

# Japan's Export Control System

Office of International Affairs for Security Export Control, Trade and Economic Cooperation Bureau,  
Ministry of Economy, Trade and Industry (METI)

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# 1. Necessity of export control



## Terrorist attacks and WMD-related activities

### Terrorist attacks

- 9/11 attacks (September 2001)
- Bali bombings (October 2002, October 2005)
- Madrid train bombings (March 2004)
- London bombings (July 2005)
- Mumbai train bombings (July 2006)
- Moscow subway bombings (February 2010)

### WMD-related activities

- A.Q. Khan Network (2004)
- North Korean missile tests (July 2006, April and July 2009)
- North Korean announcement on nuclear tests (October 2006, May 2009)
- Iranian issues

- There is a high level of terrorist activities, resulting in serious harm to people's lives.
- Recently, terrorism has increased in Asia.

Terrorist activities (reported in 2007)

- Number of incidents: 14,000
- Number of dead: 22,000

Main areas of terrorist activities

- Iraq, African countries, Afghanistan and Pakistan
- Recently we see increased terrorist activity in Asia.

- WMD (weapons of mass destruction) proliferation is occurring in countries of concern and with terrorists.
- The United Nations has requested the introduction of export control systems.

## United Nations awaken international tackling with WMDs and also adapted some resolutions

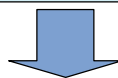
### UNSCR 1540

- Proliferation of WMD and their means of delivery poses a threat to international peace and security
- Attempts to prevent WMD and related materials from falling into the hands of non-state actors that are of concern with regard to proliferation
- All States are to establish relevant domestic controls

## North Korea and Iran

Growing concerns over WMD-related activities by North Korea and clandestine nuclear development by Iran require a coordinated response from the international community

- North Korea: Missile launches (July 2006, April and July 2009)  
Announced nuclear tests (October 2006, May 2009)
- Iran: Enrichment-related activities that create suspicion in the international community



### UNSCRs

- North Korea : UNSCR 1695, 1718 and 1874
- Iran : UNSCR 1696, 1737, 1747, 1803, 1835 and 1929

Terrorism causes not only serious personal injury, but also damages the economy and industry in affected countries/regions.

Example: 2002 Bali bombings

- Tourist industry is 5% of GDP
- Right after the bombings, hotel occupancy rates decreased from 70% to single digits
- The number of tourists declined by 0.8 million, to 4.3 million

Asian countries developing tourism and industry are seriously damaged by terrorism

What are export controls?

Who?

Exporters

What?

Goods or technologies

What use?

- Military use

- Civilian use with potential military use ("dual use")

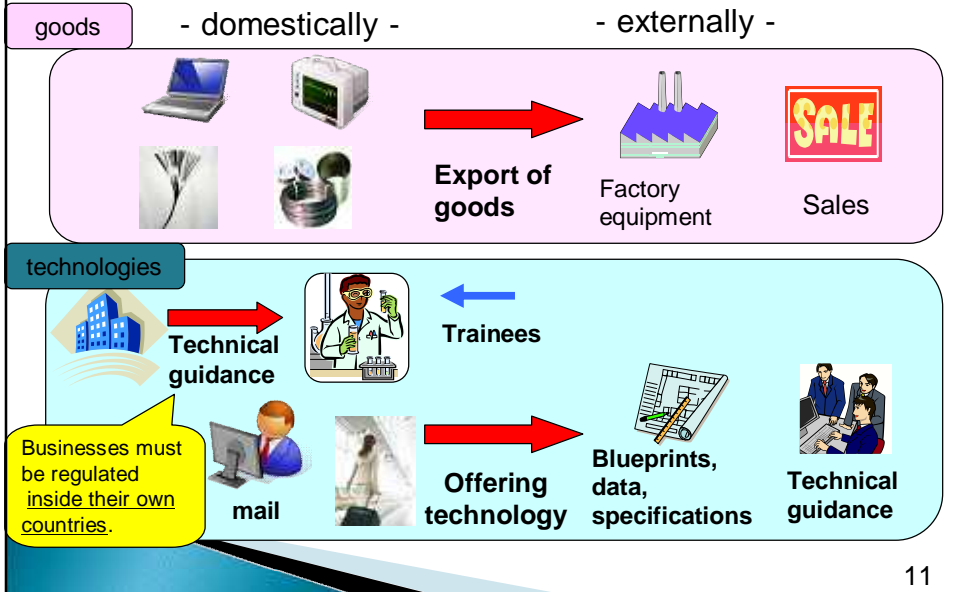
To whom?

