

Importance of Export Control & Japan's Export Control

January 21, 2016

Toshikazu Okuya

Director, Security Export Control Policy Division
Trade and Economic Cooperation Bureau
Ministry of Economy, Trade and Industry (METI)
JAPAN

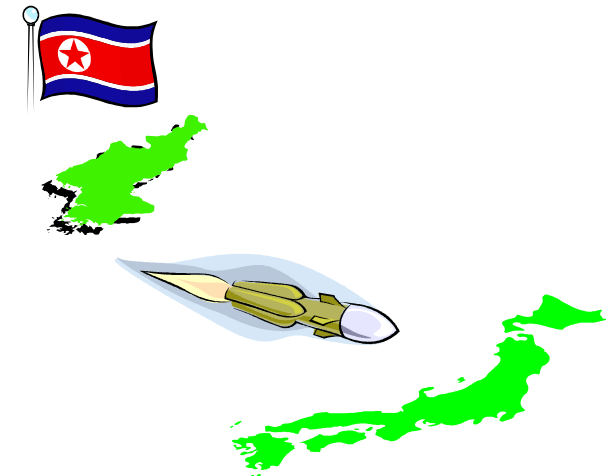
1. Importance of Export Control

2. Japan's Export Control

1. Importance of Export Control

Threads around livelihood

1. Tokyo subway sarin attack (1995)
2. Anthrax attacks in the US (2001)
3. Madrid train bombings (2004)
4. 7 July 2005 London bombings (2005)
5. 2008 Mumbai attacks (2008)
6. 2010 Moscow Metro bombings (2010)
7. Bombardment of Yeonpyeong (2010)
8. North Korean missile tests (2006/2009/2012/2014)
9. Use of Chemical Weapons in the Syrian Civil War (2013)



North Korean missile tests



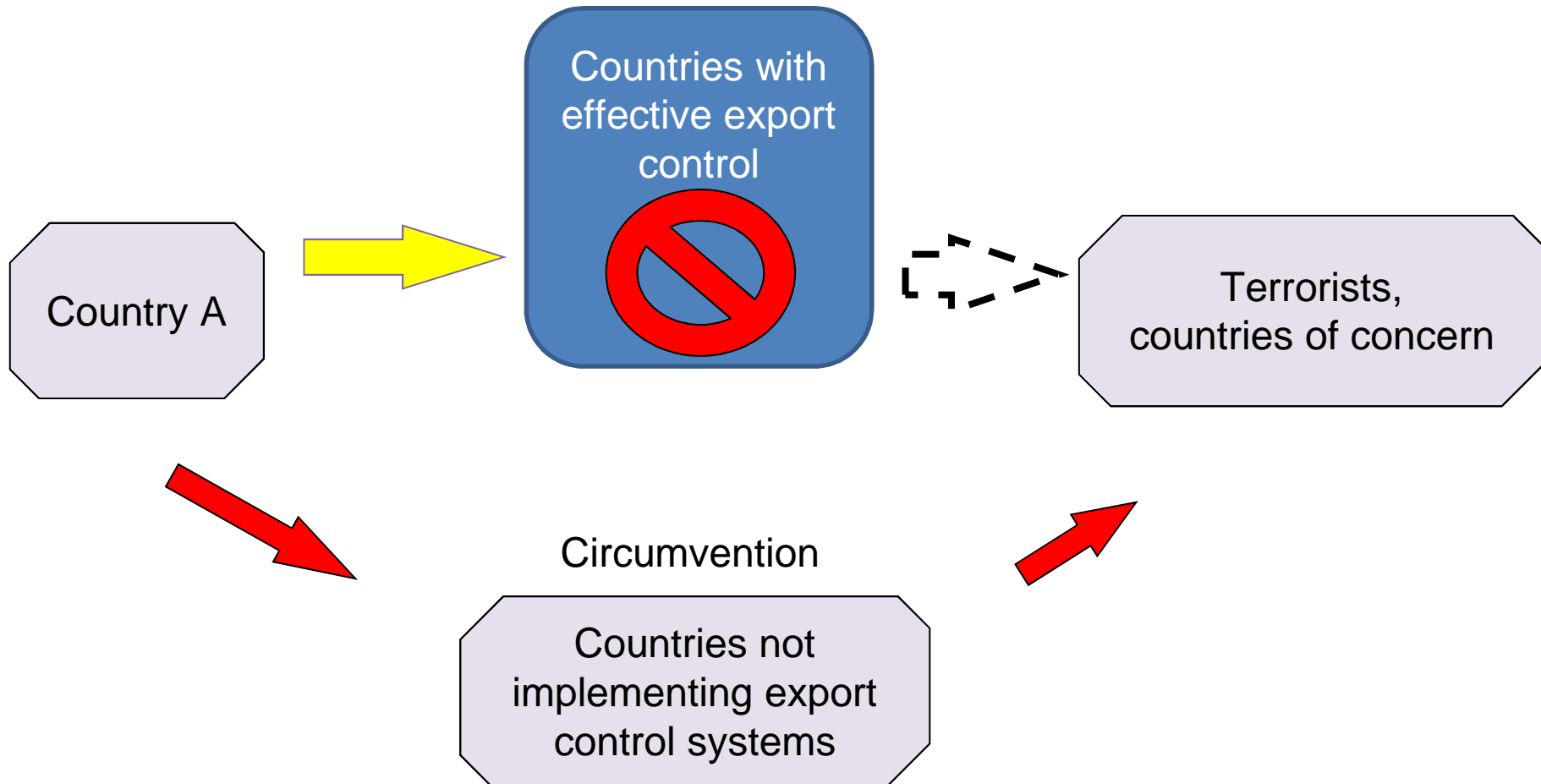
- ✓ Terrorist attacks frequently occur around the globe
- ✓ Use of WMDs is actualized
- ✓ Biological and Chemical Weapons are cheaply produced without difficulty

