducive to further promoting the export control undertaking, demonstrating a better image of the country and enterprises, enhancing mutual trust as well as diminishing doubts, and providing better environment for facilitating high-tech products trade.

Prevention of the proliferation of weapons of mass destruction (WMD) and their means of delivery is a shared task for international community. China is firmly opposed to the proliferation of WMD and their means of delivery. The principles of establishing an ICP shall be “government encourages, company establishes by itself, with support from experts”, and competent authorities shall actively promote it. MOFCOM, as the leading competent department for China’s dual use items and technologies export management, jointly with other relative departments, shall be continually optimizing administrative regulations, strengthening supervision and auditing, conducting strict law enforcement.

MOFCOM's Instructions for Companies of Dual-Use Items and Related Technologies on Establishing ICP

Effective export control measures serves as an important means to maintain national security and achieving the goal of nonproliferation. As a country with certain scientific, technological and industrial capabilities, China adopted highly responsible policies and measures on export control, established a comprehensive regulation system covering nuclear, biological, chemical, missile and related dual use items and technologies. A company, as a basic business operation entity, is an important part of national export control mechanism. It is an exporter's responsibility as well as obligation in strictly implementing national export control regulations, thus safeguarding national interests and social public interests, which is also a practical requirement for an exporter to win the trust from international business partners, so as to stabilize and expand its overseas market and integrate into the process of economic globalization.

In accordance with national export control laws and regulations, which stipulates that companies dealing with dual use items and technologies shall establish and improve an ICP, MOFCOM decided to promote the establishment of such an ICP among companies who develop, produce, import or export dual use items and technologies, and publish the following instructions:

I Pinpointing Guiding Principles, Strengthening Standardization Management

The establishing an ICP should confirm with the scientific development perspective, conscientiously implement national export control policies, laws and regulations, and safeguard national security and social public interests. Companies should stick to the guiding principle of “Commitments from senior management, Promoting from top to bottom, Comprehensive involvement by all staff, and Standardization Management”, and perform all export control responsibilities and obligations. Companies should establish a good image of

faithful and responsible business operation actor, effectively avoiding and reducing trading risks, and increase competitiveness in international market for sustainable development.

II Following Basic Principles, Complying with Laws and Regulations

In light of the characteristics of export control, a company should follow the following principles during the process of establishing an ICP:

1, Principle of Law-abiding

Strictly abiding by national export control policies, laws and regulations is the prerequisite and precondition for a company to conduct dual use items and technologies trade activities, and should be an important part of the company's operation principles.

2, Principle of Independence

A company's export control obligations should prevail its commercial interests. An ICP serves as an important part of a company's current management system, and also an independent part. A company shall regulate its business operation and conduct self-monitoring through supervising process and mechanism, and veto internally all operations in violation of national export control policies, laws and regulations.

3, Principle of "Catch-all"

When the company knows or should know, or get informed by export control authorities, that the items to be exported has proliferation risks, no matter the item listed on the control list subject to national export control laws and regulations or not, the company should exercise the export control or apply an export license.

III Regulating Code of Conduct, Understanding Basic Elements

In order to help companies to set up an authentic, rigorous but operational ICP, MOFCOM suggested the following basic elements for the program:

1, Formulating Policy Announcement

The company should publish a Policy Announcement affirming that the company will treat the full implementation of national export control policies, law and regulations as an important part of its business development strategy. The Policy Announcement serves as a guiding principle for internal export control system, but also a means of publicizing of its non-proliferation commitments.

The content of the Policy Announcement should include: commitments to abide by national export control laws and regulations, support from senior management for the ICP, self-constraint goal of no violation in any circumstances, all staff, with direct or indirect involvement in export control activities, shall bear export control responsibilities, and so on.

The Policy Announcement shall be reflecting the principle of law-abiding, signed by a principle leader of the company, and published in a proper way. All members of the company should be aware of the Announcement.

2, Establishing Institutional Framework

The company shall establish an institutional framework for ICP, specifying duties and obligations of the designated office and personnel for ICP.

Some elements should be considered when establishing the framework: establishment of an organizational system for ICP, functions of the ICP, functions, authorizations and contact information of full time and part-time export control working staff, and so on.

The principle of independence should be reflected while setting up the institutional framework. Designated personnel should be granted authorizations of issuing ban on the questionable export or inquiring to related government authority for consultation. The company shall refrain from authorizing a single person to examine and decide the legitimacy of some complicated transactions. In case of complicated transactions, more than one ICP personnel should be

involved in examining and determining the legitimacy, in order to ensure effective monitoring all export and transfer cases.

3, Formulating Examination Process

Export examination process should identify the particular sessions that ICP should be applied to in the company operational process. The random export of controlled items and technologies should be avoided, and standardized management with a complete process and institutions should be applied in the process.

The main steps of examination process are as follows: the demand of potential customers, enquiry for price quotes, technical exchanges, the conclusion of contracts, production, deliveries and after-sale services.

The focal points of examination are as follows: whether the items to be exported are in the export control lists, whether the export of these items and technologies confirm to national export control regulations, whether the destination be a UN sanctioned or sensitive country, whether risks be affiliated to the end-user and end-use, whether the payment be in line with common commercial practices, whether the shipping routes be reasonable, etc.

The examination process is the key element in company's ICP, as well as a core step to achieving export control goals. It requires a strong sense of national policy and professionalism, and demands rigorousness and precision. In order to manifest "catch-all principle", the communication with government authorities could be included in the process.

4, Compiling Export Control Handbook

Companies will be able to publicize internally national export control laws and regulations and their ICP with the export control handbooks, which enables all working staff to know and implement the control program.

The contents of a handbook generally include: the outline of export control laws and regulations, the company's policy announcement, organizational framework, examination process, controlled items or technologies the company manages, items and technologies possibly controlled by the catchall principle, the focal points of examination, the documents and forms required for export control, consultation channels, name list and contacts of full-time and part-time staff, relevant export control competent authorities, the publicity and training materials of company's export control, and the information and regulations of other internal control programs.

The handbook can be available on the company's intranet, the contents of which should be complete, standardized, timely and operational.

5, Launching Training Programs

The company shall launch tailored training programs in light of its own conditions, train all the staff by steps, and ensure that all staff involved in export control activities receives necessary training.

The targets of the training program are as follows: all staff should know export control policies, laws and regulations in time, effectively implement company's internal export control requirements and staff in charge should be able to deal with the export control related matters properly. The company can conduct the program on a regular or irregular basis according to the actual condition, and can launch the web-based training courses. The training program can be done by its own staff or government officials and experts invited. The fulltime or part-time staff in charge of the ICP should attend as more as possible the policy announcement events, training or seminars organized by the government.

6, Keeping Records

The company shall keep a complete and precise set of all export control related documents. These documents should include export records, records of

communication with government agencies, clients' information and correspondence, licensing application documents, approval documents and export project implementation documents and so on. The company should keep proper memos of business contacts via telephone, fax, email and other means. The company shall form a clear process of filing the records and preservation requirements.

Besides, company should monitor export control process with reference to other internal stipulations and punish any violations to ensure the effectiveness of the ICP.

IV. Promoting Interactions between Government and Company, Implementing Work Schedule

Chinese Government encourages and supports companies to establish their ICPs. In order to promote the establishment and optimization of such a program, MOFCOM shall provide instructions, in separate phases and at different levels, to the companies to set up ICPs. The plan is as follows:

- 1, Publish "The Building Framework of a Company's ICP" to provide instructions for a company to establish an ICP.

- 2, Introduce corresponding incentive measures, making the establishment of an ICP as an important condition for facilitation of license approval.

- 3, Foster and increase the number of supporting experts on internal compliance, in order to provide consultation services on national export control regulations and requirement of ICP and professionally technical support as well.

- 4, Organize different types of publicity and training activities, to support and assist companies to establish ICP and encourage provincial-level competent trade departments to play an active role in this regard.

- 5, Regulate and supervise the establishment and implementation of company's ICP, formulate an auditing process for company's ICP, conduct

auditing process on a regular or irregular basis to companies which obtained license approval facilitation and companies in particular sensitive industries.

Introduction to Internal Compliance Program (ICP) of Company A

Company A in China is a state-owned designated enterprise authorized to handle military products by the Chinese Government.

Company A takes the lead in China to establish a holistic set of export compliance mechanism integrating the latest outcome of corporate internal export compliance and business features of the Company, under the guidance of related authorities of the Chinese Government, drawing on international experience, with cooperation with domestic and international well-known non-proliferation and export control research institutes and think tanks, and proactive introduction of latest findings of research institutes, and extensive absorption of best practice of overseas enterprises, on the basis of existing management. The Company A's ICP falls into 8 components, namely, policy announcement, institutional framework, export compliance system (ECS), records-keeping, education and training, export compliance of its subsidiaries, exchange and cooperation:

1. Policy announcement

Policy announcement is the foundation of non-proliferation ICP, and the solemn commitment of the Management to non-proliferation concept and target, endeavor to observe the export control laws and regulations and stringent investigation and treatment on export compliance violation incidents. The policy Announcement of Company A is officially published on the company website and other channels after signed by the President.

2. Export Compliance Institutional Framework

ICP will not be able to play its role without dedicated professionals, clear responsibilities and budget guarantee. The export compliance work of a company must be designated to exclusive position and competency, and identify the ultimate person liable. Therefore, in March 2007, a specialized Export Control Committee, composed of company leaders and representatives of related business functionalities was set up in Company A, under which the Internal Compliance Office was established, with full authority of export compliance work.

The Committee and the Office have respectively explicit and clear working objectives, working responsibilities and scope, with veto right to sensitive businesses. The Export Compliance Committee has the final say to business related to sensitive markets, while the Internal Compliance Office is responsible for daily export compliance works, whose responsibilities include following laws and regulations and sanction updates, facilitating information transmission between the leaders and working staff, as well as handling business related to sensitive markets.

Meanwhile, apart from the Committee and the Office, all the administrative staff and managers (companies in the group, business units, branches and subsidiaries) of Company A are responsible for ICP, and heads of business departments and subsidiaries are required to sign liability statement.

3. Export Compliance System (ECS)

In 2008, Company A developed ECS, which was promoted and applied at the Headquarter and subsidiaries in March 2009. The ECS is a powerful means of Company A in export compliance examination, as well as a highlight in its export compliance work.

The core of export compliance is that the exporter should understand the products and customer. The ECS is to conduct sensitive data screening on the customers and products within the overall business scope of Company. The ECS includes three databases, respectively the sensitive country database, the

sensitive customer database and sensitive product database (in which the product database includes military product and dual-use product database). ECS runs the export compliance examination through the overall process of defense product trading, from price inquiry and quotation period to contract signing and delivery, the system will automatically compare the order information with the three sensitive databases. As long as the sensitive data reminder pops up, the ECS system will notify and forward it to manual examination at the ICP Office. If the examination rejects, the order process will be terminated, and so will be this business item.

On the basis of the existing database, under the guidance of related government authorities, we will keep up with related policies in a timely manner, and keep in close touch with the domestic and overseas think tanks, to update the database in time. As long as there is data update, the ECS will automatically generate and forward report of the executed order information relevant to the newly added sensitive data to the person in charge at the ICP office, who will submit the report to the Export Control Committee in a meeting for emergency treatment plans.

4. Records-keeping

Complete records of sensitive product transaction is of the following proactive significance: first of all, fulfilling the basic requirements of national export control laws; secondly, complete and comprehensive documentation helps the Company to detect export violations to better cooperate with the investigation of law enforcement agencies, and meanwhile demonstrate that the Company has conducted “direct investigation” in choosing to conduct transaction and examine orders with the future customers; thirdly, effective documentation saving, especially the inspection documentation saving function of the ECS, helps the administrative staff of the Company to analyze the trend of sensitive item orders in certain period of time.

5. Education and Training

In building up strong risk awareness of all staff, especially business personnel at the front line, to help them understand the laws and abide by them, education and training are important means. Company A has attached great importance to export compliance training and devoted great efforts and resources to get obvious results. Our training adopts internal and external integration to cover company personnel at various levels. At present, nonproliferation export compliance has been listed as a required course of company staff training. At the same time, the Company has invited domestic and overseas experts to introduce the international non-proliferation export compliance trend to the military product trade departments and specialized subsidiary operators, and to analyze the related international conventions and foreign policies; operators of defense product trading, international engineering and civilian product trading departments are organized to be proactively involved in various non-proliferation export compliance workshops and training activities sponsored by government authorities. Since 2006, the Company has send middle-level management and personnel on related positions from both the headquarters and the subsidiaries to the US to receive export compliance training.

6. Internal and External Auditing

Auditing enables the export compliance personnel to judge the effectiveness of the operation of ICP, to find out defects, to discover occasional violations and to deal with them. The Company complete export compliance auditing from internal auditing department, as well as external government organizations and academic organizations.

7. Export Compliance of Subsidiaries

On the basis of setting up and perfecting the internal compliance program, the Company requires the subsidiaries engaged in military and civilian dual-use products to establish internal export compliance system and to connect with the ECS of the headquarters. For the time being, all subsidiaries have already

established export compliance office or set up export compliance principal, and formed export compliance working system and examination procedures.

8. Exchange and Cooperation

Company A has always been keeping close touch with the Chinese Government authorities and non-government organizations, to follow up the latest international arms control and export control updates, to carry out export compliance work.

Besides, Company A also keeps long-term cooperation with foreign organizations from U.S, Sweden and so on, to introduce their latest research results and to apply in the export compliance work. The Company also communicates and introduces internal compliance program with US and EU government agencies as well as international big companies, which has greatly promoted the business development.

Company A, through building up and completing effective export compliance program, sets up and complete rigid regulatory framework within the Company, identifies corporate internal compliance process and responsibilities, establishes awareness of risk prevention, operation abide by the law and self-discipline within the whole system, and meanwhile strengthens management on import and export business activities, as well as to safeguard the corporate interest. Moreover, complete internal compliance system is not only an important link in practicing China's non-proliferation responsibility and further promoting the image of China as a responsible country, but also significant initiatives to establish modern risk control system, and to avoid and reduce unnecessary risks and losses, which is of great significance.

Part II
Relative Laws and Regulations on Export Control

Regulations on Nuclear Materials Control of the People's Republic of China

(Promulgated by the State Council on June 15, 1987)

CHAPTER 1 GENERAL PROVISIONS

Article 1 The present regulations are enacted to ensure safe and lawful use of nuclear materials, to prevent theft, sabotage, lose and unlawful diversion and unlawful use, to protect the security of the State and the public and to facilitate the development of nuclear undertakings.

Article 2 The nuclear materials controlled by the present regulations are:

- (1) uranium-235, materials and products containing uranium-235;
- (2) uranium-233, materials and products containing uranium-233;
- (3) plutonium-239, materials and products containing plutonium-239;
- (4) tritium, materials and products containing tritium;
- (5) lithium-6, materials and products containing lithium-6;
- (6) other nuclear materials requiring control.

The present regulations are not applicable to the control of uranium ore and its primary products. The control measures for nuclear products transferred to the armed forces shall be laid down by the national defense department.

Article 3 The State adopts licensing system for nuclear materials.

Article 4 The basic requirements for nuclear materials control are:

- (1) to ensure compliance with State interests and stipulations of law;
- (2) to ensure the security of the State and the people;

(3) to ensure that the nuclear materials are controlled by the State, and the State may take over all nuclear materials if necessary.

Article 5 All departments and units that own, use, produce, store, transport and disposal of nuclear materials listed in the Article 2, must observe the present regulations.

CHAPTER 2 REGULATION RESPONSIBILITIES

Article 6 The National Nuclear Safety Administration (NNSA) is responsible for the surveillance of safety of civilian nuclear materials. Its main functions in nuclear materials control are:

- (1) to elaborate regulations relating to nuclear materials control;
- (2) to inspect the implementation of regulations relating to nuclear materials control;
- (3) to approve licenses of nuclear materials.

Article 7 The Ministry of Nuclear Industry (MNI) is responsible for nuclear materials management for the whole country. Its main functions in nuclear materials control are:

- (1) to be responsible for exercising nuclear materials control of the whole country;
- (2) to be responsible for reviewing and issuing licenses of nuclear materials;
- (3) to elaborate regulations and systems relating to nuclear materials control;
- (4) to be responsible for establishing and reviewing the accounting system of nuclear materials of the whole country.

Article 8 The Commission of Science, Technology and Industry for National Defense is responsible for the supervision of safety of nuclear materials relating to national defense and approval of nuclear materials licenses.

CHAPTER 3 NUCLEAR MATERIALS CONTROL MEASURES

Article 9 Units that own nuclear materials up to the following quotas must apply for licenses:

(1) The accumulated amounts of allocation or production are above or equal to 0.01 (1%) effective kilograms of uranium, materials and products containing uranium (counted by effective kilograms of uranium);

(2) Any quantity of plutonium-239, materials and products containing plutonium-239;

(3) The accumulated amounts of allocation or production are above or equal to 3.7×10^{13} Bq (1000Ci) of tritium, materials and products containing tritium (counted by quantities of tritium);

(4) The accumulated amounts of allocation or production are above or equal to 1kg of enriched lithium, materials and products containing enriched lithium (counted by quantities of lithium-6).

