

Overview of Japan's Export Control System

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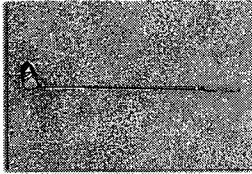
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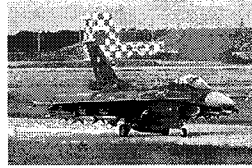
1. **Japan's Export Control System**
 - **Outline of the Control System by FEFTA**
 - **Industry's Efforts**
2. **Current and Future Efforts**
 - **Reform of the Law and Regulations**
 - **Intangible Technology Transfer (ITT)**
 - **International Outreach Cooperation**

- **Strategic trade management** is critical against the threat of the proliferation of WMD and their means of delivery, and destabilizing flows of advanced conventional weapons.

Carbon Fiber

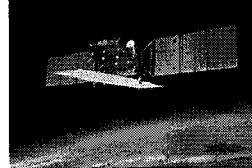


Golf shaft



Structural material
for fighter

Power Semiconductor



Power amplifier



Rader for naval
ship

- Nuclear Suppliers Group (NSG) since 1978
- Australia Group (AG) since 1985
- Missile Technology Control Regime (MTCR) since 1987
- Wassenaar Arrangement (WA) since 1996
- United Nations Security Council Resolutions 1540 in 2004

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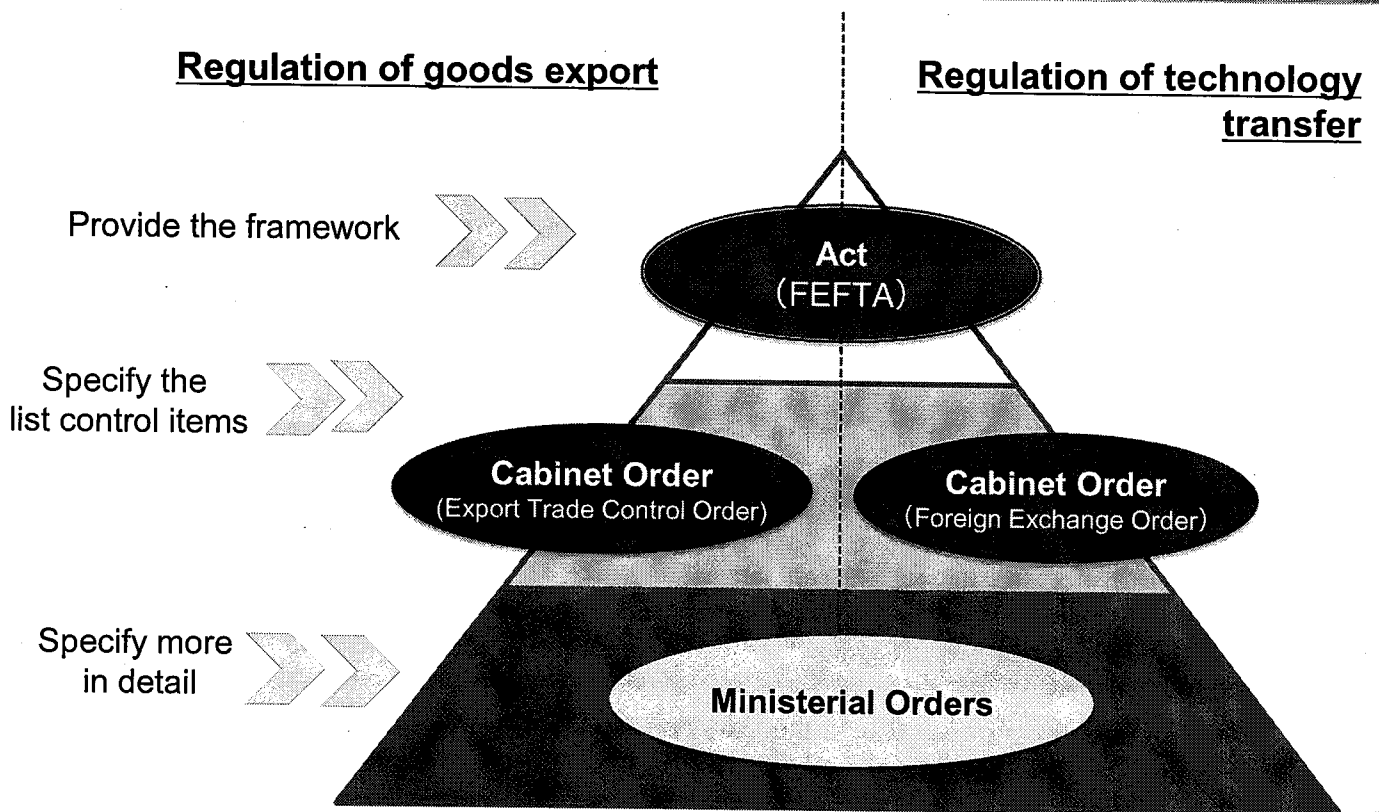
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Legal framework for Security Export Control: 1

Legal Structure

1. Law

- ✓ Foreign Exchange and Foreign Trade Act (FEFTA) - Basic framework

2. Cabinet Orders

- ✓ Export Control Order - List of goods
- ✓ Foreign Exchange Order - List of technologies

