

The 23rd Asia Export Control Seminar

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Importance of Internal Compliance Program (ICP)

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(1) History of ICP in Japan

before 1987: ICP had been a voluntary issue

1987.9.7: MITI requests exporters to make **ICP** and **register** it with METI

1987.5. Toshiba Machinery Incident

1994.6.24: Minister of MITI requests,

- ICP to be modified based on the concept of **non-proliferation of WMD** and related items
- also Affiliates/Subsidiaries to make their own ICP

1994.3. Cease of COCOM

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2005.2.25(Rev.2015.8.11): METI requests,

- ICP to be **modified** based on the revised Act **technology transfer control** strengthened
- Re-registration of revised ICP
- Annual submission of newly added **self-check list**

2009. Foreign Exchange and Foreign Trade Act (the Act) revised

- **border control** concept newly added to technology transfer control besides residency concept
- severer penalties

2010. **Exporters' compliance standard** newly added to the Act

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Exporters' Compliance Standard

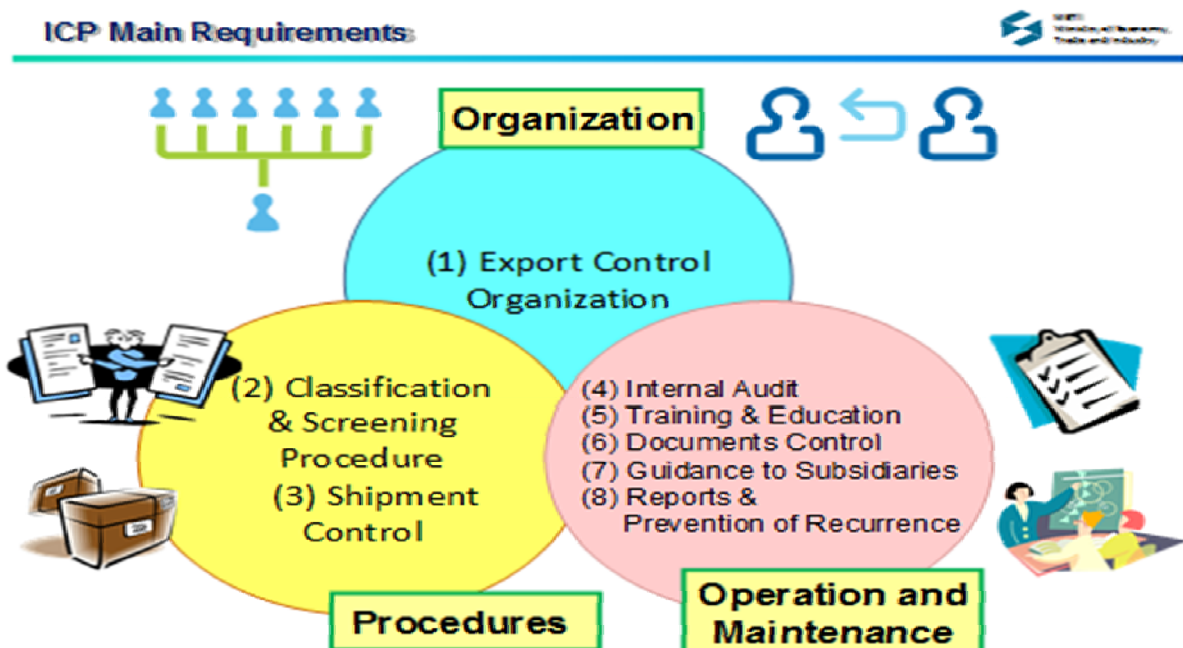
Those who conduct exports of **controlled items** are legally required:

- To place a person ultimately responsible for export controls in the organization
- To establish a proper export control organization
- To establish proper product classification procedures transaction screening procedures, and shipment control procedures
- To conduct training and auditing
- To keep related documents properly for certain years
- To promptly report any violation cases to the authority

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(2) Contents of ICP



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(2) Contents of ICP

1. Basic policy
2. Organization
 - (1) Export Control Organization(Nomination of top responsible person etc.)
3. Procedures
 - (2) Classification & Screening procedure
 - (3) Shipment Control
4. Operation and Maintenance
 - (4) Internal Audit

