

China's New Export Control Law is Now in Effect

Companies that export from China or use controlled items in China need to be aware of the new law.

The People's Republic of China, in a long-overdue action, enacted a comprehensive Export Control Law. The law passed the National People's Congress on 17 October 2020 and went into effect on 01 December 2020.

The Export Control law combines numerous Chinese export laws that had been scattered in various legal provisions and administrative regulations. One important aspect, using US law as a model, is the extra-territorial reach of some of the provisions. An unofficial copy of the Export Control Law in English and Mandarin can be found [here](#) (thanks to Covington & Burling).

China's Export Control Law regulates the export of all goods, material, equipment, technology, and services related to national security and interests, including dual-use, military, and nuclear. Note that the term "national security and interests" is very broad, is vaguely defined, and gives the Chinese authorities broad discretion to determine what is in the national interest. Exporters are given the responsibility of making that determination on their own, even without comprehensive guidance.

As with other jurisdictions, China now requires End Use and End User certificates. Transfer of the controlled items without the consent of the export control authority is prohibited.

Another important component of China's Export Control Law is a provision that allows for retaliation (reciprocal measures) in response to the "abuse" of export control restrictions by other countries. Think USA here, but Japan, Taiwan, and the EU have also recently tightened export control restrictions on exports to China. It will be interesting to see how China implements this provision.

Penalties can be harsh – up to the equivalent of US \$700,000 per violation. The exporter can also lose the ability to export for up to five years. The Export Control Law provides for but does not require an internal compliance program to manage exports. The Chinese government encourages exporters to create an export compliance program. Prudent companies will follow that recommendation.