3. Ministerial Orders

- Details (specifications and interpretations of the listed items)

Control List Structure

Cabinet Order		Regime list
Item 1	Weapons	WA/ML
2	Dual-use items	NSG
3		AG
3-2		
4		MTCR
5		
5		WA/BL-SL
13		
14	Others	WA/ML (excluding item 1)
15	Dual-use items	WA/SL
16	Catch-all	

List control

Catch-all control

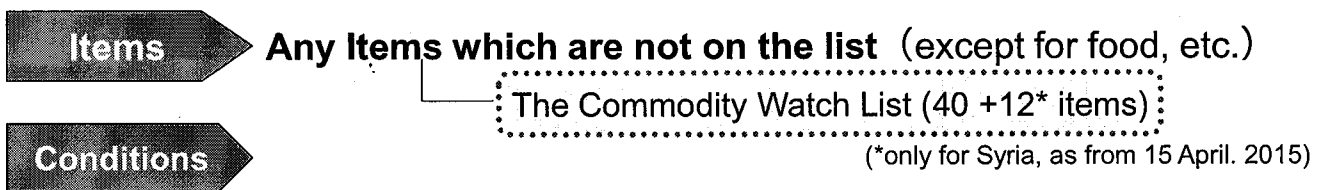
➤ FEFTA also sets forth **catch-all control** for items which could contribute to WMD related or military end-use activities.

FEFTA	Cabinet Order	List Control	Catch-all control of WMD	Catch-all control of Conventional Weapons
Article 48	Export Control Order	Category 1-15 <div style="border: 1px solid black; padding: 2px;">List of Goods</div>	Category 16 <div style="border: 1px solid black; padding: 2px;">List of Goods</div>	
Article 25	Foreign Exchange Order	Category 1-15 <div style="border: 1px solid black; padding: 2px;">List of Technologies</div>	Category 16 <div style="border: 1px solid black; padding: 2px;">List of Technologies</div>	
Country Chart 1. White countries: 27 countries with strict export control systems 2. UN arms embargo countries 3. Other countries		Regulated Items • weapons • listed dual use items related to WMD and conventional weapons	Regulated Items All items or technologies that could contribute to WMD related or military end-use activities	
		Regulated Destination All countries	Regulated Destination All countries except for White countries	

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Catch-all Control of WMD

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



(1) The “Know” Condition

- In case exporters have come to know that the items will be used for the development, manufacture, use, storage etc. of WMD
- In case exporters have come to know that the end user is/was involved in WMD-related program, e.g. through “Foreign End User List”. However, it is not the case when it’s apparent that the item in question is to be used for a purpose other than the WMD-related activities,

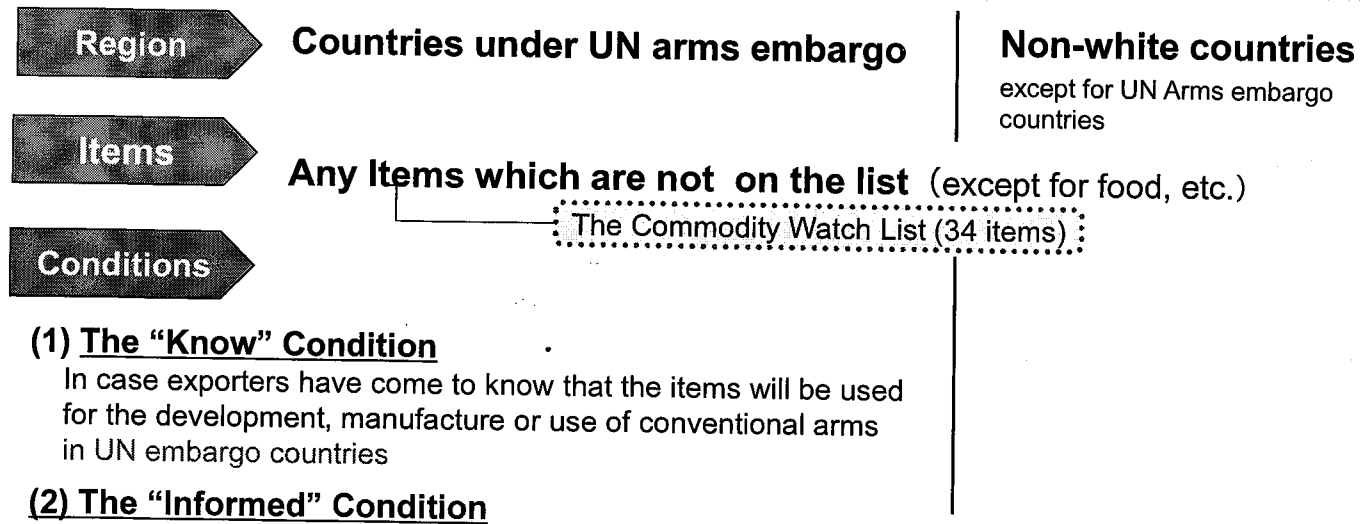
(2) The “Informed” Condition

- METI will inform an exporter to apply for an export license when METI considers that the items in question are/may be intended for WMD.