UNSCR 1540, April 2004

3 Obligations for all UN Member States:

- prohibit support to non-state actors seeking WMD and their means of delivery;
- adopt and enforce effective laws prohibiting activities involving the proliferation of WMD and their means of delivery to non-state actors; and,
- have and enforce effective measures to reduce the vulnerability of many legitimate activities to misuse in ways that would foster the proliferation of WMD and their means of delivery to non-state actors.

Combating proliferation



Why companies introduce export control?

- **Compliance**
 - International enterprises doing business overseas
 - Extra-territorial application of export control
- **Social Responsibility**
 - Reputation risks regardless of regulations
- **Business Chance**
 - Credible trade/business partner

2. Japan's Export Control

(1) Overview of Japan's Export Control

(1) Law

Foreign Exchange and Foreign Trade Act

- Exporters need to get E/L when (before) the exporting items are on the control list and under some conditions.

(2) Cabinet Orders

Export Control Order

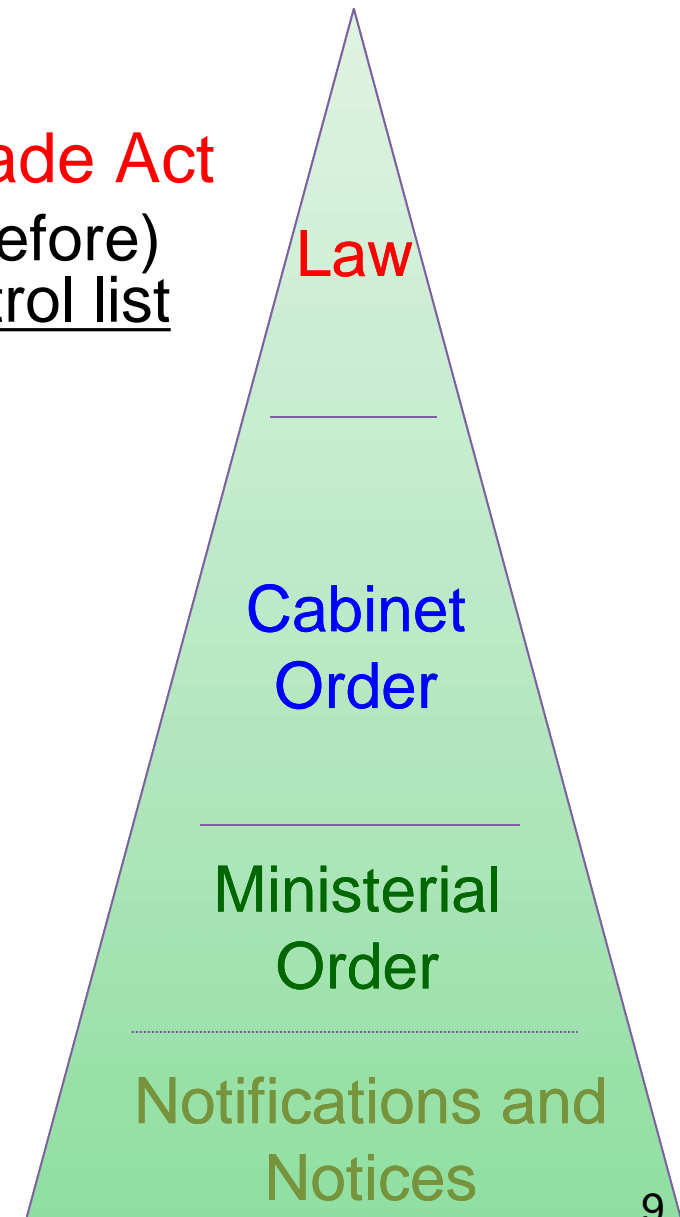
- Control List of Goods

Foreign Exchange Order

- Control List of Technologies

(3) Ministerial Orders, etc.

- Specifications and interpretations of listed goods & technologies



Legislation and Regulations

Countries	Listed (List Control)	Non-Listed (Catch-all Control)
White Countries	E/L	×
UN Arms Embargo Countries	E/L	
Other Countries	E/L	

White Countries :

27 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:

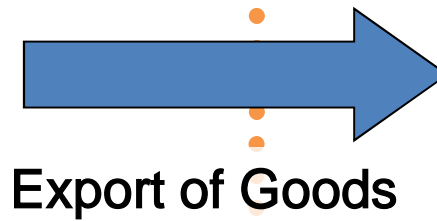
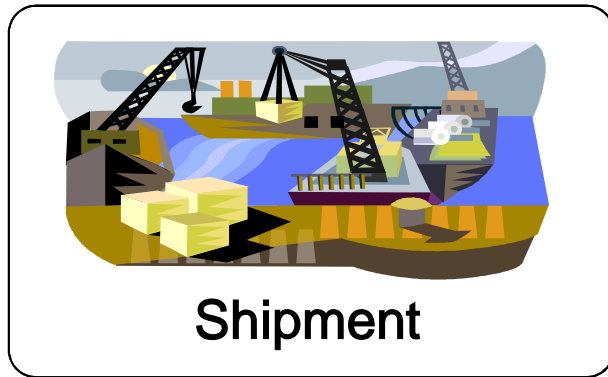
Afghanistan, Democratic Republic of Congo, Eritrea, Cote d'Ivoire, Iraq, Lebanon, Liberia, North Korea, Sierra Leone, Somalia, Sudan

Other Countries

Other countries except white and UN arms embargo countries.

