

On the Revision of Japan's Application of Export  
Controls to the Republic of Korea and  
Compliance of Japan's Security Export Control  
Systems with WTO Rules  
—Disputes Based on Misunderstandings are Fruitless—

November 1, 2019

Center for Information on Security Trade Control  
(CISTEC)

(Note)

This document has been compiled based on public information on security export controls strictly from the standpoint of a non-governmental institution specializing in export controls, and has no relevance to the stance and assertions of the Government of Japan.

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# I. Course of Events to Date

# Course of Events to Date (1)—Measures Taken by Japan

◇ Measures taken by Japan

## Announced its '*Revision of Export Controls towards the ROK*' (Jul 1)

(1) Revision of export control categories related to ROK (effective Aug 7)

- Removed ROK from white country list (currently Group A countries).

(2) Changeover of 3 specific items from General Bulk Export License Requirements to Individual Export License (effective Jul 4)

- Photoresists, fluorinated polyimide, and hydrogen fluoride  
(i.e. Only items controlled under the International Export Control Regimes)

# Course of Events to Date (2)—Measures Taken by ROK

## ◇ Measures taken by the ROK

### Opposing Japan's measures as retaliation against the “forced labor” issue.

(1) Removed Japan from ROK's white country list (named Area “Ka” Countries)  
(Sep 18)

(2) Appealed against Japan's measures at the WTO (Sep 11)

- Appeal only against changeover to individual license requirements for 3 items.
- The removal from white countries was not appealed.

(3) As the impact of Japan's measures is big,

- Appealing the “injustice” of Japan's measures to the WTO General Council, major media, think tanks, etc.
- Supporting companies affected by the measures / Promoting domestic production of materials dependent on Japan, etc.

# METI's Explanation on Revision of *Export Controls to ROK* —Press Releases, Twitter, etc.—

## ■ General Reasons

- Inappropriate incidents have arisen over export controls relating to the ROK.
- The system of export control is operated on the basis of relationship of trust, but there have been no discussions between the export control authorities despite Japan's requests. The situation of not being able to confirm whether the ROK will improve the system or its operations continues and does not look like improving in the future.
- It is not an embargo, but favorable measures that were implemented for ROK have been stopped and shipped back to the same normal measures as many other countries.
- Allowed so long as there are no concerns of being used for military purposes.

## ■ Reasons for changeover to individual license requirements for 3 items

- As Japan is a major supplier, it is necessary to fulfill the appropriate control responsibilities for the international community.
- In this field of manufactured goods, it is usual that orders, especially from the destination of export, are processed repeatedly in short notice and quick delivery.
- Inappropriate incidents have occurred.

# What are Inappropriate Incidents?

## ■ The government of Japan's Explanation

“It is a matter relating to the details of trade of individual companies, and since there is a risk of hindering the execution of export control, no specific details will be disclosed.”

## ■ Japan's Ruling Party Member's Explanation (summary)

“Hydrogen fluoride has been exported 100 units at the request of Korean companies. 70 have been thought to be used for production purposes, but when asked about the remaining 30, there was no reply from the ROK Government. Exports have been made in good faith, but the ROK will not enter into discussions.” (Itsunori Onodera, Chairman, LDP Research Commission on Security. Same stance from other Diet members)

## ■ From the above, it is assumed to be incidents questionable from the viewpoint of confirming its end-use and end-user.

- (1) “Inappropriate” is not illegal, but it is against the basic principles of export control.
- (2) In spite of the repeated instructions to make absolutely sure to prevent export circumvention and unintended use, these were not complied with or suspected of non-compliance.



## II. Possible Incidents Assumed to be the Background of Measures Taken by Japan

# Incidents closely related to “inappropriate incidents”

—All sorts of concerns become apparent

## (1) Re-export of hydrogen fluoride to China—different from license conditions

It was reported that what were exported from Japan to companies in ROK by using a bulk export license were re-exported to Chinese subsidiaries.