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Catch-all Control of Conventional Arms

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



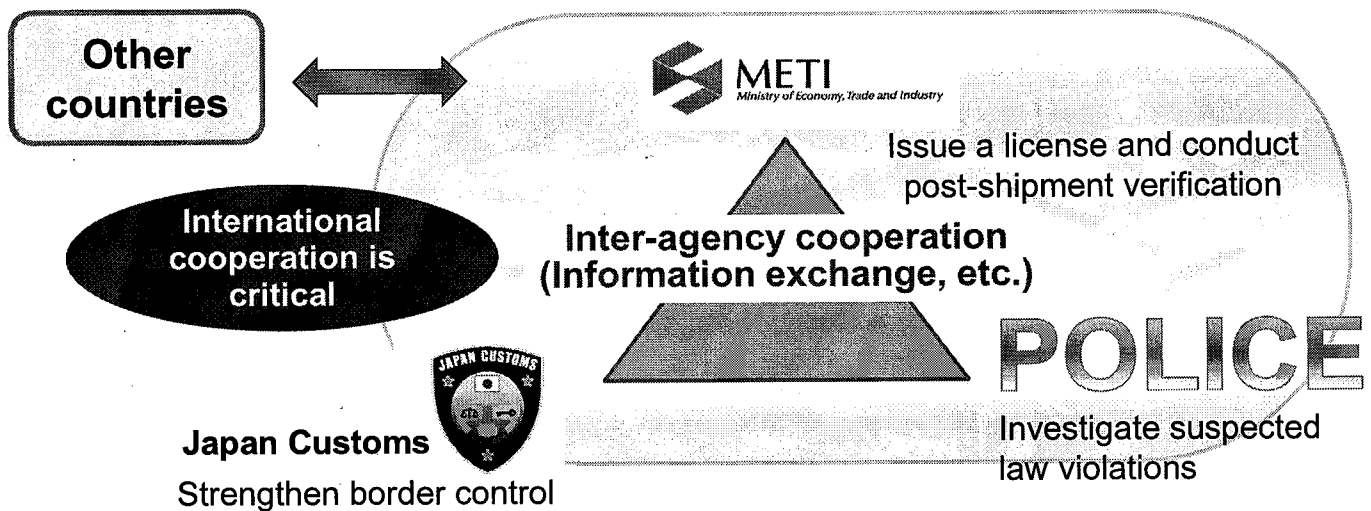
METI will inform an exporter to apply for an export license when METI considers that the items in question are/may be intended for a military end-use.

Organization for Security Export Control in METI

- METI is in charge of export control with about **100 staff** concerning the security field.
- An export license is **issued only by METI** under FEFTA.
- METI **expanded its function** from June 2016.



- Recently, there are many cases where countries of concern attempt to procure sensitive items by **circumventing trade**.
- METI is **strengthening inter-agency cooperation** with customs and police authorities for more effective enforcement.
- To strengthen countermeasures against circumvention, **international cooperation is critical**.



Penalties stipulated under the Act

Criminal Penalty

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

Publication

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

Administrative Penalty

- ✓ **Prohibition of export** for no more than three years may be **incurred**

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History of Japan's Export Control System

- **1949** The Foreign Exchange and Foreign Trade Control Act (FEFTA) was established.
- **1952** Japan acceded to **COCOM** (Coordinating Committee for Multilateral Export Controls)



Implementation of export control based on FEFTA

- **1987 Toshiba Machine Company Incident**
 (Export of machine tools from Japan to the Soviet Union)

Strong anti-Japan sentiment in the US



Mainichi Shimbun, Evening paper, 1987

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

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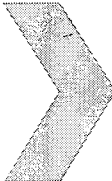
- After the incident, **strict export control was introduced and implemented** by the effort of both government and industries.

Government

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

Industries

- ✓ Introduced and implemented strict export control ICP
- ✓ Implemented independent measures (e.g. Relocation detection devices)