Difference between Export of Goods and Transfer of Technology

- Japan -

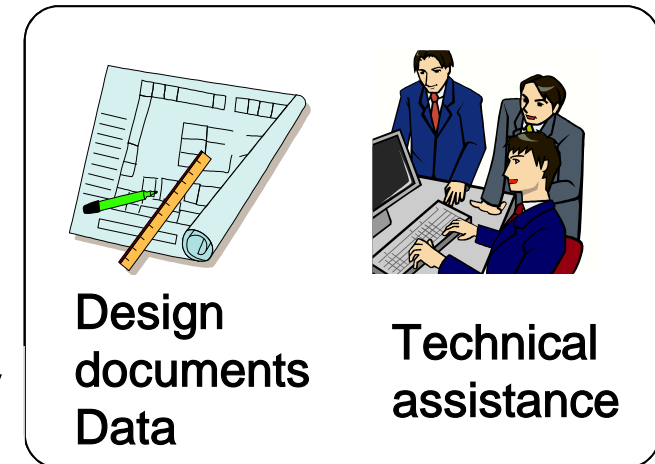
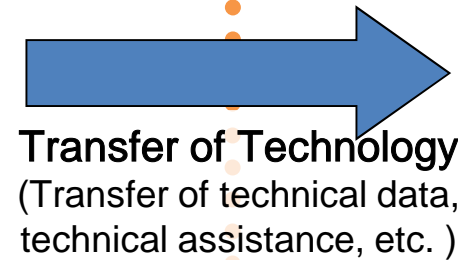
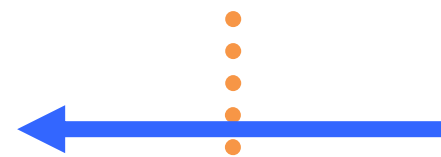
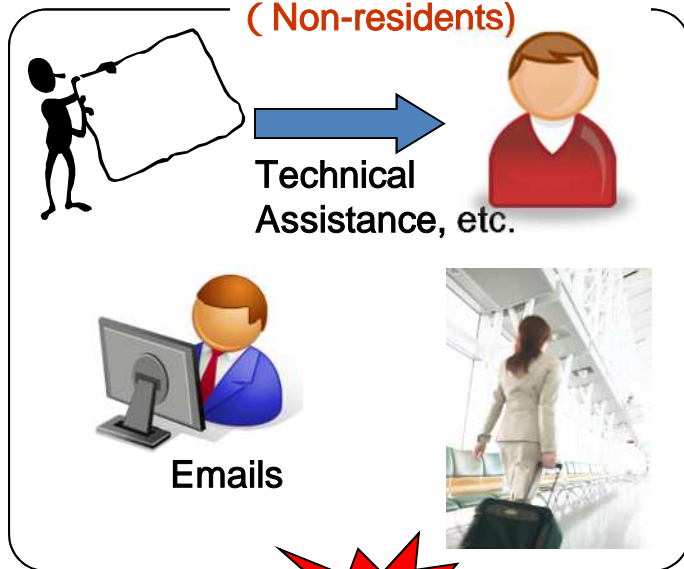