## (2) The issue of missing hydrogen fluoride shipped back as defective

Hydrogen fluoride, which should have been shipped back to Japan as a defective product, is not included in the Japanese import statistics, and its whereabouts have been pointed out as a problem by the ROK National Assembly.

## (3) Unauthorized export of large amounts of sensitive items revealed

Since 2015, the ROK National Assembly has revealed that there have been 156 cases of unauthorized exports of sensitive items (there are multiple cases of hydrogen fluoride).

## (4) Other

- Previously, there was an illegal export of carbon fiber from Japan to China via ROK (convicted in 2015).
- It is written in a Report by the United Nations Security Council’s North Korea Sanctions Committee that the ROK has been warned of bringing in refined petroleum products to the Inter-Korean Liaison Office without notice (2018).

# Incident (1) Re-export of Hydrogen Fluoride to China (1/2)

—The country of destination and end-user were different from license premises

## ■ Report by Nikkei Shimbun (July 20, 2019)

The following was published based on [explanations from the ROK Ministry of Trade, Industry and Energy, and the Korean Trade Association](#).

○ [Korean semiconductor companies use highly purified hydrogen fluoride imported from Japan at their ROK factories and also re-export it to their local factories in China.](#)

○ This is also supported by trade statistics for all three countries, Japan, ROK, and China. (2018)

- Japan → ROK approx. 36,800 tons (Japan statistics)
- ROK → China 4,050 tons (ROK statistics) / 4,000 tons (China statistics)

\* Destinations in China are Shaanxi and Jiangsu, where ROK companies have local factories (70% and 30% respectively).

○ [ROK authorities have licensed this re-export.](#)

# Incident (1) Re-export of Hydrogen Fluoride to China (2/2)

—The country of destination and end-user were different from license premises

## ■ Issues

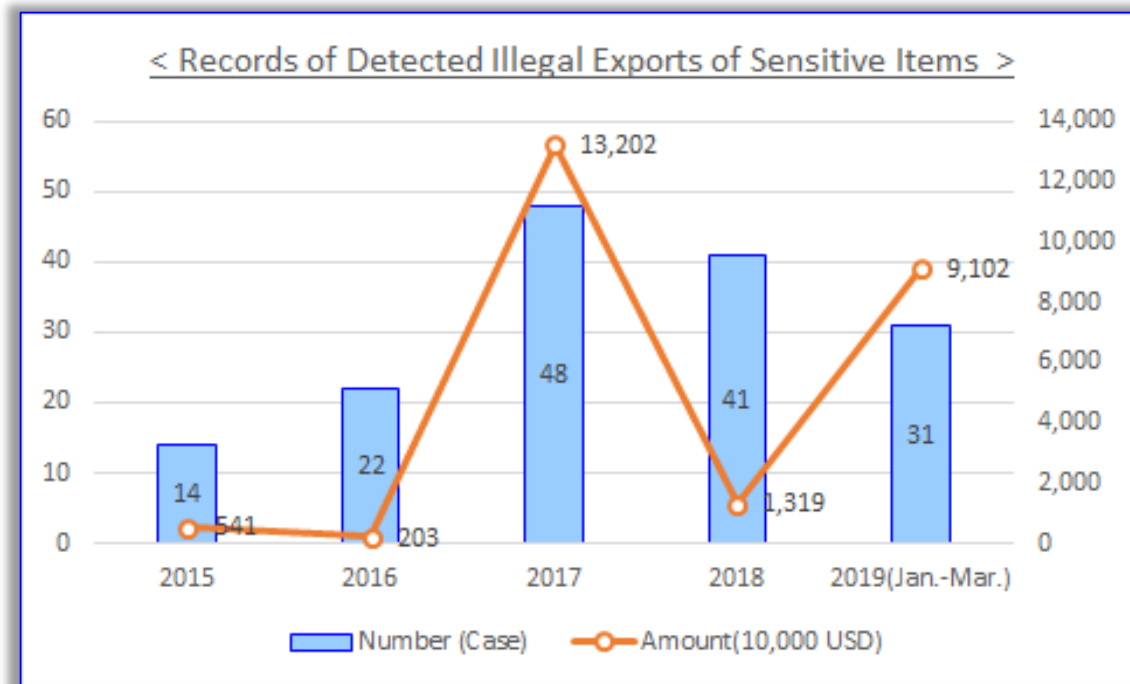
- (1) What is exported from Japan *by* using a bulk export license for use by a company in ROK is of course should be for the end-use of that same company.
- (2) If it will be used in a local factory in China, then it is necessary to obtain license from the Japanese authorities for the export of which the final destination is China and the end user is the local factory in China.
- (3) It is not allowed to re-export to the destination country and end-user which are different from the license premises, even if the ROK authorities permit such export.
- (4) It is possible that Japanese exporting companies did not have enough understanding and contractual dealings on these points.