To terrorists or countries which threaten peace

Why?

Promote peace and stimulation of trade

Both technologies and goods must be controlled



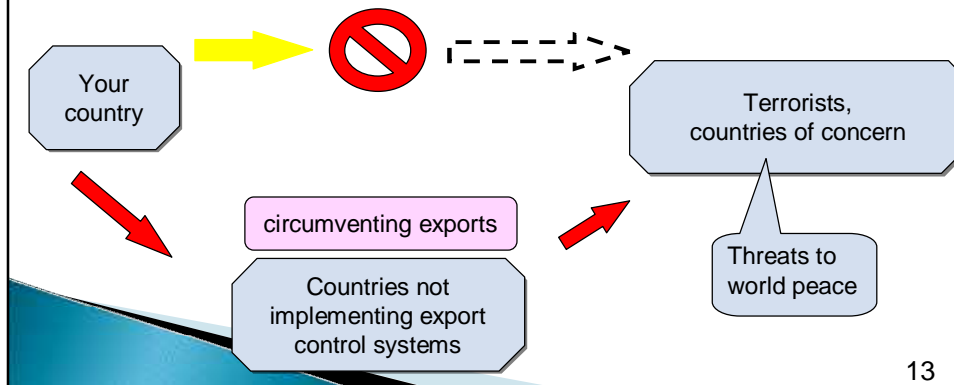
Some exports can be used for military purposes and are called "dual use" items.

To avoid criminal involvement, exporter must confirm whether or not your export item is dual-use.

|                         |  | Military Use                          | Civilian Use                   |
|-------------------------|--|---------------------------------------|--------------------------------|
| Titanium alloy          |  | Gas centrifuge for uranium enrichment | Watches, eyeglass frames       |
| Carbon fiber            |  | Missile components                    | Golf club shafts, fishing rods |
| Triethanolamine         |  | Chemical weapons                      | Shampoo                        |
| Freeze-drying equipment |  | Biological weapons                    | Instant coffee                 |

Terrorists or countries of concern can procure items through countries that do not implement export control systems.

In order to avoid the issue of circumventing exports, exporters have to identify countries of transit and end-users.



Why must companies have export controls?

## Why must companies have export controls?

- Compliance
- Reduces cost of export procedures  
Companies can simplify export control procedures in accordance with their own export systems.
- Social responsibility  
Companies are punished if exported goods are used in terrorist activities or countries of concern, regardless of regulations.
- Enhanced evaluation by investors and customers  
Companies with export controls are more highly evaluated because they pose lower investment risks.

Introduction of export controls  
enhances corporate value

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## 2. Japan's Export Control System

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Weapons are regulated in conventions and dual use items are regulated in regimes.

Convention Regulations for WMDs

Regime Regulations for Conventional weapons and Dual use items

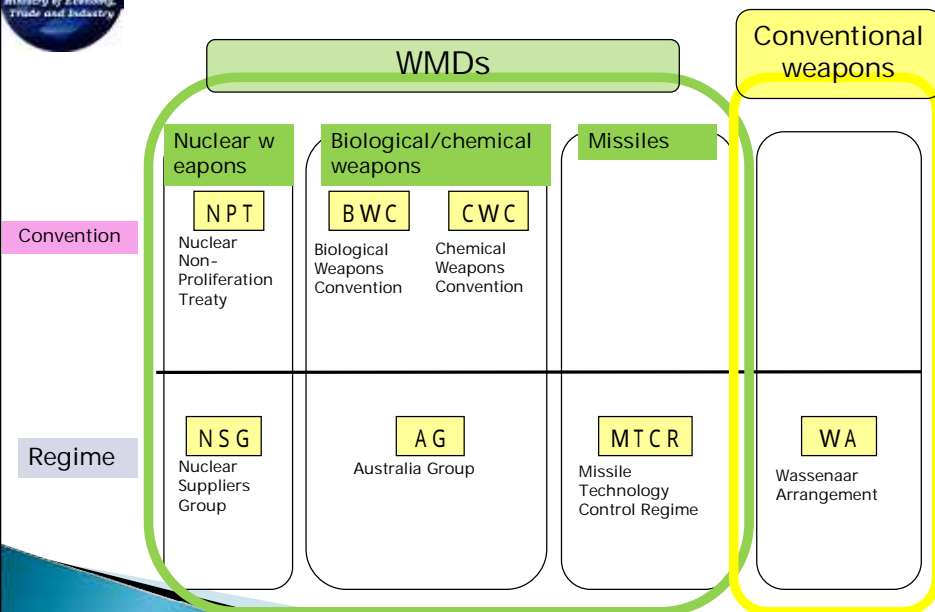
Weapons are classified into WMDs (weapons of mass destruction) and conventional weapons.

