

Tax Analysis

Implications of China's Export Control Updates in October-November 2025

On 9 October 2025, China's Ministry of Commerce (MOFCOM) and the General Administration of Customs (GAC) jointly announced a suite of new export control measures, set forth in MOFCOM/GAC Bulletins [2025] Nos. 55, 56, 57, 58, 61 and 62. The issuance marked a coordinated effort to tighten oversight of critical technologies and materials, with a particular focus on rare-earth-related items.

However, in light of outcomes from China-US economic and trade talks held in Kuala Lumpur, the MOFCOM subsequently issued Bulletin [2025] No. 70, which suspended the aforementioned control measures from 7 November 2025 to 10 November 2026.

Separately, in November, the MOFCOM issued Bulletin [2025] No. 72, which suspended export control measures on dual-use items linked to gallium, germanium, antimony, superhard materials and graphite to the United States, though this suspension was not attached to defined time frame.

Looking ahead, China's export control regime is expected to remain dynamic and closely tied to the country's broader foreign policy objectives. While the current pause offers temporary reprieve, it applies only to a limited subset of controlled items, leaving the core export control framework fully intact. For supply chain sensitive sectors—especially advanced manufacturing, semiconductors, and critical materials—export controls continue to pose substantial operational and strategic risks. Companies are therefore advised to leverage this interim window to review and fortify their export control compliance frameworks, conduct

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comprehensive assessments of supply chain vulnerabilities, and put in place contingency plans for the potential reinstatement of restrictions.

Salient points of the new export control measures

While the new export control measures announced in October have been suspended, it remains valuable to recap their key provisions below:

1. License requirements for foreign parties exporting rare earth-related items to non-Chinese parties

Foreign entities or individuals must obtain a MOFCOM export license prior to exporting the following items to non-Chinese recipients:

- 1) Rare earth permanent magnets or sputtering targets produced outside China that contain, incorporate or mix with specified Chinese-origin rare earth items accounting for $\geq 0.1\%$ of the product's total value (i.e., "0.1% value threshold");
- 2) Items produced outside China utilizing Chinese-origin rare earth-related technologies;
- 3) Other designated Chinese-origin rare earth items.

Additionally, Chinese exporters of relevant items were required to provide a Compliance Notice to foreign importers, notifying them of the aforementioned license requirement. Foreign importers, along with their downstream recipients, were further obligated to issue a same notice to subsequent parties that acquire the items from them.

2. Denial of export license applications

Under the new control measures, license application for exports to the following parties would generally be rejected:

- Foreign military users;
- Importers and end users listed on China's export control list or watch list, as well as their branches or subsidiaries in which such listed parties held 50% or more of the shareholding (i.e. 50% Ownership Rule).

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3. Case-by-case review for sensitive high-tech exports

Export applications for items destined for the following end-uses would be subject to mandatory case-by-case review and approval:

- Research and development (R&D) or production of **14nm-and-below logic chips** or **256-layer-and-above memory chips**, as well as associated production equipment, materials and testing apparatus;
- R&D of artificial intelligence (AI) technologies with potential military applications.

4. Expanded controls on rare earth-related technologies

The new control measures broadened the scope of controlled items to encompass key technologies across rare earth mining, separation, smelting, magnet manufacturing, and recycling. The definition of "export" was also clarified to cover diverse forms of transfer, including cross-border transactions via licensing, cooperative R&D, personnel employment, technical assistance, and other related means. Notably, if the transfer of controlled items to foreign entities or individuals occurred within China, such activity would still be deemed an "export" under the measures.

However, the following technologies would be exempt from the new control measures:

- Technologies already in the public domain;
- Technologies applied in basic scientific research;
- Technologies essential for standard patent applications.

Export service providers (e.g., logistics companies, customs brokers, financial institutions, etc.) were required to proactively inquire whether relevant export activities were subject to licensing requirements. Exporters holding valid licenses must proactively present such documentation to relevant service providers.

5. Additional controlled items

In addition to the items and technologies outlined above, the following items (provided they met relevant technical parameter thresholds) were also added to the export control list and would be subject to the export licensing requirement:

- **Superhard materials:** Synthetic diamond micropowder, monocrystals, wire saws and grinding wheels; as well as DCPCVD production equipment and associated deposition technologies.
- **Rare earth equipment & materials:** Extraction, separation, and smelting equipment; permanent magnet production systems; flotation reagents; and extractants.
- **Medium and heavy rare earth derivatives:** Holmium (Ho), Erbium (Er), Thulium (Tm), Europium (Eu) and Ytterbium (Yb), in the following forms: metals, alloys, oxides, compounds, targets, crystals, and functional material.
- **Lithium battery components:** Battery cells and packs; cathode materials and equipment; synthetic graphite anode materials and their production equipment; plus related manufacturing technologies.

Implications for multinational enterprises

For multinational businesses, the new export control measures could reshape the operating landscape, introducing elevated compliance burdens, supply chain vulnerabilities, and strategic risks.

Supply chain complexity and cost increase

The introduction of new control mechanisms could expand controlled item scope, and explicit extraterritorial jurisdiction could substantially amplify compliance demands on exporters. If the relevant measures are implemented, affected companies may have to:

- Screen a broader range of products and technologies against detailed control lists;
- Trace upstream raw material origins;
- Maintain auditable records of relevant information.

Foreign importers could also face obligations to collect and verify export licenses, material composition data, and supplier compliance statements to fulfil compliance obligations. Uncertainty around licensing outcomes could make fulfilling purchase commitments more challenging, necessitating the inclusion of "license failure clauses" in contract negotiations and the reassessment of existing/pending contracts to address compliance responsibilities, liability allocation, and evolving regulatory risks.

