

Introduction To Export Controls

A Strategic Tool Reshaping Global Trade



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AGENDA



History

Understanding the historical context



The New Paradigm

Discusses the shift in economic statecraft.



New Trends and Latest Developments

Emerging trends shaping economic policies



Legal Fundamentals

Core legal principles governing economic activities



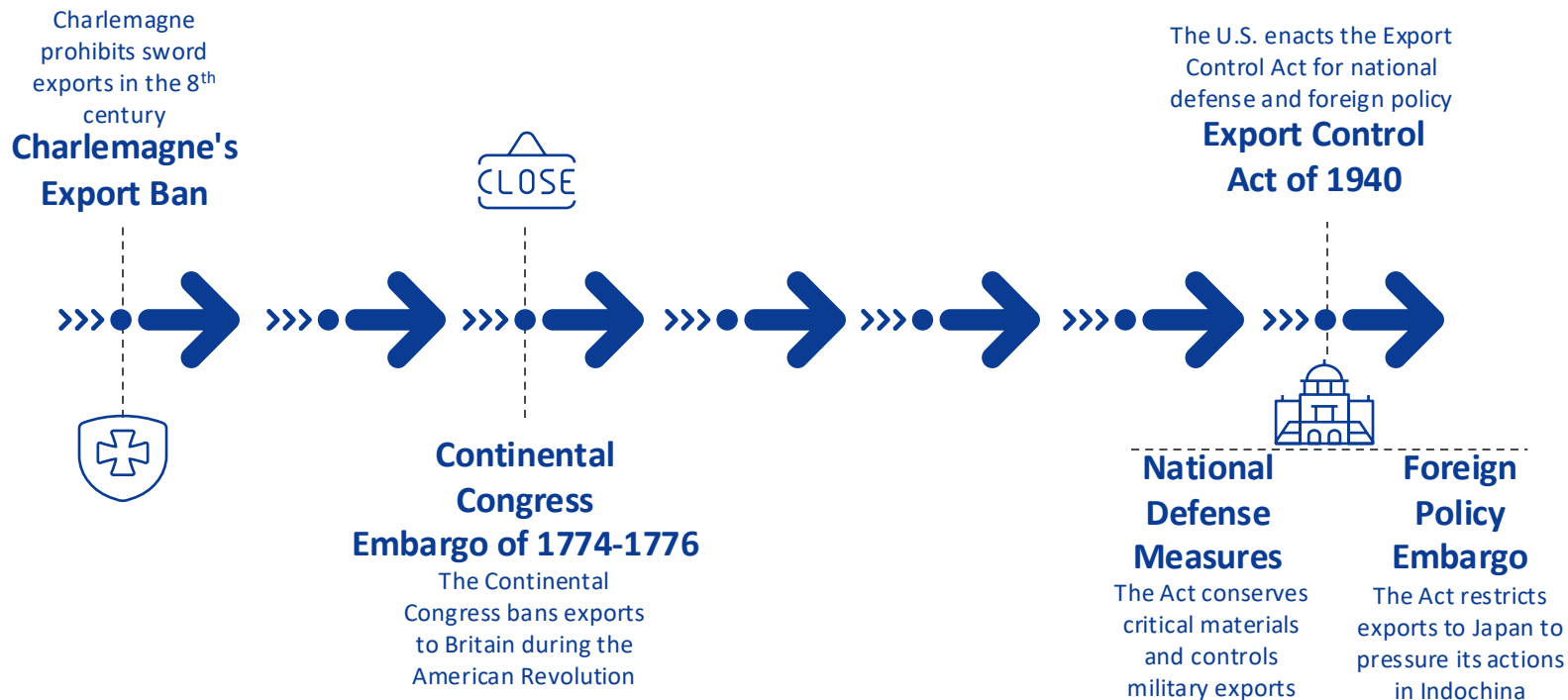
Regulatory Framework

Regulatory environment in Switzerland, United States, European Union and China



Conclusion

Emphasizing the need for legal adaptation

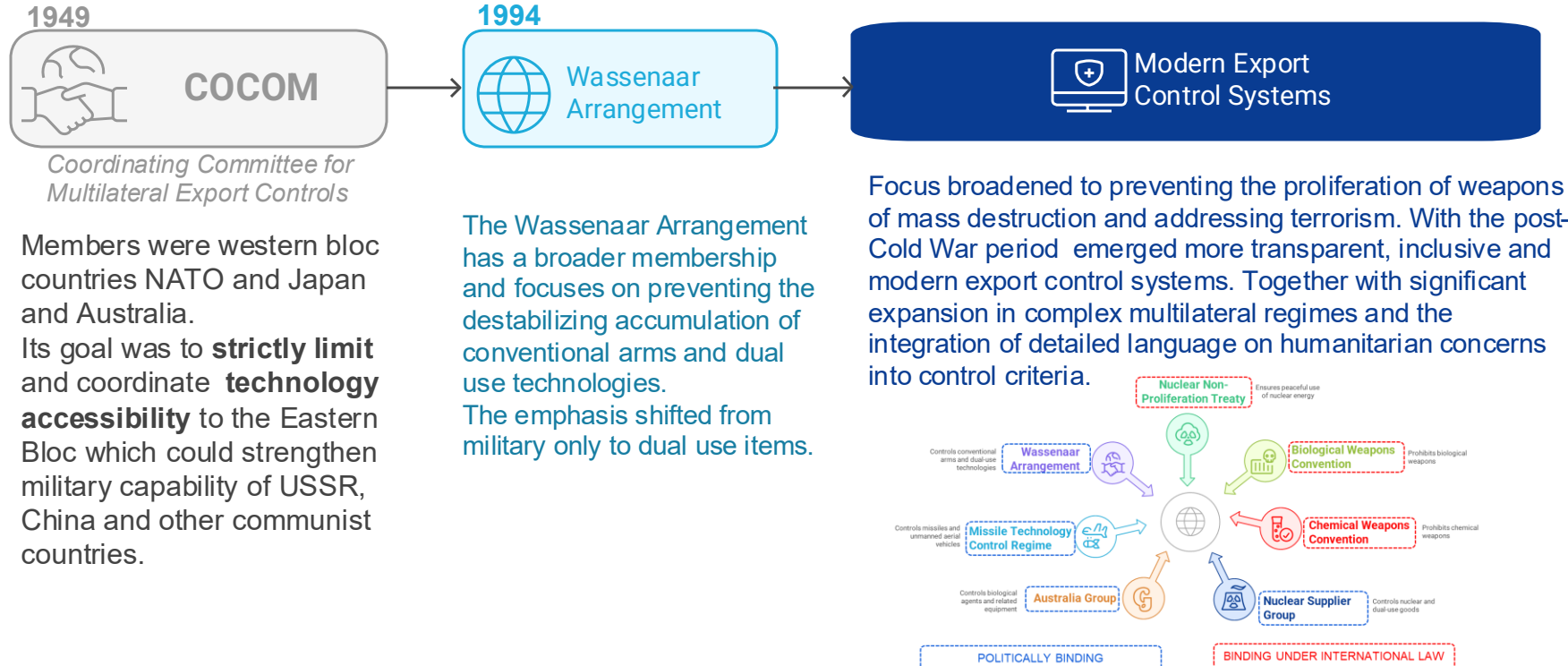


Export controls have existed for centuries, initially focusing on strategic resources and military technologies

The Cold War Paradigm (COCOM) Modern controls were formalized post-WWII



Evolution of Export Control Systems







Emerging Technologies

Focus on cutting-edge areas **artificial intelligence, quantum computing, and biotechnology**

Federal Council to harmonise export controls for dual-use goods: Amendment of the Goods Control Ordinance

Bern, 24.2025 - On 2 April 2025, the Federal Council adopted an amendment to the Goods Control Ordinance and introduced new export controls for dual-use goods in the field of new technologies. The move is Switzerland's response to the blockade of multilateral export controls and aims to harmonise Swiss export controls with those of its main trading partners. The changes take effect on 1 May 2025.



Supply Chain Security

Government scrutiny of components for critical components, software, and equipment needed to produce these chips, using export controls to block shipments of sensitive items to adversaries.

example

- China has enacted in May 2025: New restrictions in the area of rare earths
- Oct 2025: New restrictions in the field of rare earths and technologies (which have an impact on the defense/ aerospace, electronics, semi conductors)



Human Rights

Addressing human rights abuses specifically in relation to technologies like **surveillance systems and forced labor**

example

- *SECO Mandatory rejection list of an export application:*
- *Involvement in an internal or international armed conflict*
- *Systematic and serious violation of human rights*
- *High risk of use against the civilian population*
- *High risk of transfer to undesirable end recipients*



Increased Enforcement

Enforcement of existing controls is becoming more stringent, leading to **higher penalties for violations**.



