

Japan's Security Export Control System

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1. Change of Security Environment (Overview)

- Non-state actors are rapidly expanding their presence, causing serious terrorism in many parts of the world. It has become a reality and threat that non-state actors use WMD by acquiring sensitive technologies.
- North Korea's nuclear tests and series of ballistic missile launches are serious threat in east Asia.

[Europe]

- Terrorist attacks in Paris in Nov 2015. Truck attack in Nice in Jul 2016.
- Bombings in Brussels in Mar 2016.
- Terrorist attacks in Manchester in May 2017.
- Truck attack in Barcelona in Aug 2017.
- Terrorists seeking atomic materials (dirty bomb). Possible use of drones for CBW.

[North Korea]

- 4th and 5th nuclear tests in Jan and Sep 2016
- 6th nuclear tests in Sep 2017
- Series of ballistic missiles launches including satellite launch and SLBM. (more than 20 times in 2016, 20 times in 2017 (until Sep))

[South East Asia]

- Bombing in Bangkok in Aug 2015.
- Bombing in Jakarta in Jan and Jul 2016.
- Attack in Dhaka in Jul 2016.
- Assassination with VX nerve agent of Kim Jong-nam in Malaysia in Feb 2017.

[Africa]

- Shopping mall attack in Nairobi in Sep 2013.
- Continuous terrorist attacks.

[Middle East]

- Conflicts in Syria and Iraq. Actual use of chemical weapon (mustard gas, chlorine gas).
- Ballistic missiles launch by Iran in Mar 2016.
- Airport attack in Istanbul in Jul 2016.
- Continuous terrorist attacks

1. Change of Security Environment (Overview)

	Nuclear Suppliers Group (NSG)	Australia Group (AG)	Missile Technology Control Regime (MTCR)	Wassenaar Arrangement (WA)
Objective	To ensure that nuclear trade for peaceful purposes does not contribute to the proliferation of nuclear weapons or other nuclear explosive devices	To ensure that biological and chemical trade for peaceful purposes does not contribute to the proliferation of CBW.	To restrict the proliferation of missiles, complete rocket systems, unmanned air vehicles and related technologies	To contribute to regional and international security and stability by preventing accumulations of conventional arms and related dual-use goods and technologies.
Year of establishment	1978	1985	1987	1996
Number of participating countries	48	41+EU	35	42
Controlled items	<p>(1) Part 1 Trigger list: Nuclear related items (especially designed or prepared)</p> <ul style="list-style-type: none"> - Fissionable material - Nuclear reactor and related equipment - Heavy water, nuclear grade graphite - Uranium enrichment plants, reprocessing plant - Others <p>(2) Part 2 Dual Use list: Nuclear related dual-use items (e.g., machine tools, carbon fiber, etc.)</p>	<p>(1) Chemical weapons related items</p> <ul style="list-style-type: none"> - Precursor Chemical - Chemical manufacturing facilities and equipment (e.g., reaction vessels, heat exchangers, valves, pumps, etc.) <p>(2) Biological weapons related items</p> <ul style="list-style-type: none"> - Pathogens and toxins - Biological equipment (e.g., fermenters, centrifugal separators, cross flow filtration equipment, etc.) 	<p>(1) Category 1: - Complete rocket systems and UAV (300km range & 500 kg payload), production facilities, etc.</p> <p>(2) Category 2: - Complete rocket systems and UAV (300km range & less than 500kg payload), production facilities, etc. - Other related items (e.g., engines, structural materials, navigation systems, etc.)</p>	<p>(1) Munitions List</p> <p>(2) Dual-use list</p> <ul style="list-style-type: none"> - Special Materials and Related equipment - Materials Processing - Electronics - Computers - Telecommunications - Information Security - Sensors and Lasers - Navigation and Avionics - Marine - Aerospace and Propulsion

1. Change of Security Environment (Overview)

Examples of Licensing Requirements of Export Control Regimes

1. Nuclear Suppliers Group (NSG)

- Part 1 Guidelines contains a Trigger List items that is “especially designed or prepared” for the processing, use, or production of special fissionable material. **Governmental formal assurances** for peaceful uses are required for transfer of Part 1 Trigger List items.
- Part 2 Guidelines contains a list of nuclear related dual-use items. **Statement from the end-user** specifying end-use purposes/locations as well as assurances for peaceful uses are required for transfer of Part 2 dual use items.

2. Australia Group (AG)

- Examples of factors to be considered for the evaluation of export applications
 - The significance of the transfer in terms of (1) **the appropriateness of the stated end-use**, including any relevant assurances submitted by the recipient state or end-user, and (2) the potential development of CBW.
 - The **assessment of the end-use of the transfer**, including whether a transfer has been previously denied to the end-user, whether the end-user has diverted for unauthorized purposes any transfer previously authorized, and, to the extent possible, whether the end-user is capable of securely handling and storing the item transferred.

1. Change of Security Environment (Overview)

Examples of Licensing Requirements of Export Control Regimes

3. Missile Technology Control Regimes (MTCR)

- **Particular restraint** will be exercised in the consideration of **Category I transfers** and there will be a strong presumption of denial.
- **Particular restraint** will also be exercised in the consideration of transfers of **any items** in the Annex, or of any missiles, if the Government judges that they are intended to be used for the delivery of weapons of mass destruction(WMD), and there will be a strong presumption of denial.
- Examples of factors to be considered for the evaluations of transfer applications are (1) the significance of the transfer in terms of the potential development of delivery systems for WMD, (2) **the assessment of the end use** of the transfers, including the relevant assurances of the recipient states

4. Wassenaar Arrangement (WA)

- The following best practices are agreed in WA.
 - Best Practice Guidelines for the Licensing of Items on the Basic List and Sensitive List of Dual-Use Goods and Technologies
 - Statement of Understanding on Control of Non-Listed Dual-Use Items
 - Statement of Understanding on Implementation of End-Use Controls for Dual-Use Items
 - Best Practice Guidelines on Internal Compliance Programmes for Dual-Use Goods and Technologies
 - Best Practices for Effective Export Control Enforcement

1. Change of Security Environment (Overview)

United Nation Security Council Resolution 1540

- Participants in this Resolution must:
 - In accordance with their national procedures, **adopt and enforce appropriate effective laws** which prohibit **any non-State actor** to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery (WMDs)., as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them
 - **Take and enforce effective measures** to establish domestic controls to prevent the proliferation of WMDs, including appropriate laws and regulations to **control export, transit, trans-shipment and re-export** and **controls on providing funds and services** related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing **end-user controls**

1. Change of Security Environment (Overview)

- Civil technology becomes an important element of advanced defense equipment and the importance of civil technology in terms of security is increasing.

<Carbon Fiber>



Golf shaft



Structural material
for fighter

<Power Semiconductor>

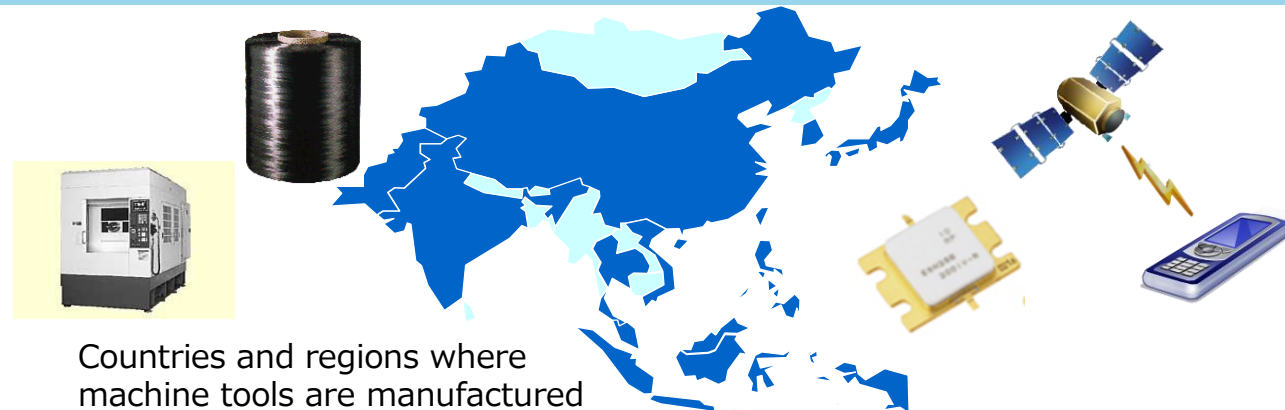


Power amplifier











Rader for naval ship

- Asian countries are increasing their production capacity of sensitive dual use items. In addition, the importance of Asian ports as a hub for global and regional trade is rising.



