

## EXPORT CONTROL DEVELOPMENTS

With the rapid transfer of technology and the diffusion of production globally, as well as the increasing delicacy of the international political and security situation, governments in the region, including Japan, Singapore, Australia, Hong Kong, China and Republic of Korea, have realized the need to enhance their export control regimes and indeed, have started to do so recently.

The most recent and significant developments include:

- i. On November 1, 2009, Japan will implement the amended export control law, including new rule on "cross-border" technology transfer, increased penalties for violations (in terms of fine and imprisonment) and extension of document retention period to 7 years.
- ii. China established new general permission formality which took effect on July 1, 2009. Export enterprises no longer need to apply for export permission for every shipment of dual-use items and technologies.
- iii. In 2009, Hong Kong revised its control list for strategic commodities, as well as provided for approval-in-principle arrangement for frequent exporters of certain controlled items.
- iv. Singapore expanded the Strategic Goods Control List ("Control List") in January 2008, increasing from the previous coverage of 600 items to 1,600 items.

The Asian export control regimes share several common characteristics:

- i. Mandatory licenses are required but each regime has its own set of permits and licensing conditions and exemptions.
- ii. Both military and dual-use products and technology are covered.
- iii. "Catch-all" provisions ensure that controlled products and technology are not exported if intended for prohibited end-use and/or end-users.
- iv. Heavy penalties for violations, including imprisonment and huge fines.

Although there are similarities between the Asian export control regimes, businesses should not take a "one-size-fits-all" approach towards their operations in different Asian jurisdictions. While a business can establish common internal platform for export control throughout all its operations, the platform should be "localized" to take into account domestic export control requirements.

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