Digital Trade

new challenges for compliance, requiring businesses to adapt their existing processes. The export of technology, such as software or technical data, to a foreign national in another country, which may require a license even if the transfer is digital



What (items)

Understanding controlled items, including goods, software, technology, Knowing product classification is crucial (military items, dual use items, other listed items).



Who (end users)

Screening customers and end-users against denied parties lists to determine recipients and locations.



Where (destination)

Certain export destinations may be subject to stricter controls or embargoes.



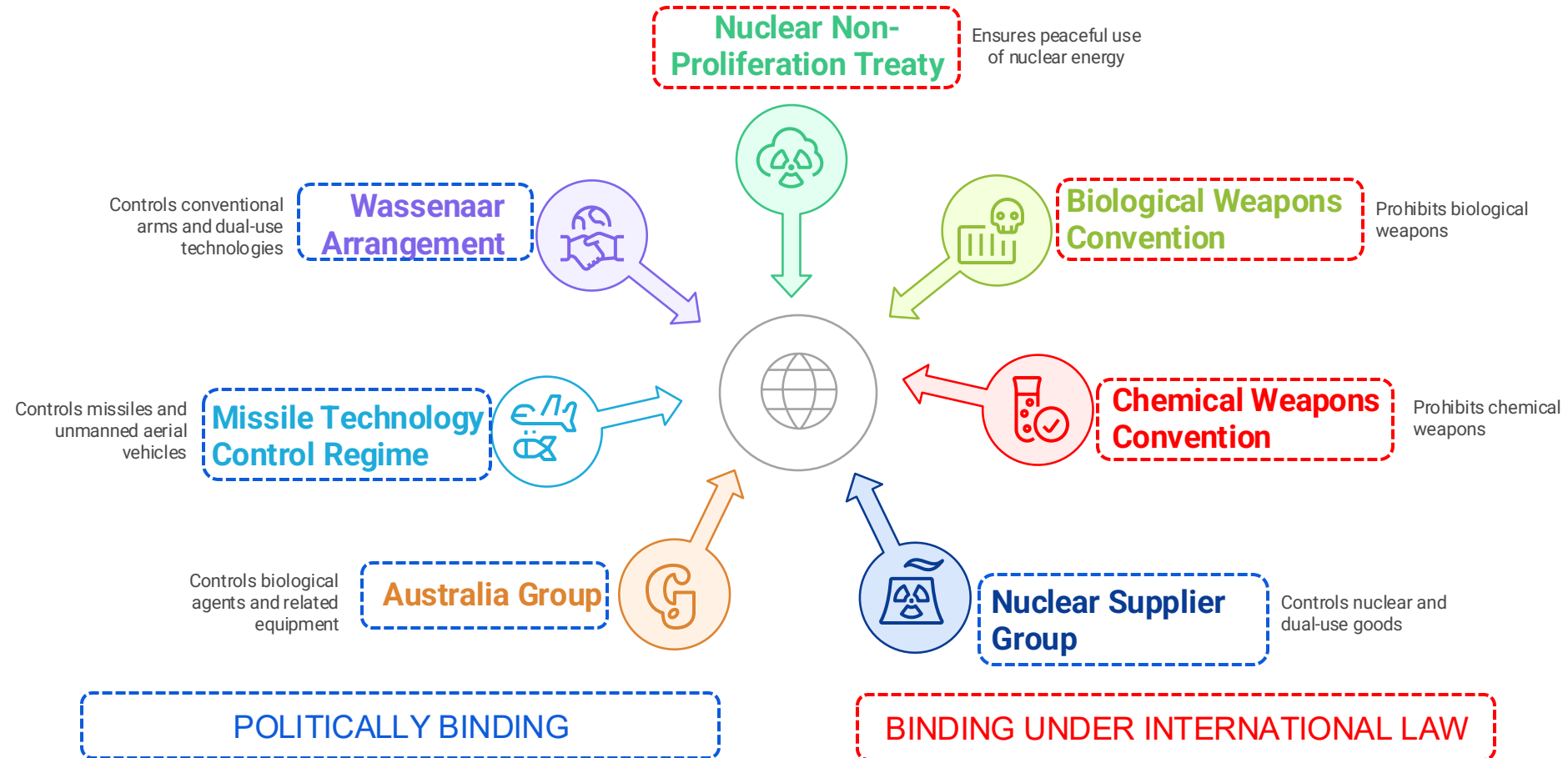
Why (end-use)