- Foreign Lands -



Attention Hand carrying is also export

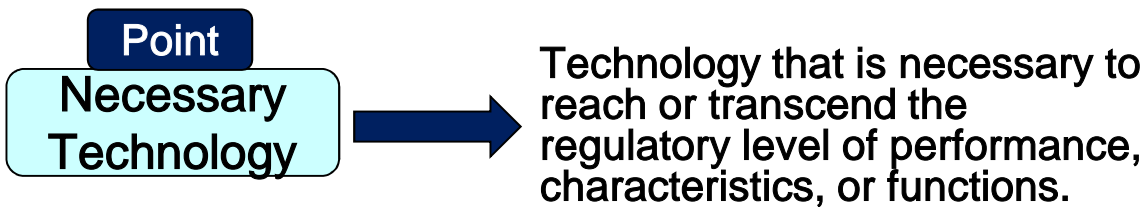
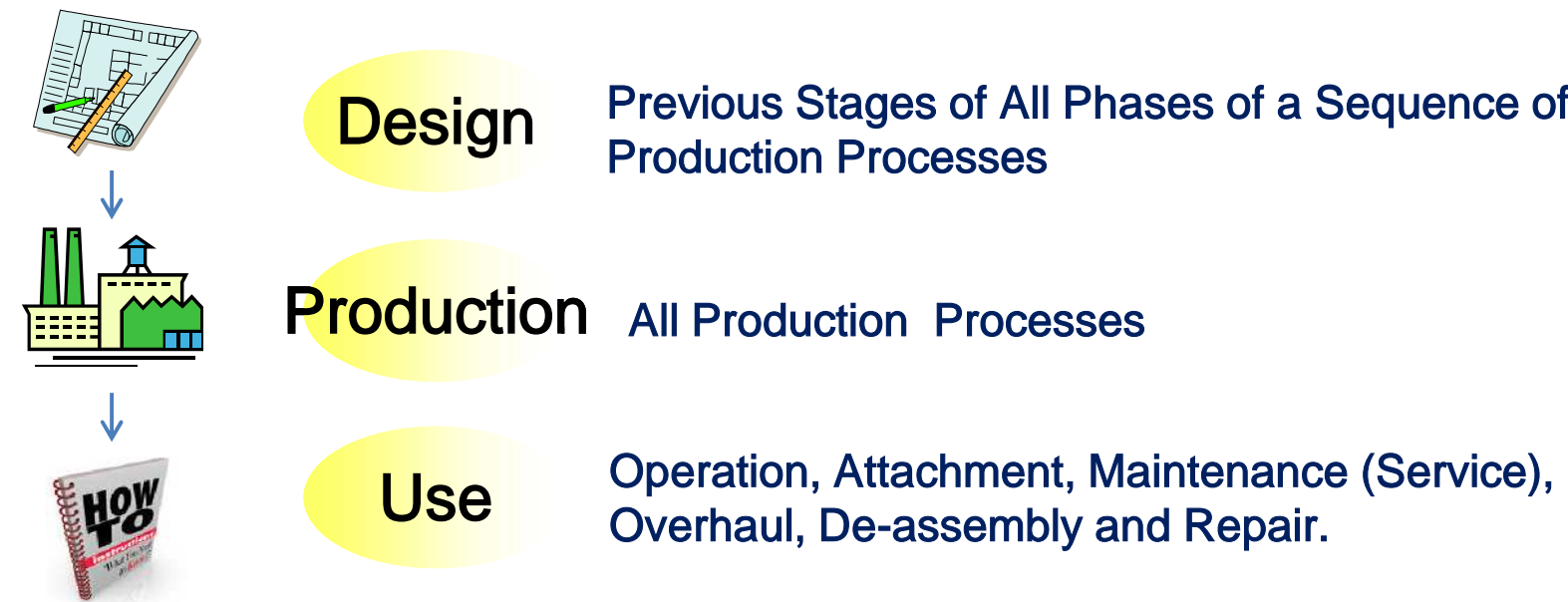
Training Courses
(Non-residents)



Attention Technical transfer may occur within Japan!

Contents / Types of Controlled Technology

Technology is also controlled in the following stages if the technology is related to the goods which are regulated under the control list



Attention Technology control may also apply in producing the goods that are not subject to control.

< Forms of Transfer >

- Technical Data** Documents, Discs, Cassette Tapes, Programs stored in the Media Drives and Devices, Blue Print, Drawing Sheets, Equations, Design Documents, Manuals, Instructions, etc.
- Technical Assistance** Technical Assistance, Technical Training, Transfer of Professional Knowledge, Consulting Services, etc.

(2) List Control

In case that the item or technology in question is on the Control List, exporters have to apply for export license(E/L).

Region → All region

Items → Any Items which are on the controlled list

Conditions → No Conditions. All exporters have to apply for E/L.



Attention Export license is required even for intra-company transfer, i.e. Japanese company transfers goods or technology to its off-shore subsidiaries.

Correspondence between Japan's List and Regime's Lists

Japan's control list is fully consistent with the international regime lists.

item	List control	International Regime List
1	Weapons	WA (Wassenaar Arrangement) / ML (Munitions)
2	Dual-use items	NSG (Nuclear Suppliers Group)
3		AG (Australia Group) (Biological/Chemical Weapons)
3-2		
4		MTCR (Missile Technology Control Regime)
5		WA / BL (Basic List) · SL (Sensitive List)
~		
13		
14		WA / ML (excluding item 1)
15	Dual-use items	WA/VSL (Very Sensitive List)
16	Catch-all	

