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*Toward Effective Implementation
of
Security Trade Control*

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Outline of Presentation

- **Ongoing Challenges for the effective implementation**
- **Forthcoming Challenges for the effective implementation**
- **More elements needed for the effective implementation**
- **Potential Outline of Certification**
- **New Certified Company Scheme**
- **Attempts to put into practice**
- **Benefits**
- **What's next we should do**

[Remarks]

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Ongoing Challenges for the Effective Implementation

- Pursuant to UN Security Council Resolution 1887 to end nuclear weapons proliferation, the Council is urging all states to improve their national capabilities to strengthen export controls
- Responding to the Council, Japan has been reinforcing implementation of Resolution 1540 which is the most encompassing non-proliferation mechanism currently available
- As part of its reinforcement, new regulations such as brokering and transshipment regulations were introduced in Jun.2007
- And key issues of upgrading export control system have been discussed in “Industrial Structure Council WG” and put WG Members ideas into practice by promulgating new related regulations. As part of its result, border control on technology transfer was newly introduced in Nov. 2009 so as to close the loophole of the control

Forthcoming Challenges for the Effective Implementation (1)

- **As effective export control system depend on private sector compliance, METI is not only intensifying awareness raising activities for small/medium sized companies so that more exporters aware the importance of maintaining peace, security and stability, but also preparing to introduce new compliance scheme. Its relevant law is scheduled to be enacted in Apr.2010**
- **Under the new scheme, any exporters , irrespective of size of company, are requested to establish comprehensive Internal Compliance Program (ICP). Although Bulk license approval is so far rendered to holders of ICP with ICP receipt issued by METI, this scheme can be extended**

Forthcoming Challenges for the Effective Implementation (2)

- **Streamlining the control of transactions with overseas affiliates and subsidiaries:**
METI encourages head office to provide guidance and assistance to overseas affiliates and subsidiaries in a similar manner as those provided to the in-house companies so that METI can consider to streamline the control of transactions with them, for instance, by introducing a new special bulk license for overseas affiliates and subsidiaries
- **Reviewing notation system of controlled items in the Attachment List No.1 to Export Trade Control Order and to Foreign Exchange Order toward harmonization of export control (Japan already started to provide correlation reference by giving first 5 digit of ECCN in the right end column of the control list, while Four Asian countries has incorporated ECCN coding system as of Jan. 2009, namely Hong Kong, Singapore, South Korea & Taiwan)**

More Elements Needed for the effective implementation (1)

- Promoting transparency of end-to-end supply chain security is needed so as to have more clarity in each level.
- Because, to have more clarity in each level of supply chain is essential for facilitating the movements of goods within secure supply chain through to end
- Then, how is transparency of end-to-end supply chain improving in other regions?
 - US has introduced CSI, CT-PAT and ACE
 - EU are introducing AEO
 - BIS has newly introduced VEU for exports to China
- Providing web based lists of entities of Concern so as to tighten end use control
- Establishing web based control list classification tools which can be registered from any countries in the region (Cf. “Good Checker”, “OGEL Checker in UK”)

More Elements Needed for the effective implementation (2)

- Drawing up “best practices” in technology transfer control so that it can be shared within the region for better understanding of it
- Raising understanding of aspects that scientist has a ‘special responsibility’ of protecting own intellectual property so that potential misuse of sensitive dual use technologies can be prevented at time of disseminating the research results
- Strengthening bilateral and/or multilateral cooperation with Asian countries and intensifying outreach activities in Asia are needed so as to improve their national legislations ;

As Japan has little intention to apply extraterritorial provisions to foreign nationals on re-export from third country, brokering and technology transfer, this is one of the very few alternative Japan can take to prevent illicit circumvention via Asian countries

More Elements Needed for the effective implementation (New Certified Companies Scheme)

- a new framework is needed to provide a more friendly regulatory requirement to bona fide manufactures, exporters, and end users
- “Certified Companies Concept” could be a base of forming the framework
- the certification scheme can be formed by Utilizing existing framework such as;
 - Between CT-PAT companies and AEO operators with best practice of highest standard
 - Between CT-PAT/AEO and ICP registered companies in METI’s public list (and possibly ACS companies in Singapore and/or VEUs in China)
- Certified Company Scheme can be used as a “good reference” to manufactures, exporters, and end users when competent authority review relevant license applications

Potential Outline of Certification (1)

- **Certification can be assigned to candidate companies on the understanding that the competent authorities in the signatory allied nations have already made and shall continue to make a thorough review of candidates' ICP through periodic audits (the candidate companies have to make voluntary registration of their ICP in competent authorities' public list of the nation)**
- **Top management of Certified Companies should show a full commitment to all terms and conditions of the registered company's ICP**

Potential Outline of Certification (2)

- **Certified Company shall maintain detailed record of transactions screenings including relevant information of risk assessments**
- **Periodic audits of Certified Companies' ICP shall be carried out by the competent authority of a signatory allied nations where the exporter is established**
- **The signatory allied nations of destination shall uphold findings through these periodic audits of Certified companies' ICP**

New Certified Company Scheme

- **Signatory allied nations' competent authorities may consider granting a new special Comprehensive License for repeated transactions in between Certified Companies in a nation with a bilateral agreement on export control (i.e. between Japan and Singapore)**
- **US competent authorities may consider granting a new Comprehensive License to Re-Exporters with Certified company status**

Attempts to put into practice

- **BIS announced the first five approved Validated End Users (VEUs) for exports of items controlled by EAR to China in Oct. 2007**
- **Certifying bona fide manufactures of munitions in EU and relaxing the intra-community transfer control so that they can facilitate intra-EU trade**
- **Free circulation of goods and technologies within certified companies and/or between certified companies (head office/branches/subsidiaries/affiliates)**

Benefits

- **Certified Company Scheme can facilitate legitimate trade**
- **Certified Company Scheme can achieve greater transparency**
- **Certified Company can gain additional trust from business partners as well as formulate a good reputation in the overall business community**
- **Exporters can make proactive approach to the potential clients of Certified Companies**

What's next we should do

- **Organizing capacity building workshop on this subject**
- **Organizing business dialogue within Asian and Oceanian region**
- **Organizing triangle business dialogue among trans-Atlantic and trans-Pacific**

Thank You All