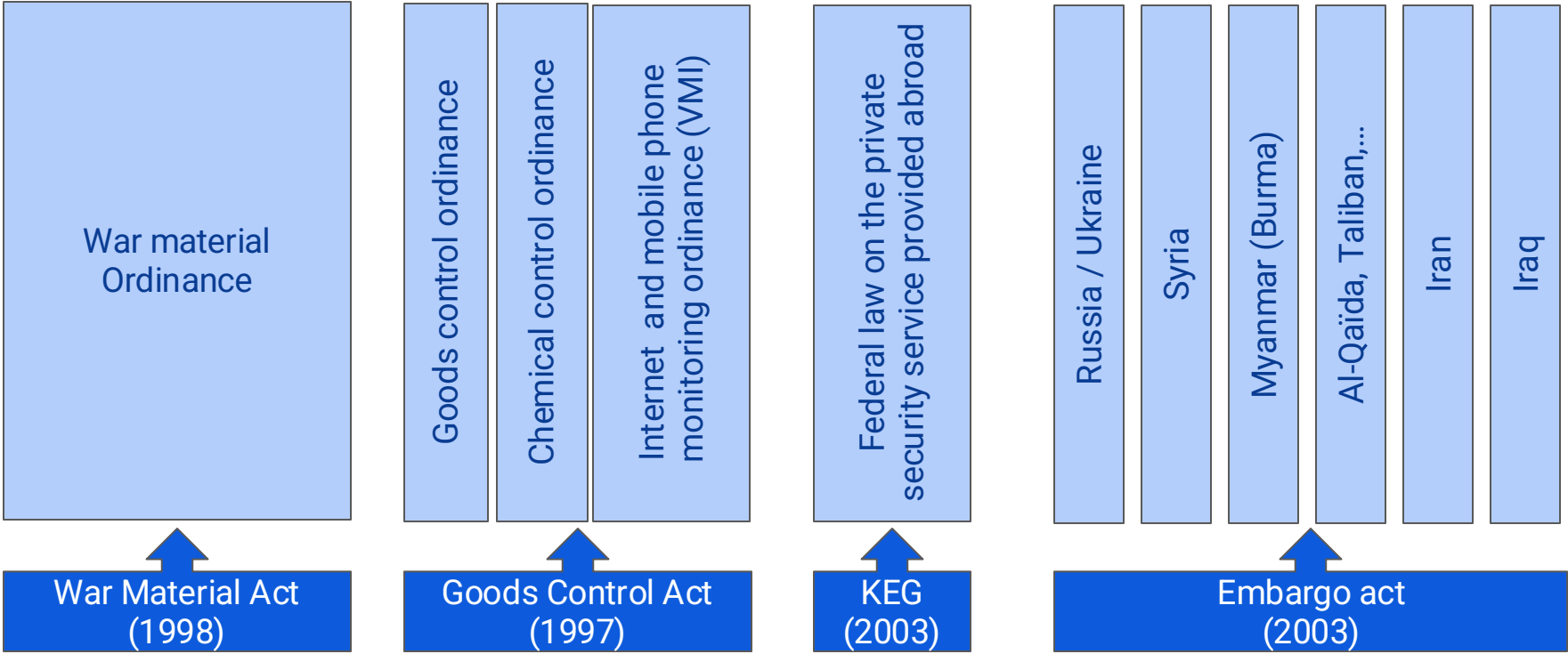
The intended end-use of the item can trigger specific export control requirements. The intended end-use of the item can trigger specific export control requirements, making it a critical compliance factor.
Catch all: control of non-listed dual-use goods for restricted end-uses, such as weapons of mass destruction

Foundation of international export control to which Switzerland is a party



Regulatory Framework

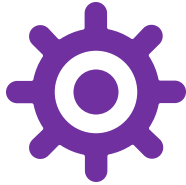






BIS

Export Administration Act/Export Administration Regulations (EAR)



Dual Use Items

Regulation on Control and Licensing dual use Items and non listed (EAR99)



DOD

Arms Export Control Act AECA/
International Traffic in Arms Regulation (ITAR)



Military Goods

Regulation on the control of military Goods/Weapons of War



Embargoes/sanctions



UN Sanctions

Regulations on UN sanctions/embargoes

- Country specific
- Person specific
- Technology specific regulations



Extraterritorial Reach

US export controls have significant extraterritorial relevance, applying when US goods are involved globally. US content exceeds the de minimis value (e.g., 10% or 25%).