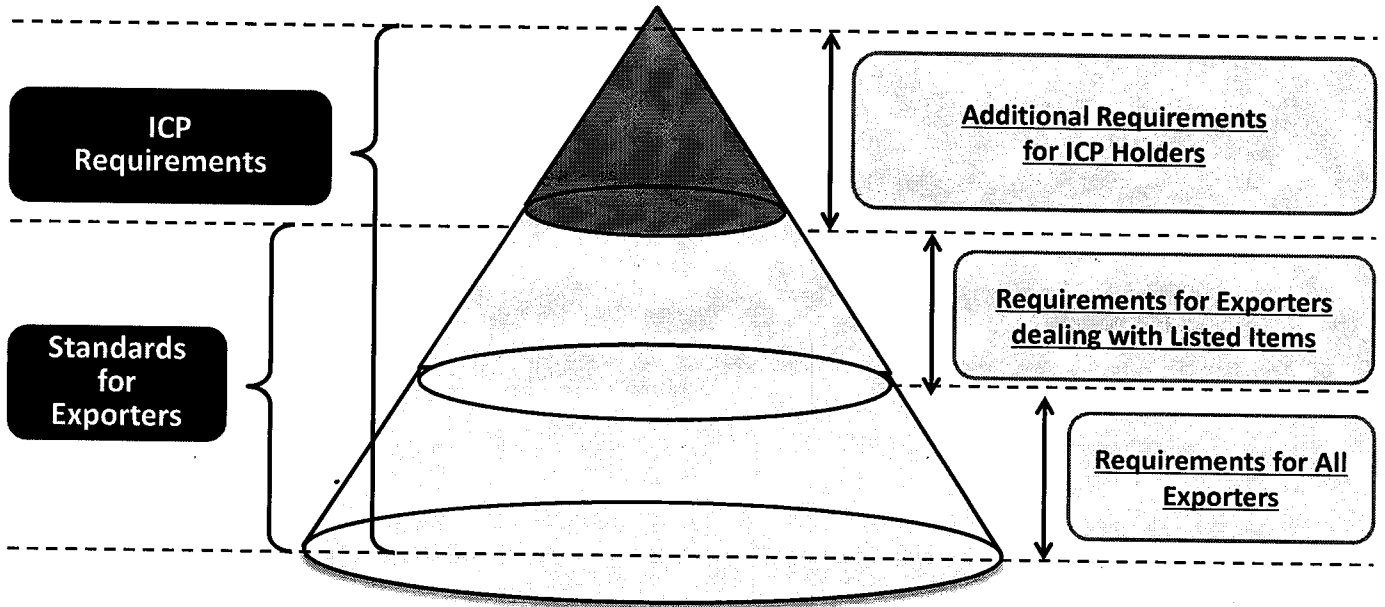
**Restoration
of
credibility**

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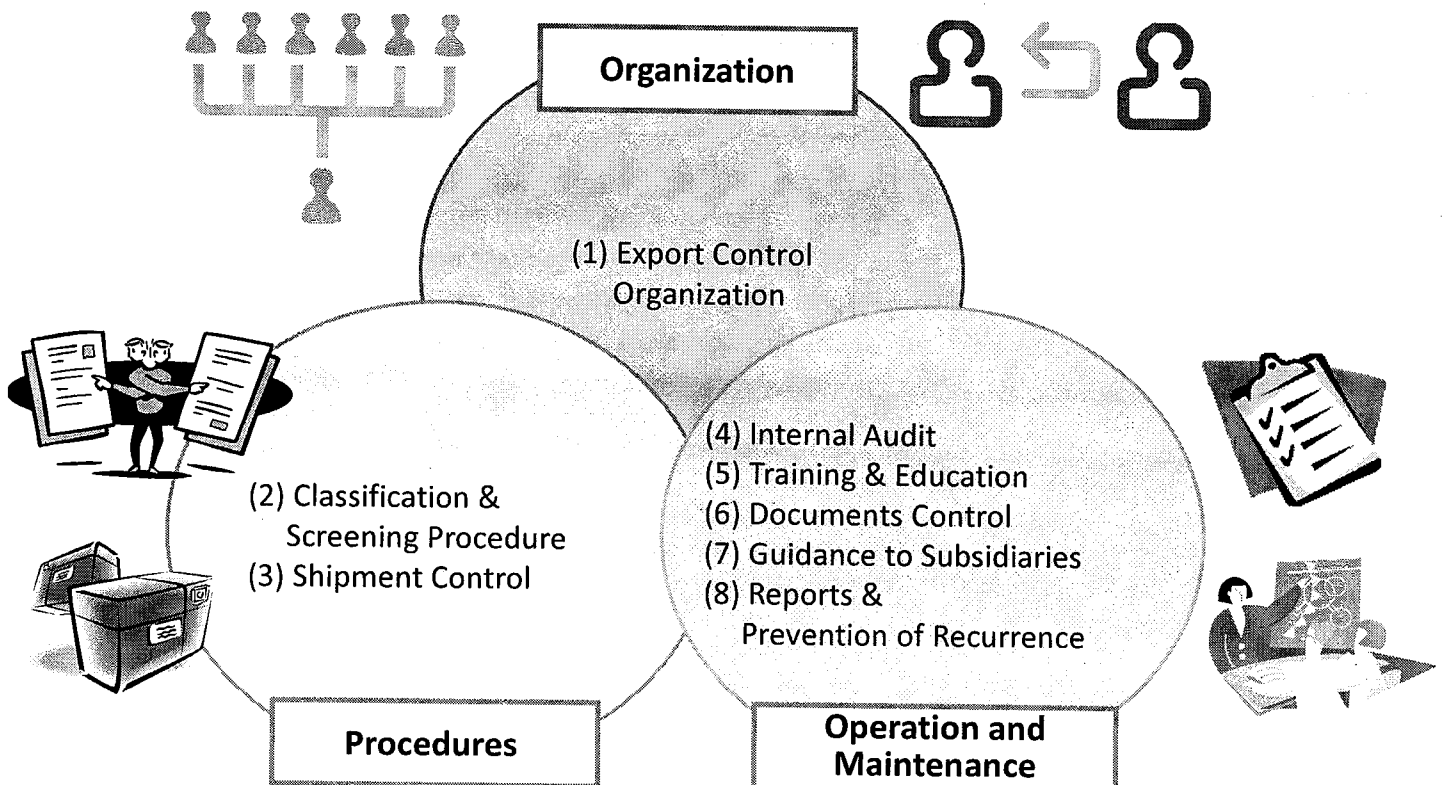
Internal Compliance Programs (ICPs)

- An **ICP** is an **exporter's internal policy** to comply with the export control law and regulations.
- Having an ICP is **not mandatory**, but METI has been encouraging exporters in Japan to establish an ICP, and exporters which have developed ICPs are **registered by METI since 1987**.
- METI has also been encouraging overseas subsidiaries to develop ICPs since 2005.
- Currently the number of companies which have been registered is about **1,500**.

