

## Translation



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The following document is China's draft regulation on export controls on dual-use items. This regulation, when finalized, will replace existing, separate regulations governing export controls on missile-related dual-use items and on nuclear, biological, and chemical weapons-related dual-use items. The PRC Ministry of Commerce is soliciting public feedback on this draft regulation through May 22, 2022.

### Title

Export Control Regulations for Dual-Use Items (Draft for Feedback)  
两用物项出口管制条例 (征求意见稿)

### Author

The Department of Treaties and Laws (条约法律司) of the PRC Ministry of Commerce (MOFCOM; 商务部)

### Source

MOFCOM website, April 22, 2022.

The Chinese source text is available online at:

<http://images.exportcontrol.mofcom.gov.cn/attach/202204/22/20220422093935331.doc>

An archived version of the Chinese source text is available online at: <https://perma.cc/D5B4-BSSR>  
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### Translator

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## Export Control Regulations for Dual-Use Items (Draft for Feedback)<sup>1</sup>

### Chapter I General Provisions

#### Article 1

In order to safeguard national security and interests, perform nonproliferation and other international obligations, and strengthen and regulate the control of dual-use items, these Regulations are formulated in accordance with the *Export*

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<sup>1</sup> Translator's note: The feedback period for this draft regulation runs from April 22, 2022 to May 22, 2022, according to a notice published on MOFCOM's export control information website. See “关于《两用物项出口管制条例(征求意见稿)》公开征求意见的通知” [“Notice on the Public Solicitation of Feedback on the Export Control Regulations for Dual-Use Items (Draft for Feedback)”], 中国出口管制信息网 [China Export Control Information], April 22, 2022, <https://perma.cc/9BN4-AGJE>.

*Control Law of the People's Republic of China* (hereinafter referred to as the Export Control Law).

## **Article 2**

These Regulations shall apply to the export control of dual-use items by the State.

As used in these regulations, "export control" shall mean the banning or restricting by the State of transfers of controlled items from within the People's Republic of China to overseas, as well as the provision of controlled items by citizens, legal persons, or unincorporated organizations of the People's Republic of China to foreign organizations and individuals.

As used in these Regulations, "dual-use items" shall mean goods, technologies, and services that have civilian uses and also have military uses or contribute to the enhancement of military potential, in particular those that can be used for the design, development, production or use of weapons of mass destruction (WMD) and their means of delivery.

## **Article 3**

Dual-use item export control work shall adhere to the holistic approach to national security (总体国家安全观), maintain international peace, integrate security and development, and improve dual-use item export control management and services.

## **Article 4**

The State implements a unified dual-use item control system, carrying out management through control list formulation, implementation of export licensing, and other methods.

## **Article 5**

The State Council department in charge of commerce (国务院商务主管部门) shall be responsible for dual-use item export control work. Other relevant departments of the State Council shall be responsible for relevant work in accordance with their division of duties.

The National Mechanism for Coordinating Export Controls for Dual-Use Items (国家两用物项出口管制工作协调机制) is responsible for the integrated coordination of major matters of dual-use item export control. The State Council department in charge of commerce and other relevant departments of the State Council shall cooperate closely and strengthen information sharing.

The commerce departments of provinces, autonomous regions, and provincial-level municipalities shall assist in carrying out dual-use item export control-related work such as license acceptance, supervision and inspection, and investigation.

## **Article 6**

The State Council department in charge of commerce, together with other relevant departments, shall establish a dual-use item export control expert advisory mechanism (两用物项出口管制专家咨询机制), which shall provide advisory opinions on the formulation and adjustment of dual-use item export control laws, regulations, rules, and policies, control list compilation and adjustment, identification of items, review and approval of export applications, etc.

The dual-use item export control expert advisory mechanism shall be composed of experts in relevant fields. When issuing advisory opinions, experts shall follow the principles of objectivity, fairness, and rigorousness.

## **Article 7**

The State Council department in charge of commerce shall formulate, adjust, and publish dual-use item export control guidelines in due course to guide exporters in establishing and improving internal compliance systems for dual-use item export control, and to regulate their operations. Where exporters establish internal compliance systems for dual-use item export control, and their operation is good, the State Council department in charge of commerce can grant them general licenses (通用许可) to export dual-use items, and other facilitative measures.

