Security Export Control
The Need for Security Export Control

- **Security Export Control** means to:
  - control transfer of technologies or export of goods
  - in order to prevent transfer of the technologies and goods that can be potentially diverted to weapons or military use
  - by any such person who might conduct activities of concern as a nation or terrorists who could threaten the peace and security of Japan and the international community as a whole

- Since activities of countries of concern and terrorist organizations to acquire technologies are becoming increasingly sophisticated, the significance of the security export control in Japan contributing to preserving the peace and security of Japan and the international community is growing.
Aggravation of Issues around Security

- In recent years, the security environment is becoming more complicated and aggravated, including frequent random terrorist attacks, multiple missile and nuclear weapons testing by North Korea and increasing military expenditures in Asia.

**Middle East**
- March 2016: Sequential bombings by terrorists in Brussels, Belgium.
- According to UN Report (Aug. 2016), ISIL allegedly used the mustard gas in Syria in August 2015.

**Russia**
- 2014: Backed by the worsening political situation in Ukraine, the cabinet agreement was made for additional measures against Russia including tightened control of weapons export there. As of now, the economic sanctions against Russia have not been lifted.

**North Korea**
- September 2017: Conducted the sixth nuclear bomb testing.
- November 2017: Conducted the third intercontinental ballistic missile (ICBM) launch.

**Iran**
- January 2016: Exports ban lifted for the transfer of nuclear power and missile related items to Iran.
- In the meantime, Iran conducted the missile test-launching in mid-March.

**China**
- The publicly disclosed defense spending of China quadrupled over a decade.
- Conducting rapid and massive reclamation activities in the Spratly Islands in South China Sea.
Examples where civilian technologies can be used in military sphere

- With the recent leadership of civilian technologies in innovation as well as movement of diversion of civilian technologies into military use, the significance of appropriately controlling not only goods but also civilian technologies is growing.
- In addition, there are cases where countries of concern or terrorists dispatch researchers and students, representing their increasingly diversified procurement activities that require appropriate control of technologies and goods at businesses, universities and research institutions as well.

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<th>Civilian applications</th>
<th>Defense-related applications</th>
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<tr>
<td><strong>Carbon fibers</strong></td>
<td>Main wing material for fighter jets</td>
</tr>
<tr>
<td>Light in weight, strong and durable fiber material whose key element is carbon</td>
<td></td>
</tr>
<tr>
<td><strong>Active control suspensions</strong></td>
<td>Armored combat vehicles</td>
</tr>
<tr>
<td>A mechanism to damp vibration by electrically adapting the suspension characteristics</td>
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</tr>
<tr>
<td><strong>Gallium nitride (GaN) semiconductors</strong></td>
<td>Radars for fleet escort vessels</td>
</tr>
<tr>
<td>Semiconductor material for highly efficient power control/ conversion</td>
<td>Amplifier for a satellite's radiowave transmission</td>
</tr>
<tr>
<td>Golf club shafts, fishing rods, tennis rackets</td>
<td>Formula 1 race cars</td>
</tr>
</tbody>
</table>
Basic Legal Structure under FEFTA

FEFTA: Foreign Exchange and Foreign Trade Act

Regulation of goods export

- Provide the framework
- Specify list control items
- Specify more detail

Regulation of technology transfer

Act (FEFTA)

- Cabinet order (Export Trade Control Order)
- Cabinet Order (Foreign Exchange Order)

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

<table>
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<th>FEFTA</th>
<th>Cabinet Order</th>
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<th>Catch-all control of Conventional Weapons</th>
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<td>Export Control Order</td>
<td>category 1-15</td>
<td>category 16</td>
<td></td>
</tr>
<tr>
<td>Article 25</td>
<td>Foreign Exchange Order</td>
<td>category 1-15</td>
<td>category 16</td>
<td>List of Goods</td>
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<td></td>
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<td></td>
<td>List of Technologies</td>
</tr>
</tbody>
</table>

- **Regulated Items**
  - weapons
  - listed dual use items related to WMD and conventional weapons

- **Regulated Destination**
  - All countries

Preferred Trade Partner List Countries: 26 countries※ which are member countries of all export control regimes and have comprehensive export control systems