Incident (2) 156 cases of illegal exports of sensitive items revealed  
—Sharp threefold increase in 3 years / 50% biological and chemical weapons-related goods (1/3)

■ A list of detected 156 cases of illegal exports from the ROK submitted by the ROK government to lawmakers is revealed.

→ Reported by The Chosun Ilbo on May 17 and announced by the ROK government on July 1.

(1) Since 2016, both the number and amount of money have increased significantly.



Incident (2) 156 cases of illegal exports of sensitive items revealed  
 —Sharp threefold increase in 3 years / 50% biological and chemical weapons-related goods (2/3)

(2) Chemical and biological weapons-related materials account for about 50%

- Sodium fluoride, hydrofluoric acid ⇒ Raw material for sarin
- Diisopropylamine ⇒ Raw material for VX (nerve agent)
- Sodium cyanide ⇒ Raw material of hydrogen cyanide
- Diethylamine, potassium fluoride ⇒ Raw material for chemical weapons

International Export Control Regime	No. of Cases	Main Products
AG (biological and chemical weapons related) * Incl. 1 case related to CWC.	70	Iran (sodium fluoride, diethylamine, valves), Syria (biological safety storage cabinet), Vietnam and UAE (hydrofluoric acid, each 1 case), Malaysia (diisopropylamine), etc.
WA (conventional weapons related)	53	Thermal imaging cameras, radio frequency jammers, infrared cameras, machine tools, network security devices, IC chips, etc.
NSG (atomic and nuclear related)	29	Machining centers, semiconductor manufacturing equipment, CNC machine, pressure gauges, zirconium (nuclear fuel rod coating material), milling machines, mass spectrometers, etc.
MTCR (missile related)	2	Artificial graphite blocks, tungsten powder

Incident (2) 156 cases of illegal exports of sensitive items revealed  
—Sharp threefold increase in 3 years / 50% biological and chemical  
weapons-related goods (3/3)

## ■ Issues

- (1) The existence of such a large number of illegal export cases has not been publicly disclosed so far (only the number of cases has been disclosed in white papers). If they are not made public, no precautions can be taken in terms of export control.
- (2) Weapons of mass destruction account for two-thirds of the total cases, mainly related to biological and chemical weapons. Export destinations also include not a small number of countries used as intermediate countries for export circumvention to North Korea and Iran. Furthermore, there are over 40 cases of illegal exports to China, which is promoting a strategy of civil-military fusion.
- (3) Illegal exports by specific suppliers have been repeated, with the top three companies accounting for 43% of the total. Intentional violations are presumed, leading to skepticism regarding the ROK's initiatives to effectively prevent recurrences.
- (4) There are 36 “export restrictions” and 24 “warnings” as administrative measures. However, in Japan and the other major countries, normally, names of those companies subject to administrative sanctions at these levels are publicly announced. Unless malicious cases in the ROK are disclosed, such companies cannot be subject to proper screening when exporting items to the ROK from overseas.