Catch-all control

Control List (1) – Categories and Items

1. Arms					
(1)	Firearms, ammunitions	(10)	Equipment for the production of deuterium or deuterium compounds	(34) Pressure gauges or bellows valves	
(2)	Explosive, explosive dispensers	(10-2)	Equipment for the production of uranium, plutonium, etc.	(35) Vacuum pumps	
(3)	Propellants, military fuels			(36) Direct current power unites	
(4)	Stabilizers for propellant powders	(11)	Flow-forming machines	(37) Electron accelerators or flash X-ray	
(5)	Directed energy weapons	(12)	1) Numerically controlled machine tools	(38) Impact testing machines	
(6)	Kinetic energy weapons		2) Measuring equipment	(39) Mechanical or electronic streak cameras	
(7)	Military vehicles, bridges, etc.	(13)	Induction furnaces, arc furnaces, plasma melting furnaces	(40) Interferometers, pressure gauges, pressure transducers	
(8)	Military vessels, etc.			(41) Goods for the detonation or testing of nuclear weapons	
(9)	Military aircraft, etc.	(14)	Isostatic presses	(42) Photomultiplier tubes	
(10)	Anti submarine and torpedo nets	(15)	Robots	(43) Neutron generators	
(11)	Armor plates, military helmets, body	(16)	Vibration test equipment	(44) Remote manipulators	
(12)	Military searchlights	(17)	Structural materials for gas centrifuge	(45) Radioation shielding windows, frames	
(13)	Military bacterial agents, chemical warfare agents, radioactive materials etc.	(18)	Beryllium	(46) Radiation hardenes TV cameras, lenses	
		(19)	Substances used as alpha sources for the detonation of nuclear weapons	(47) Tritium	
(13-2)	Chemical mixtures for decontamination of the above materials	(20)	Boron-10	(48) Equipment for the production, collection, or preservation of tritium	
(14)	Biopolymers for chemical agents, etc.	(21)	Substances used as reducing or oxidizing agents for the production of nuclear fuel		
(15)	Equipment and devices for the production and testing of military propellants	(22)	Crucibles made with materials which are corrosion resistant against antinide	(49) Platinized catalysts for the collection of	
(16)	Equipment for the production and testing of weapons	(23)	Hafnium	(50) Helium-3	
		(24)	Lithium	3. Chemical weapons	
2. Nuclear weapons		(25)	Tungsten	(1) Substances for raw materials of CW agents, or substances having equivalent toxic ability with CW agents or raw	
(1)	Nuclear fuel and nuclear source materials	(26)	Zirconium	(2) Equipment for the production of CW agents	
(2)	Nuclear reactors, generating equipment	(27)	Electrolytic cells for fluorine production	3-2. Biological weapons	
(3)	Deuterium and deuterium compounds	(28)	Equipment for the production of gas centrifuge rotors	(1) Organisms, toxins, subunits, etc. used as raw materials for military bacterial agents	
(4)	Artificial graphite			(2) Equipment for the production of military bacterial agents	
(5)	Equipment for the separation of nuclear	(29)	Centrifugal balancing machines	4. Missiles	
(6)	Equipment for the separation of lithium isotopes, etc.	(30)	Filament winding machines	(1) Rockets, production equipment therefor	
		(31)	Gas laser oscillators	(1-2) Unmanned aerial vehicles and related	
(7)	Equipment for the separateion of uranium isotopes	(32)	Mass spectrometers or ion sources		
(8)	Frequency changers	(33)	Mass spectrometers or ion sources		
(9)	Nickel powders	(34)	Pressure gauges or bellows valves		

Control List (2) – Categories and Items

(2)	Rocket guidance systems, testing equipment therefor	(22)	Electronic computers on board rockets	(6)	Measuring equipment
		(23)	A/D converters for rockets	(7)	Robots
(3)	Propulsion units	(24)	Vibration test equipment, wind tunnels, etc.	(8)	Feedback equipment, etc.
(4)	Flow-forming machines	(24-2)	Electronic computers for designing rockets	(9)	Spin-forming machine
(5)	Servo valves, pumps usable for propellant controllers, or bearings usable therefor	(25)	Materials or equipment for reducing acoustic waves, electromagnetic waves,	7. Electronics	
(6)	Propellants, raw materials therefor	(26)	Microcircuits, detectors, etc. for rockets	(1)	Integrated circuits
(7)	Equipment for the production and testing of propellants	5. Advanced materials		(2)	Microwave equipment, components of millimeter wave equipment, etc.
(8)	Powder mixers	(1)	Products of fluorine compounds	(3)	Signal processing equipment
(9)	Jet mills, equipment for the production of metal powders	(2)	Copolymers of vinylidene fluoride, etc.	(4)	Equipment using superconducting
(10)	Equipment for the production of composite materials	(3)	Aromatic polyimide products	(5)	Superconducting electromagnets
(11)	Nozzles	(4)	Tools for the superplastic forming of Ti, Al	(6)	Battery cells, primary, secondary, and photovoltaic
(12)	Equipment for production of nozzles and re-entry vehicles nose tips	(5)	Alloys of Ni, Ti, Mg, etc.	(7)	High energy storage capacitors
(13)	Isostatic presses	(6)	Metallic magnetic materials	(8)	Encoders
(14)	Furnaces for the densification of carbon-carbon composites	(7)	Uranium-titanium alloys, tungsten alloys	(8-2)	Thyristor device, thyristor module
(15)	Structural materials for rockets or unmanned aerial vehicles	(8)	Superconductive materials	(9)	Digital video magnetic recorders, testing equipment, magnetic tapes
(16)	Accelerometers, gyroscopes, navigation equipment for rockets	(9)	Hydraulic fluids, etc.	(10)	Waveform digitizers, transient recorders
(17)	Flight controllers, attitude control equipment for rockets	(10)	Lubricating materials, etc.	(11)	Digital instrumentation recorders
(18)	Avionics equipment for rockets	(11)	Vibration control liquid	(12)	Signal generators
(18-2)	Heat batteries for rockets	(12)	Refrigerant liquid	(13)	Frequency signal analyzers
(19)	Gravity meters, gravity gradiometers for aircraft or vessels	(13)	Titanium boride, semi-finished ceramic	(14)	Network analyzers
		(14)	Ceramic composites	(15)	Atomic frequency standards
(20)	Launch pads and supporting equipment for rockets	(15)	Polydiorganosilane, polysilazane, etc.	(15-2)	Spray cooling thermal management
		(16)	Aromatic polyamideimide, polyetherimide,	(16)	Equipment for manufacturing semiconductor devices
(21)	Radio telemetry equipment, radio telecontrol equipment	(17)	Copolymers of vinylidene fluoride, etc.	(17)	Masks or reticles
		(18)	Prepregs, preforms, etc.	(18)	Semiconductor substrates
		(19)	Boron, boron mixtures, boron alloys, guanidine nitrate, nitroguanidine	(19)	Resists
		6. Material processing		(20)	Organometallic compounds of Al, Ga, In
		(1)	Bearings	(21)	Hydrides of P, As
		(2)	Numerically-controlled machine tools	(22)	Silicon carbide wafer
		(3)	Gear producing machine tools		
		(4)	Isostatic presses		
		(5)	Coating equipment		

