

Japan's Export Control Law and ICP Implementation

January 8, 2015

Security Export Control Policy Division
Ministry of Economy, Trade and Industry(METI)

• Contents

1. Japan's Export Control Law
2. ICP Implementation in Japan

1-1. Legal Framework of Japan's Export Control

Act	Cabinet Order/ Ordinance			
Foreign Exchange and Foreign Trade Act	Cabinet Order	List Control	Catch-all control of WMD	Catch-all control of Conventional Weapons
Art. 48	Export Control Order	Item 1-15 <div data-bbox="784 429 1141 486" style="background-color: yellow; border: 1px solid black; text-align: center;">List of Goods</div>	Item 16 <div data-bbox="1170 429 1879 486" style="background-color: yellow; border: 1px solid black; text-align: center;">List of Goods</div>	
Art. 25	Foreign Exchange Order	Item 1-15 <div data-bbox="784 579 1141 636" style="background-color: yellow; border: 1px solid black; text-align: center;">List of Technologies</div>	Item 16 <div data-bbox="1170 579 1879 636" style="background-color: yellow; border: 1px solid black; text-align: center;">List of Technologies</div>	
		<u>Regulated Items</u> • weapons • listed dual use items related to WMD and conventional weapons	<u>Regulated Items</u> All goods or technologies that could contribute to WMD related or military end-use activities	
		<u>Regulated Destination</u> All countries	<u>Regulated Destination</u> All countries except for 27 favorable treatment countries	

27 Favorable Treatment Countries :

Countries which have strict export control systems (Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, South Korea, Luxemburg, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, UK, USA)

UN arms embargo countries:

Afghanistan, Central African Republic, Democratic Republic of Congo, Eritrea, Cote d'Ivoire, Iraq, Lebanon, Liberia, North Korea, Sierra Leone, Somalia, Sudan

1-2. Correspondence between Japan's List and Regime List

Number		Regime list	
1	Weapons	WA/ML	List control
2	Dual-use items	NSG	
3		AG	
3-2			
4		MTCR	
5		WA/BL·SL	
~			
13			
14		WA/ML (excluding item 1)	
15	Dual-use items	WA/VSL	
16	Catch-all		Catch-all control

In case there are concerns that the goods or technology in question could contribute to WMD proliferation program, exporters have to apply for export license.

Region

All region except for 27 favorable treatment countries

Items

Any Items which are not on the list (except for food, etc.)

Conditions

(1) Exporter's Initiative = The "Know" Condition

- In case exporters have come to know that the items will be used for the development, manufacture, use, storage of WMD
- In case exporters have come to know that the end user is/was involved in WMD-related program through relevant documents such as **Foreign End User List**, except for the case the item in question will be apparently used for a purpose other than the WMD-related activities

(2) METI's Initiative = The "Informed" Condition

- METI will notify an exporter to apply for an export license when METI considers that the items in question are/may be intended for WMD use.

1-4. Foreign End User List (FUEL)

- The FEUL is a list of foreign entities that may have some relationship to the development, production, manufacturing and/or storage of WMD and/or missiles. The List is published on the website;
http://www.meti.go.jp/english/policy/external_economy/trade_control/index.html
(updated on 17 Sep. 2014)
- Exporters are required to submit export license applications when they wish to export items to the entities on the FEUL unless it is obvious that the goods to be exported are not going to be used for WMD and/or missile purposes.
- The FEUL is revised annually.

Number of the Entities

Iran	295
North Korea	121
Pakistan	33
China	28
Syria	13
UAE	6
India	4
Afghanistan	3
Taiwan	3
Israel	2
Hong Kong	2
Total	510

In case there are concerns that the item or technology in question could contribute to military end-use, exporters have to apply for an export license.

Region	Countries under UN arms embargo	Countries except for 27 favorable treatment countries and UN Arms embargo countries
Items	Any Items which are not on the list (except for food, etc.)	
Conditions	(1) <u>Exporter's Initiative</u> = The "Know" Condition In case exporters have come to know that the items will be used for the development, manufacture or use of conventional arms in UN embargo countries	
(2) <u>METI's Initiative</u> = The "Informed" Condition <ul style="list-style-type: none">• METI will notify an exporter to apply for an export license when METI considers that the items in question are/may be intended for a military end-use.		