The accumulated amounts of allocation or production that are less than the above mentioned quotas may be exempted from applying licenses, but must be registered for nuclear materials with MNI.

The registration may be exempted for a few quantities of nuclear material products that are harmless to the safety of the State and the people. The categories and quantity limits shall be laid down by the MNI.

Article 10 The licensing procedure of nuclear materials is as follows:

(1) The applicant shall submit to the MNI a licensing application and documents of approval of its higher leading authority.

(2) The MNI shall review and submit the application to the NNSA and the Commission of Science, Technology and Industry for National Defense for approval;

(3) The MNI shall issue the nuclear materials license.

Article 11 The licensee of nuclear materials must establish a specific organ or designate a specially assigned person for keeping nuclear materials,

maintains strict hand-over procedure, sets up accounting record and material status report system to ensure that the account conforms with the materials.

The licensee must establish and maintain nuclear materials balance system and an analysis and measurement system, and uses the approved analysis and measurement method and standard to attain the specified requirements of measuring error and to keep the balance of receiving and consuming of nuclear materials.

Article 12 The licensee under the guidance of the local public security organization shall establish a strict security and guarding system for the sites that produce, use, store and disposal of nuclear materials, adopts reliable security protection measures, and takes strict precaution against accidents of theft, sabotage and fire etc.

Article 13 The transportation of nuclear materials must comply with the relevant regulations of the State. The carrier for shipment of nuclear materials shall be responsible for working out the transport security plan with the departments concerned, and making sure the security precautionary measures. The transport organization, public security organization, and other departments concerned shall act in close coordination to ensure the safety of nuclear materials in transportation.

Article 14 The nuclear materials owner must do well and practically to maintain the safety and secrecy of nuclear materials and their relevant documents and information. The documents and information relating to national secrets shall be correctly classified and it shall establish a strict security system according to the security regulations of the State to protect against lose, disclosure and theft of secrets.

Persons designated for access to nuclear materials and their secrets shall be determined by their eligibilities under the relevant rules of the State.

Article 15 When accidents of theft, sabotage, lose, unlawful diversion and unlawful use of nuclear materials occurs, the unit concerned must immediately investigate the causes of the accidents, recovers the nuclear materials and reports in time to its higher leading body, the MNI, the Commission of Science, Technology and Industry for National Defense and

the NNSA. The accidents relating to the theft, sabotage and lose of nuclear materials must be quickly reported to the local public security authority.

CHAPTER 4 THE RESPONSIBILITIES OF THE LICENSEE AND ITS HIGHER LEADING AUTHORITY

Article 16 The responsibility of the licensee of nuclear materials is:

- (1) to observe the laws and regulations of the State;
- (2) to be responsible for the overall safety of nuclear materials, till the responsibility for the safety of nuclear materials is lawfully transferred;
- (3) to accept surveillance.

Article 17 The higher leading authority of the licensee of nuclear materials shall give necessary support and supervision to its subordinate licensee and undertake the responsibility of leadership.

CHAPTER 5 REWARDS AND PUNISHMENT

Article 18 The NNSA, the Commission of Science, Technology and Industry for National Defense and the MNI shall grant proper rewards to persons or units that have obtained prominent achievements in and contributed to the nuclear materials control.

Article 19 The NNSA shall punish those having violated the provisions of the present regulations by warning, taking corrective measures within a definite time, penalty or revoking the licenses, but the punishment of revoking the licenses shall be subject to the approval of the MNI, depending on the seriousness of the violation which is effected by one of those acts.

- (1) to produce, use, store and disposal of nuclear materials without approval or in violation of the provisions of regulations;
- (2) to report not in accordance with the rules or to report false facts and information;

(3) to reject supervision;

(4) to manage not in accordance with rules, thus bringing about accidents.

Article 20 If the punishment inflicted is considered unacceptable, the party concerned may bring action to the People's Court within 15 days after being notified of the punishment. However, the revocation of the licenses shall be effective forthwith. If the punishment is not executed and no action is brought to the court within the time limits, the NNSA may ask the court to enforce punishment.

Article 21 If an accident with serious consequences occurs, due to disregarding nuclear materials control and violating regulations or stealing, plundering, sabotaging nuclear materials that are under the control of the present regulation, the juridical organ shall investigate and determine the criminal responsibility according to legislation.

CHAPTER 6 SUPPLEMENTARY ARTICLES

Article 22 The terms used in the present regulations are defined as follows:

(1) "Enriched Lithium" refers to lithium with an enrichment in the isotope Li-6 to be higher than natural lithium.

(2) "Effective kilograms of uranium" refers to:

1. For uranium with an enrichment in the isotope U-235 above 0.01 (1%), its element weight in kilograms multiplied by the square of its enrichment expressed as a decimal weight fraction.

2. For uranium with an enrichment in the isotope U-235 below 0.01 (1%) but above 0.5% by its element weight in kilograms multiplied by 0.0001.

3. For uranium with an enrichment in the isotope U-235 above 0.5% by its element weight in kilograms multiplied by 0.00005.

4. For uranium-233, the calculation of effective kilograms is the same as that of uranium-235.

Article 23 The NNSA shall be responsible for interpreting the meaning of the present regulations. Rules and procedures for the implementation of the present regulations shall be elaborated by the NNSA jointly by the MNI and the Commission of Science, Technology and Industry for National Defence

Article 24 The present regulations shall come into force on the date of promulgation.

Regulations of the People's Republic of China on Control of Nuclear Export

(Promulgated by Decree No. 230 of the State Council of the People's Republic of China on September 10, 1997, and revised according to the Decision of the State Council on Amending the Regulations of the People's Republic of China on Control of Nuclear Export on November 9, 2006)

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

Article 2 The term "nuclear export" as used in these Regulations means the trade for export of nuclear materials, nuclear equipment, non-nuclear materials for reactors and other items as well as their related technologies included in the Nuclear Export Control List (hereinafter referred to as the Control List), as well as the transfer by offering them as gifts, holding exhibitions, promoting scientific and technological cooperation, providing assistance or services and so on.

Article 3 The State tightly controls nuclear export and strictly performs its international obligations with regard to non-proliferation of nuclear weapons. The State strictly restricts the export of nuclear proliferation sensitive items, including items and related technologies for facilities and equipment for uranium enrichment, irradiated fuel reprocessing, and heavy water production and materials usable for nuclear weapons or other nuclear explosive devices.

Article 4 Nuclear export shall comply with the provisions of the relevant State laws and administrative regulations, and may not jeopardize the State security or social and public interests.

Article 5 The following principles shall be observed in examining and licensing nuclear export:

(1) the government of the receiving party shall guarantee from using for nuclear explosion purposes the China-supplied nuclear materials, nuclear equipment, or non-nuclear materials used for reactors as well as special fissionable materials produced through the use of the said nuclear materials and equipment;

(2) the government of the receiving party shall guarantee to take appropriate physical protection of the China-supplied nuclear materials as well as the special fissionable materials produced through the use of the said nuclear materials;

(3) the government of the receiving party has concluded a valid safeguards agreement with International Atomic Energy Agency. These regulations will not apply to those countries which have concluded voluntary offer safeguard agreements with International Atomic Energy Agency.

(4) the receiving party shall guarantee from retransferring, without prior written consent from the China Atomic Energy Authority, to a third party the China-supplied nuclear materials, nuclear equipment or nonnuclear materials used for reactors as well as their related technologies. If prior consent is given to the retransfer, the third party that accepts the retransfer shall undertake the commitments same as those it shall undertake when China makes a direct supply to it.

(5) the receiving party shall guarantee from using, without prior consent from Chinese Government, the China-supplied facilities for uranium enrichment or any other facilities based on these technologies, to produce enriched uranium above 20% concentration.

Article 6 Nuclear export shall be monopolized by the units designated by the State Council. No other units or individuals shall be allowed to engage in nuclear export.

Article 7 To export the materials and related technologies outlined in the Control List, it is necessary to make an application to the China Atomic Energy Authority, fill in the nuclear export application form, and submit the following documents:

- (1) the applicant's monopoly certificate of nuclear export;
- (2) the identification of the applicant's legal representative, the principal managers and the persons in charge;
- (3) the duplicate of the contract or agreement;
- (4) the analysis report on nuclear materials or non-nuclear used for reactors;
- (5) the certificate of the end-user;
- (6) the guarantee certificate provided by the receiving party according to the provisions of Article 5 of these Regulations;
- (7) other documents required by the examining organs.

Article 8 The applicant shall truthfully fill in the nuclear export application form. The nuclear export application form shall be uniformly produced by the China Atomic Energy Authority.

Article 9 If changes are to be made to the items entered into the nuclear export application form, the applicant shall make timely modification or make a new application for export. Applicants who suspend nuclear export shall promptly withdraw their applications for export.

Article 10 The China Atomic Energy Authority shall offer an examination report and notify the applicant within 15 working days after the receipt of the nuclear export application form and the documents specified in Article 7 of these Regulations. Where the application is approved after the

examination, the following procedures should be followed according to different circumstances:

- (1) the application for exporting nuclear materials shall be transferred to the Commission of Science, Technology and Industry for National Defense for reexamination;
- (2) the application for exporting nuclear equipment or non-nuclear materials used for reactors as well as their related technologies shall be transferred to the Ministry of Foreign Trade and Economic Cooperation for reexamination or be transferred to and reexamined by the Ministry of Foreign Trade and Economic Cooperation jointly with the Commission of Science, Technology and Industry for National Defense.

The Commission of Science, Technology and Industry for National Defense, and the Ministry of Foreign Trade and Economic Cooperation shall offer a reexamination report and notify the applicant within 15 working days after the receipt of the nuclear export application form, the documents specified in Article 7 of these Regulations and the examination report transferred by the China Atomic Energy Authority.

In case of special circumstances, if the China Atomic Energy Authority, the Commission of Science, Technology and Industry for National Defense as well as the Ministry of Foreign Trade and Economic Cooperation need to extend the time limit for examination or reexamination, another 15 working days may be extended. However, the applicant shall be notified of the extension.

Article 11 Where the nuclear export has important impact on the State security, social and public interests or diplomatic policy, the China Atomic Energy Authority, the Commission of Science, Technology and Industry for National Defense and the Ministry of Foreign Trade and Economic Cooperation shall, during their examination or reexamination, consult with the Ministry of Foreign Affairs. If necessary, the case shall be submitted to the State Council for examination and approval. Cases submitted to the State Council for examination and approval shall not be subject to the limitation on time period stipulated in Article 10 of these Regulations.

Article 12 Where the application for nuclear export has been approved after examination or reexamination according to the provisions of these Regulations, a nuclear export license shall be issued by the Ministry of Foreign Trade and Economic Cooperation.

Article 13 The holder of a nuclear export license who intends to change the items and related technologies originally applied to export shall turn in the original license, and file a new application and obtain a new nuclear export license according to the provisions of these Regulations.

Article 14 After issuing the nuclear export license, the Ministry of Foreign Trade and Economic Cooperation shall notify the China Atomic Energy Authority in writing.

Article 15 When carrying out nuclear export, the monopoly unit of nuclear export shall submit the nuclear export license to the Customs, complete the Customs procedures and be subject to the Customs control according to the provisions of 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 items and related technologies, and may also require the exporter to apply to the Ministry of Commerce for certification on whether the items and related technologies to be exported are within the scope of nuclear export control. If they are, the exporter shall apply for the said export license according to the provisions of these regulations.

Article 17 When the receiving party or its government contravenes the guarantees it has made according to the provisions of Article 5 of these Regulations or where a danger of nuclear proliferation or nuclear terrorism, the Commission of Science, Technology and Industry for National Defence, the Ministry of Commerce, jointly with the Ministry of Foreign Affairs and other related departments, have the right to make a decision to suspend the

export of the relevant items or related technologies and notify the Customs in writing for execution.

Article 18 An exporter, who in violation of the provisions of these Regulations, exports nuclear materials, nuclear equipment, non-nuclear materials used for reactors shall be penalized according to the relevant provisions of the Customs Law.

Where an exporter, in violation of the provisions of these Regulations, exports related technologies outlined in the Control List, 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 according to law.

Article 19 Anyone who counterfeits, alters, sells or buys the nuclear export license or obtains nuclear export license by fraud or any other illegitimate means, shall be penalized according to the provisions of relevant laws and administrative regulations; and if a crime is constituted, criminal liability shall be investigated for according to law.

Article 20 Any State functionary exercising control on nuclear export who neglects his duty, seeks personal interests and commits malpractices or abuses his power, shall be investigated for his criminal responsibilities according to law if a crime is constituted, or be given administrative sanctions according to law if a crime is not constituted.

Article 21 In light of the practical situation, the China Atomic Energy Authority, jointly with the Commission of Science, Technology and Industry for National Defense, the Ministry of Commerce, the Ministry of Foreign

Affairs and the General Administration of Customs may adjust the Control List and publish the adjusted list.

Article 22 Where an international treaty that the People's Republic of China has concluded or acceded to contains the provisions different from those of 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 23 The provisions of these regulations shall apply to the items and related technologies outlined in the Control List exported from special Customs surveillance zones or bonded facilities, such as bonded warehouse, bonded zones and export processing zones.

The transit, transshipment and through-shipment of the items and related technologies outlined in the Control List shall be governed with reference to the provisions of these regulations.

Article 24 These Regulations shall enter into force as of the date of promulgation.

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.

Regulations of the People's Republic of China on Export Control of Dual-Use Biological Agents and Related Equipment and Technologies

Article 1 These Regulations are formulated for the purposes of strengthening export control of dual-use biological agents and related equipment and technologies, and safeguarding the State security and social and public interests.

Article 2 The export of dual-use biological agents and related equipment and technologies referred to in these Regulations means the export for trade of dual-use biological agents and related equipment and technologies listed in the "Dual-Use Biological Agents and Related Equipment and Technologies Export Control List" (hereinafter referred to as the Control List) attached to these Regulations, and the exchange with, interchange with, gift to, exhibition in, assistance to, provision of service for as such and other forms of technological transfer thereof to foreign countries and regions.

Article 3 The export of dual-use biological agents and related equipment and technologies shall be in accordance with relevant laws, administrative regulations of the State and these Regulations, and shall not imperil the State security and social and public interests.

Article 4 The State shall exercise strict control on the export of dual-use biological agents and related equipment and technologies so as to prevent dual-use biological agents and related equipment and technologies from being used for the purpose of biological weapons.

Article 5 The State shall practice a licensing system for the export of dual-use biological agents and related equipment and technologies in the

Control List. Without being licensed, no unit or individual shall export such dual-use biological agents and related equipment and technologies.

Article 6 Exporters of dual-use biological agents and related equipment and technologies shall register themselves with the competent department in charge of foreign economic relations and trade of the State Council (hereinafter referred to as the competent foreign economic and trade department of the State Council). Without such registration, no unit or individual shall export dual-use biological agents and related equipment and technologies. The specific measures for such registration shall be formulated by the competent foreign economic and trade department of the State Council.

Article 7 The receiving party of dual-use biological agents and related equipment and technologies shall guarantee:

- (1) not to use the imported dual-use biological agents and related equipment and technologies for the purpose of biological weapons;
- (2) not to use dual-use biological agents and related equipment and technologies supplied by China for the purposes other than the declared end-use without the consent of the Chinese Government; and
- (3) not to transfer dual-use biological agents and related equipment and technologies to any third party other than the declared end-user without the consent of the Chinese Government.

Article 8 Anyone who intends to export dual-use biological agents and related equipment and technologies listed in the Control List shall apply to the competent foreign economic and trade department of the State Council, fill in the export application form for dual-use biological agents and related equipment and technologies (hereinafter referred to as the export application form), and submit the following documents:

- (1) identifications of the applicant's legal representative, chief manager(s) and the person(s) handling the deal;

- (2) duplicates of the contract or agreement, or other certification documents;
- (3) technical specifications of the dual-use biological agents and related equipment and technologies;
- (4) certificate of end-user and end-use;
- (5) documents of guarantee as defined in Article 7 of these Regulations; and
- (6) other documents as may be required by the competent foreign economic and trade department of the State Council.

Article 9 An applicant shall truthfully fill in the export application form.

Export application forms shall be uniformly produced by the competent foreign economic and trade department of the State Council.

Article 10 The competent foreign economic and trade department of the State Council shall, from the date of receiving the export application form and the documents set forth in Article 8 of these Regulations, examine the application, or examine the application jointly with other relevant departments.

The competent foreign economic and trade department of the State Council shall, within 15 working days, make a decision of approval or denial of the application for the export of dual-use biological agents and related equipment and technologies listed in Part I of the Control List; the competent foreign economic and trade department of the State Council shall, within 45 working days, make a decision of approval or denial of the application for the export of dual-use biological agents and related equipment and technologies listed in Part II of the Control List.

Article 11 Where the export of dual-use biological agents and related equipment and technologies entails significant impact on the State security and social and public interests, the competent foreign economic and trade

department of the State Council shall, jointly with relevant departments, submit the case to the State Council for approval.

Where the export of dual-use biological agents and related equipment and technologies is submitted to the State Council for approval, the timing restrictions set forth in Article 10 of these Regulations shall not be applied.