Goods are created with controlled US technology/software. Goods contain a single ITAR component.

Key mechanisms include the Foreign Produced Direct Product (FDP) Rules and the de minimis rule.



Enforcement

The Entity List of restricted foreign companies has grown significantly from 1,350 entries in 2019 to approximately 3,350 by March 2025.

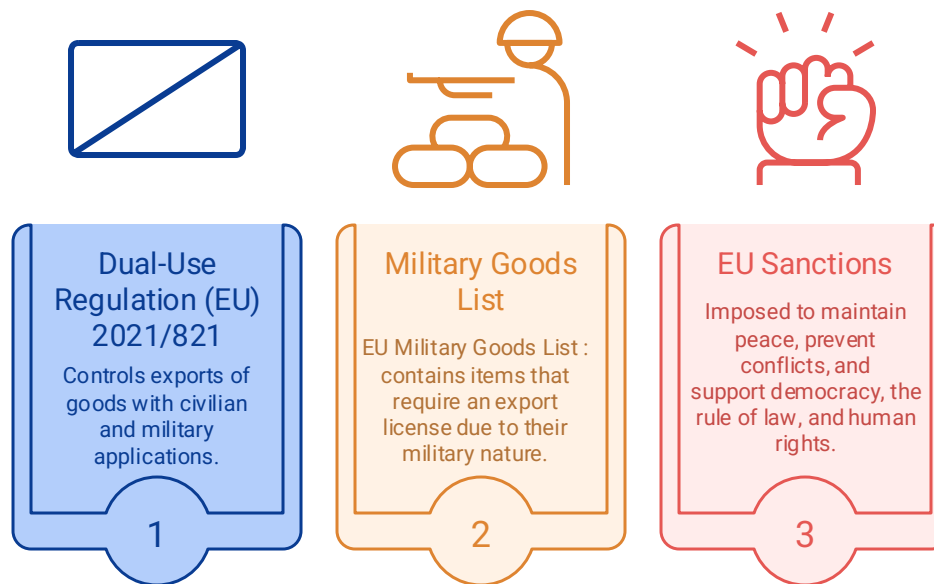
Violations may result in civil and criminal penalties, potentially reaching \$1 million per violation



Affiliates Rule

New BIS "Affiliates Rule" Effective September 29, 2025 Objective: stop the circumvention of export controls via subsidiaries or affiliated companies.

Applies to dual use goods, software, and technology (not ITAR).



Member States are responsible for granting export licenses for military goods and ensure compliance with both national and EU regulations



Blocking Statute

Protects EU operators from third-country laws



The blocking statute is an important achievement of unified EU action to protect EU operators, whether individuals or companies, from the extra-territorial application of third country laws.

