



# Trygonus Report 1

The Causes, Context, Content and  
Consequences of Chinese Regulations on  
“Dual Use” Import-Export Items with Potential  
Military Applications

On December 1, 2024, the People's Republic of China updated its existing framework for export control with a new Regulation on Export Control of Dual-Use Items. This new Regulation seeks to establish a more comprehensive administrative and regulatory export control system, serving to modify, update and in part supersede the Chinese Export Control Law of 2020. The move is widely seen "as the Chinese counterpart" to the United States' Export Control Regulations or EAR administered by the U.S. Department of Commerce's Bureau of Industry and Security or BIS.[i] While there are practical, legal and technical similarities as well as differences between the respective U.S. and Chinese export control regimes, the key issues underlying and prompting the new Chinese Regulation on Export Control must be understood within the context of previous Sino-American trade wars, geopolitical and economic and technological rivalry, and conflicting American and Chinese extraterritorial claims to shape and limit the basis of ongoing international trade, business and investment globally. Frank Pan and Ivy Tan have gone so far as to describe the creation of a Chinese counterpart to the U.S. EAR 'Unverified List' under the Regulation on Export Control, as laying the basis for China to potentially "start implementing a new "blacklist" as a geopolitical retaliatory tool".[ii]

Indeed, Chinese officials have issued stark criticisms of the actual and potential application of the United States' own export control measures to Chinese entities and individuals, with a Chinese Ministry of Foreign Affairs spokesperson Mao Ning commenting on the EAR in October 2022:

*In order to maintain its sci-tech hegemony, the US has been abusing export control measures to wantonly block and hobble Chinese enterprises. Such practice runs counter to the principle of fair competition and international trade rules. It will not only harm Chinese companies' legitimate rights and interests, but also hurt the interests of US companies. It will hinder international sci-tech exchange and trade cooperation, and deal a blow to global industrial and supply chains and world economic recovery. By politicizing tech and trade issues and using them as a tool and weapon, the US cannot hold back China's development but will only hurt and isolate itself when its action backfires.[iii]*

While another Chinese Foreign Ministry spokesperson, Wang Wenbin, similarly accused the U.S. of violating WTO rules and becoming "a saboteur of the multilateral trading system" by "overstretching the concept of national security... targeting specific Chinese companies with discriminatory and unfair measures, and... politicizing and weaponizing economic and trade issues."[iv] In May 2023, the Chinese Ministry of Foreign Affairs followed up with an article titled 'America's Coercive Diplomacy and Its Harm', which describes various U.S. export control measures as an assertion of a "long-arm jurisdiction" over foreign entities and individuals.[v]

Statements and negative judgements of the Chinese government and Chinese companies from American politicians in similarly stark terms could be presented in even greater abundance. For, despite the perception that the 'America First' protectionist policies of the first Trump administration were the principle cause of a Sino-American trade war, President Donald Trump's tariffs on Chinese imports were largely kept in place by his successor, President Joe Biden, and the amplifying criticisms of U.S. trade policy quoted above were aimed at the Biden administration, under which U.S. policies targeting China appeared to reflect a growing bipartisan consensus. This became evident when President Biden signed the Cruz-Kelly Chips Permitting Reform Bill into law in October 2024, after it passed in the House of Representatives by a vote of 257 to 125 (with 49 members not voting), and unanimously in the Senate in the preceding December.<sup>[i]</sup> Introduced by U.S. Senators Mark Kelly (D-AZ) and Ted Cruz (R-TX), and cosponsored by other Republican Party and Democratic Party senators as well as Independent Senator Kyrsten Sinema (I-Ariz.), and aimed at expediting the processes needed to build more "semiconductor manufacturing plants" in the United States, the law was described in a press release from Senator Cruz's office as "a critical step in decreasing dependency on China". The U.S. Export Controls regime neatly dovetails with this geopolitically-inflected import-substitution industrial strategy, whereby "a non-U.S. origin item outside the United States can be subject to EAR if it contains an over- de minimis (normally, 25% by value) level of controlled U.S.-origin content", but this "threshold can be reduced to 10% for countries that are embargoed by the United States and may even be 0% in some special cases" relating to "certain semiconductor lithography systems... destined for development or production of certain advanced semiconductors".<sup>[vii]</sup>


In December 2024 when U.S. advanced chip and GPU vendor Nvidia was still regarded as the AI "darling" stock for investors and analysts who were "overwhelmingly bullish on Nvidia's upward potential",<sup>[viii]</sup> China's State Administration for Market Regulation declared that it has initiated investigations on Nvidia due to Nvidia's alleged violation of the "Anti-Monopoly Law of the People's Republic of China" and the "Notice published by The State Administration for Market Regulation on the antitrust review decision regarding the approval of Nvidia's acquisition of shares in Mellanox Technologies Ltd. with additional restrictive conditions" (The State Administration for Market Regulation Notice (2020) No. 16)





