

Overview of Japan's Export Controls

(Third Edition)

October, 2012

CISTEC

はじめに

本冊子は、我が国の安全保障輸出管理の制度・運用状況や、企業における取り組み、今後の課題など、海外諸国、海外拠点での関係者の皆様の理解を深めるためのコンパクトな英文資料として2009年3月に初めて発行されました。その後2010年2月の改訂第二版発行を経て、今般、最近の法令改正等に対応した改訂第三版を発行できることを大いなる喜びとするものです。版を重ねた結果、全体として分かりやすく、充実した内容となりました。

世界の安全保障情勢は、米国での9.11同時多発テロや世界各地でのテロ行為の頻発、核の闇市場の露見、北朝鮮によるミサイル発射や核実験、イランの核開発疑惑、ロシア・中東における紛争など、緊張が続いています。国連安保理決議1540号にみられるように、大量破壊兵器やその関連貨物・技術の拡散防止措置は、すべての国が取り組むべき課題です。その意味で、安全保障輸出管理の先進国が、まだ体制が不十分な国に対して知見や経験を伝えていくことも重要であり、我が国でも、日本政府（経済産業省）がCISTECの協力の下で、アジア諸国へのアウトリーチ活動を継続的に展開しています。他方、国内においても、不正輸出事件や機微技術の流出事件が相次いで発覚しており、安全保障輸出管理の強化の必要性はますます高まっています。

一方、産業活動のグローバル化に伴い、日本企業による海外展開はいつそう活発になっており、海外子会社における輸出管理体制整備も重要な課題となっています。その指導のためにも、また、安全保障輸出管理の国際ハーモナイゼーションやアウトリーチ活動の一環として日本の取り組みを紹介するためにも、日本の法制度や規制の仕組みを簡潔に要領よく説明する英文資料が求められていました。本冊子は、このような時代の要請に応えることを目的としています。

本冊子の初版は、CISTECの国際関係専門委員会・国際交流分科会が欧州に派遣したミッションが各政府機関や産業団体を訪問する際に参考資料として作成したものをもとにして、同分科会メンバーが中心となってまとめたものです。作成に当たっては、国際交流分科会のメンバー各位、特に三井物産（株）・安全保障貿易管理室の青井保殿に全面的にご協力を賜りました。ここに厚くお礼申し上げる次第です。本冊子が、我が国の安全保障輸出管理について、海外での理解を深める一助になれば幸いです。

2012年10月

財団法人 安全保障貿易情報センター
専務理事 押田 努

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FOREWORD TO THIRD EDITION

This little English book was first published in March 2009 to introduce Japan's export control system including the implementation status, corporate export controls and challenges. It is my great pleasure that I, after the second edition published in February 2010, can now publish the third edition which reflects recent revisions made to the regulations. I believe readers will note that this third edition describes the Japanese system more comprehensively and more clearly compared with the previous issues.

Today, we are still faced by such international security threats as the terrorist attacks on the United States, the missile firing by North Korea, the nuclear threat of Iran, and the armed conflicts in the Middle East. Proliferation of weapons of mass destruction and related items is still an urgent issue every nation must tackle. Countries already advanced in export control are, therefore, required to assist other nations to enhance their control systems. For this reason, Japanese government (METI), together with CISTEC, is expanding its outreach activity toward Asian countries; while in Japan, we are experiencing a growing number of illegal exports, which warns us not to stop enhancing the controls.

In addition, enhancing the export controls overseas is also becoming more important because Japanese businesses are expanding their operations worldwide. At this timing, therefore, I'm very pleased that I can introduce this third edition of *Overview of Japan's Export Controls*. This, I'm sure, fulfills the long-lasting need of foreign as well as Japanese people to have an English book on Japan's export controls that can be used for guiding overseas companies and for introducing Japanese system through our activities of outreach and international harmonization.

The first edition of this book was compiled by CISTEC's International Relations Committee based on a booklet we had with the same title. Again, I deeply appreciate the continued efforts made by all the committee members, especially by Tamotsu Aoi, an export control specialist at the International Security Trade Control Department of MITSUI & CO., LTD, for writing this third edition. It's more than a pleasure for me if this book can help overseas people to deepen their understanding about Japan's export controls.

October 2012

Tsutomu Oshida
Executive Managing Director, CISTEC

Overview of Japan's Export Controls

I. Introduction

Japan, a responsible member of the international community, exercises robust export controls contributing to the maintenance of world peace and security. Under the Foreign Exchange and Foreign Trade Act, it implements list control and catch-all control for the purpose of preventing proliferation of weapons of mass destruction, destabilizing accumulation of conventional arms, and terrorism.

In addition, Japan strictly prohibits arms exports, making the country unique in its control policy. As proclaimed in its Constitution, Japan as a peace-loving nation maintains a national credo to avoid intensifying international disputes in any way. Such a credo led to the policy guideline of the "Three Principles on Arms Exports," based on which the government has since been prohibiting exports of arms (see Article 4-1-2). (Note, however, that the Japanese government, on 27 December 2011, announced its ground-breaking decision to lift this long-standing national policy.)

The country's export controls date back to 1952 when it joined COCOM, the first multilateral export control regime. The genesis of the current Japanese system, however, is the so-called "Toshiba Machinery Incident" of 1987 that created an international uproar (see Article 6-5 (1)). Dealt with this incident, the government drastically enhanced the controls, ordering exporting companies to establish an appropriate system based on Internal Compliance Program (ICP). Since then Japan has been implementing rigorous controls in consistent with the international standard and norms.

Japan is actively taking part in international nonproliferation initiatives. It is a signatory to major treaties on nuclear, biological and chemical nonproliferation, and serves all the existing international export control regimes: the Nuclear Suppliers Group (NSG), the Australia Group (AG), the Missile Technology Control Regime (MTCR), and the Wassenaar Arrangement (WA). In addition, Japan not only commits itself to international non-proliferation goals, but also promotes its outreach activity toward non-participating countries in Asia to expand cooperative networks in the region.

II. Administrative Authority

In Japan, the Ministry of Economy, Trade and Industry (METI), is the competent authority administering export controls. Placed in METI, under the Trade and Economic Cooperation Bureau, is the Trade Control Department, which has four divisions as shown below. Of the four, the Security Export Control Policy Division, the Security Export Inspection Office established under the division, and the Security Export Licensing Division are the units in charge of security export control. The responsibility of each unit is as follows.

(1) The Security Export Control Policy Division

The Security Export Control Policy Division is responsible for export control policy setting, legislation, and overall administration. It joins discussions in international export control regimes.

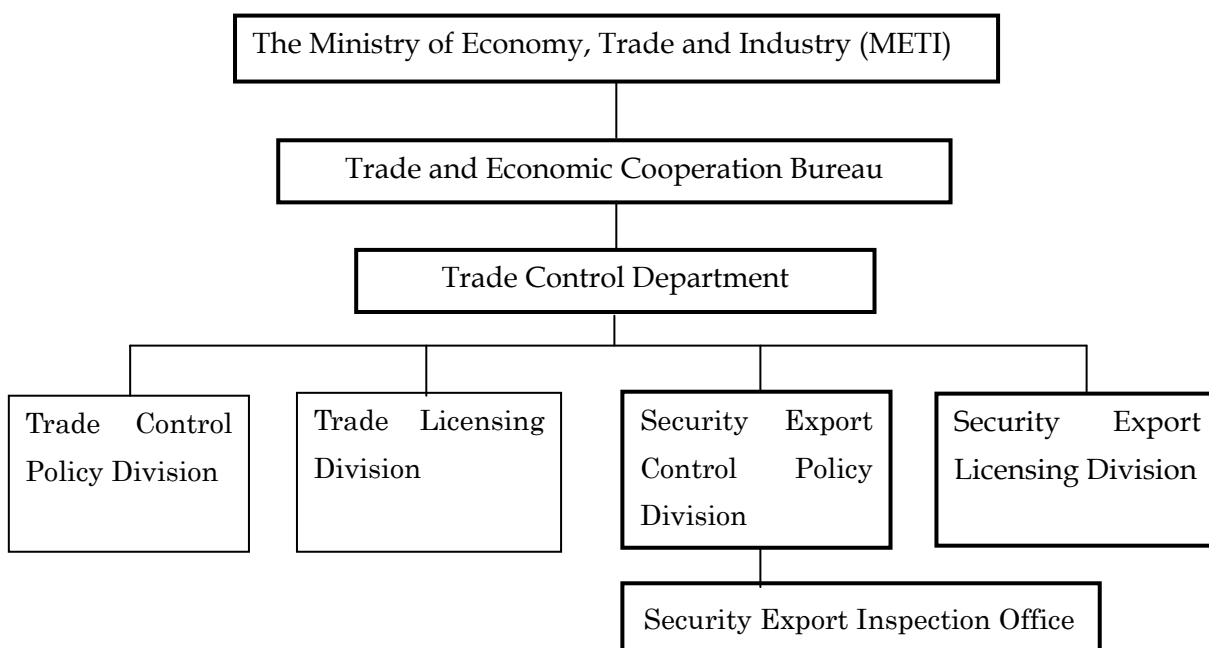
(2) The Security Export Licensing Division

The Security Export Licensing Division is responsible for examining license applications and issuing licenses. It has some one hundred officers including those in regional offices.

(3) The Security Export Inspection Office

The Security Export Inspection Office is responsible for the following activities.

- 1) Enforcement activity including on-site or on-the-spot inspections.
- 2) Awareness promotion and enlightenment activity to prevent illegal exports.



III. Legal Framework

3-1. The Foreign Exchange and Foreign Trade Act

The Foreign Exchange and Foreign Trade Act (locally called “*Gaitame-ho*”) (hereinafter referred to as “the Act”) is the only law that states the basic framework and the principles of the control on exports of both arms and dual-use items. Under the Act, Japan imposes necessary as well as minimum controls on export transactions to contribute to the maintenance of international peace and security, while maintaining the free trade principle.

In 1949 when Japan just started its economic reconstruction after the war, the Act was introduced first as the Foreign Exchange and Foreign Trade Control Act to strictly control foreign exchange transactions for the purpose of normalizing trade and maintaining Japan’s balance of payments. After that in 1998 when foreign exchange business was completely liberalized, it was amended and was superseded by the current Foreign Exchange and Foreign Trade Act, in which the law’s “control” implication was removed.

As a principal economic law concerning trade and foreign exchange, the Act covers such broad areas of cross-border transactions as foreign trades, foreign payments, foreign capital transactions, and direct investments in Japan; export control is only a small part of them. Article 48-(1) of the Act stipulates that any person intending to export specific goods must obtain permission from METI; Article 25-1-(1) says that those intending to transfer specific technology to a foreign person or to a foreign country must obtain permission from the ministry.

3-2. Legal Structure

The said export control provisions of the Act are implemented by numerous subordinate legislations such as cabinet orders, ministerial ordinances, and other administrative rules issued from time to time in the form of notification, notice and guidelines.

Of those, the most important statutes under the Act are two cabinet orders: the Export Trade Control Order (ETCO, or “*Yushutsu-rei*”) and the Foreign Exchange Order (FEO, or “*Gaitame-rei*”). ETCO specifies the controlled goods pursuant to the provision of Article 48-(1), while FEO specifies the controlled technology including software pursuant to the provision of Article 25-1-(1) of the Act. Further, the details of the controlled items are specified separately in the Ministerial Ordinance Specifying Goods and Technologies Pursuant to the Provisions of the Attachment List No. 1 to the Export Trade Control Order and the Attachment List to the Foreign Exchange Order.

The above are further followed by a raft of orders, notices and other statutes which, as a whole, form the Regulations. Please refer to Appendix 2 for the outline of the export control legal structure. This complexity of multi-layer legal structure—one regulatory change, for example, sometimes involves a long string of different statutes—also characterizes the Japanese control, making it extremely hard for exporters to capture its overall picture, though the delegation of legislative power like this is not rare in Japanese legal system.

3-3. Key Articles of the Act

Stated below are the key articles excerpted from the Act.

Article 1 (Purpose)

The purpose of this Act is, on the basis of freedom of foreign exchange, foreign trade, and other foreign transactions, to enable proper expansion of foreign transactions and the maintenance of peace and security in Japan and in the international community through the minimum necessary control or coordination of foreign transactions, and thereby to ensure equilibrium of the international balance of trade and stability of currency, as well as to contribute to the sound development of the Japanese economy.

Article 48 (Permission for Exports)

(1) Any person who intends to conduct an export of specific kinds of goods to specific regions, set forth in the Cabinet Order as considered obstructing the maintenance of international peace and security, shall obtain, pursuant to the provision of the order, permission from the Minister of Economy, Trade and Industry.

(2) The Minister of Economy, Trade and Industry, when he considers it necessary for the assured enforcement of the provision of Article 48-(1), may impose, pursuant to the Cabinet Order, the obligation to obtain permission on a person who intends to export specific kinds of goods to a region other than the specific regions set forth in the article.