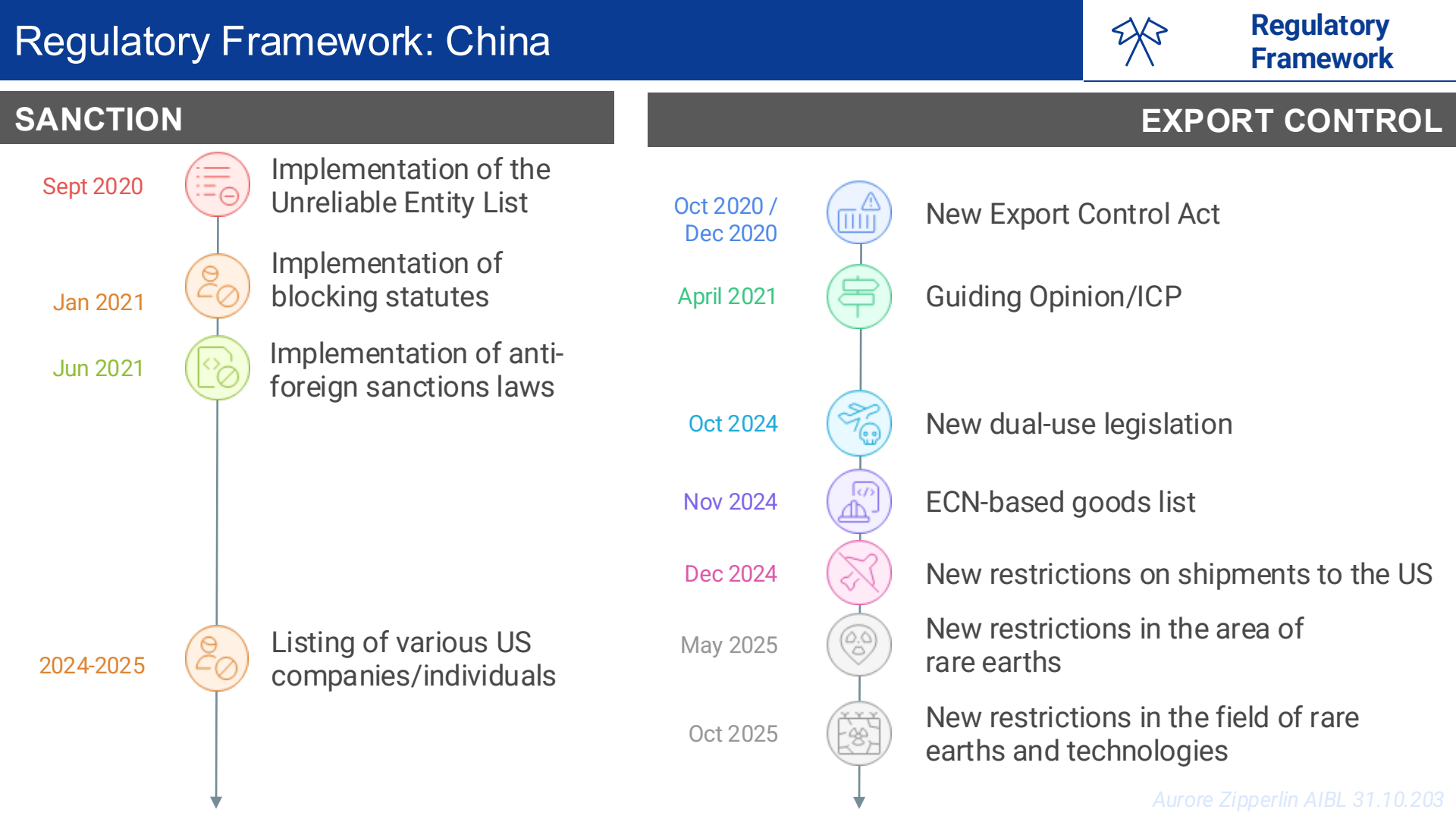
Extraterritorial Shift

Requires EU companies to prevent sales to Russia and Belarus



In November 2024, the EU made a notable extraterritorial shift.

This shift requires EU companies to ensure their customers do not sell certain industrial products to Russia or Belarus





“Export regulations applies to goods, technologies, software, and everything that affects China's national security and interests, as well as the fulfillment of international obligations”

China's Ministry of Commerce (MOFCOM) Announcement No. 61 of 2025

Imposes a "De Minimis" Rule: This control applies if the foreign-made item (like magnets or sputtering targets) contains specified Chinese-origin rare earth metals or alloys that comprise **0.1% or more** of the product's total value. This announcement is a key measure in China's effort to safeguard its national security and interests by regulating the global rare earth supply chain and is the first time China has explicitly asserted extraterritorial control in this manner. The extraterritorial controls are set to become effective on **December 1, 2025**.

China's Notice No. 62 of 2025: Rare Earth Technology Control

Establishes strict **export controls on rare earth-related technologies**. It is the foundation for China's expanded rare earth control regime. **Controlled Technology:** Requires a license for technologies related to rare earth **mining, smelting, separation, magnetic material manufacturing, and recycling**.

Conclusion

Export controls are a permanent and complex feature of global trade, driven by national security and economic competition

Counsel must focus on proactive monitoring of evolving lists and continuous reassessment of jurisdictional exposure (especially extraterritorial rules).



Legal strategy must prioritize the implementation of rigorous Internal Compliance Programs (ICPs).

ICPs require clear management commitment, organizational structure, training, transaction screening, and physical/information security

Agile compliance creates a competitive advantage by efficiently navigating complex license applications and securing approvals