

Japan's Security Export Control System

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

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- 1. Security Export Control System in Japan**
2. 3 principles for Defense Equipment & Technologies Transfer
3. International Cooperation
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1-1. Overview of international Export Control Regimes and ATT

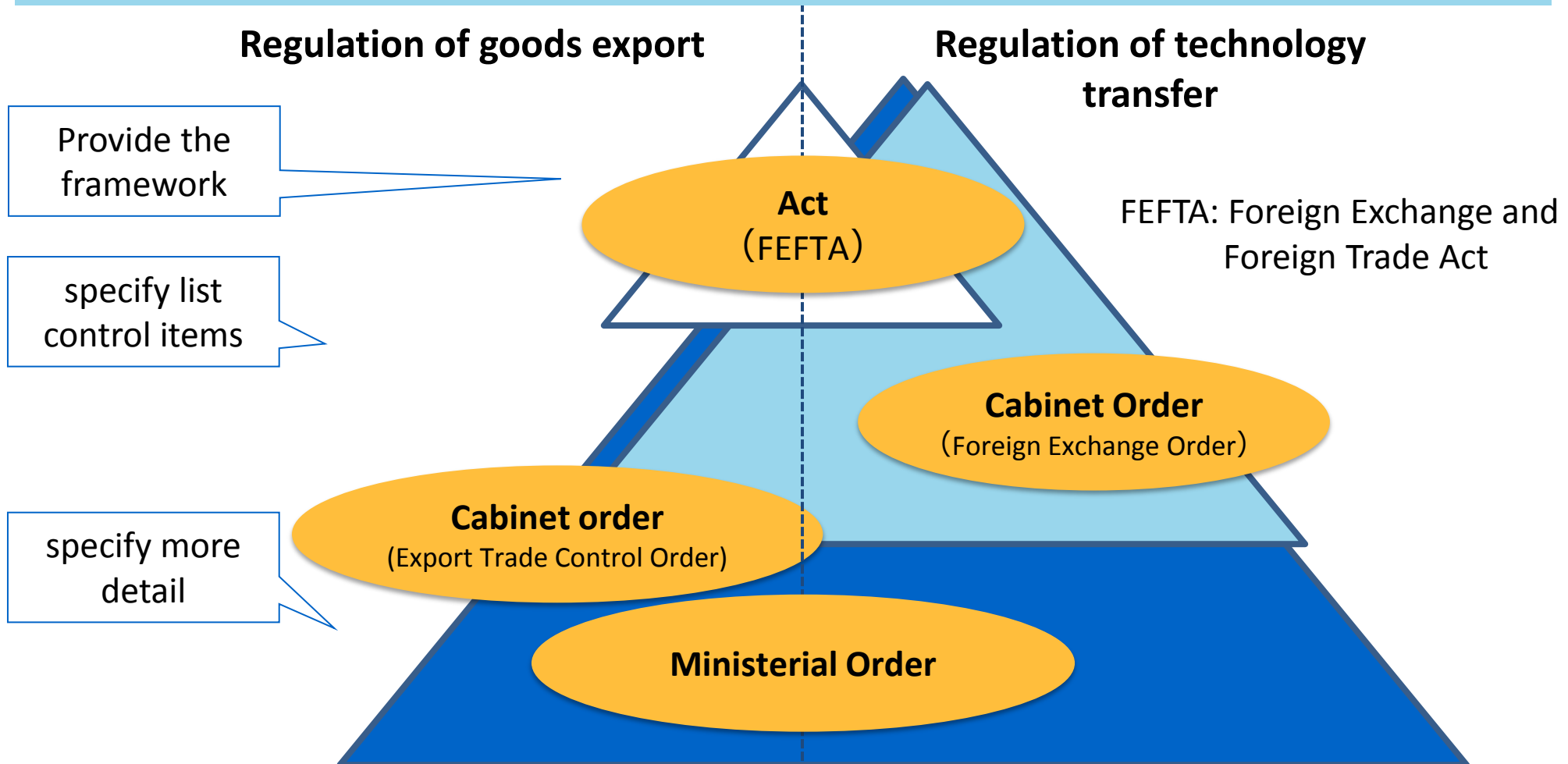
	Nuclear Suppliers Group (NSG)	Australia Group (AG)	Missile Technology Control Regime (MTCR)	Wassenaar Arrangement (WA)	Arms Trade Treaty (ATT)
Year of establishment	1978	1985	1987	1996	2014
Number of participating countries	48	42+EU	35	42	94
Controlled items	<p>(1) Nuclear related items</p> <ul style="list-style-type: none"> - Fissionable material - Nuclear reactor and related equipment - Heavy water, nuclear grade graphite etc. <p>(2) Nuclear related dual-use items</p>	<p>(1) Chemical weapons related items</p> <ul style="list-style-type: none"> - Precursor Chemical - Chemical manufacturing facilities and equipment <p>(2) Biological weapons related items</p> <ul style="list-style-type: none"> - Pathogens and toxins - Biological equipment 	<p>(1) Complete rocket systems and UAV, production facilities, etc.</p> <p>(2) Complete rocket systems and, production facilities, etc.</p>	<p>(1) Munitions List</p> <p>(2) Dual-use list</p> <ul style="list-style-type: none"> - Special Materials and Related equipment - Materials Processing - Electronics etc. 	<p>(1) Battle tank</p> <p>(2) Armoured combat vehicle</p> <p>(3) Large-calibre artillery system</p> <p>(4) Combat Aircraft</p> <p>(5) Attack helicopter</p> <p>(6) Warship</p> <p>(7) Missiles & missile launcher</p> <p>(8) Small Arms and Light Weapons</p>