Article 12 Where an application for the export of dual-use biological agents and related equipment and technologies is examined and approved, the competent foreign economic and trade department of the State Council shall issue a licence for the export of dual-use biological agents and related equipment and technologies (hereinafter referred to as an export licence), and notify the Customs in writing.

Article 13 An export licence holder who intends to change the dual-use biological agents and related equipment and technologies originally applied for export shall return the original export licence and file a new application to obtain an export licence according to relevant provisions of these Regulations.

Article 14 While exporting dual-use biological agents and related equipment and technologies, the exporter shall present the export licence to the Customs, complete the customs procedures and accept supervision and control of the Customs in accordance with the provisions of the Customs Law.

Article 15 Where the receiving party contravenes the guarantees made according to the provisions of Article 7 of these Regulations, or there is a risk of proliferation of dual-use biological agents and related equipment and technologies listed in the Control List that can be used for the purpose of biological weapons, the competent foreign economic and trade department of the State Council shall suspend or revoke the export licence granted and notify the Customs in writing.

Article 16 Where any unit or individual knows or should know that the dual-use biological agents and related equipment and technologies to be exported will be used by the receiving party directly for the purpose of biological weapons, it shall not export such dual-use biological agents and related equipment and technologies, whether included in the Control List or not.

Article 17 Upon approval by the State Council, the competent foreign economic and trade department of the State Council may, jointly with relevant departments of the State Council, temporarily decide to exercise export control on specific dual-use biological agents and related equipment and technologies other than those listed in the Control List in accordance with the provisions of these Regulations.

Article 18 Those who export dual-use biological agents and related equipment and technologies without being licensed or export dual-use biological agents and related equipment and technologies beyond the scope of the export licence without authorization, shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of smuggling, the crime of illegal business operations, the crime of divulging State secrets or other crimes; if such acts are not serious enough for criminal punishment, by distinguishing different circumstances, they shall be punished in accordance with relevant provisions of the Customs Law, or be given a warning, confiscated of their illegal income, and fined not less than 50,000 yuan but not more than 250,000 yuan by the competent foreign economic and trade department of the State Council; the competent foreign economic and trade department of the State Council may concurrently suspend or even revoke the licensing for their foreign trade operations.

Article 19 Those who forge, alter, buy or sell the licence for the export of dual-use biological agents and related equipment and technologies shall be investigated for criminal liability in accordance with the provisions of the

criminal law on the crime of illegal business operations or the crime of forging, altering, buying or selling official documents, certificates or seals of a State organ; if such acts are not serious enough for criminal punishment, they shall be punished in accordance with relevant provisions of the Customs Law, and the competent foreign economic and trade department of the State Council may concurrently revoke the licensing for their foreign trade operations.

Article 20 Where a licence for the export of dual-use biological agents and related equipment and technologies is obtained by fraud or other illegal means, the competent foreign economic and trade department of the State Council shall revoke such an export licence, confiscate the illegal income, impose a fine of not less than 20,000 yuan but not more than 100,000 yuan, and suspend or even revoke the licensing for their foreign trade operations.

Article 21 Where, in violation of the provisions of Article 6 of these Regulations, the export of dual-use biological agents and related equipment and technologies is operated without registration, the competent foreign economic and trade department of the State Council shall ban such illegal activities according to law, and relevant competent departments of the State shall impose punishment thereon in accordance with relevant laws and administrative regulations.

Article 22 Where the State functionaries in charge of control on the export of dual-use biological agents and related equipment and technologies abuse their powers, neglect their duties or extort or accept money or properties from others by taking advantage of their positions, they shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of abuse of power, the crime of neglect of duties, the crime of accepting bribes and other crimes; if such acts are not serious enough for criminal punishment, they shall be given administrative sanctions according to law.

Article 23 In light of actual situations, the competent foreign economic and trade department of the State Council may, jointly with relevant departments, amend the Control List and submit it to the State Council for approval before implementation.

Article 24 In the case of the re-export of dual-use biological agents and related equipment and technologies after import, these Regulations shall apply.

Article 25 These Regulations shall be effective as of December 1, 2002.

Regulations of the People's Republic of China on the Administration of the Controlled Chemicals

(Promulgated by Decree No. 190 of the State Council of the People's Republic of China on December 27, 1995, and effective as of the date of promulgation)

Article 1 These Regulations are formulated for the purpose of strengthening the administration of the controlled chemicals, safeguarding the personal safety of the citizens and protecting the environment.

Article 2 All those who engage in the production, marketing and use of the controlled chemicals within the territory of the People's Republic of China shall abide by these Regulations.

Article 3 The controlled chemicals referred to in these Regulations mean the following schedules of chemicals:

Schedule 1: chemicals which can be used as chemical weapons;

Schedule 2: chemicals which can be used as the precursors of manufacturing chemical weapons;

Schedule 3: chemicals which can be used as main materials of manufacturing chemical weapons;

Schedule 4: discrete organic chemicals except for explosives and pure hydrocarbon compounds.

The list of the controlled chemicals outlined in the preceding paragraph shall be put forward by the competent department of the chemical industry of the State Council and shall be promulgated after being submitted to and approved by the State Council.

Article 4 The competent department of the chemical industry of the State Council shall be responsible for the nation-wide administration of the controlled chemicals. The competent department of the chemical industry of

the people's government of the province, autonomous region or municipality directly under the Central Government shall be responsible for the administration of the controlled chemicals in its respective administrative region.

Article 5 Anyone who engages in the production, marketing or use of the controlled chemicals shall, in accordance with these Regulations and the relevant provisions of the State, submit to the competent department of the chemical industry of the State Council or the competent department of the chemical industry of the people's government of the province, autonomous region and municipality directly under the Central Government the relevant materials, data and purpose of use concerning the production, marketing or use of the controlled chemicals and shall be subject to the inspection and supervision of the competent department of the chemical industry.

Article 6 The State shall strictly administer the production of Schedule 1 chemicals.

The application for production of Schedule 1 chemicals for the purposes of scientific research, medical treatment, pharmaceutical production or protection shall be submitted to the competent department of the chemical industry of the State Council for approval, and such production shall be conducted in small - sized facilities which are designated by the competent department of the chemical industry of the State Council.

The production of Schedule 1 chemicals is strictly prohibited in those facilities which are not designated by the competent department of the chemical industry of the State Council.

Article 7 The State shall practice the system of special permission granted for the production of Schedules 2 and 3 chemicals and of Schedule 4 discrete organic chemicals containing phosphorous, sulfur and fluorine. Without special permission, no units or individuals may produce such controlled chemicals. The measures for the special permission shall be made by the competent department of the chemical industry of the State Council.

Article 8 The application for the construction of a new or extended or rebuilt facility for producing Schedule 2 or 3 chemicals and Schedule 4 discrete organic chemicals containing phosphorous, sulfur and fluorine shall be filed with the competent department of the chemical industry of the local people's government of the province, autonomous region or municipality directly under the Central Government, and after its examination and recommendation, shall be submitted to the competent department of the chemical industry of the State Council for approval. The construction of the facility may be commenced only after being approved by the department. The completed facility may be delivered for use in production only after passing the acceptance inspection of the competent department of the chemical industry of the local people's government of the province, autonomous region or municipality directly under the Central Government and obtaining the approval of the competent department of the chemical industry of the State Council.

Before its commencement, the construction of a new or extended or rebuilt facility for producing Schedule 4 discrete organic chemicals containing no phosphorous, sulfur or fluorine shall be reported for the record to the competent department of the chemical industry of the local people's government of the province, autonomous region or municipality directly under the Central Government.

Article 9 The controlled chemicals shall be stored in the chemical warehouses for the special purpose and managed by the designated persons. The conditions for storing the controlled chemicals shall comply with the relevant provisions of the State.

Article 10 Any unit which stores the controlled chemicals shall set up the system of strict inspection of warehouse entry and exit and the record system. If finding that a controlled chemical is lost or stolen, a report of the matter shall, without delay, be made to the local public security organ and the competent department of the chemical industry of the local people's government of the province, autonomous region or municipality directly

under the Central Government, which shall render an active cooperation with the public security organ for investigation and punishment.

Article 11 The deteriorated or expired controlled chemicals shall be disposed of in time. Such disposition shall be conducted after being approved by the competent department of the chemical industry of the local people's government of the province, autonomous region or municipality directly under the Central Government.

Article 12 Anyone who intends to use Schedule 1 chemicals for scientific research, medical treatment, pharmaceutical production or protection purposes shall submit an application to the competent department of the chemical industry of the State Council, and upon the approval of the latter and by presenting the approval document, shall conclude a contract with the production unit designated by the competent department of the chemical industry of the State Council, and shall submit the copy of the contract for the record to the competent department of the chemical industry of the State Council.

Article 13 Anyone who intends to use Schedule 2 chemicals shall submit an application to the competent department of the chemical industry of the local people's government of the province, autonomous region or municipality directly under the Central Government, and upon the approval of the latter and by presenting the approval document, shall conclude a contract with the distribution unit designated by the competent department of the chemical industry of the State Council, and shall submit the copy of the contract for the record to the competent department of the chemical industry of the local people's government of the province, autonomous region or municipality directly under the Central Government.

Article 14 The units designated by the competent department of the chemical industry of the State Council jointly with the competent department of the foreign economic cooperation and trade of the State

Council (hereinafter referred to as the designated units) may engage in import and export activities of Schedule 1 chemicals and Schedule 2 or 3 chemicals and their manufacturing technology and specialized equipment.

Anyone who intends to import or export Schedule 1 chemicals and Schedule 2 or 3 chemicals and their manufacturing technology and specialized equipment shall entrust a designated unit with the agency of such import or export. No unit or individual may be engaged in such import and export activities, with the exception of the designated units.

Article 15 The State shall strictly administer the import and export of Schedule 1 chemicals. No Schedule 1 chemicals may be imported except for the purposes of scientific research, medical treatment, pharmaceutical production and protection.

The designated unit which is entrusted with the importation of Schedule 1 chemicals shall submit an application and the end - use statement and certifying documents of the products to the competent department of the chemical industry of the State Council, and after the examination and recommendation of the said department, shall submit the application to the State Council for approval. The designated unit shall, by presenting the approval document of the State Council, apply for the import licence to the competent department of the foreign economic cooperation and trade of the State Council.

Article 16 The designated unit which is entrusted with the importation of Schedules 2 and 3 chemicals and their manufacturing technology and specialized equipment shall submit an application and the end- use statement and certifying documents of the imported chemicals, manufacturing technology and equipment to the competent department of the chemical industry of the State Council. Upon approval of the said department, the designated unit shall, by presenting the approval document of the competent department of the chemical industry of the State Council, apply for the import licence to the competent department of the foreign economic cooperation and trade of the State Council.

Article 17 The designated unit which is entrusted with the exportation of Schedule 1 chemicals shall submit to the competent department of the chemical industry of the State Council an application and the written guarantee of the government or its authorized agency of the importing country which confirms that the imported chemicals shall only be used for scientific research, medical treatment, pharmaceutical production and protection and shall not be re - exported to a third country; and after the examination and recommendation of the said department, shall submit the application to the State Council for approval. The designated unit shall, by presenting the approval document of the State Council, apply for the export license to the competent department of the foreign economic cooperation and trade of the State Council.

Article 18 The designated unit which is entrusted with the exportation of Schedule 2 or 3 chemicals and their manufacturing technology and specialized equipment shall submit to the competent department of the chemical industry of the State Council an application and the written guarantee of the government or its authorized agency of the importing country which confirms that the imported chemicals, manufacturing technology and equipment shall not be used in manufacturing chemical weapons and shall not be re- exported to a third country. Upon approval of the said department, the designated unit shall, by presenting the approval document of the competent department of the chemical industry of the State Council, apply for the export license to the competent department of the foreign economic cooperation and trade of the State Council.

Article 19 The use of the controlled chemicals shall be consistent with the purpose applied for. Any change of the purpose of use shall, if needed, be submitted to the original approving organ for approval.

Article 20 Those using Schedules 1 and 2 chemicals shall, in accordance with the relevant provisions of the State, report regularly to the local competent departments of the chemical industry of the people's

governments of provinces, autonomous regions and municipalities directly under the State Council on the quantity of the controlled chemicals they used and the quantity of end products they made from such controlled chemicals.

Article 21 Anyone who, in violation of the provisions of these Regulations, produces the controlled chemicals shall be ordered to make correction within the time limit by the competent department of the chemical industry of the people's government of the province, autonomous region and municipality directly under the State Council, and if failing to make correction within the specified time limit, shall be imposed a fine of less than 200,000 yuan, and if the circumstances are serious, may be ordered to stop the production for rectification by the people's government of the province, autonomous region and municipality directly under the State Council .

Article 22 Anyone who, in violation of the provisions of these Regulations, uses the controlled chemicals, shall be ordered to make correction within the time limit by the competent department of the chemical industry of the people's government of the province, autonomous region and municipality directly under the State Council, and if failing to make correction within the specified time limit, shall be imposed a fine of less than 50,000 yuan .

Article 23 Anyone who, in violation of the provisions of these Regulations, markets the controlled chemicals, shall be subject to the confiscation of the controlled chemicals he distributed illegally and his illegal income and a fine of more than one time and less than two times the total illegal turnover.

Article 24 Anyone who, in violation of the provisions of these Regulations, hides or refuses to report the information or data pertaining to the controlled chemicals or impedes or obstructs the exercise of the inspection and supervision duty by the competent department of the

chemical industry in accordance with the provisions of these Regulations, shall be imposed a fine of less than 50,000 yuan by the competent department of the chemical industry of the people' s government of the province, autonomous region and municipality directly under the State Council.

Article 25 Anyone who, in violation of the provisions of these Regulations, commits an act contravening the public security administration, shall be punished in accordance with the provisions of the Regulations of the People's Republic of China on Administrative Penalties for Public Security. If a crime is constituted, his criminal responsibility shall be investigated according to law.

Article 26 Those who, prior to the implementation of these Regulations, have already engaged in production, marketing or use of the controlled chemicals, shall go through the relevant formalities in accordance with the provisions of these Regulations.

Article 27 These Regulations shall enter into force as of the date of promulgation.

Detailed Rules for the Implementation of the Regulation of the PRC on the Administration of Controlled Chemicals

Chapter 1. General Rules

ARTICLE 1 The Detailed Rules are developed on the basis of the Regulations of the People's Republic of China on the Administration of the Controlled Chemicals (hereinafter referred to as the Regulations) and the current managing practices.

ARTICLE 2 The provisions of the Detailed Rules shall be executed by all work units and individuals within the boundary of the People's Republic of China (including foreign sole-source investment enterprises, Chinese foreign equity joint ventures, Chinese-foreign cooperative ventures and self-employed business persons) that engage in the production, sale or use of controlled chemicals.

ARTICLE 3 The chemical industry authorities under the State Council shall be responsible for the management of the controlled chemicals nationwide. The local chemical industry authorities under the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the management of the controlled chemicals within their respective administered regions. The Chemical Weapons Convention (CWC) affairs authorities at different levels shall be responsible for the implementation of the Detailed Rules.

ARTICLE 4 The controlled chemicals refer to pure chemicals and industrial products with different contents.

"The controlled chemicals production technology" refers to the different technological means to produce the the controlled chemicals .

"Specialized controlled chemicals equipment" refers to product synthesizers, separators, refiners, heat conductors and automatic controllers used with various technological means to produce controlled chemicals. It also refers to the equipment exposed to the controlled chemicals, and equipment with high nickel alloy content or made of special corrosion resistant materials.

Chapter 2. Special License Procedures for Controlled Chemicals Production

ARTICLE 5 The State shall designate enterprises through special production licenses to produce Category II controlled chemicals, Category III controlled chemicals, and discrete organic chemicals with phosphorus, sulfur and fluorine contents in Category IV controlled chemicals. special production licenses are granted by the chemical industry authorities under the State Council. No work units or individuals are permitted have the permission to produce controlled chemicals without special production licenses.

ARTICLE 6 To produce special production licenses controlled controlled chemicals that are currently on the production license list managed by relevant State departments, the enterprise shall apply for special production licenses in accordance with the Detailed Rules after obtaining the production license.

Production shall not begin before the special production license is obtained.

ARTICLE 7 An application for building, expanding or renovating facilities used to produce Category II controlled chemicals, Category III controlled chemicals and the discrete organic chemicals with phosphorus, sulfur and fluorine contents in Category IV controlled chemicals shall be filed with the local people's governments of the provinces, autonomous

regions and municipalities directly under the Central Government. CWC affairs authorities.

An "Application for Building/Expanding/Renovating controlled chemicals Facilities" (See Schedule I) shall be completed. Subsequent to preliminary review, the application shall be referred to the national CWC affairs authorities for consideration and approval to set up the project and start construction.

Upon completion, an acceptance examination shall be conducted and passed before an special production licenses can be requested pursuant to the Detailed Rules.

ARTICLE 8 The following shall be required of work units and individuals that apply for special production licenses:

(1) Complete background information of the enterprise (See Schedule for requirement to complete the declaration).

(2) Business license issued by the industrial and commercial management departments.

(3) Product quality meeting national standards or industry standards as promulgated by the Ministry. (Enterprise standards shall be used during the interim in cases of products where national or ministerial standards have not yet been formulated.)

(4) Standardized quantifying and detection equipment.