Corresponding export control compliance systems can be established for operators that provide agents, freight, delivery, customs clearance, third-party e-commerce trading platforms, financial services, and other services for the export of dual-use items.

The State Council department in charge of commerce may organize and carry out the evaluation of enterprises' internal compliance operations for the control of dual-use item exports.

## **Article 8**

Dual-use item exporters, and relevant organizations and individuals, may establish and participate in relevant chambers of commerce, associations, and other self-regulatory organizations in accordance with law.

Relevant chambers of commerce, associations, and other self-regulatory

organizations shall comply with the provisions of laws and administrative regulations, provide export control-related services to their members in accordance with their charters, guide their members in strengthening internal compliance, and give full play to their coordination and self-discipline roles.

### **Article 9**

The State Council departments in charge of commerce and foreign affairs, together with other relevant departments, shall strengthen international cooperation on dual-use item export controls, and participate in the formulation of international rules related to export controls.

The State Council department in charge of commerce shall carry out cooperation and exchanges on export controls with other countries or regions, international organizations, etc., based on the international treaties concluded or participated in, or in accordance with the principle of equality and reciprocity. Other relevant departments of the State Council shall be responsible for relevant work in accordance with their division of duties.

### **Article 10**

The State Council department in charge of commerce, in accordance with the principle of equality and reciprocity, shall issue and manage the *End User and End Use Statement* (最终用户和最终用途说明) for other countries and regions according to their applications. Applicants shall strictly comply with the commitments made in their applications for the *End User and End Use Statement*.

Measures for management of the *End User and End Use Statement* shall be separately stipulated by the State Council department in charge of commerce.

## **Chapter II Control Policies, Control List, and Control Measures**

### **Section 1. Control Policies**

#### **Article 11**

The State Council department in charge of commerce, together with other relevant departments, shall formulate and adjust policies on dual-use item export controls, and major policies should be reported for approval to the State Council, or to the State Council and the Central Military Commission (CMC).

#### **Article 12**

The State Council department in charge of commerce, together with other

relevant departments of the State Council such as the department in charge of foreign affairs, shall assess dual-use item export destination countries and regions, determine their risk levels, and take appropriate control measures.

Assessment factors to consider include:

1. Effect on national security and interests,
2. The need to fulfill international obligations as determined by international conventions and UN Security Council resolutions, etc., to which China is a party,
3. Foreign policy needs,
4. Their cooperation with China in the field of export control,
5. Other factors that need to be considered.

## **Section 2. Control List**

### **Article 13**

The State Council department in charge of commerce, together with other relevant departments, shall develop and adjust a dual-use item export control list and publish it in a timely manner, in accordance with the Export Control Law and the provisions of these Regulations, based on dual-use item export control policies, and in accordance with the prescribed procedures. The list of items shall set control codes.

In formulating and adjusting the export control list of dual-use items, appropriate methods shall be adopted to solicit feedback and conduct the necessary industry surveys and evaluations, taking into account the following factors:

1. The effect on national security and interests,
2. The effect on performance of nonproliferation and other international obligations.

### **Article 14**

When the State Council department in charge of commerce, together with other relevant departments, implements temporary controls, it shall publicly announce the items and the periods for the temporary controls to be implemented. The implementation periods for temporary controls shall not exceed two years.

Before the expiration of the implementation periods for temporary controls, the State Council department in charge of commerce shall carry out timely assessment, and handle each according to the results of the assessment:

1. Where the conditions for the implementation of a control are no longer met,

an announcement shall be issued canceling the temporary control measures,

2. Where the conditions for the implementation of a control are still met, but inclusion on the dual-use item export control list is not yet appropriate, an announcement shall be issued extending the temporary control measures, with the extension of the period not to exceed two years,

3. Where inclusion on the dual-use item export control list is appropriate, a temporarily controlled item should be included on the dual-use item export control list.

### **Article 15**

Based on the need to safeguard national security and interests, and to implement nonproliferation and other international obligations, the State Council department in charge of commerce, together with other relevant departments, may, with the approval of the State Council or the State Council and the CMC, prohibit the export of dual-use items, or prohibit the export of dual-use items to specific countries and regions or specific organizations and individuals, and it shall announce such prohibitions.