Countries and regions where
machine tools are manufactured

1. Change of Security Environment (Example of diversion for Concerned Purpose)

	Concerned Purpose	Civil-use
Machine tool	Manufacturing of Centrifuge 	Manufacturing of Car 
Sodium cyanide	Manufacturing of Chemical Weapon 	Metal Plating 
Filter	Manufacturing of Bacteriological Weapon 	Desalting 
CFRP	Missile 	Airplane 

1. Change of Security Environment (Diversified Procurement Activities)

- Although many countries have established export control systems, entities of concern have diversified procurement activities by circumventing trade, using third country, front company or falsifying information, etc.



- In addition to circumventing trade, entities of concern have acquired sensitive technology through
 - (A) academic activities and research project - access to and exchange of information and data via intangible technology transfer (ITT)
 - (B) business alliance and corporate acquisition - direct acquisition of R&D capability, access to new business network

(Ref) Japan is addressing to increase effectiveness of enforcement and investment control.
http://www.meti.go.jp/english/press/2017/0303_003.html

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2. History of Japan's Security Export Control System (Overview)

■ 1949

The Foreign Exchange and Foreign Trade Control Act (FEFTA) was enacted

■ 1952

Japan acceded to COCOM (Coordinating Committee for Multilateral Export Controls)



Implementation of export control based on FEFTA



■ 1987

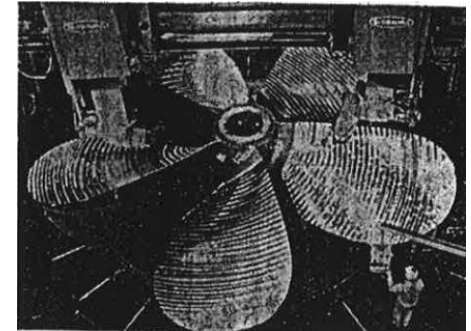
Japanese Company Incident

(Export of machine tools from Japan to the Soviet Union)



Strong anti-Japan feeling in the US

- ✓ Loss of Japan's credibility
- ✓ Replacement of the executives of the firm which exported machine tool
- ✓ Shareholder lawsuit



(1987 Mainichi Shimbun, Evening paper)

2. History of Japan's Security Export Control System (Action after the incident)

After the incident, the Government of Japan and Japanese industries improved export control.

Government

- ✓ Expanded capacity of export control organization
- ✓ Strengthened penalties
- ✓ Extended the prosecution prescription for illegal export
- ✓ Introduced Internal Compliance Program (ICP)

Industries

- ✓ Introduced and implemented strict export control with ICP
- ✓ Implemented new way to stop extra-purpose use by end-users. (ex. Relocation Detection Devices)



Restoration
of credibility

2. History of Japan's Security Export Control System (Importance of Export Control)

- ✓ **Lose international credibility by only single incident.**

Implementing strict export control promotes foreign direct investments and lead to economic development

- ✓ **A system is not enough, actual implementation is necessary.**
- ✓ **Human resource development is a key to implement export control (e.g. raising experts through effective trainings)**

Lack of effective implementation is equivalent to lack of the system.

- ✓ **International cooperation is necessary to treat newly evolved concerns**

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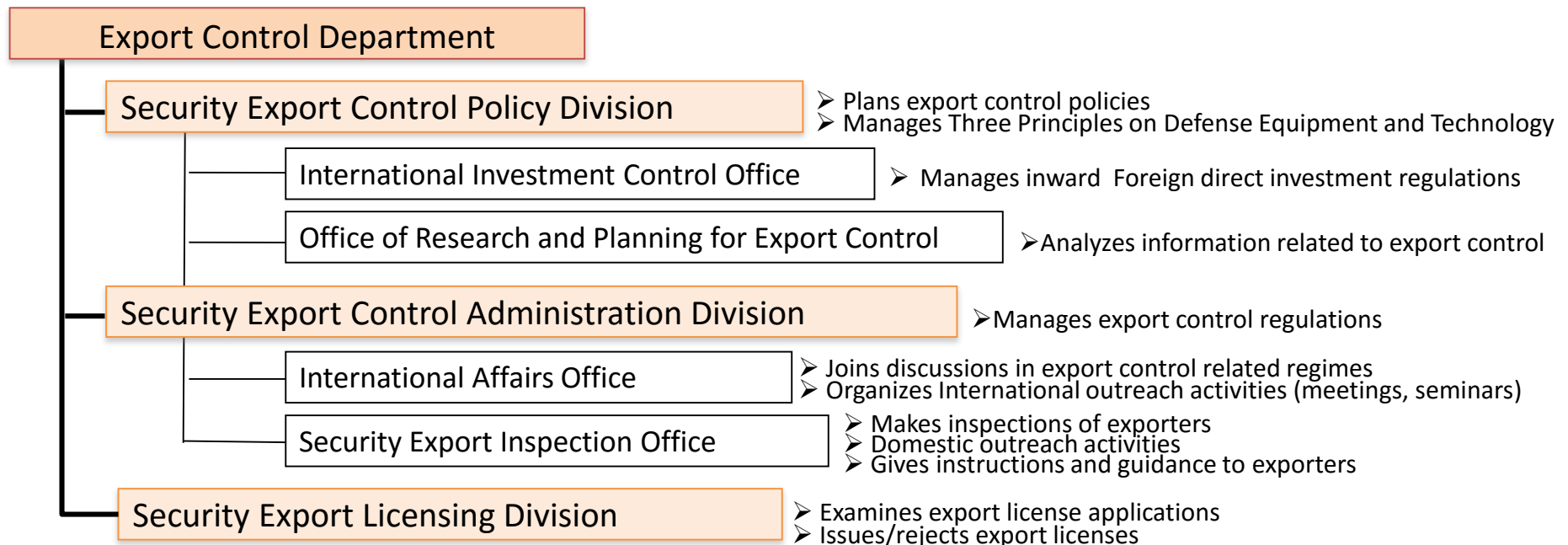
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3. Security Export Control System in Japan

(Recent Organizational Change for Security Export Control in METI)

- METI is in charge of export control with about 100 staff concerning the security field.
- An export license is issued only by METI under Foreign Exchange and Foreign Trade Act.
- Security export control divisions in the Headquarter of METI control and examine trade of sensitive items while twelve local branches deal with less sensitive items.
- METI changed the organization of security export control last June in order to strengthen the policy planning, direct inward investment, outreach for academia and overseas and collaboration with enforcement authorities.