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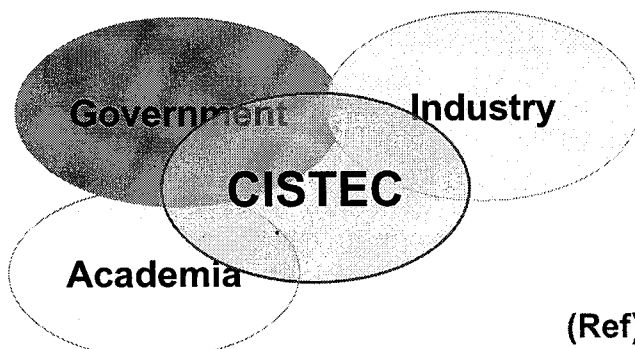
Main requirements for ICPs





Center for Information on Security Control (CISTEC)

- Center for Information on Security Trade Control (CISTEC) is the **only non-profit and non-governmental organization** specializing in security export control in Japan.
- Founded in 1989, operated by the fund from the industry.
- The number of associated members: **422** (including major exporting companies in Japan)
- Major mission: serving as a **channel** among the industry, government and academia.



(Ref) <http://www.cistec.or.jp/english/index.html>

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Changes of Security Environment

Europe

- Terrorist attacks in Paris in November, 2015.
Truck attack in Nice in July, 2016.
- Bombings in Brussels in March, 2016.
- Terrorists seeking atomic materials (dirty bomb).
Possible use of drones for CBW.

North Korea

- 4th and 5th nuclear tests in January and September, 2016
- Series of ballistic missiles launches including satellite launches and SLBMs. (more than 20 times in 2016)

Africa

- Shopping mall attack in Nairobi in September 2013.
- Continuous terrorist attacks in Nigeria.

South East Asia

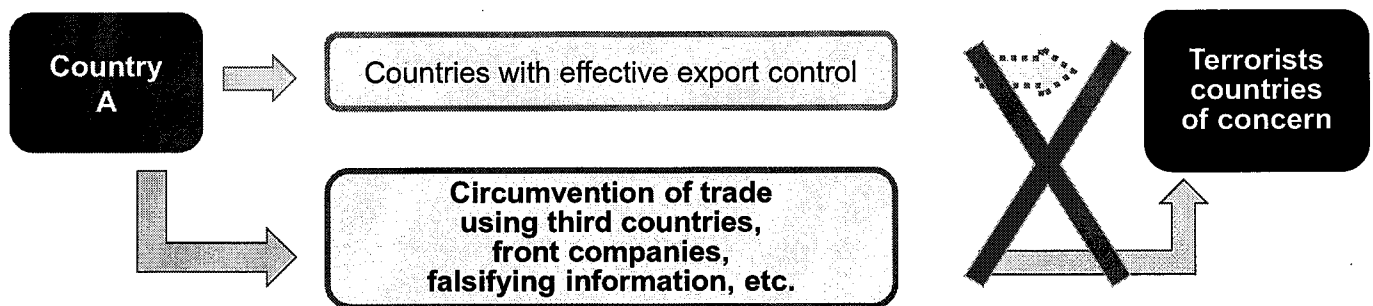
- Bombing in Bangkok in August 2015.
- Bombing in Jakarta in Jan. and July, 2016.
- Attack in Dhaka in July 2016.

Middle East

- Conflicts in Syria and Iraq. Actual use of chemical weapon (mustard gas, chlorine gas).
- Ballistic missiles launch by Iran in March, 2016.
- Airport attack in Istanbul in July, 2016.

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- **Foreign Direct Investment (FDI) and Intangible Transfer of Technology (ITT)**
 - FDI - direct acquisition of R&D capability
 - ITT - academic and research activities FD
- **International Cooperation**
 - Rapid economic growth of Asian regions and the development of international businesses
 - Diversified procurement activities by circumventing trade, using third countries, front companies or falsifying information, etc.



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Modification of the FEFTA on Criminal Charges I

- The amount of fines applied to illegal conducts of exports or imports will be raised (The maximum fines will be increased).
- Criminal charges (imprisonment + fine) will be applied against violations of the license requirements (before: no criminal fines).

