

MEASURES ON EXPORT CONTROL OF CERTAIN CHEMICALS AND RELATED EQUIPMENT AND TECHNOLOGIES

The Ministry of Foreign Trade and Economic Cooperation, the State Economic and Trade Commission, the General Administration of Custom

Decree of the Ministry of Foreign Trade and Economic Cooperation, the State Economic and Trade Commission and the General Administration of Custom

No.33

Measures on Export Control of Certain Chemicals and Related Equipment and Technologies adopted by the State Council in accordance with Foreign Trade Law of the People's Republic of China are hereby promulgated and shall be come into force as of the day of November 19, 2002.

Minister of the Ministry of Foreign Trade and Economic Cooperation, Shi Guangsheng

Minister of the State Economic and Trade Commission, Li Rongrong

Minister of the General Administration of Custom, Mu Xincheng

October 18, 2002

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)

GMSDS Download file

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

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.

Certain Chemicals and Related Equipment and Technologies Export Control List

Part I Chemicals

Chemical Name CAS Number

1.

Hydrogen Fluoride (7664-39-3)

2.

GMSDS Download file

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

Potassium Fluoride (7789-23-3)

3.

Sodium Fluoride (7681-49-4)

4.

Sodium Sulphide (1313-82-2)

5.

Potassium Bifluoride (7789-29-9)

6.

Sodium Bifluoride (1333-83-1)

7.

Ammonium Bifluoride (1341-49-7)

8.

Di-isopropylamine (108-18-9)

9.

Diethylaminoethanol (100-37-8)

10.

2-Chloroethanol (107-07-3)

Part II Related Equipment and Technologies

(I)

Equipment

Note 1. Where the export involves equipment which is specially designed for civilian use (e.g. water purification, food processing, pulp and paper processing, etc.) and is, by the nature of its design, inappropriate for use in storing, processing, producing or transporting chemicals subject to the export control by the State, an export license is not required.

Note 2. In relation to the export of any item which contains one or more controlled components, and the controlled component or components are principal element of the item,

and can feasibly be removed or used for other purposes, an export license is required.

Note 3. In relation to the export of complete producing facilities and related know-how which can be used for the production of chemicals subject to export control by the State, an export license is required.

1.

Valves

Multi-seal, bellows or diaphragm valves incorporating a leak detection port, in which all surfaces that come in direct contact with the chemical(s) are made from the following materials:

a.

Glass or glass-lined (including vitrified or enamelled coating);

b.

Fluoropolymers;

c.

Titanium or titanium alloys;

d.

Zirconium or zirconium alloys;

e.

Tantalum or tantalum alloys;

f.

Alloys with more than 25% nickel and 20% chromium by weight; or

g.

Nickel or alloys with more than 40% nickel by weight.

2.

Pumps

Multi-seal, canned drive, magnetic drive, bellows or diaphragm pumps, with manufacturer's specified maximum flow-rate greater than 0.6 m³/h, or vacuum pumps with the manufacturer's

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

s specified maximum flow-rate greater than 5 m³/h (under standard temperature (0(C) and pressure (101.30 kPa) conditions) in which all surfaces that come in direct contact with the chemical(s) are made from the following materials:

a.

Glass or glass-lined (including vitrified or enamelled coating);

b.

Fluoropolymers;

c.

Titanium or titanium alloys;

d.

Zirconium or zirconium alloys;

e.

Tantalum or tantalum alloys;

f.

Alloys with more than 25% nickel and 20% chromium by weight;

g.

Nickel or alloys with more than 40% nickel by weight;

h.

Ferrosilicon;

i.

Ceramics; or

j.

Graphite.

3.

Storage Tanks, Containers or Receivers

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

Storage tanks, containers or receivers with a total internal volume greater than 0.1m³ (100 l) where all surfaces that come in direct contact with the chemical(s) are made from the following materials:

a.

Glass or glass-lined (including vitrified or enameled coating);

b.

Fluoropolymers;

c.

Titanium or titanium alloys;

d.

Zirconium or zirconium alloys;

e.

Tantalum or tantalum alloys;

f.

Alloys with more than 25% nickel and 20% chromium by weight; or

g.

Nickel or alloys with more than 40% nickel by weight.

4.

Multi-Walled Piping

Multi-walled piping incorporating a leak detection port, in which all surfaces that come in direct contact with the chemical(s) are made from the following materials:

a.

Glass or glass-lined (including vitrified or enameled coating);

b.

Fluoropolymers;

GMDS Download file

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

c.

Titanium or titanium alloys;

d.

Zirconium or zirconium alloys;

e.

Tantalum or tantalum alloys;

f.

Alloys with more than 25% nickel and 20% chromium by weight;

g.

Nickel or alloys with more than 40% nickel by weight; or

h.

Graphite.

5.

Distillation or Absorption Columns

Distillation or absorption columns of internal diameter greater than 0.1m; where all surfaces that come in direct contact with chemical(s) are made from the following materials:

a.

Glass or glass-lined (including vitrified or enameled coating);

b.

Fluoropolymers;

c.

Titanium or titanium alloys;

d.