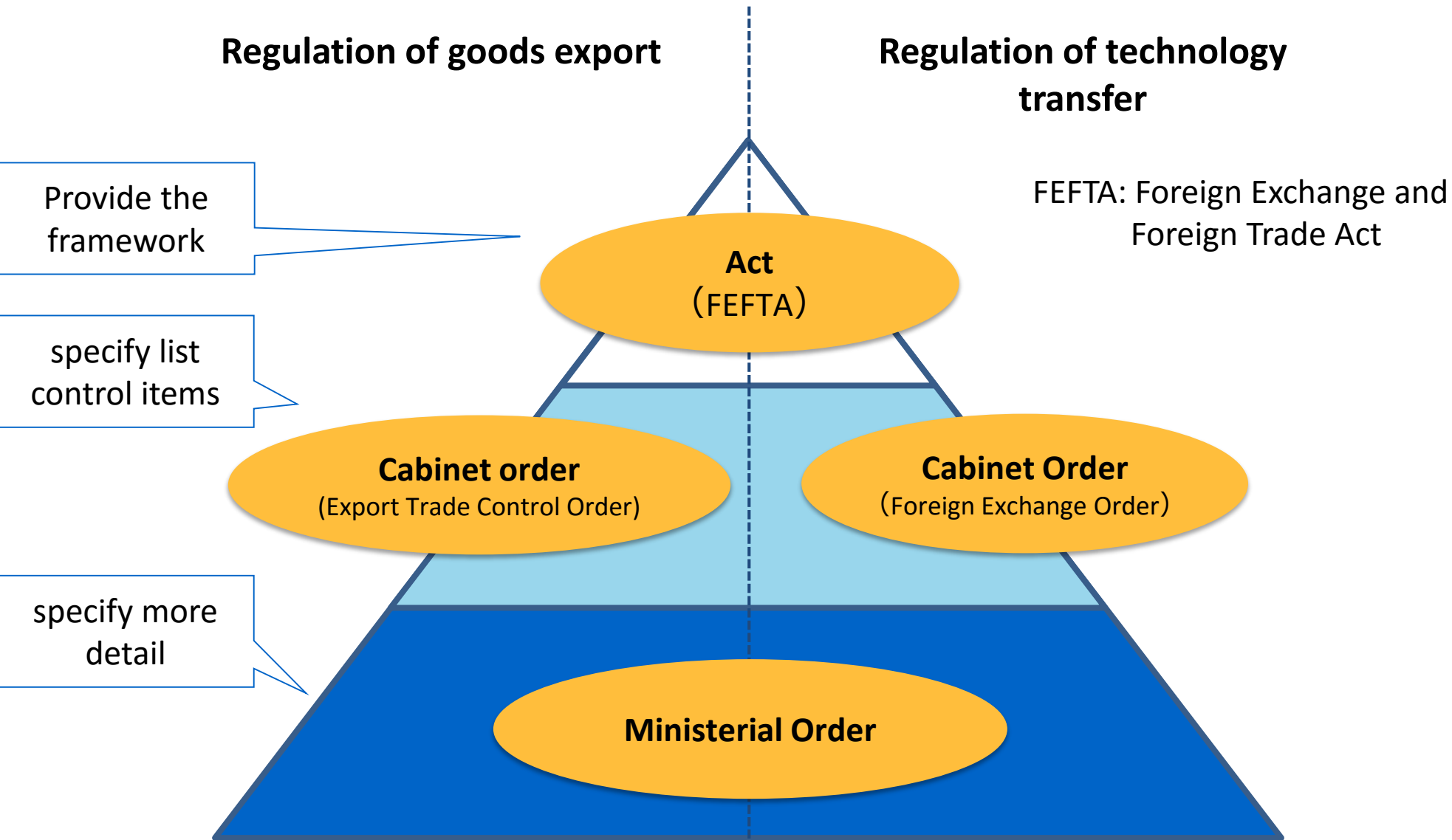
METI Trade and Economic Cooperation Bureau



12 Local Branches for Licensing and Inspection

Sapporo, Sendai, Saitama, Tokyo, Yokohama, Nagoya, Osaka, Kobe, Hiroshima, Takamatsu, Fukuoka and Okinawa

3. Security Export Control System in Japan (Basic Legal Structure under FEFTA)



3. Security Export Control System in Japan (Detailed Legal Structure of FEFTA)

- FEFTA also sets forth catch-all control for items which could contribute to WMD related or military end-use activities.

FEFTA	Cabinet Order	List Control	Catch-all control of WMD	Catch-all control of Conventional Weapons
Article 48	Export Control Order	category 1-15 List of Goods	category 16	
Article 25	Foreign Exchange Order	category 1-15 List of Technologies	category 16	
		<u>Regulated Items</u> •weapons •listed dual use items related to WMD and conventional weapons	<u>Regulated Items</u> All items 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 White countries	

White Countries : 27 countries which are member countries of all export control regimes and have comprehensive export control systems

UN arms embargo countries in the context of catch-all control: Afghanistan, Central Africa, Democratic Republic of Congo, Eritrea, Iraq, Lebanon, Libya, North Korea, Somalia, Sudan

3. Security Export Control System in Japan (List control under FEFTA)

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

category	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	↓	WA / ML (excluding item 1)
14		
15	Dual-use items	WA / VSL (Very Sensitive List)
16	Catch-all	Catch-all control

(Ref) The comparative list of Japan's List and EU list:

http://www.cistec.or.jp/service/eu_taihi.xls (Only in Japanese)

The comparative list of Japan's List and EU list:

http://www.cistec.or.jp/service/eu_taihi.xls

(Center for Information on Security Trade control (CISTEC) HP) (Only in Japanese)

eu_taihi.xls [保護されたビュー] [互換モード] - Microsoft Excel

2015年版

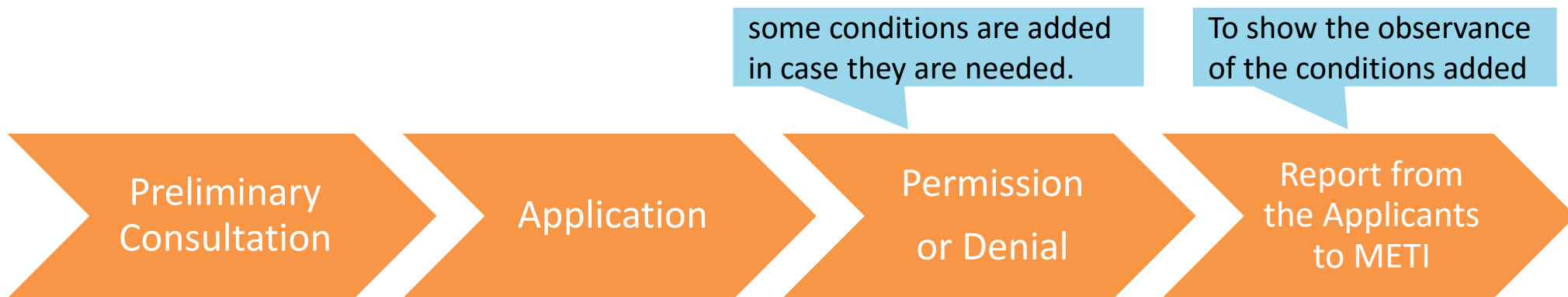
2項 原子力 貨物等省令第1条(第一号~第六十二号)(平成27(2015)年10月1日施行の貨物等省令・2015年12月25日施行のEU規則・2015年4月21日公示のEU/MLIに準拠)

注1)「対比用文言」・EU規則番号を特定するために、貨物等省令を細分化する必要がある場合、これを対比用文言と呼び、参考欄に示した。
 貨物等省令にはない文言なので、注意すること。
 注2)「EU規則の差異注意」(要)・EU規則が貨物等省令の規制内容と「厳密」に一致しないと判断される場合を示す。対比先とされるEU規則番号の使用に注意すること。
 貨物等省令とEU規則のそれぞれの原文により規制内容を精査すること。
 注3)エクセルの一つのセルに記入できる字数に制限があるため、必要に応じ「字数制約」により、セル分割などと記して、行を分けた。
 注4)貨物等省令行は番号が変化する毎にセル下地色を変えた。

日 EU 別 行	貨物等省令						EU規則番号		貨物等省令文言(全文)	参考		EU規則の 差異注意 (要)(注2)
	政令	条	項	号	イ (ハ)	細番	5桁	細番		対比用文言(注1)	EU規則文言(英文)	
1	2	1	1						輸出貿易管理令(以下「輸出令」という。)別表第1の2の項の経済産業省令で定める仕様のものは、次のいずれかに該当するものとする。			
2	2(1)	1	1	ー			00001 00002 10012		核燃料物質又は核原料物質であって、次のいずれかに該当するもの			
3	EU 2(1)	1	1	ー			00001				“Natural uranium” or “depleted uranium” or thorium in the form of metal, alloy, chemical compound or concentrate and any other material containing one or more of the foregoing;	
4	EU 2(1)	1	1	ー			00002				“Natural uranium” (0) means uranium containing the mixtures of isotopes occurring in nature. “Depleted uranium” (0) means uranium depleted in the isotope 235 below that occurring in nature. “Special fissile materials”	
5	EU 2(1)	1	1	ー			10012				“Special fissile material” (0) means plutonium-239, uranium-233, “uranium enriched in the isotopes 235 or 233”, and any material containing the foregoing. Materials as follows: a. Plutonium in any form with a plutonium isotopic assay of plutonium-239 of more than 50 % by weight; Note: 1 001 2 a. does not control: a. Shipments with a plutonium content of 1 g or less; b. Shipments of 3 “effective grammes” or less when contained in a sensing component in instruments.	
6	2(1)	1	1	ー	イ		00001 00002		ウラン又はその化合物			

3. Security Export Control System in Japan (Procedure for Individual License Application)

- The exporter has the responsibility to classify whether the export item is subject to control list. As a result of the classification, if it is found that the item is covered by the control list, it must apply for export license to the Ministry of Economy, Trade and Industry (METI).
- METI examines the appropriateness of the end-use and the end-user of the license application, and decides whether to permit or deny the application. Additional conditions may be imposed on export licenses (e.g., monitoring of export machines, prior consent in the case of the re-transfer of items.).