WMDs

Weapons which have wide effectiveness, such as nuclear and chemical weapons and missiles.

Conventional weapons

Weapons except for WMDs



## Outline of Japan's Export Control System

- The Foreign Exchange and Foreign Trade Act provides the legal basis for export controls in Japan.
- There are two main types of control: the List Control and the End-use Control.
- These controls are based on the internationally harmonized control list.
- Japan also implements "End-use Control" to supplement the List Control.

### List Control

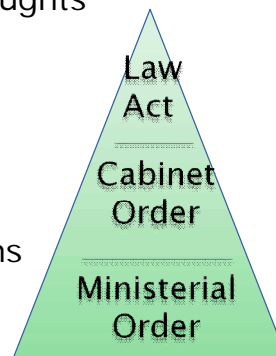
- Exporters should obtain a license when exporting items on the Control List.
- The Control List is harmonized internationally by the export control regimes.

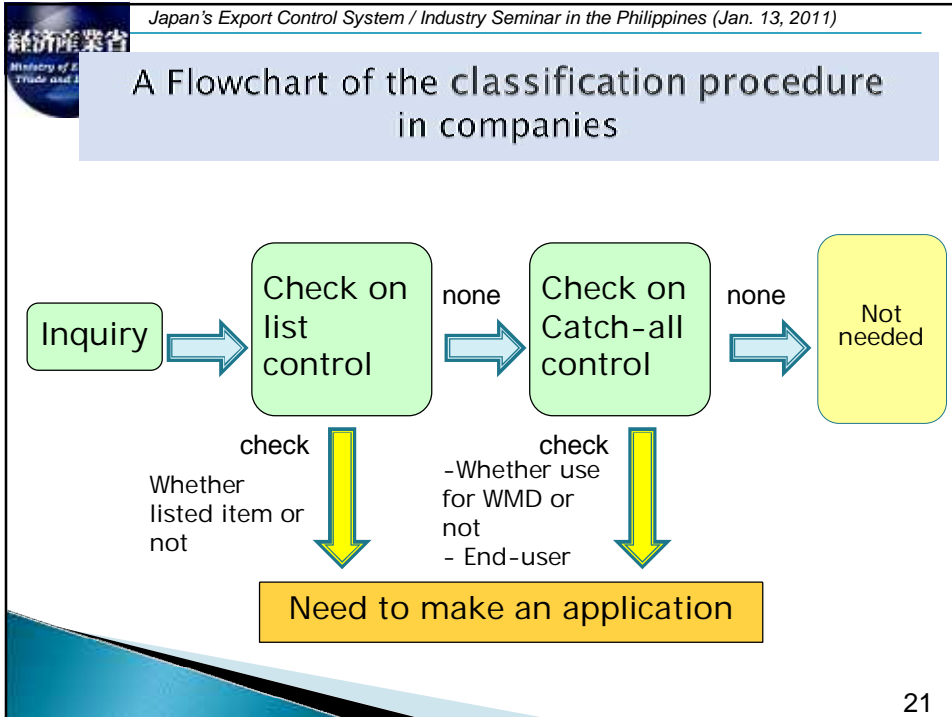
### End-use Control (Catch-all control)

Exporters should obtain a license in case where they are aware or informed by METI that the item may contribute to WMDs programs.

## The legal structure in Japan

- (1) Law or Act
  - Foreign Exchange and Foreign Trade Act
    - Basic frameworks and thoughts
- (2) Cabinet Orders
  - Export Control Order
    - List of goods
  - Foreign Exchange Order
    - List of technologies
- (3) Ministerial Orders
  - Details and interpretations of listed items, etc.





Japan's Export Control System / Industry Seminar in the Philippines (Jan. 13, 2011)

経済産業省  
Ministry of Economy, Trade and Industry

### List control

An export license from METI is required for the export of listed items

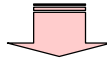
- A wide range of dual-use items are listed, which are based on international export control regimes.
- Not only items, but specifications are shown in cabinet and ministerial orders.
- An export license is required even if items are exported for own company/factory in a foreign country.