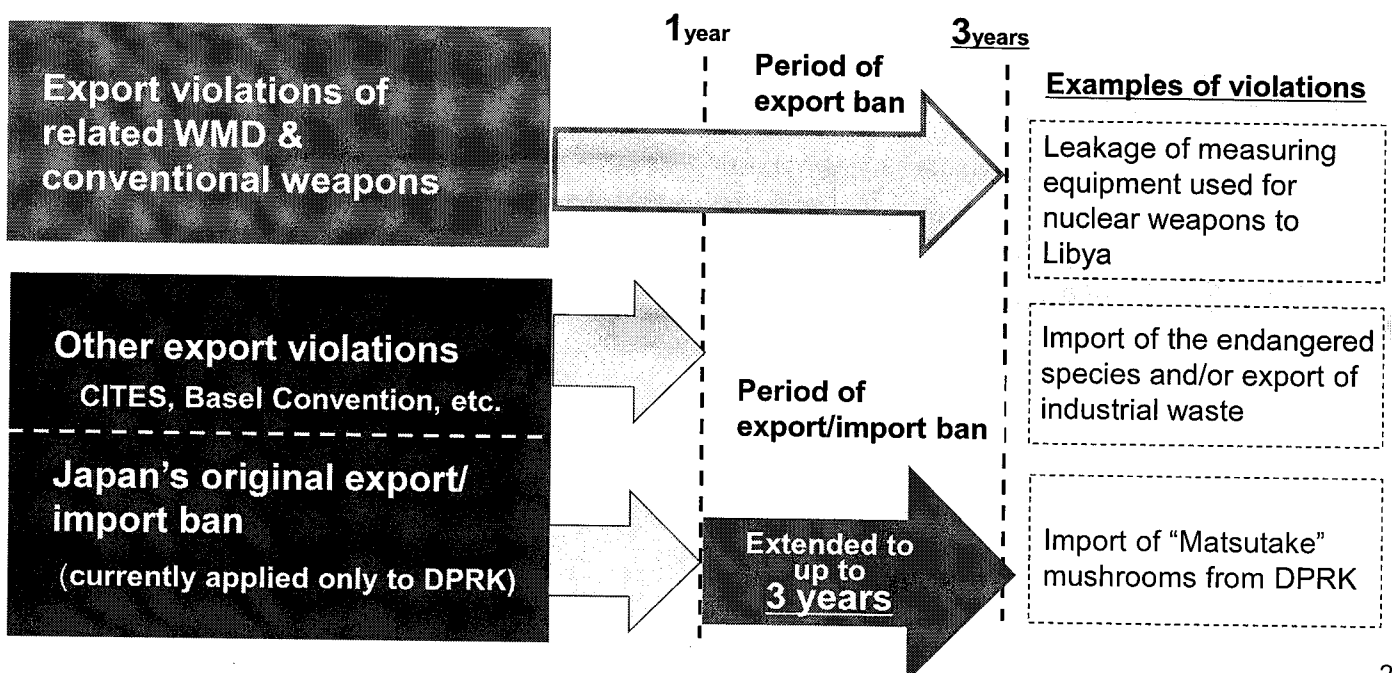
		Illegal conduct of import/export		
		WMD	Conventional Arms	Others
Amendment	Individual	30 million yen or 5 times of the export price	20 million yen or 5 times of the export price	10 million yen or 5 times of the export price
	Company	1 billion yen or 5 times of the export price	700 million yen or 5 times of the export price	500 million yen or 5 times of the export price

		WMD	Conventional Arms	Others
Present System	Individual and Company	10 million yen or 5 times of the export price	7 million yen or 5 times of the export price	5 million yen or 5 times of the export price

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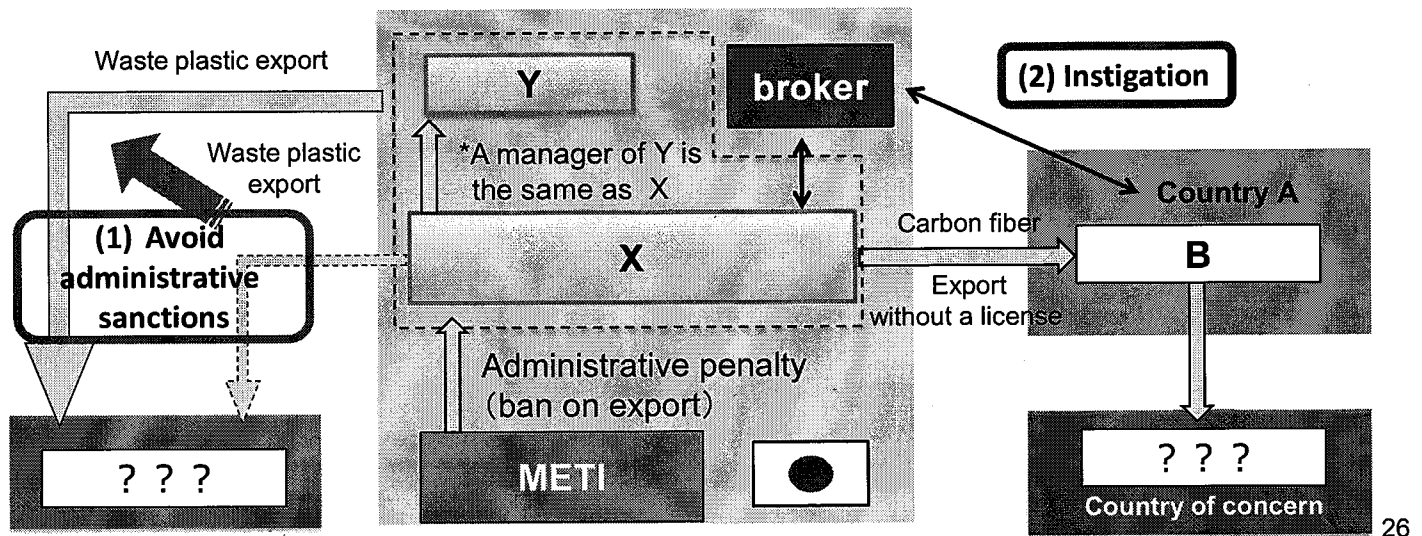
Modification of the FEFTA on Administrative Penalties