3. Security Export Control System in Japan (Individual License and Bulk License)

• Individual License

- Transaction-based examination.
- Check the contents of each transaction.

(Ref) 4 Pillars of examination

1. Whether the goods will be actually delivered to the end user.
2. Whether the goods will be actually used by the stated end user.
3. Whether the goods will not be used for the purposes of impeding the maintenance of international peace and security.
4. Whether the end user will appropriately control the goods.

• Bulk License

- For specific destination and specific items, repeated transaction, etc.
- Do not examine each transaction.
- Check the exporter's compliance (ICPs, etc.).

3. Security Export Control System in Japan (Individual License and Bulk License-types of bulk license)

Bulk License

Valid for multiple transactions for 3 years

General Bulk Export License

- Export of specific items to white countries
- Only electronic application is acceptable.
- ICPs and prior on-site check are NOT required.

Special General Bulk Export License

- Exports of specific items to specific countries (i.e. export of WA/BL to non-WA countries, etc.).
- ICPs and prior on-site check are required.

Special Bulk Export License

- Repeated exports of specific items to specific customers.
- ICPs and prior on-site check are required.

Special Bulk Export License for Repair or Replacement

- Re-exports of arms and arms-related items (category 1) to the country of origin for repair or replacement.
- ICPs and prior on-site check are required.

Special Bulk Export License for Overseas Subsidiaries

- Exports of specific items to subsidiaries in foreign countries.
- ICPs and prior on-site check are required.

3. Security Export Control System in Japan (Regulations on critical goods and technologies under FEFTA)

Type of Regulations	Regulation Object	Target detail	License
List Control	<ul style="list-style-type: none"> ➤ Goods Export ➤ Technology Transfer 	<ul style="list-style-type: none"> ➤ Control List (category 1 - 15) 	<ul style="list-style-type: none"> ➤ Individual License ➤ Bulk License
Catch-all control	<ul style="list-style-type: none"> ➤ Goods Export ➤ Technology Transfer ➤ 	<ul style="list-style-type: none"> ➤ WMD (Weapons of mass destruction) (category 16) ➤ Conventional Weapons (category 16) 	<ul style="list-style-type: none"> ➤ Individual License
Brokering Control	<ul style="list-style-type: none"> ➤ Goods 	<ul style="list-style-type: none"> ➤ Control List (category 1) ➤ Catch-all control of WMD (category 2 - 16) 	<ul style="list-style-type: none"> ➤ Individual License
Transshipment Control	<ul style="list-style-type: none"> ➤ Goods 	<ul style="list-style-type: none"> ➤ Control List (category 1) ➤ Catch-all control of WMD (category 2 - 16) 	<ul style="list-style-type: none"> ➤ Individual License

3. Security Export Control System in Japan (Catch-all Control of WMD)

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

Region

All regions except for white countries

Items

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

The Commodity Watch List [40 +12* items]

(*only for Syria, as from 15 April. 2015)

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 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 WMD.

3. Security Export Control System in Japan (Catch-all Control of Conventional Arms)

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

As from 15 April 2015

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, etc.)

The Commodity Watch List [34 items]

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 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.

3. Security Export Control System in Japan (Foreign End User List)

- The FEUL is a list of foreign entities that may have some relationship to the development, manufacture, use and/or storage of WMD and/or missiles.
- Exporters are required to submit export license applications when they wish to export goods 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. (entities are on the list as from August 9, 2017)

Number of the Entities on Foreign End User List

Iran	209
North Korea	143
Pakistan	52
China	60
Syria	20
India	4
UAE	8
Afghanistan	2
Taiwan	1
Israel	2
Hong Kong	3
Egypt	1
Lebanon	3
Total	508

No.	Country or Region	Company or Organization	Also Known As	Type of WMD
1	Islamic Republic of Afghanistan	Al Qa'ida/Islamic Army	<ul style="list-style-type: none"> • Al Qaeda • Islamic Salvation Foundation • The Base • 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 	C
2	Islamic Republic of Afghanistan Islamic Republic of Pakistan	Ummah Tameer E-Nau (UTN)		N

~

507	Republic of Lebanon	Shadi for Cars Trading		B,C,M
508	Republic of Lebanon	Technolab	• Techno Lab	B,C,M

3. Security Export Control System in Japan (Brokering Control)

- Overseas transaction in which any goods or technologies move from one foreign country to another, and in which a person, including a legal person, in Japan is engaged directly or through its overseas office
- A person in Japan must obtain a license when it enters into a contract, directly or through its overseas subsidiary, of selling/buying, leasing or donating goods or technologies, with foreign companies

Items

Any items (except for food, etc.)

Conditions

1. Conventional arms : no conditions

2. Items other than conventional weapons (**transacted between Non-white Countries**) ;

(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

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

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

3. Security Export Control System in Japan (Transshipment Control)

- Transshipment control applied to foreign goods passing through Japan
- “Transshipment” is defined as an act to transship foreign goods at airports or seaports in Japan

Items

Any items (except for food, etc.)

Conditions

1. Conventional arms : no conditions

2. Items other than conventional weapons (**destined for a Non-white Country**) ;

(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

(2) METI's Initiative = The “Informed” Condition

The “inform” is given when METI considers that the items in question are/may be intended for WMD.

3. Security Export Control System in Japan (Export Control for Specific Countries)

North Korea

- No items can now be exported to or imported from North Korea.

Iran

- Items listed on NSG and MTCR can be exported on the condition of approval from the United Nations Security Council.

Syria

- 12 additional items of concern for exports to Syria are specified in the Commodity Watch List (since 15 Oct. 2013).

