

Recent Developments of Security Export Control System

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Ministry of Economy, Trade and Industry
JAPAN

Environment Surrounding Export Control

- SERIOUS PROLIFERATION RISK – A number of UN Security Council Resolutions, especially UNSCR 1540 (2004), show that strong countermeasures against proliferation activities typically by North Korea, Iran and terrorists should be adopted.
- DEVELOPMENT OF DUAL-USE TECHNOLOGY – Advanced civil technologies have been being exploited to the development of military capability.
- INCREASING RISK OF TECHNOLOGY TRANSFER – Advanced information technology and the increasing number of people moving across the border enable sensitive technologies to be transferred easily. Preventing illicit technology transfer from universities is also crucial.
- NEED FOR STRONG PENALTY – Some illegal export incidents by famous Japanese companies → Stronger penalty is required to prevent illegal exports.



Amendment was made on export control legislation

Recent Development of Discussion

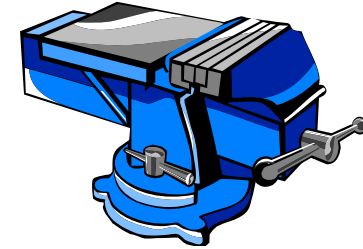
1. Reviewing in the council

- Apr. 2006, Start reviewing by establishing Working Group in the Council
- Jun. 2006 and Jun. 2007; Interim Report, and Mar. 2008; Final Report of the Working Group (Including proposal to strengthen penalty and revision of technology transfer, etc.)
- Further discussion in the Council (Reviewing in Jul., Nov. 2008, Feb. 2009) (Including discussion of introducing legal framework for securing exporter's compliance)

2. Revision of the Foreign Exchange and Foreign Trade Act

- Feb. 2009, Decision in Cabinet, the bill was submitted to the Diet session
- Apr. 2009, the bill passed the parliament
- The bill came into effect on Nov. 1, 2009

Strengthening Penalty and Introducing Legal Framework for Securing Exporters Compliance



Need to Prevent Violation against Export Control

Strengthening Penalty

- ✓ Under current control, a person who exported controlled items without license will be imprisoned for a term up to 5 years.
- ✓ To prevent illegal cases, Japan will strengthen penalty by introducing longer prison term.
 - WMD related items ····· 10 years
 - Other items ····· 7 years
- ✓ A person who acquired export license by illicit means will be imprisoned no longer than 3 years or fined.

Introducing Legal Framework for Securing Exporters' Compliance

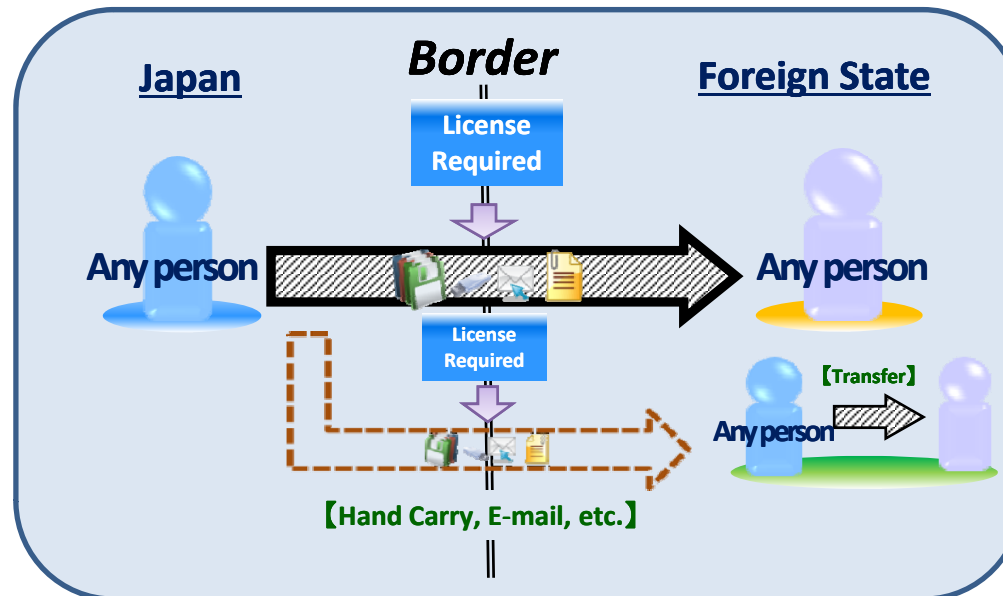
- ✓ We have been encouraging exporters to establish and implement an internal compliance program (ICP) to fully comply with export control regulations and to prevent illicit transfer.
- ✓ A legal framework was introduced in which the Government may request exporters certain actions regarding their internal export control.
- ✓ METI will publish a guideline to help understand the measures that exporters will have to take.
- ✓ When companies do not follow the guideline, METI will be able to formally request the company to do so based on the legal framework. The company may be punished if it does not take appropriate actions for export control.

Control on Technology Transfer

Regulation on Technology Transfer

With more and more people moving across border today, regulation for the transaction only between “Resident” – “Non-Resident” is not sufficient for technology control any more. In particular, spread of cheap and high performance memory devices and development of Information technology has made it very easy to carry technologies overseas.

Therefore, Japan will control not only technology transfer from Resident to Non-Resident but also wider technology transfer.



Brokering

In light of the UN Security Council Resolution, Japan will expand the coverage of the regulation of brokering transaction and cover brokering related to transaction for leasing.