

# Measures for the Administration of Prohibited and Restricted Import of Technologies

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Chinese Version

## Degree No. 1, 2009 of the Ministry of Commerce of the People's Republic of China

### Measures for the Administration of Prohibited and Restricted Import of Technologies

Decree No. 1 [2009] of the Ministry of Commerce

In accordance with the *Foreign Trade Law of the People's Republic of China* and the *Regulations of the People's Republic of China on the Administration of Import and Export of Technologies*, the revised *Measures for the Administration of Prohibited and Restricted Import of Technologies* is hereby promulgated, which shall take effect 30 days thereafter. The *Measures for the Administration of Prohibited and Restricted Import of Technologies* (the former Degree No. 18 [2001] of the Ministry of Foreign Trade and Economic Cooperation and the State Economic and Trade Commission) is abolished at the same time.

Minister Chen Deming

1 February 2009

### Measures for the Administration of Prohibited and Restricted Import of Technologies

Article 1 For the purpose of promotion of development of Chinese technology import, these Measures is formulated in accordance with the *Foreign Trade Law of the People's Republic of China* and the *Regulations of the People's Republic of China on Administration of Import and Export of Technologies*.

Article 2 The import of technologies that falls within the Technologies Prohibited from Import in the *Catalogue of Technologies the Import of Which Is Prohibited or Restricted* (published separately) shall be prohibited.

Article 3 The State adopts a licensing system for the import of technologies the import of which is restricted. The importer of technologies that falls within the Technologies Restricted to Be Imported is in the *Catalogue of Technologies the Import of Which Are Prohibited or Restricted* shall apply for licenses in accordance with these Measures.

Article 4 The competent commercial authorities of provinces, autonomous regions, and municipalities directly under the Central Government (hereinafter referred to as the local competent commercial authorities) shall be the review authorities of restrictive import of technologies, which are responsible for licensing of the restrictive import of technology in their

administrative divisions. The enterprises under the administration of the Central Government shall go through the licensing procedures with the local competent commercial authorities in the territorial principle.

Article 5 The operator of technology import shall fill in the Application of Chinese Restrictive Technology Import (hereinafter referred as the Application, see Schedule 1) and report it to the local competent commercial authorities for import licenses while importing the technologies restricted as specified in the provision of Article 3 of these Measures.

Article 6 The local competent commercial authorities shall organize technology and trade experts to conduct technical and trade examination and review on the technology under application for import within 30 working days upon receipt of the Application and determine whether or not to approve the import thereof.

Where the applier provides incomplete application materials, the content of application is not clear or there are other circumstances that fail to conform to the prescribed provisions, the local competent commercial authorities shall require the applier to make corrections or make up for the application materials.

Article 7 Trade review on restricted technology import shall include the following contents:

- (1) Whether or not comply with Chinese foreign trade policies and benefit the development of foreign economic and technical cooperation;
- (2) Whether or not comply with the duties committed by China to the outside world; and
- (3) Whether or not cause adverse effect on the establishment and acceleration of establishment of specific domestic industries.

Article 8 Technical review on restricted technology import shall include the following contents:

- (1) Whether or not threaten state security, social public interests or public morality;
- (2) Whether or not threaten the health or safety of human and life or health of animals and plants;
- (3) Whether or not destroy environment; and
- (4) Whether or not comply with national industrial policies and economic and social development strategy and benefit the promotion of Chinese technical progress and industrial upgrading and maintenance of Chinese economic and technical rights and interests.

Article 9 Where an application for technology import is approved, the local competent commercial authorities shall issue the Letter of Intent for Licensing Technology Import of the People's

Republic of China (hereinafter referred to as the Letter of Intent for Licensing Technology Import, see Schedule 2) uniformly printed, prepared and numbered by the Ministry of Commerce. The valid period of the Letter of Intent for Licensing Technology Import is 3 years.

The operator of technology import shall sign technology import contracts with foreign parties after acquiring the Letter of Intent for Licensing Technology Import.

Article 10 The operator of technology import shall hold the Letter of Intent for Licensing Technology Import, copy of the contract and its schedules and certifications of legal status of contractual parties to apply for the technology import license with the local competent commercial authorities after signing the technology import contract.

Article 11 The local competent commercial authorities shall review on the authenticity of the technology import contract within 10 working days upon receipt of the documents prescribed in Article 10 of these Measures, and determine whether or not to approve the license.

Article 12 The operator of technology import may submit the copy of the signed technology import contract and its schedules as well as certification of legal status of contractual parties while filing an application for technology import to the local competent commercial authorities according to Article 5 of these Measures.

The local competent commercial authorities shall organize technology and trade experts to conduct examination and review on the technology under application for import within 30 working days upon receipt of the above-mentioned documents, and determine whether or not to approve import. The local competent commercial authorities shall conduct examination and review on the authenticity of the technology import contract within 10 working days upon approval of import, and determine whether or not to approve the license.

Where the applier provides incomplete application materials, the content of application is not clear or there are other circumstances that fail to conform to the prescribed provisions, the local competent commercial authorities shall require the applier to make corrections or make up for the application materials.

Article 13 Where technology import is licensed, the local competent commercial authorities shall issue to the operator of technology import the Technology Import License of the People's Republic of China (hereinafter referred to as the Technology Import License, see Schedule 3) uniformly printed, prepared and numbered by the Ministry of Commerce. The restricted technology import contract shall take effect as of the date of the issuance of the Technology Import License.

Article 14 The operator of technology import shall have access to the "information management system of technology import and export contract" on the website of the Ministry of Commerce (website: [jsjckqy.fwmys.mofcom.gov.cn](http://jsjckqy.fwmys.mofcom.gov.cn)) and record the content of the contract according to the procedures before acquiring the Technology Import License from the local competent commercial authorities.

Article 15 Where the investment projects that shall be examined and approved or checked by the relevant departments involve restricted technology import, the operator of technology import shall submit the documents approved by the relevant departments while filing an application for technology import to the local competent commercial authorities according to Article 5 or Article 12 of these Measures.

Article 16 The operator of technology import shall renew the procedures of technology import licensing according to the procedures prescribed by these Measures if the content of technology import needs to be altered after acquiring the Technology Import License.

Article 17 The operator shall go through the relevant procedures including foreign exchange, banking, taxation and Customs by holding the Technology Import License.

Where the import of technologies falls within the Technologies Restricted from Import in the *Catalogue of Technologies the Import of Which Is Prohibited or Restricted*, the operator of technology import shall take initiative to present to the Customs the Technology Import License and the Customs shall handle the procedures for examination and declaration against the Technology Import License.

Article 18 The Ministry of Commerce shall be responsible for supervision and examination on the technology import licensing by the local competent commercial authorities.

The local competent commercial authorities shall report the approved technology import licensing items of the previous year to the Ministry of Commerce for filing before January 31 every year.

Article 19 In case of violation of the provisions of these Measures, the responsibilities of the persons and units concerned shall be prosecuted in accordance with the *Regulations of the People's Republic of China on Administration of Import and Export of Technologies* .

Article 20 These Measures is not applicable to the import of special technologies for defense and military use.

Article 21 These Measures shall take effect 30 days after promulgation. The *Measures for the Administration of Prohibited and Restricted Import of Technologies* (the former Degree No. 18 [2001] of the Ministry of Foreign Trade and Economic Cooperation and the State Economic and Trade Commission) is abolished at the same time.

Schedules: Forms Attached to Technology Import Regulations. (omission)