Incident (3) The whereabouts of hydrogen fluoride that should have been shipped back to Japan as “defective” — Explained as “shipped back to Japan” but not included in Japanese statistics

## ■ Q&A from the opposition at the Special Committee on Budget and Accounts, ROK National Assembly (July 12, 2019) (Yonhap News, CBS No Cut News, both July 12, 2019)

○ The discrepancies in trade statistics between Japan and ROK regarding the amount of etching gas (hydrogen fluoride) exported from ROK to Japan was pointed out.

- It was pointed out twice in May this year that 99.7% of the etching gas disappeared because exports of etching gas from ROK to Japan were not recorded in the Japanese import statistics (39,650 kg exported ↔ 120 kg imported).
- The government initially responded that it did not understand, but later explained that it was shipped back to Japan because it was confirmed by related industries that a defect was found in the hydrogen fluoride imported from Japan.
- The Member of Parliaments insisted that there was a big discrepancy in the statistics and that its whereabouts should be investigated.

## ■ Issues

- In the ROK, export for return is subject to an exception for individual licenses (no license required).
- Caution is required for unlicensed “ship back” exports, as they can be used as an illegal means for illegal export circumventions.



Incident (4) Indications in the U.N. North Korea Panel of Experts report  
—Example of North Korea’s supply network / Example of its notification obligation violations

■ 9th Final Report (2018)

- Introduces examples of the supply network for the Lighthouse Winmore and Billions No. 18 vessels in Yeosu loaded with marine diesel fuel bound for North Korea in October 2017.

■ 10th Final Report (2019)

- Indicates *to* the ROK that the Security Council Resolution 2397 requires notification to the 1718 Council that the ROK brought refined oil to the Inter-Korean Liaison Office established in Kaesong in September 2018.
- The ROK explained that about 340 tons of refined oil was used only for North-South cooperation projects, and the approx. 4 tons that weren’t used were taken back. It was claimed that there was no transfer of economic value to North Korea.

# III. Many Misunderstandings Behind the Confusion

# What is the purpose and meaning of Japan's measures to the ROK?

—Ensuring the basics of export control, “Securing Traceability\*”



\* Ensuring a firm understanding of the whereabouts of exported items, such as confirmation of end-use or end-user, prevention of use for other purpose or re-export, etc.

## ■ Purpose of removal of the ROK from white country list

- (1) If, as mentioned above, there are many instances of concern on a white country, it is disastrous if there cannot be no long-term dialogue and the export system and operational improvements cannot be confirmed.
- (2) Under such circumstances, limited to licenses that can secure traceability of exported items.  
⇒ A limitation to a bulk license or individual license that requires strict voluntary control (disallowing the general bulk license (i.e. white bulk license) for exports to white countries even in case of the exporters with simple voluntary controls)
- (3) Catch-all controls in case of exports to the ROK.

## ■ Purpose of changeover to individual licenses for the 3 items

- (1) Response to insufficiency of understanding and contract measures by import-export parties through bulk export license.
- (2) Secure traceability by the authorities themselves.
- (3) Preventive measures based on 156 illegal export cases and missing hydrogen fluoride, etc.

# Big Misunderstandings on the ROK Side Behind the Confusion (Overall) — “Political Export Controls” “Blocking the International Supply Chain”

## ■ Allegations based on big misunderstandings by the ROK side (from the ROK government's “Basic Position on Japanese Export Control Restrictions”)

- (1) “The intention to strike a blow by hindering the ROK’s future growth is clear”
- (2) “Negative impact on ROK’s industry as a whole due to export license review delays due to switching to individual license requirements and increased uncertainty around the issuance of licenses”
- (3) “Increasing the potential for adverse effects not only in the semiconductor field but also in the international supply chain of 159 core industries”

**So as to strike a blow at ROK...**

**The following misunderstandings seem very likely**

- “Firstly, core materials related to semiconductors in key industries will be switched to individual licensing and licenses will be arbitrarily delayed or declined.”
- “Next, by removing from the white country list, key strategic items from 159 industries will be arbitrarily shifted to individual licensing requirements.”

