

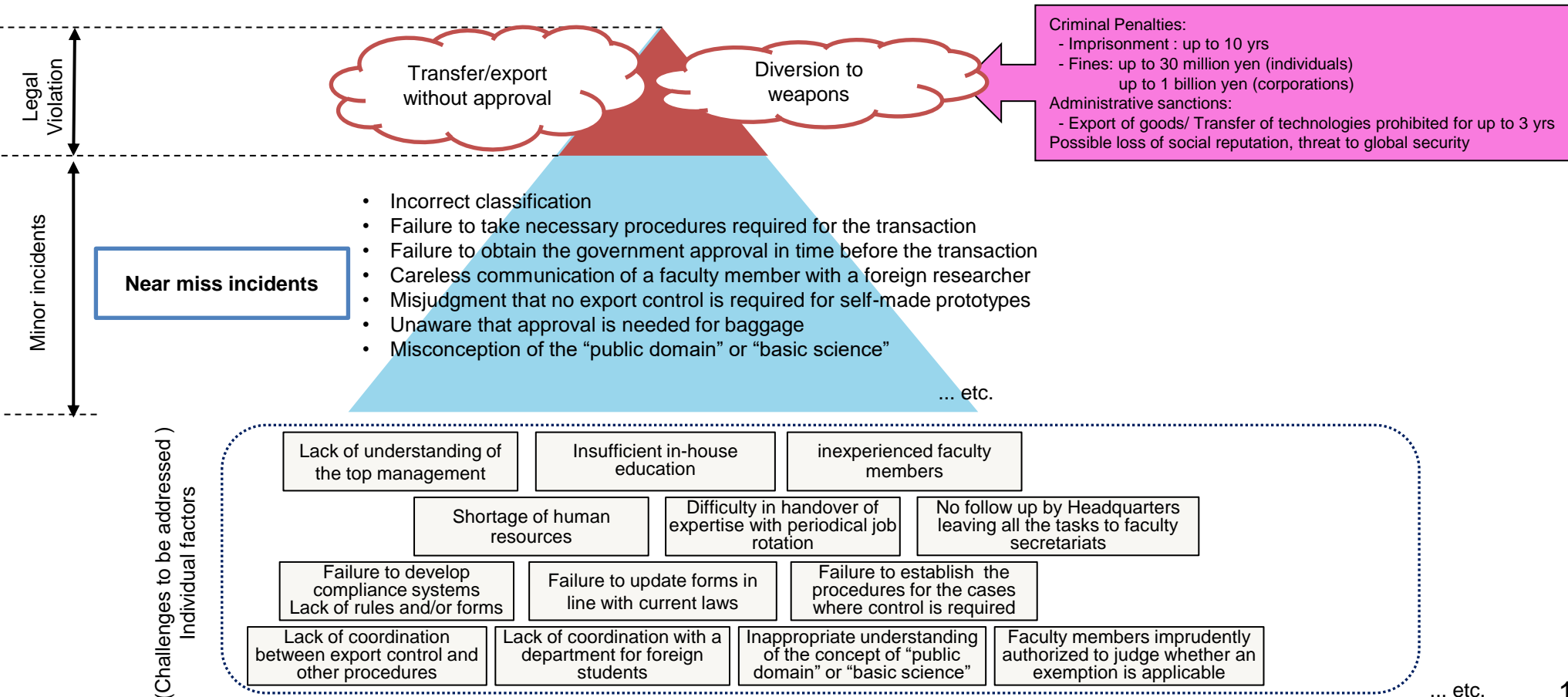
Reference Material for “Guidance for the Control of Sensitive Technologies for Security Export for Academic and Research Institutions”

Compilation of Near Miss Incidents Related to Security Export Control at Universities and Research Institutions

September 2023
Ministry of Economy, Trade and Industry
Security Export Control Administration Division

What is a near miss incident?

- Cases of unauthorized, and therefore illegal, “transfer of technologies” and/or “export of goods” are caused through multiple factors, such as inexperience of the stakeholder in the security export control system and/or inadequate control institution.
- This Compilation of Near Miss Incidents showcases minor incidents with last one step left to the illegal transaction without approval, though the possible legal violation was prevented through some remedies taken in response after their discovery.
- It is encouraged that universities and research institutions deliver stakeholder education and improve their management system for better security export control based on the lessons learned from these incidents.



Major Near Miss Incidents: Overviews and Lessons Learned

	Overview	Results
Transfer of technologies	A faculty member filed an application for an official trip to attend an international academic conference, stating that he would make a presentation about some technology under “public domain”.	It turned out that he also had a plan to hold preliminary discussions about a research project, and the department of export control pointed out that matters to be discussed would be subject to the List Control.
	A faculty member participated in a joint overseas research project in a country of concern together with professor A, working for another university in Japan. Hearing that prof. A had readily completed internal procedures for a visit to the country, he filed an application for his/her visit immediately before the departure.	The department in charge stated that they did not have the time they would need for a careful review of possible transfer of technologies to the country of concern. His/her visit was therefore canceled.
Export of goods	Internal procedures were carried out at a university to export drones, on the assumption of the inapplicability of export controls.	It turned out that the drones were equipped with some components that the List Control applied to.
	When an accepted foreign researcher went back home, some equipment he had taken to Japan was sent back without its export control procedures.	Export control procedures were carried out later, and it was confirmed that the regulation was not applicable.
Acceptance of foreign students	A department of foreign students found that one of the accepted foreign students had worked as an intern for an institution on the Foreign End User List.	The faculty member in charge confirmed that the student did not belong to the institution any longer and that the research area in concern of the institution was different from that of the faculty member.

Lessons learned

- In some cases, university employees are indeed aware that following its export control procedures is necessary, but have insufficient understanding of the checkpoints, or fail to carry out procedures with time to spare. Appropriate in-house educational opportunity is needed.
- Better security export control can be achieved by linking its procedures with such ones as foreign business trips, acceptance of foreign students and joint international research projects, instead of holding independently .

METI Initiatives to promote Security Export Control at Universities and Research Institutions (Overview)

- METI takes a multi-tiered approach to reinforce efforts by universities and research institutions of security export control with various support programs. It is recommended to take advantage of those programs accordingly to address challenges being faced.

Holistic approach

Promotion of the Guidance for the Control of Sensitive Technologies for Security Export for Academic and Research Institutions

- Comprehensive textbook for academia with instruction of necessary actions for compliance.
- Revised to issue the fourth version in February 2022 * to follow the clarification of the deemed export control and other matters.
* An English translation was also published.
- Spread among universities all around Japan and national research & development agencies through the MEXT and other ministries.
- Annual briefing are held jointly with the MEXT. In FY2022, three online meetings and two face-to-face conferences, in Osaka and Tokyo, were held.

Publication of e-learning textbooks, case studies, and other support contents

- On its Security Export Control website, METI carries case studies, reference materials for practitioners, and e-learning textbooks.
- Updated E-learning videos were released in 2023 (Japanese/English) with a collection of quizzes (Japanese).
- In August 2023, a collection of university's case studies on their response to the clarification of the deemed export control was published.

* Security Export Control website (for universities and research institutions: <https://www.meti.go.jp/policy/anpo/daigaku.html>)

Formation of regional networks

- METI has promoted establishment of local networks of university's export control managers. Since FY2016, 9 new networks have been set up, bringing the total to 13.
- A network of export control managers of national research & development agencies was also launched in November 2018.

Expert dispatch program

- A total of 283 dispatch and individual consultations to 107 universities and research institutions in FY2022.

Visits to individual organizations

- METI officials have made more than 220 visits to universities and other institutions to rise awareness of middle and top managements³ since FY2016.

Individualistic approach

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Transfer of technologies

Education for faculty members from foreign countries (1)

-Transfer of Technologies-

Category: Transfer of technologies

What happened?

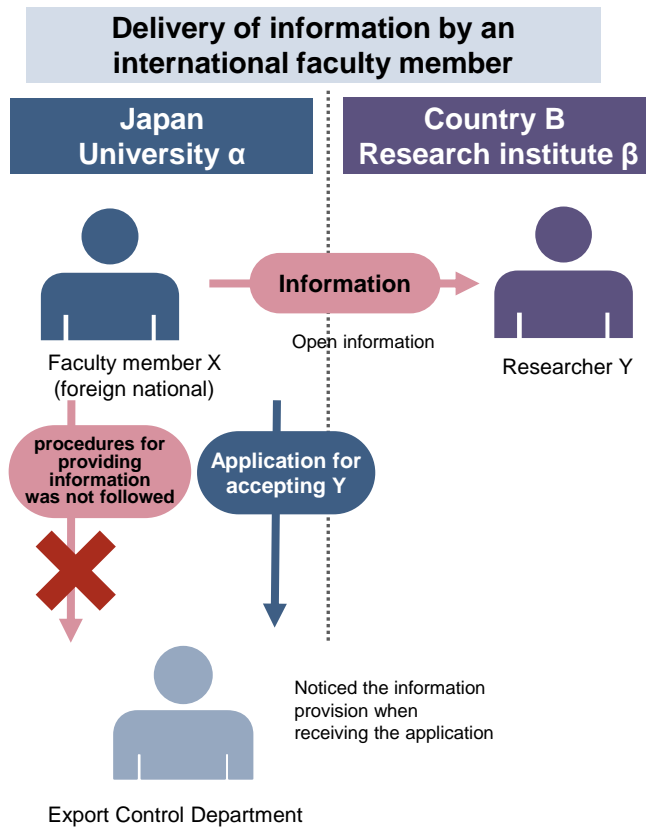
- X, a foreign national who came to Japan to work as a faculty member of university α sent by e-mail some information about an analysis tool to Y, a researcher of research institute β in country B, without following export control procedures.
- Later, X, planning a joint research project for the analysis tool with research institute β , filed an application to the university for accepting Y. Through a review of the application, the university noticed the transfer of information of the analysis tool to Y.

What action was taken as a remedy?

The export control department confirmed that the List Control was not applicable to the information sent by e-mail and that there was no concern in terms of the Catch-all Control either, as result of examination with X.

Why and how did it happen?

X, only with insufficient understanding of the export control system, failed to complete the export control procedures before providing information about the analysis tool.



Solutions and Advice

- ✓ Faculty members from foreign countries should be offered educational opportunities to fully understand the export control system.
- ✓ For training sessions held in English, METI has published English versions of the Guidance and e-learning textbooks as an educational kit.

Classification based on old laws and regulations

Category: **Transfer of technologies**

What happened?

- Researcher X, when participating in a project, consulted the export control department about classification of the technology subject to transfer.
- X concluded that the List Control was not applicable. However, the judgment was based on an old law, which had been downloaded in the past.

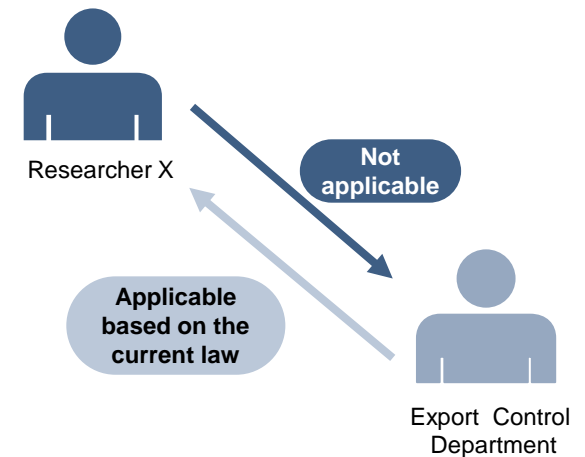
What action was taken as a remedy?

The department reviewed again based on the current laws and concluded that the List Control was applicable.

Why and how did it happen?

X referred to an old law for classification.

Update of classification



Solutions and Advice

- ✓ Make sure everyone is informed that the classification should be carried out with the latest “Goods/Technologies Matrix Table” every time classification is performed.
- ✓ Information of legal amendments and the Matrix Table are available on the METI website (<http://www.meti.go.jp/policy/anpo/index.html>).
- ✓ Instruction of the Matrix Table is found in the section “How to use the Matrix Table for classification.” in the E-Learning textbook on METI website.

Review of “runover technologies”

Category: Transfer of technologies

What happened?

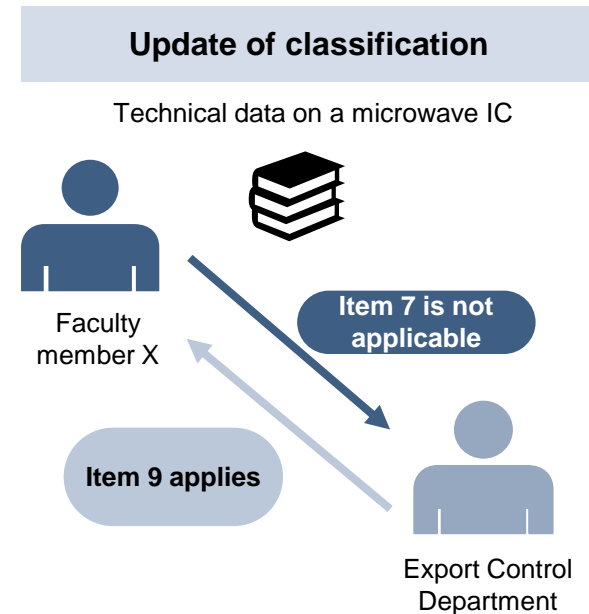
- Faculty member X, when asking a processing firm in country B to produce a prototype of a microwave integrated circuit, was going to send technical data to the firm.
- X examined whether the IC came under Item 7 (Electronics) goods of the List Control and concluded that it was not applicable, before filing a Pre-screening Sheet to the export control department.
- The department found that Item 7 was, in fact, not applicable but that Item 9 (Telecommunications) applied, as it regulates “runover technologies” pertaining to the design or production of microwave integrated circuits for telecommunications.