(3) In addition to the cases prescribed in Articles 48-(1) and 48-(2), the Minister of Economy, Trade and Industry may impose, pursuant to the Cabinet Order, the obligation to obtain approval on a person who intends to export specific kinds of goods or to export goods to the specific regions, or on a person who intends to export goods through a specific transaction, to the extent necessary to maintain equilibrium of the international balance of trade, to achieve the sound development of foreign trade and the national economy, to sincerely fulfill obligations under the treaties and other international agreements Japan has

signed, to contribute, in cooperation with other countries, to achieving international peace, or to implement a cabinet decision set forth in Article 10-(1).

Article 25 (Service Transaction)

Article 25-1

(1) Any resident or non-resident who intends to conduct a transaction to provide any technology pertaining to the design, production, or use of specific goods set forth in the Cabinet Order as considered obstructing the maintenance of international peace and security (herein after called "specific technology") in a specific foreign country (hereinafter "specific country"), or any resident who intends to conduct a transaction to provide specific technology to a non-resident of a specific country, shall obtain, pursuant to the provision of the order, permission from the Minister of Economy, Trade and Industry.

(2) The Minister of Economy, Trade and Industry, when he considers it necessary for the assured enforcement of the provision of Article 25-1-(1), may impose, pursuant to the provision of the Cabinet Order, the obligation to obtain permission on a resident or non-resident who intends to conduct a transaction to provide specific technology in a foreign country other than specific countries, or on a resident who intends to conduct a transaction to provide specific technology to a non-resident of a foreign country other than specific countries.

(3) The Minister of Economy, Trade and Industry may impose, pursuant to the provision of the Cabinet Order, the obligation to obtain permission on a person who intends to conduct either of the following transactions.

- 1) Either of the following transactions related to the provisions of Article 25-1-(1), when the minister considers it necessary for the assured enforcement of the provision of the article:
 - (a) An export, to a specific country, of documents, drawings, or other form of media on which information related to specific technology is written or recorded (hereinafter called "specific recorded media").
 - (b) An electric or electronic transfer, from Japan to a specific country, of information related to specific technology.

2) Either of the following transactions related to the provision of Article 25-1-(2), when

the minister considers it necessary for the assured enforcement of the provision of the article:

- (a) An export of specific recorded media to a foreign country other than specific countries.
- (b) An electric or electronic transfer, from Japan to a foreign country other than specific countries, of information related to specific technology.

(4) Any resident who intends to enter into a contract, with a nonresident, of selling/buying, leasing, or donating goods that will move between foreign countries shall obtain, pursuant to the provision of the Cabinet Order, permission from the Minister of Economy, Trade and Industry if such transaction is set forth in the order as considered obstructing the maintenance of international peace and security.

Article 25-2

(1) The Minister of Economy, Trade and Industry may impose penalty on a person who conducted a transaction subject to the provision of Article 25-1-(1) without obtaining permission as stipulated in the article to prohibit, for up to three years, conducting a transaction to provide any technology pertaining to the design, production, or use of goods (hereinafter called in this article "design technology") in a foreign country or to a non-resident; exporting any documents, drawings, or other form of media on which information related to design technology involved in the transaction was written or recorded (hereinafter "export of technology-recorded media"); transferring electrically or electronically from Japan to a foreign country any information related to design technology involved in the transaction (hereinafter "foreign technology transfer"); or exporting specific kinds of goods that involve specific technology.

(2) The Minister of Economy, Trade and Industry, in the case the obligation of obtaining permission was imposed as stipulated in Article 25-1-(2) or 25-1-(3), may impose penalty on a person who conducted a transaction, or any related act, subject to the provision of those articles without obtaining the permission to prohibit, for up to twelve months, conducting a transaction to provide any design technology in a foreign country or to a non-resident, an export of technology-recorded media or a foreign technology transfer that was involved in the transaction, or exporting specific kinds of goods that involve specific technology.

(3) The Minister of Economy, Trade and Industry may impose penalty on a person who conducted a transaction subject to the provision of Article 25-1-(4) without obtaining

permission as stipulated in the article to prohibit, for up to three years, entering into a contract, with a non-resident, of selling/buying, leasing or donating goods that will move between foreign countries, or exporting goods.

Article 53 (Sanctions)

(1) The Minister of Economy, Trade and Industry may impose penalty on a person who conducted an export of goods that is subject to the provision of Article 48-(1) without obtaining permission as stipulated in the article to prohibit, for up to three years, conducting an export; or conducting a transaction to provide any specific technology in a foreign country or to a non-resident, an export of technology-recorded media that was involved in the transaction, or a transfer, electrically or electronically, from Japan to a foreign country, of any information related to specific technology.

Article 55-10 (Exporters' compliance standard)

(1) The Minister of Economy, Trade and Industry shall set in a ministerial ordinance a standard that must be complied with by a person who is involved in exports of goods or transfers of technology that is subject to the provision of Article 48-(1) or 25-1-(1) when he/she conducts such exports or transfers (hereinafter such person is simply called "exporter," such conduct "export or transfer," and such standard "exporters' compliance standard").

(2) The exporters' compliance standard shall include a provision related to the requirement of checking if specific technology to be transferred in a transaction subject to the provision of Article 25-1-(1) or specific kinds of goods to be exported to a specific region set forth in Article 48-(1) meet the category of "specially important goods or technology" (see the next article) or not, as well as other provisions that must be complied with when conducting such export or transfer.

(3) The specially important goods or technology mentioned in the preceding article means specific technology, or specific kinds of goods stipulated in Article 48-(1), whose transfer in a specific country or to a nonresident of a specific country, or whose export to a specific region stipulated in the article, is set forth in the Cabinet Order as considered obstructing the maintenance of international peace and security.

(4) An exporter shall conduct an export or transfer in compliance with the exporters' compliance standard.

Article 55-11 (Instruction and advice)

The Minister of Economy, Trade and Industry may give an instruction or advice to an exporter when he considers it necessary to have him/her conduct an export or transfer properly, complying with the exporters' compliance standard.

Article 55-12 (Recommendation and order)

(1) In the case any instruction or advice stipulated in the preceding article was given to an exporter, the Minister of Economy, Trade and Industry, when he considers his/her compliance still insufficient, may further give a recommendation to the exporter to fully comply with the exporters' compliance standard.

(2) The Minister of Economy, Trade and Industry, when the exporter still does not follow the recommendation, may give an order to him/her to take necessary measures to meet it.

Article 68 (On-site Inspection)

(1) To the extent necessary for enforcing this Act, the competent minister may have the official of the ministry enter the business office, office, factory, or other facility of a person who conducts foreign exchange business or other transactions or acts governed by this Act, to inspect books and documents and other objects or to question relevant persons.

(2) When the official enters such a facility pursuant to the provision of the preceding paragraph, he/she shall carry identification and present it to the relevant persons.

(3) The authority for on-site inspection or questions pursuant to the provision of paragraph (1) shall not be construed as being granted for a criminal investigation.

Article 69-6 (Penalties)

(1) Any person who meets either of the following conditions shall be subject to a penalty not more than seven years of imprisonment or a fine not more than seven million yen, or both. If five times the value of the items involved exceeds seven million yen, however, the fine shall be up to the five-time amount.

- 1) Any person who conducted a transaction subject to the provision of Article 25-1-(1) or 25-1-(4) without obtaining permission as stipulated in the article.

2) Any person who conducted an export of goods that is subject to the provision of Article 48-(1) without obtaining permission as stipulated in the article.

(2) Any person who meets either of the following conditions shall be subject to a penalty not more than ten years of imprisonment or a fine not more than ten million yen, or both. If five times the value of the items involved exceeds ten million yen, however, the fine shall be up to the five-time amount.

1) Any person who conducted a transaction subject to the provision of Article 25-1-(1) without obtaining permission as stipulated in the article, concerning specific technology that is set forth in the Cabinet Order as can be used for the development, manufacture or use of nuclear weapons, chemical or bacterial substance for military use, equipment used for spraying such substance, or rockets or unmanned air vehicles used for delivering them (hereinafter called in this article "nuclear weapons, etc."), or concerning the technology that is set forth in the order as can be used for the development, manufacture or use of goods which are used especially for the development, manufacture, use or storage (herein after "development, etc.") of nuclear weapons, etc.

2) Any person who conducted a transaction subject to the provision of Article 25-1-(4) without obtaining permission as stipulated in the article, or conducted an export subject to the provision of Article 48-(1) without obtaining permission as stipulated in the article, concerning specific kinds of goods stipulated in Article 48-(1) but set forth in the Cabinet Order as those which are used especially for nuclear weapons, etc. or for the development, etc. of such weapons.

3) Any attempted violation in respect of Article 69-6-(1), 2) and 69-6-(2), 2) (only in the case of exporting goods) is subject to a penalty.

3-4. The Book of Export Control Law and Regulations

The latest version of all the relevant legislations are consolidated into a book with more than 1,000 pages, titled, "List of the Goods and Technologies Subject to Security Trade Control, and Related Law and Regulations (*"Horei-shu"*)," which is published annually by the Japan Machinery Center for Trade and Investment (JMC). This is a book Japanese exporters or export control specialists must always keep within their reach.

3-5. Japanese Law Translation

English translations of Japanese laws and orders including those related to export controls are published by the Ministry of Justice under the title of “Japanese Law Translation” at the site of: <http://www.japaneselawtranslation.go.jp/?re=02> Specifically, the Act, the two cabinet orders and the ministerial ordinance mentioned above are available in English for reference at the following URLs. Note that those translations do not necessarily cover the latest revisions.

[The Foreign Exchange and Foreign Trade Act]

<http://www.japaneselawtranslation.go.jp/law/detail/?ft=1&re=02&dn=1&co=01&x=41&y=18&ky=foreign+exchange+and+trade+act&page=18>

[The Export Trade Control Order]

<http://www.japaneselawtranslation.go.jp/law/detail/?ft=1&re=02&dn=1&co=01&x=33&y=18&ky=export+trade+control+order&page=29>

[The Foreign Exchange Order]

<http://www.japaneselawtranslation.go.jp/law/detail/?ft=1&re=02&dn=1&co=01&x=33&y=18&ky=export+trade+control+order&page=10>

[The Ministerial Ordinance Specifying Goods and Technologies Pursuant to the Provisions of the Attachment List No. 1 to the Export Trade Control Order and the Attachment List to the Foreign Exchange Order]

<http://www.japaneselawtranslation.go.jp/law/detail/?ft=1&re=02&dn=1&co=01&x=33&y=18&ky=export+trade+control+order&page=30>

IV. Control System

4-1. Control Policy

4-1-1. Control Policy in General

Japan enforces two types of control: the List Control and the Catch-All Control. The former is an item or list based control and the latter an end-use or end-user based control. The List Control requires exporters to apply for a license when exporting listed (controlled) items to a foreign country, while the Catch-All Control requires the same when the items being exported will be used for certain applications related to WMD or conventional arms.

The Catch-All Control consists of the WMD Catch-All Control and the Military Catch-All Control. Note in this regard that the catch-all scheme is also adopted in the Brokering Control and the Transshipment Control. What is unique in Japanese Catch-All Control is that the government adopted a concept of "objective" condition in which it objectified the so-called "know" condition.

All destinations are subject to the controls, though, in certain cases, the control levels vary depending on security concerns and strictness of the control system maintained by each country. The eligibility of bulk export licenses, for example, varies among destination countries.

In addition, some countries are not subject to the Catch-All Control (the WMD Catch-All Control, the Military Catch-All Control, the Brokering Control and the Transshipment Control). Furthermore, a wider range of goods and technologies are eligible to the General Bulk Export License.

4-1-2. The Three Principles on Arms Exports and the Policy of Arms Export Ban

As mentioned at the beginning, the Japanese government has been taking a tough stance against arms exports. So far, arms exports have been totally prohibited with limited exceptions.

This policy is based on the "Three Principles on Arms Exports," a resolution the Japanese government declared in 1967. The government, with that resolution, prohibited arms exports to the following three categories of countries:

(1) Communist bloc countries,

- (2) Countries subject to arms embargo under UN Security Council Resolutions, and
- (3) Countries involving in or likely to involve in international conflicts.

Subsequently, in 1976, the government intensified the policy, issuing the following statement;

- (1) Arms exports to countries subject to the Three Principles shall not be permitted,
- (2) Arms exports to other areas shall be restrained in conformity with the spirit of the Constitution and the Foreign Exchange and Foreign Trade Act, and
- (3) Arms production equipment and related items shall be dealt with in the same manner as arms.

The government further expanded the policy, prohibiting exports of arms-related technologies as well. As a result, exports of arms and related items under Category 1 of the control lists—arms, parts and accessories therefor, and equipment for producing arms—are totally prohibited except for return shipments of foreign military items for repair or replacement or for some specific exports within the framework of certain international collaborative projects.

However, on 27 December 2011, the Japanese government announced its ground-breaking decision to lift this long-standing national policy of arms export ban. According to the statement delivered by the Chief Cabinet Secretary, the government will now permit arms exports to partner countries for joint developments and joint manufacturing of advanced military equipment like fighter airplanes and ballistic missiles, or for peace-building and humanitarian projects, provided that their governments ensure that without prior consent the military items exported from Japan will not be used for purposes other than those agreed upon in the mutual framework and will not be transferred to any third party countries.

After the announcement, Japan took its first step toward such a partnership arrangement with the British government. In April 2012, the two countries agreed to jointly develop and manufacture defense equipment.