Control List (3) – Categories and Items

8. Computers		(8)	Gas laser oscillators, etc.	13. Propulsion	
(1)	Electronic computers	(8-2)	Laser microphone	(1)	Gas turbine engines
9. Telecommunications		(9)	Magnetometers, magnetic gradiometers, calibration equipment therefor	(2)	Satellite or spacecraft for space
(1)	Telecommunication transmission	(9-2)	Deep water detector	(3)	Rocket propulsion systems
(2)	Electronic changers	(10)	Gravity meters, gravity gradiometers	(4)	Unmanned aerial vehicles
(3)	Optical fiber communication cables, etc.	(11)	Radars	(5)	Equipment for the testing, measuring, inspection, etc. of (1) - (4) above, and 15
(4)	Deleted	(12)	Light reflectance measuring apparatus	14. Miscellaneous	
(5)	Phased array antennas	(13)	Equipment for the production of gravity	(1)	Metallic fuel in particle form
(5-2)	Radio direction finding equipment	(14)	Optical detectors, etc.	(2)	Additives or precursors of propellant powders, explosives
(5-3)	Telecommunication jamming equipment, parts therefor	11. Navigation and avionics		(3)	Diesel engine
(5-4)	Position detecting equipment using electromagnetic interference observation technology	(1)	Accelerators	(4)	Deleted
(5-5)	Radio telecommunication equipment, etc.	(2)	Gyroscopes	(5)	Self-contained diving equipment, etc.
(6)	Equipment for the design, production, etc. of (1) - (3), (5) - (5-5) above	(3)	Inertial navigation systems	(6)	Construction machineries specially designed for aerial transport
(7)	Information security equipment using	(4)	Gyro-astro compasses, device that derive position or orientation by means of automatically tracking celestial bodies or satellites, electromagnetic wave receivers for global navigation systems, etc.	(7)	Robots or their controllers
(8)	Equipment for preventing the leakage of information transmission signals, etc.	(4-2)	Underwater sonar navigation systems	(8)	Electrically triggered shutters
(9)	Same as (7) but without encryption	(5)	Equipment for testing, production, etc. of (1) - (4-2) above	(9)	Tear gases, riot agents, spraying
(10)	Communication cable systems for detecting surreptitious intrusion	12. Marine		(10)	Small explosive devices
(11)	Equipment for the design, production etc. of (7) - (10)	(1)	Submersible vessels, surface-effect vehicles, etc.	(11)	Explosives detector
10. Sensor and lasers		(2)	Components or accessories of vessels	15. Sensitive items	
(1)	Underwater acoustic equipment	(3)	Ocean salvage systems	(1)	Inorganic fibers, etc.
(2)	Optical detectors, coolers	(4)	Underwater cameras	(2)	Electric wave absorbers
(3)	Optical sensing fibers	(5)	Underwater robots	(3)	Nuclear heat source materials
(4)	High-speed cameras	(6)	Air independent power systems	(4)	Telecommunication transmission
(5)	Reflectors	(7)	Water tunnels	(4-2)	Radio equipment to control detonation of small explosives
(6)	Optical components for space use	(8)	Syntactic form	(5)	Underwater acoustic equipment
(7)	Controllers of optical equipment or	(9)	Self-contained diving equipment, etc.	(6)	Optical detectors specifically designed for space applications
(7-2)	Aspherical optical elements	(10)	Sound generator used in deep water	(7)	Radar and parts therefor
				(8)	Submersible vessels that can cruise independently
				(9)	Soundproofing devices
				(10)	Ramjet engine, scramjet engines, etc.

Control List (4) – Parameters and Threshold

Ex1. Rocket



Section 4(1)

Ministerial Order Article 3.1

Complete rocket systems having all of the following:

- A. Rocket systems capable of delivering to a "range" of at least 300 km;
- B. UAV systems capable of aerosol dispensing mechanism with a capacity greater than 20 litres.
- C. . . .

Ex2. Machine tools



Section 2(12)1

Ministerial Order Article 1.14

Machine tools for turning having all of the following:

- A. Positioning accuracies available better (less) than 6 μ m along any linear axis;
- B. Capable of machining diameters greater than 35 mm;
- C. . . .

*Listed in the list does not mean the export of those goods are not possible

Some Key Points on List Control

1. Some items may be controlled under multiple categories.

Ex. 1 Carbon Fiber



It can be utilized in a centrifuge and a production of missiles and conventional arms.
(Sections 2(17), 4(15), 5(18), 13(3), etc.)