What action was taken as a remedy?

The university immediately registered with NACCS to file an application for prior approval to the METI of its delivery of the technical data of the microwave IC. The approval was given a few months behind schedule.

Why and how did it happen?

X examined the List Control goods before transferring the technologies being unaware of “runover technologies”



Solutions and Advice

- ✓ In principle, the List Control technologies cover those related to the List Control goods. However, some technologies (runover technologies) are regulated separately even when they have no direct relation to any List Control Goods. These technologies must be taken into consideration when determining the applicability of the List Control.
- ✓ When examining runover technologies, the latest “Goods/Technologies Matrix Table” should be used. The Matrix Table can be downloaded from the METI website.

Goods/Technologies Matrix Table: https://www.meti.go.jp/policy/anpo/matrix_intro.html

Access control of research information

Category: Transfer of technologies

What happened?

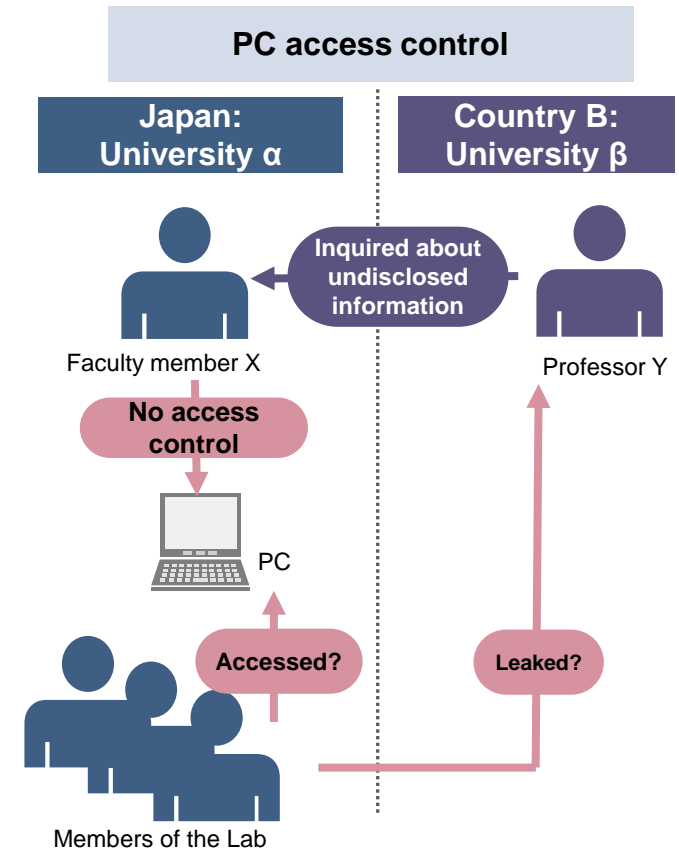
- X, a faculty member, understood the necessity of export control and conduct relevant education to students of his laboratory.
- One day, X received an inquiry from professor Y of university β in country B about undisclosed information of his research. Then he noticed the information had been leaked to the country B.

What action was taken as a remedy?

- X rejected the inquiry from professor Y.
- X found that the inquiry had been about technology that the List Control was not applicable to. However, X failed to identify who had leaked the research information.

Why and how did it happen?

- While X understood the necessity of export control, he failed to ensure information security by, for instance, protecting PCs in the lab with passwords.
- His information was left accessible to any member of the lab.



Solutions and Advice

- ✓ Information security must be ensured as a prerequisite for export control.
- ✓ Access control helps prevent regulated technologies, especially those that may be subject to the List Control, from being stolen, accessed without authorization, or leaked in any unexpected manner.

Application filed immediately before an overseas business trip(1)

- Transfer of technologies-

Category: Transfer of technologies

What happened?

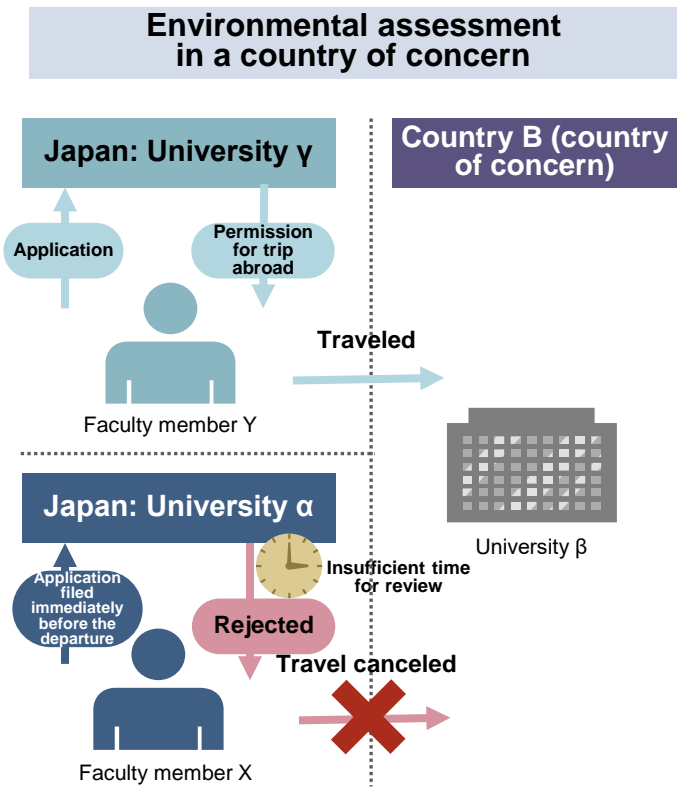
- X, a faculty member of university α , planned to work with Y, a faculty member of university γ , to conduct a survey for an environmental assessment in country B, a country of concern. Under the plan, university β of country B was also going to participate in the survey. X intended to exchange some information with the university.
- X, hearing from Y that he had no problem obtaining a permission for the trip abroad from university γ , believed that university α would also see nothing as problematic and filed an application for his trip immediately before the scheduled departure.

What action was taken as a remedy?

The export control department of university α told X to cancel the travel, as a careful review was needed of the possible transfer of technologies to university β , though sufficient time could not be secured for that. X gave up the planned trip.

Why and how did it happen?

Based on individual judgement that there was no concern in terms of export control, X began procedures for the trip immediately before the departure.



Solutions and Advice

- ✓ Technology can be transferred as part of a survey conducted jointly with a foreign university.
- ✓ Particularly a careful review is required when the counterpart is based in a country of concern.
- ✓ Applicants should begin export control procedures with time to spare. Setting a deadline for applications may help, for instance.

Misjudgment on scope of the public knowledge (1)

- Combination of different tasks in an overseas business trip -

Category: Transfer of technologies

What happened?

- When filing an application for an overseas business trip, professor X stated “presentation at an academic conference and hold preliminary discussions about a research project” as purposes of the trip. X as well stated to transfer only technology that is under “public domain.”
- Having asked X for detail of the “preliminary discussions”, the export control department found that he was going to have a technical discussion based on non-public information with research institute β in country B to examine possibility of a joint research.

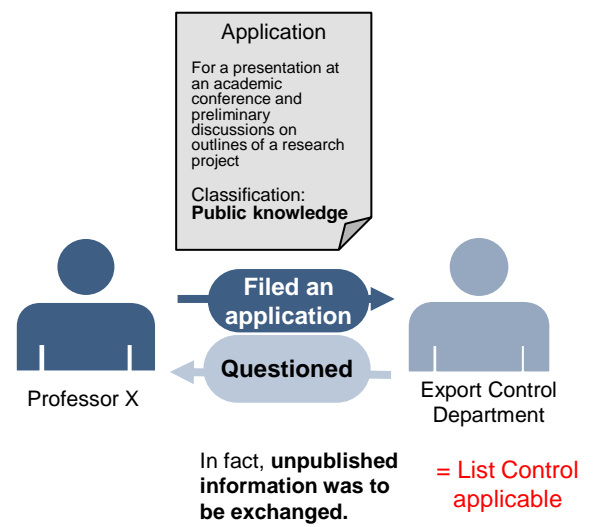
What action was taken as a remedy?

Having examined the non-public information, the department found that the List Control was applicable.

Why and how did it happen?

The conference presentation and the preliminary discussions are two separate tasks. Accordingly, applicability of the “public knowledge” should also have been judged separately, though X failed to act appropriately.

Overseas business trip by a faculty member



Solutions and Advice

- ✓ A correct understanding of the export control procedures must be shared throughout the organization.
- ✓ Judgment of applicability to the exemption should not be left solely to faculty members. Instead, the export control department should examine in an appropriate manner.

Misjudgment on scope of the public knowledge (2)

- Publication at an international conference -

Category: Transfer of technologies

What happened?

- X, a faculty member, notified the export control department of his plan to give a presentation at an international conference held in country B, and that the presentation would aim at publication of a technology” asking necessity to take any specific actions.
- Having reviewed carefully the technology, the department found that the conference would be attended exclusively by “researchers of universities” or “researchers of companies,” and that materials used at the session where X was going to give a presentation would not be posted on the website as they would be “subject to confidentiality.”

What action was taken as a remedy?

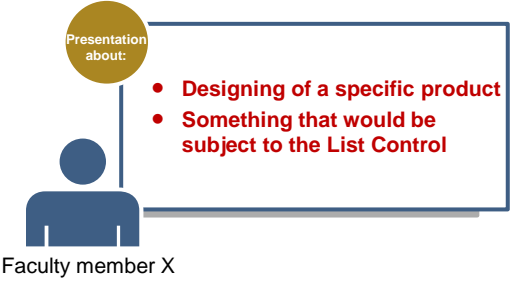
The department concluded that the presentation would not come under definition of “turning some technology into public knowledge,” as participants would be limited, and they would be subject to confidentiality. It was also found that it met the List Control.

Why and how did it happen?

X mistakenly believed that any presentation at an international conference should come under definition of “turning some technology into public knowledge.”

Lecture at an international conference

Country B



- ✓ Whether any exemption applies cannot be determined without accurate understanding. The knowledge must be broadly shared.
- ✓ The exemption for public knowledge is not applicable to any lecture at an international conference unless it is “accessible or available to the general public.”
- ✓ The task of judging whether any exemption, such as that of public knowledge, applies should not be left solely to faculty members. Instead, the export control department should examine the situation in an appropriate manner.
- ✓ It should also be noted that the exemption of public knowledge may not be applicable to discussion beyond the presentation that the presenter holds with specific researchers afterward even though a presentation itself can be regarded as turning some technology into public knowledge.

Misjudgment on scope of the public knowledge (3)

- Unpublished intermediate data that underlies a technology subject to publication-

Category: Transfer of technologies

What happened?

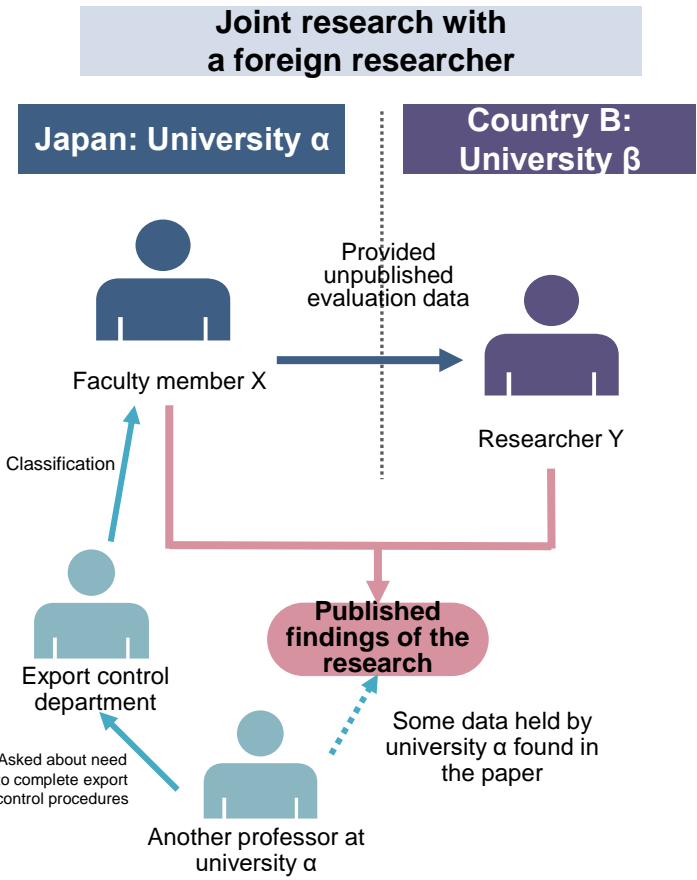
- X, a faculty member of university α, agreed with Y, a researcher of university β in country B, to conduct joint research he had suggested, and provided him with evaluation data of some composite material.
- Later, they used the data to write a thesis, and published in their joint names on a bulletin of an international academic society. Having read it, another faculty member of university α asked the export control department whether the export control procedures should have been completed before providing the data.