4-2. The List Control

4-2-1. The Two Control Lists

The List Control is a control that specifies sensitive items (goods, technology, or software) subject to the control in the control list and requires exporters to apply for a license

before exporting such items to foreign countries. In Japan exports of goods on the “Attachment List No. 1” to ETCO and technologies or software on the “Attachment List” to FEO require a license for all countries/regions. Each control list contains 16 categories of items. Those under Categories 1 through 15 are controlled items subject to the List Control, while others under Category 16 are non-controlled items but are subject to the Catch-All Control. The controlled items on both lists are basically identical to those of the international export control regimes (NSG, MTCR, AG, WA) and the Chemical Weapons Convention (CWC).

As far as the List Control is concerned, what is unique to Japan is that controlled goods and controlled technologies are specified in separate lists attached to different cabinet orders as explained above and are identified by the classification numbers that are specific to Japan, not identical to the European ECCN system which is used not only by the EU member nations but also by various other countries in the world.

The Controlled Items

Japanese Category	Type of Control	Classification of the Items			International Regimes
1	List Control	Military items	Arms		WA/ML
2		Dual-use items	WMD-related	Nuclear items	NSG
3				Chemical weapons	AG
3-2				Biological weapons	AG
4				Missiles	MTCR
5			Conventional arms-related	Advanced materials	WA Cat. 1
6				Material processing	WA Cat. 2
7				Electronics	WA Cat. 3
8				Computers	WA Cat. 4
9				Communication/ Information security	WA Cat. 5
10				Sensors and lasers	WA Cat. 6
11		Navigation/avionics		WA Cat. 7	
12		Marine		WA Cat. 8	
13		Aerospace/propulsion		WA Cat. 9	
14		Other ML items		Except for WA/ML	
15	Sensitive items	WA very sensitive			
16	Catch-All Control	Items other than those under Categories 1 - 15			

4-2-2. Transfer of Technology

In the Act, the provision of technology transfer control is separately stipulated from that of physical exports of goods. Japanese control system of technology transfer used to be based principally on "residency" of the person who transfers or receives technology. Before April 2009 when the Act was amended, the rule was such simple that a transfer of listed technology or software from a resident to a non-resident was subject to the license requirement. With that amendment, however, the control was largely enhanced to match the present age of globalized economy with rapid advance of technology, where people move freely from country to country and where technology moves freely from person to person electronically.

Especially important is that a concept of border-based control was introduced in this enhancement. For a person, for example, bringing out listed technologies with him/her to a foreign country or sending out listed technologies to a foreign country with just one click now requires a license, if it is a transaction for PROVIDING such technologies (see the aforementioned provision of Article 25-1 (1) of the Act).

The essence of the new control is described as follows. (Hereinafter, the term "technology" is used to mean technology as well as software)

(1) Technology transfer from Japan to a foreign country

Any person, resident or non-resident, shall obtain a license when transferring listed technology from Japan to a foreign country. License is not required, however, when the technology is for the person's own use in the foreign country.

(2) Technology transfer within Japan

Any resident shall obtain a license when transferring listed technology in Japan to a non-resident.

(3) Technology transfer within a foreign country

Any resident shall obtain a license when transferring listed technology in any foreign country. License is not required, however, when the technology was sourced in a foreign country and the transaction is completed only in a foreign country. Note that, effective on August 1, 2012, a transfer of controlled technology from a resident to another resident in a foreign country requires no license if the recipient is the Japanese Ministry of Defense.

Please refer to the definition of "resident" and "non-resident" shown in the table below.

Definition of Resident and Non-resident

Category	Resident	Non-resident
Japanese nationals	1) A person residing in Japan 2) A person working in Japan's diplomatic establishment abroad	1) A person who left Japan for the purpose of working in a foreign office 2) A person who left Japan for the purpose of staying abroad for more than two years 3) A person who has been staying abroad for more than two years
Foreign nationals	1) A person working in an office in Japan 2) A person who has been staying in Japan for more than six months	1) A person residing in a foreign country 2) A person who is an official of a foreign government or an international institution 3) A diplomat, consul, or a person accompanying or serving the diplomat or consul
Legal persons	1) Japanese corporations registered in Japan 2) Foreign corporations' subsidiaries and other offices registered in Japan 3) Japan's diplomatic establishments abroad	1) Foreign corporations registered abroad 2) Japanese corporations' subsidiaries and other offices registered abroad 3) Foreign governments' diplomatic establishments or international organizations in Japan

Note: UN and US military personnel are regarded as non-residents.

4-3. The Catch-All Control

4-3-1. The Background

In Japan, the Catch-All Control was first introduced in 1996 as the "Complementary Control," in which 87 specific items were specified as those subject to the control. In that sense, this control was somewhat like an extension of the List Control, or could be called "Catch-Some Control." After that the present style WMD Catch-All Control was introduced in 2002 to replace the "Complementary Control," and then was introduced the Military

Catch-All Control in 2008.

4-3-2. The WMD Catch-All Control

4-3-2-1. “Informed” Condition and “Objective” Condition

The WMD Catch-All Control requires exporters to obtain a license when METI orders to do so in respect to a specific transaction (the “informed” condition), or when exporters are aware that the item will be used for the development, manufacture, use, or storage of WMD, in other words, if the transaction falls under certain conditions provided objectively by the government (the “objective” condition).

Note in this regard that in Japan WMD, weapons of mass destruction, is defined as nuclear weapons, chemical or bacterial substance for military use, equipment used for spraying such substance, or rockets or unmanned air vehicles used for delivering them (in the Act it is actually expressed as “WMD, etc.”).

Items subject to the control are broad. Unlike the List Control, any goods and technology are subject to the WMD Catch-All Control, except for specific non-sensitive items like food or timbers.

All countries and regions are subject to the WMD Catch-All Control except for the following 27 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, and U.S.A. (Note that Bulgaria was added as of August 1, 2012)

As written earlier, two conditions are set forth to invoke this WMD Catch-All Control: the “informed” condition and the “objective” condition. The “objective” condition generally corresponds to the “know” condition adopted by the Western countries. The point is that instead of providing the definition of “know,” which is usually subjective, the Japanese government objectified the awareness condition so that exporters can easily judge without failure if the items in question will be used for the WMD applications stated above.

4-3-2-2. The “Informed” Condition

Exporters have to obtain a license if it is requested (or “informed”) by METI to do so in respect to a specific export transaction. The “inform” is given when METI considers that there exists a considerable risk that the item in question will be used for the development,

manufacture, use, or storage of WMD.

4-3-2-3. The “Objective” Condition

The “objective” condition consists of the “end-use” condition and the “end-user” condition, which are described as follows.

4-3-2-3-1. The “End-use” Condition

Exporters should obtain a license in the case they are aware, through written information on such documents as contract or corporate brochure, or through notification from the importer or any other parties, that the item will be used for the development, manufacture, use or storage of WMD.

Furthermore, a license is also required if an exporter knows, through written information on such documents as contract or corporate brochure, or through notification from the importer or any other parties, that the item will be used for any of the specific activities listed below.

- (1) Development of nuclear fuel or nuclear source material
- (2) Research on nuclear fusion (except for research on astronomy and a nuclear fusion reactor)
- (3) Development of nuclear reactors (except for a light-water reactor for power generation) or parts and attachments therefor
- (4) Manufacture of heavy water
- (5) Processing of nuclear fuel
- (6) Reprocessing of nuclear fuel
- (7) Activities stipulated below but are carried out by military or military-related entities
 - (a) Development or manufacture of chemical substances
 - (b) Development of microorganisms or toxins
 - (c) Development of rockets or unmanned air vehicles
 - (d) Research on aerospace

4-3-2-3-2. The “End-user” Condition

Exporters should obtain a license in the case they are aware, through written information on such documents as contract or corporate brochure, or through notification from the importer or any other parties, that the end-user has been engaging, or used to engage, in the development, manufacture, use or storage of WMD.

Furthermore, exporters are also required to submit a license application when they wish to export goods subject to the WMD Catch-All Control to entities on the End User List unless it is apparent that those will not be used for WMD purposes. The End User List is a list provided by METI that can be compared to the U.S. Entity List. It lists up foreign entities that are considered involving in development, production, manufacturing or storage of WMD. As of August, 2012, the list contained a total of 449 businesses and organizations in ten countries/regions including North Korea and Iran. (Note, however, that the End User List is not a list of embargo, nor is it a black list. It does not automatically prohibit exporting goods to listed entities.) This list is reviewed and revised once or twice a year. The End User List is available at the following site:

http://www.meti.go.jp/policy/anpo/law_document/tutatu/t08kaisei/111209EUL/t08kaisei_userlist_kohyo.pdf

4-3-2-3-3. The Guideline for Judging 'When Apparent'

This guideline is provided by METI to help exporters make proper judgment if an item to be exported will be used apparently for a purpose other than the WMD-related activities stipulated in the Catch-All Control regulations. See Appendix 6 for more details. While Red Flag Indicators provided by the U.S. Bureau of Industry and Security (BIS) are used as a check list to detect possible violations, this guideline is used as a list to check if a transaction can be cleared of the catch-all condition related to WMD end-use.

4-3-2-3-4. The Commodity Watch List

The "Commodity Watch List," first published in 2003, is a list of specific dual-use goods with high risks of diversion for the development, manufacture, use or storage of WMD. It contains 40 such items; exporters are required to check and verify the end-use and end-user carefully when exporting any of the 40 items, or transferring any related technologies. See Appendix 5 for the items on the "Commodity Watch List."

In addition, when exporting any items on the Commodity Watch List to any organization listed on the End User List, a license is required should the attached WMD symbols (N, B, C, or M) agree to each other. A license is required, for example, when exporting a missile-related item on the Commodity Watch List to a missile-related entity on the End User List.

Further, as of August 13, 2012, the Government added 11 items to the list, which apply specifically to the exports to Syria.

4-3-2-3-5. Reporting Obligation

Even if an export transaction does not legally require a catch-all license, an exporter is required to report it to METI if he/she has happened to know for any reasons after the shipment that the items involved are or will be used for any WMD applications.

4-3-3. The Military Catch-All Control

4-3-3-1. The Background

The two Cabinet Orders, ETCO and FEO, were amended on August 27, 2008 to introduce the control on non-listed items for military end-use. Effective on the first day of November the same year, Japan broadened the control target on non-listed items to cover exports related not only to WMD but also to conventional weapons.

4-3-3-2. The Military Catch-All Control on Countries under UNSC Arms Embargo

With regard to the exports destined for countries under UN Security Council arms embargo, all non-listed items (except for food, timbers etc.) are subject to the license requirement in the case:

- (1) exporters are informed by METI that the items in question are or may be intended for a military use, or
- (2) exporters have come to know, through written information on such documents as contract or corporate brochure, or through notification from the importer or any other parties, that the items will be used for the development, manufacture, or use of conventional weapons.

As of this writing, the Countries/regions under UNSC Arms Embargo are: Afghanistan, Democratic Republic of Congo, Cote d'Ivoire, Eritrea, Iraq, Lebanon, Liberia, Libya, North Korea, Somalia, and Sudan.

4-3-3-3. The Control on Countries Not under UNSC Arms Embargo

With regard to the exports destined for countries not under the arms embargo, the specific 34 non-listed (non-controlled) but sensitive items are subject to the license requirement in the case the exporter is informed by METI that the items in question are or may be intended for a military use. See Appendix 8 for the list of the 34 items.

This control is not applied, however, to exports destined for the following 27 countries: Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Republic of Korea, Luxemburg, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom, and United States.

4-3-4. The Brokering Control

In June 2007, METI enforced regulations to control WMD-related brokering and transshipment services. The new regulations were introduced to meet the requirements of the UN Security Council Resolution 1540 adopted in April 2004. This brokering control was further enhanced in April 2009.

“Brokering” is defined as an overseas transaction in which any goods or technology 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. The control scheme is as follows.

(1) Brokering of arms or arms-related technology

Brokering of arms or arms-related technology under Category 1 of the control lists requires a license.

(2) Brokering of goods other than arms or of technology related to the goods

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 technology, with foreign companies if;

- (a) The person has been so informed by METI, or
- (b) The person has come to know, through written information on such documents as contract or corporate brochure, or through notification from the importer or any other parties, that the items will be used for the development, manufacture, use or storage of WMD.

This regulation of clause (2), however, does not apply to the transaction of moving goods or technology to or from 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, or U.S.A.

4-3-5. The Transshipment Control

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

(1) Transshipment of arms

Transshipment of arms on the Category 1 list requires a license.

(2) Transshipment of goods other than arms

A person in Japan must obtain a license when transshipping goods if;

- (a) The person has been so informed by METI, or
- (b) The person has come to know, through written information on such documents as contract or corporate brochure, or through notification from the importer or any other parties, that the items will be used for the development, manufacture, use or storage of WMD.

Transshipment control does not apply, however, to the transaction whose destination is 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, or U.S.A.

4-3-6. Special Control against North Korea and Iran

METI exercises special controls against North Korea (DPRK) and Iran complying with the series of UN Security Council Resolutions adopted in recent years. For both countries, METI prohibits exports of (1) all goods set out under Categories 2, 3, and 4 of the Attachment List No. 1 to the Export Trade Control Order, and (2) of certain additional goods specified on a separate list, which are otherwise non-controlled but considered having high risks of diversion for the development of WMD.