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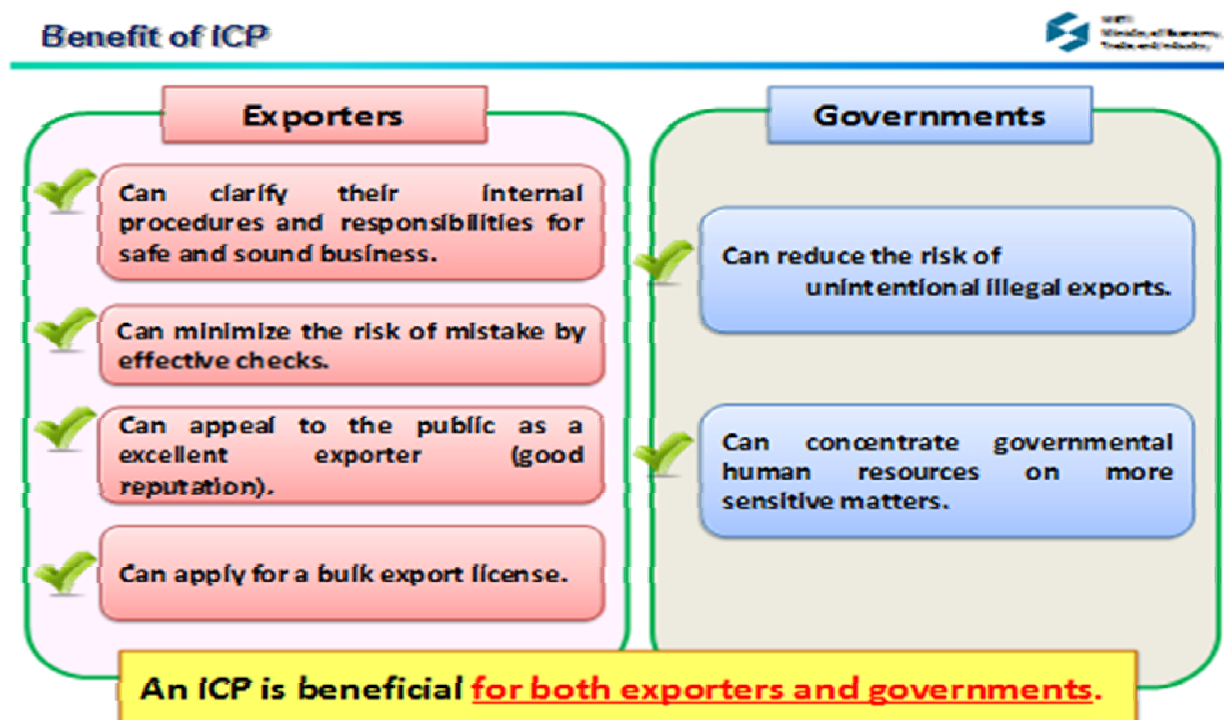
- (5) Training & Education
- (6) Record Keeping
- (7) Control of Subsidiaries *
- (8) Report to METI and Measures of Non-recurrence

* this could be deleted if subsidiaries do not exist

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(3) Benefit of ICP



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- ICP is beneficial for both exporters and the Government.
- Exporters with registered ICP are qualified to apply **bulk licenses**
- If exporters with registered ICP so wish, METI publishes their **names on the website of METI**.
- Currently, about 1,500 ICPs are registered, of which 600 company names are published.

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The Licensing System

Category	No.	Name of the licenses
Individual License	1	Individual Export License
	2	General Bulk Export License
Bulk License	3	Special General Bulk Export License
	4	Special Bulk Export License
	5	Special Bulk Export License for Repair or Replacement
	6	Special Bulk Export License for Overseas Subsidiaries

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The Bulk Licenses

No.	Eligible items	Eligible destinations	Other conditions	ICP	Pre-audit by METI
2	Controlled but less sensitive	27 countries	Electronic application only	Not Required	Not Required
3	Same as above	Except Iran, Iraq, DPRK, UN arms embargo Countries	Reference to matrix table which defines certain conditions	Required	Required
4	Specific items repeatedly ordered	Specific Customers with repeated orders	Export record report to METI	Required	Required
5	Arms and arms related	27 countries (White countries)	Only to original exporter	Required	Required
6	Specific items repeatedly ordered	Except Iran, Iraq, DPRK, UN arms embargo Countries	Subsidiaries with majority share	Required	Required