What action was taken as a remedy?

The evaluation data was about the designing of the composite material. A staff of the department examined its specifications, what the data and discussions between them had included, who the data had been provided for, and what it had been used for, and concluded that the List Control and the Catch-all Control were not applicable.

Why and how did it happen?

X was unaware that scope of “public knowledge” for the exemption does not include a transfer of any technology to a counterpart as part of joint research even when a publication of findings of the research was planned, and that the transfer should be subject to export control.



Solutions and Advice

- ✓ The exemption of public knowledge applies exclusively to transfer of publicly known technologies and the very act of turning some technology into public knowledge
- ✓ It should be noted that the exemption is not applicable to the transfer of any technology in the process of joint research. It is subject to export control unless it is already publicly known at the time of the transfer even when it constitutes part of the technology that will be made publicly available in the end. To avoid any trouble, those planning to participate in joint research should express their consent to its framework only after consulting the export control department .

Transfer of technology to a former student after graduation

Category: Transfer of technologies

What happened?

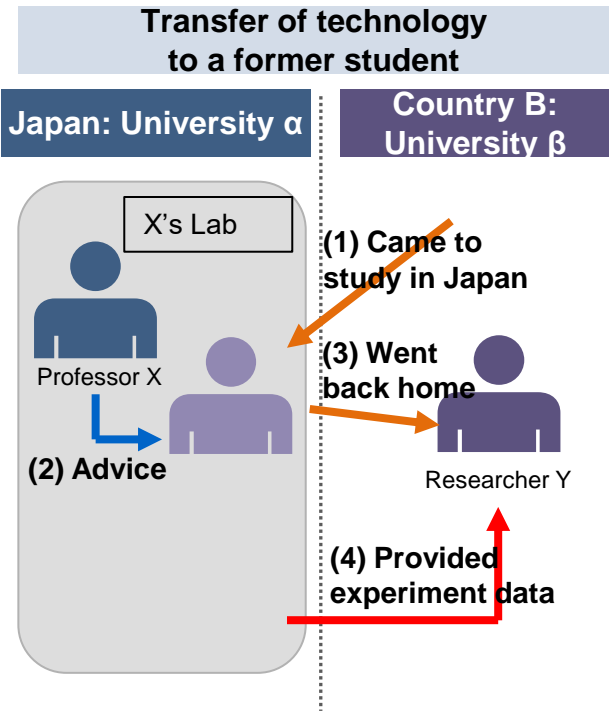
- X, a professor at university α , served as an academic adviser for Y, a foreign researcher coming to study in his laboratory as a doctoral course student. Y graduated from university α before going back home to country B to fill a research post at university β there. He continued working in the same subject he had studied in Japan.
- X provided Y with experiment data just as X had when Y belonged to the lab because X considered the work of the former student as an extension of what Y had studied at university α .

What action was taken as a remedy?

- Notified by a staff member of the department X worked for, the export control department asked X about their exchanges, and found that the data should have been provided for Y only after completing export control procedures.
- After a careful examination, it turned out that the data contained nothing about technologies that were subject to export control, and that there had been no unlawful act between them. However, X was given a strong warning as he had failed to complete internal procedures of the university.

Why and how did it happen?

The professor was unaware that technology cannot be transferred to anyone who belongs to a university abroad, even to a researcher he had once instructed, before completing export control procedures.



Solutions and Advice

- ✓ Faculty members often continue working with, or instructing, researchers they advised before, even after their graduation. In some cases, however, they must obtain permission for that.
- ✓ Export control procedures must be faithfully completed before transferring any technology to a researcher belonging to an organization abroad, regardless of any personal relationship, even if he is a former student or a friend.

Transfer of technology at an online meeting

Category: Transfer of technologies

What happened?

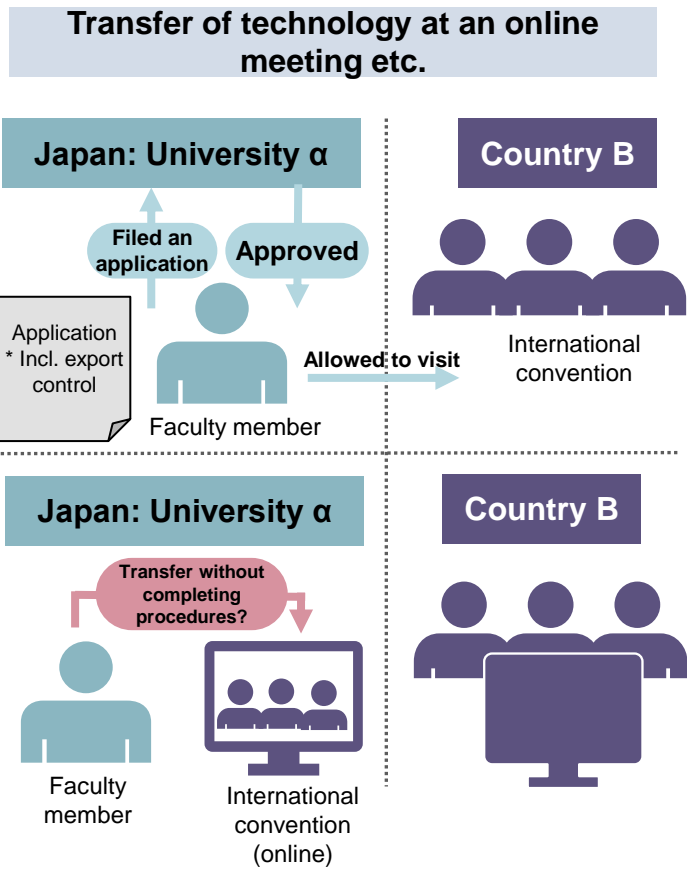
- University α had established a scheme that linked the review for export control with procedures for an overseas business trip, so that none could make any business travel abroad without authorization of the export control department .
- With the growth in the number of academic conferences, international conventions and preliminary discussions, and lectures held online, that of overseas business trips declined. Nevertheless, the export control department saw little increase in the number of Pre-screening Sheets filed for attending conferences and conventions or that of consultations the department had been asked to hold. They feared that some faculty members might have transferred some technologies without completing procedures for export control.

What action was taken as a remedy?

All the faculty members of the university were reminded that they had to complete export control procedures before attending any academic conferences, international conventions and preliminary discussions, lectures, or similar events held online as they might happen to transfer some technology there.

Why and how did it happen?

Faculty members failed to fully understand the export control system.



Solutions and Advice

- ✓ Presentations and exchanges at academic conferences, international conventions, and similar events held online are subject to the export control regulations, as the acts are regarded as transfer of some technology to non-residents of Japan and/or to a foreign country. Exchanges of residents staying in a foreign country with institutions and researchers inside and outside of Japan are also subject to the export control regulations.
- ✓ This case is a good example in terms of linking procedures for business trip with export control. Another possible idea would be to link procedures for applying for participation fees for academic conferences held online with export control procedures.

Export of goods

Review by a staff member of the faculty administration

Category: **Export of goods**

What happened?

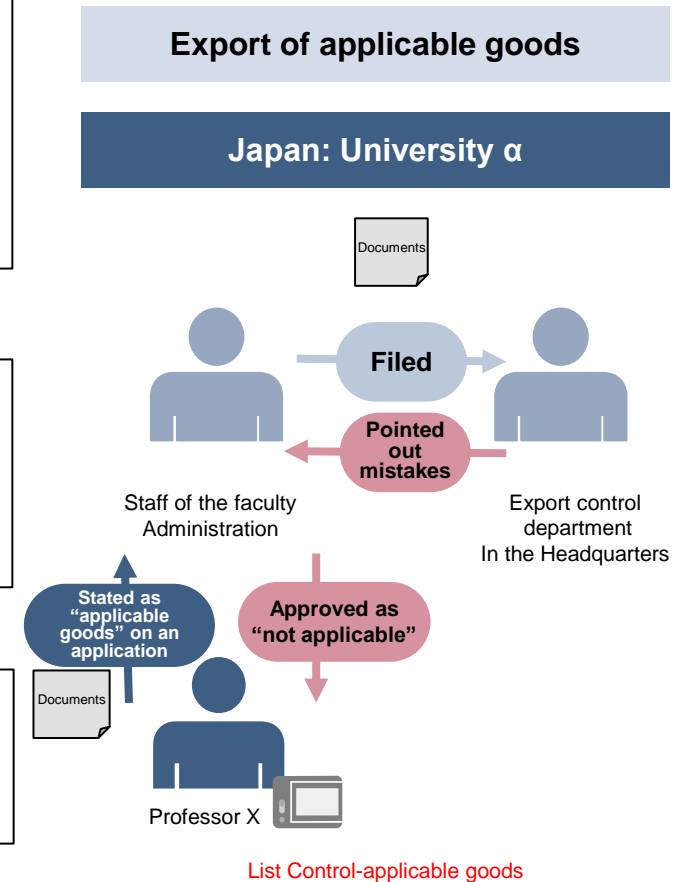
- X, a professor at university α , had exported several times some goods other than those subject to the List Control.
- This time, X planned to export goods subject to the List Control and filed to the faculty administration documents needed for export control procedures. The staff mistakenly believed that the List Control was not applicable to those goods as before and gave approval to them as “non-control subjects.”

What action was taken as a remedy?

Under the system university α has in place, an application that a faculty administration approved is filed to the export control department of the headquarters. The department handled properly after finding the error and finally obtained approval from METI.

Why and how did it happen?

The staff member of the faculty secretariat worked on his subjective assumptions, failing to serve properly as a reviewer and check for errors.



Solutions and Advice

- ✓ In this case, the potential unauthorized export of goods was prevented through a system the university had in place to get the export control department to review an application the faculty secretariat could have authorized by themselves.
- ✓ Faculty administration staff members should also be trained to carry out export control procedures properly.
- ✓ It should also be noted that the latest list must be used for classification of the goods subject to the List Control, as the List is revised annually, in principle.

Complying with permit conditions

Category: Export of goods

What happened?

- X, a faculty member, decided to conduct a survey in country B and obtained approval from METI, before exporting some equipment that was subject to the List Control.
- The approval was granted with a condition that the equipment must be sent back to Japan after the end of the survey, with a deadline set for a report of implementation.
- The survey ended after several delays in the schedule and other troubles, and it turned out that the equipment would arrive in Japan just at the deadline. It was feared that without taking any specific action, a report of implementation for the return of the equipment could only be filed with some delay.

What action was taken as a remedy?

X changed his flight to an earlier one to bring the equipment back to Japan before the deadline and filed a report of implementation for the return of the equipment without delay.

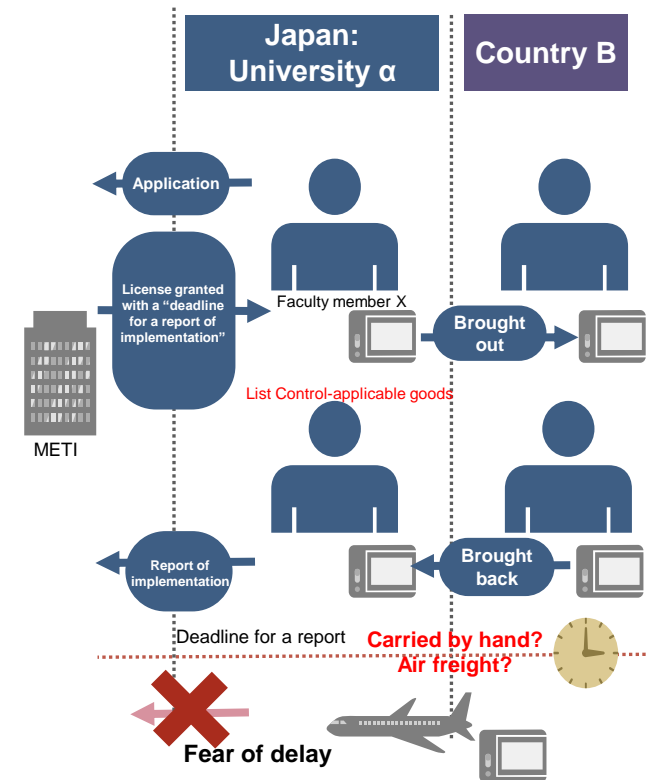
Why and how did it happen?

When filing an application, X failed to prepare a survey plan with some time to spare in case he might have to make a change to it.

Solutions and Advice

- ✓ METI may grant a license with some condition.
- ✓ A report of implementation must be filed before a deadline. The research must be carried out according to a schedule with some time to spare.
- ✓ Before a deadline, an application can be filed for extending it.

Bringing out of equipment to a foreign country



Components built into some equipment

Category: Export of goods

What happened?

- University α was working with university β in country B under an inter-university exchange agreement to carry out a plan for holding a demonstration of a robot in country B.
- While preparing for the export of the robot, the project team found that the robot had angular rate and acceleration sensors built into it and that they were subject to the List Control. The fact had been clearly stated in a catalog provided by the supplier. They filed an application in haste to carry out internal procedures.

What action was taken as a remedy?

Having examined the prices of the robot and the sensors, the export control department found neither of the sensors constitute major elements of the robot, as they each are not worth more than 10% of the value of the robot, concluding that the List Control was not applicable. The robot was exported.

Why and how did it happen?

