

China's Tit-for-Tat with the U.S.? Concerns over China Tightening Its Grip on Export Controls for National Security



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Intensifying geopolitical conflicts such as the U.S.-China conflict, clashes in the Middle East, and the Russia-Ukraine war are leading to a rise in related international sanctions and export control measures.¹ In this international environment, it is important to understand the changes in China's export control system, as China's share of exports in global exports stands at around 20.4% as of 2022.² The State Council Information Office of the People's Republic of China published a white paper titled "China's Export Controls" on Dec 29.³ This white paper is instrumental in understanding the operation of China's export controls, and contains four main

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- ¹ Syropoulos, C., G. J. Felbermayr, A. Kirilakha, E. Yalcin, and Y. V. Yotov. 2023. "The global sanctions data base—Release 3: COVID-19, Russia, and multilateral sanctions" *Review of International Economics*, vol. 32, no. 1, Special Issue: Analyzing the Effects of Economic Sanctions
- ² Statista. 2023. China's share of merchandise and commercial service exports in global exports from 2016 to 2022, <https://www.statista.com/statistics/256604/share-of-chinas-exports-in-global-exports/>
- ³ The State Council Information of the People's Republic of China. 2021. "Full Text: China's Export Controls", https://english.www.gov.cn/archive/whitepaper/202112/29/content_WS61cc01b8c6d09c94e48a2df0.html (Accessed on: 2024.06.23)

contents: (1) the nation's basic position on export control, (2) improvement of laws and regulations by export control, (3) modernization of export control systems, and (4) promotion of international exchange and cooperation.

Text mining was conducted on this white paper, as a result of which "international," "security," and "items" were identified as keywords (see Figure 1). This analysis of these keywords yielded the following characteristics. First, the paper describes China's position in the international export control system, such as non-proliferation control, which is an obligation to control international exports, occupying a large part of international content such as cooperation and information exchange. The second is an emphasis on global and national security, which are important objectives of China's export control. Third, the paper emphasizes changes in the export control system after the enactment of the Export Control Law (ECL) in 2020, the enforcement of related law, and compliance systems by key stakeholders. Fourth, it also mentions the management of major export control "items" in China, such as nuclear power and dual-use items.

Figure 1. Keywords Identified within China's Export Control White Paper



Note: The stop words in this analysis included "China," "controls," "export," "control," "related," "China's," "Chinese," and "people's," which were deemed insignificant for the purposes of this study.

The main contents of this white paper can be classified into two main aspects – first, it claims that China is establishing an export control system that is appropriate for its international position and in terms of national security and interests, and is implementing it to respect international peace and non-proliferation of nuclear weapons. Then follows an explanation of changes

in China's export control law and governance and the management of export-controlled goods. This report focuses on the latter aspect, i.e., changes in China's export controls and the management of export-controlled goods.

China already had a legal basis for export bans and controls under the Foreign Trade Act enacted in 2016, but the enactment of the ECL in December 2020 provided a legal and institutional basis for overseeing the export control field. It can be said that China's export control regime has strengthened legal sanctions in three aspects due to the ECL. First, the scope of controlled items has been expanded. In accordance with Article 2 of the ECL, export control was extended to include not only double-use goods, military supplies, nuclear, and chemical weapons, but also related technologies, services, and data. Second, it reflects catch-all regulatory provisions. In Article 12, the ECL obligates exporters to recognize that goods other than those subject to control are harmful to national safety and interests, and upon becoming aware of this by notification from the export control department, they must apply for permission from the export control department (Catch-All Controls). Third, it stipulates strong penalties for violating export controls. According to Articles 33 and 34 of the ECL, serious violations of the provisions of the bill can result in the representative of a company being subject to criminal punishment. Strong penalties for misconduct have been specified as well, such as fines of up to 5-million-yuan, cancellation of export qualifications, and prohibition of export activities.⁴

Since the Trump administration, the U.S. has announced an entity list as a means of export controls to China; in response, the Chinese government enacted the Anti-Foreign Sanctions Law (AFSL) in 2021 and announced the application of the "Countermeasure List (CL)." The AFSL stipulates that those individuals and enterprises who directly or indirectly participate in foreign discriminatory measures shall be added to the CL.⁵ As a result, the CL is being used as a policy toolkit to respond to overseas export control lists. Consequently, this legislation represents a potential risk not only to the United States but also its allies (businesses) participating in U.S. export control measures. For the first time since the enactment of the AFSL, the Chinese Foreign Ministry on May 22, 2024, announced a list of 12 U.S. defense companies and 10 senior officials involved in the action in response to the U.S. entity list of Chinese companies doing business with Russian companies and their arms sales to Taiwan.⁶ This could escalate related sanctions and conflicts between the U.S. and China in the future.

