

Technologies Prohibited or Restricted from Export

Policy Update on Amendments and Changes to the Catalogue of Technologies | October 2020

On August 28, 2020, the Ministry of Commerce of the People's Republic of China (**MOFCOM**) and the Ministry of Science and Technology (**MOST**) jointly issued the Announcement No. 38 (2020) amending **the Catalogue of Technologies Prohibited or Restricted from Export** ("Catalogue")¹. The updated catalogue will shape China's export control system together with the Provisions on the Unreliable Entity List² and the new Export Control Law which will come into effect 1 December (*a Policy Briefing on this can be found on the [project website](#)*).

What is this Catalogue?

According to the *Foreign Trade Law of the People's Republic of China*³, all technology in- and exportation, whether through trade or investment or economic and technical cooperation, should strictly abide by the *Regulations on Technology Import and Export Administration of the People's Republic of China*⁴.

The exportation of technology could be divided into three classes: **free, restricted and prohibited**. The technologies from the last two classes are clearly listed in the Catalogue.

Even though no public statement relates to the recent dispute regarding TikTok, it seems not to be a coincident that the law is revised in this time period. The newly added technology items "personalized information recommendation services based on data analysis" and "artificial intelligence interface technology" are might relevant to this incident.

What has been amended?

Action	Overview (which industry branch are changes been made)	Might be relevant to I4.0 cooperation (the serial number comes from the amendment document)
<u>Removed</u> 4 technical items, which are prohibited from export in the 2008 Catalogue	The relevant items are under microbial and chemical industry	-
<u>Removed</u> 5 technical items, which are restricted from export in the 2008 Catalogue	3 of 5 items are relevant to the medical and chemical industry	No. 23: functional polymer material preparation and processing technology ⁵ No. 50: information security firewall software technology

¹ Detailed amendments (in Chinese): http://www.gov.cn/zhengce/zhengceku/2020-08/29/content_5538299.htm

² Full text of the list (in English): <http://english.mofcom.gov.cn/article/policyrelease/questions/202009/20200903002580.shtml>

³ Full text of the law (in English): <http://www.chinadaily.com.cn/a/201908/19/WS5d5f964ea310cf3e35567946.html>

⁴ English translation of the regulations: <http://ipr.mofcom.gov.cn/zhuanti/jkblh/iplaws/trade/jsjcktl.pdf>

⁵ The description only includes the name of major category but not specific items (the same below).

<p><u>Added</u> 23 new technical items, which are restricted from export in the 2008 Catalogue</p>	<p>including agriculture, animal husbandry, fishing, service, chemistry, medicine manufacturing, mineral, equipment manufacturing, production and supply of electric and heat power, ICT, computer service, software, specific technology service industry</p>	<p>No. 26: 3D printing technology (specific control point: "Cast, forge and mill" integrated 3D metal printing key technology)</p> <p>No.27: Application technology of engineering machinery</p> <p>No.28: basic generic technology of machine tool industry (e.g. innovative design of machine tool, research technology such as reliability and functional safety of machine toll)</p> <p>No.39: Drone technology</p> <p>No.40: Laser technology</p> <p>No.51 Security-enhancing techniques of basic software</p>
<p><u>Modified</u> 21 technical items (add/change specific control point under items)</p>	<p>involving crop breeding technology, aquatic germplasm breeding technology, chemical raw material production technology, biological pesticide production technology, spacecraft measurement and control technology, space data transmission technology, map mapping technology, satellite application technology, information processing technology, vacuum technology</p>	<p>No.45-49 specific computer services, information processing technology: e.g. "personalized information recommendation services" under the existing control over information processing (code 056101X) e.g. the artificial intelligent interactive interface technology</p>

How does it influent industry?

The **prohibitions** mean *that they cannot be exported from the country*. The **restrictions** essentially mean that the identified technologies cannot be exported from China without a **license**.

If any company wants to transfer the regulated technology named in the catalogue to overseas through trading, investment or economic and technological cooperation with foreign countries, they should consult the provincial commercial department in time.

The procedure described below may lead to rejection or delay of export applications.

The licensing procedure⁶

The licensing procedure is articulated mainly into two phases that can be summarised as follows:

Phase 1: Application for the letter of intent for licensing

⁶ Management Measures of Technologies Prohibited or Restricted from Export by MOFCOM (in Chinese): <http://www.mofcom.gov.cn/article/b/c/200904/20090406212733.shtml>

- **Filing:** The applicant shall file the application table and submit to the local commercial department.
- **Examination:** The local commercial department in conjunction with the science and technology administrative department shall examine the application and, **within 30 working days** from the date of receipt of the application shall approve or disapprove it.
- **Issuance of a letter of intent:** In case of approval, the local commercial department shall issue a letter of intent for licensing the technology export (licensed for 3 years).

Phase 2

- **Application for the license for technology export:** The applicant shall submit the letter of intent (previously obtained) to the local commercial department, a copy of the technology export contract, a list of technical information relating to the export, and any regulatory document certifying the legal status of the two parties to the contract.
- **Examination:** the local commercial department then examines the authenticity of the technology export contract and decides, **within 15 working days** from the date on the receipt the documents were provided, on approval or disapproval of the technology export.
- **License issuance:** In case of approval, the local commercial department issues a technology export license.

What authorities are involved?

Drafting this catalogue, the following ministerial departments were involved on a national level⁷:

- **MOFCOM:** Service and Trade Department 商务部服务贸易司
- **MOST:** Development and Planning Department 科技部发展计划司

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⁷ Management Measures of Technologies Prohibited or Restricted from Export by MOFCOM (in Chinese):

<http://www.mofcom.gov.cn/article/b/c/200904/20090406212733.shtml>

Instructions on the application guidelines, MOFCOM: <http://fms.mofcom.gov.cn/article/b/ah/201508/20150801085455.shtml>

Technical review process, MOST: <http://www.most.gov.cn/bszn/new/xzck/>