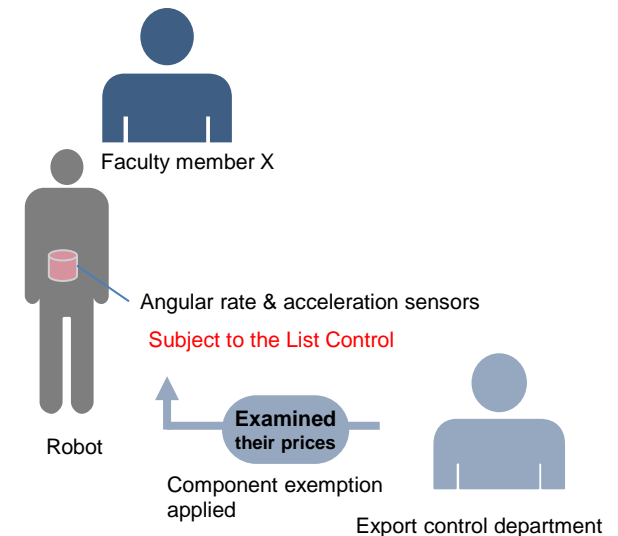
They were unaware that some components built in a machine by themselves may be subject to the List Control.

Solutions and Advice

- ✓ When it turns out that anything must be exported for a project, export control procedures should be started as quickly as possible.
- ✓ In some cases, a license may not be required, as the component exemption is applicable. However, faculty members should decline to conclude by themselves the applicability of the exemption in a specific case. Instead, the export control department should work to reach a proper decision.

Demonstration of a robot in country B

Japan: University α



Export of self-built equipment

Category: Export of goods

What happened?

Professor X, aware of the export control carried out by the university, mistakenly believed the regulations were not applicable to any self-built equipment and brought abroad a measuring device he had built himself without completing the internal export control procedures.

What action was taken as a remedy?

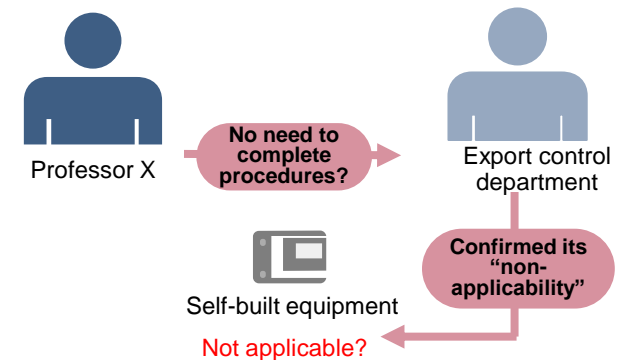
After the equipment was brought abroad, the export control department was informed of the fact, and examined its specifications as well as who it had been sent to, who the data had been provided for, and what it would be used for, and concluded that neither the List Control nor the Catch-all Control was applicable.

Why and how did it happen?

X mistakenly believed the List Control was not applicable to any self-built equipment.

Export of self-built equipment

Japan: University α



Solutions and Advice

- ✓ The Export Control may be applicable to some self-built equipment.
- ✓ In some cases, classification of any self-built equipment for the Export Control may take a long time, as it must be carried out by individual universities.
- ✓ When it turns out that anything must be exported for a project, export control procedures should be started as quickly as possible.

Request of a foreign researcher for delivery

What happened?

- X, a faculty member, was asked by Y, a faculty member of university β in country B, to buy a sample of a product from a Japanese producer and send to him as it was difficult to acquire in country B. They had been long acquainted, as they studied together in the same laboratory of university α to obtain a degree.
- When instructed to buy it by X, the purchasing department noticed that university β appeared on the Foreign End User List and consulted the export control department on how to deal with the order.

What action was taken as a remedy?

- The export control department advised the purchasing department to make classification by the List Control, and to carefully review the request from the viewpoint of the Catch-all Control as well.
- Having received the advice through the purchasing department, X examined Y's research activities, and found he engaged in some military research, and that the product he had been asked to acquire might be used to develop WMDs or other arms. X refused the request.

Why and how did it happen?

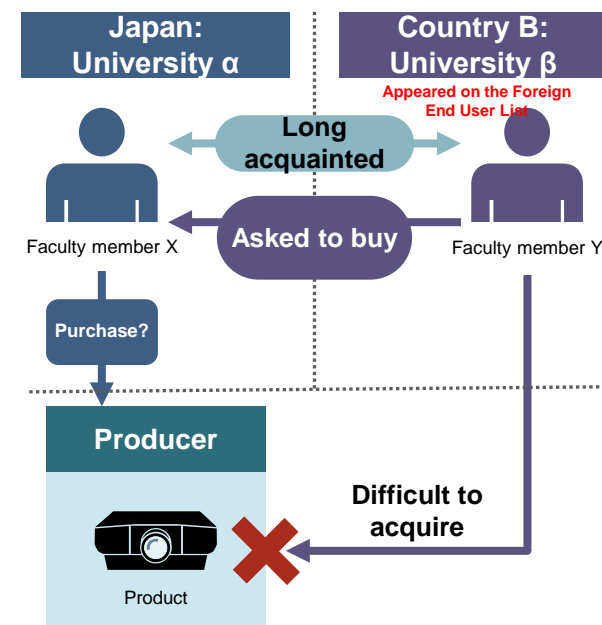
X was unaware that export control procedures must be completed before any technologies are transferred or any goods are exported.

Solutions and Advice

- ✓ In this case, the faculty member had an opportunity to obtain some advice from the export control department, as the purchasing department noticed that university β appeared on the Foreign End User List. Otherwise, he might have exported the sample without authorization.
- ✓ Researchers may accidentally be involved in an act of unauthorized export through personal relationships they have maintained since their graduation.
- ✓ They must be fully reminded that in some cases, provision of a sample (export of goods) to, and exchange of information (transfer of technologies) with, a foreign researcher, or an acquaintance at a university, after graduation may be subject to regulations.

Category: Export of goods

Acquisition of a sample of a product



Examination of a Certificate of Classification provided by the producer

Category: Export of goods

What happened?

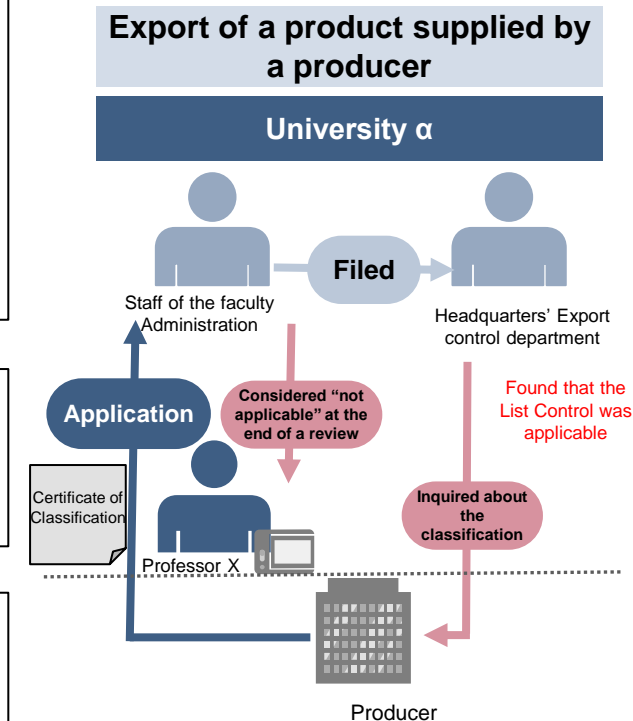
- When Professor X filed an application for export control procedures, he declared the List Control was not applicable as stated in a Certificate of Classification provided by the producer.
- A staff member of the faculty administration finished the review and concluded that it was not applicable without carefully examining the certificate.
- Having scrutinized the certificate, the export control department found that the product might be subject to the List Control and made inquiries at X about that.

What action was taken as a remedy?

Regarding inquiries from the export control department, the producer answered that the classification had been incorrect in part, and that, in fact, the List Control was “applicable.”

Why and how did it happen?

- X neglected performing a classification on his own responsibility, in reference to a Certificate of Classification provided by the producer.
- The staff member of the faculty administration also failed to review the certificate carefully.



Solutions and Advice

- ✓ Even when a producer or its agency makes an error in classification, those who transfer technologies or export goods are responsible for any violation of the Foreign Exchange and Foreign Trade Act
- ✓ Anyone who has obtained a Certificate of Classification from a third party should also review it on his own responsibility to examine whether the classification is correct.
- ✓ In this case, not only the faculty secretariat but also the export control department reviewed the certificate, and the double check helped prevent a possible unauthorized export. Designing a system with multiple phases through which a review is carried out would be an effective practice.

Identification of a virus

Category: **Export of goods**

What happened?

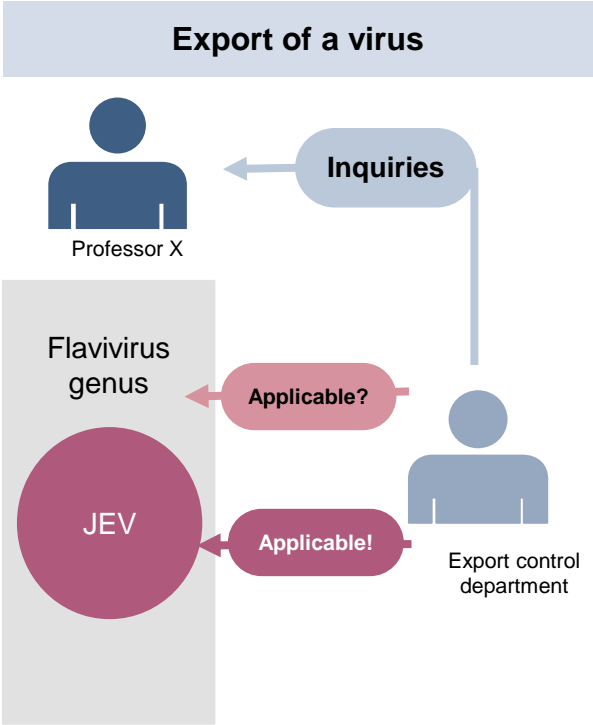
- Professor X, who studied viruses, filed an application for exporting “Flavivirus.”
- On the application, X declared that the List Control was not applicable. However, after investigation of X, the export control department found that it was in fact Japanese encephalitis virus (JEV), a Flavivirus genus. The virus was subject to the List Control.

What action was taken as a remedy?

Approval was obtained from METI and the virus was successfully exported.

Why and how did it happen?

The professor neglected to confirm the names of both the genus and species.



- ✓ There could be similar cases to one described above. For instance, you may conclude that the List Control is not applicable to a virus based solely on the name of the family, Filoviridae, though it is Marburgvirus and Ebolavirus, two genera under the family, which are going to be exported in the project, and they in fact are subject to the List Control.
- ✓ When identifying a virus or any other organism, not only the name of the family or genus but also that of the species (or virus) must be used.
- ✓ When the export control department finds it difficult to make an identification by themselves, they should consult a faculty member who is knowledgeable about the discipline.

Classification of components and accessories

Category: **Export of goods**

What happened?

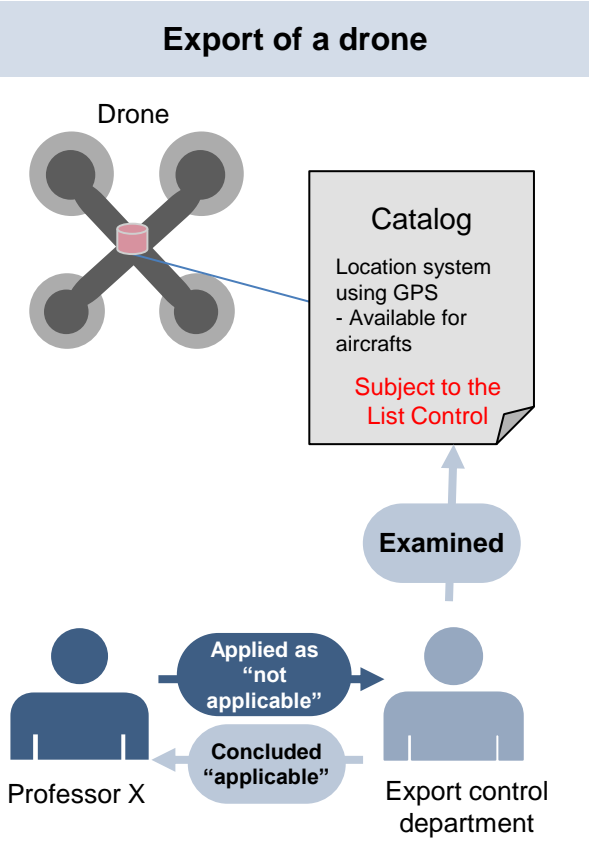
- Professor X, planning to export a drone, concluded that the List Control was not applicable when he filed an export application.
- The export control department examine its specifications using a catalog attached to the application and found that it carried a hi-spec component, “position information acquisition system using a global navigation satellite system (GNSS),” on it. They also noticed the system was available for aircraft, not exclusively for drones.

What action was taken as a remedy?

The department considered that the system could be subject to the List Control, and inquired about it to the producer, who confirmed that the Control was applicable.

Why and how did it happen?

- For classification, X failed to pay attention to components and accessories.
- He also neglected to obtain a Certificate of Classification from the producer.