⁴ Export Control Law (出口管制法) Articles 33–34.

⁵ Anti-foreign Sanctions Law (反外国制裁法) Articles 4–5.

⁶ 外交部, May 22, 2024. "外交部公布关于对美国军工企业及高级管理人员采取反制措施的决定." http://www.gwytb.gov.cn/bmst/202405/t20240523_12622324.htm

With the recent development of emerging technologies and intensifying geopolitical conflicts, unilateral export control measures on dual-use items are increasing.⁷ China is also announcing export control measures for dual-use items aimed at expanding its security framework from 2023. First of all, the characteristics of the "dual-use list," which was newly released last year, indicate that China is strengthening export control over toxic chemicals, special dual-use, drones, etc., along with the revision of domestic laws. The expanding scope of control items also includes high-tech industries such as laser devices, aviation engines, ultra-high molecular weight polyethylene, and related equipment.⁸ Compared to 2023, the number of dual-use items controlled by China increased by 23 to a total of 912.⁹ Especially drones and wireless communication equipment used in these areas are expected to increase their commercial value in the future due to applications in the defense industry as well as in civilian drones and Urban Air Mobility (UAM). Gallium and germanium, also which have been controlled by China since 2023 as a "special dual-use item," are important materials for developing broadband semiconductors among the next-generation semiconductors that China is promoting nationally.

What is worrisome is that China's excessive export control measures could have a global impact. In particular, it is estimated that gallium and germanium from China account for 94% and 83% of global supplies, respectively,¹⁰ which could affect the international supply chain in areas such as semiconductors and solar power facilities, increase prices of related items, and fuel overheating of the market due to competition in supply and demand. Moreover, China's strengthening export control could lead to excessive spread of international export controls. Fortunately, the United States and China have agreed to convene a new dialogue on trade issues and discuss export control. In the process of export control talks, China and Japan held the second meeting of the Japan-China Export Control Dialogue and a Japan-China joint outreach event in Shanghai.¹¹ China has engaged in bilateral exchanges and cooperation with other States Parties under the framework of the Chemical Weapons Convention (CWC), and has conducted end-user and end-use verifications with Korea, Japan and other countries.

⁷ EU Monitor "Legal provisions of COM(2024)25 - WHITE PAPER on Export Controls" https://www.eumonitor.eu/9353000/1/j4nvhdcs8bljza_j9vvik7m1c3gyxp/vma6lct7u5ux#_Toc156899399

⁸ 中华人民共和国商务部产业安全与进出口管制局. May 30, 2024. "商务部 海关总署 中央军委装备发展部公告2024年第21号 关于对有关物项实施出口管制的公告." <http://aqygjz.mofcom.gov.cn/article/glm/202405/20240503513396.shtml>

⁹ 商务部 海关总署. December 29, 2023. "商务部 海关总署公告2023年第66号 关于发布2024年度《两用物项和技术进出口许可证管理目录》的公告." <http://aqygjz.mofcom.gov.cn/article/glm/202312/20231203463916.shtml>

¹⁰ European Commission (2023), "Study on the Critical Raw Materials for the EU 2023 Final Report," p. 6.

¹¹ Minister of Economy, Trade and Industry. May 29, 2024. "Second Meeting of the Japan-China Export Control Dialogue and Japan-China Joint Outreach Event Held." https://www.meti.go.jp/english/press/2024/0529_001.html

Therefore, there is a consensus that regular policy dialogue channels are needed for discussion and cooperation between China and Korea for export control.

Against this backdrop, in May this year, Korea and China agreed to launch an “Export Control Dialogue” in the supply chain sector. It is hoped that in the future, such bilateral dialogue mechanisms between the two countries will be regularized and institutionalized, serving as a platform to discuss supply chain issues including and beyond export control. In particular, cooperation between the two governments is necessary to resolve difficulties at the corporate level by discussing concerns about mutual export control and explaining the two export control systems to companies on both sides. This will hopefully present an opportunity to expand various policy channels between Korea and China, through which a balance can be reached between trade facilitation and national security. **KIEP**