(5) Complete environmental protection facilities with "three wastes" emissions meeting national standards.

(6) No potential risk for accidents at the production and storage sites.

(7) Standardized and complete accounts for production, storage and sales.

(8) Approval documents and certificates required by other State management departments that issue production licenses and other relevant certificates needed to produce the particular chemical.

(9) Full time or part time management personnel with good knowledge of controlled chemicals statistics and the corresponding management system.

(10) Standard facility position map, flow-chart, facility arrangement map, key facility chart, sample production record, sample sales record, and other documents required by the national CWC affairs authorities.

(11) Thorough understanding by the enterprise's legal person of relevant provisions outlined by the Regulations and the CWC concerning enterprise undertakings.

ARTICLE 9 Procedures for special production licenses application and examination:

(1) Work units and individuals that produce controlled chemicals shall file an application with provincial CWC affairs authorities and complete the "Application for Special License to Produce Controlled Chemicals " (See Schedule II).

(2) The provincial CWC affairs authorities shall carefully review the relevant information and submit the application as a formal report to the national CWC affairs authorities for consideration. (Products that have been issued production license by other State departments shall be excluded from product quality examination. Only the portion under the controlled chemicals management shall be examined.)

(3) The national CWC affairs authorities shall proceed with the review upon receipt of the report from the provincial CWC affairs authorities.

(4) After revision, the chemical industry authorities under the State Council shall issue the special production licenses to applicants that meet the controlled chemicals production criteria.

(5) No approval shall be given if the controlled chemicals production criteria are not met.

Re-application may be submitted within six months following internal organization and rectification by the application party. Qualification to apply for SLP shall be revoked if the criteria fulfillment fails again after reexamination.

ARTICLE 10 The marks and numbers on the controlled chemicals special production licenses shall be made uniform to: "HW-Lxxx xxxx", where L is the product category, code xxx is the serial number of the product licensed, xxxx is the number of the special production licenses.

ARTICLE 11 Controlled chemicals special production licenses shall be issued by stages and in groups, and shall have a validity of five years. The chemical industry authorities under the State Council shall announce the specifics regarding the product and time of special production licenses issuance.

ARTICLE 12 The national and provincial CWC affairs authorities shall periodically or otherwise conduct re-examinations or spot checks on work units and individuals that have obtained the special production licenses.

ARTICLE 13 special production licenses issued to work units and individuals shall be returned or revoked if one of the following is found:

- (1) Not meeting issuance criteria upon re-examination or spot-check.
- (2) Production and sales not consistent with the regulations.
- (3) "Three wastes" emissions not meeting State specified standards.
- (4) special production licenses transferred to other work units or individuals.
- (5) No more production of the product during the validity of the special production licenses.
- (6) Expired special production licenses.

ARTICLE 14 Work units or individuals with returned special production licenses shall cease production and sales of the product and proceed to rectify within a definite time.

An application for re-examination shall be filed with the issuing department. The special production licenses shall only be used after the reexamination is conducted and passed.

The special production licenses shall be revoked and the production and sales of the product ceased if re-examination is failed.

ARTICLE 15 Fees charged for issuing special production licenses shall be in conformity with the methods formulated and approved by the Ministry of Finance and the State Planning Commission.

Chapter 3. Controlled Chemicals Import and Export Activity Management

ARTICLE 16 A special license system is used for the import and export of Category I, Category II and Category III controlled chemicals and the related production technology and/or specialized equipment.

ARTICLE 17 The import and export of Category I, Category II, Category III and related technology and/or specialized equipment shall be undertaken by designated work units. Work units not designated shall not engage in the above-mentioned import and export activities.

ARTICLE 18 Work units designated to import and/or export controlled chemicals shall provide the following documents to the national CWC affairs authorities for examination:

(1) Names of major management personnel responsible for the work at the designated work unit.

(2) Names of the specialized departments for the business at the designated work unit.

(3) Copies of the ID cards and work cards of the specialized personnel authorized to sign import and export contracts at the designated work unit. (Any change in this aspect shall be promptly declared.)

ARTICLE 19 Review and approval procedures for import:

(1) To import Category I controlled chemicals, the designated work unit shall file an application with the national CWC affairs authorities. The application shall be reviewed and submitted to the State Council for

consideration and approval. The designated work unit shall apply for an import license from the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) on the basis of the approval document from the State Council.

To import Category II and Category III controlled chemicals, the designated work unit shall file an application with the national CWC affairs authorities for review and approval. The designated work unit shall apply for an import license from MOFTEC on the basis of the approval document from the chemical industry authorities under the State Council.

(2) The following documents shall be submitted by the designated work unit with the application:

(i) Original copy of the valid import contract.

(ii) Enterprise application to the provincial CWC affairs authorities with information pertaining to the name of chemical(s), the quantity, the end-use, the pledge not to re-transfer and the certificates issued by the provincial CWC affairs authorities.

(iii) Import application by the designated work unit.

(iv) Copy of import license and customs declaration for the same product(s) in the last transaction. The original import license shall be returned if, for any reason, the import did not take place.

ARTICLE 20 Review and approval procedures for export:

(1) To export Category I controlled chemicals, the designated work unit shall file an application with the national CWC affairs authorities. The application shall be reviewed and submitted to the State Council for consideration and approval. The designated work unit shall apply for an export license from MOFTEC on the basis of the approval document from the State Council.

To export Category II and Category III controlled chemicals, the designated work unit shall file an application with the national CWC affairs authorities for review and approval. The designated work unit shall apply for an export license from MOFTEC on the basis of the approval document from the chemical industry authorities under the State Council.

(2) Controlled chemicals to be exported by the designated work units must be original products from the enterprises.

(3) The following documents shall be submitted by the designated work unit with the application:

(i) Original copy of the valid export contract.

(ii) State of pledge from the recipient country government or government entrusted agencies that the imported controlled chemicals shall not be used for chemical weapon production and shall not be re-transferred to any third country. Information pertaining to the name, the quantity and the end-use of the chemical(s) and end-user's name and address shall also be noted.

(iii) Information regarding the foreign client(s), including client name, business scope, address, telephone number and fax number.

(iv) Export application by the designated work unit.

(v) Copy of export license and customs declaration for the same product(s) in the last transaction. The original export license shall be returned if, for any reason, the export did not take place.

ARTICLE 21 Before the 15th day of the first month in each quarter, the designated work unit shall submit a report to the national CWC affairs authorities on the import and export activities carried out in the last quarter.

Copies of the customs declaration shall be submitted and filed by the designated work unit to the national CWC affairs authorities within 30 days after the customs formalities.

ARTICLE 22 Without authorization, designated work units and relevant enterprises shall not provide any information concerning controlled chemicals import and export to outsiders.

ARTICLE 23 The China Association on Monitored and Controlled Chemicals (CAMCC), as entrusted by the chemical industry authorities under the State Council, is responsible for the relevant controlled chemicals import and export coordination.

Chapter 4. Storage, Transportation, Sale and Use of Controlled Chemicals

ARTICLE 24 Work units and individuals that store, transport, sell and use controlled chemicals shall establish and constantly improve the controlled chemicals management system.

ARTICLE 25 The packaging and marking of controlled chemicals shall conform to the relevant national stipulations. Agencies that supervise and examine the packaging shall improve the checks on the quality of the packaging and the quality of the packaging materials and conduct regular testing.

ARTICLE 26 The safety and storage of controlled chemicals shall comply with the provisions outlined in the Safety Regulations on Managing Dangerous Chemicals issued by the State Council and the Detailed Rules regarding Safety Regulations on Managing Dangerous Chemicals issued by the Ministry of Chemical Industry (MCI) and the Economic and Trade Office under the State Council.

ARTICLE 27 :Work units that store controlled chemicals shall set up strict check-in/check-out and registration procedures at warehouses.

For Category I controlled chemicals and other extremely toxic chemicals in other controlled chemicals categories, a five dual-control system shall be set up, i.e., dual control over receipts and shipments, dual control over records, dual control over locks, dual control over transportation and dual control over use. The security departments at enterprises shall perform periodic supervision and examination.

ARTICLE 28 The local public security agencies and provincial CWC affairs authorities shall be notified immediately in the case of Category I and Category II controlled chemicals loss or theft. A notice shall also be filed

with the national CWC affairs authorities in the case of Category I controlled chemicals loss or theft.

The local provincial CWC affairs authorities shall cooperate with the public security agencies in the investigation.

ARTICLE 29 Disposal plans shall be drawn up promptly for deteriorated or expired controlled chemicals to ensure safe and proper disposal. The plans shall be submitted to the provincial CWC affairs authorities for approval on the basis of concurrence from the local security and environmental protection agencies.

ARTICLE 30 Transporting controlled chemicals via railway, highway, water and air shall be in compliance with the regulations on transporting dangerous articles as promulgated by the relevant departments under the State Council.

ARTICLE 31 Work units designated by the chemical industry authorities under the State Council are authorized to handle sales of Category II controlled chemicals. No other non-designated work units have the permission to sell Category II controlled chemicals.

To sell Category II controlled chemicals, work units shall file an application with the provincial CWC affairs authorities for review and approval and complete the "Application for Sales of controlled chemicals " (See Schedule IV). Sales shall not begin until approval is obtained. The national CWC affairs authorities shall make copies of the approval for its files.

The national and provincial CWC affairs authorities, in conjunction with other relevant departments, shall conduct re-examination on designated work units every two or three years.

ARTICLE 32 The following are required of work units that apply to sell Category II controlled chemicals:

(1) Approval certificates issued by the local industrial and commercial department and taxation department above the county-level.

(2) Sales facilities that conform to safety standards.

(3) Technicians with good knowledge of product functions.

(4) Corresponding management system.

(5) Full time or part time management personnel with thorough knowledge of the controlled chemicals statistics who shall be subject to supervision and examination.

ARTICLE 33 Work units with the right to sell Category II controlled chemicals shall conduct their sales in accordance with the laws and sell products only to work units whose purchase or use have been approved by the national or provincial CWC affairs authorities. Sales shall not be allowed to unauthorized work units and export-oriented work units not designated.

Sales records shall be submitted to the local provincial CWC affairs authorities every six months.

ARTICLE 34 Enterprises producing Category II and Category III controlled chemicals shall not sell their products to undesigned export-oriented work units.

ARTICLE 35 Sales work units shall not buy or sell controlled chemicals produced by enterprises not approved through the special production licenses procedures.

ARTICLE 36 Work units and individuals that need to use Category I and Category II controlled chemicals shall complete the "Application for Use Category I and Category II Controlled Chemicals " (See Schedule V) and, in conformity with the provisions of the Regulations, sign a contract with designated producers on the basis of the approval document from the national or provincial CWC affairs authorities.

Work units and individuals shall use the products in the same manner and for the same purpose as stated on the application and shall not engage in re-transfer or other uses.

Chapter 5. Procedures for Controlled Chemicals Declaration and Statistics

ARTICLE 37 Work units referred to in Article 2 of the Detailed Rules shall complete the National Controlled Chemicals Statistics Report centrally printed and distributed by the national CWC affairs authorities.

Work units shall complete the report according to the explanatory notes and requirements, in a prompt fashion and on the basis of facts. Refusal, falsification, omission and concealment of information on the part of work units when preparing the report shall not be allowed. The scope and contents of the statistical report shall not be changed without authorization.

ARTICLE 38 Work units that have been authorized by the chemical industry authorities under the State Council to produce (or synthesize through experiment) Category I controlled chemicals shall submit the relevant documents and statistical reports to the authorizing units pursuant to the requirements on the statistical reports.

ARTICLE 39 With the exception of Category I controlled chemicals, nationwide data statistics shall be managed on a regional basis and submitted and summarized through administrative levels.

Work units and individuals that produce, consume or use Category II controlled chemicals and produce Category III and Category IV controlled chemicals shall declare relevant data to the local or provincial CWC affairs authorities.

In light of the actual local situations, the provincial CWC affairs authorities may request the prefectures and cities to summarize and verify the submitted data and report back within a specific time.

The provincial CWC affairs authorities may also directly summarize and verify the submitted data.

The provincial CWC affairs authorities shall submit the report to the national CWC affairs authorities within a specific time after careful verification and summarization of local data.

CWC affairs authorities shall be installed with the necessary technical equipment and staffed with dedicated personnel to complete and manage the statistical reports.

ARTICLE 40 In order to avoid omissions and repetition in reports, Grade II work units (branch companies, subsidiaries and affiliates) of cross-region large enterprises and work units (conglomerates and general corporations) shall submit declaration reports to the prefecture and provincial CWC affairs authorities according to procedures outlined in Article 39 of the Detailed Rules.

ARTICLE 41 Newly constructed facilities approved by the chemical industry authorities under the State Council to produce (including synthesize through experiment) Category I controlled chemicals shall submit to the national CWC affairs authorities the relevant information requested in the statistical report thirty days prior to trial operation.

Newly constructed, expanded or renovated facilities approved by the chemical industry authorities under the State Council to produce Category II, III and IV controlled chemicals shall submit the relevant information requested in the statistical report according to the procedures outlined in Article 39 of the Detailed Rules prior to trial operation.

ARTICLE 42 Work units that have Category I controlled chemicals in storage shall submit reports on a semi-annual basis, according to the procedures outlined in Article 39 of the Detailed Rules, concerning the source, quantity, consumption amount during the reporting period and inventory stock of the controlled chemicals.

Work units that sell or store Category II controlled chemicals shall submit reports on a semi-annual basis, according to the procedures outlined in Article 39 of the Detailed Rules, concerning the source, quantity, sales amount, consumption amount and inventory stock of the controlled chemicals.

ARTICLE 43 Work units designated by the chemical industry authorities under the State Council and entrusted to handle the import and export of Category I, II and III controlled chemicals shall be responsible for the import and export statistics. Such controlled chemicals import and export statistical reports shall be submitted to national CWC affairs authorities prior the 15th day of the first month in each quarter.

ARTICLE 44 Personnel working at various levels of CWC affairs authorities and involved in the data collection and computer network management shall conscientiously observe the relevant provisions of the State Confidentiality Law. Proper confidentiality measures shall be taken on the basis of the confidentiality levels of controlled chemicals information and data. Reporting work units' commercial and technological confidentiality shall be safeguarded.

The national CWC affairs authorities are authorized to release partial information and data on nationwide controlled chemicals. No other work units or individuals shall be permitted to release any relevant controlled chemicals information and data without authorization.

ARTICLE 45 The nationwide controlled chemicals data collection network shall be centrally

All controlled chemicals data on reports, disks, CD-ROMs, computer correspondence file transfers, electronic mail or any other media or means shall be centrally transmitted to places and equipment designated by the national CWC affairs authorities. No work units or individuals shall intercept, steal and sabotage such transmissions.

The receiving and sending end of the data collection network shall be equipment with dedicated computers and telecommunications equipment and managed by dedicated personnel.

Computers that store controlled chemicals data shall not be connected with the Internet or other non CWC data network.

Chapter 6. Site Supervision and Examination of Controlled Chemicals Management

ARTICLE 46 Enterprises and work units subject to site supervision and examination shall include:

(1) Single small scale facilities designated by the State Council to produce Category I controlled chemicals and facilities that use and consume Category I controlled chemicals for purposes other than defensive protection.

(2) Facilities that produce, process and consume Category II controlled chemicals.

(3) Facilities that produce Category III controlled chemicals.

(4) Facilities that produce Category IV controlled chemicals.

(5) Work units that sell Category II controlled chemicals.

(6) Venues where suspected violation of the Regulations exist.

ARTICLE 47 Site supervision and examination shall include:

(1) Verification that the purpose and nature of the production activities at the site correspond with the production activities declared to the CWC affairs authorities at various levels by the enterprise or work unit.

(2) Verification that the production quantity of the involved controlled chemicals and the Category II controlled chemicals processed and consumed at the site correspond with the quantity declared to the CWC affairs authorities at various levels by the enterprise or work unit.

(3) Verification of sales accounts of the controlled chemicals and the end-user(s).

ARTICLE 48 The national or provincial CWC affairs authorities shall conduct at any time partial or complete site supervision and examination on the contents outlined in Article 47 of the Detailed Rules at enterprises and work units specified in Article 46 of the Detailed Rules.

Enterprises and work units being supervised and examined shall not hinder or obstruct such supervision and examination for any reason.

ARTICLE 49 Work units being examined shall designate special person(s) to receive examinational personnel, obligatorily provide the information, and answer the challenges from the examination personnel without concealment or refusal.

ARTICLE 50 The scope of the site check at the production enterprises being supervised and examined includes:

(1) Areas where raw chemical materials (reactants) are transported or stored.

(2) Areas where reactants are processed before being fed into the reactors.

(3) Feed lines between the two above-mentioned areas and the reactors and the relevant valves and flow meters.

(4) Reactors and the peripherals of their auxiliary equipment.

(5) Transportation lines between the reactors and the long-term or short-term storage warehouses of the controlled chemicals and the transportation lines between the reactors and the equipment that further processes the controlled chemicals.

(6) Any relevant monitored and controlled facilities related to projects in the above.

(7) Equipment and relevant areas where solid waste and sewage are treated.

(8) Equipment and relevant areas where substandard chemicals are treated.

(9) Sample analysis shall be conducted, if necessary, in areas listed above.