## **Section 3. Licensing System**

### **Article 16**

The State shall implement a licensing system for the export of dual-use items on the dual-use item export control list and for dual-use items subject to temporary controls.

An individual license allows an exporter to make a one-time export of one kind of dual-use item to a single end user within the validity period of the license. A general license allows an exporter to export multiple kinds of dual-use items to multiple end users within the scope and validity period stated in the license.

### **Article 17**

In accordance with the *Export Control Law*, the State Council department in charge of commerce, either by itself or together with other relevant departments, shall conduct reviews of dual-use item export applications, and make decisions to grant or deny licenses. Where decisions are made to grant licenses, the export licenses shall be issued uniformly by the State Council department in charge of commerce. Where decisions are made to deny licenses, applicants shall be informed in a timely fashion and told the reasons.

### **Article 18**

The State Council department in charge of commerce shall make a decision to grant or deny a license within forty-five working days from the date of acceptance of the license application. Where a decision cannot be made within forty-five working days, an extension of ten working days may be made with the approval of the State Council department in charge of commerce, and the applicant should be informed of the reasons for the extended deadline.

For the export of dual-use items that would have a significant impact on national security and interests or on foreign policy, the State Council department in charge of commerce may make the decision after submission to and approval by the State Council, or the State Council and the CMC; the time required for approval is not counted in the period stipulated in the first paragraph.

Where the State Council department in charge of commerce needs to organize an expert review of an export application, the time required is not counted in the period stipulated in the first paragraph.

#### **Article 19**

The validity period of a single license for the export of dual-use items is generally not to exceed one year, and the validity period of a general license is not to exceed two years.

#### **Article 20**

Where an application is made for the export of dual-use items, the application shall be submitted to the State Council department in charge of commerce, the dual-use item export application form shall be filled out truthfully, and the following documents shall be submitted:

1. A copy of the contract or agreement for the export of dual-use items,
2. Technical descriptions or test reports of the dual-use items,
3. The End-User and End-Use Certificate (最终用户和最终用途证明),
4. Descriptions of the importer and end user,
5. The proof of identification of the applicant's legal representative, main business manager and dealer(s);
6. Other documents required by the State Council department in charge of commerce.

#### **Article 21**

Where a license for the export of dual-use items has been received and needs to be changed, the exporter may apply to the State Council department in charge of commerce, and the State Council department in charge of commerce shall decide to allow or not allow the change after its review.

## **Article 22**

Where the State Council department in charge of commerce finds that the following risks exist in the export of dual-use items, it shall withdraw the relevant licenses that are within their validity periods, and promptly notify the exporters.

1. May harm national security and interests,
2. May be used to design, develop, produce, or utilize WMD or to serve as the means of delivery for such weapons,
3. May be used for the purposes of terrorism.

## **Article 23**

Exporters that meet the following conditions may apply for a general license to export dual-use items:

1. An internal compliance system for dual-use item export control has been established and its operation is good,
2. It has engaged in the dual-use item export business for at least two years (inclusive), and has obtained dual-use item export licenses multiple times,
3. It has corresponding fixed sales channel(s) and final user(s),
4. Other conditions stipulated by the State Council department in charge of commerce.

When an exporter applies for a general license, it must submit materials proving its compliance with the above conditions to the State Council department in charge of commerce.

## **Article 24**

An exporter that obtains a general license shall regularly report its license usage circumstances to the State Council department in charge of commerce, and accept inspections.

## **Article 25**

Dual-use item exports can be exempted from license application in the



following circumstances:

1. Re-transporting back to the original place of export after entry for overhauling, testing, or inspection for a reasonable period of time,
2. For participation in exhibitions held in the People's Republic of China, re-transporting back to the original place of export immediately after the end of the exhibition,
3. Civilian aircraft parts being sent out of the country for maintenance,
4. Other circumstances stipulated by the State Council department in charge of commerce.

Where an exporter believes that an export conforms to the above circumstances, it shall register with the State Council department in charge of commerce. Where an exporter knows or should know that an export does not conform to the above circumstances, it shall suspend exportation; to continue to export, it shall apply to the State Council department in charge of commerce for permission. The State Council department in charge of commerce may require an exporter in the above paragraph to immediately stop exportation, and shall so notify the exporter.