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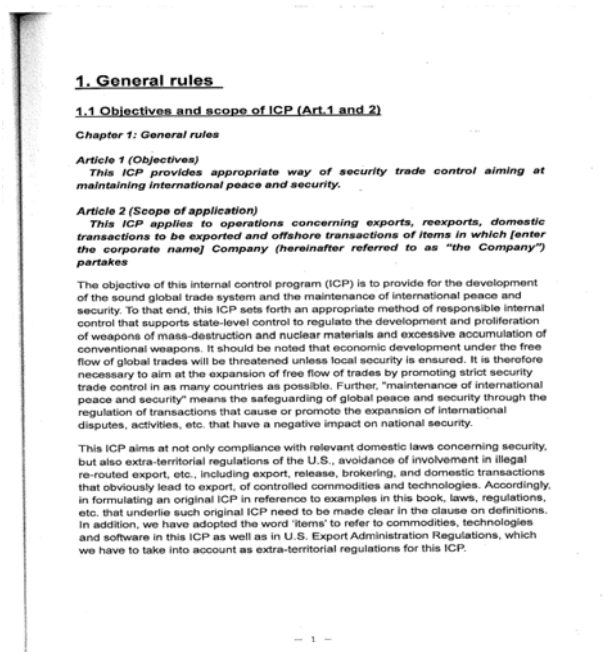
(4) How to make ICP

- CISTEC provides **Model ICPs** in cooperation with industry and METI to promote ICP.
- CISTEC introduces **6 types** of model ICP on his homepage, which are categorized based on company's management structure and type of company (e.g. manufacturer, trading company). The companies can choose suitable type according to their needs and requirements.

	Own Goods/Technologies (e.g. manufacturer)	NOT Own Goods/Technologies (e.g. trading company)
Specialized division	Type 1A	Type 1B
Specialized individual	Type 2A	Type 2B
CEO, etc.	Type 3A	Type 3B

<http://www.cistec.or.jp/export/jisyukanri/modelcp/modelcp.html>

Guidance of Security Trade Control for overseas subsidiaries and affiliates



Model CP(ICP) Guidance



1. 「モデルCP」作成の基本方針

本「モデルCP」では、企業がCPを決定する際のひな型（テンプレート）として参考になるように、代表的な6パターン（＜1A＞～＜3B＞）及び付帯取引対応版を以下のように設定しました。
 （6パターンの各々については、本書「3. 「モデルCP」のパターン」を参照してください。）

これらのパターンは、管理形態及び判定対象のバリエーションに応じたものであり、売上規模や、資本金、従業員数等から企業を区別するものではありません。以下では、解説のため各々のパターンにあてはまる典型例について説明していますが、それらに限定するものではありません。