ARTICLE 51 Work units under site supervision and examination shall provide the following documents to the examination personnel:

(1) Regional map indicating the geographic landscape of the enterprise or work unit being supervised and examined.

(2) Factory plan indicating the controlled chemicals workshop, raw material pre-processing area, product processing area, storage area, "three waste" treatment area, central lab and other venues to be inspected at the enterprise or work unit being supervised and examined.

(3) Workshop floor map indicating the relative positions of production equipment, material pipelines and controlled chemicals samplers that are being supervised and examined.

(4) Flow chart briefing the production procedures of controlled chemicals at workshops being supervised and examined.

(5) Annual production quantity for the previous three years at workshops being supervised and examined, or Category II controlled chemicals processing and consumption information, or export quantity of controlled chemicals direct export and their production, or daily production records of Category II controlled chemicals processing and consumption, and records of material acquisition, storage, shipment (including export) and waste treatment.

ARTICLE 52 Any site supervision and examination shall not be expanded to include the following data and documents:

(1) Financial data and documents.

(2) Sales and marketing data and documents of products not included in the controlled chemicals list issued by the MCI for Category I, II and III controlled chemicals.

(3) Pricing data of the products.

(4) Personnel files and data.

(5) Scientific data and research reports.

(6) Patent data and documents.

(7) Data and documents maintained for the implementation of environmental protection or occupational labor protection.

ARTICLE 53 Upon official ratification of the CWC by the Government and the international entry into force of the CWC, the State shall officially assume every obligation described and shall accept site verification to facilities listed in Article 46 in the Detailed Rules by international inspection teams dispatched by the CWC organization.

The national CWC affairs authorities shall designate personnel to lead the international inspection team to the inspection site specified by the CWC organization to conduct international inspection of controlled chemicals.. The procedures shall conform to the rules set forth in the verification annex of the CWC.

Chapter 7. Penalty Provisions

ARTICLE 54 The national CWC affairs authorities shall exercise supervision and management over behavior that violates the Regulations. The provincial CWC affairs authorities shall implement administrative penalties for violations in their respective localities. Penalties over 100,000 RMB yuan shall be approved by the national CWC affairs authorities.

Law enforcement personnel shall possess authorization credentials and use Penalty Decision Notifications centrally printed by the national CWC affairs authorities.

ARTICLE 55 In accordance with Article 8 of the Regulations, building, expanding or renovating of facilities without the authorization through the special production licenses to produce Category II controlled chemicals, Category III controlled chemicals and discrete organic chemicals with phosphorus, sulfur and fluorine contents in Category IV controlled chemicals shall be subject to orders from the local chemical industry authorities under the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government to take corrective actions within a specific time (thirty days), cease construction and dismantle the production set-up.

On the basis of the gravity of the situation, a penalty fine above 10,000 RMB yuan but below 200,000 RMB yuan shall be imposed if no correction is made within the timeframe.

ARTICLE 56 In accordance with Article 21 of the Regulations, producing Category I controlled chemicals without approval shall be subject to orders from the local chemical industry authorities under the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government to take corrective actions within a specific time. If no correction is made within the timeframe, a penalty fine of 200,000 RMB yuan shall be imposed. Serious violators shall be ordered by the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government to cease production and engage in rectification.

Producing Category II controlled chemicals, Category III controlled chemicals and discrete organic chemicals with phosphorus sulfur and fluorine contents in Category IV controlled chemicals without approval shall be subject to orders from the local chemical industry authorities under the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government to take corrective actions within a specific time (thirty days). The products shall be confiscated.

If no correction is made within the timeframe, producers of discrete organic chemicals with phosphorus, sulfur and fluorine contents in Category IV controlled chemicals shall be imposed a penalty fine not exceeding 100,000 RMB yuan.

Producers of Category II and Category III controlled chemicals shall be imposed a penalty fine not exceeding 200,000 RMB yuan.

Serious violators shall be ordered by the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government to cease production in addition to the penalty fine.

ARTICLE 57 In accordance with Article 22 of the Regulations, using Category I controlled chemicals without approval shall be subject to orders

from the local chemical industry authorities under the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government to take corrective actions. The controlled chemicals in question shall be confiscated and a penalty fine of 50,000 RMB yuan shall be imposed.

Using Category II controlled chemicals without approval shall be subject to orders from the local chemical industry authorities under the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government to take corrective actions within a specific time (thirty days). On the basis of the gravity of the situation, a penalty fine above 10,000 RMB yuan but below 50,000 RMB yuan shall be imposed if no correction is made within the timeframe.

ARTICLE 58 In accordance with Article 23, selling Category II controlled chemicals without approval shall be subject to a penalty fine of 20,000 RMB yuan. The controlled chemicals in question and the revenues from the sales shall be confiscated. Serious violators with large sales amount shall be imposed a penalty fine two times the sales amount.

ARTICLE 59 In accordance with the relevant provisions on controlled chemicals violations, enterprises not designated for controlled chemicals import and export that engage in such import and export shall be rejected when processing the import and export formalities and shall be imposed a penalty fine of 20,000 RMB yuan.

Illegal chemicals and revenues through such import and export shall be confiscated and a penalty fine of 200,000 RMB yuan shall be imposed. Serious violators whose behavior constitutes a criminal offense shall be investigated for criminal responsibilities.

ARTICLE 60 Application qualification for import and export shall be suspended for six to twelve months if a designated import and export enterprise is found to have failed in complying with the formality procedures and fraudulently obtained import and export approval documents with a fake

contract and government statement of pledge, resulting in serious consequences.

ARTICLE 61 In accordance with Article 24 of the Regulations, omitting, falsifying and concealing relevant controlled chemicals information and data shall be subject to warning and orders for corrective actions within a specific time. A penalty fine not exceeding 50,000 RMB yuan shall be imposed if no correction is made within the timeframe. A penalty fine of 50,000 RMB yuan shall be imposed for refusal in submitting relevant information and data and not heeding to warning for corrections.

ARTICLE 62 After the administrative penalty decision is made, the parties involved shall pay the fine at designated banks within the timeframe described by the administrative penalty decision. Law enforcement personnel may also accept the penalty fine on the spot.

ARTICLE 63 The parties involved that do not agree with the administrative penalty decision may request reconsideration according to the relevant provisions of the Administrative Reconsideration Regulations or petition for an administrative litigation. The implementation of the administrative penalty shall not be ceased.

Parties involved that do not implement the administrative penalty decisions shall be ordered forcible implementation enforced by force by the People's Court upon request from the agencies making the administrative penalty decisions.

Chapter 8. Annex

ARTICLE 64 In light of the actual situations in their respective localities, the local chemical industry authorities under the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government may formulate concrete

implementation methods which shall be deposited with the chemical industry authorities under the State Council for file.

ARTICLE 65 The chemical industry authorities under the State Council shall be responsible for the interpretation of the Detailed Rules.

ARTICLE 66 The Detailed Rules shall be effective on the day of issuance.

Measures on Export Control of Certain Chemicals and Related Equipment and Technologies

Article 1 These Measures are formulated for the purpose of strengthening export control of certain chemicals and related equipment and technologies, and safeguarding the State security and social and public interests.

Article 2 The export of certain chemicals and related equipment and technologies referred to in these Measures means the export for trade of items and technologies listed in the "Certain Chemicals and Related Equipment and Technologies Export Control List" (hereinafter referred to as the Control List) attached to these Measures, and the gift to, exhibition in, scientific and technological cooperation with, assistance to, provision of service for as such and other forms of technological transfer thereof to foreign countries and regions.

Article 3 The export of certain chemicals and related equipment and technologies shall be in accordance with relevant laws and administrative regulations of the State and these Measures, and shall not imperil the State security and social and public interests.

Article 4 The State shall exercise strict control on the export of certain chemicals and related equipment and technologies, so as to prevent the items and technologies listed in the Control List from being used for the purpose of chemical weapons.

Article 5 The State shall practice a licensing system for the export of items and technologies listed in the Control List. Without being licensed, no unit or individual shall export such items or technologies.

Article 6 The receiving party of certain chemicals and related equipment and technologies shall guarantee not to use such chemicals and related equipment and technologies supplied by China in the storing, processing, producing and treating of chemical weapons or in the production of chemical weapons precursors. Without the consent of the Chinese Government, the receiving party shall not use the chemicals and related equipment and technologies supplied by China for purposes other than the declared end-use, or transfer such chemicals and related equipment and technologies to any third party other than the declared end-user.

Article 7 Exporters of certain chemicals and related equipment and technologies shall register themselves with the Ministry of Foreign Trade and Economic Cooperation (hereinafter referred to as MOFTEC). Without such registration, no unit or individual shall export certain chemicals and related equipment and technologies. The specific measures for such registration shall be formulated by MOFTEC.

Article 8 Anyone who intends to export items and technologies in the Control List shall apply to MOFTEC, fill in the export application form for certain chemicals and related equipment and technologies (hereinafter referred to as the export application form), and submit the following documents:1.Certificate of registration for the exporter to export certain chemicals and related equipment and technologies;2.Identifications of the applicant's legal representative, chief manager(s) and the person(s) handling the deal;3.Duplicates of the contract or agreement;4.Technical specifications of the certain chemicals and related equipment and technologies;5. Certificates of the end-user and end-use;6.Documents of guarantee as defined in Article 6 of these Measures;7.Other documents as may be required by MOFTEC.

Article 9 An applicant shall truthfully fill in the export application form. Export application forms shall be uniformly produced by MOFTEC.

Article 10 MOFTEC shall, within 45 working days from the date of receipt of the export application form and the documents specified in Article 8 of these Measures, examine, or jointly with other relevant departments of the State Council examine the application, and make a decision of approval or denial.

Article 11 Where the export of certain chemicals and related equipment and technologies entails significant impact on the State security and social and public interests or foreign policy, MOFTEC shall, jointly with relevant departments, submit the case to the State Council for approval. Where the export of certain chemicals and related equipment and technologies is submitted to the State Council for approval, the timing restriction set forth in Article 10 of these Measures shall not apply.

Article 12 Where an application for the export of certain chemicals and related equipment and technologies is examined and approved, MOFTEC shall issue a license for the export of certain chemicals and related equipment and technologies (hereinafter referred to as an export license), and notify the Customs in writing.

Article 13 An export license holder who intends to change the certain chemicals and related equipment and technologies originally applied for export shall return the original export license and file a new application to obtain a new export license according to relevant provisions of these Measures.

Article 14 While exporting certain chemicals and related equipment and technologies, the exporter shall present the export license to the Customs and complete customs procedures in accordance with the provisions of the Customs.

Article 15 Where the receiving party contravenes the guarantees made under Article 6 of these Measures, or there is a risk of proliferation of certain

chemicals and related equipment and technologies in the Control List for the purpose of chemical weapons, MOFTEC shall suspend or revoke the export license granted and notify the Customs in writing.

Article 16 Where the exporter knows or should know that the certain chemicals and related equipment and technologies to be exported will be used by the receiving party directly for the purpose of chemical weapons or for the production of chemical weapons precursor, it shall not export such chemicals and related equipment and technologies, whether included in the Control List or not.

Article 17 Upon approval by the State Council, MOFTEC may, jointly with relevant departments of the State Council, temporarily decide to exercise export control on specific items and technologies other than those listed in the Control List in accordance with the provisions of these Measures. The export of the specific items and technologies set forth in the preceding paragraph shall be licensed in accordance with the provision of these Measures.

Article 18 Those who export certain chemicals and related equipment and technologies without being licensed or export certain chemicals and related equipment and technologies beyond the scope of the export license without authorization, shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of smuggling, the crime of illegal business operations, the crime of divulging State secrets or other crimes; if such acts are not serious enough for criminal punishment, by distinguishing different circumstances, they shall be punished in accordance with relevant provisions of the Customs Law, or be given a warning and fined for not less than twice but not more than five times the illegal income by MOFTEC, according to the circumstances; MOFTEC may concurrently revoke the licensing for their foreign trade operations.

Article 19 Those who forge, alter, buy or sell, or obtain by fraud or other illegal means the license for the export of certain chemicals and related equipment and technologies shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of illegal business operations or the crime of forging, altering, buying or selling official documents, certificates or seals of a State organ; if such acts are serious enough for punishment, they shall be punished in accordance with relevant provisions of the Customs Law, and MOFTEC may concurrently revoke the licensing for their foreign trade operations.

Article 20 Where the State functionaries in charge of the control on the export of certain chemicals and related equipment and technologies abuse their powers, neglect their duties or extort or accept money or properties from others by taking advantage of their positions, they shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of abuse of power, the crime of neglect of duties, the crime of accepting bribes and other crimes; if such acts are not serious enough for criminal punishment, they shall be given administrative sanctions according to law.

Article 21 In light of actual situations, MOFTEC may, jointly with relevant departments of the State Council, amend the Control List.

Article 22 These Measures shall enter into force as of November 19, 2002.

Regulations of the People's Republic of China on Export Control of Missiles and Missile-related Items and Technologies

(25 August 2002)

Article 1 These Regulations are formulated for the purposes of strengthening export control of missiles and missile-related items and technologies, and safeguarding the State security and social and public interests.

Article 2 The export of missiles and missile-related items and technologies referred to in these Regulations means the export for trade of missiles and missile-related equipment, materials and technologies listed in “The Missiles and Missile-related Items and Technologies Export Control List” (hereinafter referred to as the Control List) attached to these Regulations, and the gift to, exhibition in, scientific and technological cooperation with, assistance to, provision of service for as such and other forms of technological transfer thereof to foreign countries and regions.

Article 3 The State shall exercise strict control on the export of missiles and missile-related items and technologies so as to prevent the proliferation of missiles and other delivering systems listed in the Control List that can be used to deliver weapons of mass destruction.

Article 4 The State shall practice a licensing system for the export of missiles and missile-related items and technologies.

Without being licensed, no unit or individual shall export missiles and missile-related items and technologies.

Article 5 The export of items and technologies listed in Part I of the Control List shall be subject to the Regulations of the People's Republic of China on Administration of Arms Export and other relevant provisions.

To export items and technologies listed in Part II of the Control List (hereinafter referred to as missile-related items and technologies), the exporter shall follow the examination and approval procedures provided for in Articles 7 to 13 of these Regulations; however, the export of missile-related items and technologies for military purpose shall be subject to the provisions of the preceding paragraph.

Article 6 The receiving party of missile-related items and technologies shall guarantee not to use missile-related items and technologies supplied by China for purposes other than the declared end-use, nor to transfer missile-related items and technologies supplied by China to any third party other than the declared end-user without the consent of the Chinese Government.

Article 7 Exporters of missile-related items and technologies shall register themselves with the competent department in charge of foreign economic relations and trade of the State Council (hereinafter referred to as the competent foreign economic and trade department of the State Council).

Without such registration, no unit or individual shall export missile-related items and technologies. The specific measures for such registration shall be formulated by the competent foreign economic and trade department of the State Council.

Article 8 Anyone who intends to export missile-related items and technologies shall apply to the competent foreign economic and trade department of the State Council, fill in the export application form for missile-related items and technologies (hereinafter referred to as the export application form), and submit the following documents:

(1) identification of the applicant's legal representative, chief managers and the persons handling the deal;

- (2) duplicates of the contract or agreement;
- (3) technical specifications of the missile-related items and technologies;
- (4) certificates of the end-user and end-use;
- (5) documents of guarantee as defined in Article 6;
- (6) other documents as may be required by the competent foreign economic and trade department of the State Council.

Article 9 An applicant shall truthfully fill in the export application form.

Export application forms shall be uniformly produced by the competent foreign economic and trade department of the State Council.

Article 10 The competent foreign economic and trade department of the State Council shall, from the date of receiving the export application form and the documents set forth in Article 8 of these Regulations, examine the application, or examine the application jointly with other relevant departments of the State Council and relevant departments of the Central Military Commission, and make a decision of approval or denial within 45 working days.

Article 11 Where the export of missile-related items and technologies entails significant impact on the State security, social and public interests, the competent foreign economic and trade department of the State Council shall, jointly with relevant departments, submit the case to the State Council and the Central Military Commission for approval.

Where the export of missile-related items and technologies is submitted to the State Council and the Central Military Commission for approval, the timing restriction set forth in Article 10 of these Regulations shall not be applied.

Article 12 Where an application for the export of missile-related items and technologies is examined and approved, the competent foreign economic and trade department of the State Council shall issue a licence for

the export of missile-related items and technologies (hereinafter referred to as an export licence), and notify the Customs in writing.

Article 13 An export licence holder who intends to change the missile-related items and technologies originally applied for export shall return the original export licence and file a new application to obtain a new export licence according to relevant provisions of these Regulations.

Article 14 While exporting missile-related items and technologies, the exporter shall present the export licence to the Customs, complete the customs procedures and accept supervision and control of the Customs in accordance with the provisions of the Customs Law.

Article 15 Where the receiving party contravenes the guarantees made according to the provisions of Article 6 of these Regulations or there is a risk of proliferation of missiles and other delivering systems listed in the Control List that can be used to deliver weapons of mass destruction, the competent foreign economic and trade department of the State Council shall suspend or revoke the export licence granted and notify the Customs in writing.