As far as exports to North Korea are concerned, however, the Japanese government further enhanced the control to make it a total ban, which is effective until April 13, 2013. As a result, no item can now be exported to the country without license, and no brokering service involving North Korea is now allowed. When the new rule expires, the period will be extended for one more year, or otherwise the control would be eased.

V. Licensing Policy

5-1. Basic Policy

Export license is issued from the Minister of Economy, Trade and Industry. Exporters must submit required license applications to the Security Export Licensing Division of the Trade Control Department, or to a regional office, where licensing officers examine the applications, which will be thoroughly checked for the end-use and the end-user in view of security concerns. A license will be issued if METI has determined that the items involved will not materially contribute to the design, development or production of WMD or conventional weapons, nor be circumvented or re-exported to countries or entities of concern. Practically, METI reviews each application, checking:

- (1) whether the items will actually reach the stated end-user,
- (2) whether the stated end-user will really use the item,
- (3) whether the use will be exactly the stated end-use, and
- (4) whether the stated end-user will strictly control the items.

5-2. Types of Export License

5-2-1. Individual Export License and Bulk Export License

Exporters may obtain either Individual Export License or Bulk Export License, depending on the sensitivity and security concerns of the items and the destinations.

5-2-2. The Individual Export License

When exporting controlled items, exporters are required to obtain an Individual Export License unless the export is eligible for a Bulk Export License. An Individual Export License is also required when the export is subject to licensing under the Catch-All Control. The license is valid for six months after the issued date. It will in principle become invalid if the licensee failed to export the items within the six-month period, though the exporter can submit an application to extend the validity before it expires.

An exporter is required to submit the following documents when applying for this license.

- (1) An application form in which details of exporters, products, the end-user, shipping route and others are stated,

- (2) Background documents like written contract, purchase orders, plant layout drawings, etc., and
- (3) Such other documents required by METI as products' catalogues, the end-user's leaflets, the end-user's End-Use Certificate (EUC) and so on.

One of the most important conditions to obtain an Individual Export License is to make sure that the items will not be illicitly re-exported or re-sold. METI, in this regard, asks the exporter to submit an End-Use Certificate obtained from the end-user as a precondition of granting the license for certain sensitive items like high-end machine tools. Note that METI recently changed the EUC requirements (see Article 9-3-1 (3)).

5-2-3. The Bulk Export License

The bulk export license simplifies the licensing procedures by allowing licensees to make multiple exports of controlled items under certain conditions related to classification, destinations, end-use, and so on. Effective on July 1, 2012, METI rationalized the system of bulk export license, and now five different types of the bulk license are available as shown in the following table.

The Bulk Export Licenses

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

The concept of general bulk license is to allow much simplified licensing procedures for the exports to specific 27 countries that are implementing robust controls as a member of the international export control regimes, while special bulk licenses allow the same for exporters who are implementing rigorous controls meeting certain conditions set out by METI, which are described in the last paragraph of this article.

The bulk export license may not be used, however, for the exports to or via Iran, Iraq North Korea and the countries subject to UN arms embargo. And any bulk export license granted to an exporter may be revoked if he/she has committed any violation, or if METI considers it necessary in view of maintaining international peace and security.

For obtaining any of the four types of the special bulk licenses, exporters are required:

- (1) to establish an appropriate internal control system based on ICP that must be submitted to METI and implement the controls in strict compliance with the ICP,
- (2) to report once a year their compliance status by answering the questions made by METI in the "Export Control Compliance Self-check List,"
- (3) to receive an on-site inspection by METI, and
- (4) to participate in specific export control seminars held by METI.

5-2-3-1. General Bulk Export License

With this license, exporters can make multiple exports of controlled but less sensitive items to the following 27 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, and U.S.A. This license is also called "White Country Bulk License."

The license is valid for three years from the issued date, but can be extended for another three years when applied for. The validity is nullified for a specific export transaction, however, if the exporter knows that the items involved will be used for the development, manufacture, use, or storage of WMD, in which case the exporter must apply for an Individual Export License.

Note that an exporter must apply for this license only electronically through a network system provided by the government. But having established ICP is not a must for obtaining this license.

5-2-3-2. Special General Bulk Export License

The concept of this license is basically the same as the General Bulk Export License, but is eligible to all destinations including the said 27 countries except for the countries of concern listed above.

5-2-3-3. Special Bulk Export License

This license allows exporters to make exports of specific items repeatedly to a specific customer with whom the exporter has been keeping a continued trade partnership (this condition does not apply, however, if it is for any infrastructure plant projects). The validity is three years from the issued date, but can be extended for another three years when applied

for. A person exporting under this license must report export records to METI once a year.

5-2-3-4. Special Bulk Export License for Repair or Replacement

This license is issued to allow re-exports of Category 1 items (arms and arms-related items) for a return to the country of origin for repair or replacement. The eligible destinations are limited to specific countries. The validity is three years from the issued date, but can be extended for another three years when applied for. A person exporting under this license must submit export records to METI every three months.

5-2-3-5. Special Bulk Export License for Overseas Subsidiaries

This license allows a company to make repeated exports of specific items to its overseas subsidiary of which the company has the majority share. The validity is three years from the issued date, but can be extended for another three years when applied for.

5-2-3-6. The Item-Destination Matrix Tables

Exporters can refer to the item-destination matrix tables issued by METI for judging if a specific type of the bulk export license can be used for an export of specific controlled items to a specific destination.

5-3. License Exemptions

5-3-1. Availability of License Exemptions

Licenses can be exempted in certain limited cases. The following are some of the license exemptions currently available.

5-3-2. Low value goods

License is not required for an export of controlled goods if the value is equal to or less than one million yen, or 50,000 yen, depending on the sensitiveness of the item and the destination. However, this exemption may be used neither for the exports subject to licensing under the WMD Catch-All Control, the Military Catch-All Control, the Brokering Control and the Transshipment Control, nor for the exports to Iran, Iraq or North Korea.

5-3-3. Re-export of goods imported for repair

License is not required for a re-export of controlled goods after repair, provided that they were originally exported from and returned to Japan for that purpose, and provided that the transaction of import and further re-export is conducted not on a selling/buying basis. This exemption may not be used, however, for the exports to North Korea.

5-3-4. A controlled item incorporated into an end product as a part or a component

A controlled item incorporated into an end product as a part or a component is exempted from the control if it is not a principal element making up no more than 10 per cent in value, or if it cannot be removed.

5-3-5. Technology or software in public domain or basic scientific research

No license is required for transfer of technology if it is in "public domain," or if it is related to a basic scientific research. Technologies in public domain are those:

- (1) already disclosed to the general public via leaflet, book, magazine, newspaper, etc.,
- (2) provided in the form of academic journal, public patent information or open symposium's minute that is accessible by general public,
- (3) accessible or audible by general public at a factory tour course, lecture presentation, exhibition, etc.,
- (4) provided as a program of which the source code is already disclosed, and
- (5) provided for public access such as a manuscript for conferences, documents delivered at exhibitions, an article posted to magazines, and so on.

5-3-6. Technology transfer in association with an export of goods

Transfer of controlled technology in association with an export of goods does not require a license if the technology is transferred to the buyer, consignee or end-user of the goods and is within the scope minimum required for installation, operation, maintenance or repair of the goods. This exemption may not be used, however, for the transfer of software.

5-3-7. Technology in association of an export of a program

Transfer of controlled technology in association with an export of a program does not require a license if the technology is for the use of the program and is minimum required for its installation or repair.

VI. Enforcement

6-1. Inter-Agency Cooperation

Strict enforcement through inter-agency cooperation is necessary for export controls. METI, in this regard, maintains close and cooperative relationships with Customs and other agencies like the Ministry of Foreign Affairs, the National Police Agency and the Japan Coast Guard.

6-2. Customs

In Japan, Customs Authority, a part of the Ministry of Finance, is in charge of border control, checking the legitimacy of imports and exports of goods. When Customs notices any suspicious export related to catch-all control, for example, they report the fact to METI, who then examines the export and determines if license is required or not, and when needed, instructs the exporter to apply for an export license. See Appendix 1, the chart of “Export Procedures in Brief.”

6-3. Post-shipment Inspection by METI

METI conducts post-shipment inspections to check if export shipments have been lawfully conducted. Such an inspection is carried out by requesting exporters to submit reports on export shipments, and by conducting an on-the-spot inspection.

6-4. Penalties and Sanctions

6-4-1. Overview

Any violators are subject to penalties or sanctions, which may vary depending on the case. When the violation is not so serious, the exporter may be subject only to administrative dispositions. The penalties were largely increased in April 2009.

6-4-2. Penalties

(1) In the case a person conducted an export or brokerage of controlled goods or technology related to WMD without license:

The person shall be subject to a penalty not more than ten years of imprisonment or a fine not more than ten million yen, or both. If five times the value of the items involved

exceeds ten million yen, however, the fine shall be up to the five-time amount.

(2) In the case a person conducted an export or brokerage of controlled goods or technology related to conventional arms without license:

The person shall be subject to a penalty not more than seven years of imprisonment or a fine not more than seven million yen, or both. If five times the value of the items involved exceeds seven million yen, however, the fine shall be up to the five-time amount.

(3) In the case a person made a transfer, without license, of controlled technology in other form of transaction that is subject to permission:

The person shall be subject to a penalty not more than five years of imprisonment or a fine not more than five million yen, or both. If five times the value of the items involved exceeds five million yen, however, the fine shall be up to the five-time amount.

In addition to the above, lighter penalties are specified for other types of violations. Also, an attempted violation, or a violation occurring before the actual export, is also subject to penalties.

6-4-3. Administrative sanctions

Willful violators are subject to administrative sanctions, under which they are prohibited to conduct exports for not more than three years. Please refer to the violation cases described in Article 6-5.

6-4-4. Warning

Instead of imposing penalties and sanctions, METI may issue a “Warning” against violators if the authority considers it appropriate. The warning is publicly announced.

6-5. Violation Cases

(1) Case ‘A’ (Toshiba Machinery Case)

The so-called “Toshiba Machinery Incident” disclosed by the U.S. in 1987 is a symbolic case that triggered drastic changes in Japan’s export controls. From 1982 to 1984 the Toshiba Machinery Corporation, a subsidiary of a well-known electronics giant, exported to the Soviet Union nine-axis computer controlled milling machines, applying for a license

describing the products in disguise of a less sophisticated type of the products. It was illegal and a COCOM violation as well because in those days exports of such high-performance machines to the communist bloc countries were prohibited by the multilateral agreement. These high-tech machine tools were delivered and installed at the country's Baltic Naval Shipyard with software packages developed and supplied by a Norwegian company.

This incident created an international uproar because the sophisticated machines enabled the Soviets to produce much quieter propellers, making their submarines much harder to detect in deep water, according to the U.S. Department of Defense, and culminated in the resignation of both president and chairman of the parent company, as well as the imposition of severe penalties on the subsidiary.

(2) Case 'B'

In August 2006, four top executives including president of a company were arrested on suspicion that in October and November 2001, they willfully exported without license two units of three-dimensional high-precision measuring equipment they manufactured to a company called SCOPE in Malaysia through its affiliated company in the country.

The high-precision measuring equipment can be used for nuclear development and requires a license for an export. Reportedly, the company SCOPE had a connection with Dr. A.Q. Kahn's global nuclear network. In fact, one of the two units had been re-shipped to Libya, which was discovered at the end of 2003 through the inspection carried out by the IAEA. It was also reported that they had made an illegal export of the equipment to Iran through a front company in Tokyo.

Worse, it was discovered that the company had developed special software that enabled the products to electronically mask the measurement data, thus the highly accurate measuring instrument ostensibly became "less accurate." The company had been exporting such products to various other countries without license.

In the end, the four executives were sentenced to 2 to 3 years' imprisonments with suspensions of 4 to 5 years, and the company was fined 45 million yen. In addition, METI imposed an administrative sanction against the manufacturer prohibiting exports of all products for 6 months initially, and prohibiting exports of the measuring equipment in question for the following 2 years and 6 months.

(3) Case 'C'

In January 2006, a police/Customs joint team raided the headquarters of a manufacturing company on suspicion that they attempted to export unmanned helicopters to China without license.

This raid was carried out following a criminal complaint against the company by METI, who had conducted on-site inspections of the organization. The unmanned helicopter they were about to export was equipped with a computer control system, which allegedly enabled it to fly on its own. This type of air vehicle is controlled under Category 4, missiles (MTCR items), of the Attachment List No.1 to the Export Trade Control Order since it can be used for military applications such as spraying chemical or biological agents.

After the investigation, the company was prosecuted and fined one million yen by summary trial. In addition, METI gave a sanction prohibiting it from exporting unmanned helicopters for 9 months.

(4) Case 'D'

In August 2006, a former president of a Tokyo-based trading company was arrested for a non-licensed export of a freeze dryer to North Korea via Taiwan, which was made in September 2002. The police reached the item after questioning waste recycling agents in March 2005 for allegedly trying to export bicycles to North Korea.