Ex. 2 Machine Tools



Nuclear-related



Section 2(12) 1

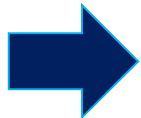
The goods might not be controlled under Section 2, but it might be controlled under Section 6 instead.

Conventional arms-related



Section 6(2)

Ex. 3 Integrated Circuit (IC) Chips for Satellite Broadcasting Controlled under Sections 7 (Integrated Circuit) and 9 (Encryption Equipment)



Some Key Points on List Control (cont.)

2. Need to refer the up-to-date Control List

- Control List is basically revised once a year (current list was released on 1 October 2015).



3. Need to pay attention to “components” of the items

- If the “components” and “parts” of the listed goods are specified, these components and parts are also subject to the export control



4. Need to understand the specific terminologies

- The commonly used terms such as “GPS” might not be stipulated in the list.



Section 4(18) – Avionics Systems and specially designed components therefor.

Ministerial Order Article 3.19

Avionics Systems having any of the following:

A.

B.

C. Receiving equipment for **Global Navigation Satellite Systems (GNSS)**, having any of the following characteristics, and specially designed components therefor:

*METI publishes examples of essential terminologies on its website

(3) Catch-all Control

Catch-all Control of WMD

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

Region

All region except for white countries

Items

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

Conditions

The Commodity Watch List [40 +12* items]

(*only for Syria, as of 15 Oct.)

(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 etc. 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

- The "inform" is given when METI considers that the items in question are/may be intended for the use of WMD-related activities.

Commodity Watch List (for Catch-all of WMD)

- List of items that could possibly be used for WMD-

- (1) Tributyl phosphate (TBP) (N)
- (2) Carbon/Glass/Aramid fiber (N, M)
- (3) Titanium alloys (N, M)
- (4) Maraging steel (N, M)
- (5) Aluminum alloys tubes with a diameter of more than 75 mm (N)
- (6) Flow-forming machines (N, M)
- (7) N/C Machine tools (N, M)
- (8) Isostatic presses (N, M)
- (9) Filament winding machines (N, M)
- (10) Frequency changers (N)
- (11) Mass spectrometers and ion sources (N)
- (12) Vibration test systems (N, M)
- (13) Centrifugal multiplane balancing machines (N, M)
- (14) Pressure transducers (N, M)
- (15) Non-destructive inspection equipment (N, M)
- (16) Oscilloscope or waveform digitizers and transient recorders (N)
- (17) High power/voltage DC power supplies (N)
- (18) Generators (N)
- (19) Vacuum pumps (N)
- (20) Radiation-hardened robots (N)
- (21) TIG welding units, electron beam welding units (N, M)
- (22) Radiation monitoring and detection equipment (N)
- (23) Mill for fine powder (M)
- (24) Karl Fischer moisture equipment (M)
- (25) Equipment designed for producing prepregs (M)
- (26) Artificial graphite (N, M)
- (27) Gyroscopes (M)
- (28) Rotary encoders (M)
- (29) Trucks (Tractors, Trailers, Dump trucks) (M)
- (30) Crane trucks (M)
- (31) Chambers for fermentation (B)
- (32) Centrifugal separators (B)
- (33) Freeze dryers (B)
- (34) Reactors (C)
- (35) Agitators (C)
- (36) Heat exchangers or condensers (C)
- (37) Distillation or absorption columns (C)
- (38) Filling equipment (C)
- (39) Unmanned air vehicles that are specially designed for incorporating spray machines (M, B, C)
- (40) Spray machines that are specially designed for installing in unmanned air vehicles (M, B, C)

Foreign End-User List (FEUL)

Foreign End-User List (extraction)

No.	国名、地域名 Country or Region	企業名、組織名 Company or Organization	別名 Also Known As	懸念区分 Type of WMD
1	アフガニスタン Islamic Republic of Afghanistan	Al Qa'ida/Islamic Army	<ul style="list-style-type: none"> •The Base •Al Qaeda •Islamic Salvation Foundation •The Group for the Preservation of the Holy Sites •The Islamic Army for the Liberation of Holy Places •The World Islamic Front for Jihad against Jews and Crusaders •Usama Bin Laden Network •Usama Bin Laden Organisation 	化学 C
2	アフガニスタン Islamic Republic of Afghanistan	Safa Nicu	<ul style="list-style-type: none"> •Safa Nicu Sepahan •Safanco Company •Safa Nicu Afghanistan Company •Safa Al-Noor Company •Safa Nicu Ltd Company 	核 N
508	パキスタン Islamic Republic of Pakistan	Victor Star (Pvt) Ltd.		化学、核 C,N
509	香港 Hong Kong	Hong Kong Intertrade Company Ltd (HKICO)		生物、化学、核 B,C,N
510	香港 Hong Kong	Leader (Hong Kong) International	<ul style="list-style-type: none"> •Leader (Hong Kong) International Trading Limited •Leader International Trading Limited 	生物、化学、ミサイル、核 B,C,M,N

Country	Number
India	4
Afghanistan	3
Iran	2 9 5
Pakistan	3 3
North Korea	1 2 1
China	4 3
Israel	2
Syria	1 5
Taiwan	3
U A E	6
Hong Kong	2
Total	5 2 7

Catch-all Control of Conventional Arms

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.