Specific measures for exemption from export license application shall be stipulated by the State Council department in charge of commerce.

## **Article 26**

A general license or exemption from license application is not applicable in the following circumstances:

1. The exporter has received criminal or administrative punishment within the last five years due to export control violations,
2. Within the past year, the exporter has been subject to regulatory talks (监管谈话) by a department in charge of commerce, or has received a warning letter, because its activity or behavior poses a risk of violating dual-use item export controls,
3. Other circumstances stipulated by the State Council department in charge of commerce.

## **Article 27**

In exporting goods, technology, and services other than dual-use items listed in the dual-use item export control list or subject to temporary controls, where an exporter knows or should know, or receives notification from the State Council department in charge of commerce, that exporting the relevant goods, technology, and

services may have the following risks, the exporter shall actively take measures to suspend exportation, and if they still need to be exported, the exporter should apply to the State Council department in charge of commerce for permission:

1. May harm national security and interests,
2. May be used to design, develop, produce, or utilize WMD or to serve as the means of delivery for such weapons,
3. May be used for the purposes of terrorism.

Where an exporter discovers, within three years after exporting has been completed, that the exported goods, technology, or services had any of the risks specified in the first paragraph, it shall promptly report this to the State Council department in charge of commerce.

### **Section 3. End User and End Use Certificate Management**

#### **Article 28**

When an exporter applies for an export license, it shall submit end user and end use certification documents (最终用户和最终用途证明文件). The State Council department in charge of commerce may, as needed, require exporters to also submit end use and end user certification documents issued by governmental organizations of the countries or regions where the end users are located.

Where an exporter discovers issues such as end user and end use certification documents that are false, expired, or were obtained by fraud, bribery, or other improper means, it shall promptly report this to the State Council department in charge of commerce, and assist the State Council department in charge of commerce in conducting verification of the relevant matters.

#### **Article 29**

End users of dual-use items shall, in accordance with the requirements of the State Council department in charge of commerce, make commitments in their End User and End Use Certificates. The end use of the relevant controlled items shall not be changed or transferred to any third party without the permission of the State Council department in charge of commerce.

#### **Article 30**

Where dual-use items that have already been exported do require a change of end user or end use, it shall be approved by the State Council department in charge of commerce, and only afterwards may such change be made within the scope permitted.

End users and importers may contract with (委托) exporters in the original country to submit applications to the State Council department in charge of commerce.

Where exporters and importers discover that the end user or end use of relevant dual-use items has changed or may change, they shall immediately report this to the State Council department in charge of commerce. Where exportation has not yet occurred or there has been partial exportation, the exportation shall be suspended immediately.

### **Article 31**

Where, upon investigation by the State Council department in charge of commerce, the circumstances specified in the first paragraph of Article 18 of the Export Control Law are found to exist for an importer or end user, the State Council department in charge of commerce shall include them on the control list (管制名单).

For the importers and end users on the control list, the State Council department in charge of commerce may take the following measures against their exports of dual-use items:

1. Prohibit all or some exports,
2. Disapprove relevant license applications,
3. Withdraw relevant licenses already issued,
4. Order the termination of relevant exports not already completed,
5. Other necessary measures.

### **Article 32**

Importers may not do business with importers or end users who have violated the rules and have been added to the control list. Where, under special circumstances, an exporter does need to carry out a dual-use item transaction with an importer or end user listed on the control list, it may apply to the State Council department in charge of commerce.

Licensing convenience measures such as general licenses and exemption from license application shall not be applicable to relevant exports involving importers or end users on the control list.

### **Article 33**

Where importers and end users listed on the control list have made relevant commitments to the State Council department in charge of commerce and have

performed them completely, or have taken other measures, and the circumstances that required them to be listed on the control list no longer exist, the State Council department in charge of commerce may, upon application or ex officio, decide to remove them from the control list based on the actual circumstances.

#### **Article 34**

The State Council department in charge of commerce may, together with other relevant departments, establish a control system for dual-use item end users and end uses, and carry out assessment and verification of dual-use item end users and end uses, so as to strengthen the management of end users and end uses.