UN arms embargo countries※ in the context of catch-all control: Afghanistan, Central Africa, Democratic Republic of Congo, Iraq, Lebanon, Libya, North Korea, Somalia, Sudan, South Sudan

※As of August, 2019
List control under FEFTA

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

<table>
<thead>
<tr>
<th>Category</th>
<th>List control</th>
<th>International Regime List</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Weapons</td>
<td>WA (Wassenaar Arrangement) / ML (Munitions)</td>
</tr>
<tr>
<td>2</td>
<td>Dual-use items</td>
<td>NSG (Nuclear Suppliers Group)</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>AG (Australia Group) (Biological/Chemical Weapons)</td>
</tr>
<tr>
<td>3-2</td>
<td></td>
<td>MTCR (Missile Technology Control Regime)</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>WA / BL (Basic List) • SL (Sensitive List)</td>
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<td>13</td>
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<tr>
<td>14</td>
<td>Dual-use items</td>
<td>WA / ML (excluding item 1)</td>
</tr>
<tr>
<td>15</td>
<td></td>
<td>WA / VSL (Very Sensitive List)</td>
</tr>
<tr>
<td>16</td>
<td>Catch-all</td>
<td></td>
</tr>
</tbody>
</table>

(Ref) The comparative list of Japan’s List and EU list:
http://www.cistec.or.jp/service/eu_taihi.xls (Only in Japanese)
Individual License and Bulk License

**Individual License**
- Transaction-based examination.
- Check the contents of each transaction.

(Ref) 4 Pillars of examination
1. Whether the goods will be actually delivered to the end user.
2. Whether the goods will be actually used by the stated end user.
3. Whether the goods will not be used for the purposes of impeding the maintenance of international peace and security.
4. Whether the end user will appropriately control the goods.

**Bulk License**
- For specific destination and specific items, repeated transaction, etc.
- Do not examine each transaction.
- Check the exporter’s compliance (ICPs, etc.)
Individual License and Bulk License-types of bulk license

**Bulk License**
- Valid for multiple transactions for 3 years

### General Bulk Export License
- Export of specific items to preferred trade partner list countries
- Only electronic application is acceptable.
- ICPs and prior on-site check are NOT required.

### Special General Bulk Export License
- Exports of specific items to specific countries (i.e. export of WA/BL to non-WA countries, etc.).
- ICPs and prior on-site check are required.

### Special Bulk Export License
- Repeated exports of specific items to specific customers.
- ICPs and prior on-site check are required.

### Special Bulk Export License for Repair or Replacement
- Re-exports of arms and arms-related items (category 1) to the country of origin for repair or replacement.
- ICPs and prior on-site check are required.

### Special Bulk Export License for Overseas Subsidiaries
- Exports of specific items to subsidiaries in foreign countries.
- ICPs and prior on-site check are required.
## List-controlled Items - i. (for reference)

### 1. Arms
- (1) Firearms, ammunition
- (2) Explosives, explosive dispensers
- (3) Propellants, military fuels
- (4) Propellants, military fuels
- (5) Directed energy weapons
- (6) Kinetic energy weapons and projectiles
- (7) Military vehicles, bridges, etc.
- (8) Military vessels, etc.
- (9) Military aircraft, etc.
- (10) Anti-submarine nets, anti-torpedo nets
- (11) Armor plates, military helmets, body armor
- (12) Military searchlights or control equipment
- (13) Biological/chemical warfare agents
- (14) Biopolymers for chemical agents, etc.
- (15) Equipment for the production/test of warfare low explosives
- (16) Equipment or device for the production of arms
- (17) Military satellites or components thereof
- (18) Substances used as alpha sources for the detonation of nuclear weapons
- (19) Boron 10
- (20) Lithium
- (21) Zirconium
- (22) Electrolytic cells for fluorine production
- (23) Equipment for the production of gas centrifuge rotors
- (24) Centrifugal balancing machines
- (25) Filament winding machines
- (26) Laser oscillators
- (27) Mass spectrometers or ion sources
- (28) Pressure gauges or bellows valves
- (29) Superconducting solenoid electromagnets
- (30) Vacuum pumps
- (31) Direct current power units
- (32) Electron accelerators or X-ray generators
- (33) Impact testing machines
- (34) High speed cameras
- (35) Interferometers, pressure gauges, pressure transducers
- (36) Neutron generators
- (37) Remote control manipulators
- (38) 1. Numerically-controlled machine tools
- (39) 2. Measurement equipment
- (40) Induction furnaces, arc furnaces or melting furnaces
- (41) Isostatic presses
- (42) Robots
- (43) Vibration test systems
- (44) Structural materials for gas centrifuge rotors
- (45) Substances used as reducing or oxidizing agents for the production of nuclear fuel materials
- (46) Crucibles
- (47) Halium
- (48) Equipment for the production, collection or preservation of tritium
- (49) Platinized catalysts
- (50) Helium-3
- (51) Primary products of chemium
- (52) Containers with explosion-proof construction