1-2. Security Export Control System in Japan

- **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.

Regulation of goods export

Regulation of technology transfer



1-3. What items are controlled?

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

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


ATT's Scope

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

Catch-all control

1-4. What transactions are controlled?

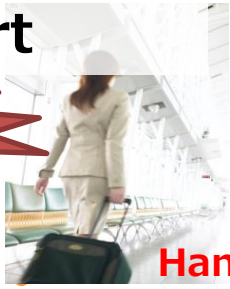
– Japan –



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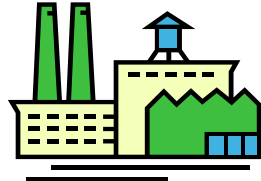


**Goods
export**




Hand carry good is also export!

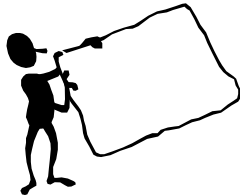
– Abroad –



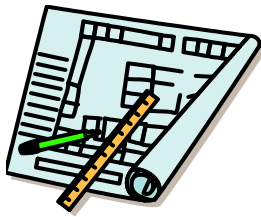
For factory



For sale



**Ideas or
Technical info.**



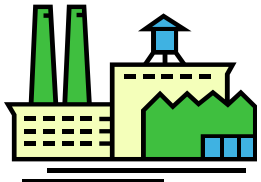
**Blueprint
etc.**




**Transfer of
technology**



Sending email • Consultation etc.



**For
factory**



**For personnel
training**

Caution

Tech transfer to non-residents even in Japan is regulated!

1-5. What procedure should be followed?

- 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.).

Application

Permission
or Denial

(Obligation even
after exported, if
necessary)

METI may impose some conditions
when issuing an export license.

- Monitoring
- Limitation of re-export

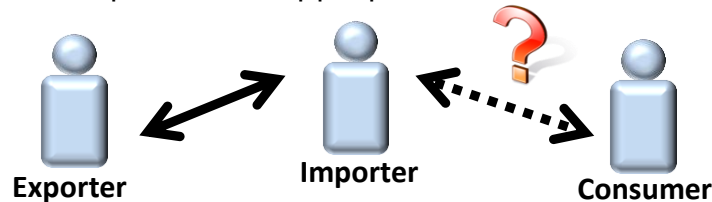
etc.

1-6. What points are reviewed?

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

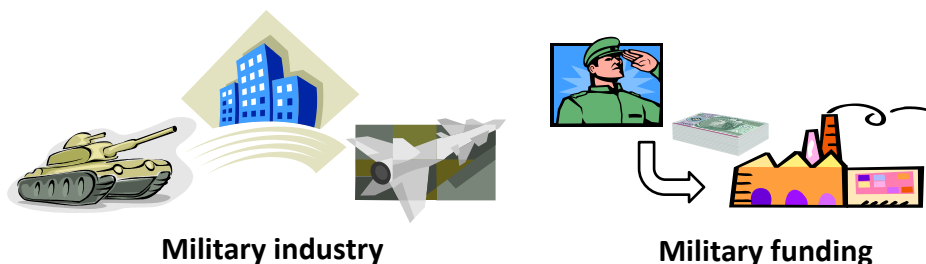
① Certainty that goods / technology will reach stated customers.