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



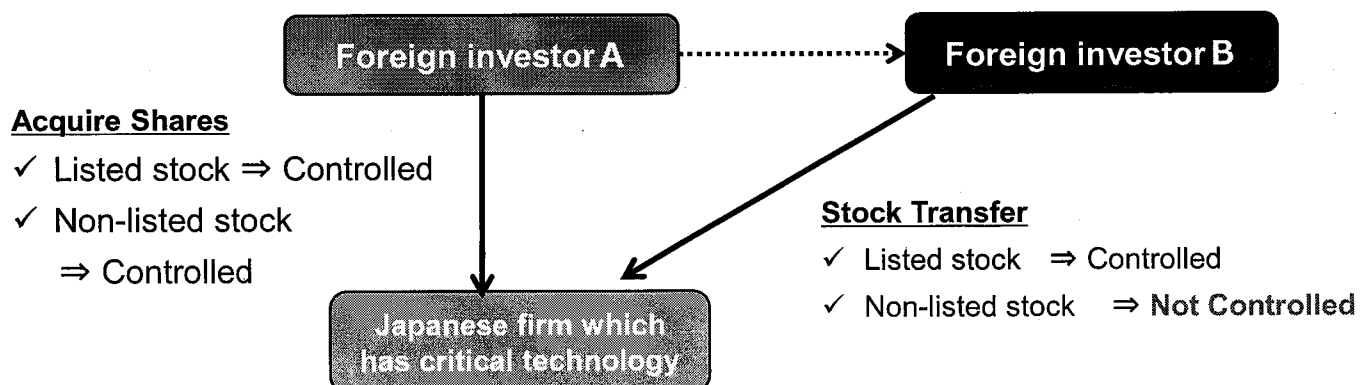
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- Introduction of a new regulation to prohibit persons who received administrative penalty from taking a new position in another company.
- Adding brokers related to suspicious transactions to the subject of on-site inspections.

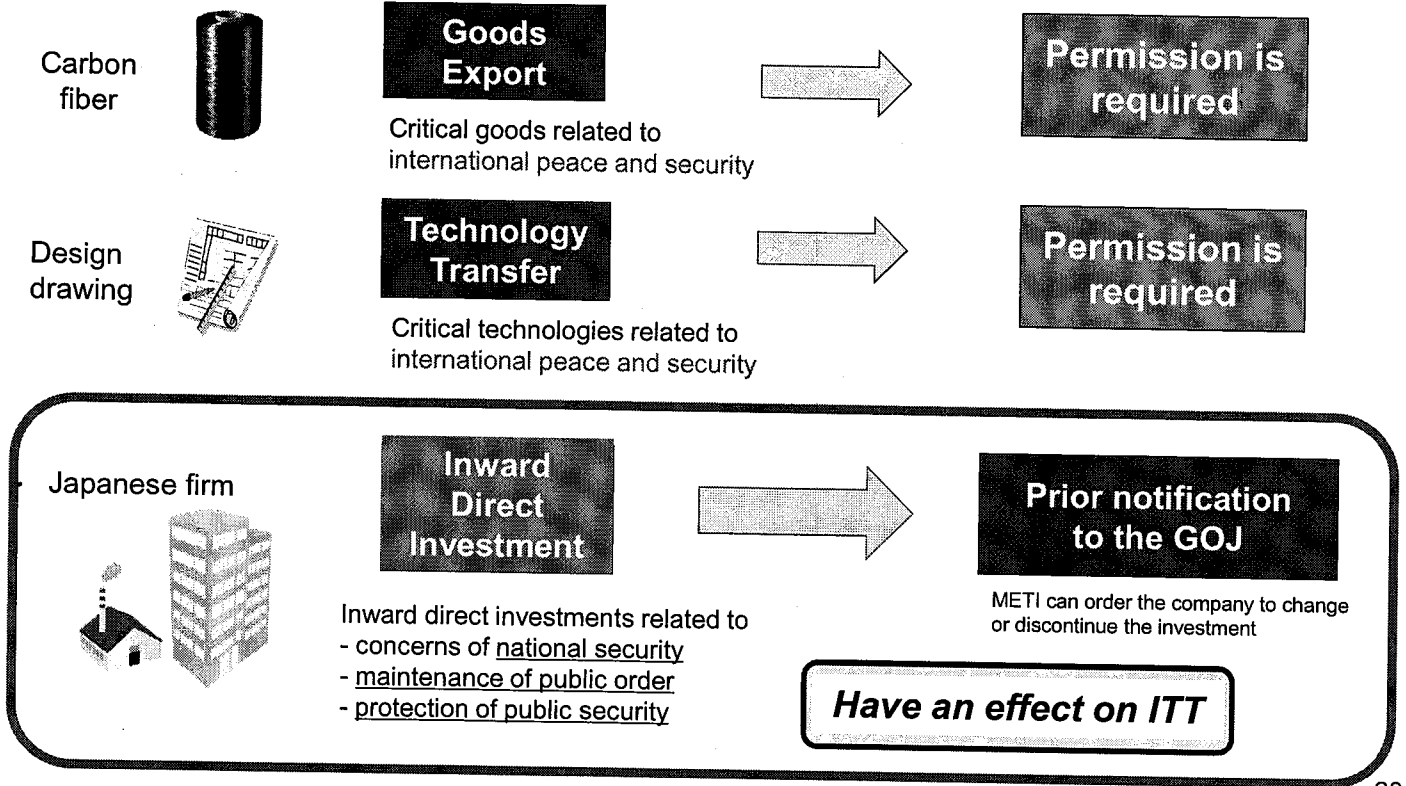


- Foreign investors who would purchase non-listed stocks from other foreign investors, are obliged to submit prior notification to the GOJ if such transaction is deemed to pose threat to the national security.
- Ministries can order foreign investors to sell stocks, stop the dealing, etc., where the investment is deemed as harming national security.