During the interrogation, the former president admitted that he had known the fact that the freeze dryer could be used in a military-linked research institution in North Korea. This type of equipment, which is used mainly for food processing, is subject to the Catch-All Control since it can be used also for developing biological weapons.

After the police investigation, the man was prosecuted and fined one million yen by summary trial. METI, in addition, imposed a sanction against the company prohibiting exports of all products for 8 months.

(5) Case 'E'

At the end of July 2008, police stormed the headquarters of a machine tool manufacturer in Hiroshima, western Japan, on suspicion that in 2004 it exported a few units of highly accurate machining center without license to South Korea. The machine can be used for manufacturing equipment that is used for nuclear developments, and requires a license for

an export. Newspapers reported that the company had allegedly exported the machine tools repeatedly to other countries including Europe, U.S., and China without license, misleading Customs.

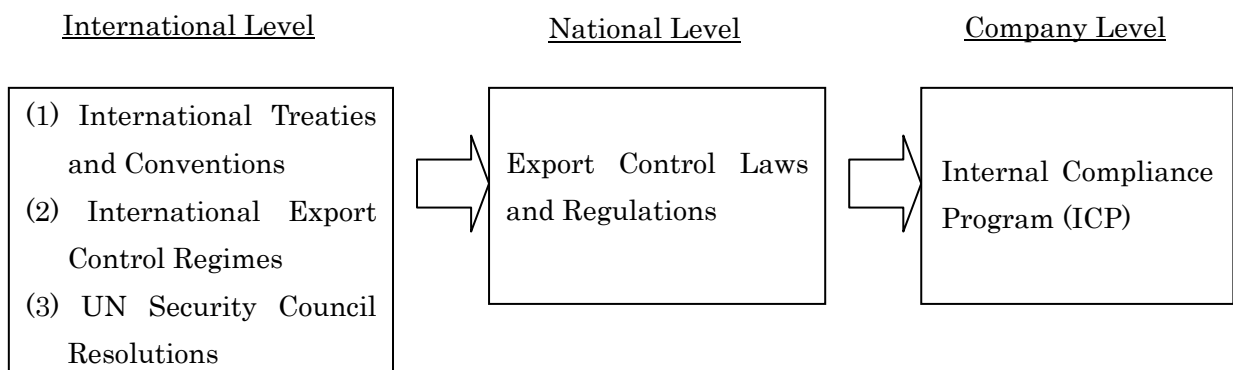
(6) Case 'F'

In September 2008, a Tokyo-based company doing agency business for exports and imports attempted to export self-recording magnetic flux meters to Myanmar without license but failed because the Minister of Economy, Trade and Industry, under the Catch-All Control, requested the company to apply for a license. Then in January next year, the company, conspired with another company that manufactured the products, as well as with a third company doing North Korean business, tried to export the same products to Myanmar, again without license but this time in the manufacturer's name declaring Malaysia as the destination country. The products in question were seized before shipment. In June the same year, presidents of the three companies were arrested for METI's criminal complaint. And three years later in February 2012, the company was fined 3 million yen and its president was sentenced to 12-month imprisonment (suspended for three years). Further in June METI imposed an administrative sanction on the company prohibiting exports for two months. The self-recording magnetic flux meters can be used for missile or nuclear developments.

VII. Export Controls of Private Companies

7-1. Roles of Individual Companies

When viewed on a global scale, the export controls system can be seen as a three-layer structure as shown below, in which the roles played by individual companies through day-to-day business operations are significant. Exporters are burdened with a duty of compliance.



In Japan, ever since 1987 when the government drastically strengthened export controls upon the disclosure of the “Toshiba Machinery Incident,” major exporters, under the government’s instructions and guidance, have been strenuously implementing export controls establishing ICP-based system in which a Director representing the company is designated as the person who takes the ultimate responsibility in the organization.

7-2. Exporters' Compliance Standard

In April 2009, METI announced an introduction of new legal framework to reinforce the Japanese system, which is called "Exporters' Compliance Standard" that came to effect on April 1, 2010. In this framework, every single person—an individual, a company, or a university—that is engaged in exports of goods or transfers of technology is now obliged to establish certain degree of internal control system. Especially, any person handling controlled items must establish a compliance system that includes at least the following elements.

- (1) to assign the ultimate responsibility for export controls to a person who represents the organization,
- (2) to establish a proper export control organization,
- (3) to establish proper product classification procedures,
- (4) to establish proper transaction screening procedures,

- (5) to establish proper shipping control procedures,
- (6) to establish proper procedures for auditing and conduct it accordingly,
- (7) to conduct proper export control training for all members concerned in the organization,
- (8) to keep export control documents properly for an appropriate period, and
- (9) to report any violation cases to the Minister of Economy, Trade and Industry without delay, and take remedial measures.

7-3. Internal Compliance Program (ICP)

The legal framework of the Exporters' Compliance Standard described above was in fact introduced to urge companies handling sensitive goods and technologies to establish ICP. Another fact is that METI maintains an additional framework for promoting ICP, that is, the ICP registration system. In this system, a company who so wishes submits its ICP to METI, who then checks and registers it if it is considered satisfying the guideline separately set, of which the hurdle is even a little higher than the Exporters' Compliance Standard. Further, METI publishes on its website the name of the companies who have registered ICP and have so wished. As of February 2012, about 1,600 ICPs were registered, of which some 570 company names were published.

Further, as mentioned already, having registered their ICPs is one of the conditions for exporters to obtain special bulk licenses. Also, those who have done it could enjoy a benefit of the Fast Track Review of license applications.

7-4. Key Control Procedures

7-4-1. Classification

Product classification is one of the key elements of export control; the majority of violation cases in recent years are related to classification (misclassification and non-classification), says METI, who even requires exporters to designate in their organizations a person specifically responsible for this procedure. Also in Japan, the authorities sometimes check exporters' classification documents. An exporter is required, for example, to submit the documents to METI when applying for an individual export license, or sometimes to Customs when clearing the cargo.

Therefore, exporters are always required to do it correctly referring to the control lists, adopting a two-step procedure in which the classification first conducted by an engineer must be checked and verified by another. Usually, classification is conducted using such a form as "Parameter Sheet" or "*Komoku-betsu Taihi Hyo* (classification check sheet)." See

Appendix 7 for details.

7-4-2. Transaction Screening

For each export transaction, exporters conduct a screening with a system designed for their unique business operations. As the initial step, a sales person concerned must check on each enquiry the product classification, the end-use, the end-user, the destination country and so forth, then subject it to further screening if necessary according to the criteria set forth internally. Again, a double-check system is required for transaction screening. For this process, METI draws exporters' attention to the following points.

- (1) Transaction screening shall be conducted using prescribed screening form, or preprinted transaction screening sheet.
- (2) Responsibilities of the person who approves the transaction screening, as well as of the person who conducts the screening, shall be defined clearly.
- (3) A person who is responsible for making the company's final judgment on order acceptance shall be designated.
- (4) Any domestic transaction shall be treated as an export if it is known that the products involved will be exported in the end through the customer or other related parties.

7-4-3. Shipping Control

Shipping control is the last resort of a company's export control. It is therefore required for exporters to establish an appropriate system of shipping control. When making each shipment, the exporter must check if the shipping items are identical with those designated on the shipping documents, or on the license if those are controlled. No items should be shipped out unless the required screening has been completed.

VIII. Communication between METI and Exporters

8-1. Communication between Export Control Communities

For promoting export control awareness among exporters, METI provides multiple channels that enable it, considering that keeping close communication with export control communities is essential. What is unique in this regard is the existence of CISTEC, a non-profit organization that functions as a linkage channel between the government, industries and academia.

8-2. METI

8-2-1. Web Service

METI operates a website for public access where a wide variety of information is available such as brief explanation about the regulations, regulatory documents, guidance, Q & A, and so forth, which are vital for exporters.

(1) Japanese version: <http://www.meti.go.jp/policy/anpo/index.html>

(2) English version: <http://www.meti.go.jp/policy/anpo/englishpage.html>

8-2-2. Consulting Service

Exporters can visit METI for face-to-face consultations on various matters related to specific transactions and others.

8-2-3. Seminars

METI, in coordination and cooperation with CISTEC, holds seminars at various locations in Japan so that as many people can learn export control as possible. Two types of seminars are available: one for awareness promotion to be held periodically and the other when necessary due, for example, to major regulatory amendments METI has made. As mentioned, to attend the former is one of the conditions for obtaining special bulk licenses. In addition, METI holds various other seminars in and out of Japan as part of its outreach activity toward Asian countries.

8-2-4. Export Control Compliance Self-check List

METI annually issues the Export Control Compliance Self-check List to the companies

who have their ICPs registered with the authority. Answering some 40 questions raised in the list each company can self-check its export control compliance status. Again, to submit the list filled in with answers is one of the conditions for obtaining special bulk licenses.

8-2-5. Audits/Inspections

METI's Security Export Inspection Office conducts audits or on-site inspections on companies—small to large—who are engaged in export businesses. Its audit teams visit companies, mainly special bulk license holders, with one or two weeks' notice and carry out one-day audits. METI conducts this on about 100 companies each year.

8-3. CISTEC

8-3-1. About CISTEC

CISTEC - the Center for Information on Security Trade Control - founded in April 1989, is the only non-profit organization dedicated to the promotion of export controls in Japan. It functions as a linkage between the government, industry, and academia, and also provides a variety of export control forums where people get together, exchange information, or sometimes crossfire opinions. For more than two decades CISTEC, through a wide variety of activities, has been playing a pivotal role in making Japan's export controls efficient and effective.

As of September 2012, it employs approximately 40 staff members and operates on an annual budget of roughly 6 million U.S. Dollars, a little less than half of which comes from membership fees and the rest from revenues of its own activities. As of September 2012, the organization had 403 associate members including major exporting companies and research institutes.

8-3-2. Major Activities

(1) Research, analysis, and recommendation

One of the most important activities of CISTEC is to function as an export control think tank. It conducts research and analysis on various subjects like recent technology trend, laws and regulations and others, domestic and abroad; report the results to the public; and provide policy recommendations to the government.

(2) Industry services

CISTEC provides various services for industries. It holds seminars and trainings on specific topics; maintains certification program to qualify people for STC-Associate, STC-Legal Expert and STC-Expert; gives face-to-face consultation services, and provides product classification assistance services, to name a few.

(3) Publications

CISTEC publishes bimonthly journal titled “CISTEC Journal” covering the latest information related to world security situations and export controls, and also publishes various handbooks, guidance and others on a wide range of subjects.

(4) Web services

CISTEC maintains a useful website on which it operates on-line database services, e-learning program, and web seminar program. Also, it provides on the site a full range of information needed by exporters.

Japanese version: <http://www.cistec.or.jp/>

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

(5) Certification program

The certification program to qualify people for STC Associates and STC Experts is one of the most important activities of CISTEC. Through this program, it promotes export control skills of business and other people, and motivates them to play a leading role at each position. CISTEC issues the certificate to each person who has passed the exam, expecting that the organization he/she belongs to would consider it as a merit of his/her performance.

This program started in June 2004 with the exam for STC Associates. As of August 2012, the number of persons who challenged the STC Associates and STC Expert exams totaled to 20,849 and 2,865 respectively. Of those, 15,346 persons were qualified for STC Associates and 482 persons for STC Experts.

(6) International cooperation

CISTEC takes part in METI's international outreach activity in Asia. In collaboration with the authority it annually holds Asian Export Control Seminar in Tokyo and also holds Industry Outreach Seminars in various countries in the region. Also, CISTEC annually

dispatch a delegation to the U.S. and Europe, where it meets government authorities, industry associations, private companies and so on to find facts, exchange opinions and deepen mutual understanding.

8-3-3. The Export Control Research Committee

What characterizes CISTEC most is its committee activities. Under the heading of the Export Control Research Committee, CISTEC has two research boards – Policy, Rules and Procedures Board and Goods and Materials Board – which have various subcommittees established for specific research themes as follows. Through these committee activities CISTEC pumps industry opinions and consolidate them into public comments and proposals to the government.

It should be noted in this regards that members of each committee are all from private companies and that CISTEC's activities are, in fact, sustained by those active members from companies.

(1) Policy, Rules and Procedures Board

- (a) Export Control Policy Committee
- (b) Export Control Systems Committee
- (c) International Research and Relations Committee

(2) Goods and Materials Board

- (a) Committee on Dual-use Equipment for WMD
- (b) Advanced Materials Committee
- (c) Material Processing Committee
- (d) Electronics Committee
- (e) Information Technologies Committee
- (f) Sensors, Lasers, Navigations and Avionics Committee

8-4. Other Lobbying Parties

Listed below are the economic organizations formed by various businesses in Japan, which have a unit dealing with matters of export control. Joining forces with CISTEC, they are actively working as a power to lobby the government.

- (1) KEIDANREN (Japan Business Federation)
- (2) Japan Machinery Center for Trade and Investment (JMC)
- (3) Japan Foreign Trade Council, Inc. (JFTC)

8-5. JAIST

JAIST (The Japan Association of International Security and Trade) is an association formed in May 2005 by scholars, business people and government officials who have interests in international security and trade issues. It was established for the purpose of promoting academic research on security trade control, thereby promoting export control awareness among people concerned.