なお、これらのパターンのうち、どれを選択したとしても一般的な例示であり、各企業においては、各々の実情を考慮した上で、適切なものとなるよう調整してください。

＜パターン設定の考え方＞：

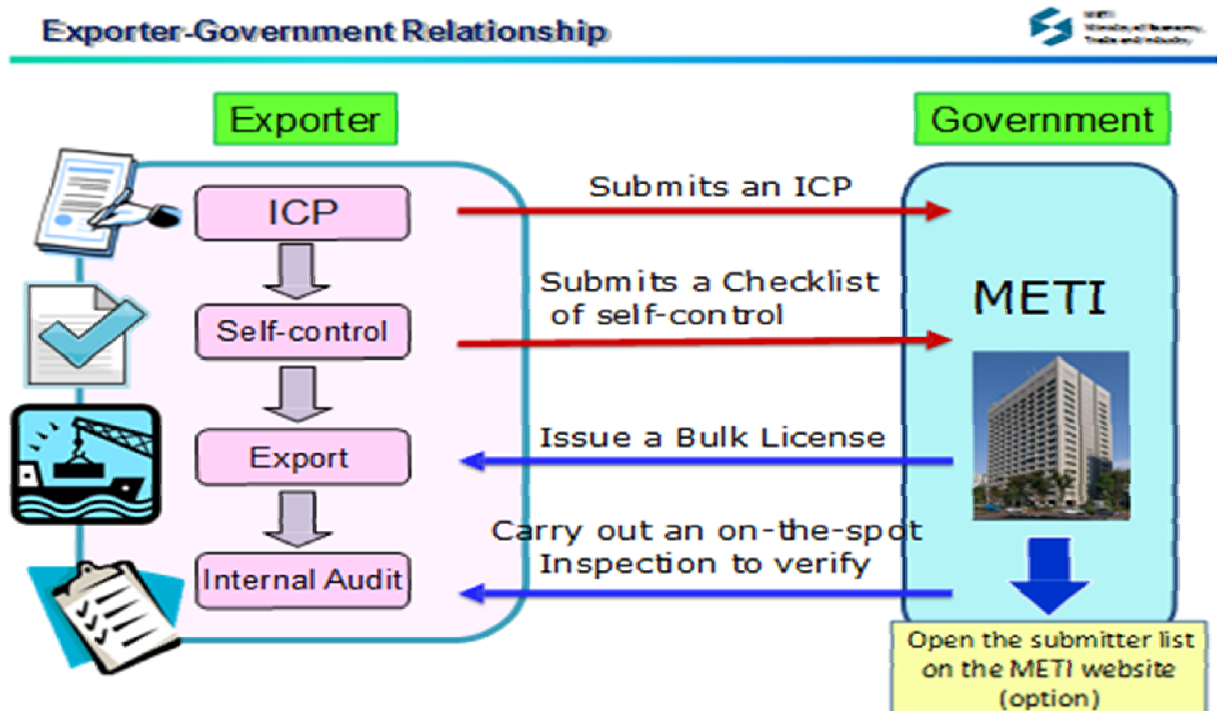
		判定対象	
		(A) 自社品あり	(B) 自社品なし
管理形態	(1) 専門部署を設ける	＜1A＞	＜1B＞
	(2) 専門部署でなく専任者を任命する	＜2A＞	＜2B＞
	(3) 代表取締役が直接管理する	＜3A＞	＜3B＞

＜パターンの典型例（解説）＞：

管理形態	(1) 「専門部署」：	・輸出管理のための専任組織を持っている／持とうとしている場合。 ・一般的には多くの大企業はここにあてはまると思われるが、企業規模には関わらず、たとえ中小企業でも専任組織を持つ会社はここにあてはまる。
	(2) 「専任者」：	・輸出管理のための専任者がいる／任命する予定だが、専門組織まで持つ予定はない場合。
	(3) 「代表取締役等」：	・輸出管理のための専任組織や専任者を持たず、社長あるいはそれに相当する取締役等が中心となって輸出管理を行っている／予定がある場合。
判定対象	(A) 「自社品あり」：	・自社製造品や自社開発技術を持ち、自社で設計・開発した貨物等の輸出を行う場合。 ・一般的には、メーカーがここにあてはまる。ただし、定款上は商社であれど、製造設備や製造のための研究設備等を持っている会社（即ち、自社製造品や自社開発技術のある会社）もここにあてはまる。

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(5) ICP Registration and related procedures



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(6) Hints for making ICP more effective

- Fully **communicate** with every business sections
- Understand **nature of the each business** and make sure of which are the most critical
- Judge **what kinds of risk** exist and **how serious**
- Make ICP **in line with actual situation** as much as possible
- **Educate** and let all the related members perfectly understand importance of ICP
- **Timely maintenance** to meet legal revisions and/or situation changes

(7) ICP for affiliates/subsidiaries

- Respect local traditions, customs, habits
- Put No.1 priority to local laws & regulations
- The universal basic policy with each local details
- Reflect actual business operations/situations
- Leave as much initiatives and responsibility to local persons as possible
- Provide stable and On-demand assistance
- Provide periodical training and audit

(8) Why ICP is important

Because,

- ICP is the most effective tool for proper export control
- ICP certifies the exporters reliable and reputable
- ICP contributes to the efficiency of trade process
- ICP is beneficial not only for exporters but also for the Government

Thank you !!



CISTEC English Home Page

<http://www.cistec.or.jp/english/index.html>