Solutions and Advice

- ✓ For classification of equipment and tools, attention should also be paid to their components and accessories.
- ✓ One option is to obtain a Certificate of Classification from the producer for confirmation, when necessary.
- ✓ No Certificate of Classification from a producer should be accepted without questioning. Universities themselves must examine the relevant catalogs.

Development of a scheme and inter-university cooperation

What happened?

- X, a professor at university α , decided to take part in a joint exhibition held abroad with university β , a Japanese university, as part of a cooperation project.
- With some knowledge about export control, X considered that some exhibits would be subject to the List Control. University α had no export control scheme in place, and he had filed no application himself before. He consulted the export control department of university β .

What action was taken as a remedy?

- The department of university β suggested to X that he obtain a Certificate of Classification from the producer.
- X obtained a certificate, which stated that the List Control was applicable, and he himself confirmed the classification. Based on the certificate and his conclusion, the administration of university α also concluded that the Control was applicable.
- In consultation with university β , university α filed an application, and successfully obtained approval, before participating in the exhibition with their exhibits.

Why and how did it happen?

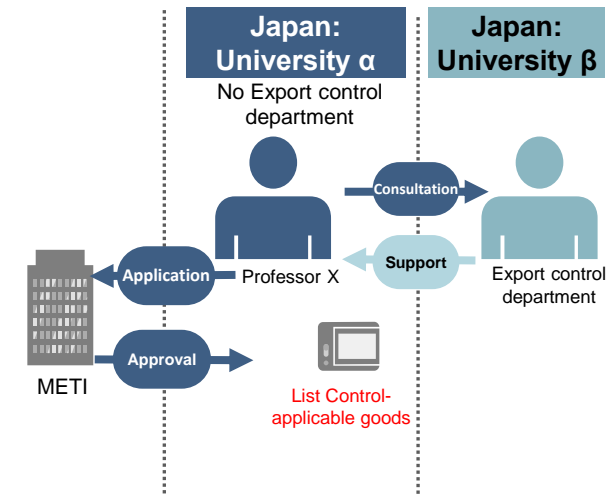
University α had no export control scheme in place.

Solutions and Advice

- ✓ To prevent faculty members from accidentally violating the law by, for instance, exporting restricted goods without approval, universities are recommended to develop an export control scheme if they have the smallest possibility of dealing with goods or technologies that may be subject to export control.
- ✓ Universities with little engagement in research activities for which export control is performed often lack expertise and experience. They are recommended to, for instance, develop a cooperation scheme and take part in a local network with other universities with good expertise and make the most of support from outsiders for developing an export control scheme.

Category: Export of goods

Joint participation in an exhibition abroad



Education for faculty members from foreign countries (2)

- Export of goods-

Category: Export of goods

What happened?

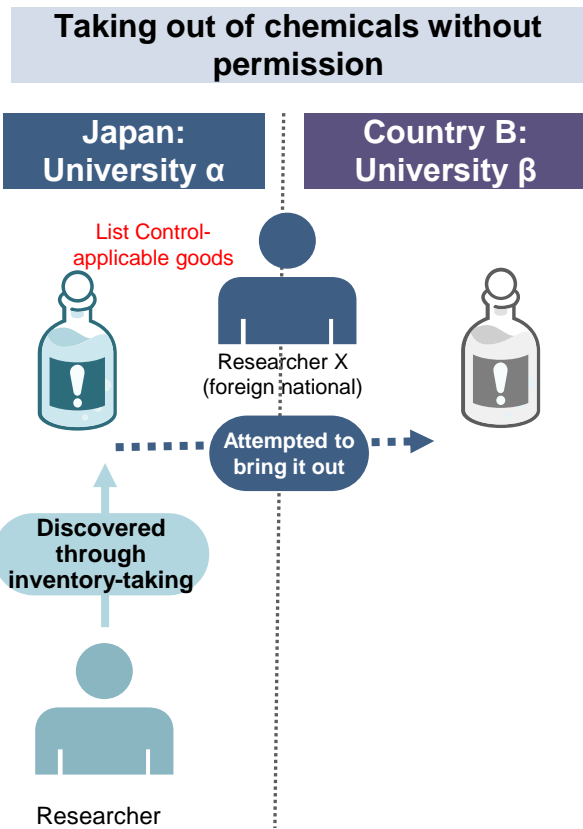
- X, an international researcher who completed a postgraduate course at university α, remained there for study and served at the same time as a faculty member of university β in his homeland, country B.
- For research he was engaged in at university β, X brought out a bottle of chemicals that were subject to the List Control without permission from a faculty member of university α who had accepted him. The next day, another researcher of university α found some discrepancies with the stock list and the researcher discovered X to have taken it out.

What action was taken as a remedy?

The export control department inquired of X himself and recovered the chemicals after confirming the facts. The department also required the faculty to give adequate guidance in legal compliance and inventory management to its researchers.

Why and how did it happen?

The foreign researcher was not adequately aware of the Foreign Exchange and Foreign Trade Act and other relevant laws and regulations.



Solutions and Advice

- ✓ Foreign students and researchers may have different level of the understanding about Japanese legislation, culture, customs, and values. They must be offered considerate support.
- ✓ The inventory of chemicals in a laboratory must be monitored carefully, they can only be taken out under close supervision. The practices are needed not only for toxic and deleterious substances control but also export control.

Materials that do not require special facilities or control

Category: **Export of goods**

What happened?

- The Ministerial Order lists “deuterium or deuterium compounds with an atomic number ratio of deuterium to hydrogen exceeding 1/5,000” as one of the goods that must be regulated, which implies that deuterium compounds are indiscriminately subject to the regulation, even when they are not for use in a nuclear reactor.
- Researcher X used some deuterium compounds for research being unaware that they were subject to the List Control. There was a possibility that the substances might be exchanged between researchers abroad.

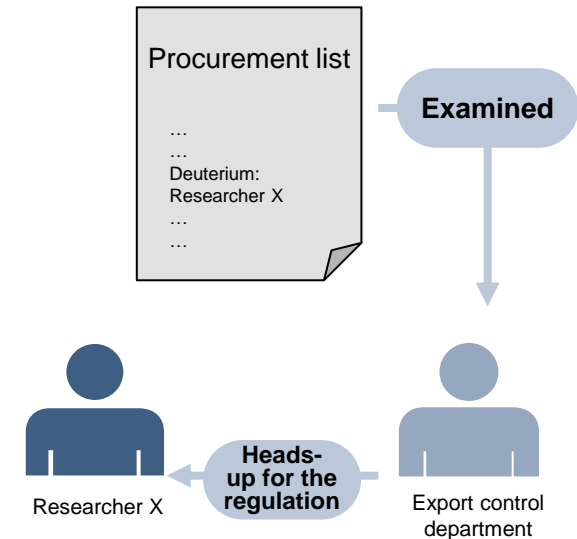
What action was taken as a remedy?

Procurement lists produced in the university were used to find researchers dealing with deuterium compounds. The export control department visited them in person for heads-up about the regulation and finally prevented unauthorized export.

Why and how did it happen?

X mistakenly believed that the List Control was not applicable to any deuterium compounds, as they are nonradioactive stable isotopes and they are available on the commercial market.

Identification of goods subject to the List Control among those on a procurement list



Solutions and Advice

- ✓ Procedures tend to be ignored not only for deuterium compounds but also other regulated goods that are manageable without any special facilities or techniques.
- ✓ Administration office and its procurement team are recommended to work together to monitor inventory of the regulated goods with lists of tools and chemicals they purchase and alert researchers dealing with them.
- ✓ It is also suggested to require a producer to provide a Certificate of Classification on the specifications in case of purchasing some goods obviously for export. However, even when a classification certificate is obtained from a third party, the university must be responsible as exporter for reviewing the classification themselves, instead of accepting it without questioning fully or leaving all the decision-making to an individual faculty member.

Application filed immediately before overseas business trip (2)

- export of goods-

Category: Export of goods

What happened?

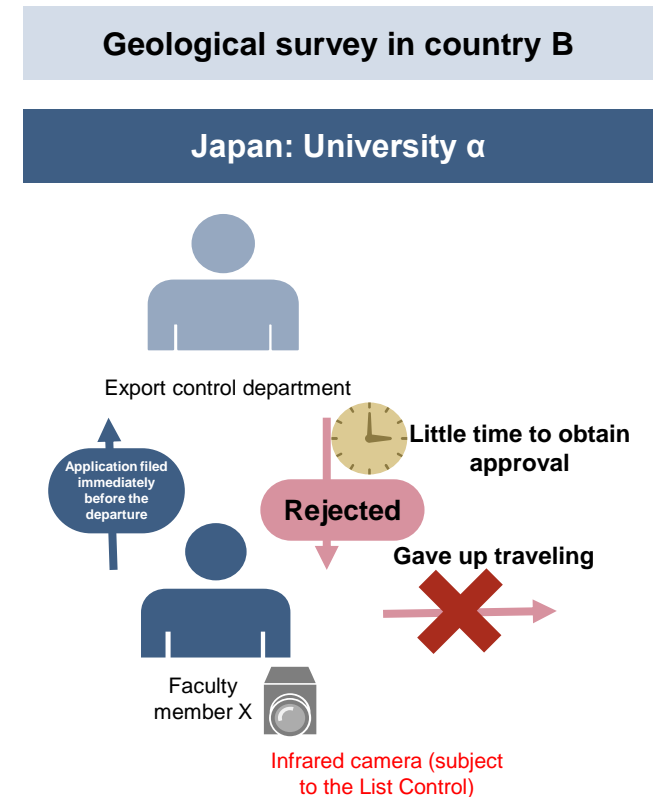
- X, a faculty member of university α , planned to travel to country B for a geological survey, carrying an infrared camera with him.
- X had been to country B to give a presentation at an academic conference. He filed an application for the trip right before the scheduled departure date.

What action was taken as a remedy?

- The export control department classified the infrared camera X was going to carry with himself and concluded that it was subject to the List Control.
- However, there was no time to spare to obtain approval from METI. X had to give up the plan.

Why and how did it happen?

- X, who had been to country B, concluded by himself that he would have only to carry out procedures right before the departure.
- He also mistakenly believed that a hand-carry baggage was not subject to export control.



Solutions and Advice

- ✓ Equipment or tools carried as a hand-carry baggage of an overseas business trip are subject to export control.
- ✓ For cases that the List Control or the Catch-all Control is applicable, approval must be obtained from METI before exported.
- ✓ Applicants should begin export control with time to spare setting deadline for the procedure.

Management of goods to be brought back

What happened?

- X, a faculty member, asked a freight agent to ship observation equipment he would use for fieldwork in country B. He would carry out observations himself. Once the work was finished, all the equipment would be brought back to Japan, so no export control procedures were conducted.
- Asked by the agent to deliver a document certifying that none of the equipment was subject to the List Control, he requested the producer of the equipment to issue a Certificate of Classification. It turned out that an article, CCD camera, was subject to the control.

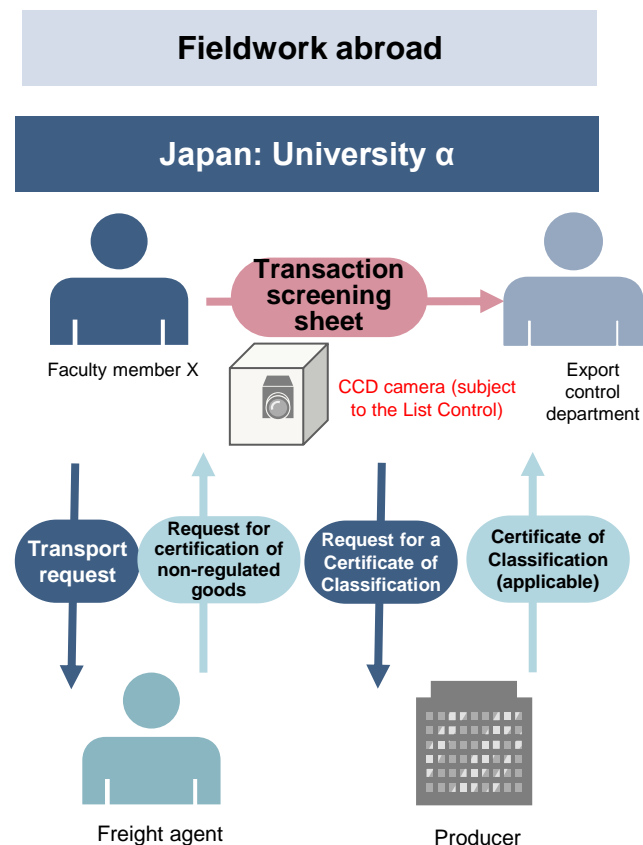
What action was taken as a remedy?

Having consulted the export control department of the university, X presented a transaction screening sheet to the department immediately before filing a license application to METI. X obtained the license before his departure.

Why and how did it happen?

X failed to perform classification being unaware that the List Control is applicable even though to export of goods that would be brought back.

Category: **Export of goods**



Solutions and Advice

- ✓ A common interpretation of the term “export” often leads to mistakenly assume that the List Control is not applicable to goods to be brought back.
- ✓ Faculty members should be fully reminded that they must follow export control procedures even for export of goods to be brought back.

Management of goods to be sent back abroad

Category: Export of goods

What happened?