To meet the goal, the association actively carries out research projects, and holds seminars, symposiums and workshops as well. In addition, JAIST has collaboration with foreign government and academic institutions in this respect.

IX. Challenges

9-1. A Letter to METI

In October 2010, the Export Control Policy Committee of CISTEC, representing Japanese industries, submitted a letter to METI, titled, "Request for a Comprehensive Review of Japan's Security Export Control Legal System." The letter says that thanks to the authority's efforts, the Japanese control system is becoming more rationalized reflecting the realities of the world's security concerns, but still, there is an urgent need to reform it. It claims that Japanese exporters are over-burdened by the complicated, hard-to-understand control system, and are left behind in the highly competitive global market.

Further in February 2012, CISTEC submitted a similar letter requesting the authority to make speedy steps toward the required export control reform.

9-2. The Four-Point Proposal

In the letter of October 2010, the Committee made the following four proposals:

- (1) To make the legal system easier to understand and easier to comply with by:
 - (a) introducing a new "Export Control Act" that should replace the current Foreign Exchange and Foreign Trade Act,
 - (b) laying down clearly all the basic control requirements in the Act,
 - (c) streamlining and rationalizing the complicated, multi-layer legal structure, and
 - (d) simplifying other hard-to-understand regulations,

- (2) To secure a level-playing field for international competitions by:
 - (a) providing a system whereby regime-based amendments of the Control Lists can be done speedily without delay (this requires a shift of the legal delegation from the present Cabinet Order to Ministerial Ordinance and other lower level statutes),
 - (b) rearranging the current Control Lists so that each item can be identified also with the European ECCN system,
 - (c) continuing the research of foreign availability so that the controlled items can be reviewed periodically, and
 - (d) harmonizing export control provisions with those set forth by the international export control regimes,

- (3) To ease restrictions taking into account the destination countries' security status as well as the exporters' compliance status by:

- (a) streamlining export control procedures in line with the international trends,
- (b) simplifying the procedures related to the exports to allied countries,
- (c) reviewing the system of the Special Bulk Export License for Overseas Subsidiaries, and
- (d) introducing a system of preferential treatment for exporters of excellent compliance records, AND

(4) To reduce procedural burdens on exporters by:

- (a) ensuring consistency in legal interpretations by the authority and providing venues for mutual discussions,
- (b) shortening the time for examining license applications,
- (c) reducing the burden of laborious product classification works,
- (d) introducing an effective electronic license application system,
- (e) reducing the documents required for a license application,
- (f) introducing other preferential treatments,
- (g) rationalizing overall control implementations, and
- (h) improving and expanding administrative services.

9-3. Current Status

9-3-1. Measures Already Taken

Of the above, some have already been achieved in recent regulatory changes, which are as follows.

(1) An introduction of the General Bulk Export License eligible to the exports to specific countries (effective on July 1, 2012)

METI introduced a new, much simplified, easier to obtain bulk export license in the name of "General Bulk Export License," which is described already. For this license, an applicant is not required to have established ICP nor submit the "Export Control Compliance Self-check List" to METI. As mentioned, this license is eligible to the exports to specific 27 countries that are implementing robust controls as a member of the international export control regimes.

(2) Integration of different notices and simplification of export license application procedure (effective on April 1, 2012)

Streamlining of the multi-layer legal structure has advanced a little: METI has integrated

13 different notices related to export license application procedure and also 6 different notices related to the Catch-All Control into one document respectively. By this action exporters are now relieved from the cumbersome procedure to refer to one notice after another to check the legal requirements.

(3) Rationalization of the EUC requirements (effective on April 1, 2012)

Before April 1, 2012, as a condition to grant an Individual Export License for certain sensitive products, METI required an applicant to submit two end-use assurances – one from the end-user and the other from the applicant himself/herself. In this scheme, besides the WMD-related end-use assurance, the end-user had to assure that he/she would never re-export, re-sell or re-locate the products without prior consent of the exporter; in addition, the exporter had to assure that whenever received a request for such prior consent from the end-user, he/she would inform it to METI and would never allow the end-user to do the re-transfer unless the authority gave an approval.

After that, however, the assurance has now to be made only by the end-user, and for this METI now provided a prescribed form of the End-Use Certificate (EUC), which the end-user is required just to fill in and sign it, and also provided a statement, titled, "Notice relating to the End-Use Certificate." Note that this procedure shall be initiated by a written request from the exporter, which should attach both EUC form and METI's Notice. And the exporter is no more required to submit his/her own assurance to METI. In addition, the end-user's required assurance for re-transfer is now limited to re-exports only. Last and most important, the exporter is no more held responsible in principle for any breach of the assurance by the end-user. The end-user's assurance is now given directly to METI, though through the exporter. And what METI requires of the end-user in the assurance process is clearly written in the Notice (see Annex 9).

(4) De-control of encryption products that are eligible to the license exemption under the Cryptography Note (Effective August 1, 2012)

For industries' request METI decontrolled encryption products that are eligible to the license exemption under the Cryptography Note.

9-3-2. Measures Being Taken

Further to the above, METI is now working on the following rationalization measures.

(1) Rearrangement of the Control Lists so that each item can be identified also by the

European ECCN system

The next big challenge METI is now taking on is internationalization of Japan's classification numbering system. As already mentioned, the controlled items in Japan are identified by the classification numbers that are specific to Japan, not identical to the European ECCN which is deemed an international standard. At the time of this writing, METI, together with CISTEC, is undertaking preliminary works to rearrange the system of classification numbers. The expected merits of this action are as follows.

- (a) For each controlled item, it will become easier to conduct one-on-one classification comparison between Japanese list and the EU list.
- (b) Japanese exporters can easily share products' classification information with overseas companies on the same basis of understanding.
- (c) It will become easier to check the differences of the control lists between Japan and other countries and also between Japan and the international export control regimes.
- (d) Classification of imported goods will become easier.

(2) Introduction of a system of Voluntary Self Disclosure

METI intends to introduce a system of Voluntary Self Disclosure in which a penalty on any violation self-disclosed by a person will be mitigated on certain conditions. Actually, the authority is already implementing it in part as a trial.

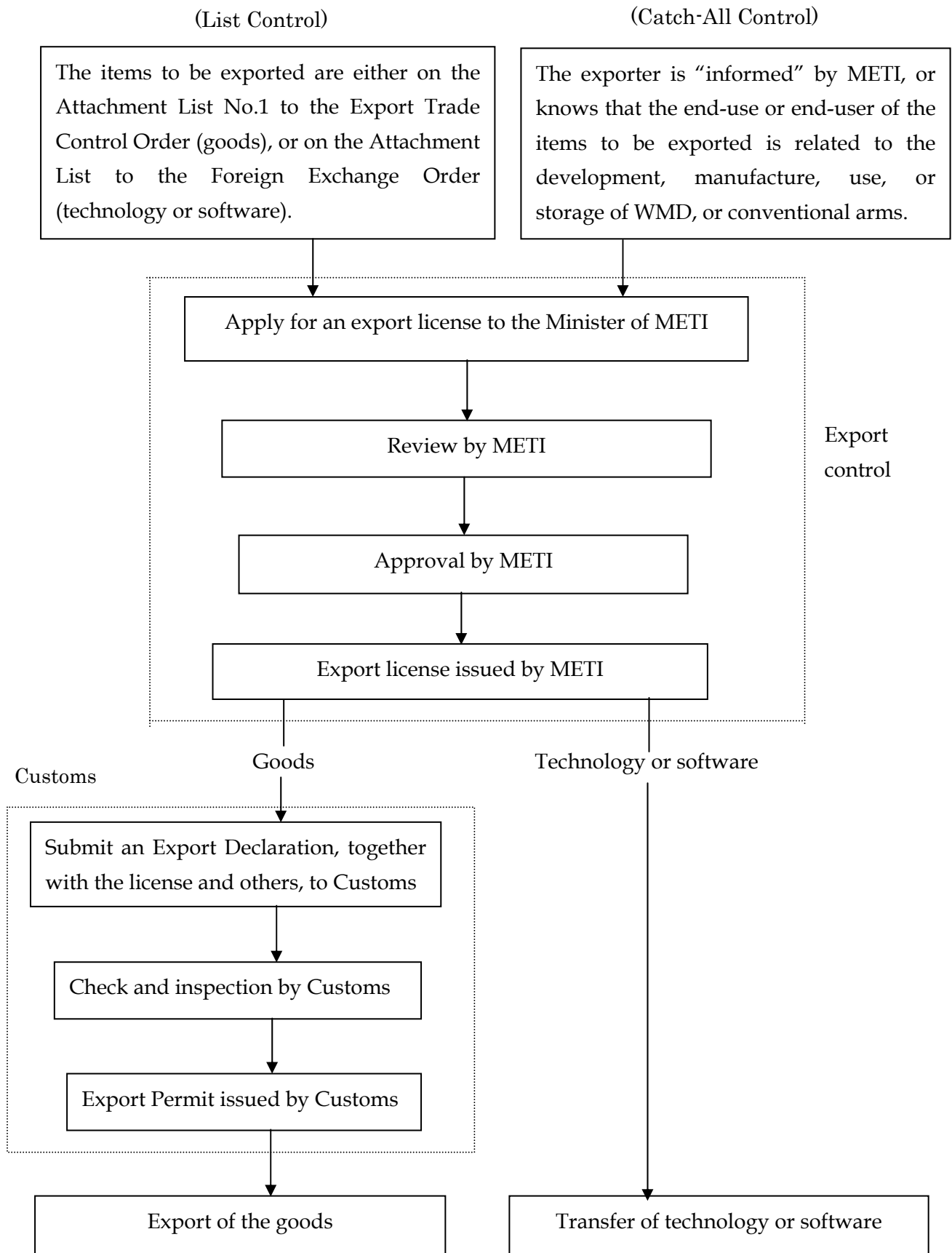
9-4. Future

Japanese export control system is creaking with age, and the reform requests from industries are rising higher and higher each year.

As described above, however, METI, for such requests, is working hard to rationalize the system. The biggest challenge for METI, or the ultimate goal of the Japanese industries, is to establish a new single set of "Export Control Act" coupled with "Export Control Regulations," breaking away with the current system built under the Foreign Exchange and Foreign Trade Act. In that combination, the legal framework should be redesigned in a new light of reality, as the industries proposed, that the top weight of the control be attached not to the item classification but to the end-use screening, which is considered more critical in today's export controls for nonproliferation.

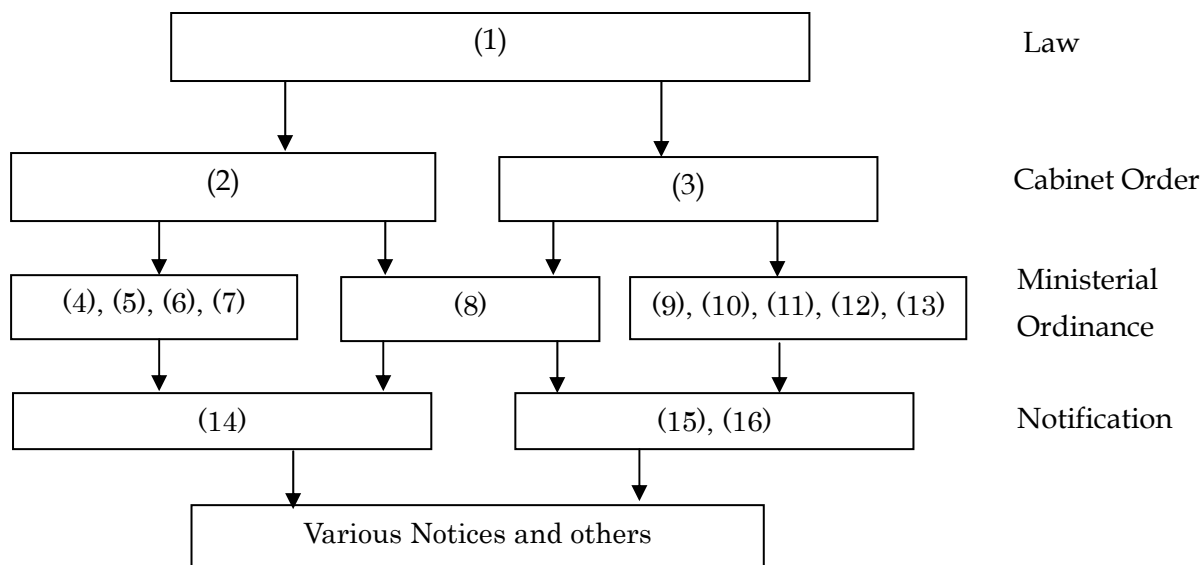
We believe that will solve all the problems the industries claim, for which we must still follow long and rocky paths lying ahead before us.