# Big Misunderstandings on the ROK Side Behind the Confusion (incl. Japanese and ROK media)—Individual systems (1/2)

**Misunderstanding (1) “Any of three highly Japanese dependent items are subject to licensing requirements regardless of the specifications”**

◎ Correct explanation is as follows:

- ✓ **ROK does not recognize that items subject to licensing requirements are those products subject to control as agreed under the international export control regime.**
- ✓ For photoresists, only those intended for EUV, and for fluorinated polyimide, only those intended for some new uses. Overall only a tiny amount (less than 1%) is subject to licensing requirements.
- ✓ Photoresists used in current mass-produced semiconductors and polyimides used in OEL panels do not require a license.

**Misunderstanding (2) “It takes more than 90 days for license to be granted,” “Lack of predictability”**

◎ Correct explanation is as follows:

- ✓ 90 days is the standard period for all related laws. **It takes approx. 30-40 days for obtaining export license.**
- ✓ It is foreseeable that some time may be required to prepare documents and ensure careful screening for the first license application.

# Big Misunderstandings on the ROK Side Behind the Confusion (incl. Japanese and ROK media)—Individual systems (2/2)

Misunderstanding (3) “If removed from white country list, it is not be possible to use a bulk license, and all items are subject to individual license requirements.”

◎ Correct explanation is as follows:

- ✓ The bulk license that can be obtained on the premise of the exporter’s simple voluntary controls cannot be used, but the bulk license that can be obtained based on the premise of the exporter’s strict voluntary controls may be used. This applies to practically all relevant items (excl. the 3 items).
- ✓ Under ROK’s regulations, if a country is removed from white country list, the export to that country will in principle require individual licenses. It is highly possible that these differences of the rules between Japan and the ROK have become a major reason of the misunderstandings.
- ✓ Even for individual licenses, should there not be any concerns, licenses will be issued in a short period of time. (Exports to China and Taiwan under individual licenses are smoothly implemented in case of no concerns.)

Misunderstanding (4) “Items subject to individual license requirements will be expanded at the discretion of METI under Japan’s catch-all controls.”

◎ Correct explanation is as follows:

- ✓ Under Catch-all controls, license would be required only when there are specific concerns about individual exports. Such cases are extremely limited, and licenses are unnecessary in most cases.
- ✓ Same as the ROK’s “Situational License.”

©In more detail, please refer to the CISTEC presentations below of August 5, 2019 on the following CISTEC's open website.

[URL]: [http://www.cistec.or.jp/service/kankoku/190805setumeishiryu\\_e.pdf](http://www.cistec.or.jp/service/kankoku/190805setumeishiryu_e.pdf)

**CISTEC** 一般財団法人  
安全保障貿易情報センター  
Center for Information on Security Trade Control

# On the Update to the Application of Export Controls to the Republic of Korea Misconceptions Regarding the Implementation of Export Controls —Accurate Understanding Avoids Confusion!—

August 5, 2019

CISTEC

(Center for Information on Security Trade Control)

# Clearly the Case there were Misunderstandings (1/3)

—Proof that Japan's measures are not based on political purposes but a necessity from the perspective of export control

(3 Items)

**Photoresists and polyimide used in OEL panels and semiconductors currently in mass production continue to be exported as before.**

⇒ Naturally, because they are not subject to license requirements.

**Licenses are granted one after another. Period of review is within the expected time-frame**

⇒ Individual licenses are valid for 6 months, which means advance preparation is made for that.

- Extreme ultraviolet (EUV) photoresists - 3 cases (review period approx. 30-40 days)
- Fluorinated polyimide (for flexible displays)
  - **The license application was not submitted from July to August.**
  - Licenses *was* granted at end of Sep for applications submitted in mid-Sep (approx. 15 days).
- Gas hydrogen fluoride (etching gas) - 2 cases (approx. 50-90 days)

⇒ The ROK government says that the number of licenses is small, but it is not clear how many licenses are being applied for in the first place.