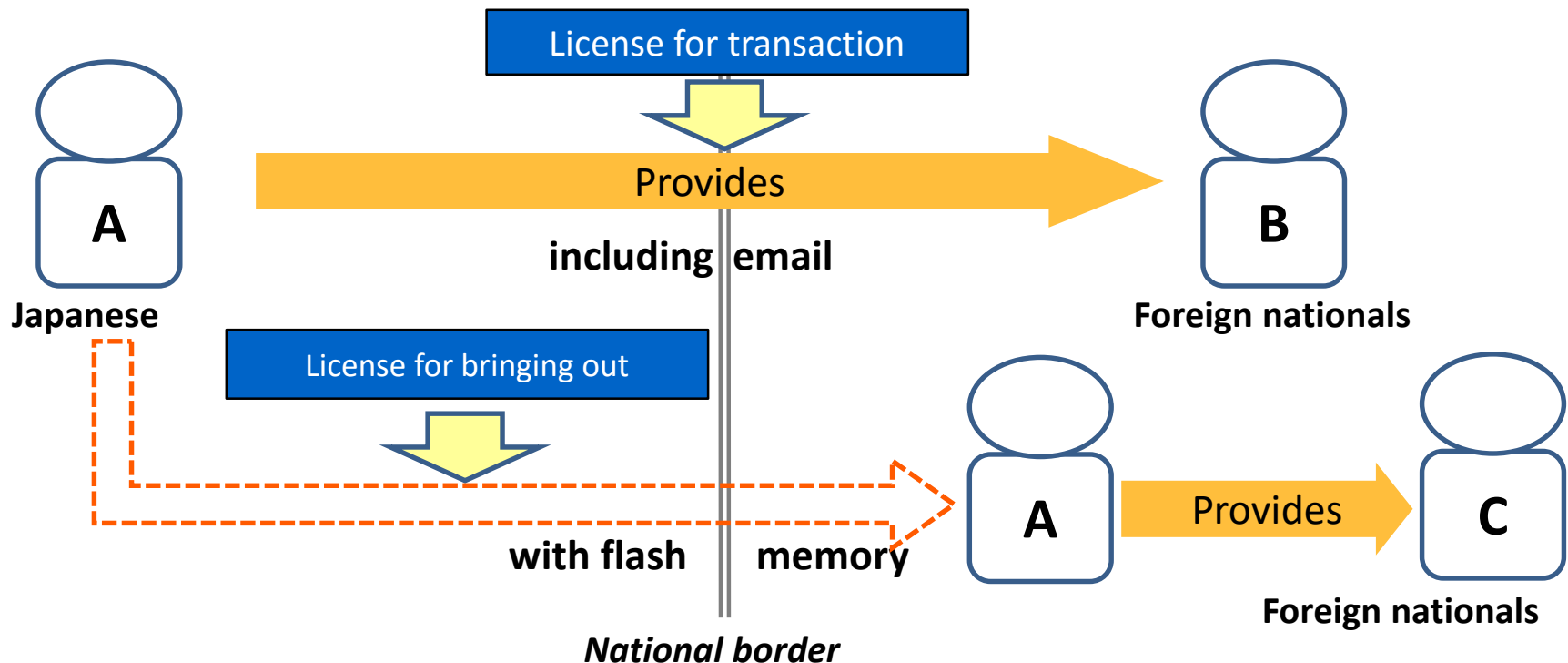
Others

- Bulk License is not applicable to destinations such as Iran, Iraq, Libya and North Korea, etc.

3. Security Export Control System in Japan (Controlled cases of Intangible Technology Transfer(ITT))

- Intangible Technology Transfer (ITT) is regulated under the FEFTA. “Regulated Technology ” is defined as “specific information necessary for the design, production or use of regulated products”. The information takes form of technical data or technical assistance.

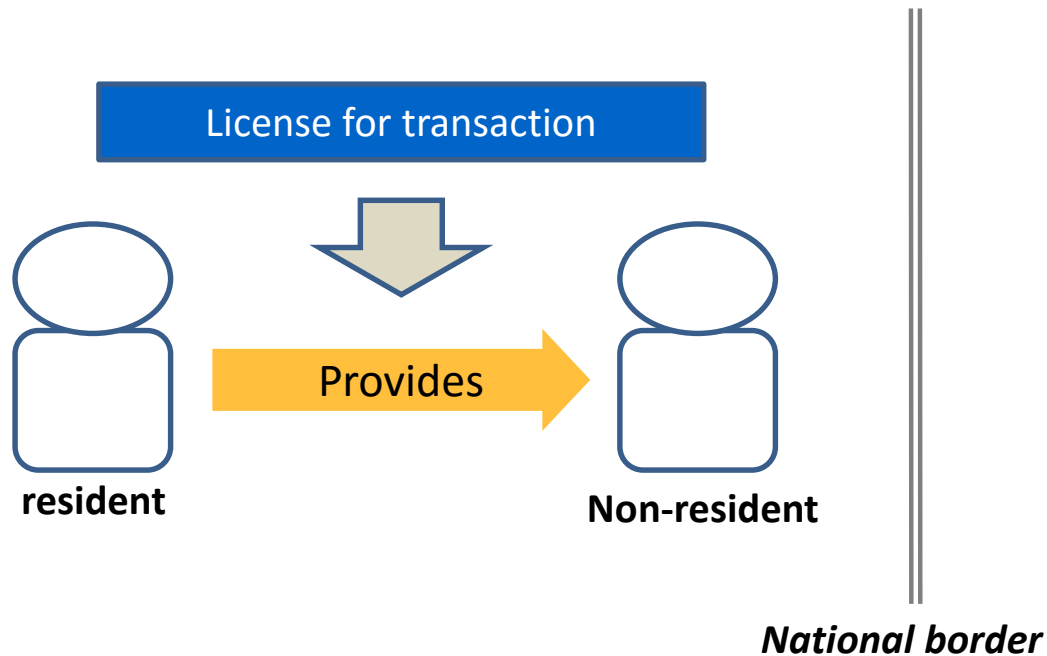
Case 1. Technology transfer from Japan to a foreign country
• focus on location of the recipient



3. Security Export Control System in Japan (Controlled cases of Intangible Technology Transfer(ITT) cont.)

Case 2. Technology transfer to a non-resident

- transfer of listed technology by any resident to a non-resident
- focus on whether the recipient is non-resident or not



3. Security Export Control System in Japan (Re-export)

- WMDs related International regimes(NSG, AG and MTCR) stipulate that Member countries should, under their domestic law and practices, require companies planning to re-export controlled items or technology to obtain prior consent from their business counterparts in order to prevent the use of WMDs in third countries.
- Japan incorporates the provision of the International regimes into its export control system. In Japanese rule, exporter is required to acquire the Notice to the End-Use Certificate(EUC) for export application. In case of re-export, METI grants the conditional permission to exporter, requires exporter to acquire the prior consent from the METI for the re-export.
- If the exporter violates the abovementioned export license conditions, they will be fined up to 1million yen under the Article 73 of Foreign Exchange and Foreign Trade Act.
- Any false statements or concealment may result in giving any negative effect toward METI's licensing in the future. Furthermore, company will incur huge damage to its image/credibility if they are involved in illegal export or re-export.

3. Security Export Control System in Japan (Penalties under FEFTA)

Criminal Penalty

【Individual】

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

【Company】

- No more than ten years of imprisonment
- No more than one billion yen or no more than five times in value of the items

Publication

- METI may issue a warning, which would be made public on the METI website

Administrative Penalty

- Prohibition of exports for no more than three years

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4-1. Reform of the Law and Regulation

(Modification of the FEFTA on Criminal Charges(1st of Oct 2017))

- Japan raised the amount of fines applied to illegal conducts of **exports or imports** (The maximum fines are increased) on 1st October 2017.
- Also, criminal charges (Imprisonment and fine) **is to be applied against violations of license conditions** such as prior consent re-export with METI (Currently, non criminal fines).