### **Section 5. Other Control Measures**

#### **Article 35**

When a consignor or customs broker of exported goods exports dual-use items, it shall submit to the Customs the dual-use item export license issued by the State Council department in charge of commerce, and complete the export declaration formalities in accordance with the relevant regulations of the State.

Where the license specified in the preceding paragraph fails to be submitted, Customs shall not grant clearance.

#### **Article 36**

No organization or individual may provide agent, freight, delivery, customs clearance, third-party e-commerce trading platforms, financial services, or other services to exporters who engage in behavior in violation of dual-use item export controls.

Where organizations and individuals who engage in agency, freight, delivery, customs clearance, third-party e-commerce trading platforms, financial services, or other services discover that an exporter engages in behavior in violation of export controls, they shall immediately stop providing such services, and shall report this to the State Council department in charge of commerce.

#### **Article 37**

Based on the Export Control Law, the provisions of these Regulations, and the dual-use item export control list, exporters shall determine prior to customs clearance for exportation whether the goods, technologies, and services to be exported fall within the scope of control, and where such determination cannot be made, they may ask the State Council department in charge of commerce for an advisory opinion. The

State Council department in charge of commerce shall reply promptly, and may organize an expert review when necessary.

### **Article 38**

Where a consignor of exported goods, when making a customs declaration, fails to submit for inspection a license issued by the State Council department in charge of commerce, and Customs has evidence indicating that the goods to be exported may fall within the scope of dual-use item export controls, [Customs] shall challenge them.

Where a consignor or customs broker of exported goods provides Customs a reply opinion received in accordance with Article 37 of these Regulations, or provides other materials proving that the goods to be exported do not fall within the scope of dual-use item export controls, Customs shall handle the export formalities in accordance with provisions after verification.

During the challenge period, Customs may ask the State Council department in charge of commerce to organize authentication. Where the authentication conclusion is that the goods to be exported do not fall within the scope of dual-use item export controls, Customs shall clear them in accordance with law; where they fall within the scope of controls, Customs shall handle the matter in accordance with law. During the challenge or authentication period, Customs shall not clear the goods for export.

When a consignor or customs broker of exported goods that is exempted from license application registers a customs declaration, and Customs receives notification from the State Council department in charge of commerce, or has evidence indicating, that the actual export circumstances may be inconsistent with the information in the registration, it shall deny clearance and deal with the matter in accordance with law.

### **Article 39**

Exporters shall properly retain copies of license application documents and license copies, certificates, agreements, accounting books, business correspondence, and other documents and information related to the export of dual-use items, with a retention period of not less than five years. The State Council department in charge of commerce shall have the right to inspect and copy relevant materials.

## **Chapter III Supervision and Administration**

### **Article 40**

The State Council department in charge of commerce shall carry out supervision and inspection of dual-use item export activities in accordance with law. For activities

suspected of violating the provisions of the Export Control Law and these Regulations, the State Council department in charge of commerce may conduct investigations in accordance with the second paragraph of Article 28 of the Export Control Law.

#### **Article 41**

The State Council department in charge of commerce, together with departments for foreign affairs, national security, customs, etc., shall establish a cross-departmental mechanism for coordination of dual-use item export control-related law enforcement, to: unify the organization, guidance, and coordination of relevant departments and localities in carrying dual-use item export control law enforcement work, including monitoring and early warning for suspected violations of dual-use item export control laws and regulations, risk assessment, and investigation and punishment; strengthen the collection, analysis, use, and exchange of law enforcement-related information; and carry out case transfer in accordance with law.

#### **Article 42**

The State Council department in charge of commerce shall perform its dual-use item export control management duties in accordance with law, and departments of the State Council responsible for public security, national security, customs, transportation, financial management, market supervision and management, postal management, and other regulatory responsibilities, as well as local people's governments and their relevant departments, shall give assistance within the scope of their respective responsibilities.

Where the State Council department in charge of commerce, by itself or together with relevant departments, carries out dual-use item export control supervision, inspection, and investigation work in accordance with law, relevant organizations and individuals shall cooperate, and shall not refuse or obstruct.