- It was clear that license applications for fluorinated polyimide were not submitted from July to mid-Sep because the exports were not necessary at that time.



# Clearly the Case there were Misunderstandings (2/3)

—Proof that Japan's measures are not based on political purposes but a necessity from the perspective of export control

**Being cautious about the review of license application of export of liquid hydrogen fluoride is unavoidable due to the circumstances mentioned above.**

- (1) Inappropriate incidents have actually happened.
- (2) It was reported as a comment by the ROK government that what has been exported from Japan to companies in ROK under the license is being continually re-exported to local subsidiaries in China (= for use other than authorized purpose, export circumvention).
- (3) Of the 156 illegal export cases, there were 2 cases involved in hydrogen fluoride, 1 of which was administratively sanctioned earlier this year.
- (4) An issue has been raised at the ROK National Assembly that the whereabouts of hydrogen fluoride, which was reportedly shipped back to Japan as a defective product, are unknown.

**⇒ License review will begin once all documentation is available.**

At first it takes time to conduct license review, such as confirming end-use and end-users, ensuring prevention of unauthorized use and, obtaining written assurances, etc..

From the review of the second application onwards the process will be relatively smooth. It is just a matter of time to grant the license.

# Clearly the Case there were Misunderstandings (3/3)

—Proof that Japan's measures are not based on political *purposes* but a necessity from the perspective of export control

[Removal from white country list]

**Even after being removed from white country list, in addition to the 3 items, “159 key strategic items in ROK were not changed to individual licenses requirements.”**

- Although general bulk licenses for exports to white countries cannot be used, special general bulk export licenses and special bulk export licenses are still available to use.
- Items subject to license requirements are the same as before.

**After being removed from white country list, it was not the case that “METI designated nearly all items as subject to individual licenses requirements by using catch-all controls.”**

- Such measures are not legal in nature.
- The catch-all controls are the same as ROK's “Situational License.” There can be no misunderstanding about this.

# Measures to Consider Towards ROK

—Most Favored out of Non-White *Countries*

## ■ Practically significant measures to consider towards ROK

(1) Even when removed from the white country list, the special general bulk export license for the ROK can be used for the same range of products as for white countries.

(2) For other non-white countries, some items are subject only to special bulk export licenses (only for specific users), but for the ROK, the special general bulk export license may also be used.



✓ Certainly not a measure which aims to strike a blow at the ROK.

✓ Proof that this is not for political purposes, proof only that government of Japan has tried to minimize impact on the Japan-ROK supply chain.

# The ROK Government Itself is Admitting that there is no “Damage”

[Note]: The following is our English translation of the original description in the Japanese language version.

## [Previous allegations]: - Remarks at the WTO General Council Jul 23

“Japan’s arbitrary export control measures are acts for political purposes that impede world trade, creating a serious attack on the WTO’s multilateral trade order,” “Creates a negative impact on industrial production all over the world” (Booklet from Office of the President, “We will never lose again”)

## [Recent explanations]:

### (1) Ministry of Trade, Industry and Energy, ROK

- Sep 11 “Removal from the white country list has only changed the system, it has not led to an actual tightening of export controls” (The Hankyoreh, Sep 11 and others)
- Oct 10 “There are no reports of actual damage to production” (JoongAng Ilbo, Oct 11)

### (2) Kim Sang-jo, Chief Presidential Secretary for Policy, Office of the President Office

“There is no confirmed case that direct control in terms of the 3 items or white country list exclusion measures, etc. have caused any direct damage to the Korean economy.” (Oct 7. The Hankyoreh, Oct 9 and others)

# Summary

- (1) The government of Japan's revision of export controls with the ROK was a faithful measure to the basic requirements of export control to identify end-use and end-users, and to prevent items being used for purposes other than the authorized purpose or for export circumvention.
- (2) In the ROK there have been a considerable number of cases that have been a concern in terms of export control.
- (3) The ROK's backlash was based on big misunderstandings regarding the details of Japan's measures and the way the export system is operated.
  - As the government of Japan previously explained "licenses will be granted if there are no matters of concern," licenses have been granted one after another. It has become clear that the international supply chain for the semiconductor and key industries will not be affected.
- (4) The misunderstandings in terms of ROK industry have already been solved, and the ROK government has admitted there has been no damage.
- (5) In order to minimize the impact on the supply chain, the government of Japan is taking practically significant measures in consideration towards the ROK.