### 2. Nuclear Power
- (1) Nuclear fuel or nuclear source materials
- (2) Nuclear reactors or power-generating equipment for nuclear reactors
- (3) Deuterium or deuterium compounds
- (4) Artificial graphite
- (5) Equipment for the separation/reprocessing of nuclear fuel materials
- (6) Equipment for the separation of lithium isotopes
- (7) Equipment for the separation of uranium/plutonium isotopes
- (8) Frequency changers
- (9) Nickel powder, nickel porous metal
- (10) Equipment for the production of deuterium or deuterium compounds
- (10.2) Equipment for the production of uranium/plutonium isotopes
- (11) Flow-forming machines
- (12) Scram-type compressors and vacuum pumps
- (13) Direct current power units
- (14) Electron accelerators or X-ray generators
- (15) Impact testing machines
- (16) High speed cameras
- (17) Interferometers, pressure gauges, pressure transducers
- (18) Neutron generators
- (19) Remote control manipulators

### 3. Chemical Weapons
- (1) Raw materials for chemical warfare agents or substances/raw materials having equivalent toxic ability with chemical warfare agents
- (2) Equipment or device for the production of chemical agents or equipment on components for repair or replacement of chemical agents

### 3 - 2. Biological Weapons
- (1) Source materials for bacterial warfare agents
- (2) Equipment for the production of bacterial agents

### 4. Missiles
- (1) Rockets or their production equipment
- (1.2) Unmanned aerial vehicles (UAVs) or their production equipment
- (2) Guidance or testing equipment for rockets
- (3) Propulsion units
- (4) Flow forming machines
- (5) Servo valves, pumps, gas turbines
- (5.2) Bearings for pumps
- (6) Propellants or their raw materials
- (7) Equipment for the production/test of propellants
- (8) Powder and granular materials mixers
- (9) Semi-machining, semi-manufacturing equipment for the production of metal parts
- (10) Equipment for the production of composite materials
- (11) Nozzles
- (12) Equipment, e.g., aliens, for the production of nozzle or re-entry vehicle nose tips
- (13) Isostatic presses or controllers
- (14) Furnaces or controllers for composite materials

### 5. Advanced Materials
- (1) Fluorine compound products
- (2) (delete)
- (3) Aromatic polyamide products
- (4) Tools for forming of titanium, aluminum or its alloys
- (5) Alloys or powders of titanium or aluminum and their production equipment
- (6) Metallic magnetic materials
- (7) Uranium-titanium alloys or tungsten alloys
- (8) (delete)
- (9) (delete)
- (10) Lubricants
- (11) Liquids for preventing vibration
- (12) Liquids for coolant
- (13) Ceramic powders
- (14) Ceramic composites
- (15) Polydiorganosilane or polysilazane, etc.
- (16) Bismaleimide or aromatic polyamideimide, etc.
- (17) Fluorinated polyimides
- (18) Molded products that use prepregs or preforms
- (19) Boron, boron carbide, guanidine nitrate

※As of January, 2020
# List-controlled Items - ii. (for reference)

### 6. Material Processing
- (1) Bearings
- (2) Numerically-controlled (N/C) machine tools
- (3) Machine tools for the production of gears
- (4) Isostatic presses
- (5) Coating devices
- (6) Measurement equipment
- (7) Robots
- (8) Feedback devices, et alia
- (9) Spin forming machines