Article 16 Where the exporter knows or should know that the missile-related items and technologies to be exported will be used by the receiving party directly in its program for developing missiles and other delivering systems listed in the Control List that can be used to deliver weapons of mass destruction, the export shall be subject to the provisions of these Regulations even if the items or technologies are not listed in the Control List.

Article 17 Upon approval by the State Council and the Central Military Commission, the competent foreign economic and trade department of the State Council may, jointly with relevant departments, temporarily decide to exercise export control on specific items and technologies other than those listed in the Control List in accordance with the provisions of these Regulations.

Article 18 Those who export missile-related items and technologies without being licensed, or export missile-related items and technologies beyond the scope of the export licence without authorization, shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of smuggling, the crime of illegal business operations, the crime of divulging State secrets or other crimes; if such acts are not serious enough for criminal punishment, by distinguishing different circumstances, they shall be punished in accordance with relevant provisions of the Customs Law, or be given a warning, confiscated of their illegal income, and fined not less than one time but not more than five times the illegal income by the competent foreign economic and trade department of the State Council; the competent foreign economic and trade department of the State Council may concurrently suspend or even revoke the licensing for their foreign trade operations.

Article 19 Those who forge, alter, buy or sell the licence for the export of missile-related items and technologies shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of illegal business operations or the crime of forging, altering, buying or selling official documents, certificates or seals of a State organ; if such acts are not serious enough for criminal punishment, they shall be punished in accordance with relevant provisions of the Customs Law, and the competent foreign economic and trade department of the State Council may concurrently revoke the licensing for their foreign trade operations.

Article 20 Where a license for the export of missile-related items and technologies is obtained by fraud or other illegal means, the competent foreign economic and trade department of the State Council shall revoke such an export license, confiscate the illegal income, impose a fine of not more than the illegal income, and suspend or even revoke the licensing for their foreign trade operations.

Article 21 Where, in violation of Article 7 of these Regulations, the export of missile-related items and technologies is operated without registration, the competent foreign economic and trade department of the State Council shall ban such illegal activities according to law, and relevant competent departments of the State shall impose punishment thereon in accordance with relevant laws and administrative regulations.

Article 22 Where the State functionaries in charge of control on the export of missile-related items and technologies abuse their powers, neglect their duties or extort or accept money or properties from others by taking advantage of their positions, they shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of abuse of power, the crime of neglect of duties, the crime of accepting bribes and other crimes; if such acts are not serious enough for criminal punishment, they shall be given administrative sanctions according to law.

Article 23 In light of actual situations, the competent foreign economic and trade department of the State Council may, jointly with relevant departments, amend the Control List and submit it to the State Council and the Central Military Commission for approval before implementation.

Article 24 These Regulations shall be effective as of the date of promulgation.

Regulations of the People's Republic of China on Administration of Arms Export

(Promulgated by Decree No. 234 of the State Council of the People's Republic of China and the Central Military Commission of the People's Republic of China on October 22, 1997, and revised in accordance with the Decision of the State Council and the Central Military Commission on Amending the Regulations of the People's Republic of China on Administration of Arms Export on October 15, 2002)

Chapter I. General Provisions

Article 1 These Regulations are formulated for the purposes of strengthening the unified administration of arms export and maintaining the normal order of arms export.

Article 2 "Arms export" referred to in these Regulations means the export for trade of equipment, special production facilities and other materials, technology and related services which are used for military purposes.

Arms export referred to in the preceding paragraph shall be included in the arms export administration list. The arms export administration list shall be formulated, adjusted and published by the competent arms export department of the State.

Article 3 The competent arms export department of the State shall, under the leadership of the State Council and the Central Military Commission, take charge of the arms export work throughout the country and exercise supervision and administration of arms export throughout the country.

Article 4 The State shall institute a unified administration system for the export of arms, forbid any act of exporting arms which endangers the

interests and security of the State and maintain the normal order of arms export according to law.

Article 5 The following principles shall be observed in exporting arms:

(1) the exports should be conducive to the legitimate self-defence capability of the recipient country;

(2) the exports should not undermine the peace, security and stability of the region concerned and the world as a whole;

(3) the exports should not be used as a means of interfering in the internal affairs of the recipient country.

Article 6 Where an international treaty concluded or acceded to by the People's Republic of China contains provisions different from these Regulations, the provisions of the international treaty shall prevail, except for the provisions on which reservations are made by the People's Republic of China.

Chapter II. Arms Trading Companies

Article 7 "An arms trading company" referred to in these Regulations means a legal person enterprise which has obtained according to law the business operations right for arms export and is engaged in arms export business activities within the approved scope of business.

Article 8 The business operations right for arms export shall be examined and approved by the competent arms export department of the State. Specific measures shall be formulated by the competent arms export department of the State.

Article 9 An arms trading company shall enjoy full autonomy in its management and assume sole responsibility for its profits or losses according to law.

Article 10 An arms trading company shall honor contracts, guarantee the quality of goods and improve post-sale services.

Article 11 In accordance with the provisions of the competent arms export department of the State, an arms trading company shall truthfully present the documents and data pertinent to its arms export business activities. The competent arms export department of the State shall keep business secrets of the arms trading company and protect its lawful rights and interests.

Article 12 An arms trading company may entrust an approved transportation enterprise for arms export with the transportation of arms for export and related business matters. Specific measures shall be formulated by the competent arms export department of the State.

Chapter III. Administration of Arms Export

Article 13 The State shall implement a licencing system for arms export.

Proposals and contracts for arms export shall be submitted in form of application for examination and approval in accordance with the provisions of these Regulations. Arms shall be exported on the basis of a licence for arms export.

Article 14 Proposals for arms export shall be examined and approved by the competent arms export department of the State, or by the competent arms export department of the State jointly with the relevant departments of the State Council and the Central Military Commission.

Article 15 When proposals for arms export are approved, an arms trading company may conclude contracts for arms export with the foreign side. After a contract for arms export is concluded, it shall file an application with the competent arms export department of the State for examination and

approval; the competent arms export department of the State shall make a decision thereon within 20 days from the date of receipt of the application. A contract for arms export shall become effective only after it is approved.

When filing an application with the competent arms export department of the State for approval of its contract for arms export, an arms trading company shall attach the valid certification documents of the recipient country.

Article 16 Important proposals and contracts for arms export shall be examined by the competent arms export department of the State jointly with the relevant departments of the State Council and the Central Military Commission and be submitted to the State Council and the Central Military Commission for approval.

Article 17 An arms trading company shall, before exporting arms, apply to the competent arms export department of the State for an arms export licence on the basis of the approval document for the contract of arms export; when the requirements are met for an arms export contract, the competent arms export department of the State shall issue the arms export licence within 10 days from the date of receipt of the application.

The Customs shall accept declarations according to the arms export licence, and examine and give clearance in accordance with the relevant provisions of the State.

Article 18 Measures for the examination and approval of proposals and contracts for arms export and methods for the issue of arms export licences shall be prescribed by the competent arms export department of the State.

Article 19 For arms export, the competent arms export department of the State shall issue a notice of arms export jointly with the departments concerned. Upon receiving the notice of arms export, the departments concerned and the local people's governments shall conscientiously perform

their functions and responsibilities according to the relevant provisions of the State in order to ensure safe, speedy and accurate export of arms.

Chapter IV. Order of Arms Export

Article 20 No unit or organization which has not obtained the business operations right for arms export shall engage in any arms export business activity.

The State forbids any individual to engage in any arms export business activity.

Article 21 Arms trading companies shall abide by the provisions of laws and administrative regulations and maintain the normal order of arms export in their arms export business activities.

Article 22 Arms trading companies shall not commit any of the following acts in their arms export business activities:

- (1) impairing the security of the State or social and public interests;
- (2) pushing out any other competitor by means of unfair competition;
- (3) infringing upon the intellectual property rights protected by the laws of the People's Republic of China;
- (4) forging, altering, obtaining by fraud or illegally transferring any document or certificate such as the approval document for arms export proposals, the approval document for a contract, the licence and the valid certification document of the recipient country;
- (5) overstepping the approved scope of business; or
- (6) any other act in violation of the provisions of laws and administrative regulations.

Article 23 The competent arms export department of the State may, when it deems necessary or at the request of an arms trading company, deal with any act which obstructs the normal order of arms export.

Chapter V. Legal Liability

Article 24 Where any arms trading company violates the provisions of Article 11 of these Regulations, the competent arms export department of the State shall order it to make corrections within a specified time limit and give it a warning; if failing to make corrections within the specified time limit, such company shall be fined not less than 20,000 yuan but not more than 100,000 yuan and its business operations right for arms export shall be suspended or even revoked.

Article 25 Where any arms trading company violates the provisions of subparagraph (4) or (5) of Article 22 of these Regulations and also violates the criminal law, it shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of illegal operation, the crime of forging, altering, buying or selling official documents, certificates or seals of a State organ or other crimes; if the case is not serious enough for criminal punishment, the competent arms export department of the State shall give it a warning, confiscate its illegal income and concurrently impose a fine of not less than one time but not more than three times the illegal income; if there is no illegal income or the illegal income is less than 100,000 yuan, a fine of not less than 100,000 yuan but not more than 300,000 yuan shall be imposed and its business operations right for arms export shall be suspended or even revoked.

Where any arms trading company violates the provisions of subparagraph (1), (2) or (3) of Article 22 of these Regulations or the provisions of laws or other administrative regulations, the competent arms export department of the State shall impose penalties on it in accordance with the provisions of relevant laws and administrative regulations and may concurrently suspend or even revoke its business operations right for arms export; if violating the criminal law, it shall be investigated for criminal liability in accordance with the relevant provisions of the criminal law.

Article 26 Any illegal activity in violation of the provisions of Article 20 of these Regulations shall be banned by the competent arms export department of the State; if such activity violates the criminal law, criminal liability shall be investigated in accordance with the provisions of the criminal law on the crime of illegal operation or other crimes; if the case is not serious enough for criminal punishment, the competent arms export department of the State shall give a warning, confiscate the illegal income and concurrently impose a fine of not less than one time but not more than five times the illegal income; if there is no illegal income or the illegal income is less than 100,000 yuan, a fine of not less than 100,000 yuan but not more than 500,000 yuan shall be imposed.

Article 27 Where an arms trading company refuses to accept a specific administrative act of the competent arms export department of the State, it shall apply for administrative reconsideration according to law at first; if it still refuses to accept the decision of administrative reconsideration, it may bring an administrative suit to the people's court according to law.

Article 28 Where any State functionary engaged in administration of arms export abuses his power, neglects his duty or accepts or extorts money or property from other persons by taking advantage of his office thereby violating the criminal law, he shall be investigated for criminal liability in accordance with the provisions of the criminal law on the crime of abuse of power, the crime of neglect of duty, the crime of acceptance of bribes or other crimes; if the case is not serious enough for criminal punishment, he shall be given an administrative sanction according to law.

Chapter VI. Supplementary Provisions

Article 29 These Regulations shall be applicable to the export of police equipment.

Article 30 These Regulations shall come into force as of January 1, 1998.

Measures for the Administration on Import and Export License for Dual-use Items and Technologies

(Decree No.29 of 2005, Minister of Commerce and General Administration of Customs)

Chapter 1. General Provisions

Article 1 These Measures are formulated in accordance with the provisions in the Foreign Trade Law of the People's Republic of China, the Customs Law of the People's Republic of China and relevant administrative regulations for the purposes of guaranteeing national security and public interests, of fulfilling the obligations in the international treaties and conventions that China has concluded and joined, and of strengthening the administration on import and export license for dual-use items and technologies.

Article 2 "The administrative regulations" as mentioned in these Measures refer to Regulations of the People's Republic of China on Control of Nuclear Export, Regulations of the People's Republic of China on Export Control of Nuclear Dual-use Goods and Related Technologies, Regulations of the People's Republic of China on Export Control of Missiles and Missile-Related Items and Technologies, Regulations of the People's Republic of China on Export Control of Dual-use Biological Agents and Related Equipment and Technologies, Regulations of the People's Republic of China on the Administration of Controlled Chemicals, Regulations of the People's Republic of China on the Administration of Precursors and Chemicals used in Production of Narcotic Drugs and Psychotropic Substances, and Measures on Export Control of Certain Chemicals and Related Equipment and Technologies.

The dual-use items and technologies as mentioned in these Measures refer to the items and technologies controlled by the aforesaid administrative regulations.

Article 3 The Ministry of Commerce shall be in charge of the nationwide administration of the import and export license for dual-use items and technologies, responsible for formulating measures, regulations and regimes for the administration of the import and export license for dual-use items and technologies, for supervising and inspecting the implementation of measures for the administration of the import and export license for dual-use items and technologies, and for granting penalties on the violations.

Article 4 The Ministry of Commerce shall, in cooperation with the General Administration of Customs, formulate and promulgate the Controlling List of the Import and Export License for Dual-use Items and Technologies (please refer to Annex I, and hereinafter referred to as the Controlling List). And the Ministry of Commerce and the General Administration of Customs may make readjustments on the Controlling List and promulgate them in the form of announcement.

Article 5 Authorized by the Ministry of Commerce, the Quota and License Administrative Bureau (hereinafter referred to as the License Bureau) of the Ministry of Commerce shall be nationwide in charge of the unified administration and guidance of the issuing of the import and export license for dual-use items and technologies, and it shall be responsible to the Ministry of Commerce.

The License Bureau and the provincial competent departments of commerce authorized by the Ministry of Commerce (hereinafter referred to as the issuing authorities) shall be responsible for the issuing of the import and export license for dual-use items and technologies; under the unified administration from the License Bureau, the provincial competent departments of commerce shall, within their authorized areas, be responsible for the issuing of the import and export license for dual-use items and technologies. And the Name List of the Authorities Responsible for the Issuance of the Import and Export License for Dual-use Items and Technologies (please refer to Annex II) is annexed thereinafter.

Article 6 An import or exit license for dual-use items and technologies shall be applied for, no matter in what form, the dual-use items and technologies subject to the Controlling List are import or export, passing through the territory of the People's Republic of China, transfer, and transportation of (please refer to Annex III. for the pattern of the license).

The antecedent provisions shall be applicable to the in-and-outs of dual-use items and technologies between the areas without the territory of the People's Republic of China and such customs specially-supervised zones and bonded localities as bonded zones and export processing zones etc.

The in-and-outs of dual-use items and technologies between the areas within the territory of the People's Republic of China and such customs specially-supervised zones and bonded localities as bonded zones and export processing zones etc., or between the aforesaid customs specially-supervised zones and bonded localities need no import or exit license for dual-use items and technologies.

Article 7 The exporter and importer, when dealing import and export of dual-use items and technologies, shall present to the customs authorities his/ her import or exit license for dual-use items and technologies, upon which, the customs authorities concerned shall, in accordance with the provisions in the Customs Law, accept the declaration and handle the formalities of examination and clearance.

Article 8 In accordance with the provisions in relevant administrative regulations, where the exporter knows or should know or receives notices from relevant administrative authorities of the State Council that his/her items and technologies to be exported have the risk of being used in weapons of mass destruction and their related means of delivery, an export license shall be applied for towards the items and technologies concerned, whether included in the Controlling List or not, and an export license for dual-use items and technologies shall be handled in accordance with these Measures.

In case that the exporter, when dealing export, finds that his/her items and technologies to be exported have the risk of being used in weapons of mass destruction and their related means of delivery, he/she shall timely report to relevant administrative authorities of the State Council and actively cooperate to adopt measures to cease the function of the contract.

Article 9 The exporter and importer shall initiatively present to the customs authorities his/her import or exit license for dual-use items and technologies, and the legal liabilities arising from the exporter's failure to do so shall be assumed by the exporter himself/herself.

The customs authorities have the power to doubt whether the imported or exported commodities of the importer and exporter belong to the category of dual-use items and technologies, and the importer and exporter shall, as stipulated, apply to relevant administrative authorities in charge for an import or export license, or apply to the commerce authorities in charge for the issuing of relevant attestation indicating that the aforesaid commodities do not belong to the controlled category; and the provincial competent departments of commerce shall accept the application and put forward treatment opinions, which then shall be submitted to the Ministry of Commerce for examination and decision. The customs authorities shall handle relevant formalities for such importer or exporter as fails to present his/her import or export license for dual-use items and technologies or relevant attestation (please refer to Annex IV. for its pattern) from the Ministry of Commerce.

Article 10 These Measures shall be applicable to the administration of the import and export license for temporally-controlled dual-use items and technologies.

Chapter 2. The Application and Issuance of the Import and Export License for Dual-use Items and Technologies

Article 11 The importer or exporter shall, after acquiring the document of approval from relevant administrative authorities in charge, apply, upon this document concerned, to the local issuing authorities for the import or export license for dual-use items and technologies (the enterprise controlled by the central authorities in Beijing shall apply to the License Bureau for the license):

i. The document of approval for the import and export of nuclear, nuclear dual-use items, dual-use biological agents, related chemicals, missile-related items, precursors and chemicals used in production of narcotic drugs and psychotropic substances, and computers shall be the approval sheet for the import or export of dual-use items and technologies issued by the commerce authorities in charge, hereinto, the handling of relevant formalities for the export of nuclear materials shall be based upon the document of approval from the Commission of Science, Technology and Industry for National Defense.

