Japan’s Security Export Control System

Ministry of Economy, Trade and Industry (METI), Japan
Contents

1. Security Export Control System in Japan

2. 3 principles for Defense Equipment & Technologies Transfer

3. International Cooperation

4. Conclusion
### 1-1. Overview of international Export Control Regimes and ATT

<table>
<thead>
<tr>
<th></th>
<th>Nuclear Suppliers Group (NSG)</th>
<th>Australia Group (AG)</th>
<th>Missile Technology Control Regime (MTCR)</th>
<th>Wassenaar Arrangement (WA)</th>
<th>Arms Trade Treaty (ATT)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Year of establishment</strong></td>
<td>1978</td>
<td>1985</td>
<td>1987</td>
<td>1996</td>
<td>2014</td>
</tr>
<tr>
<td><strong>Number of participating countries</strong></td>
<td>48</td>
<td>42 + EU</td>
<td>35</td>
<td>42</td>
<td>94</td>
</tr>
<tr>
<td><strong>Controlled items</strong></td>
<td>(1) Nuclear related items</td>
<td>(1) Chemical weapons related items</td>
<td>(1) Complete rocket systems and UAV, production facilities, etc.</td>
<td>(1) Munitions List (2) Dual-use list</td>
<td>(1) Battle tank (2) Armoured combat vehicle</td>
</tr>
<tr>
<td></td>
<td>- Fissionable material</td>
<td>- Precursor Chemical</td>
<td>- Special Materials and Related equipment</td>
<td>- Special Materials and Related equipment</td>
<td>(3) Large-calibre artillery system</td>
</tr>
<tr>
<td></td>
<td>- Nuclear reactor and related equipment</td>
<td>- Chemical manufacturing facilities and equipment</td>
<td>- Materials Processing</td>
<td>- Materials Processing</td>
<td>(4) Combat Aircraft</td>
</tr>
<tr>
<td></td>
<td>- Heavy water, nuclear grade graphite etc.</td>
<td>(2) Biological weapons related items</td>
<td>- Electronics</td>
<td>- Electronics</td>
<td>(5) Attack helicopter</td>
</tr>
<tr>
<td></td>
<td>(2) Nuclear related dual-use items</td>
<td>- Pathogens and toxins</td>
<td>- etc.</td>
<td>- etc.</td>
<td>(6) Warship</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Biological equipment</td>
<td></td>
<td></td>
<td>(7) Missiles &amp; missile launcher</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(8) Small Arms and Light Weapons</td>
</tr>
</tbody>
</table>
FEFTA (Foreign Exchange and Foreign Trade Act) regulates export of munitions and sensitive goods & technologies according to international treaties or regimes mentioned in the previous page.

METI is the singular authority to issue an export license for the controlled goods and technologies.
1-3. What items are controlled?

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

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

ATT’s Scope

Regimes Control List (NSG, AG, MTCR, WA)

Catch-all control
1-4. What transactions are controlled?

**- Japan -**

- Loading

**- Abroad -**

- Goods export
  - For factory
  - For sale
  - Hand carry good is also export!

- Transfer of technology
  - Ideas or Technical info.
  - Blueprint
  - Sending email
  - Consultation etc.
  - For factory
  - For personnel training

**Caution**

Tech transfer to non-residents even in Japan is regulated!
If an application is submitted, METI examines the application and decides whether to permit or deny the case.

Additional conditions may be imposed on the export license (e.g., monitoring exported items, prior consent in the case of the re-transfer of the item.).

METI may impose some conditions when issuing an export license.
- Monitoring
- Limitation of re-export
  etc.
1-6. What points are reviewed?

- The review on transfer of sensitive goods and technology is enforced from the following four major viewpoints.

1. **Certainty that goods / technology will reach stated customers.**
   - Does the contract secure the relationship with the final consumer?
   - Is the transport route appropriate?

2. **Certainty that the consumer uses goods / technology**
   - Is the business activity of the consumer consistent with the purpose of the stated usage of goods?
   - Is the quality & quantity of goods appropriate?

3. **Certainty that goods / technology is not used for purpose of concerns**
   - Is the consumer involved in military industry?
   - Does the consumer deal with military products?

4. **Certainty that the goods / technology is securely managed**
   - Is the place of use of the goods fixed?
   - Is the way of goods management appropriate?
1-7. Database for reviewing export license application

Importer / end user or investor
- Companies connected with capital
- Companies connected with personnel rotation
- Research Institutes connected with R&D project
  - Clients of importer and end user or investor
    - Database (including companies’ profile)
- Companies connected with capital
- Companies connected with personnel rotation
- Research institutes connected with R&D project

Check profile of end user / importer and also relevant entities if necessary
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Defense equipment in category 1 of FEFTA list, which are to be used by military forces and directly employed in combat, is additionally required the NSC’s review process, under “Three principles on Transfer of Defense Equipment and Technology”.