- Does the contract secure the relationship with the final consumer?
- Is the transport route appropriate?



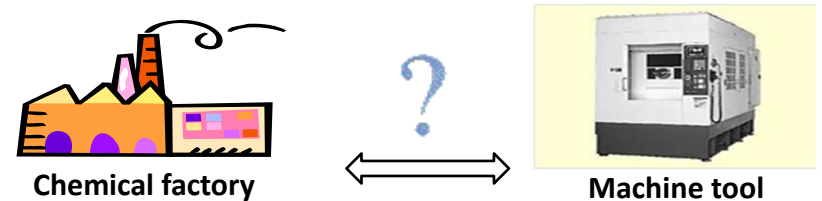
③ Certainty that goods / technology is not used for purpose of concerns

- Is the consumer involved in military industry?
- Does the consumer deal with military products?



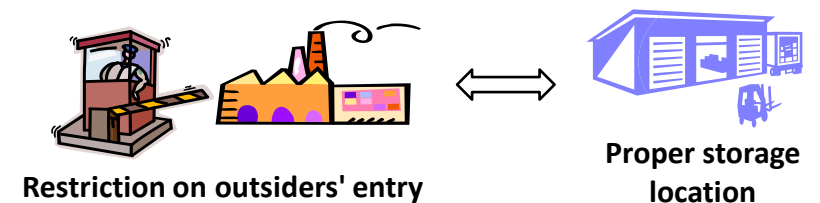
② Certainty that the consumer uses goods / technology

- Is the business activity of the consumer consistent with the purpose of the stated usage of goods?
- Is the quality & quantity of goods appropriate?