The application of the foreign-funded enterprise for the import or export license shall be based upon the Approval Sheet of the Ministry of Commerce for the Foreign-funded Enterprise on the Import/Export of Precursors and Chemicals used in Production of Narcotic Drugs and Psychotropic Substances.

ii. The document of approval for the import/export of controlled chemicals shall be the approval sheet for the import/export of controlled chemicals issued by the State Leading Group Office for the Implementation of the Convention on the Banning of Chemical Weapons, and the importer/exporter of controlled chemicals shall apply to the License Bureau for the import/export license for dual-use items and technologies.

Article 12 The export of dual-use items and technologies in the forms of international communication, exchange, cooperation, donation, assistance, service etc. shall be regarded as normal export, and the exporter shall, as

stipulated, apply for the export license, and an export license for dual-use items and technologies shall be handled in accordance with these Measures.

Article 13 The application of the import/export license for dual-use items and technologies may be advanced through the Internet, and when import/export license for dual-use items and technologies is applied for, these documents as follows shall be submitted:

i. Relevant document of approval as stipulated in Article XI. of these Measures; and ii. The original copy of the official letter (letter of introduction) of the importer/exporter, the effective identity certificate of the receiver of the importer/exporter, and the application form for the import/export license for dual-use items and technologies submitted through the Internet.

With regard to such special circumstances as that the applicant/receiver is of different locality from the issuing authorities, etc., as result of which, other person needs to be entrusted to apply/receive the import/export license for dual-use items and technologies, the entrustee shall submit the original copy of the official letter of entrust (thereinto the reason for entrust and the identity of the entrustee shall be specified) issued by the importer/exporter and the effective identity certificate of the entrustee.

Article 14 The issuing authorities, after receiving the document of approval (including electronic text and data) and relevant documents issued by relevant administrative authorities in charge and checking for faults, issue the import/export license for dual-use items and technologies within 3 work days.

Article 15 The import license for dual-use items and technologies shall be subject to the mechanisms of "one license, more uses" and "one license to one customs", and such words as "not used for once only" shall, at the same time, be printed in the remark column of the import/export license for dual-use items and technologies.

The export license for dual-use items and technologies shall be subject to the mechanisms of "one license, one use" and "one license to one customs". In case that the export license for the same commodity subject to the same contract needs to be handled lot by lot, the exporter shall, upon application, submit documents of approval of corresponding quantity for the export of dual-use items and technologies issued by relevant administrative authorities in charge. And the number of lots for the same turn of application shall not exceed 12 at most.

The mechanism of "one license, more uses" refers to that such license may be used for more than once but less than twelve times within its term of validity and that the customs authorities shall sign on each imported volume of goods on the column of "Customs Clearance Remark" at the back of such license; the mechanism of "one license, one use" refers to that such license may only be used once upon declaration; and the mechanism of "one license to one customs" refers to that such license may only be used for declaration upon one customs.

Article 16 The import/export license for dual-use items and technologies is of four copies in duplicate, among which, the first copy is used for the customs authorities to handle formalities, the second copy for the customs authorities to keep record and check, the third copy for the bank to handle settlement of exchange, and the fourth copy for the issuing authorities to keep record.

Article 17 The importer/exporter, when applying for the import/ export license for dual-use items and technologies, shall act according to the facts and practice no fraud, and such fraudulent and illicit means as using counterfeit contracts and documents are strictly prohibited in obtaining the import/export license for dual-use items and technologies.

Chapter 3. Treatment for Special Cases

Article 18 The exceeded volume of the large and/or bulk dual-use items subject to the mechanism of "one license, one use", upon customs declaration, shall not be above 5% of the given volume in the export license for dual-use items and technologies. With regard to the large and/or bulk dual-use items subject to the mechanism of "one license, more uses", each actual import volume of them shall be deducted from the total licensed volume, and when the last import volume under the same license undergoing customs declaration, the exceeded amount shall be calculated according to the actual remaining licensed volume, which shall be within 5% of the given upper limit for exceeded volume.

Article 19 With regard to the items on display for the exhibitions in the areas without the territory of the People's Republic of China, the exporter shall, upon the document of approval issued by the examination and approval authorities in charge of economic and trade exhibitions in the areas without the territory of the People's Republic of China, apply, as stipulated, for the export license for dual-use items and technologies, and such license shall be handled in accordance with these Measures.

With regard to the not-for-sale items on display, such words as "notfor-sale items on display" shall be specified in the remark column of the export license for dual-use items and technologies. And the exporter shall, within 6 months as of the end of the exhibitions, transport exactly the not-for-sale items on display concerned into the territory of the People's Republic of China, and the customs authorities shall verify and cancel these items concerned upon the exit documents. Under special circumstances, a deferment may be applied for to the customs authorities, and such deferment shall not be above 6 months at most.

Article 20 Such sample goods or experimental samples belonging to the category of dual-use items and technologies as are to be transported into the territory without the People's Republic of China shall be regarded as

normal export, and the exporter shall apply, as stipulated, for the export license for dual-use items and technologies, and such license shall be handled in accordance with these Measures.

Article 21 The precursors and chemicals used in production of narcotic drugs and psychotropic substances and potassium permanganate carried about by the entry-exit personnel shall be subject to the provisions in the Regulations of the People's Republic of China on the Administration of Precursors and Chemicals used in Production of Narcotic Drugs and Psychotropic Substances, accepting supervision and control from the customs authorities.

Article 22 Another provisions, if existing, for the administration of such specially-supervised exported dual-use items and technologies as the parts and components for civil aviation etc. shall be abided by.

Article 23 Relevant prerequisites shall be necessary for the exporter dealing with such dual-use items and technologies as involved in the state-owned trade management and the commodities subject to export quota.

Chapter 4. Supervision and Inspection

Article 24 The import/exit license for dual-use items and technologies shall be exclusively used by the applicant of such license.

No import/exit license for dual-use items and technologies may be sold, transferred, altered, forged or changed.

Article 25 The import/exit license for dual-use items and technologies shall be used within the approved term of validity, and shall be automatically invalidated when the term of validity expires, and no clearance may be granted by the customs authorities.

Article 26 The term of validity of no import/exit license for dual-use items and technologies may, in general, exceed 1 year.

The import/exit license for dual-use items and technologies may be used transannually but with a term of validity to March 31 of the next year; and a license, if the term of validity expires, may be reissued by the issuing authorities in accordance with the term of validity of the former license.

Article 27 Once an import/exit license for dual-use items and technologies is issued, no unit or individual may alter the contents of such license.

Where there is necessity to alter the contents of such license, the importer/exporter shall, within the term of validity of such license, reapply to relevant administrative authorities in charge for the permit of import/export, and apply, upon the former license and the new document of approval, to the issuing authorities for the import/exit license for dual-use items and technologies.

Article 28 The importer and consignee as specified in the import license for dual-use items and technologies shall be consistent with the dealing unit and consignee unit specified in the customs declaration form for imported goods; and the exporter and consignor as specified in the export license for dual-use items and technologies shall be consistent with the dealing unit and consignor unit specified in the customs declaration form for exported goods.

Article 29 In case that such an import/exit license for dual-use items and technologies as has been received is lost, the importer/exporter shall timely report in written form to relevant administrative authorities in charge, to the issuing authorities of the lost license and to the customs authorities at such port as specified in the lost license, and publish in the national economic newspapers and periodicals a "lost property notice", upon which, the issuing authorities shall cancel this lost license after ascertaining that it

has not been used in customs clearance, and reissue a new license in accordance with the contents of the former license.

Article 30 The importer/exporter shall well keep the documents for the import/export of dual-use items and technologies and relevant data for five years, ready for the inspection of relevant administrative authorities in charge.

Article 31 Any unit or individual shall be encouraged to report to the Ministry of Commerce and the customs authorities about the importer/exporter's acts in violation of the provisions in relevant national laws, regulations and these Measures. The Ministry of Commerce and the customs authorities shall keep secret for the reporters, and investigate in and prosecute these acts possibly in violation of laws and regulations; if checked and found to be true, the authorities in charge may, as stipulated, grant rewarding to the reporters.

Article 32 The issuing authorities shall timely transmit the licenseissuing data so as to guarantee the importer/exporter's smooth customs declaration and the examination of the customs authorities; the examination data feed backed by the customs authorities shall be earnestly treated, and a periodical inspection shall be made on the utilization of the import/exit license for dual-use items and technologies so as to find out the existing problems. The License Bureau shall quarterly submit to the Ministry of Commerce the checked examination data feed backed by the customs authorities.

Article 33 No issuing authorities may, exceeding or beyond their powers, issue the import/exit license for dual-use items and technologies, and such license issued in such ways shall be invalid.

The Ministry of Commerce shall revoke such aforesaid license, once detected. And the issuing authorities shall give clear replies to the problems

concerning the aforesaid license discovered by the customs authorities during their daily supervision and control or their case-treatment.

Article 34 Authorized by the Ministry of Commerce, the License Bureau shall inspect the issuing authorities. The inspection shall include the implementation of these Measures by the issuing authorities, and stress shall be put on the inspection of such problems as the possible illicit license-issuing of the issuing authorities by exceeding or beyond their powers and other violations of these Measures. The inspection mode shall be a combination of the periodical or unperiodical self-inspection by the issuing authorities themselves and the selective inspection by the License Bureau. The License Bureau shall submit the results of inspection to the Ministry of Commerce.

Chapter 5. Legal Liabilities

Article 35 Anyone who imports/exports dual-use items and technologies without approval or beyond the licensed extent shall be punished in accordance with relevant laws and administrative regulations, and if a crime is constituted, criminal responsibilities shall be investigated according to law.

Article 36 Anyone who smuggles dual-use items and technologies in violation of the provisions in these Measures shall be granted administrative penalties by the customs authorities in accordance with the Customs Law of the People's Republic of China and the Implementation Regulations of the People's Republic of China on Customs Administrative Penalties, and if a crime is constituted, criminal responsibilities shall be investigated according to law.

Article 37 Anyone who forges, alters or trades an import/export license for dual-use items and technologies shall be investigated for criminal liabilities according to law in accordance with the provisions in the Criminal

Code on the crimes of illegal business, or of forging, altering or trading the documents, certificates and seals of the state organs, and if the circumstance is not serious enough to be subject to criminal penalties, an administrative penalty shall be given in accordance with the Customs Law of the People's Republic of China and the provisions in other relevant laws and administrative regulations.

Anyone who acquires the import/export license for dual-use items and technologies by fraudulence and other illicit means shall be revoked of his/her license according to law by the Ministry of Commerce, and be administered a warning, or be imposed a fine of less than RMB 30,000 Yuan.

Article 38 Anyone who, in violation of the provisions in Article XIX., fails to transport back on schedule and exactly the non-for-sale items on display subject to the administration of the export license for dual-use items and technologies and to render them for verification and cancellation by the customs authorities, shall, in accordance with relevant provisions, be disposed by the customs authorities, who then shall report relevant situations to the Ministry of Commerce and the examination and approval authorities in charge of economic and trade exhibitions in the areas without the territory of the People's Republic of China. And the exporter concerned shall be administered a warning by the Ministry of Commerce or be imposed a fine of less than RMB 10,000 Yuan.

Article 39 In accordance with the Foreign Trade Law of the People's Republic of China, the Ministry of Commerce may, within the time limit of more than 1 year and less than 3 years as of the date of entry into force of the administrative penalty decision in accordance with the provisions in from Article XXXV. to Article XXXVIII. or of the criminal penalty verdict, forbid the violator from engaging in relevant business activities related to foreign trade.

Article 40 The Ministry of Commerce may suspend or cancel the license-issuing entrustment of such issuing authorities as violate Article

XXXIII. of these Measures by issuing license through exceeding or beyond their powers.

Article 41 The employees of the issuing authorities, who commit such activities as neglecting their duties, engaging in malpractice for personal gain, or abusing their power, which constitute crimes, shall be investigated for criminal responsibilities according to law; and if crimes are not constituted, they shall be transferred from their posts and be given administrative sanctions according to law.

Chapter 6. Supplementary Provisions

Article 42 Where the Ministry of Commerce makes readjustments on the entrusted issuing authorities, the former issuing authorities, as of the date of readjustment, shall no longer issue the import/export license for dual-use items and technologies. And such import/export license for dual-use items and technologies as the importer/exporter has received before the date of readjustment shall still be valid during its term of validity.

Article 43 The Ministry of Commerce and the General Administration of Customs are responsible for the interpretation of these Measures in accordance with their respective duties.

Article 44 These Measures shall enter into force as of the date of January 1, 2006.

And Interim Measures for the Administration of Export License for Sensitive Items and Technologies (Decree No.9 of the Ministry of Commerce and the General Administration of Customs in 2003, Announcement No.74 of the Ministry of Commerce and the General Administration of Customs in 2003), Circular of the General Administration of Customs on the Issue concerning the Exit Supervision and Control of Enterprises Dealing such Services as Aviation Engine Repair etc. in Bonded

Zones (Shu Fa Fa [2004] No.235), Circular of the General Offices of the General Administration of Customs and the Ministry of Foreign Trade and Economic Cooperation on the Issue concerning the Examination and Clearance of Export License for Sensitive Items and Technologies by the Customs Authorities (Shu Ban Fa [2002] No.89) and Circular of the Department of Politics and Law and the Department of Supervision and Control on the Issue concerning Specifying the Supervision and Control of the Customs Authorities on Export License for Sensitive Items and Technologies (Zheng Fa Han [2004] No.2) shall be annulled as of the same date.

And these Measures shall prevail in case that any conflict occurs between these Measures and Measures for the Administration of License for the Export of Goods (Decree No.27 of the Ministry of Commerce) and Measures for the Administration of License for the Import of Goods (Decree No.28 of the Ministry of Commerce).

Measures of the People's Republic of China for the Administration of the Export Registration of Sensitive Items and Technologies

(Order No.35 in 2002 of the MOFTEC of China)

The Measures of the People's Republic of China for the Administration of the Export Registration of Sensitive Items and Technologies have been formulated on the basis of the Regulation of the People's Republic of China on Controlling the Export of Dual-purpose Nuclear Products and Affiliated Technologies, the Regulation of the People's Republic of China on Controlling the Export of Guided Missiles and Affiliated Items and Technologies, the Regulation of the People's Republic of China on Controlling the Export of Dual-purpose Biological Products and Affiliated Equipments and Technologies, and the Measures for Controlling the Export of Relevant Chemical Products and Affiliated Technologies, and have been adopted at the 11th executive meeting of the MOFTEC. They are hereby promulgated for effect as of November 12, 2002. Shi Guangsheng, Minister of the MOFTEC November 12, 2002

Measures of the People's Republic of China for the Administration of the Export Registration of Sensitive Items and Technologies

Article 1 With a view to regulating the management order of the export of sensitive items and technologies, and enhancing the administration of the export management of sensitive items and technologies, the present Measures have been formulated on the basis of the Regulation of the People's Republic of China on Controlling the Export of Dual-purpose Nuclear Products and Affiliated Technologies, the Regulation of the People's Republic of China on Controlling the Export of Guided Missiles and Affiliated Items and Technologies, the Regulation of the People's Republic of China on Controlling the Export of Dual-purpose Biological Products and

Affiliated Equipments and Technologies, and the Measures for Controlling the Export of Relevant Chemical Products and Affiliated Technologies.

Article 2 The term "sensitive items and technologies" as mentioned in the present Measures shall refer to any of the items and technologies as described in the name lists attached to the Regulation of the People's Republic of China on Controlling the Export of Dual-purpose Nuclear Products and Affiliated Technologies, the Regulation of the People's Republic of China on Controlling the Export of Guided Missiles and Affiliated Items and Technologies, the Regulation of the People's Republic of China on Controlling the Export of Dual-purpose Biological Products and Affiliated Equipments and Technologies, and the Measures for Controlling the Export of Relevant Chemical Products and Affiliated Technologies.

Article 3 Any business operator that engages in the export of sensitive items and technologies (hereafter "business operator") shall apply for registration with the Ministry of Foreign Trade and Economic Cooperation (hereafter "MOFTEC") according to the provisions of the present Measures. No entity or individual may, without being registered, engage in the export of any sensitive item or technology.

Article 4 Any business operator that meet the following conditions may apply to the Department of Scientific and Technologic Development and the Import and Export of Technologies under the MOFTEC (hereafter "the Technology Department") for registration.

(1) Having obtained a certificate of enterprise qualification for import and export or an approval certificate of foreign-funded enterprise upon the approval of the MOFTEC, and having obtained a business license issued by the administrative department of industry and commerce;

(2) Having passed the annual inspections of the administrative department of industry and commerce and the administrative department of foreign trade and economic cooperation;

(3) Having no record of criminal sanctions imposed by the state or administrative punishment imposed by relevant departments for engagement in illegal business operations within the recent three years;

(4) Having knowledge of the performance, indices and major uses of the items and technologies that it applies for management;

(5) Having a department or institution that takes charge of the export and after-sales follow-up services.