As of 15 Oct. 2013

Region	Countries under UN arms embargo	Non-white Countries except for UN Arms embargo countries
Items	Any Items which are not on the list (except for food, wood) └─┬─┘ The Commodity Watch List [34 items]	
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) METI's Initiative = The "Informed" Condition

- The "inform" is given when METI considers that the items in question are/may be intended for a military end-use.

(4) Bulk License

Individual License

{ Transaction-based license }

Bulk License

{
➤ Valid for multiple transactions for 3 years
➤ Exporter's own export control expected
}

Bulk License for white countries

- Specific items for 27 “white 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

Bulk License for combination of items and destination

- Broader scope of items for more countries
- ICPs (Internal Compliance Programs) and prior on site check required

Bulk License for the same customer

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

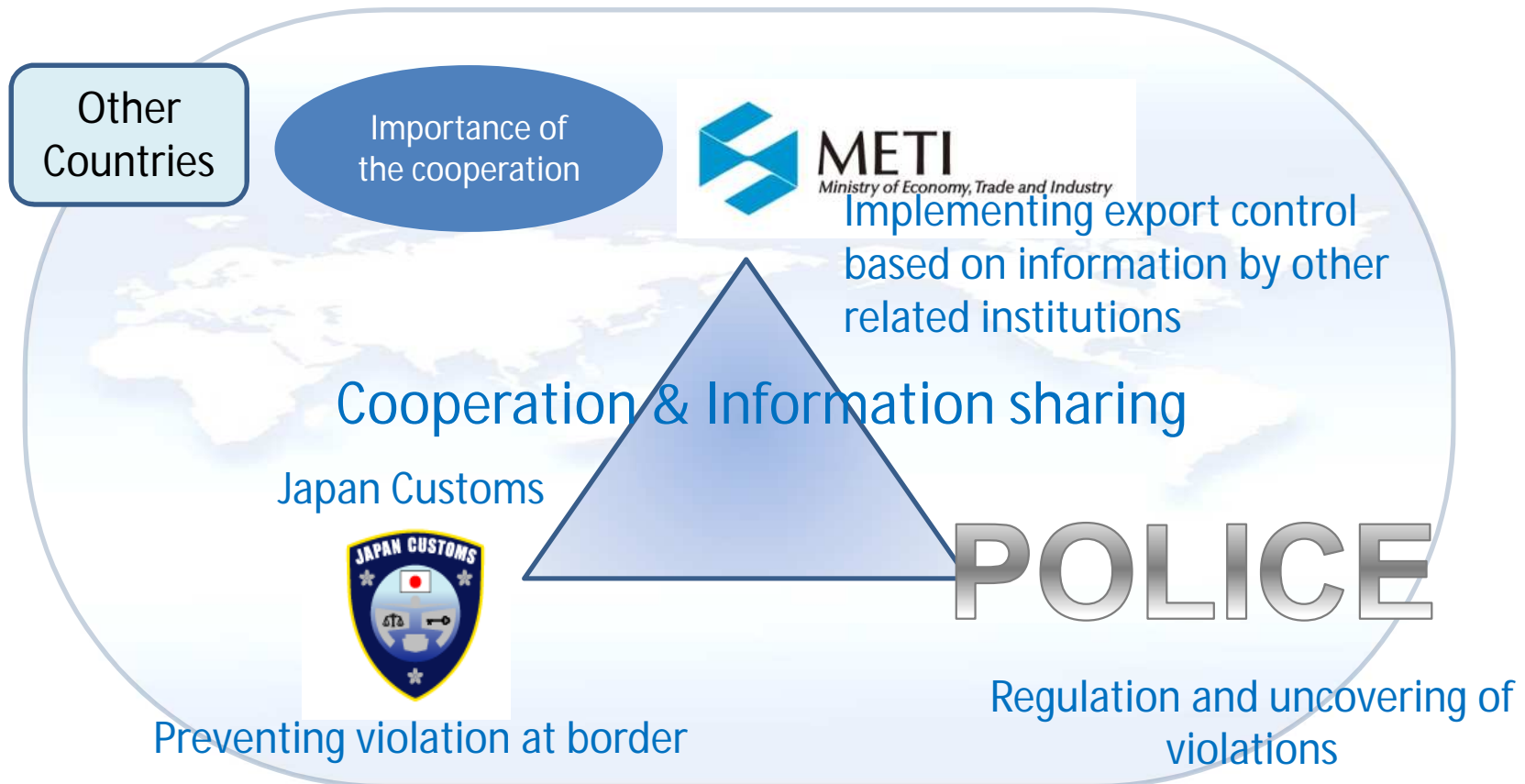
Bulk License for Overseas Subsidiaries

- Specific items' export to subsidiaries in foreign countries
- ICPs and prior on site check required

(5) Penalties

Cooperation for Effective Export Control

- In Japan, METI is responsible for export control. (Only METI issues an export license.)
- Recently, there are many cases where countries of concern attempt to procure sensitive WMD-related items through third countries (circumvention).
- METI is promoting more effective inter-agency cooperation with customs and police authorities for more effective enforcement.
- In order to strengthen countermeasures against circumvention, international cooperation is essential.



Criminal Penalty

- No more than ten years of imprisonment
- No more than ten million yen or no more than five times in value of the goods

Publication

METI may issue a warning, which would be made public through METI website

Administrative Penalty

Prohibition of exports for no more than three years may be incurred