Export Procedures in Brief



Appendix 2

The Structure of the Export Control Law and Regulations



- (1) The Foreign Exchange and Foreign Trade Act
- (2) The Export Trade Control Order
- (3) The Foreign Exchange Order
- (4) Ministerial Ordinance stipulating export control regulations
- (5) Ministerial Ordinance stipulating the cases where temporarily unloaded goods must be considered WMD-related
- (6) Ministerial Ordinance stipulating the cases where goods to be exported must be considered WMD-related
- (7) Ministerial Ordinance stipulating the cases where goods to be exported must be considered conventional arms-related
- (8) Ministerial Ordinance stipulating goods, technologies and software pursuant to provisions of the Attachment List No. 1 to the Export Trade Control Order and the Attachment List to the Foreign Exchange Order
- (9) Ministerial Ordinance on external trade other than export of goods
- (10) Ministerial Ordinance stipulating the cases where a technology transfer must be considered WMD-related
- (11) Ministerial Ordinance stipulating the cases where a technology transfer must be considered conventional arms-related
- (12) Ministerial Ordinance stipulating the cases where goods subject to brokering must be considered WMD-related
- (13) Ministerial Ordinance stipulating the cases where technologies subject to brokering must be considered WMD-related
- (14) Notification on the implementation of the Export Trade Control Order
- (15) Notification on licensed technology transfer conducted in conformity with the provisions of

Article 25-1 of the Foreign Exchange and Foreign Trade Act and Article 17-2 of the Foreign Exchange Order

- (16) Notification on licensed brokering service of goods conducted in conformity with the provisions of Article 25-4 of the Foreign Exchange and Foreign Trade Act

Appendix 3

The Controlled Items

(Attachment List No. 1 to the Export Trade Control Order)

Cat. No.	Controlled Items	Cat. No.	Controlled Items
1. Arms		(6)	Equipment for the separation of lithium isotopes, etc.
(1)	Firearms, ammunitions	(7)	Equipment for the separation of uranium isotopes
(2)	Explosives, explosive dispensers	(8)	Frequency changers
(3)	Propellants, military fuels	(9)	Nickel powders
(4)	Stabilizers for propellant powders	(10)	Equipment for the production of deuterium or deuterium compounds
(5)	Directed energy weapons	(10-2)	Equipment for the production of uranium, plutonium, etc.
(6)	Kinetic energy weapons	(11)	Flow-forming machines
(7)	Military vehicles, bridges, etc.	(12)	1) Numerically controlled machine tools 2) Measuring equipment
(8)	Military vessels, etc.		
(9)	Military aircraft, etc.	(13)	Induction furnaces, arc furnaces, plasma melting furnaces
(10)	Anti submarine and torpedo nets		
(11)	Armor plates, military helmets, body armors	(14)	Isostatic presses
(12)	Military searchlights	(15)	Robots
(13)	Military bacterial agents, chemical warfare agents, radioactive materials, etc.	(16)	Vibration test equipment
(13-2)	Chemical mixtures for decontamination of the above materials	(17)	Structural materials for gas centrifuge rotors
(14)	Biopolymers for chemical agents, etc.	(18)	Beryllium
(15)	Equipment and devices for the production and testing of military propellants	(19)	Substances used as alpha sources for the detonation of nuclear weapons
(16)	Equipment for the production and testing of weapons	(20)	Boron-10
2. Nuclear weapons		(21)	Substances used as reducing or oxidizing agents for the production of nuclear fuel materials
(1)	Nuclear fuel and nuclear source materials		
(2)	Nuclear reactors, generating equipment	(22)	Crucibles made with materials which are corrosion resistant against actinide
(3)	Deuterium and deuterium compounds		
(4)	Artificial graphite	(23)	Hafnium
(5)	Equipment for the separation of nuclear fuel and nuclear fuel materials		

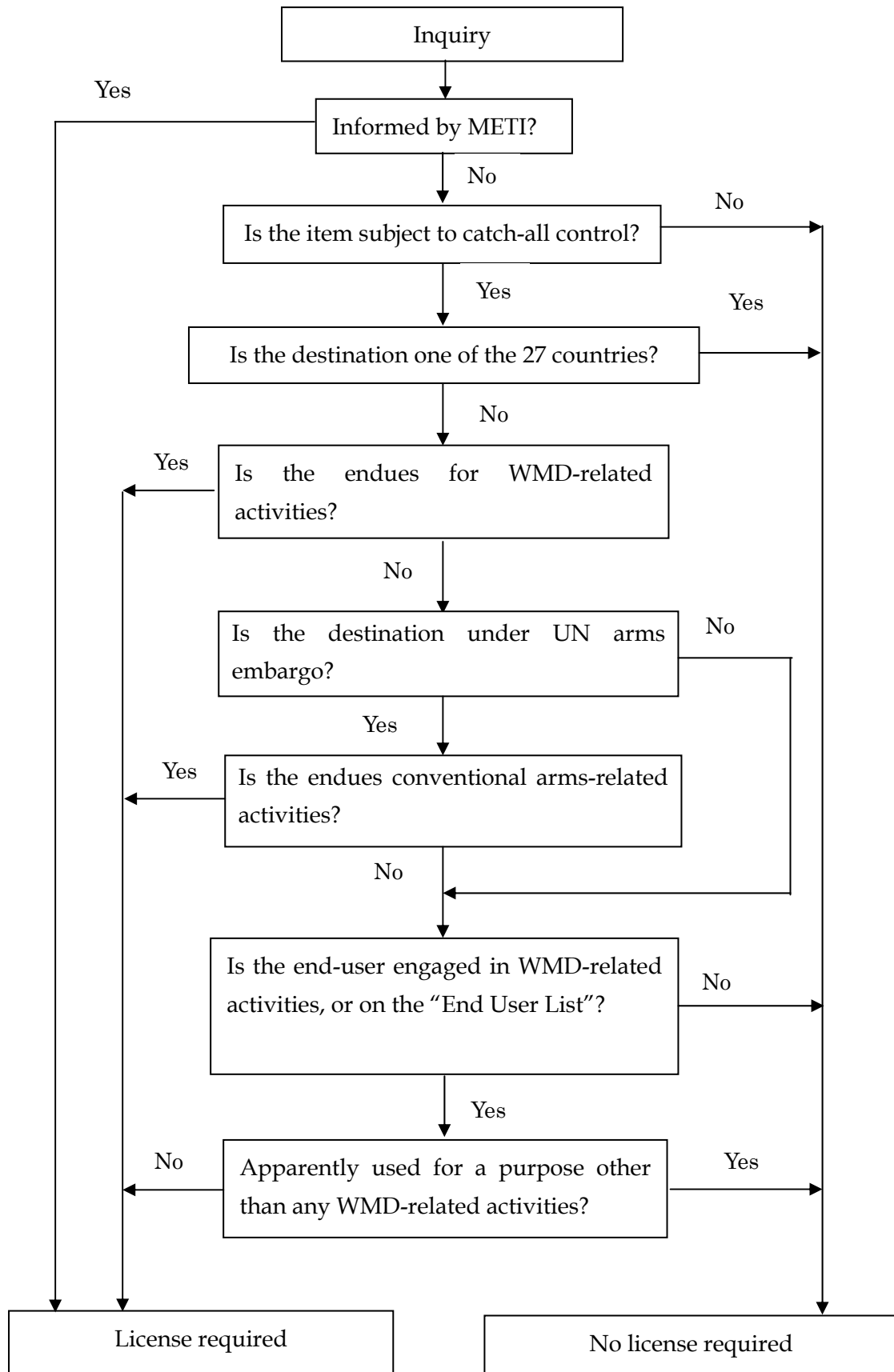
Cat. No.	Controlled Items	Cat. No.	Controlled Items
(24)	Lithium	3. Chemical weapons	
(25)	Tungsten	(1)	Substances for raw materials of CW agents, or substances having equivalent toxic ability with CW agents or raw materials
(26)	Zirconium		
(27)	Electrolytic cells for fluorine production		
(28)	Equipment for the production of gas centrifuge rotors	(2)	Equipment for the production of CW agents
(29)	Centrifugal balancing machines	3-2. Biological weapons	
(30)	Filament winding machines	(1)	Organisms, toxins, subunits, etc. used as raw materials for military bacterial agents
(31)	Gas laser oscillators		
(32)	Mass spectrometers or ion sources	(2)	Equipment for the production of military bacterial agents
(33)	Pressure gauges or bellows valves		
(34)	Superconducting solenoid electromagnets	4. Missiles	
(35)	Vacuum pumps	(1)	Rockets, production equipment therefor
(36)	Direct current power units	(1-2)	Unmanned aerial vehicles and related equipment
(37)	Electron accelerators or flash X-ray generators	(2)	Rocket guidance systems, testing equipment therefor
(38)	Impact testing machines	(3)	Propulsion units
(39)	Mechanical or electronic streak cameras	(4)	Flow-forming machines
(40)	Interferometers, pressure gauges, pressure transducers	(5)	Servo valves, pumps usable for propellant controllers, or bearings usable therefor
(41)	Goods for the detonation or testing of nuclear weapons		
(42)	Photomultiplier tubes	(7)	Equipment for the production and testing of propellants
(43)	Neutron generators		
(44)	Remote manipulators	(8)	Powder mixers
(45)	Radiation shielding windows, frames	(9)	Jet mills, equipment for the production of metal powders
(46)	Radiation hardened TV cameras, lenses		
(47)	Tritium	(10)	Equipment for the production of composite materials
(48)	Equipment for the production, collection, or preservation of tritium		
(49)	Platinized catalysts for the collection of tritium	(12)	Equipment for the production of nozzles and re-entry vehicle nose tips
(50)	Helium-3	(13)	Isostatic presses
		(14)	Furnaces for the densification of carbon-carbon composites

Cat. No.	Controlled Items	Cat. No.	Controlled Items
(15)	Structural materials for rockets or unmanned aerial vehicles	(9)	Hydraulic fluids, etc.
		(10)	Lubricating materials, etc.
(16)	Accelerometers, gyroscopes, navigation equipment for rockets	(11)	Vibration control liquid
		(12)	Refrigerant liquid
(17)	Flight controllers, attitude control equipment for rockets	(13)	Titanium boride, semi-finished ceramic products
(18)	Avionics equipment for rockets	(14)	Ceramic composites
(18-2)	Heat batteries for rockets	(15)	Polydiorganosilane, polysilazane, etc.
(19)	Gravity meters, gravity gradiometers for aircraft or vessels	(16)	Aromatic polyamideimide, polyetherimide, etc.
(20)	Launch pads and supporting equipment for rockets	(17)	Copolymers of Vinylidene fluoride, etc.
		(18)	Prepregs, performs, etc.
(21)	Radio telemetry equipment, radio telecontrol equipment	(19)	Boron, boron mixtures, boron alloys, guanidine nitrate, nitroguanidine
(22)	Electronic computers on board rockets	6. Material processing	
(23)	A/D converters for rockets	(1)	Bearings
(24)	Vibration test equipment, win tunnels, etc.	(2)	Numerically-controlled machine tools
		(3)	Gear producing machine tools
(24-2)	Electronic computers for designing rockets	(4)	Isostatic presses
		(5)	Coating equipment
(25)	Materials or equipment for reducing acoustic waves, electromagnetic waves, or light	(6)	Measuring equipment
		(7)	Robots
		(8)	Feedback equipment, etc.
(26)	Microcircuits, detectors, etc. for rockets	(9)	Spin-forming machine
5. Advanced materials		7. Electronics	
(1)	Products of fluorine compounds	(1)	Integrated circuits
(2)	Copolymers of vinylidene fluoride, etc.	(2)	Microwave equipment, components of millimeter wave equipment, etc.
(3)	Aromatic polyimide products		
(4)	Tools for the superplastic forming of Ti, Al alloys	(3)	Signal processing equipment
(5)	Alloys of Ni, Ti, Mg, etc.	(4)	Equipment using superconducting materials
(6)	Metallic magnetic materials	(5)	Superconducting electromagnets
(7)	Uranium-titanium alloys, tungsten alloys	(6)	Battery cells, primary, secondary, and photovoltaic
(8)	Superconductive materials	(7)	High energy storage capacitors

Cat. No.	Controlled Items	Cat. No.	Controlled Items
(8)	Encoders	(6)	Equipment for the design, production, etc. of (1) - (3), (5) - (5-5) above
(8-2)	Thyristor device, thyristor module		
(9)	Digital video magnetic recorders, testing equipment, magnetic tapes	(7)	Information security equipment using encryption
(10)	Waveform digitizers, transient recorders	(8)	Equipment for preventing the leakage of information transmission signals, etc.
(11)	Digital instrumentation recorders	(9)	Same as (7) but without encryption
(12)	Signal generators	(10)	Communication cable systems for detecting surreptitious intrusion
(13)	Frequency signal analyzers		
(14)	Network analyzers	(11)	Equipment for the design, production, etc. of (7) - (10)
(15)	Atomic frequency standards		
(15-2)	Spray cooling thermal management systems	10. Sensor and lasers	
(16)	Equipment for manufacturing semiconductor devices	(1)	Underwater acoustic equipment
		(2)	Optical detectors, coolers
(17)	Masks or reticles	(3)	Optical sensing fibers
(18)	Semiconductor substrates	(4)	High-speed cameras
(19)	Resists	(5)	Reflectors
(20)	Organometallic compounds of Al, Ga, In	(6)	Optical components for space use
(21)	Hydrides of P, As	(7)	Controllers of optical equipment or components
(22)	Silicon carbide wafer		
8. Computers		(7-2)	Aspherical optical elements
(1)	Electronic computers	(8)	Gas laser oscillators, etc.
9. Telecommunications		(8-2)	Laser microphone
(1)	Telecommunication transmission equipment		
(2)	Electronic changers	(9)	Magnetometers, magnetic gradiometers, calibration equipment therefor
(3)	Optical fiber communication cables, etc.		
(4)	Deleted	(9-2)	Deep water detector
(5)	Phased array antennas		
(5-2)	Radio direction finding equipment	(10)	Gravity meters, gravity gradiometers
(5-3)	Telecommunication jamming equipment, parts therefor	(11)	Radars
		(12)	Light reflectance measuring apparatus
(5-4)	Position detecting equipment using electromagnetic interference observation technology	(13)	Equipment for the production of gravity meters
(5-5)	Radio telecommunication equipment, etc.	(14)	Optical detectors, etc.