Example of Weapons listed Category 1 of FEFTA

- Military vehicle (Battle tank, Armoured combat vehicles etc.)
- Military vessel (Warship, submarine etc.)
- Military aircraft (Combat aircraft, Attack helicopters etc.)
- Firearms, Explosives (Large-calibre artillery systems, Missiles and missile launchers, Small arms and light weapons.)
2-2. Review scheme of defense equipment and technology

- **Export License Process**
  - **Exporter**
  - **Export Application**
  - **METI’s Review** (Security Export Licensing Division)
    - In accordance with NSC’s policy decision, METI will review whether the transfer meets the conditions which NSC decided.

- **Policy Decision Process**
  - **NSC** (Ministerial level or Director-General Level)
    - NSS, ATLA, MOFA and METI will examine whether the transfer meets the 3Ps.
    - In this process, GOJ will also confirm appropriate conditions including:
      - Appropriate control regarding extra-purpose use and third party transfer is ensured.
      - Based on these conditions, NSC will make policy decision about the transfer.

- **Disapproved**
- **End**
- **Approved**

※) If the exporter can not prepare the required documents, such as End User Certificate etc., METI will not issue E/L.
2-3. 3 Principles on Transfer of Defense Equipment & Techs.

- **Principle 1**: What kind of transfer is prohibited?
  The case of violation of obligations under treaties and other international agreements that Japan has concluded etc.

- **Principle 2**: What kind of transfer may be permitted?
  The case to actively contribute promotion of international peace, national security and international cooperation.

- **Principle 3**: What kind of management should be required?
  GOJ will in principle oblige the Government of the recipient country to gain prior consent regarding extra-purpose use and transfer to third parties.
Overseas transfer of defense equipment and technology will not be permitted when:

① The transfer violates obligations under treaties and other international agreements that Japan has concluded
   (ex. CWC, Convention on Cluster Munitions, the Ottawa Treaty, provisions of ATT.)

② The transfer violates obligations under UNSC resolutions
   (such as those that decides to prevent arms transfers to sanctioned countries including UNSCR1718(North Korea) and UNSCR1929(Iran))

③ The transfer is destined for a country party to a conflict
   (ex. a country against which the United Nations Security Council is taking measures to maintain or restore international peace and security in the event of an armed attack)
Cases where transfers may be permitted will be limited to the following cases. Those cases will be examined strictly at NSC while ensuring transparency.

(1) The transfer contributes to active promotion of peace contribution and international cooperation

(2) The transfer contributes to Japan’s security
   - Implementing international joint development and production projects with its ally and partners
   - Enhancing security and defense cooperation with JP’s ally and partners
   - Supporting JP’s SDF activities including maintenance of its equipment, ensuring the safety of Japanese nationals

(3) Overseas transfers whose impact from the viewpoint of Japan’s security is judged to be very small such as return of misdelivered items, export of samples to be returned later etc.
<Principle 3> Ensuring appropriate control regarding extra-purpose use and transfer to third parties

- GOJ will in principle oblige the Government of the recipient country to gain its prior consent regarding extra-purpose use and transfer to third parties in order to ensure appropriate control of the defense equipment and technology after the overseas transfer.

- However, appropriate control may be ensured with the confirmation of a control system at the destination when:
  1) the transfer is judged to be appropriate for active promotion of peace contribution and international cooperation, and when the transfer is in urgent need or highly important from humanitarian perspective
  2) the transfer involves participation in an international system for sharing parts,
  3) the transfer involves delivery of parts etc. to a licensor, etc.

- When confirming the control system at the destination, GOJ will conduct the confirmation through End-User Certification etc.
**Penalties if violates FEFTA regulation**

### Criminal Penalty

<table>
<thead>
<tr>
<th>Target</th>
<th>Illegal Conduct of Export</th>
<th>WMD</th>
<th>Conventional Arms</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>30M yen ($0.3M)</td>
<td>20M yen ($0.2M)</td>
<td>10M yen ($0.1M)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>or 5 times of the export price</td>
<td>or 5 times of the export price</td>
<td>or 5 times of the export price</td>
<td></td>
</tr>
<tr>
<td>Company</td>
<td>1B yen ($9M)</td>
<td>700M yen ($6M)</td>
<td>500M yen ($5M)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>or 5 times of the export price</td>
<td>or 5 times of the export price</td>
<td>or 5 times of the export price</td>
<td></td>
</tr>
</tbody>
</table>

*In order to deter or discourage illegal trade or transfer, the amendment of FEFTA was enforced and the maximum criminal penalties were significantly increased from Oct 1, 2017.*

### Publication

- METI may publicize the name of the violator on METI’s website.

### Administrative Penalty

- METI may prohibit the violator from exporting for three years at most.
METI Trade and Economic Cooperation Bureau

- **Trade Control Department**
  - **Security Trade Control Policy Division**
    - International Investment Control Office
    - Office of Research and Planning for Export Control
  - **Security Export Control Administration Division**
    - International Affairs Office
    - Security Export Inspection Office
  - **Security Export Licensing Division**
    - Examines export license applications
    - Issues/rejects export licenses

- **Hundreds staffs are working on security trade control**
  - (incl. relevant divisions)

- METI is the singular authority which can issue an export license.
- 3 divisions & 12 branches are responsible for transfer control of munitions, sensitive goods & techs.