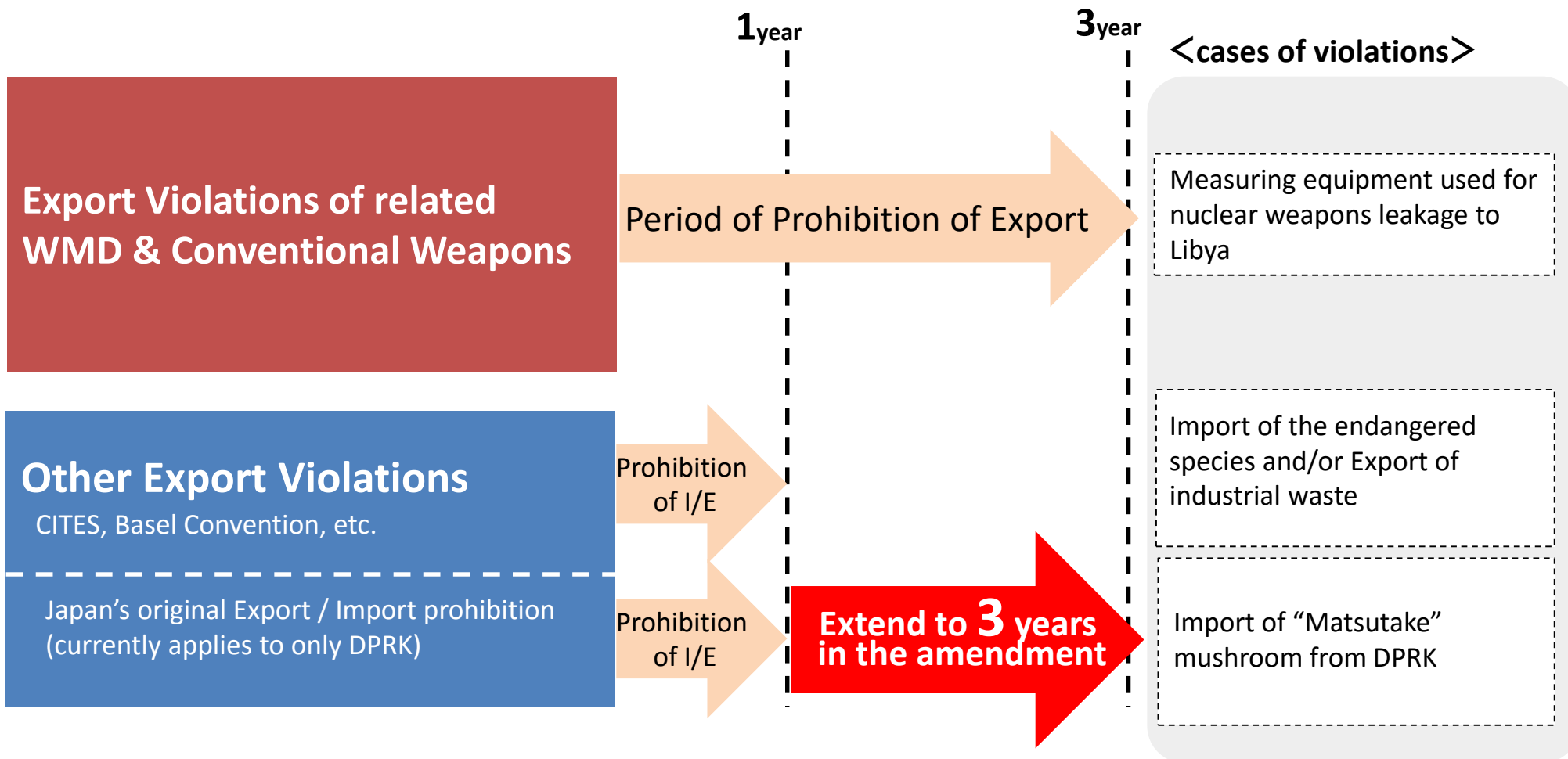
	Target	illegal conduct of import/export		
		WMD	Conventional Arms	others
Previous System	Individual and Company	10 million yen or 5 times of the export price	7 million yen or 5 times of the export price	5 million yen or 5 times of the export price

Present System (since 1 st October 2017)	Individual	30 million yen or 5 times of the export price	20 million yen or 5 times of the export price	10 million yen or 5 times of the export price
	Company	1 billion yen or 5 times of the export price	700 million yen or 5 times of the export price	500 million yen or 5 times of the export price

4-1. Reform of the Law and Regulation

(Modification of the FEFTA on administrative penalties(1st of Oct 2017))

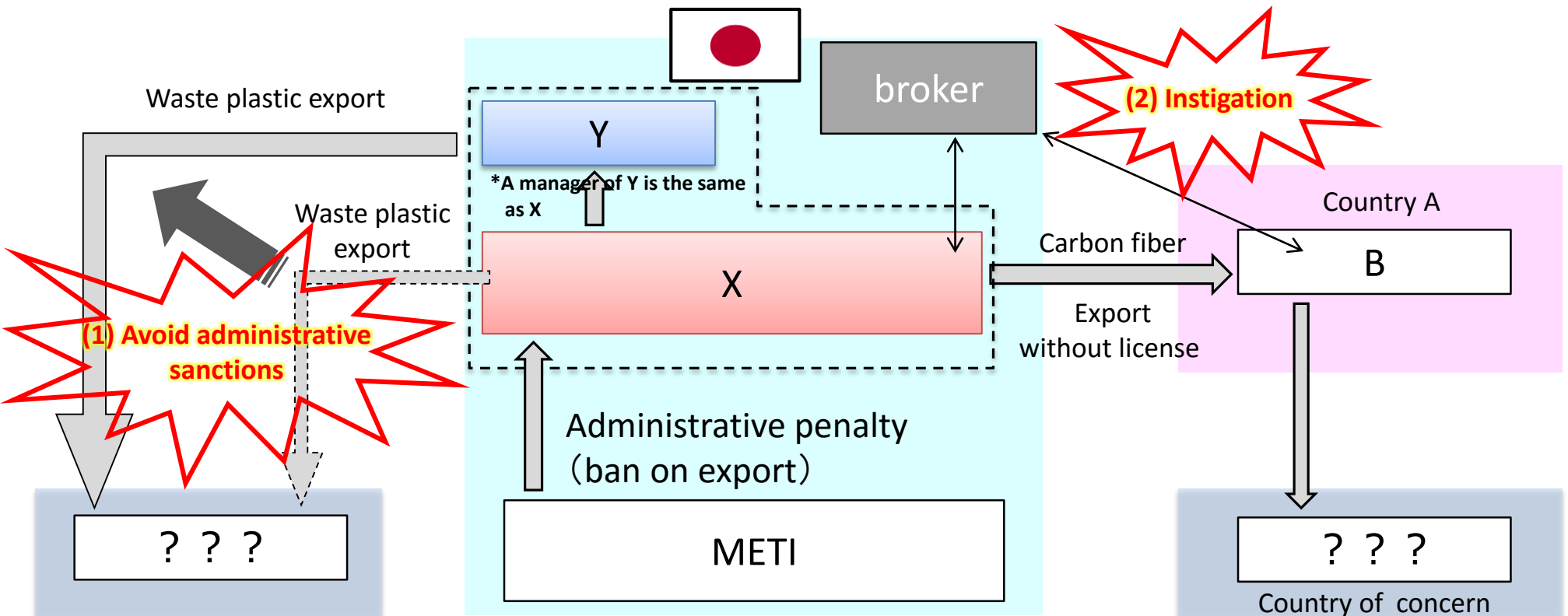
- Extension of the upper limit of the period of administrative penalties imposed on violators who received export/import bans.



4-1. Reform of the Law and Regulation

(Modification of the FEFTA on administrative penalties(1st of Oct 2017))

- (1) Introduction of **new regulations to persons**, who received administrative penalty, **to prohibit taking a new position in another company to keep their trades**, and so on.
- (2) **Adding brokers** related to a skeptical trade **to the subject of on-site inspections**.

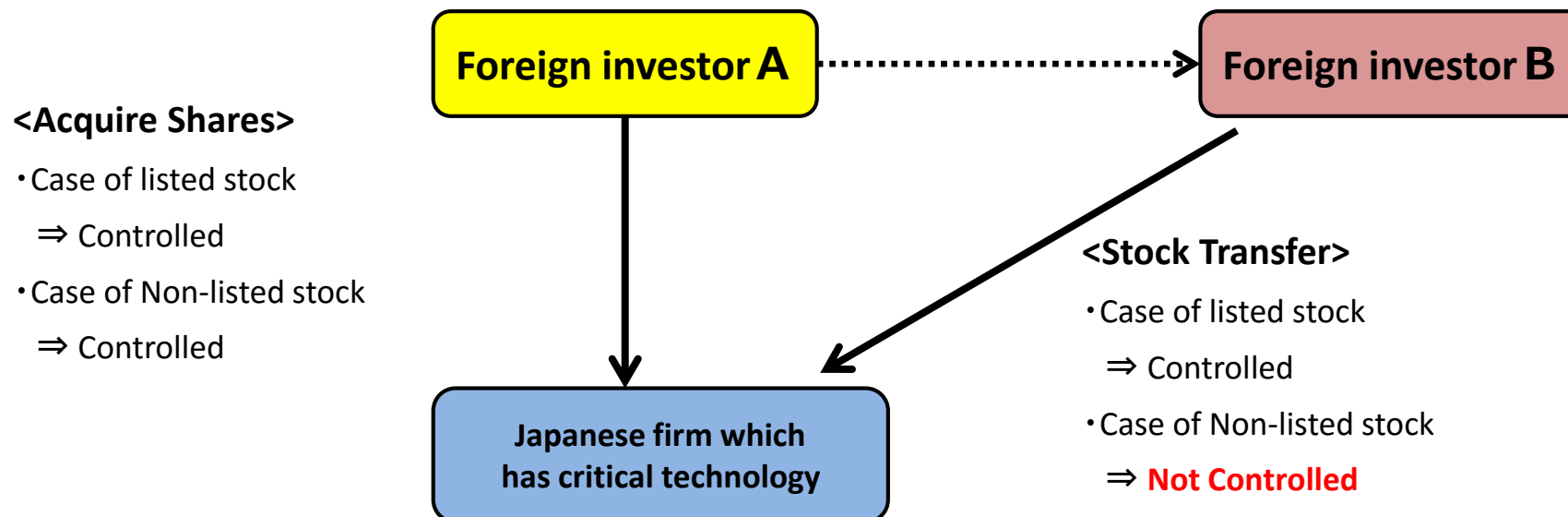


4-1. Reform of the Law and Regulation

(Modification of the FEFTA on Inward Direct Investment(1st of Oct 2017))