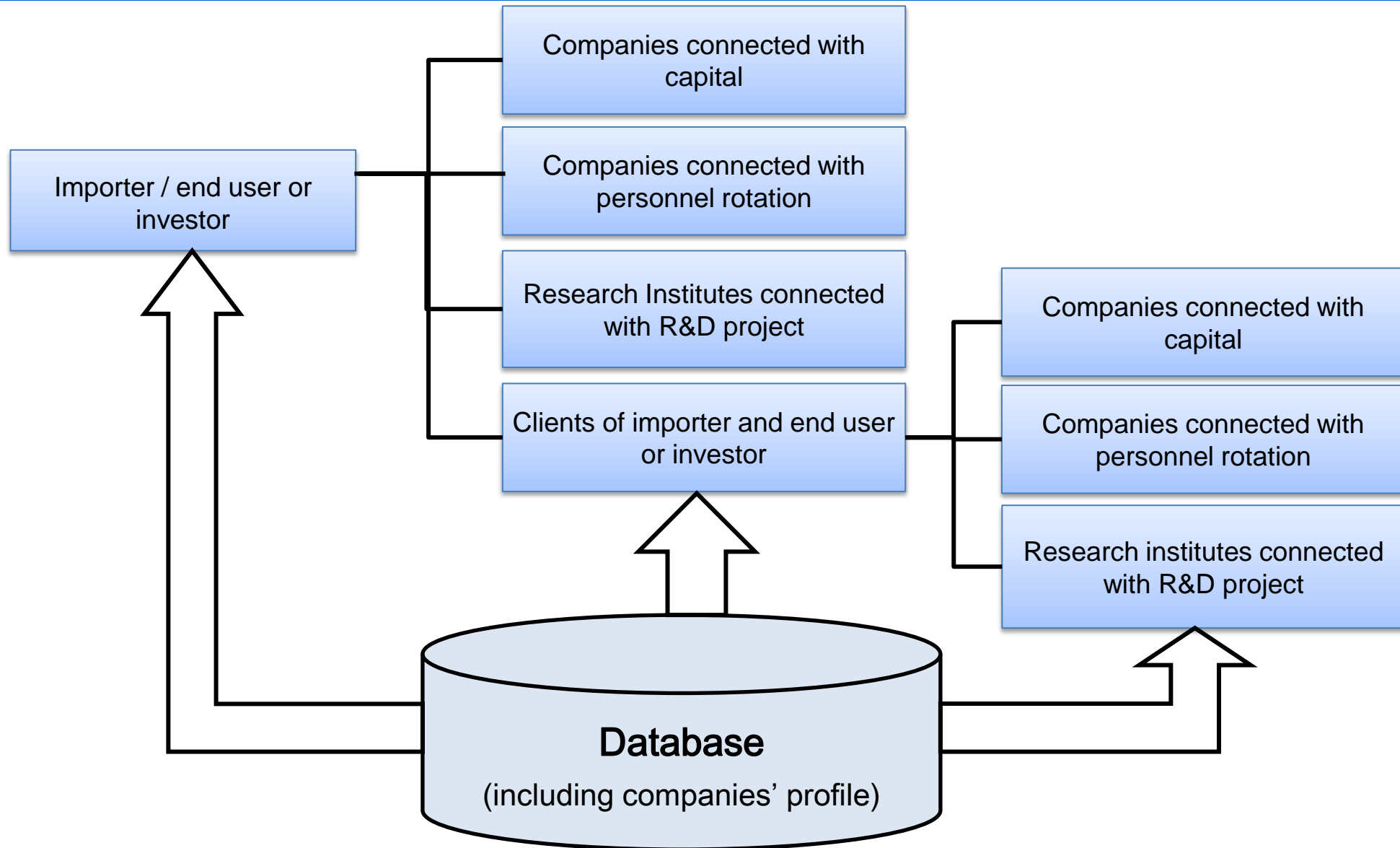


④ Certainty that the goods / technology is securely managed

- Is the place of use of the goods fixed?
- Is the way of goods management appropriate?



1-7. Database for reviewing export license application



Check profile of end user / importer and also relevant entities if necessary

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2-1. Additional review by NSC is required for Defense Equipment Transfer

*NSC: National Security Council

- **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.**)

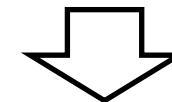
etc.