Administrative Sanction

- Prohibition of exports for up to 3 years

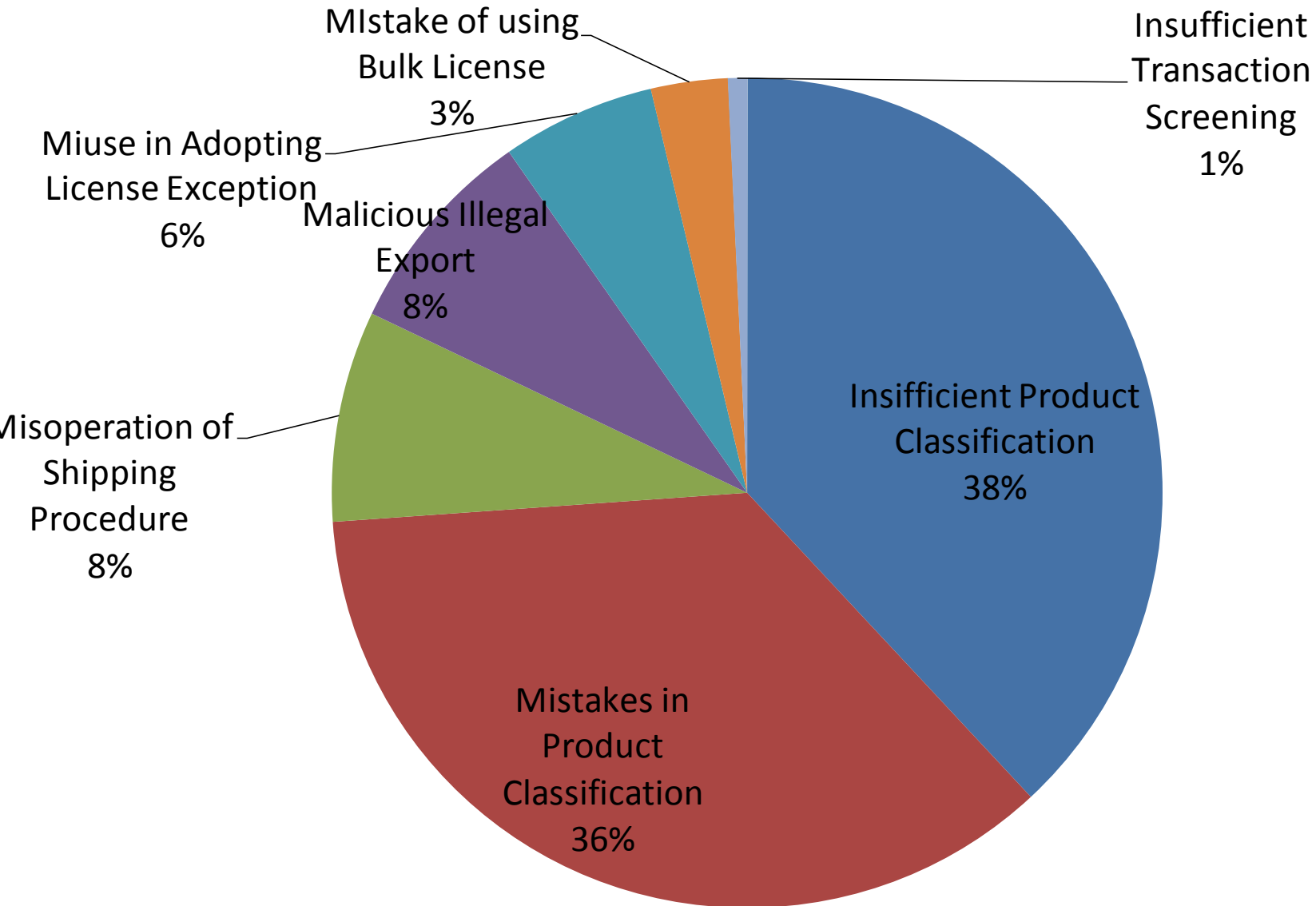
Criminal Penalty

- Imprisonment of up to 10 years
- Fine of up to 10 million Yen

Issue of “Warning Notice” to the Public

- METI may issue a warning notice on the METI website with details information including the name of company.

1-7. Analysis of Causes of Illegal Exports (2012 ~ 2013)



• Contents

1. Japan's Export Control Law
2. ICP Implementation in Japan

What is ICP?