### 7. Electronics
- (1) Integrated circuits
- (2) Devices using microwaves or millimeter waves
- (3) Signal processing equipment
- (4) Devices using superconductive materials
- (5) Superconducting electromagnets
- (6) Primary-secondary or solar cells
- (7) High voltage capacitors
- (8) Encoders
- (8-2) Thyristor devices or modules
- (8-3) Semiconductor devices for power control
- (8-4) Optical modulator
- (9) Sampling oscilloscopes
- (10) Analog-to-digital converters
- (11) Digital instrumentation recorders
- (12) Signal generators
- (13) Frequency analyzers
- (14) Network analyzers
- (15) Atomic frequency standards
- (15-2) Spray cooling method temperature control devices
- (16) Semiconductor manufacturing equipment
- (17) Masks or reticles
- (17-2) Materials for production of masks
- (18) Semiconductor substrate
- (19) Resist

### 8. Computers
- (1) Computers

### 9. Telecommunication
- (1) Telecommunication transmission equipment
- (2) Electronic changers
- (3) Communication optical fibers
- (4) (delete)
- (5) Phased array antennas
- (5-2) Radio direction finding equipment for monitoring use
- (5-3) Wireless communication wiretapping devices
- (5-4) Equipment capable of detecting the position of objects by observing interferences of radio waves, possessing a receiving function only
- (5-5) Internet communication monitoring equipment
- (6) Design/production equipment for items (3), (3), and (3) through 5-5
- (7) Encryption equipment
- (7) Equipment designed to prevent the leakage of information transmission signals
- (8) (delete)
- (9) Communication cable systems capable of detecting surreptitious intrusion
- (10) Design/production/measurement equipment for items 7, 8, or 10

### 10. Sensors
- (1) Underwater acoustic equipment
- (2) Optical detectors or coolers thereof
- (3) Optical fibers for use in sensors
- (4) High speed cameras
- (5) Reflectors
- (6) Optical components for space use

### 11. Navigation Devices
- (1) Accelerators
- (2) Gyroscopes
- (3) Inertial navigation systems
- (4) Gyro-astro compasses, global navigation satellite systems, equipment for receiving radio waves, or aircraft altimeters
- (4-2) Underwater navigation devices using sonar
- (5) Testing/production equipment for items 1 through 4-2

### 12. Marine
- (1) Submersible vessels/vehicles
- (2) Vessel components or auxiliaries thereof
- (3) Underwater salvage systems
- (4) Underwater lighting systems
- (5) Underwater robots
- (6) Sealed power units
- (7) Circulation water tanks
- (8) Buoyant materials
- (9) Closed-circuit or semi-closed circuit self-contained diving equipment
- (10) Underwater acoustic transmitters used for obstruction

### 13. Propulsion Units

### 14. Miscellaneous
- (1) Metallic fuel in a powder state
- (2) Substances which are additives or precursors to low explosives or high explosives
- (3) Diesel engines
- (4) (delete)
- (5) Self-contained diving equipment
- (6) Civil engineering machinery for air transportation
- (7) Robots or control equipment thereof
- (8) Electric braking shutters
- (9) Tear or sneeze gas and application equipment thereof
- (10) Simplified explosion devices
- (11) Detectors for explosives

### 15. Sensitive Items
- (1) Molded goods using inorganic fibers, et alia
- (2) Radio wave absorbers or conductive polymers
- (3) Nuclear heat source materials
- (4) Digital telecommunication transmission equipment units for obstruction of simplified explosion devices
- (4-2) Underwater acoustic equipment
- (5) Underwater acoustic equipment
- (6) Optical detectors for space use
- (7) Radars which utilize a transmitting pulse width less than 100 nanoseconds
- (8) Submersible boats
- (9) Soundproofing devices for vessels
- (10) Ramjet engines, scramjet engines, combined cycle engines
Catch-all Control of WMD

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

**Region**
- All regions except for preferred trade partner list countries

**Items**
- Any Items which are not on the list (except for food, etc.)
  - The Commodity Watch List [41 +21* items]
    - (*only for Syria)

**Conditions**

1. **Exporter’s Initiative = The “Know” Condition**
   - In case exporters have come to know that the items will be used for the development, manufacture, use, storage etc. of WMD
   - In case exporters have come to know that the end user is/was involved in WMD-related program through relevant documents such as Foreign End User List, except for the case the item in question will be apparently used for a purpose other than the WMD-related activities