Defense equipment and technology



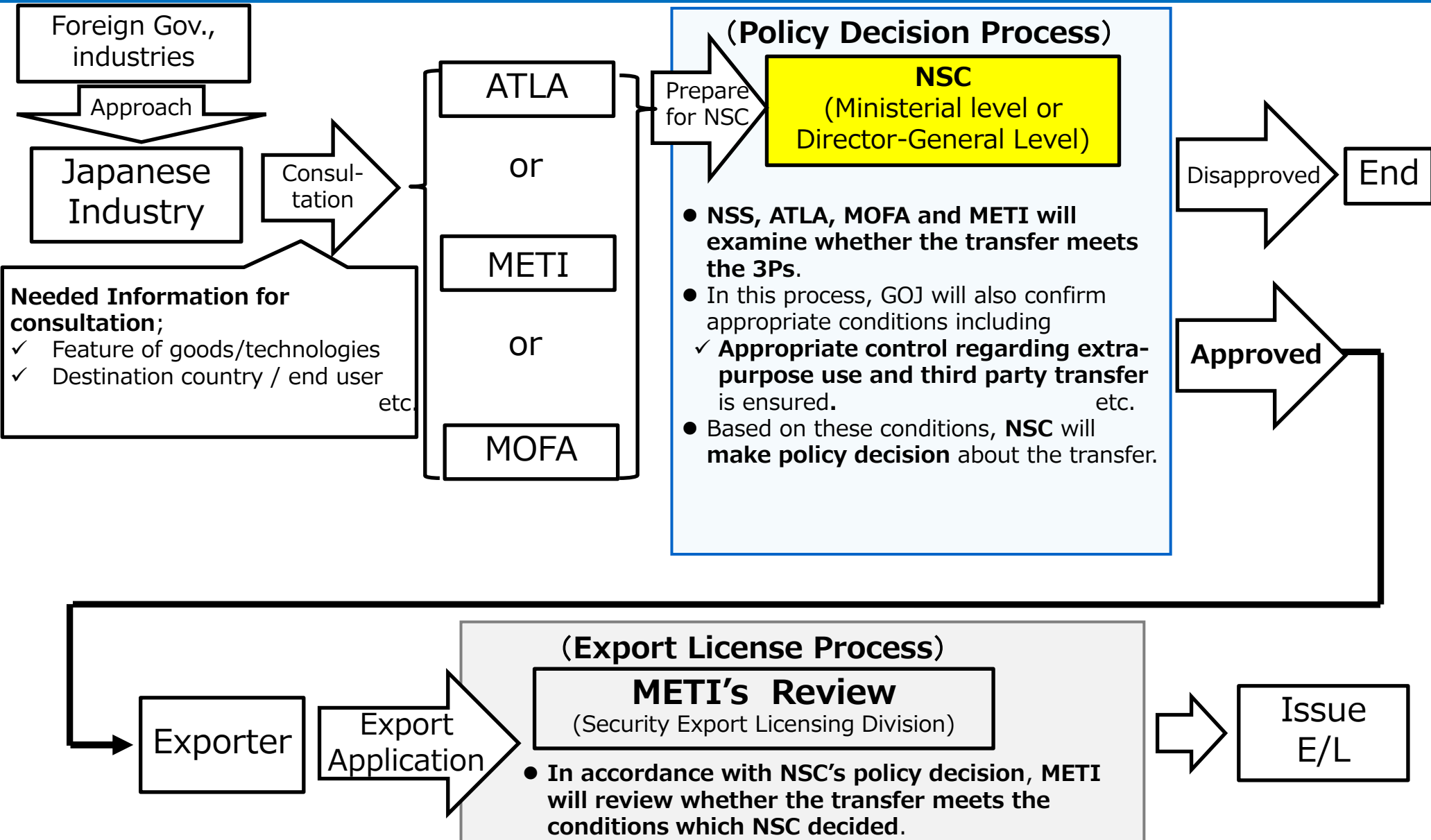
NSC process

Sports guns and hunting guns



NSC process is not required

2-2. Review scheme of defense equipment and technology



※) 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.

- The “3 Principles” provides procedures and review points of defense equipment & technology transfer. (decided in April 2014)

- **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.

<Principle 1> Clarification of cases where transfers are prohibited

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)

<Principle2> Limitation to cases where transfers may be permitted as well as strict examination and information disclosure

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..

(Ref.) Penalties if violates FEFTA regulation

Criminal Penalty

Target	illegal conduct of export		
	WMD	Conventional Arms	others
Individual	30M yen(=\$0.3M) or 5 times of the export price	20M yen(=\$0.2M) or 5 times of the export price	10M yen(=\$0.1M) or 5 times of the export price
Company	1B yen (=\$9M) or 5 times of the export price	700M yen(=\$6M) or 5 times of the export price	500M yen(=\$5M) or 5 times of the export price

*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

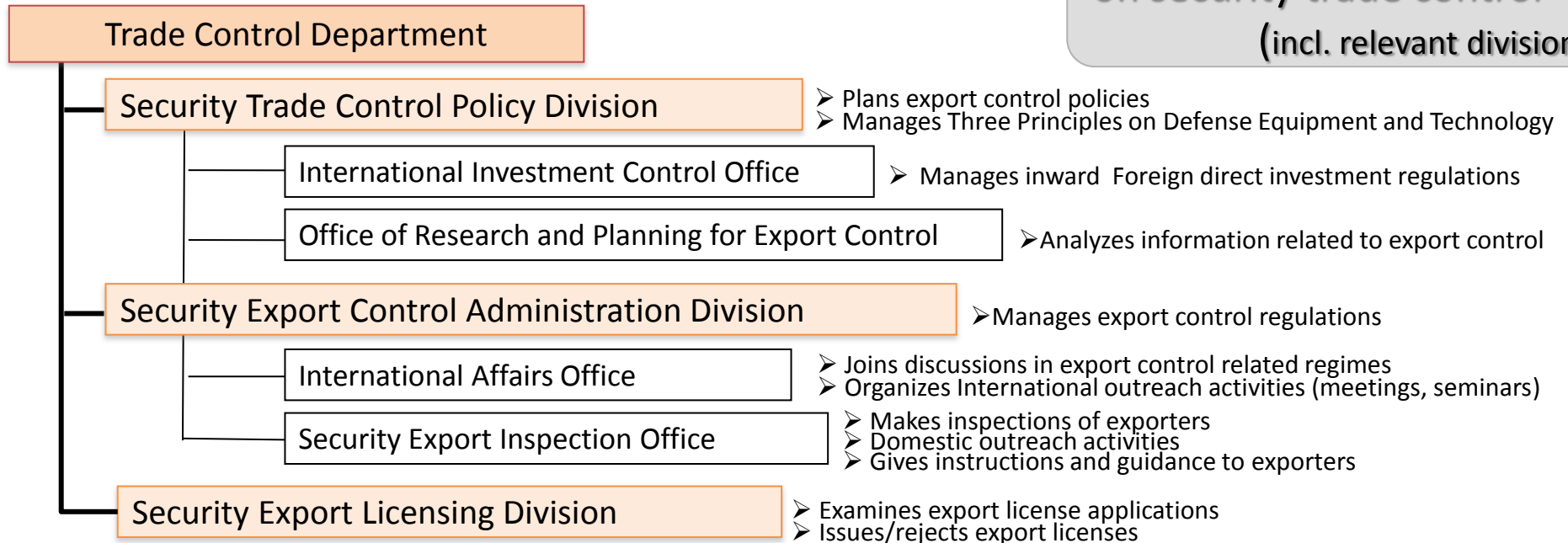
- METI may prohibit the violator from exporting for three years at most.