- Foreign investors who would take non-listed stocks from other foreign investors, is obliged to submit prior notification to the GOJ, if such deal would potentially cause threat to the national security.
- Ministries can give an order to foreign investors to take actions for mitigation measures, e.g., sell stock, stop dealing, where the investment is deemed as harming national security.

【Overview of present regulation】



4-1. Reform of the Law and Regulation (Future Challenge) Restructure of the Control list of FEFTA

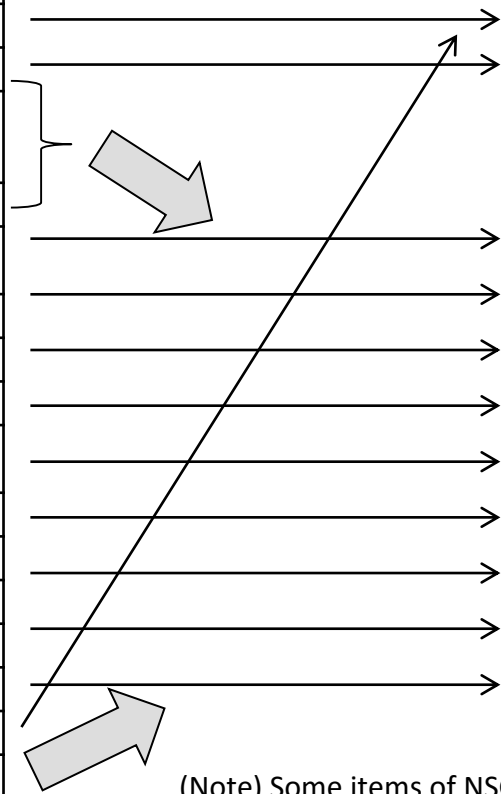
- Control list numbering system of Japan is different from other countries.
- Since an increase of the burden of business operators may hinder their compliance activity, it should be considered to reduce such burden by making it consistent with EU control list.

<Japan's control list>

Category	Item	Export Control Regime
1	Munitions	WA (ML)
2	Nuclear related items	NSG
3, 3-2	Items related to Chemical Weapons and Biological weapons	AG
4	Missile related items	MTCR
5	Special Materials and Related Equipment	WA (Cat.1)
6	Materials Processing	WA (Cat.2)
7	Electronics	WA (Cat.3)
8	Computers	WA (Cat.4)
9	Telecommunication and "Information Security"	WA (Cat.5)
10	Sensors and "Lasers"	WA (Cat.6)
11	Navigation and Avionics	WA (Cat.7)
12	Marine	WA (Cat.8)
13	Aerospace and Propulsion	WA (Cat.9)
14	Other items	WA (ML)
15	Sensitive items	WA (VSL)
16	All items except food and wood, etc.	Catch-all

<EU control list>

Category	Item
M L	Munitions
Cat. 0	Nuclear related item
Cat.1	Special Materials and Related Equipment
Cat.2	Materials Processing
Cat.3	Electronics
Cat.4	Computers
Cat.5	Telecommunication and "Information Security"
Cat.6	Sensors and "Lasers"
Cat.7	Navigation and Avionics
Cat.8	Marine
Cat.9	Aerospace and Propulsion



(Note) Some items of NSG, AG, MTCR and VSL of WA are allocated in Cat.1-9 under EU control list.

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4-2. International Outreach Cooperation

(Focus on Asia)

- **Japan is focusing on Asia for its export control outreach due to the following reasons;**
 - The geographical closeness
 - Rapid increase of capacity of Asian countries and regions to produce sensitive dual use items
 - The importance of Asian ports as a hub for global and regional trade
 - Asian countries are facing many difficulties in introducing export control system and implementing effective licensing and enforcement activities.

Current status of establishment of export control system in Asia

- **Countries and regions which have an export control system:**
China, Hong Kong, India, Republic of Korea, Malaysia, Pakistan, Singapore, Chinese Taipei
- **Countries and regions which are in their process of establishment of export control system:**
The Philippines, Thailand
- **Countries and regions which do not have an export control system, but, some countries have increased their production capacity of sensitive dual use items:**
Bangladesh, Brunei Darussalam, Indonesia, Lao PDR, Mongolia, Myanmar, Sri Lanka, Viet Nam

4-2. International Outreach Cooperation

(METI's six pillars of Outreach Activities in Asia)

Asian Export Control Seminar

Annual conference since 1993. It aims to develop the cooperation and network among the Asian countries/regions, participating states of export control regimes and related organization through exchange of updated information.

Industry Outreach Seminar

It aims to increase awareness of importance of export control and pursues to conduct effective compliance program in industries of Asian countries/regions.

Dispatch of Experts from METI

It aims to support the capacity building of export control officers licensing and enforcement in Asian countries/regions which have export control systems.

Collaboration with other countries and International bodies

It aims to enhance capacity of licensing and enforcement officers of the Asian countries/regions through collaboration with foreign countries and international bodies such as co-organizing or participating in the seminars.

Bilateral dialogues

It aims to share the information and experience of export control system and its effective implementation along with the exchange of views on security environment.

Invitation Training Program

It aims to support the enactment and smooth implementation of the export control law in Asian countries/regions by sharing Japanese export control experience.

4-2. International Outreach Cooperation (The 24th Asian Export Control Seminar)

- February 21-23, 2017, CISTEC (Center for Information on Security Trade Control), METI, and MOFA hosted the 24th Asian Export Control Seminar in Tokyo.
- The seminar was successfully held with as many as 190 participants in total from about 30 countries and regions, international organizations and think tanks.
- Participants comprehensively exchanged information and opinions on various issues concerning export controls such as efforts to address diversified procurement activities, activities of international export control regimes, updates of export control systems in Asia, ITT, ICP, effective enforcement, etc .
- The 25th Asian Export Control Seminar will be held on February 27-March 1, 2018 in Tokyo.

(Ref) Participating countries, regions and organizations

- **Asian countries and regions**
Bangladesh, Cambodia, China, Hong Kong, India, Indonesia, Japan, ROK, Lao PDR, Malaysia, Mongolia, Myanmar, Pakistan, the Philippines, Singapore, Sri Lanka, Chinese Taipei, Thailand, and Viet Nam
- **Other countries and regions**
Australia, Canada, EU, France, Germany, Kazakhstan, Mexico, Netherlands, Switzerland, Turkey, UAE, UK, USA
- **International Organization, etc.**
AG, MTCR, NSG, WA, UNSCR 1540 Committee, Panel of Experts for UNSCR 1874 (Panel to North Korea), UNIDIR, King's College London, State University of NY, University of Georgia, Nagoya University, etc.