(《市场监管总局关于附加限制性条件批准英伟达公司收购迈络思科技有限公司股权案反垄断审查决定的公告》(市场监管总局公告[2020]第16号)) .[ix] The launch of the Chinese DeepSeek-R1 open-source AI model followed less than one month later on 20 January 2025, brought massive upheaval across Wall Street, causing a dramatic selloff in semiconductor stocks of Nvidia and Broadcom. The DeepSeek-R1 was almost immediately described as the 21st Century's 'Sputnik moment', with CNN's Fareed Zakaria arguing that it raised questions "in some ways bigger than the one's raised by Sputnik".[x] The episode, and the claims and counterclaims that have sought to diagnose the reasons that American AI and chip making companies appear to have been caught off-guard, highlights the uncertain effect of the U.S. attempts to restrict the export of advance chips and of its whole Export Controls approach. DeepSeek claimed its new AI large language model had been created in record time and had cost only US\$ 6 million to train - a fraction of the expenditure on rival models by OpenAI, Anthropic, Google plus and others.[xi] Deepseek-R1's detractors allege that it had in fact been created at a far higher cost than the announced US\$ 6 million and by depending on preexisting models and datasets for training, whether from open-source LLaMA by U.S. Meta or Qwen by Chinese Alibaba,[xii] or allegedly private data stolen from other U.S. competitors in the fast-developing AI space.

Another intertwined narrative around Deepseek's apparent coup implied that the constraints of U.S. export controls on advanced chips had had the counterintuitive effect of spurring the company to achieve similar or better results (again at lower cost) with less than cutting-edge chips, or of inducing Chinese chip makers to innovate in the manufacturing of their own advanced chips – either of which would help to explain the psychological panic engendered in the immediate aftermath of Deepseek-R1's launch. However, claims soon surfaced that Deepseek had substantially relied on the last tranche of advanced H800 Nvidia chips to be exported to China and purchased in 2023. Responding to allegations by U.S. members of Congress, Singapore's Ministry of Trade and Industry or MTI issued a statement denying that "DeepSeek obtained any export-controlled products from Singapore" and affirming their expectation that "US companies, like Nvidia, to comply with US export controls and our domestic legislation." [xiii] An Nvidia spokesperson told CNBC "that the GPUs that DeepSeek used were fully export-compliant." [xiv] If the main purpose of such advanced chips was economic competition in the developing AI technology race, then arguments about their potential and actual capacity for military application that underlie the overt legal justification for export bans on dual-use technology could be a secondary or pretextual consideration to broader national and corporate economic interests and related anti-competitive strategies.



This background of Sino-American geopolitical and trade tensions and conflicting interpretations of their respective claims to extraterritorial oversight, matters because the way in which China perceives the United States' Export Control system indicates how the new Chinese Regulation on Export Control of Dual-Use Items may be put into effect to counter this perceived underlying purpose or misuse of the United States EAR framework. The Regulation on Export Control could form part of the Chinese arsenal for retaliation against the imposition of fresh tariffs by the incoming Trump administration amidst a renewed, escalating and multipronged trade war. At the very least the new Chinese regulation will attempt to establish a form of deterrence to perceived U.S. targeting of Chinese companies and individuals. In some ways, the Chinese regulations remain, at least for the present, more ill-defined than those of the United States. However, this could be interpreted as giving the Chinese Ministry of Commerce or MOFCOM greater powers of interpretation and discretion to assert the regulation in an expansive or minimising way on a case by case or contextual basis, thereby reinforcing its arbitrary power to selectively enforce the rules in line with fast-changing policies or political directives.

As Jeff Zhang and Martha Wang note, in respect of Reexports “the extraterritorial reach of the [Chinese] Regulation is more limited” than its U.S. counterpart, in that “MOFCOM may decide which specific destination countries, entities, and individuals, and what kinds of specific Dual-Use Items are subject to” this “third category of Article 49” of the Regulation on Export Control and by using the wording “may require (「可以要求」)” [xv] rather than “shall require”, the Regulation leaves flexibility and discretion to MOFCOM to decide whether to initiate any legal actions based on specific transactions and international circumstances.”[xvi] At the same time, in relation to Article 2 of Regulation on Export Control, Zhang and Wang judge the “scope of China’s control on deemed export is broader than that of the U.S. rules, as it applies to all Dual-Use Items, namely goods, technology and services, while the U.S. rules only target technology.”[xvii] This means that the Regulation on Export Control could take on similar functions as U.S. sanctions measures and their attempted universalisation through diplomatic pressure aimed, for example, at influencing or compelling other states not to supply Dual-Use goods and services (in addition to technologies), to states under U.S. sanctions, such as the Russian Federation. However such a policy might be put into effect by the United States or China, in theory almost any commodity could be repurposed to support a country’s war effort and/or military units, and therefore be deemed to be of potential ‘dual-use’. Adding to the increased burdens from direct imposition of tariffs and counter-tariffs in a renewed and potentially escalatory Sino-American trade war, the potential expansiveness of export controls of this kind beyond more obviously military, nuclear, or biochemical technologies thus poses a significant threat to international trade and the globalised supply chains upon which multinational corporates have increasingly come to rely since the 1990s.