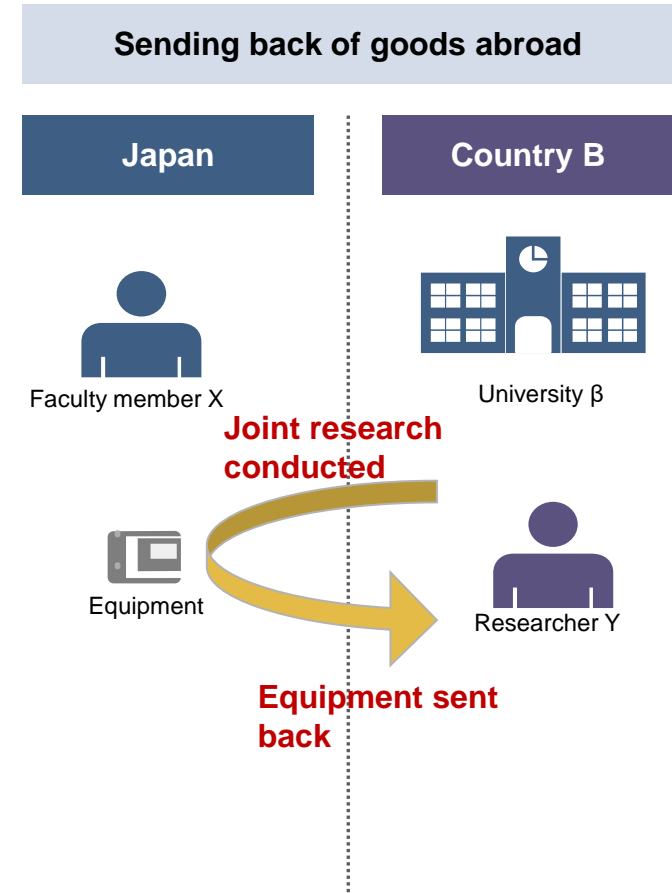
- X, a faculty member, accepted Y, a researcher from university β in country B, to carry out joint research in Japan. Y brought equipment he needed for the research from country B to Japan.
- After the conclusion of the research, X sent back the equipment to country B. With no specific attention paid to the equipment because it is originally brought from country B, he did no export control procedures.

What action was taken as a remedy?

Once learned later that the equipment was sent back, the export control department inquired of Y, having come back to country B, about the specifications and other information about the equipment, to confirm neither the List nor Catch-all control was applicable.

Why and how did it happen?

X failed to perform classification being unaware that the equipment brought to Japan from abroad might be subject to the List Control when sending back,



Solutions and Advice

- ✓ It is often mistakenly assumed that the List Control is not applicable to return of goods that was brought from a foreign country.
- ✓ Faculty members should be fully reminded that they must follow export control procedures even though for case where imported equipment is sent back abroad.

Export of goods available on the market

Category: Export of goods

What happened?

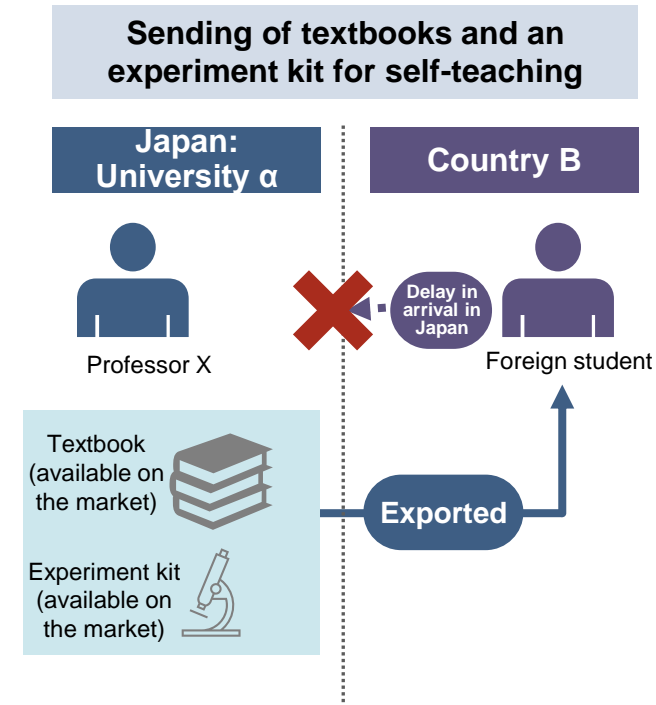
- Professor X intended to send textbooks and an experiment kit to an international student coming to Japan for him to study himself, as he was unable to participate in lectures and research for some time due to some delay in his arrival in Japan.
- He did no export control procedures for the textbooks and kit because he believed no specific procedures were needed for such goods available on the market.

What action was taken as a remedy?

- Comparing Pre-screening Sheets and export records at a regular audit they performed, the export control department found that no Pre-screening Sheet had been filed for exporting the textbooks and kit.
- They then made sure that the neither the List nor Catch-all Control was applicable to the kit.

Why and how did it happen?

X was unaware that an approval may be needed for export of some goods available on the market.



Solutions and Advice

- ✓ While the exemption for public knowledge applies to textbooks available on the market, some experiment kits may be subject to the List or Catch-all Control even when they are available on the market. Faculty members should be fully reminded that they must complete export control procedures for this case.
- ✓ Unauthorized export can be prevented with such tips as checking completion of export control procedures when goods are collected for shipping.

Acceptance of international students

Procedures for granting informal consent to accept government-financed international students

What happened?

- University α decided to accept a foreign national of country B, as he had been provided a recommendation by the Embassy of Japan as a student coming to study in Japan on a scholarship awarded by the Japanese government. The hosting member of the faculty delivered, through the faculty administration, a letter of informal consent of the acceptance to the embassy in country B.
- When the letter was delivered, no Pre-screening Sheet for the acceptance was filed to the export control department as the acceptance was scheduled for the next fiscal year.

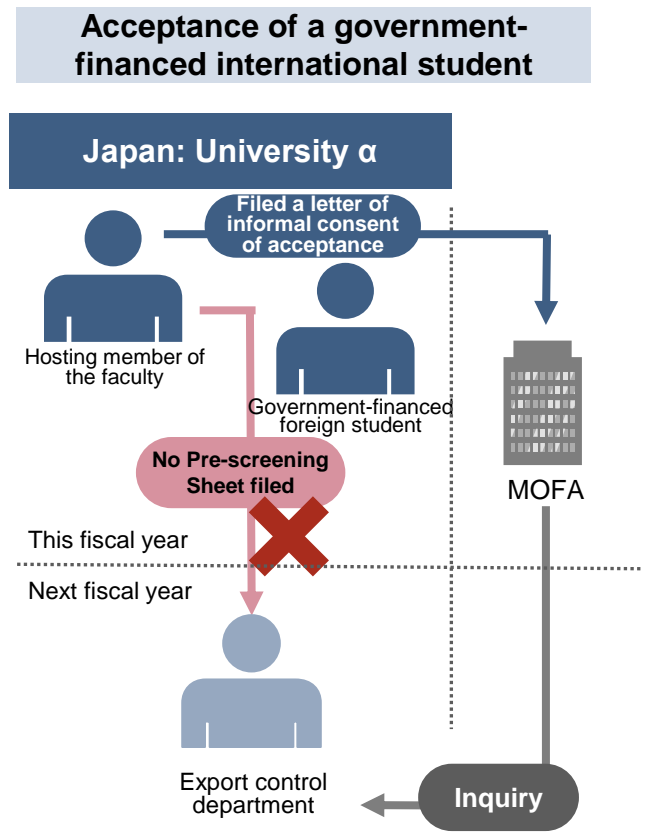
What action was taken as a remedy?

- After the letter was filed, the export control department received an inquiry from the Ministry of Foreign Affairs about the export control procedures of university α for the issuance of a visa.
- However, they did not recognize the case and it turned out that no export control procedures had been carried out.

Why and how did it happen?

Export control procedures were neglected at the time of granting informal consent.

Category: Acceptance of international students



- ✓ A management scheme must be established for procedures of granting informal consent to accept international students in a manner that the letters of informal consent will be issued only after confirming that export control is certainly completed.

International student with history of short-term study at an institution on the Foreign End User List

Category: Acceptance of international students

What happened?

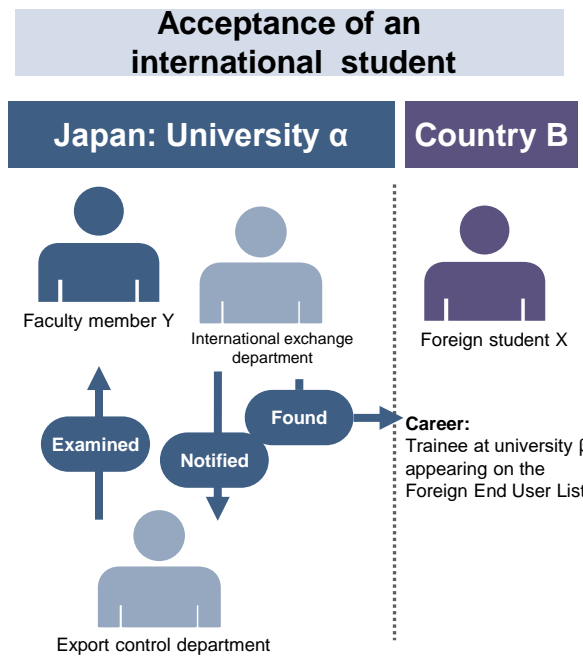
- University α accepted X, an international student from country B.
- After acceptance, a staff of the international exchange department, in charge of support for international students, found that X had been enrolled in university β for three months, which appeared on the Foreign End User List, to attend a training session, and informed the export control department of the fact.
- The department and Y, a faculty member serving as academic advisor for him, examined about X.

What action was taken as a remedy?

Having found the List Control was not applicable to the technology that university α was going to transfer to X, and that the theme X was going to study at university α did not fall under the category of concern stated in the Foreign End User List in terms of university β , university α concluded that there was no specific problem.

Why and how did it happen?

Necessary acceptance and export control procedures were neglected though they had to be completed before deciding to accept Foreign Student X.



Solutions and Advice

- ✓ It is necessary to reconsider their arrangements for national security screening as part of the acceptance procedures.
- ✓ After an incomplete examination of a student's background, the notice from the other department revealed that a more detailed screening should have been done in that case. They needed to carry out an additional examination after he had been accepted.
- ✓ When a new fact subject to review is found, another appropriate screening of technology that have been and will be transferred must be carried out even after acceptance.

Inter-department cooperation for acceptance of an international student

Category: Acceptance of international students

What happened?

- The export control department of the university α was informed by the international exchange department that they had found a student whom they had been unaware of having been accepted by the university.
- The export control officer visited X, a faculty member hosting the student, to make inquiries and found that he had accepted the student, Y, from university β , his partner for a joint research project, allowing him to stay in university α for a short period.

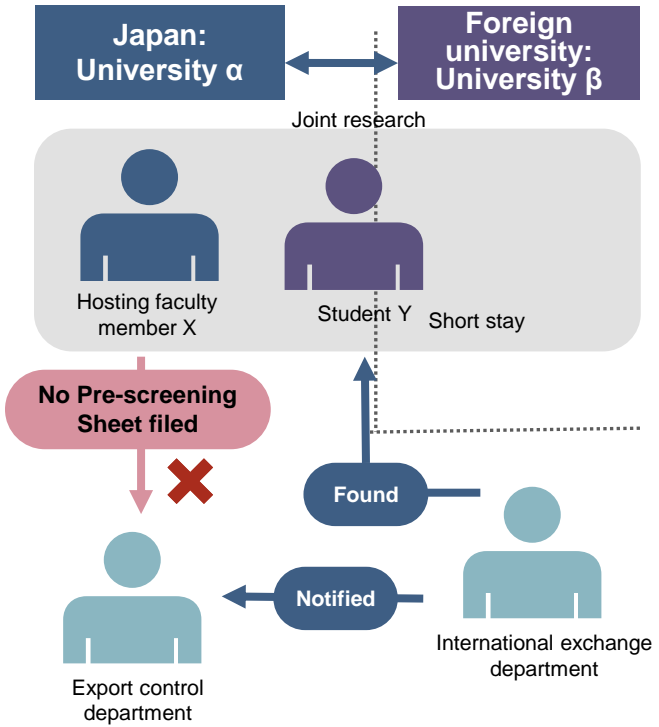
What action was taken as a remedy?

The export control department required X to file a Pre-screening Sheet and examined it. It turned out that no regulated technologies had been transferred.

Why and how did it happen?

X neglected to complete procedures for a short stay of Y and those for export control.

Acceptance of a student from a partner university for a joint research project



Solutions and Advice

- ✓ A member of faculty with inadequate knowledge failed to complete procedures for acceptance. Essential knowledge about the procedures must be shared.
- ✓ Cooperation between the department helped complete the screening needed to accept an international student, only after he had been accepted. Examination must be conducted even after the acceptance of a student as any accrual or possible violation of the rules must be reported to METI.

Inter-department cooperation for classification of the specific categories

Category: Acceptance of international students

What happened?

- As a voluntary initiative of university α to comply with rules of the clarification of the deemed export control, the export control department asked all international students with no employment contract to file a pledge for reviewing their classification of specific categories.
- However, later the department recognized that the International exchange department, helping them apply for the Certificate of Eligibility, had information about any scholarships international students received.