2. **METI’s Initiative = The “Informed” Condition**
   - The “inform” is given when METI considers that the items in question are/may be intended for WMD.
Catch-all Control of Conventional Arms

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

**Region**

- Countries under UN arms embargo
- Non-preferred trade partner list countries except for UN Arms embargo countries

**Items**

- Any items which are not on the list (except for food, etc.)
- The Commodity Watch List [34 items]

**Conditions**

1. **Exporter’s Initiative**
   - The “Know” Condition
   - In case exporters have come to know that the items will be used for the development, manufacture or use of conventional arms in UN embargo Countries

2. **METI’s Initiative**
   - The “Informed” Condition
   - The “inform” is given when METI considers that the items in question are/may be intended for a military end-use.
Transfer of Technologies Subject to the Control

- Transfer of technologies subject to the controls are:
  i. transactions intended for transferring technologies from a resident to a non-resident (personal aspect);
  ii. transactions intended for transferring technologies in other countries (geographical aspect);
  (As complement for ii.) iii. acts of bringing out technologies overseas; and iv. acts of transmitting technical data in an electric form to other countries.

Personal aspect

- i. Transfer
  - Resident
  - Non-resident
  - i. Transfer of technologies from a resident to a non-resident

Geographical aspect

- ii. Transfer
  - Japan
  - National border
  - Other countries
  - Anyone
  - Anyone
  - iii./ iv. Bringing out/ transmitting
  - Obtaining a separate license for bringing out technologies is required if a license for 'ii' is not yet obtained.
The exporter has the responsibility to classify whether the export item is subject to control list. As a result of the classification, if it is found that the item is covered by the control list, it must apply for export license to the Ministry of Economy, Trade and Industry (METI).

METI examines the appropriateness of the end-use and the end-user of the license application, and decides whether to permit or deny the application. Additional conditions may be imposed on export licenses (e.g., monitoring of export machines, prior consent in the case of the re-transfer of items.).
# Distinguishing Residents and Non-residents

The definition of resident and non-resident is stipulated by the government notice: About interpretation and implementation of the Foreign Exchange Laws and Regulations (No. 4672, issued on November 29, 1980).

## Resident

**Japanese**
1. Those who work at Japan's international diplomatic offices
2. All other Japanese than 1), 3), 4) and 5)

**Foreigners**
7. Those who work at an office in Japan
8. Those who stay in Japan for six months or longer after entry

**Corporations or legal persons**
12. Offices including a branch/sub-branch of an international corporation in Japan
13. Japan's international diplomatic offices
14. Japanese corporations/legal persons excluding 13) and 15)

## Non-resident

**Japanese**
3. Those who departed from Japan and stay outside Japan for the purpose of working at an overseas office
4. Those who departed from Japan and stay outside Japan for the purpose of staying outside Japan for two years or longer
5. Those who stay outside Japan after the departure from Japan for two years or longer
6. Those who fall under any of 3) through 5) and returned to Japan as a temporary homecoming staying for less than six months so far

**Foreigners**
9. Persons in public service for foreign governments or international institutions
10. Diplomats, consuls or accompanying personnel/servants thereof (only those appointed/hired outside Japan)
11. All foreigners other than 7) through 10)

**Corporations or legal persons**
15. Offices including a branch/sub-branch of a Japanese corporation in other countries
16. Diplomatic offices of foreign governments and international institutions in Japan
17. Foreign corporations/legal persons excluding 12) and 16)

Note: The residency status is judged by applying the classification above in the order of the underlined with red -> the underlined with blue -> no underline. Indifferent to the classification above, the US Forces, UN Forces, and consituent members thereof are non-resident.
Penalties under FEFTA

**Criminal Penalty**

- **Individual**
  - No more than ten years of imprisonment
  - No more than thirty million yen or no more than five times in value of the items

- **Company**
  - No more than ten years of imprisonment
  - No more than one billion yen or no more than five times in value of the items

**Publication**

- METI may issue a warning, which would be made public on the METI website

**Administrative Penalty**

- Prohibition of exports for no more than three years