Zirconium or zirconium alloys;

GMDS Download file

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

e.

Tantalum or tantalum alloys;

f.

Alloys with more than 25% nickel and 20% chromium by weight;

g.

Nickel or alloys with more than 40% nickel by weight; or

h.

Graphite.

6.

Heat Exchangers or Condensers

Heat exchangers or condensers with a heat transfer area of greater than 0.15m², and less than 20m², where all surfaces that come in direct contact with chemical(s) being processed or contained are made from the following materials:

a.

Glass or glass-lined (including vitrified or enameled coating);

b.

Fluoropolymers;

c.

Titanium or titanium alloys;

d.

Zirconium or zirconium alloys;

e.

Tantalum or tantalum alloys;

f.

Alloys with more than 25% nickel and 20% chromium by weight;

GMDS Download file

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

g.

Nickel or alloys with more than 40% nickel by weight;

h.

Graphite;

i.

Titanium carbide; or

j.

Silicon carbide

7.

Reaction Vessels, Reactors or Agitators

Reaction vessels or reactors, with or without agitators, with total internal volume greater than 0.1m³ (100 l) and less than 20m³ (20000 l), where all surfaces that come in direct contact with chemical(s) being processed or contained are made from the following materials:

a.

Glass or glass-lined (including vitrified or enameled coating);

b.

Fluoropolymers;

c.

Titanium or titanium alloys;

d.

Zirconium or zirconium alloys;

e.

Tantalum or tantalum alloys;

f.

Alloys with more than 25% nickel and 20% chromium by weight; or

g.

Nickel or alloys with more than 40% nickel by weight.

Agitators for use in the above-mentioned reaction vessels or reactors where all surfaces of the agitators that come in direct contact with the chemical(s) being processed are made from the following materials:

a.

Glass or glass-lined (including vitrified or enameled coating);

b.

Fluoropolymers;

c.

Titanium or titanium alloys;

d.

Zirconium or zirconium alloys;

e.

Tantalum or tantalum alloys;

f.

Alloys with more than 25% nickel and 20% chromium by weight; or

g.

Nickel or alloys with more than 40% nickel by weight.

8.

Incinerators

Incinerators designed to destroy chemicals subject to export control by the State, chemical munitions, having specially designed waste supply systems, special handling facilities, and an average combustion chamber temperature greater than 1000°C, in which all surfaces in the waste supply system that come into direct contact with the waste products are made from the following materials:

a.

GMDS Download file

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

Alloys with more than 25% nickel and 20% chromium by weight;

b.

Nickel or alloys with more than 40% nickel by weight; or

c.

Ceramics.

9.

Filling Equipment

Remotely operated filling equipment in which all surfaces that come into direct contact with the chemical(s) being processed are made from the following materials:

a.

Alloys with more than 25% nickel and 20% chromium by weight; or

b.

Nickel or alloys with more than 40% nickel by weight.

(II)

Toxic Gas Monitoring Systems and Detectors

a.

Designed for continuous operation and usable for the detection of chemicals or organic chemical compound subject to export control by the State (containing phosphorous, sulfur, fluorine or chlorine, at concentrations of less than 0.3mg/m³);

b.

Designed for the detection of cholinesterase-inhibiting activity.

(III)

Related Technologies

Note 1. The transfer of technology means, to the extent permitted by the law of the State, the transfer of technology directly associated with chemicals and related equipment, which are subject to export control by the State, including licensing.

Note 2. The transfer of technology (including 'technical assistance') does not include

GMSDS Download file

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

information 'in the public domain' or 'basic scientific research'.

Note 3. The approval for export of any item of equipment also authorizes the export to the same end-user of the minimum technology required for the installation, operation, maintenance or repair of that item.

Definitions of Terms

"Technology" means specific information necessary for the development, production or use of items subject to export control by the State. The information takes the form of "technical data" or "technical assistance".

"Basic scientific research" means experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective.

"In the public domain" means technology that has been made available without restrictions upon its further dissemination. (Copyright restrictions do not remove technology from being in the public domain).

"Development " means all phases before production such as :

design

design research

design data

scheme research

configuration design

integration design

design analysis

process data of transforming design data into a product

assembly of and experiment with prototypes

pilot production schemes

layouts

"Production" means all production phases such as:

construction

GMSDS Download file

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

production engineering

manufacturing

assembly (mounting)

integration

inspection

testing

quality assurances

"Use" means,

installation (including on-site installation)

operation

maintenance (checking)

repair

overhaul

refurbishing

"Technical data" may take the following forms:

blueprints

plans

diagrams

models

formulae

engineering designs and specifications

manuals and written instructions

instructions recorded on other media or devices such as disk, tape, read-only memories.

"Technical assistance" means,

GMSDS Download file

Source: <http://www.asianlii.org/cn/legis/cen/laws/moecoccareat769/>

technical instructions

posting of skills

training

working knowledge

consulting services

Note: "Technical assistance" may involve transfer of "technical data"

The Ministry of Foreign Trade and Economic Cooperation, the State Economic and Trade Commission, the General Administration of Custom 2002-10-18