What action was taken as a remedy?

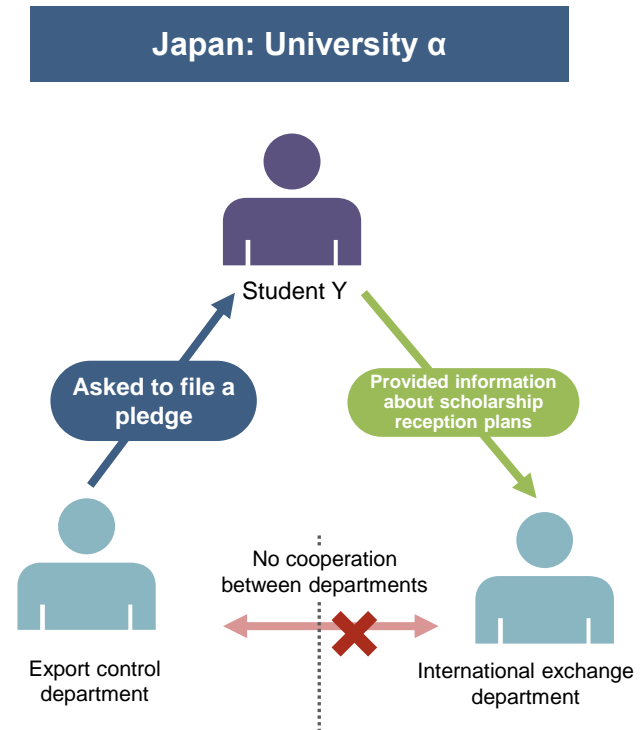
The export control department received the information from the international exchange department and referenced them in classification of the specific categories for the students.

Why and how did it happen?

- Relevant departments had only poor communication.
- The export control department had inadequate knowledge about operations of other departments of the university.

Solutions and Advice

- ✓ Classification of the specific categories for those with no employment contract must be examined in cooperation with the department of the university in charge of support for foreign students to confirm the information about scholarships they receive.
- ✓ For classification of the specific categories, information sharing and cooperation with the department in charge of personnel affairs are also important, as there are some cases where the examination must cover Japanese researchers serving for a university abroad at the same time and/or those receiving financial support from foreign governments or other entities.
- ✓ The export control department does not have to deal with everything by themselves, and instead should develop flexible relationships with other departments for cooperation.



Online research guidance for international students before their visit to Japan

Category: Acceptance of international students

What happened?

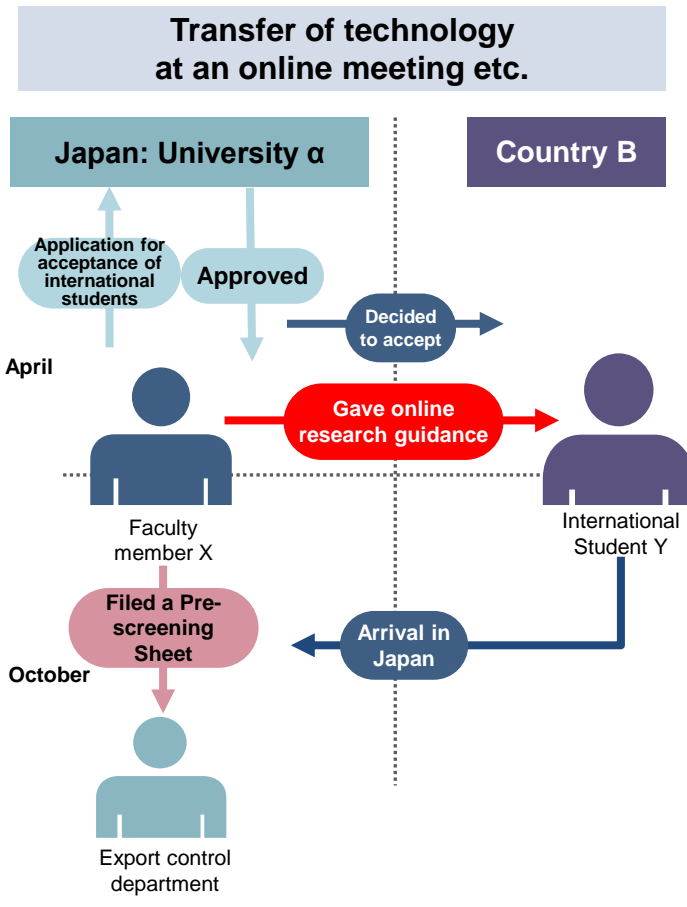
- In April, after receiving approval from the international exchange department, X, a faculty member of university α, decided to accept Y, an international student from Country B.
- Y planned to come to Japan in October. X gave online research guidance to Y, living abroad, until his arrival in Japan.
- As part of preparations for his visit to Japan, X prepared a Pre-screening Sheet for the acceptance of Y and filed it to the export control department in August.

What action was taken as a remedy?

Informed of the acceptance of Y on the Pre-screening Sheet filed, the export control department asked X about background of Y and technologies transferred to Y so far and concluded that the case was not subject to the List or Catch-all Control.

Why and how did it happen?

- X was unaware that online research guidance he provided from Japan to a student living overseas fell under the transfer of technologies under the Foreign Exchange and Foreign Trade Act.
- In addition, the procedures for acceptance of an international student and those for export control were carried out separately.



Solutions and Advice

- ✓ At the latest, export control procedures must be completed before the start of online research guidance. Online research guidance provided for an international student is regulated under the FEFTA as transfer of technologies to non-residents.
- ✓ To prevent any violation of the law, it is recommended that reviews for the security export control be carried out before deciding to accept an international student. It should be considered, for instance, designing a system to allow faculty members to make a definitive decision to accept an international student only after the export control department provides confirmation.

Acceptance of international researchers

Inter-department cooperation for accepting a researcher

Category: Acceptance of international researchers

What happened?

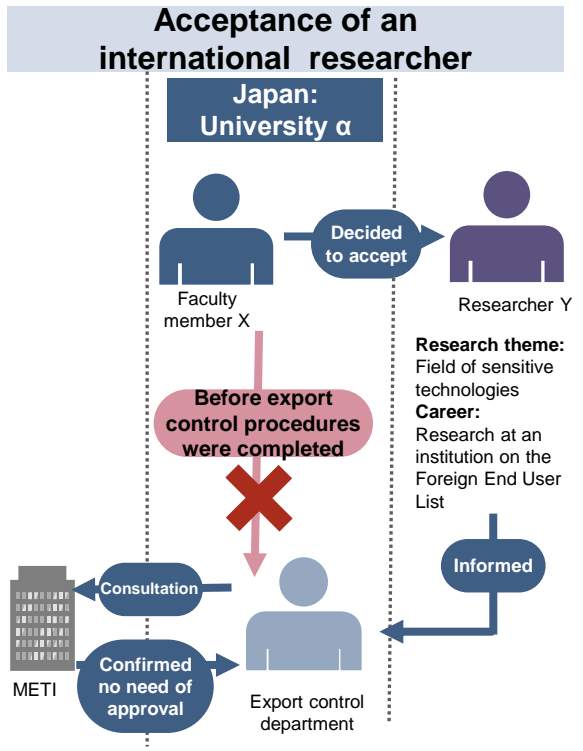
- As part of the preparations for X, a faculty member, to accept Y, an international researcher, the export control department was carrying out the screening for export control. Before its completion, the professors held a faculty meeting and decided to accept Y.
- Later, it turned out that his research theme might come under a field of sensitive technologies, and that he had carried out research at an institution on the Foreign End User List.

What action was taken as a remedy?

- The export control department reviewed classification of the technologies X was going to transfer (not applicable to the List) and his career at the institution on the Foreign End User List, as well as other relevant information. The department then consulted METI about the action they should take, and received confirmation that approval was not necessary.
- However, the researcher was accepted later than originally planned as it took long to complete the examination. As a result, they had to make major changes to the research plan, such as shortening the research period.

Why and how did it happen?

The procedures for acceptance and those for export control were carried out separately.



Solutions and Advice

- ✓ Instead of carrying out the procedures for acceptance and those for export control separately, designing an integrated system, such as allowing faculty members to make a definitive decision to accept a researcher only after examinations for export control are completed, should be considered.
- ✓ Procedures should be started earlier in case of a researcher with information of concerned as it takes especially long time to carry out the screening for export control.

Assessment of sensitive technologies held in the university

Category: Acceptance of international researchers

What happened?

- University α , with few foreign students enrolled in science courses, did not use a Pre-screening Sheet to conduct screening for export control.
- On the other hand, in fact, some themes in the science courses cover sensitive technologies, and the export control department had a comprehensive grasp of the research field conducted in the university, including those technologies.
- One day, the department was consulted by X, a faculty member, who asked whether he could accept Y, a researcher of a foreign country of concern, for a short period, holding his current post left in an institution at home maintained. A research theme Y chose fell under a field of research that is understood to deal with sensitive technologies.

What action was taken as a remedy?

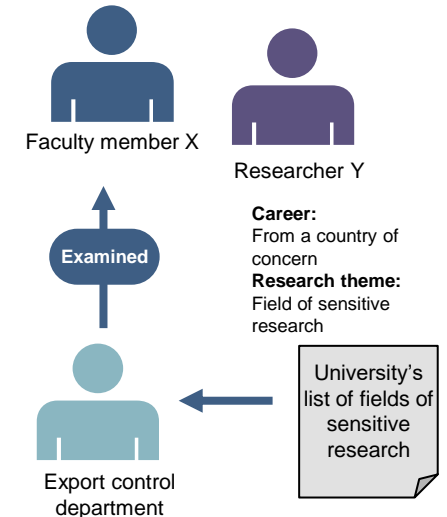
The export control department inquired X about applicability of technologies transferred to Y to the List or Catch-all Control and concluded that they were not.

Why and how did it happen?

N/A

Acceptance of an international researcher

Japan: University α



Solutions and Advice

- ✓ Even universities with only a few international students enrolled in science courses must develop a system to conduct pre-screening.
- ✓ In this case, the university prevented the legal violation by examination of applicability of the technologies to any regulation as the university had a scheme in place for faculty members to consult the export control department.
- ✓ In this case, the university could make prompt action as it had a comprehensive grasp of the researchers and research fields that cover sensitive technologies. Conducting a preliminary survey to inventory sensitive technologies would also be helpful.

Pre-screening of applications filed to external organizations for acceptance of international researchers

Category: Acceptance of international researchers

What happened?

- Following the rule of university α , X, a faculty member planning to accept an international researcher, electronically filed an application to γ , an organization providing financial support for inviting researchers from foreign countries.
- The international exchange department of university α was informed by organization γ that Y, an international researcher whom university α had filed an application, belonged to university β , an organization on the Foreign End User List, in country B, a country of concern, and asked whether a screening had been completed for the purpose of export control.
- Having received the information from the International exchange department, the export control department reviewed and found that X had neglected to complete the export control procedures.

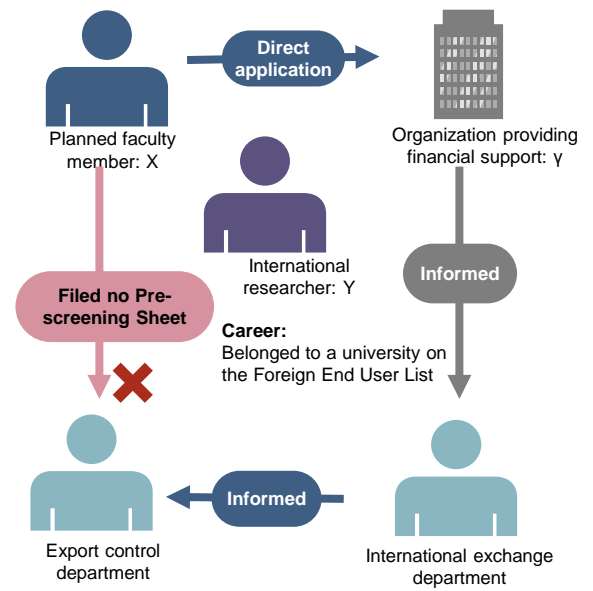
What action was taken as a remedy?

- The theme that Y was going to study at university α fell under the type of concern for university β on the FEUL.
- With no time to file an application, the department talked with X and gave up accepting Y.

Why and how did it happen?

X neglected to complete the export control procedures before filing an application to organization γ .

Application to an organization providing financial support for financing the invitation of an international researcher



Solutions and Advice

- ✓ In this case, if X had completed a review for export control before filing an application to organization γ , he could have readily carried out procedures for accepting Y, with enough time to apply for approval.
- ✓ If an application to an external organization is required for acceptance, a system should be designed to carry out screening for export control prior to this.

Scope of screening of an international researcher

Category: **Acceptance of international researchers**

What happened?

- X, a faculty member, filed an application to accept Y, a researcher belonging to a university in country B, which appeared on the Appended Table 3 of the Export Trade Control Order. Export control team in the faculty administration carried out a pre-screening and concluded that there was nothing concerned. The screening was completed at the first phase and Y was accepted.
- Later, the university headquarters carried out a regular audit and reviewed resumes kept by the faculty administration. Then they found that Y had come from country C, a country of concern.