ICP is a company's export management programme including the top management commitment, compliance policies and standardized operational procedures, so that all staffs within the company can be compliant effectively with the nation's export control regulations.

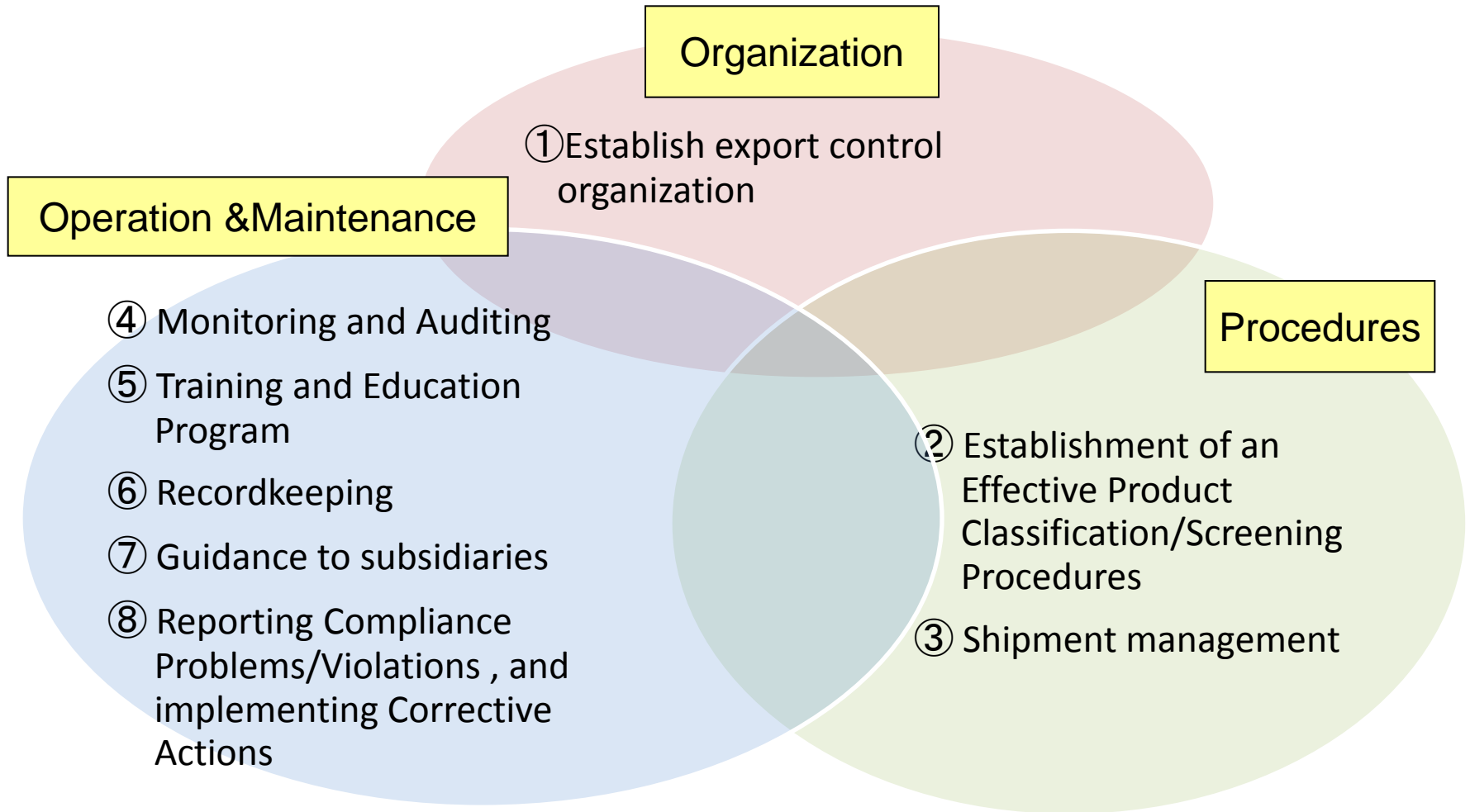
Approved ICP

To obtain a full advantage of possessing ICP such as bulk license, exporters need to ask METI to check their ICP and receive an approval from METI. Then, the exporter's ICP can be registered in METI.