Additionally, intensifying regulatory scrutiny could position logistics providers, banks, and e-commerce platforms as compliance gatekeepers. As a result, businesses are facing increasingly complex regulatory landscapes, requiring greater diligence in cross-border operations and closer coordination with service partners to ensure smooth and compliant transactions.

Enhanced due diligence requirements

Companies would operate under a lower control threshold, requiring verification of goods' recipients, intended end-users, end-uses, and final destinations. The focus could shift from "confirmed" to "potential" military or strategic use, creating greater regulatory uncertainty – with the updated rules adopting a de facto "presumption of denial" for such transactions, making license approvals harder to secure.

If the proposed 50% Ownership Rule is implemented, companies will need to regularly screen not only their direct customers but also global holding structures of the customers, as ownership changes could bring previously non-regulated entities into the export control scope. Beyond routine trade, businesses must also assess export control implications in mergers and acquisitions (M&A) activities. These evolving mandates require companies to build deeper, more transparent visibility into downstream customers and supply chain partners.

Observations and compliance recommendations

Based on our analysis of 114 officially published enforcement cases involving dual-use items in China between January and September 2025, the following systemic compliance deficiencies are identified across affected companies:

- Approximately 50% of cases involved rare earth elements, special metals, and alloy materials. In these instances, companies typically demonstrated insufficient awareness of applicable regulatory requirements or grappled with supply chain opacity, leading to a high frequency of unlicensed exports.
- Graphite-related controlled items constituted the second most prevalent violation category.

The core compliance gap here was the inaccurate or erroneous declaration of Harmonized System (HS) tariff classification codes, which frequently resulted in a failure to recognize export license obligations – ultimately triggering violations of China’s export control regulations.

These findings highlight critical shortcomings in corporate compliance frameworks, particularly in technical expertise, supply chain due diligence, and classification governance. They underscore the urgent need for businesses to strengthen targeted training programs, deepen supplier engagement, and implement more robust internal controls – with heightened focus on strategically sensitive materials.

In light of the above analysis, we provide the following recommendations to supply chain stakeholders across the relevant industries:

1. Adopt dynamic compliance monitoring: Shift from reactive to proactive risk management

Compliance is no longer a one-time audit but a continuous operational priority. Integrating ongoing monitoring into workflows enables a shift from reactive reporting to proactive risk mitigation, reducing the exposure to enforcement actions and supply chain disruptions. To navigate the fast-evolving regulatory environment, companies should move beyond static checklists and implement a data-driven, dynamic monitoring framework supported by clear Standard Operating Procedures (SOPs):

- Deploy digital compliance platforms (e.g., automated screening tools, AI-powered classification engines) for real-time monitoring of export transactions, product classifications, and counterparty risk profiles.
- Establish a centralized export control master data system that integrates regulatory updates, controlled item lists, and licensing status, enabling cross-functional access for procurement, logistics, and legal teams. For ambiguous cases, proactively consult competent authorities (e.g. MOFCOM) and leverage external expert support to ensure compliance and mitigate regulatory risks.
- Regularly update partner eligibility criteria and product monitoring protocols in digital systems, with special focus on strategically sensitive areas (e.g. rare earth elements, advanced battery materials) and emerging requirements (e.g. the proposed 50% Ownership Rule, 0.1% value threshold). Ensure timely updates to parameter databases to align with regulatory changes and protect supply chain integrity.

2. Strengthen oversight of intangible technology transfers

As physical and technological controls converge, safeguarding intangible technologies (e.g. technical data, process know-how, software, engineering designs, remote support) is as critical as regulating tangible goods shipments. Companies must extend compliance obligations to cover intangible flows - including cross-border collaborations and digital disclosures. Key actions include:

- Classify and tag sensitive technical information across R&D and production teams.
- Implement access controls and audit trails for digital transfers of controlled technologies.
- Require internal licensing or compliance reviews prior to cross-border technical engagements (e.g., joint ventures, overseas commissioning, or employee secondments).
- Train R&D and engineering teams on "deemed export" risks, where disclosing controlled technologies to foreign nationals in China may trigger regulatory obligations.

For ongoing intangible asset transfers (e.g., during M&A integration, technology licensing, cooperative R&D, or workforce transitions), implement interim safeguards to prevent unauthorized disclosure:

- Reassess transaction details: Use the one-year suspension of relevant controls to re-evaluate existing or upcoming deals for potential exposure to future regulatory restrictions, including controlled technologies involvement, counterparty identities, and ownership structures.
- Conduct pre-transfer screening of all involved individuals, entities, and jurisdictions against control lists.
- Use encrypted, company approved platforms with tracking and watermarking for sensitive information transfers; prohibit personal devices or public networks.
- Adopt data minimization protocols to share only the technical information necessary to meet business needs.

3. Reinforce supply chain oversight via end-user and end-use management

Rare earth-related controls have raised compliance standards, with low-concentration rare earth content in finished goods requiring accurate detection and measurement – visual inspection alone is insufficient, and overreliance on supplier declarations poses significant risks. To address these challenges, companies should implement robust testing and verification practices:

- Require certified material composition reports from suppliers, with detailed breakdowns of rare earth content by weight.
- Establish inbound testing protocols for high-risk components, particularly those sourced from or transiting through heavy regulated jurisdictions.
- Maintain full supply chain traceability to support due diligence during customs audits or regulatory inquiries.

Companies also may face demands for more rigorous compliance statements, with some foreign regimes mandating supply chain responsibility via formal Compliance Notices. For rare earth-related technologies, transactions details must be reported and cross-border transfers require licensing, increasing administrative burdens and compliance thresholds.

Businesses should integrate supplier and customer compliance postures into trade risk assessment frameworks as a core indicator of supply chain integrity, and update supplier/client onboarding procedures to align with evolving export control requirements.

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