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- [xiv] Browne and Butts, 'DeepSeek's AI claims have shaken the world — but not everyone's convinced'
- [xv] Article 49 of the Regulation on Export Control states that “境外组织和个人在中华人民共和国境外向特定目的国家和地区、特定组织和个人转移、提供下列货物、技术和服务，国务院商务主管部门可以要求相关经营者参照本条例有关规定执行.....” which can be translated as “Where an overseas organisation or individual transfers or provides the following goods, technologies, and services to any specific destination country or region or specific organisation or individual outside the territory of the People's Republic of China, MOFCOM may require the relevant business to conduct the transfer or provision with reference to the relevant provisions of this Regulation.....”.
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## About Trygonus

At Trygonus, we are dedicated to providing unparalleled research, analysis, and consultancy services focused on the ever-evolving geopolitical and regulatory landscapes. Our mission is to empower businesses and investors by delivering insights that drive strategic decision-making and foster sustainable growth. With a strong emphasis on the financial and regulatory sectors in Asia, we are uniquely positioned to help our clients navigate challenges and seize opportunities in a globalized world. Our team of experts works tirelessly to ensure that our clients are well-equipped to handle trade tariffs, export restrictions, and other critical issues, while building strategic relationships with policymakers and stakeholders.

## Our Expertise

### Lobbying and Advocacy

Our team excels in crafting and executing lobbying strategies that influence policy decisions and foster favorable regulatory environments for our clients.

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We build and maintain strong relationships with government officials and stakeholders, ensuring our clients' interests are represented effectively at all levels of government.

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Our communications experts develop compelling narratives and messaging that resonate with key audiences, enhancing our clients' public profiles and policy objectives.

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We provide in-depth analysis and insights into geopolitical and regulatory risks, helping clients navigate complex environments with confidence.

### Market Intelligence

Our research team delivers timely and relevant market intelligence, enabling clients to make informed strategic decisions.

### Policy Analysis

We offer comprehensive policy analysis to help clients understand and anticipate changes in the regulatory landscape.



## Our Team



**DR. UTHER  
CHARLTON-STEVENSON**

Founder and CEO

[uther@charltonstevens.com](mailto:uther@charltonstevens.com)

Dr Uther Charlton-Stevens is the Founder and CEO of Trygonus. A Fellow of the Royal Asiatic Society, Dr Charlton-Stevens is a South Asia specialist and a historian of empire and conflict, with multiple well-reviewed scholarly publications, and extensive public speaking experience. His first book covers Indian constitutional politics as it relates to treatment of racial, ethnic and religious minority communities. Dr Charlton-Stevens has lived in China, Russia, and the UK, and speaks Mandarin Chinese, Russian and Spanish. He earned his bachelors and doctoral degrees from the University of Oxford and a master of science with distinction from the London School of Economics and Political Science. Having lectured at several universities, most recently the University of Hong Kong, he is also the Treasurer and Director of the Commonwealth Chamber of Commerce in Hong Kong. Dr Charlton-Stevens is keenly interested in political and geopolitical developments and strategic thinking across multiple parts of the world, particularly India, China, Russia, the UK and the United States of America.

## Our Team



**ISABELLA CHARLTON**

Director for the Americas

[isabella.cs@gmail.com](mailto:isabella.cs@gmail.com)

Isabella Charlton is Director for the Americas at Trygonus, handling government relations, corporate networking, lobbying and advocacy. A UK-qualified lawyer and fluent Mandarin-speaker, she grew up in Hong Kong and lived in Beijing before moving to the United States and naturalising as an American. Over the years, Isabella has established a high-level network of influential contacts in government, the judiciary, the corporate and regulatory space, and with tech startups and CEOs. Having served as master of ceremonies for high profile events, Isabella's talent for public speaking and connecting with people as individuals and as audiences, have been sharpened through her experience appearing on podcasts and performing standup comedy at prominent venues around the world from California to Australia, including a show at the Edinburgh Festival Fringe – she has even performed Xiangsheng crosstalk comedy in Mandarin Chinese, as well as appearing in television and film in China. Isabella holds degrees in law from the University of Oxford and the London School of Economics and Political Science.



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