

On October 9, 2025, China's Ministry of Commerce (MOFCOM) announced two new decrees (the "New Rules") significantly expanding and strengthening export controls over the rare earth supply chain: [Decree No. 61](#) primarily targets foreign-made rare earth metals and products, while [Decree No. 62](#) focuses on the control of rare earth-related technology.

The New Rules broaden the scope of China's rare earth export controls from metals and products to include related technology, services and support, as well as extends the reach from Chinese-origin rare earths to include foreign-made products containing Chinese-origin rare earths, or products manufactured using Chinese technology. Some of these concepts are novel to China's export control policy but should be familiar to those acquainted with the US Export Administration Regulations (EAR).

MOFCOM mentioned in a press conference that since China initiated the rare earth export control in April, some foreign entities were discovered to have directly, or after processing, transferred Chinese-origin controlled rare earth items to certain organizations and individuals, which have been used directly or indirectly in military and other sensitive fields. The Chinese law enforcement authorities have also discovered instances where some foreign entities illegally obtained rare earth technology from China, produced rare earth-related items and supplied them to users in military and other sensitive fields. These New Rules are designed to counter such circumvention and safeguard national security.

It is worth noting that on the same day, MOFCOM released another four decrees to impose export control on (i) certain [rare earth manufacturing equipment and related materials and components](#), (ii) [five rare earth minerals](#), i.e., Holmium, Erbium, Thulium, Europium, Ytterbium and related materials, (iii) certain materials and components relating to [lithium batteries and artificial graphite anode materials](#) and (iv) certain [superhard materials](#); and a fifth decree to [place 14 companies to China's Unreliable Entity List](#).

1. Control of Foreign-Made Products – Extraterritorial Application

Products Subject to Export Control

The New Rules, for the first time, extend China's export control authority to foreign-made products. The following items produced outside of China are now subject to Chinese export controls:

- a. Part Two Items (downstream products like specific magnets and sputtering targets)¹ that contain, incorporate or intermingles with Chinese-origin Part One Items (specific metals and oxides), where the value of the Part One Items accounts for 0.1% or more of the total value of the Part Two Items
- b. Part One Items and Part Two Items produced using Chinese-origin technology related to rare earth mining, smelting and separation, metal refining, magnetic material manufacturing and rare earth secondary resource recycling

Licensing Requirement

Foreign exporters must obtain a dual-use item export license from MOFCOM before exporting the above items to countries and regions other than China. It remains unclear whether "export" here includes in-country transfer (transfer to another party within the same country) or is limited solely to transfer from one country to another.

Compliance Notification Letter

Both the initial Chinese exporter and subsequent foreign exporters must issue a compliance notification letter (in MOFCOM's unified format) to their respective customers and end-users. This letter will inform the customer that the product contains Chinese-origin rare earths and that the export of subsequent products manufactured using this material requires a Chinese export license.

¹ Part Two Items under Decree No.61:

I. Rare Earth Permanent Magnet Materials

1. Samarium-Cobalt (SmCo) permanent magnet materials.
2. Terbium-containing (Tb) Neodymium-Iron-Boron (NdFeB) permanent magnet materials.
3. Dysprosium-containing (Dy) Neodymium-Iron-Boron (NdFeB) permanent magnet materials.
4. Parts, components, and assemblies containing any of the above materials.

II. Rare Earth Sputtering Targets

1. Targets containing Samarium (Sm): a. Samarium targets. b. Samarium-Cobalt alloy targets. c. Samarium-Iron alloy targets.
2. Targets containing Gadolinium (Gd): a. Gadolinium targets. b. Gadolinium-Iron alloy targets. c. Gadolinium-Cobalt alloy targets.
3. Targets containing Terbium (Tb): a. Terbium targets. b. Terbium-Cobalt alloy targets. c. Terbium-Dysprosium-Iron alloy targets.
4. Targets containing Dysprosium (Dy): a. Dysprosium targets. b. Terbium-Dysprosium-Iron alloy targets.
5. Lutetium (Lu) targets.
6. Scandium (Sc) targets.
7. Targets containing Yttrium (Y): a. Yttrium targets. b. Yttrium-Aluminum alloy targets. c. Yttrium-Zirconium alloy targets.

Effective Date

These rules will take effect on December 1, 2025.

2. Export Controls on Rare Earth Technology

The New Rules bring almost all rare earth-related technologies under export control, including:

- a. Technologies and their carriers related to rare earth mining, smelting and separation, metal refining, magnetic material manufacturing and rare earth secondary resource recycling (Control Code: 1E902.a)
- b. Technologies related to assembly, debugging, maintenance, repair and upgrade of production lines for the activities listed above (Control Code: 1E902.b)

The regulations further clarify that “export” not only refers to transfer from China to outside of China, but also includes providing technology to foreigners within or outside China through any means of transfer or provision, such as intellectual property (IP) licensing, investment, exchange, consulting, joint research and development (R&D), employment, etc.

3. Restrictions on Foreign Rare Earth Activities (End-use Control)

The New Rules implement an end-use restriction for foreign rare earth-related activities (as opposed to being solely based on the items). This means that even if the item involved is not a controlled item, its export is still subject to control if it is used in rare earth-related activities abroad.

Specifically, if an exporter knowingly exports non-controlled goods, technology and services that would be used for or substantially contributes to foreign rare earth mining, smelting and separation, metal refining, magnetic material manufacturing or rare earth secondary resource recycling activities, the exporter must apply to MOFCOM for a dual-use item export license.

4. Restrictions on Chinese Persons' Participation in Foreign Rare Earth Activities

Also similar to relevant Bureau of Industry & Security (BIS) rules, the New Rules prohibit Chinese citizens and organizations from providing any substantive assistance and support for foreign rare earth mining, smelting and separation, metal refining, magnetic material manufacturing or rare earth secondary resource recycling activities without a license.

5. Case-by-Case Review of Advanced Semiconductor and AI Uses

Similar to restrictions imposed by the US BIS on China's advanced semiconductor industry, the New Rules stipulate that export applications for the following end-uses relating to advanced chips and artificial intelligence (AI) will be subject to a case-by-case review by MOFCOM. This means that all relevant export applications (including rare earths and all other items subject to Chinese export control) will face stricter scrutiny:

- a. R&D or production of logic chips at 14 nanometers and below
- b. R&D or production of memory chips at 256 layers and above
- c. Manufacturing equipment, testing equipment and materials for manufacturing the aforementioned process node semiconductors
- d. R&D of AI with potential military uses

6. The 50% Rule

The New Rules introduce a rule similar to the US Office of Foreign Asset Control's (OFAC's) 50% Rule, and the recent BIS Affiliates Rule, stating that export applications to importers and end-users listed on the MOFCOM's Export Control Watchlist (管控名单) and Concern List (关注名单) (including their subsidiaries, branches and other affiliates where they hold 50% or more of the controlling equity) will be denied in principle.

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