<Numbers of ICP registered exporters with METI>

Year	2008	2009	2010	2011	2012	2013
Number of Exporters	1, 447	1, 467	1, 430	1, 445	1, 463	1, 450

Exporters must include the following elements into their ICP in order to receive the METI's approval.



For Exporter

- ✓ Facilitate day-to-day operational procedures in order to comply with the nation's export control law.
- ✓ Minimize risk of violation.
- ✓ Promote yourself as a responsible company by being listed on METI's web site.
- ✓ Give a privilege to obtain a bulk export license.

For Government

- ✓ Reduce risk of violation export control violation.
- ✓ Allocate resources to examine more sensitive case.

ICP is beneficial for both exporter and government.

Bulk license allows exporters to export a certain strategic items without export license.

General Bulk License

- specific items for 27 favorable treatment countries
Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, South Korea, Luxemburg, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, UK, U.S.A

Special General Bulk License

- broader scope of items for more countries
- ICP and prior on site check required

Special Bulk License

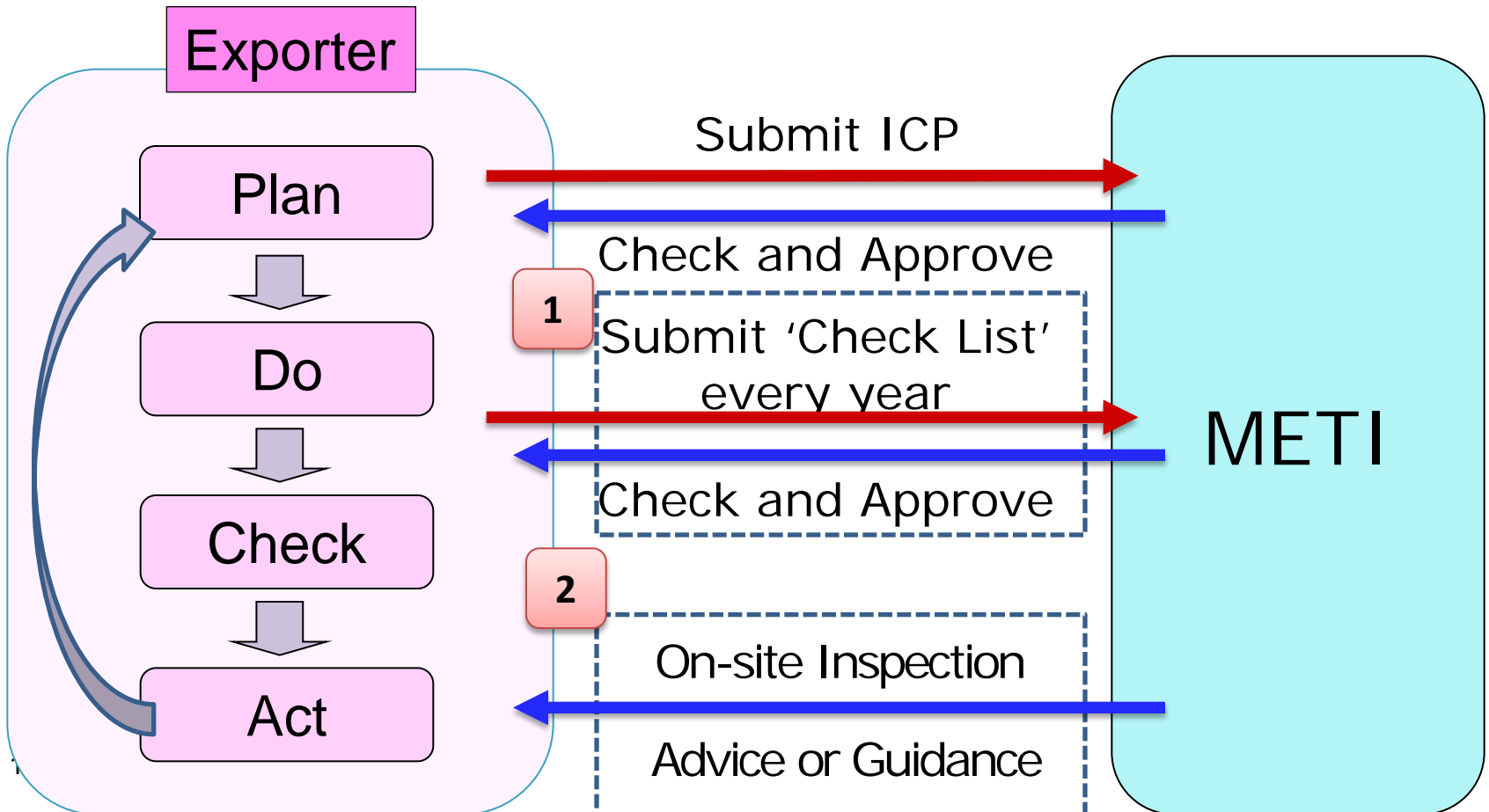
- specific items' repeated export to specific customers
- ICP and prior on site check required