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## Limitations of List Control

- All items related to WMD cannot be covered by regimes' lists
- It takes time to revise lists in regimes, but technologies continue to advance

It's difficult to implement sufficient export controls by list control only!



Unlisted control, Catch-all control is necessary for effective export control

## End Use Control – Catch-all Control (WMDs)

**Subject** All items except which do not clearly contribute to WMDs proliferation programs

### Licensing Conditions

- (1) Judgment by exporters
  - End-use: whether the exporters are aware that the items are used for the development of WMDs.
  - End-user: whether the exporters are aware that the end-user use items for development of WMDs.
- (2) Informed by METI  
Exporters are informed of the need for licensing by METI

### Assistance Tools for Effective Enforcement

- a. Preliminary Consultation
- b. Risk Information of end-use
- c. Risk Information of end-user

## a. Preliminary Consultation

## b. Risk Information of end-use

Commodity Watch List - Not a controlled list

Examples of 40 items with high risk of diversion for development of WMDs.

## c. Risk Information of end-user

Foreign End-user List - Not an embargo list

331 entities on which there are concerns for development of WMDs.

If the end-user is the listed end-user, exporter has to check carefully using \*the guideline provided by METI.

If end-use has clearly **not a concern** with WMDs

License not needed

If end-use has a **minor concern** *or* a **clear concern** with WMDs

License needed

\*The guideline to clear the concern

There are 17 items to confirm whether there is a concern or not, such as:

- The customer's need for the items is reasonable for their business and their technological capabilities.
- The requirements for spare parts are not excessive.
- The shipping route is reasonable for export items and destination.

## Foreign End-user list (Sep. 2010 ver.)

### Foreign End user list (extraction)

| No. | 国名、地域名<br>Country or Region | 企業名、組織名<br>Company or Organization     | 別名<br>Also Known As   | 懸念区分<br>Type of WMD |
|-----|-----------------------------|--|---|---------------------|
| 1   | イスラエル<br>Israel             | Ben-Gurion University (of the Negev)   |   | 核<br>N              |
| 2   | イスラエル<br>Israel             | Nuclear Research Center Negev (RCN)    |   | 核<br>N              |
| 3   | イラン<br>Iran                 | 7th of Tir                             | 7th of Tir Industries Complex<br>Mojtamee Sanate Haftome Tir<br>Sanaye Haftome Tir<br>7th of Tir Industries of Isfahan/Estfahan<br>7th of Tir Complex<br>Estfahan/ Isfahan Haftome Tir Industries | 核<br>N              |
| 4   | イラン<br>Iran                 | Bazar Boresh Kaveh Co.                 | BK Co.  | 核<br>N              |
| 5   | イラン<br>Iran                 | Aerospace Industries Organisation (IO) | Aerospace Industries Organization<br>Sazemane Sanaye Hava and Faza (SSHAF)<br>Bazargani Hava and Faza   | ミサイル<br>M           |
| 6   | イラン<br>Iran                 | AMA Industrial Co.                     |   | 核<br>N              |

| Country        | Number |
|----------------|--------|
| Israel         | 2      |
| Iran           | 1 4 5  |
| India          | 1 9    |
| North Korea    | 1 0 6  |
| Syria          | 1 1    |
| Chinese Taipei | 2      |
| China          | 1 5    |
| Pakistan       | 2 9    |
| Afghanistan    | 2      |
| Total          | 3 3 1  |

[http://www.meti.go.jp/policy/anpo/hp/law\\_document/tutatu/t08kaisei/100903EUL/t08kaisei\\_userlist\\_kohyo.pdf](http://www.meti.go.jp/policy/anpo/hp/law_document/tutatu/t08kaisei/100903EUL/t08kaisei_userlist_kohyo.pdf)

## Licensing Procedure

- An exporter needs to apply the Ministry of Economy, Trade and Industry (METI) or its regional branches for the export license.
- An exporter is required to attach documents including the documents provided by an end user such as the Letter of Assurance.
- METI will examine the application referring to the criteria to issue an export license.



Exporters are required to submit documents as follows;

- Application Form (available at METI website)
- Supplementary Details regarding the Application
  - Name of manufacturer
  - Quantity and Value
  - Outline of end use etc.
- Back Ground Documents (e.g. a written contract)
  - Back ground documents are required to check whether the transaction meets the Export Licensing Criteria.
- Other Documents
  - Commodity in Detail (e.g. catalogue)
  - End User in Detail (e.g. leaflet)
  - The Letter of Assurance by the End User
  - Any other documents requested by METI

### Key points of examiners in licensing

- Will items actually reach the stated end-user?
- Will the stated end-user really use the item?
- Will the *actual* use exactly match the *stated* end-use?
- Will the stated end-user strictly control the item?