**It is a matter of fact that these measures are not arbitrary political measures against the ROK.**

# IV. Applicability of WTO's Security Exception Clauses to Security Export Controls

# Applicability of WTO's Security Exception Clauses to Security Export Controls (1)


1/2

## ➤ Security export control is implemented based on agreements under the international export control regimes.

■ The basis of security export control is:

(1) to establish an export license system.

(2) to make a careful review with red flag\* indicators, etc. ⇒ Exports *are* not allowed if there are concerns.

 \* Checkpoints to determine whether there are any concerns or not. Commonly used in major countries such as Japan, the U.S., etc., and IAEA under the United Nations.

(3) to differentiate how exports should be treated per destination depending on whether there are any concerns or not, and the operational status of the system, etc. (e.g. individual license or bulk license, required documents, etc.)

## ➤ If it violates the WTO's "ban on quantity restrictions" and its "most-favored-nation treatment," as the ROK claims, then security export control will not be possible.

⇒ Many WTO member countries have not yet joined international export control regimes and/or non-proliferation treaties such as those on various weapons of mass destruction, etc. It is unreasonable not to consider these differences with these countries.

# Applicability of WTO's Security Exception Clauses to Security Export Controls (1)

## 2/2

➤ **Coordination with the WTO has never been done directly, but conforms to GATT Article XXI (Security Exceptions).**

### 1. Obligations under the UN Charter (Article XXI (c))

- UN Security Council Resolutions 1373 and 1540 require member countries to carry out export controls.
- Resolution 1373: Prohibit the direct and indirect use of all economic resources to terrorist organizations.  
Resolution 1540: Establish and develop appropriate and effective export controls, including end-user and end-use control.
- North Korea / Iran sanctions - Prohibit exports of nuclear and missile-related items, and petroleum products and luxury goods that contribute to the military and leadership.
- Export bans based on Arms Trade Treaty, Convention on Certain Conventional Weapons, and arms embargoes against countries and entities of particular concern, etc.



# Applicability of WTO's Security Exception Clauses to Security Export Controls (2)

2. “Nothing in WTO Agreement shall be construed to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment” (Article XXI (b)(ii))

- The aim is to allow the member countries to take actions necessary for protection for its security interests against transactions relating to the use of exclusive and general-purpose products for military purposes, and it is the security export control practice itself.
- Since there are countries neighboring Japan that promote nuclear and missile development in violation of UN Security Council Resolutions and promote advanced weapons development and deployment, thereby increasing tensions, export control of Japan falls under the category of “necessary for the protection of its essential security interests.”

# Problems with the ROK's Complaints to the WTO (1)

## ■ Problem 1 - Fundamental Problems

### (1) Contradicting the fundamental practices of export control.

- The basics of export control include the implementation of an export license system, careful license reviews, concerns of countries of destination, product sensitivity, and differences in treating depending on system operating level of each destination (application of individual and bulk licenses, documentation, etc.), etc.
- Establishing favored countries is common in the U.S., Europe, Australia, Canada, Japan, and the ROK because there are no concerns and the export systems are carried out to a high level on these favored countries.
- If the ROK claims that these are violations of the WTO, it would be impossible for the ROK to defend if the ROK is sued by a WTO member country.