#### **Article 43**

In order to supervise and inspect dual-use item export activities, or investigate suspected violations of dual-use item export control laws and regulations, the State Council department in charge of commerce, together with other relevant departments, shall determine professional organizations for carrying out dual-use item assessment work. When necessary, the State Council department in charge of commerce may commission other professional organizations and experts to carry out dual-use item assessment work.

Organizations and individuals commissioned to carry out dual-use item assessment work shall carry out assessment through inspection, testing, and other

means, using science and technology or expertise, in accordance with the relevant technical rules and standards, and issue an assessment opinion within the specified time limit, and shall keep confidential any state secrets or trade secrets they are informed of during their assessment activities.

#### **Article 44**

To strengthen management of dual-use item exports and prevent the risk of dual-use item export violations, the State Council department in charge of commerce may, in accordance with the provisions of Article 30 of the Export Control Act, take such measures as holding regulatory talks with relevant organizations and individuals, issuing them warning letters, etc.

#### **Article 45**

When organizations and individuals within the People's Republic of China<sup>2</sup> provide information on dual-use item export controls to parties abroad, they shall do so in accordance with law; where national security or interests might be harmed, they are not permitted to provide [this information].

Without the consent of the State Council department in charge of commerce, Chinese citizens, legal persons, and other organizations shall not accept or make commitments to accept export control site visits or reviews conducted by foreign governments.

### **Chapter IV Legal Liability**

#### **Article 46**

An exporter that exports dual-use items without permission, exports dual-use items beyond the permitted scope of its export license, or exports dual-use items that are prohibited from being exported, shall be punished by the State Council department in charge of commerce in accordance with Article 34 of the Export Control Law.

Where an exporter's actual export circumstances are inconsistent with the information at the time of its registration for exemption from license application, its exports shall be regarded as unauthorized, and it shall be punished in accordance with Article 34 of the Export Control Act.

An exporter that, after obtaining a license and before exporting has been

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<sup>2</sup> Translator's note: "Within the People's Republic of China" (中华人民共和国境内) literally means "inside the borders of the PRC." China considers Hong Kong, Macau, and Taiwan to be part of China but not to be "within the PRC."

completed, knows or should know that the circumstances in the second paragraph of Article 30 of these Regulations pertain to the export, but still uses the license to export, shall be regarded as exporting beyond its permitted scope, and shall be punished in accordance with Article 34 of the Export Control Law.

#### **Article 47**

Those who obtain dual-use item export licenses by fraud, bribery or other improper means, transfer them illegally, or forge, illegally alter, or trade them, shall be punished by the State Council department in charge of commerce in accordance with Article 35 of the Export Control Law.

#### **Article 48**

Those who know that an exporter engages in behavior in violation of dual-use item export controls, but still provide it agents, freight, delivery, customs clearance, third-party e-commerce trading platforms, financial services, or other services, shall be punished by the State Council department in charge of commerce in accordance with Article 36 of the Export Control Law.

#### **Article 49**

Exporters that, in violation of the provisions of these Regulations, carry out transactions with importers or end users listed on the control list, shall be punished by the State Council department in charge of commerce in accordance with Article 37 of the Export Control Law.

#### **Article 50**

Where an exporter fails to fulfill the reporting obligations under Article 27, Article 28, and Article 30 of these regulations, the State Council department in charge of commerce shall order rectification and give a warning; if the circumstances are serious, it shall also impose a fine of Chinese yuan Renminbi (RMB) 100,000 to 300,000.

Where an exporter of dual-use items is provided agents, freight, shipping, customs clearance, third-party e-commerce trading platforms, financial, or other services, and the reporting obligations under Article 36 of these Regulations fail to be fulfilled, the State Council department in charge of commerce shall order rectification and give a warning; if the circumstances are serious, it shall also impose a fine of RMB 100,000 to 300,000.

#### **Article 51**



Where an *End User and End Use Statement* applicant violates the commitments it made to the State Council department in charge of commerce, or has other behavior that violates the *End User and End Use Statement* management provisions, the State Council department in charge of commerce may give a warning and confiscate illegal gains; if the amount of illegal business is greater than RMB 200,000, it shall impose a fine of five to ten times the amount of illegal business; and if there is no illegal business amount or the amount of illegal business is less than RMB 200,000, it shall impose a fine of RMB 200,000 to 2,000,000.