Japan's licensing requirements are all to be confirmed on key points by Japanese examiners.

The requirements are different according to items or destinations.

Will items actually reach the stated end-user?

Exporter      Importer

Confirming the contacts

Are there consistent contacts from the exporter to the end-user through the importer?

Are there any unnatural route from exporter to end-user?

Unnatural route?

Normal route

Confirming the locations of transits and end user

Will the stated end-user really use the item?

Factory for dice

Confirming business information on website

Is the business of the end-user consistent with the uses of the items?

Is the number of items consistent with the scale of business?

Confirming the scale of end user

Very small factory

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Will the actual use exactly match the stated end-use?

The main customers are

We deal ...

Confirming business information on web site

Does the end user deal with military items?

Does end user concern with the military industry?

Company related to Military

Fund from the Military

Confirming business information and capital composition

Will the stated end-user strictly control the item(s)?

Confirming the actual site of the factory

Is the place where item is used decided?

Are the items controlled appropriately?

Confirming the control system and place of storage

Restricted entries of outsiders

Maintain appropriate depository

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## Enforcement

### Cooperation with relevant organizations

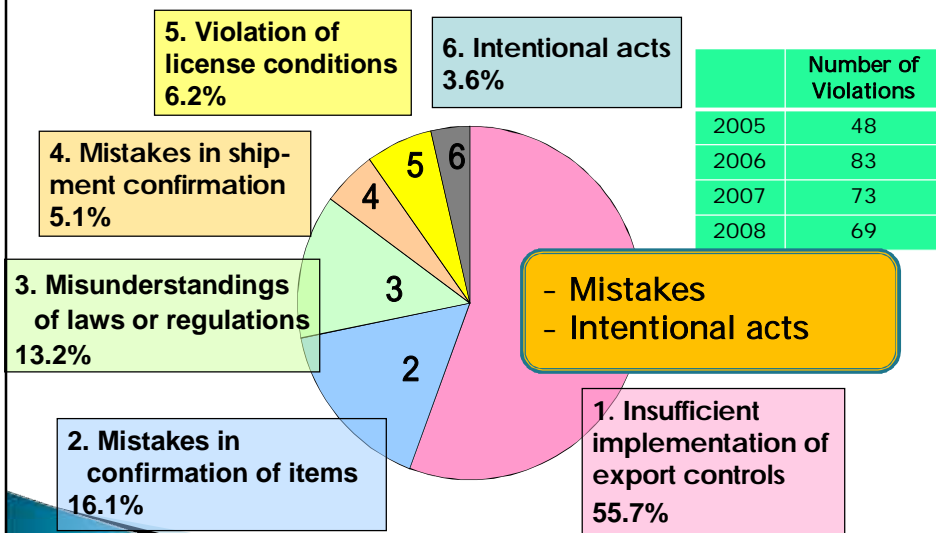
- METI cooperates with other related government agencies to enforce export control
  - Customs
  - National Police Agency (NPA)
  - Ministry of Foreign Affairs (MOFA)
  - Japan Coast Guard (JCG), etc.

### Cooperation with private companies and universities

- METI encourages exporting companies and universities to strengthen their export control, and provides them with a variety of support.
  - Measures for promoting ICP
  - Guidance for the control of sensitive technologies (ITT)
  - Outreach seminar, etc.

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## Analysis of Violations in Japan (2005-2008)



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## Types of Violations – Mistake

- Lacking recognition of Control System
  - Lacking knowledge of related laws
  - Insufficient implementation of classification procedure
- Insufficient implementation of classification procedure
  - lose sight of classification procedure of technology
  - excess dependence on manufactures
  - lose sight of review of controlled list
- Mistake in confirmation of shipment
  - Mistake of instruction of shipment
- Non-compliance with license condition
  - non-performance of licensing conditions

## Types of Violations – Intentional

- i. Hand luggage  
Transport of goods abroad as hand luggage without necessary licenses.
- ii. Masking  
Export of items pretending they aren't controlled items.
- iii. Circumventing  
Export of items via an intermediate country from which they are permitted to be exported.





## **Thank you for your attention**

Office of International Affairs for Security Export  
Control, Trade and Economic Cooperation Bureau,  
Ministry of Economy, Trade and Industry (METI)