(Ref.) Organization Structure of FEFTA enforcement

- 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.

METI Trade and Economic Cooperation Bureau

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



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.

<Focus of outreach>

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

(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

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

(5) Countries which do not have any strategic export control systems:

- Bangladesh, Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Mongolia, Myanmar, Sri Lanka, Viet Nam

Awareness raising, introduction of legal system, capacity building, etc.

3-2. METI's 6 Pillars of Outreach Activities in Asia

Asian Export Control Seminar

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

Industry Outreach Seminar

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

Dispatch of Experts from METI

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

Collaboration with other countries/organizations

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

Bilateral dialogues

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

Invitation Training Program

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

3-3. Past Industry Outreach Seminar and Dispatch of Experts

Viet Nam

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

India

Joint Industry Outreach Seminar: Feb 2008

Thailand

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

Malaysia

Joint Industry Outreach Seminar : Mar 2008, Nov 2010, Nov 2011, Jan 2014, Mar 2015, Jan 2018

Singapore

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

China

Joint Industry Outreach Seminar: Mar. 2004

Chinese Taipei

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

Hong Kong

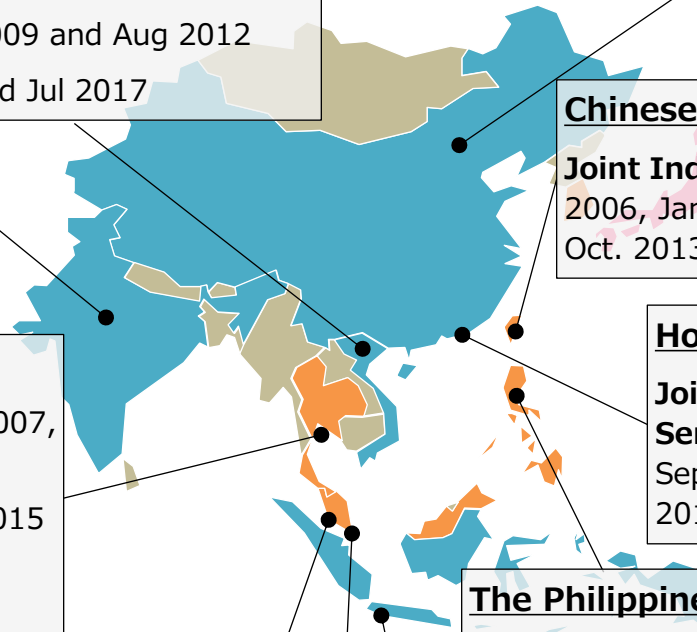
Joint Industry Outreach Seminar : Sep. 2006, Dec. 2008, Sep. 2011, Jan. 2015 and Nov. 2017

The Philippines

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

Indonesia

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



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.



(Ref) http://www.meti.go.jp/english/press/2018/0306_003.html
http://supportoffice.jp/outreach/2017/asian_ec/

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4. Conclusion

- **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.