12 Local Branches for Licensing and Inspection
Sapporo, Sendai, Saitama, Tokyo, Yokohama, Nagoya, Osaka, Kobe, Hiroshima, Takamatsu, Fukuoka and Okinawa
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3-1. Current status of strategic export control in Asia

(1) Countries which are members of all export control regimes:
   • Japan, Republic of Korea

(2) Countries and regions which have control lists of all export control regimes:
   • Singapore, Malaysia, Hong Kong, Chinese Taipei, India
     (Note) India reflected control lists of all export control regimes since May 2017.

(3) Countries which have control lists of WMDs related item:
   • China, Pakistan

(4) Countries which are in the process of introduction of strategic export control systems:
   • The Philippines, Thailand

(5) Countries which do not have any strategic export control systems:
   • Bangladesh, Brunei Darussalam, Cambodia, Indonesia, Lao PDF, Mongolia, Myanmar, Sri Lanka, Viet Nam

<Focus of outreach>

Enforcement, catch-all, outreach to industry (ICP), ITT, etc.

Licensing, commodity identification, outreach to industry (ICP), etc.

Awareness raising, introduction of legal system, capacity building, etc.
### 3-2. METI’s 6 Pillars of Outreach Activities in Asia

<table>
<thead>
<tr>
<th><strong>Asian Export Control Seminar</strong></th>
<th><strong>Industry Outreach Seminar</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual conference since 1993. It aims to develop the cooperation and network among the Asian countries/regions, participating states of export control regimes and related organization through exchange of updated information.</td>
<td>It aims to increase awareness of importance of export control and pursues to conduct effective compliance program in industries of Asian countries/regions.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Dispatch of Experts from METI</strong></th>
<th><strong>Collaboration with other countries/organizations</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>It aims to support the capacity building of export control officers licensing and enforcement in Asian countries/regions which have export control systems.</td>
<td>It aims to enhance capacity of licensing and enforcement officers of the Asian countries/regions through collaboration with foreign countries and international bodies such as co-organizing or participating in the seminars.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Bilateral dialogues</strong></th>
<th><strong>Invitation Training Program</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>It aims to share the information and experience of export control system and its effective implementation along with the exchange of views on security environment.</td>
<td>It aims to support the enactment and smooth implementation of the export control law in Asian countries/regions by sharing Japanese export control experience.</td>
</tr>
</tbody>
</table>
3-3. Past Industry Outreach Seminar and Dispatch of Experts

**Viet Nam**
- **Joint Seminar for Government (EXBS)**: Jul 2016 and Jul 2017

**India**
- **Joint Industry Outreach Seminar**: Feb 2008

**Thailand**
- **Joint Seminar for Thai Government (EXBS)**: Sep 2015
- **Dispatch of Experts**: Mar 2017
- **Invitation Training Program**: Jul. 2017

**Malaysia**

**Singapore**

**China**
- **Joint Industry Outreach Seminar**: Mar. 2004

**Chinese Taipei**

**Hong Kong**

**The Philippines**

**India**
- **Joint Industry Outreach Seminar**: Feb 2008

**Indonesia**
- **Invitation Training Program**: Dec. 2017

**Thailand**
- **Joint Seminar for Thai Government (EXBS)**: Sep 2015
- **Dispatch of Experts**: Mar 2017
- **Invitation Training Program**: Jul. 2017
3-4. The 25th Asian Export Control Seminar

Outline of the seminar

- From February 27 to March 1, 2018, the Center for Information on Security Trade Control (CISTEC), METI and MOFA organized the Asian Export Control Seminar in Tokyo.
- The seminar was the 25th seminar since its inauguration, bringing together approx. 220 participants from 33 countries/regions, international organizations and think tanks, etc.
- Participants proactively exchanged views concerning export controls such as efforts to address diversified procurement activities, prevention of terrorism, activities of international export control regimes, updates of export control systems in Asia, intangible technology transfer and industry outreach.
- The 26th Asian Export Control Seminar will be held on February 2019 in Tokyo.

Participating countries, regions and organizations

- **Asian countries and regions**
  Cambodia, China, Hong Kong, India, Indonesia, Japan, ROK, Lao PDR, Malaysia, Mongolia, Myanmar, Pakistan, The Philippines, Singapore, Sri Lanka, Chinese Taipei, Thailand, Viet Nam

- **Other countries and regions**
  Australia, Canada, Czech Republic, EU, France, Germany, Kazakhstan, Ireland, Italy, The Netherlands, Spain, Turkey, UAE, UK, US

- **International Organization, etc.**
  AG, MTCR, NSG, WA, UNSCR 1540 Committee, Panel of Experts for UNSCR 1874 (Panel to DPRK), SIPRI, SIEPS, State University of New York, Fraunhofer-Gesellschaft, James Martin Center for Nonproliferation Studies, etc.

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JP strictly controls export of munitions, and sensitive goods and technologies in accordance with international treaties and agreements of ATT and intl. export control regimes. - WA, NSG, MTCR, AG

JP allows export of defense equipment & techs only if it meets the criteria of “the 3 principles”.

In addition to cooperation in ATT and intl. export control regimes, JP would like to work together on outreach activities esp. in Asia.