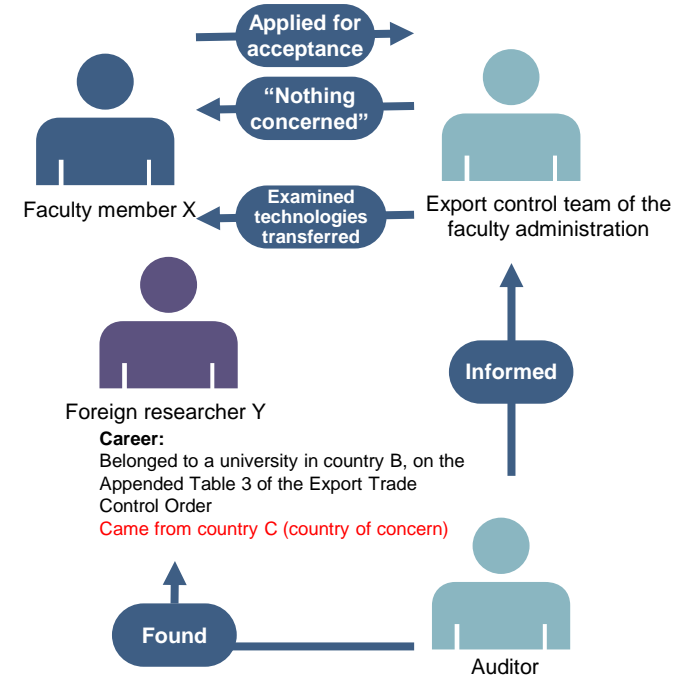
What action was taken as a remedy?

The export control team inquired of X to examine technologies transferred so far to Y and finally concluded that none of the technologies that had been, or were to be, transferred were subject to the List or Catch-all Control.

Why and how did it happen?

X only checked the country where the university to which Y belonged at the time was located.

Acceptance of a researcher from a region on the Appended Table 3 of the Export Trade Control Order



Solutions and Advice

- ✓ A check column should be placed on the Pre-screening Sheet for making sure whether the country a researcher comes from is classified as a country of concern or not.
- ✓ When a faculty administration carries out an initial screening, they must carefully examine whether any column is left blank and that all the entries are correct.
- ✓ For cases screening is completed at the first phase, it is recommended to design a scheme to verify later such as reviewing forms filed for the screening or double-checking of the headquarters after completion of the initial screening.

International Cooperation and Joint Research

Joint research with no agreement

What happened?

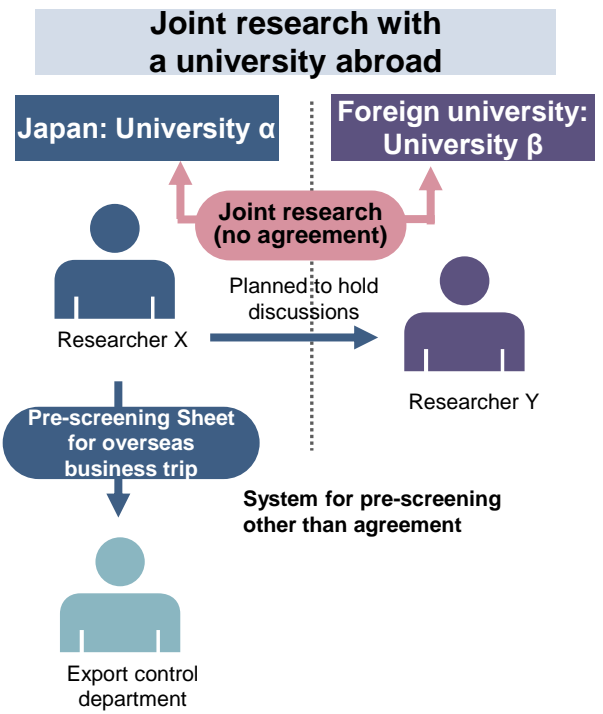
- X, a researcher of university α , did not conclude a joint research agreement with Y, a researcher of a foreign university β , when they started a research project together because X would receive no funds for it.
- X planned to participate in an international conference held abroad (where publicly known technologies were to be transferred), and then meet Y for discussions. Together with an application he filed for the overseas business trip, X submitted a Pre-screening Sheet. With this application, the export control department recognized the project for the first time and are the project have never undergone screening for security export control.

What action was taken as a remedy?

The export control department examined not only adequacy of judgment by X of the applicability of the exemption of “public knowledge” to the case but also the joint research project and concluded that the technologies transferred during this trip would not be subject to the List or Catch-all Control.

Why and how did it happen?

X neglected to carry out export control procedures when starting a joint research project with no agreement concluded.



Solutions and Advice

- ✓ In case procedures for security export control are linked with those for approving a joint research agreement, it is difficult to properly handle joint research projects with no agreement concluded, like this case. Special care is needed when a researcher uses his personal network to conduct a joint research project with a university or any other institution abroad (for writing a thesis together with other researchers, for instance) because they did not conclude an agreement in most cases.
- ✓ A system should be designed to link the process for approving a research plan with that for screening for export control, so that the latter work can be carried out at the time a researcher start planning of a joint project regardless of conclusion of an agreement. At the same time, awareness of security export control should be raised among faculty members to ensure that they do not forget to voluntarily carry out examinations for export control.
- ✓ This case is a good practice in terms of linking the Pre-screening Sheet for security export control with the application process for an overseas business trip with.

Consideration of joint research and awareness of top management

Category: International cooperation & joint research

What happened?

- A top management of university α planned to carry out several inter-university joint research projects with a university abroad, university β . He was unaware that university β appeared on the Foreign End User List. The projects quite likely matches to the type of concern for university β on FEUL.
- He planned to visit university β for discussions about the joint research projects and filed an application for the trip. Then the export control department recognized the programs for the first time with a Pre-screening Sheet attached to the application.

What action was taken as a remedy?

Having discussed and examined export control concern, they concluded that the concerns could not be removed, and decided to give up on the projects.

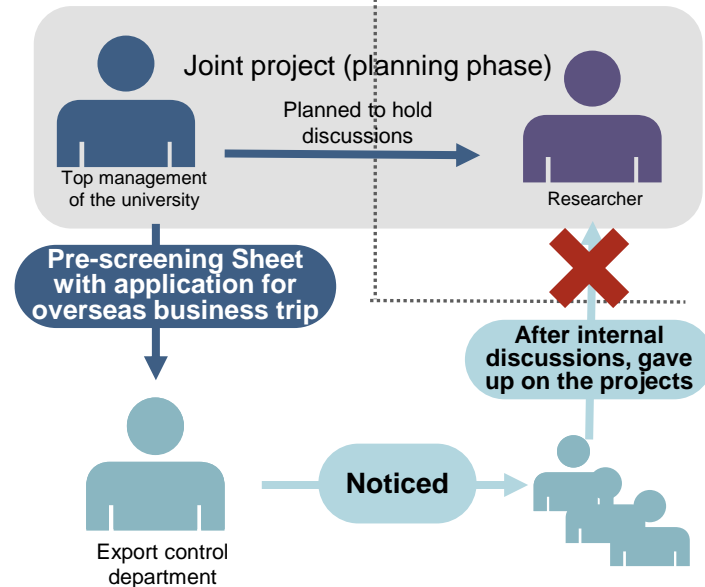
Why and how did it happen?

The top management neglected to confirm information about the counterpart of the joint projects.

Joint project with a university abroad

Japan: University α

Foreign university:
University β
On the Foreign End User List



Solutions and Advice

- ✓ The system must be designed to complete a review for export control at the initial phase of development of an international joint research project.
- ✓ Top management is required to have a profound awareness and understanding of security export control as they are not only subject to export control but also being assigned as Chief Export Control Officer in most universities and research institutions.
- ✓ This case is a good practice in terms of the linking application process for a business trip with the Pre-screening Sheet for export control.

Internship abroad under an agreement between institutions

Category: International cooperation & joint research

What happened?

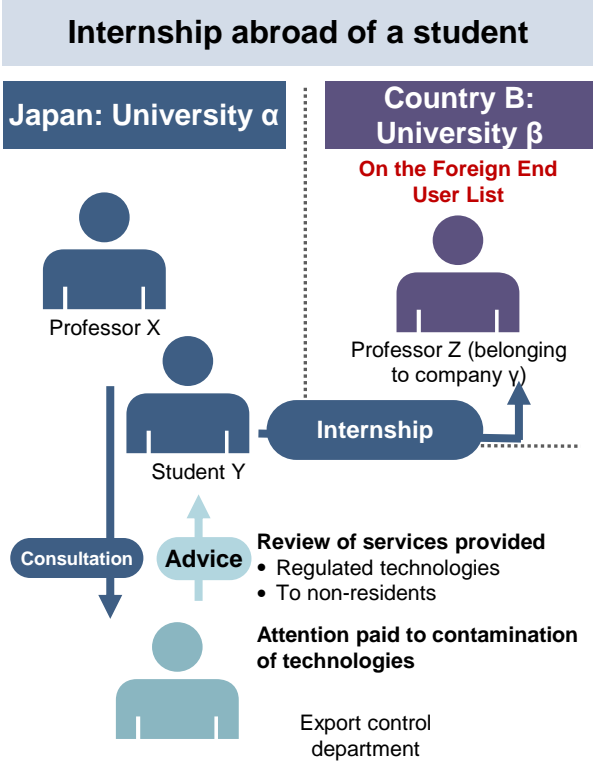
- Y, a Japanese student and a resident of the country, belonged to the laboratory of X, a professor at university α . Z is a professor serving as a part-time lecturer for university β that appeared on the Foreign End User List while belonging to γ , a company in country B. Y planned to work as an intern at university β under the guidance of professor Z.
- For the internship, X considered concluding an agreement for joint educational activities between university α and company γ . Immediately prior to reaching an agreement, he consulted the export control department.

What action was taken as a remedy?

- While counterpart of the agreement is company γ , there were concerns that the regulated technologies might be transferred to university β at which Z is working as a part-time lecturer.
- The export control department confirmed with Y through X that he provides regulated technologies in country B only after completing the export control procedures at university α , and that he must avoid contamination of technologies among universities α and university β , and company γ during his internship.

Why and how did it happen?

X believed that no export control procedures were required because Y would go to university β for an internship.



Solutions and Advice

- ✓ Even in a case a student goes abroad for an internship, it is conceivable that he may, in fact, transfer some technologies. Possibility of technology transfer must be examined before developing a specific internship program and export control procedures must be carried out in case of providing technologies.
- ✓ The system should be designed to cover not only students accepted from foreign countries but also those going abroad for an internship, and the knowledge should be broadly shared in the university.

Cross-appointment of a researcher from the partner of a joint research project

Category: International cooperation & joint research

What happened?

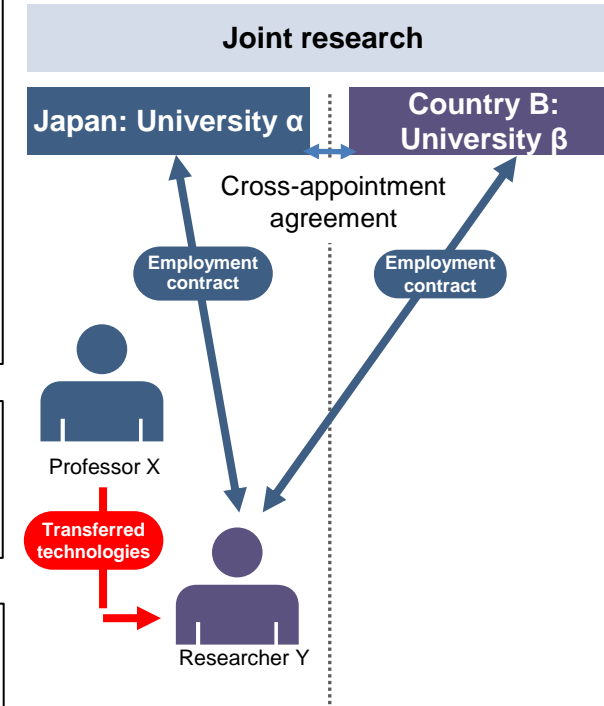
- X, a professor of university α , decided to accept Y, a researcher of university β in country B. university α and β had concluded an agreement for cross-appointment, under which university α was obliged to conclude an employment contract with Y to accept him. X supposed that Y would be treated as a resident of Japan when any technology was transferred to him, believing that there would be no restriction for export control to be imposed on transfer of any technology, including non-published ones.
- The export control department felt doubt that no Pre-screening Sheet had been filed by X and inquired of him.

What action was taken as a remedy?

Given that Y fell under Specific Category 1, in principle, the export control department asked X to file a relevant Pre-screening Sheet.

Why and how did it happen?

X was unaware that Y, a researcher maintaining an employment contract with university β under the cross-appointment agreement, fell under Specific Category 1.



Solutions and Advice

- ✓ The deemed export control is applicable to a researcher who works in Japan under a contract concluded with a Japanese university, when he maintains an employment contract with a university or any other organization abroad under a cross-appointment system during his service for the Japanese university, as he falls under Specific Category 1.
- ✓ When university α and β agree that the former precedes command over Y, he falls outside Category 1.
- ✓ Even when technologies are transferred in Japan to anyone who has concluded an employment contract with a Japanese university, an appropriate judgment should be made for each case by examining its classification of the Specific Category.

Contact point for questions about this compilation

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The latest versions of this compilation of near miss incidents will be continually published with some new examples.