## **Article 52**

Where exporters, and relevant organizations and individuals that engage in agent, freight, delivery, customs clearance, third-party e-commerce trading platforms, financial services, or other services for dual-use items, have one of the following circumstances, their punishment shall be reduced or mitigated:

1. They have taken the initiative to eliminate or mitigate the harmful consequences of the violations,
2. They were coerced or deceived by others into committing the violations,
3. They have taken the initiative to confess violations that the State Council department in charge of commerce was not fully apprised of,
4. They have performed meritorious service when working in cooperation with the State Council department in charge of commerce on investigating violations of dual-use item export controls.

Where exporters, and relevant organizations and individuals that engage in agent, freight, delivery, customs clearance, third-party e-commerce trading platforms, financial services, or other services for dual-use items, have established an internal compliance system for export control, and its operation is good, so that the harmful consequences of their violations have not expanded further, the State Council department in charge of commerce may lighten their punishment at its discretion.

## **Article 53**

For an exporter that violates the provisions of these Regulations and receives punishment, the State Council department in charge of commerce may decline to accept its applications for export licenses within five years from the effective date of the penalty decision; and it can prohibit the exporter's directly responsible supervisors or other directly responsible personnel from engaging in export business activities within five years; for those whose export control violations are subject to criminal penalties, there shall be a lifetime ban on export business activities.

#### **Article 54**

The State Council department in charge of commerce shall include violations of the provisions of the Export Control Law and these Regulations in relevant credit records.

#### **Article 55**

When the State Council department in charge of commerce imposes punishments in accordance with the Export Control Law and these Regulations for violations of dual-use item export controls, what is identified as illegal income refers to the total actual income obtained from implementing dual-use item export control violations; and the amount of illegal business is the amount (value) of illegal exports of dual-use items, or the value of relevant services provided for illegal exports.

#### **Article 56**

Dual-use item export control violations stipulated in these Regulations shall be punished by the State Council department in charge of commerce; where laws and administrative regulations stipulate that punishment shall be imposed by Customs, it shall impose punishment in accordance with the Export Control Law and these Regulations.

#### **Article 57**

Those who violate the relevant dual-use item export control management provisions of the Export Control Law and these Regulations, and harm national security and interests, in addition to being punished in accordance with the provisions of the Export Control Law and these Regulations, shall also be dealt with and punished in accordance with the provisions of relevant laws and administrative regulations.

Where, in violation of the provisions of the Export Control Law and these Regulations, dual-use items that the State has prohibited from being exported are exported, or dual-use items are exported without authorization, constituting a crime, criminal liability will be pursued in accordance with law.

### **Chapter V Supplementary Provisions**

#### **Article 58**

The transit, transshipment, through transport, and re-export of dual-use items, and the export abroad of dual-use items from areas under special customs oversight (海关特殊监管区) and bonded oversight venues (保税监管场所), shall be enforced in accordance with the relevant provisions of the Export Control Act and these Regulations.

#### **Article 59**

The exporting of controlled chemicals among dual-use items shall be enforced in accordance with the *Regulations of the People's Republic of China on Administration of Chemicals Subjected to Supervision and Control*; and where there are no applicable provisions, enforcement shall be done with reference to the provisions of these regulations.

For the export control of other goods, technologies, services, and other items related to the safeguarding of national security and interests and the fulfillment of international obligations such as nonproliferation, as stipulated in Article 2 of the Export Control Law, these Regulations shall be applicable, with management to be carried out with reference to dual-use items, and such items shall be included in the dual-use items export control list; where laws and administrative regulations provide otherwise, such provisions shall be followed.

#### **Article 60**

These Regulations shall enter into force on \_\_\_\_\_[date], and the *Regulations of the PRC on the Control of Nuclear Dual-Use Items and Related Technologies Export*, *Regulations of the PRC on Export Control of Missiles and Missile-Related Items and Technologies*, *Regulations of the PRC on the Export Control of Dual-Use Biological Agents and Related Equipment and Technologies*, and *Measures on the Export Control of Certain Chemicals and Related Equipment and Technologies* shall be annulled on the same date.