Special Bulk License for Overseas Subsidiaries

- specific items' export to subsidiaries in foreign countries
- ICP and prior on site check required

There are mainly two ways to check exporters' ICPs:

- ① Check List
- ② On-site inspection



◆ Exporters check all questionnaires in the check list and submit it to METI every year.

Check items	Covered in ICP?	How do you implement it?	Notes
Export Control Organization			
1 - 1 Is the Chief Export Control Officer a representative of the organization?	(1) Stipulated in ICP (2) Stipulated in internal rules other than the ICP (3) Not stipulated	(A) A representative of the organization is appointed for the ICP (B) Although different from ICP, a representative of the organization is appointed (C) An individual other than the above is appointed (D) Nobody is appointed	Describe the name of the ICP and specific articles Name of ICP: Articles:
1 - 2 Is work allocation and scope of responsibility regarding export control clearly defined?	(1) Clearly stipulated in ICP (2) Clearly stipulated in internal rules other than ICP (3) Not stipulated	If (1) or (A) or (B) was selected (C) Practical work allocation and scope of responsibility is clearly defined (D) Not defined as either	Describe the name of ICP and specific articles Name of ICP: Articles:
1 - 3 Are executives and employees engaging in export control informed of the latest Foreign Exchange Law and related legislation?	Y / N If Y was selected Describe the name of the ICP and specific articles Name of ICP: Articles:	Y / N If Y was checked Describe real specific implementation concisely Status of implementation:	
General License			

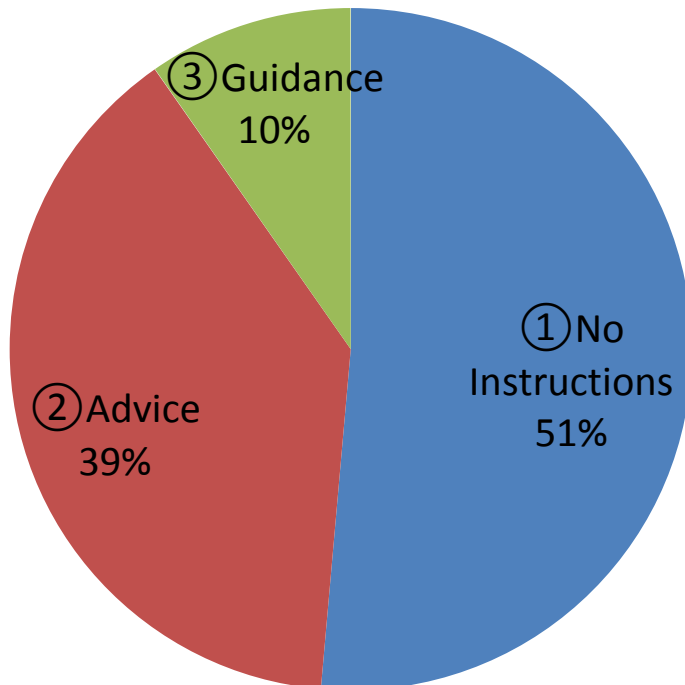
Choose the option which fits your case

Describe the name of the ICP and specific articles

Describe the practical implementation

- Inspect about 100 exporters annually that have registered ICPs
- Check the implementation of the ICP by visiting exporters
- Advice or guidance are given after the inspection

Results in 2013



① If the ICP is functioning well;

