

CLIENTTOPICS**International Trade/US Regulatory Practice
US Export Controls**

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CHINA & U.S. EXPORT CONTROLS*Increasing impact and enforcement of U.S. export controls on China*

China presents tremendous new opportunities for U.S. companies. China has experienced consistently high economic growth and exploding foreign trade. While promoting and supporting U.S. business in China, U.S. policy makers also view the country as a rapidly rising power and potential U.S. competitor in several sensitive areas and arenas. China's military is pursuing a major modernization program. Some believe that China's military could threaten U.S. security interests in Asia and/or the security interests of other U.S. allies in the region. There have been allegations and incidences of growing Chinese espionage against U.S. targets including U.S. companies. Relations between China and Taiwan are a flashpoint and there are concerns about a variety of human rights issues such as religious freedom. Regulation of U.S. exports and reexports to China are thus receiving increasing scrutiny by U.S. export control regulators.

When exporting to China and other countries, U.S. companies should take steps to ensure that they are in compliance with U.S. export control laws and regulations. Exports and re-exports of certain U.S.-origin items that have commercial and both commercial and military applications are subject to controls administered by the U.S. Department of Commerce's Bureau of Industry and Security (BIS). The United States maintains an arms embargo on China, and U.S. defense and defense related controls are administered by the U.S. State Department's Directorate of Defense Trade Controls (DDTC).

Export violations can and do result in a denial of trade privileges, major fines, imprisonment, or a combination of all three. The Federal Bureau of Investigation (FBI), the U.S. Department of Commerce's Office of Export Enforcement, the U.S. Department of Homeland Security's Bureau of Immigration and Custom Enforcement, the Internal Revenue Service-Criminal Investigation Division, and other U.S. agencies regularly investigate cases involving export violations and U.S. Attorneys prosecute criminal cases.

In a recent export control enforcement action involving China, the former president and CEO of a North Carolina-based company pled guilty to a felony involving illegal shipments of crime control equipment to China. The criminal plea agreement required him to pay a fine of \$850,000, suspended his export privileges for a period of five years, and potentially exposed him to imprisonment for up to 10 years. Pursuant to a parallel civil settlement, his former company paid an additional \$400,000 penalty and accepted a suspended denial of export privileges for a period of five years. Likewise, a Wisconsin businessman was sentenced to 60 months' imprisonment for participation in a conspiracy to illegally export electronic components to China. The components had a wide variety of uses including military radar and communications applications. A license was required to export the components to China because of national security concerns.

For more information on US export control compliance and to benefit from the Eren Law Firm's experience, policy insights and legal advice with respect to US export control issues involving China, please contact:

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