Article 5 To apply for registration, a business operator shall truthfully fill in and submit the following materials:

(1) Application Form of the People's Republic of China for the Export Registration of Sensitive Items and Technologies (see Attachment I);

(2) Business License of Legal Person Enterprise (in photocopy);

(3) Qualifications Certificate of an Import & Export Enterprise (in photocopy) or Approval Certificate of a Foreign-funded Enterprise (in photocopy)

Article 6 The Technology Department under the MOFTEC shall, within 10 workdays after receiving the application for registration, decide whether registration is to be granted. Where registration is to be granted, a Registration Certificate of the People's Republic of China for the Export of Sensitive Items and Technologies (hereafter "Registration Certificate", see Attachment II) shall be issued, and to which the Special Seal of the People's Republic of China for Export Control" shall be affixed. In case the materials submitted by the business operator is incomplete and need to be supplemented, the time limit for registration shall be counted as of the day when complete materials are received.

Article 7 No business operator may, in the process of applying for registration, deliberately conceal any true facts, provide any false information or obtain a Registration Certificate by any unlawful means.

Article 8 The Registration Certificate shall be valid to the registered business operator only, and may not be forged, altered, lent, leased or transferred.

Article 9 In case the name of the enterprise is changed or the enterprise is merged, split or rescinded, the business operator shall inform the Department of Technology under the MOFTEC and return the original Registration Certificate in good time. In case it need to continue engaging in the export of sensitive items and technologies, it shall go through registration procedures anew and obtain a new Registration Certificate.

Article 10 A Registration Certificate shall be valid for a term of three years. In case the business operator concerned needs to continue engaging in the export of sensitive items and technologies, it shall accomplish the change of Registration Certificates one month prior to the expiration of the valid term.

Article 11 In case any Registration Certificate is damaged or missing, the business operator concerned shall inform the Department of Technology under the MOFTEC and submit a written explanation in good time. If it needs to continue engaging in the export of sensitive items and technologies, it shall go through the procedures of registration anew, and obtain a new Registration Certificate.

Article 12 A business operator shall, when applying for approval certificates for the export of sensitive items and technologies, show its Registration Certificate.

Article 13 All registered business operators shall, when engaging in the export of sensitive items and technologies, rigidly comply to the laws, regulations and ministerial rules of the state concerning export control, and shall voluntarily accept the administration of the MOFTEC.

Article 14 Any business operator who unlawfully engages in the export of any sensitive item or technology without being registered shall be dealt with according to relevant statutory provisions including the Regulation of the People's Republic of China on Controlling the Export of Dual-purpose Nuclear Products and Affiliated Technologies, the Regulation of the People's Republic of China on Controlling the Export of Guided Missiles and Affiliated Items and Technologies, the Regulation of the People's Republic of China on Controlling the Export of Dual-purpose Biological Products and Affiliated Equipments and Technologies, and the Measures for Controlling the Export of Relevant Chemical Products and Affiliated Technologies, etc.

Article 15 Any business operator that violates the provisions of either Article 7 or 8 or 9 of the present Measures may, apart from being given a warning by the MOFTEC, be punished by having its Registration Certificate canceled according to relevant provisions.

Article 16 In case any registered business operator commits any act of violating any of the laws, regulations or ministerial rules of the state concerning export control in the process of managing the export of sensitive items or technologies, the MOFTEC may, apart from meting out punishments thereto according to relevant statutory provisions, cancel the Registration Certificate thereof according to relevant provisions. The business operator shall, after the Registration Certificate thereof being canceled, go through registration procedures anew before engaging in the export of sensitive items and technologies.

Article 17 The term "photocopy" as mentioned in the present Measures shall refer to one that bears the seal of the certificate issuing organ.

Article 18 The power to interpret the present Measures shall remain with the MOFTEC.

Article 19 The present Measures shall enter into force as of November 12, 2002. The Measures of the People's Republic of China for the (Interim) Administration of the Export Registration of Guided Missiles and Affiliated Items and Technologies shall be repealed concurrently.

Measures for the Classification Administration of Civil Aviation Part Exports

Decree No. 6, 2006 of Ministry of Commerce and General Administration of Customs

Measures for the Classification Administration of Civil Aviation Part Exports have been examined and approved by ministerial working conference of Ministry of Commerce on May 17, 2006 and later by General Administration of Customs.

It is now promulgated and shall be put into effect 30 days as from the date of issuance.

Minister of Ministry of Commerce: Bo Xilai

Director of General Administration of Customs: Mou Xinsheng

August 1, 2006

Measures for the Classification Administration of Civil Aviation Part Exports

Article 1 In order to consummate the control on dual-use facilities and technologies export, and for the convenience of export of civil aviation parts, the Measures are constituted in accordance with Foreign Trade Law of PRC and Regulations on the Export Control of Missiles and Missile-related Items and Technology.

Article 2 Civil aviation parts mentioned in the Measures indicate items of civil aviation usage, which are under control of Regulations on the Export Control of Missiles and Missile-related Items and Technology.

Article 3 The export of civil aviation parts shall be in line with License Classification Administration System.

Article 4 Exporter and operator of civil aviation parts (hereinafter referred to as exporter and operator) shall provide the following materials while applying Export License Reply:

- 1 Export License Application
- 2 Name (model included) and the explanation of the production nation and producer of the civil aviation parts for export
- 3 Export usage, declaration port and situation of importing nation (area)
- 4 Guarantee Document of the exports on complying to the related export regulations and laws
- 5 Other materials required by Regulations on the Export Control of

Missiles and Missile-related Items and Technology

Article 5 The Ministry of Commerce shall handle the applications with all the required materials available and issue Export License Reply to the qualified applications within the examination limit of the Regulations on the Export Control of Missiles and Missile-related Items and Technology.

Article 6 Export and operator shall conduct the clearance procedures for more than once within the period of validity of the Reply, with no limit on declaration number or export amount.

Article 7 The checking and clearance procedures of civil aviation parts export, listed as Item 2 of Article 3, shall be transacted with the original copy of Export License Reply issued by Ministry of Commerce. Then keep a copy of the original document and the Declaration Form as a record. The original copy shall be returned to the export operator.

Article 8 The time of export, type, amount, trade mode, import nation (area), importer, ultimate user, ultimate usage, declaration port and other related information of the civil aviation parts listed in the Export License

Reply shall be submitted to Ministry of Commerce within 30 days as from the end of the validity period of the Export License Reply.

Article 9 The operator shall keep the related documents on civil aviation parts export, including contract, invoice, account book, bill of document, record, document, business letters and telegrams , for at least 5 years in case of spot-check by Ministry of Commerce.

Article 10 Violations of the Measures shall be warned and punished.

Article 11 Ministry of Commerce and General Administration of Customs shall be responsible for the explanation of the Measures respectively in accordance with different responsibilities and functions.

Article 12 The Measures shall be put into effect 30 days as from the issuance date.

Administrative Measures for the General License for the Export of Dual-use Items and Technologies

Chapter I .General Provisions

Article 1 The measures shall in accordance with the Foreign Trade Law of the People's Republic of China and related administrative regulations for the purpose of maintaining national safety and social public interests and improving the export management of dual-purpose items and technologies.

Article 2 Related administrative regulations herein refer to the Regulations of the PRC on the Control of Nuclear Dual-use Items and Related Technologies Export, the Regulations of the PRC on the Export Control of Dual-use Biological Agents and Related Equipment and Technologies, the Regulations of the PRC on Export Control of Missiles and Missile-related Items and Technologies and the Measures on the Export Control of Certain Chemicals and Related Equipment and Technologies.

The dual-use items and technologies herein refer to the items and technologies controlled by the aforesaid related administrative regulations.

Article 3 The general license for the export of dual-use items and technologies herein refers to the act where the Ministry of Commerce checks the application of a dual-use items and technologies operator in accordance with related administrative regulations and the measures and allows the operator to hold the reply of the Ministry to the general license for dual-use items and technologies to apply for the dual-use items and technologies export license to the issuing institution as prescribed in the Measures for Administration on Import and Export Licensing of Dual-use Items and Technologies (No. 29 Decree of the Ministry of Commerce and the General Administration of Customs in 2005) within the valid period.

An export operator should in accordance with related administrative regulations apply for export licensing step by step if failing to obtain the general license for the export of dual-use items and technologies.

Article 4 The Ministry of Commerce shall be national competent authority in charge of the general license for the export of dual-use items and technologies.

The provincial-level competent commerce authority entrusted by the Ministry of Commerce shall in accordance with the measures take responsibility for the routine supervision and administration over the general license for the export of dual-use items and technologies in the local area.

Article 5 The general license for the export of dual-use items and technologies falls into Class-A general license and Class-B general license.

Class-A general license permits an export operator within the valid period to export one or more particular dual-use items and technologies to one or more final customers of one or more particular countries (or regions).

Class-B general license permits an export operator within the valid period to export the same kind of particular dual-use items and technologies to the fixed final customer of the same particular country (or region) many times.

Article 6 The valid period of the general license for the export of dual-use items and technologies shall be no more than three years.

Chapter II .Implementation of General License

Article 7 The state shall conduct stringent inspection on the implementation of the general license for the export of dual-use items and technologies.

The general licensing operator of dual-use items and technologies export (hereinafter referred to as “general licensing operator”)should meet the following requirements:

- (1) being legal foreign trade dealer;
- (2) having establishing the internal-enterprise control system of dual-use items and technologies;
- (3) having engaged in the dual-use items and technologies export for more than two years (inclusive of two years);
- (4) In case an export operator applies for Class-A general license, it should have the amount of applying for dual-use items and technologies export licensing of more than 40 pieces (including 40 pieces) consecutively for two years (including two years); in case applying for Class-B general license, it should have the amount of applying for the same kind of dual-use items and technologies export licensing of more than 30 pieces (including 30 pieces) consecutively for more than two years (including two years);
- (5) not having criminal punishments or administrative penalties by related sectors within the past 3 years;
- (6) having relatively fixed sales channel of dual-use items and technologies and final customers.

Article 8 The general licensing operator should file an application to the Ministry of Commerce for general licensing and submit to the provincial-level competent commerce authority entrusted by the Ministry of Commerce the following application materials:

- (1) dual-use items and technologies export licensing application form;
- (2) specifications for the establishment and operation of the internal-enterprise system of dual-use items and technologies and related supporting documents;
- (3) the security instrument on not having criminal punishment or administrative penalty by related sectors within the past 3 years;
- (4) supporting documents for legal foreign trade operator;
- (5) specifications for engaging in dual-use items and technologies export business, including statements of application and utilization for and of dual-use items and technologies export license in recent two years; statements of dual-use items and technologies sales channels and customers,

including the relation with dealers, dealing situation, importers and final customers;

(6) category of the general license for the export of items and technologies to be applied for and related documents on technical specifications;

(7) security instruments claimed from the final customers or those of final customers and final use supporting documents before the execution of each contract in accordance with related administrative regulations;

(8) other documents submitted at the request of the competent authority.

The application form of the general license for the export of dual-use items and technologies shall be uniformly formulated by the Ministry of Commerce.

Article 9 The provincial-level competent commerce authority entrusted by the Ministry of Commerce shall submit the application materials to the Ministry of Commerce within 10 working days upon receiving the documents as prescribed in Article 8 of the measures, and the Ministry of Commerce shall in accordance with related administrative regulations conduct examination independently or together with related departments and make the decision on whether or not to grant permission. In case permission is granted, the Ministry of Commerce shall sign and issue the reply to the general license for the export of dual-use items and technologies; in case no permission is granted, reasons shall be stated.

In the examination, the Ministry of Commerce or its entrusted provincial-level competent commerce authority shall have an interview with major management personnel of the enterprise according to requirements to understand the establishment and implementation of the internal-enterprise export control system, and even conduct on-site investigation into the enterprise if necessary.

In the examination, the Ministry of Commerce may entrust experts and consultant agencies to assess the establishment and operation of the internal-enterprise export system. Experts and consultant agencies shall be

confirmed by the Ministry of Commerce and promulgated by way of public announcement.

Article 10 The general license shall not be the following circumstances:

(1)the enterprise has established the complete internal control system but not confirmed its effective implementation;

(2)related competent administrative authorities deem there exist export risk spreading and other situations not for the general license.

Article 11 The general licensing operator should in accordance with relevant administrative regulations apply for export licensing step by step if having no way to judge whether the items and technologies to be exported are in compliance with related administrative regulations or whether the items and technologies to be exported belong to the general licensing scope.

Article 12 The reply to the general license for the export of dual-use items and technologies shall be strictly prohibited from being forged, altered, traded or transferred; and the utilization of the reply to the general license for the export of dual-use items and technologies beyond the permission scope or illegal activities of harassing the market competition order by utilizing the reply to the general license for the export of dual-use items and technologies shall be strictly prohibited.

Chapter III. Application for Dual-purpose Items and Technologies Export License

Article 13 The general licensing operator shall hold the reply documents affixed with the official seal of the enterprise to the institution issuing the dual-use items and technologies export license as prescribed in the Measures for Administration on Import and Export Licensing of Dual-use Items and Technologies to apply for the dual-use items and technologies export license after gaining the reply issued by the Ministry of Commerce to the general license for the export of dual-use items and technologies.

Other procedures for the application for the dual-use items and technologies export license shall be subject to the Measures for Administration on Import and Export Licensing of Dual-use Items and Technologies.

Chapter IV .Obligations of General Licensing Operator

Article 14 The general licensing operator should in accordance with the state policies, laws and regulations related to export control effectively carry out the internal-enterprise control system.

Article 15 The general licensing operator should truthfully offer application materials and properly keep the security instruments as prescribed in related administrative regulations or specifications for final customers and final application as well as contracts, invoices, account books, receipts, records, documents, business correspondence and other materials for five years.

Article 16 The general licensing operator should immediately suspend or quit related export activities, adopt necessary remedy measures and timely report to the Ministry of Commerce and its entrusted provincial-level competent commerce authority when knowing or being supposed to know, or being notified by the Ministry of Commerce or its entrusted provincial-level competent commerce authority, or finding the risk of impairing the state security and social public interests in the items and technologies to be exported while engaging in the export of dual-use items and technologies.

Article 17 The general licensing operator should within the valid period of general licensing take initiative to know about the policies, laws and regulations for the management on the export of dual-use items and technologies and participate in related trainings by competent commerce authorities.

Article 18 The general licensing operator should based on the requirements of the internal-enterprise control system inspect the implementation status, truthfully report to the Ministry of Commerce and its entrusted provincial-level competent commerce authority the illegal activities of the enterprise and proactively coordinate with the Ministry of Commerce and its entrusted provincial-level competent commerce authority to do well related work.

Article 19 The general licensing operator should within six month of the valid period of general licensing and 30 days upon the expiration of the general licensing validity report to the Ministry of Commerce and its entrusted provincial-level competent commerce authority the general licensing utilization status, including time of dual-use items and technologies export, category of items, specifications, quantity, modes of trade, exporting country (region), importer, final customers, final application as well as transport pathway and port of clearance.

Chapter V. Supervision and Administration

Article 20 The Ministry of Commerce should timely issue policies, laws and regulations related to export administration and control via “the administrative platform of export administration and control” or other media and conduct the training of related policies, laws and regulations for the general licensing operators.

Article 21 The Ministry of Commerce, its entrusted provincial-level competent commerce authority and its entrusted exports consultant agency may in accordance with the requirements of the general licensing operator provide related trainings and technical guidance.

Article 22 The Ministry of Commerce and its entrusted provincial-level competent commerce authority may conduct supervision and inspection on the general licensing operator and even on-site examination

when necessary. The general licensing operator should offer coordination and assistance and truthfully provide related situations and materials.

Article 23 The Ministry of Commerce or its entrusted provincial-level competent commerce authority may conduct inspection over the implementation of the internal-enterprise control system in the forms of inquiring related working staff, consulting and copying the stored data as prescribed in Article 14 of the measures and raise rectification opinions while conducting on-site inspection.

Article 24 Inspectors shall be no fewer than 2 persons and show legitimate documents when conducting on-site inspection. In case inspectors are fewer than 2 persons or fail to show legitimate documents, the general licensing operator shall have the right to refuse to be inspected.

Article 25 For the export activities impairing the state safety and social public interests, the Ministry of Commerce or its entrusted provincial-level competent commerce authority shall in accordance with related administrative regulations and the measures require the general licensing operator of dual-use items and technologies export to suspend or quit the export of related items and technologies, and even revoke the general license or adopt any necessary measures to maintain the state safety and social public interests when necessary.

Chapter VI. Legal Responsibility

Article 26 In case the general licensing operator exports dual-use items and technologies without the general license, or forges, alters, trades or transfers the reply to the general license for the export of dual-use items and technologies, or gains the general license for the export of dual-use items and technologies by deception and any other legitimate means, or exports dual-use items and technologies beyond the general licensing scope, it shall

be punished according to related administrative regulations; and if his act constitutes a crime, criminal liability shall be investigated according to law.

Article 27 In case the general licensing operator violates Chapter IV of the measures, the Ministry of Commerce may order him to make corrections with the fixed time limit; and if the case is serious, the general export license shall be revoked and penalty granted according to related administrative regulations.

Chapter VII. Supplementary Provisions

Article 28 The Ministry of Commerce shall be responsible for interpretation of the measures.

Article 29 The measures shall enter into force as July 1, 2009.

“The European Union is made up of 28 Member States who have decided to gradually link together their know-how, resources and destinies. Together, during a period of enlargement of 50 years, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms.

The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders”.

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