→ No instructions

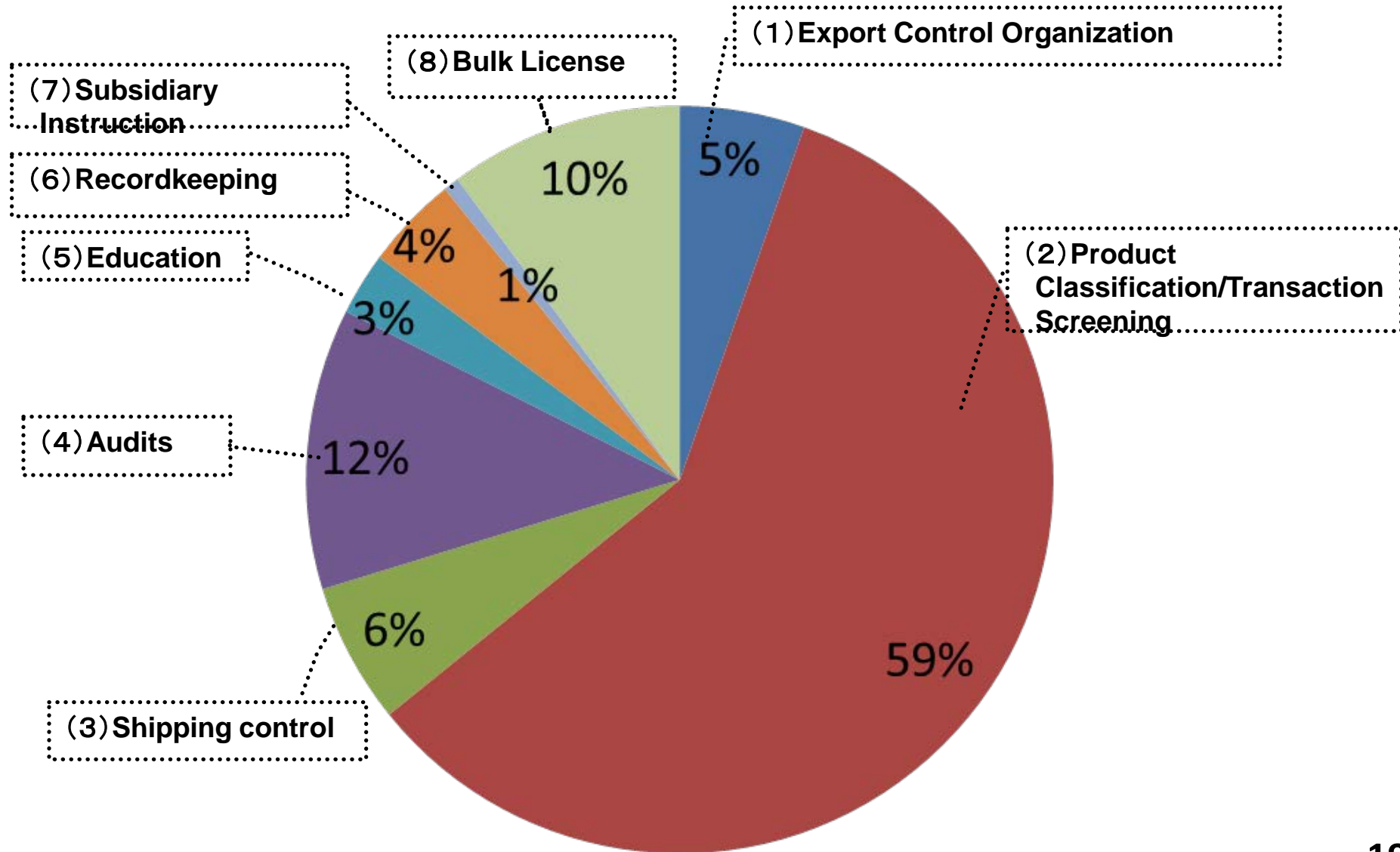
② If the ICP is working but insufficient;

→ Advice

③ If the ICP is not implemented very much or the ICP needs to be revised;

→ Guidance (requires companies to report corrective action to METI within 6 months.)

Reasons for guidance to ICP exporters



METI has held seminars around 100 times annually across Japan to raise the general levels of exporters' knowledge and let them understand importance of export control and promote ICP.

Past record of seminars in recent 5 years

Fiscal year(※)	2009	2010	2011	2012	2013
Seminars	113	125	104	112	85
Participants	15,611	14,023	14,207	14,235	11,671

* From April to March

Thank you