Overview of the present regulation



Export Control and Inward Direct Investment Foreign Exchange and Foreign Trade Act (FEFTA)



(Future Challenge) Restructure of the Control list

- The numbering of the control list of Japan is different from other countries, and to mitigate the burden of business operators, METI is considering of making it consistent with the EU control list.

Japan's control list			EU's control list	
Category	Item	Export Control Regime	Category	Item
1	Munitions	WA (ML)	M L	Munitions
2	Nuclear related items	NSG	Cat. 0	Nuclear related item
3, 3-2	Items related to Chemical Weapons and Biological weapons	AG		
4	Missile related items	MTCR	Cat.1	Special Materials and Related Equipment
5	Special Materials and Related Equipment	WA (Cat.1)	Cat.2	Materials Processing
6	Materials Processing	WA (Cat.2)	Cat.3	Electronics
7	Electronics	WA (Cat.3)	Cat.4	Computers
8	Computers	WA (Cat.4)	Cat.5	Telecommunication and "Information Security"
9	Telecommunication and "Information Security"	WA (Cat.5)	Cat.6	Sensors and "Lasers"
10	Sensors and "Lasers"	WA (Cat.6)	Cat.7	Navigation and Avionics
11	Navigation and Avionics	WA (Cat.7)	Cat.8	Marine
12	Marine	WA (Cat.8)	Cat.9	Aerospace and Propulsion
13	Aerospace and Propulsion	WA (Cat.9)		
14	Other items	WA (ML)		
15	Sensitive items	WA (VSL)		
16	All items except food and wood, etc.	Catch-all		

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

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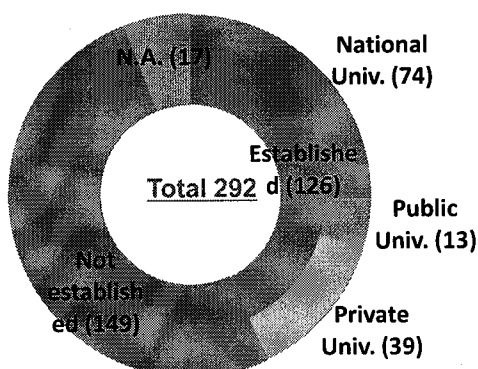
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Importance of outreach to academia

- **Hold export control seminars** for academic institutions and industry.
- **Revise** the export control related documents (guidance and FAQs).
- **Dispatch export control advisors** to academic institutions to support establishing internal export control system and raise awareness of researchers. (FY 2017-)

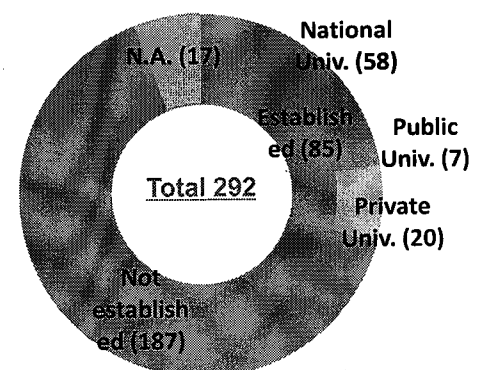
1. Establishment of an internal export control section



	Established
National Univ.	86%
Public and private Univ.	25%

	Established
National Univ.	67%
Public and private Univ.	13%

2. Establishment of ICP for export control



Ref: Survey to universities with medical and/or engineering department by the Ministry of Education, Culture, Sports, Science and Technology (MEXT), etc.

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The Asian Export Control Seminar

The 24th Asian Export Control Seminar was held - February 21-23, 2017

- **Organized by METI, MOFA, Center for Information on Security Trade Control (CISTEC)**
- **32 countries and regions, 190 participants in total**



<http://www.meti.go.jp/press/2016/03/20170302004/20170302004.html>

http://supportoffice.jp/outreach/2016/asian_ec/

- ✓ **Asian countries and regions**
 Bangladesh, Cambodia, China, Hong Kong, India, Indonesia, The Republic of Korea, The Lao PDR, Malaysia, Mongolia, Myanmar, Pakistan, the Philippines, Singapore, Sri Lanka, Chinese Taipei, Thailand and Viet Nam

- ✓ **Other countries and regions**
 Australia, Canada, EU, France, Germany, Kazakhstan, Mexico, the Netherlands, Switzerland, Turkey, UAE, UK and USA

- ✓ **International Organization, etc.**
 AG, MTCR, NSG, WA, WCO, Panel of Experts of UNSCR 1874, SIPRI, State University of New York, University of London, University of Georgia, etc.

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Industry Outreach Seminar

- **Increase awareness** of the importance of export control
- Pursue to conduct **effective compliance programs** in industries

