

Regulations of the People's Republic of China on Export Control of Dual-Use Biological Agents and Related Equipment and Technologies (14/10/2002)

Decree No. 365 of the State Council of the People's Republic of China

Regulations of the People's Republic of China on Export Control of Dual-Use Biological Agents and Related Equipments and Technologies are hereby promulgated and shall go into effect as of December 1, 2002.

Premier: Zhu Rongji
October 14, 2002

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.

Annex:

Dual-Use Biological Agents and Related Equipment and Technologies Export Control List