(Ref) http://www.meti.go.jp/english/press/2017/0302_003.html, http://supportoffice.jp/outreach/2016/asian_ec/

4-2. International Outreach Cooperation

(Past Industry Outreach Seminar and Dispatch of Experts)

Viet Nam

Joint Industry Outreach Seminar : Apr. 2004, Apr, 2009 and Aug, 2012
Joint Seminar for Government (EXBS): Jul. 2016 and Jul. 2017

India

Joint Industry Outreach Seminar : Feb. 2008

Thai

Joint Industry Outreach Seminar : Aug. 2004, Feb. 2007, Mar. 2010, Jun. 2012, Nov. 2015 and Mar. 2017
Joint Seminar for Thai Government (EXBS): Sep. 2015
Dispatch of Experts: Mar. 2017
Invitation Training Program: Jul. 2017

Malaysia

Joint Industry Outreach Seminar : Mar. 2008, Nov. 2010, Nov. 2011, Jan.2014 and Mar. 2015
Joint Seminar for Malaysia Government (EXBS): May. 2017

Singapore

Joint Industry Outreach Seminar (EXBS) : Mar. 2005, Oct. 2009, Dec. 2013, Dec. 2014 and Jan. 2016
Joint Seminar for Singapore Government (EXBS): Sep. 2016 and Jul. 2017

China

Joint Industry Outreach Seminar: Marr. 2004

Chinese Taipei

Joint Industry Outreach Seminar : Mar. 2006, Jan. 2008, Sep. 2009, Oct. 2011, Oct. 2013 Oct. 2015 and Sep. 2017

Hong Kong

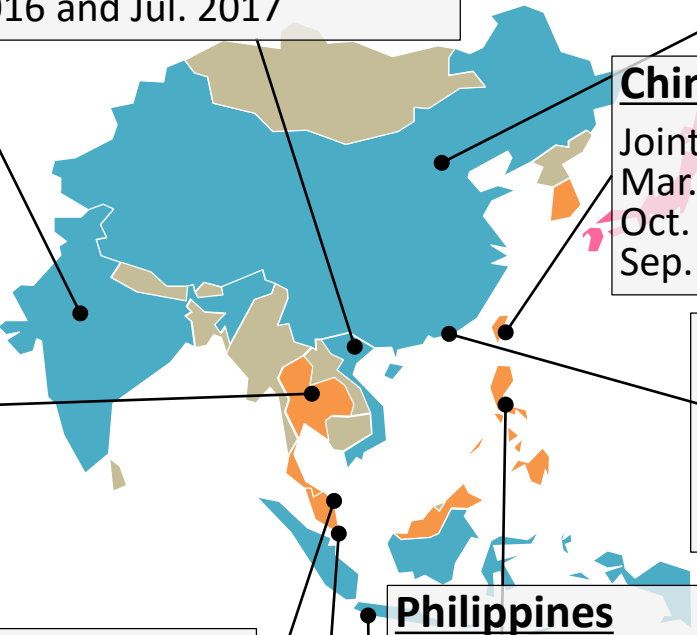
Joint Industry Outreach Seminar : Sep. 2006, Dec. 2008, Sep. 2011, Jan. 2015 and Nov. 2017

Philippines

Joint Industry Outreach Seminar : Jul. 2004, Feb. 2007, Jan. 2011, Mar. 2012, Mar. 2014, Nov. 2014 and Jan. 2016
Dispatch of Experts: Oct. 2016, Nov. 2017

Indonesia

Joint Industry Outreach Seminar : Jul. 2004, Aug. 2008, Nov. 2009, Mar 2011 and Mar. 2017
Invitation Training Program: Dec. 2017



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5. Sanctions against North Korea (UNSCR Implementation Reports Submission)

Member of State	UNSCR 2270	UNSCR 2321	UNSCR 2371	UNSCR 2375
China	○	○	○	×
Pakistan	○	○	○	○
India	○	○	○	○
Taiwan (Non-member)	-	-	-	-
ASEAN10				
Brunei	○	○	×	×
Cambodia	×	×	×	×
Indonesia	○	○	×	×
Laos	○	○	○	○
Malaysia	○	×	×	×
Myanmar	○	○	○	×
Philippines	○	×	×	×
Singapore	○	○	○	○
Thailand	○	○	○	○
Vietnam	○	○	×	×

As of 28 December 2017, 38 Member States have submitted reports on the implementation of resolution 2375 (2017), 43 Member State have submitted report on the implementation of resolution 2371 (2017), 94 Member States have submitted reports on the implementation of resolution 2321 (2016) and 105 Member States on the implementation of resolution 2270 (2016).

5. Sanctions against North Korea

(Measures taken by the Government of Japan against North Korea)

Japan has repeatedly urged North Korea to refrain from any provocations including nuclear tests or ballistic missile launches and to comply with the relevant UN Security Council resolutions (UNSCRs) and the Joint Statement of the Six-Party Talks.

While the Government of Japan has taken significantly strict autonomous measures against North Korea, the Government of Japan has decided to further introduce the autonomous measures against North Korea in order to realize the comprehensive resolution of outstanding issues of concern, such as the abductions, nuclear, and missile issues, in cooperation with the United States of America and the Republic of Korea, besides the measures based on the UNSCR 2321.

In sum, under the consistent policy of "dialogue and pressure" and "action for action," Japan strongly urges North Korea to take concrete steps toward the comprehensive resolution of outstanding issues of concern, such as nuclear and missile issues as well as the abductions issue,

5. Sanctions against North Korea

(Japan's Measures against North Korea (Outlines) ①)

Japan's Measures against North Korea (Outlines) ①

As of September 27 2017

Restrictions on movement of **persons** (includes measures based on USCRs)

- ① Prohibit the entry of **North Korean citizens**
- ② Prohibit the re-entry of **North Korean authority officials** and **others residing in Japan** after travelling to North Korea
- ③ Request **all Japanese citizens** not to visit North Korea
- ④ Suspend **Japanese government officials'** visit to North Korea
- ⑤ Prohibit the landing of **North Korean flag vessel's crew members**
- ⑥ Prohibit the re-entry of **foreign citizens residing in Japan**, sentenced for the **violation of Japan's measures against North Korea**
- ⑦ Prohibit the re-entry of **foreign experts of nuclear and missile technology** residing in Japan after travelling to North Korea

Movement s of Persons, Vessels and Aircrafts

Ban on the entry of all the North Korean flag vessels(including those for humanitarian purposes), all vessels which have previously called at ports in North Korea and vessels designated by the United Nations Security Council and relevant organization as the **targets of sanction**

Ban on chartered aircraft between Japan and North Korea

Denial of permission to any aircraft to take off, land or overfly, if the aircraft is believed to contain items prohibited by UNSCRs

5. Sanctions against North Korea

(Japan's Measures against North Korea (Outlines) ②)

Japan's Measures against North Korea (Outlines) ②

As of September 27 2017

Movements of Goods	Total ban on export to North Korea (includes measures based on USCRs)
	Total ban on import from North Korea (includes measures based on USCRs)
	<u>Inspection of specific cargo related with North Korea based on the Act for Special Measures on Cargo Inspections etc.</u>
Movements of Money	Asset-freezing measures on designated entities and individuals that engaged in the activities banned by the relevant UN Security Council Resolutions and other related activities (Including the North Korea's nuclear and missile programs) (75 entities and 82 individuals) (<u>includes measures based on USCRs</u>)
	Enhancement of restriction on the transfer of funds to and from North Korea <ul style="list-style-type: none"> • <u>Ban on payment, receipt of payment and capital transactions conducted for the purpose of contributing to activities that could facilitate North Korea's nuclear and missile programs</u> • Ban on payment to North Korea • Lowering the threshold for notification of the carrying out of currency and other instruments of payment to North Korea to ¥100,000 (approx. \$1000)
	<u>Ban on the opening of new branches of Japanese banks in North Korea, establishment of correspondent relationships with North Korean banks and the opening of new branches of North Korean bank in Japan</u>

[NOTE] Underlined : Measures based on UNSCRs

● Export control system

- As hi-tech manufacturing base in Asian region, Malaysia faces a risk of having their products to be diverted to WMDs.
- As a trading hub, Malaysia faces a risk of becoming a place of circumventing trade.

● Cooperation between government and private sector

- Effective export control can not be achieved without company's effort.
- Government and industry should cooperate with each other for better implementation of export control through Internal Compliance Programme(ICP), for example.



In the following session, we would like to share Japan's experience over government/industry cooperation with participants.