Cat. No.	Controlled Items	Cat. No.	Controlled Items
11. Navigation and avionics		14. Miscellaneous	
(1)	Accelerators	(1)	Metallic fuel in particle form
(2)	Gyroscopes	(2)	Additives or precursors of propellant powders, explosives
(3)	Inertial navigation systems		
(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.	(3)	Diesel engines
		(4)	Deleted
		(5)	Self-contained diving equipment, etc.
(6)		(6)	Construction machineries specially designed for aerial transport
(4-2)	Underwater sonar navigation systems	(7)	Robot s or their controllers
(5)	Equipment for testing, production, etc. of (1) - (4-2) above	(8)	Electrically triggered shutters
12. Marine		(9)	Tear gases, riot agents, spraying equipment, etc.
(1)	Submersible vessels, surface-effect vehicles, etc.	(10)	Small explosive devices
(2)	Components or accessories of vessels	(11)	Explosives detector
(3)	Ocean salvage systems	15. Sensitive items	
(4)	Underwater cameras	(1)	Inorganic fibers, etc.
(5)	Underwater robots	(2)	Electric wave absorbers
(6)	Air independent power systems	(3)	Nuclear heat source materials
(7)	Water tunnels	(4)	Telecommunication transmission equipment
(8)	Syntactic foam		
(9)	Self-contained diving equipment, etc.	(4-2)	Radio equipment to control detonation of small explosives
(10)	Sound generator used in deep water	(5)	Underwater acoustic equipment
13. Propulsion		(6)	Optical detectors specifically designed for space applications
(1)	Gas turbine engines	(7)	Radars and parts therefor
(2)	Satellite or spacecraft for space development		
(3)	Rocket propulsion systems	(8)	Submersible vessels that can cruise independently
(4)	Unmanned aerial vehicles		
(5)	Equipment for the testing, measuring, inspection, etc. of (1) - (4) above, and 15 (10)	(9)	Soundproofing devices
		(10)	Ramjet engine, scramjet engines, etc.

Catch-all Control Flowchart
(The WMD Catch-All Control and the Military Catch-All Control)



The Commodity Watch List

A list of items that could possibly be used for the development, manufacture, use or storage of WMD (N: Nuclear weapons, M: Missile, B: Biological weapons, C: Chemical weapons)

- (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, M)

- (35) Agitators (C, M)
- (36) Heat exchangers or condensers (C, M)
- (37) Distillation or absorption columns (C, M)
- (38) Filling equipment (C, M)
- (39) Unmanned air vehicles that are specially designed for incorporating spray machines (M, B, C, M)
- (40) Spray machines that are specially designed for installing in unmanned air vehicles (M, B, C, M)

The 11 items applied specifically to the exports to Syria

- (1) Draft chamber (C)
- (2) Protective equipment for respiration attached to full-face mask (B, C)
- (3) Aluminum chloride (CAS 7446-70-0), dichloromethane (75-09-2), N, N - dimethylaniline (121-69-7), isopropyl bromide (75-26-3), isopropyl ether (108-20-3), mono-isopropylamine (75-31-0), kalium bromide (7758-02-3), pyridine (110-86-1), sodium bromide (7647-15-6), sodium metal (7440-23-5), tributylamine (102-82-9), triethylamine 8121-44-8), trimethylamine (75-50-3) (C)
- (4) Diethylene triamine (111-40-0) (C)
- (5) Butyrylcholinesterase, pyridostigmine bromide (101-26-8), obidoxime chloride (114-90-9) (C)
- (6) Bio safety cabinet, globe box (B)
- (7) Batch-type centrifugal machine (B)
- (8) Fermentation tank (B)
- (9) Reactor, agitator, heat exchanger, condenser, pump (excluding item 11 below), valve, container, distiller, absorption tower (C)
- (10) Clean room, fan equipped with HEPA filter (B)
- (11) Vacuum pump or its attachments (C)

The Guideline for Judging “When Apparent”

This guideline is provided by METI to help exporters make proper judgment if an item to be exported will apparently be used for a purpose other than the WMD-related activities stipulated in the regulations related to the catch-all control.

[The items’ end-use and specifications]

- (1) The importer, end-user, or their agent has clearly explained about the end-use.
- (2) The customer’s need for the items is reasonable for their business and technological capabilities.

[Place of installation]

- (3) The customer has clearly identified the place of the items’ installation or use.
- (4) No such information is given that the place of installation or use is inside/vicinity of military facilities or a classified area where only limited persons are allowed to enter, or that the stated end-use is suspicious.
- (5) The customer has made no excessive requirements for security measures for transportation, installation, etc.

[Related facilities and equipment]

- (6) The customer has sufficiently explained about the facilities where the items will be used, and about the raw materials to be brought in to the facilities.
- (7) The combination of the items, the facilities where the items will be used, and the raw materials to be brought in to the facilities is rational, matching each other correctly in view of the end-use of the items.
- (8) The requirements for spare parts are not excessive.
- (9) The customer has demanded equipment reasonably required in association with the items.

[Packing, shipping mark, shipping method, and shipping route]

- (10) The requirements for shipping mark, shipping method, etc. are not extraordinary.
- (11) The shipping route is reasonable for the export items and destination.
- (12) The required packing method and shipping mark match the shipping method or the destination.

[Payment conditions and warranty]

- (13) The amount, conditions, or method of payment is not too favorable.
- (14) The contract is with a reasonable warranty condition.

[Requirements for installation and confidentiality]

- (15) The customer has made a reasonable request for sending supervisors for installation, testing, etc.
- (16) The customer has raised no excessive requirements for keeping secret of the information about the items, ultimate destination, etc.

[Entities on the End User List]

- (17) When exporting any item to any customer that is on the End User List, the exporter must conduct an end-use checking carefully. The WMD symbol (Nuclear weapons, Biological weapons, Chemical weapons, or Missiles) attached to the entity on the list should not match the same that can be attached to the item when checked its characteristics referring, for example, to the Commodity Watch List.

[Others]

- (18) Nothing more is suspicious in relation to the transaction: for example, the customer has never given a clear answer to normal questions raised in the course of common business practice.

Parameter Sheet

Parameter Sheet is a type of product classification form published by CISTEC. It is issued as a series of booklets published separately by the category with a title, Electronics (Category 7), Computer (Category 8), Communications/Information security (Category 9), or the like. A booklet is made of parameter sheets for all the controlled items that come under one particular category, and each parameter sheet consists of a set of technological questions related to one entry of a controlled item defined by a specific classification number set out in the Export Trade Control Order and the Foreign Exchange Order.

Each question is made in consistence with a control parameter stipulated in the said Orders. In the case of an encryption item, for example, some of the questions are related to the parameters of the following elements.

- (1) Identification of the item
- (2) Encryption algorithm
- (3) Key length
- (4) Encryption functionality
- (5) Eligibility to the Cryptography Note

So when a person conducts classification of a product, what must be done first is to identify the classification number pertaining to the item, which is the key to the process; then he/she shall pick up one parameter sheet corresponding to the item, answer the questions—yes or no—printed on the sheet, and determine the classification. The result should be either “controlled with that particular classification number,” or “non-controlled.” Like that product classifications can be completed easily and precisely with a parameter sheet.

CISTEC issues a similar tool but with different format, that is, “*Komoku-betsu Taihi Hyo*” (classification check sheet). Its difference from the Parameter Sheet is the wording of the questions, which is the letter of law—exactly the same as what is stipulated in the Orders. Also, while “*Komoku-betsu Taihi Hyo*” is available for Categories 1 through 15, Parameter Sheet is available only for limited categories including Categories 7 to 10.

Exporters can use either Parameter Sheet or “*Komoku-betsu Taihi Hyo*” at their discretion. Note that it is not mandatory for exporters to use those tools, but they can use them as official documents to verify the correctness of the classification they conducted. Thus the documents are used for the following purposes.

- (1) to attach to a license application to be submitted to the authority when exporting

controlled items

- (2) to submit to Customs as a proof of “No License Required” when exporting non-controlled items
- (3) to submit to a customer to notify the classification
- (4) to keep within the company as evidence

Appendix 8

List of the Goods Subject to the Military Catch-All Control
(Items on the Category 16(1) list)

No.	Goods
1	Ni or Ti alloy
1-2	Sintered magnet
1-3	Equipment to manufacture item 1-2 above, or parts therefor
2	Hydraulic fluids containing phosphate/cresol ester, tris(dimethylphenyl)phosphate, or trinormalbutyl phosphate
3	Organic fiber, carbon fiber, or inorganic fiber
4	Bearings or components therefor
5	Machine tools listed below, or components therefor (1) Numerically controlled machine tools (2) Machine tools for generating optical quality surfaces (excluding numerically controlled machine tools) (3) Dimensional inspection or measuring system (including machine tools having such capabilities)
6	Secondary cells
7	Waveform digitizers and transient recorders
8	Electronic parts mounting robots
9	Electronic computers or components therefor
10	Telecommunication transmission equipment
11	Phased array antennas
12	Telecommunication jamming equipment or components therefor
13	Position detecting equipment using electromagnetic interference observation technology without sending out electromagnetic waves such as radio waves
14	Optical detectors, coolers therefore, or equipment using optical detectors
15	Optical sensing fibers
16	Laser oscillators or components therefor
17	Magnetometers, underwater electromagnetic field sensors, magnetic gradiometers, or components therefor
18	Gravity meters
19	Radars or components therefor
20	Accelerators or components therefor
21	Gyroscopes or components therefor
22	Inertial navigation systems, other equipment using inertial forces, or components therefor

No.	Goods
23	Gyro-astro compasses, devices that derive position or orientation by means of automatically tracking celestial bodies or satellites, electromagnetic wave receivers for global navigation satellite systems, components therefore, or airborne altimeters
24	Underwater cameras or components therefor
25	Air-independent power systems
26	Self-contained diving equipment (open-circuit types) or components therefor
27	Gas turbine engines or components therefor
28	Rocket propulsion systems or components therefor
29	Equipment for the manufacture of the items listed in (27) or (28) above or components therefor
30	Air vehicles or components therefore
31	Vibration testing equipment, wind tunnels, environmental testing equipment for the development or testing of rockets or air vehicles, or components therefor
32	Flash X-ray machines

Notice relating to the End-Use Certificate (EUC)

Ministry of Economy, Trade and Industry

The item (goods, software or technology) that you are going to obtain are regulated to export in accordance with the Foreign Exchange and Foreign Trade Act of Japan based on the agreements of the international export control regimes. The exporter/supplier has to obtain a license from the Ministry of Economy, Trade and Industry (METI) of Japan. For this reason, we ask for your understanding and cooperation about the following things;

1. We ask for your complete understanding and compliance of the contents of the End-Use Certificate specified by METI and this “Notice relating to the End-Use Certificate” (hereinafter referred to as “Notice”). On that basis, place a check mark “” and put a representative’s or authorized person’s signature in the space provided on the End-Use Certificate. Complete two End-Use Certificates, one is for you to keep and the other one is for the exporter.
2. When you transfer ownership and/or right of use of the items obtained this time to a third party, verify that the new end-user is not involved in activities of development and/or manufacture of weapons of mass destruction (including uranium enrichment, nuclear fuel reprocessing, heavy water production, manufacturing of rocket or unmanned aerial vehicles), or activities of development and/or manufacture of arms.
3. When you transfer the ownership and/or right of use of items obtained this time to a domestic third party, owing to unavoidable circumstances, you shall present End-Use Certificate specified by METI with your signature and this Notice to the new end-user and you shall request to obtain from new end-user to complete two End-Use Certificates with the signature in the same way you are going to do this time. One of the Certificates is for the new end-user to keep and the other one is for your preservation.
4. When you re-export the items you obtained this time, owing to unavoidable circumstances, you shall obtain a prior written consent from the exporter/supplier who is obliged by METI to do so. When doing so, you need to submit objective documents such as business register book of the new end-user, corporate brochures, etc. to explain and prove the existence of the new end-user and their business activities. Furthermore, you need to submit End-Use Certificate specified by METI with the signature of the new end-user (Complete two certificates, one is to the new end-user and the other one is to submit to METI through the original exporter/supplier). If the exporter/supplier does not exist, please ask METI.

5. When METI finds it necessary in the future, it may ask directly or through exporter/supplier about the status of use and storage of the items and who is holding the ownership and/or right of use of the item you obtained this time. At that time, we ask you to provide all the cooperation possible.

6. Any false statements or concealment of any fact in connection with this statement may result in giving any negative effect toward METI's licensing policy in the future.