### (2) ROK regards Individual licenses only as a cause for delay and constraint.

- ROK claims that individual licenses pose serious restrictions such as too strict and causing unnecessary delays.
- However, the purpose of licensing system is to determine whether there are concerns about end-use, end-user or whether there are concerns that products are being used for unauthorized purposes or re-exported to third countries. Of course, the review period varies depending on the cases.
- The documentation for license review is essential for ascertaining whether there are any concerns or not. Few requirements of documentation could not make the license review appropriate.
- Even exports to China, Taiwan, Asia under individual license are carried out smoothly in case of no concerns.

# Problems with the ROK's Complaints to the WTO (2)

## ■ Problem 2 - Many Double Standards

(1) ROK ignores the fact that it implements export control systems on the basis of international export control regimes

- The ROK itself has set up an export license system based on export controls, and established favored countries and thereby treat the favored nations differently on the types of applicable licenses for the exports to them.
- The ROK criticizes Japan for having quantity restrictions and violating WTO rule on most-favored-country treatment, but the ROK ignores it is operating the same system.

(2) The ROK itself has removed Japan from white country list (i.e. favored country list), switching to individual license requirements for all list-controlled items (bulk licenses is exceptional).

- If Japan is in violation of WTO rules for switching the ROK to individual license requirements for the 3 items, then the ROK violates WTO rules on an even larger scale.

⇒ If the Japan's export control system is a problem, then it is a double standard to criticize Japan by ignoring that the ROK is operating the same system.

# Continuing Complaints to the WTO is Fruitless

## (1) Proving as a fact that Japan's measures are not for political purposes.

- It is clear that the ROK's indication of "Japan's political purpose of hitting the ROK" was misunderstanding.
- Licenses are granted without a delay, the scope of controlled items subject to individual license requirement have not been expanded since the 3 items were subject to it, and there is no impact on the international supply chain.
- The ROK government also admits there is no "damage" from the measures taken by the government of Japan.
- Once documentation is in place, just a matter of time for export license for hydrogen fluoride to be granted.

## (2) The ROK itself said, "It is necessary to find out if the Japanese measures will cause damage to actual production" ("We will never lose again")

## (3) In the absence of damage, it is a waste of time and energy to fight at the WTO.

- Concerns about continued tensions between Japan and ROK, and negative impact on the economy.

## (4) Risk of self-harm in global security export control

- There is a risk that the ROK's claims could come back to bite them because the ROK is unable to defend itself against suits filed by non-favored-nations.
- There is a risk of jeopardizing the implementation by international export control regimes on the basis of which the ROK's export control system is.

# V. Hopes for Normalizing Relations Between Japan and the ROK

# How to dispel concerns about Japan's measures?

—Calm and accurate understanding

## (1) How to quickly get an export license? – End user cooperation is essential.

- Provide explanation of product's use in the manufacturing process of end-user company.
- Provide explanation of the suitable inventory when imports are stocked.
- Submit a written pledge/assurance from the end-user.

## (2) How to avoid more controlled items being subject to individual license requirement? – Necessity of thorough implementation of export control basics.

- End user should use the imported products, which have been exported to it as the end user under the license.
- Even if your company has overseas subsidiaries, it is not possible for them to re-export items exported from Japan under the license.

## (3) How to normalize relationships?

- Promote not only regular meetings but also routine private information exchange and collaboration.
- Promote an understanding of the differences in system operations between Japan and the ROK.
- Dispel concerns about the causes of lots of illegal exports occurred in the ROK.
- Continue to publicize illegal exports with heavy penalties (name of exporters and case summaries), etc.

# To Conclude

■ We have seen misunderstandings ramped up due to media reports and temporary instability and confusion, but now such tension is generally being resolved.

⇒ Some people of the countries of Japan and the ROK have even said the bond between Japan and the ROK is strengthening.

■ From the perspective from industries, regarding export control systems of Japan and the ROK, there are strong points and also areas where we would like to see the further improvements.

⇒ The private sectors expect efforts to be made to reinforce and streamline mutual export control system operations and a rebuilding of cooperation between authorities of Japan and the ROK, instead of wasting energy on pointless disputes based on misunderstandings.

© We sincerely hope and expect a calm response from the ROK government! ©