

# CISTECの30年の歴史

## —CISTECモデルの発展とそれを支える要因—

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# I CISTECの30年

## —役割・機能の逐次強化

# 設立時の状況と変化

## ■直接の設立契機は、工作機械違法事件（1987年）

- ・当時はココムの時代
- ・「ココム型管理は、ルールとしては白か黒かの単純なもので、いいか悪いか誰かに決めてもらい、その通りにやっていたらいいというシステムであった」（当時のK専務理事）

## ■状況の変化

- ・大量破壊兵器等規制強化— NSGパート2、AG、MTCR等
- ・冷戦の終結によるポストココムの時代に— 通常兵器WAの発足
- ・規制対象貨物・技術の拡大
- ・補完的輸出規制の導入— 最終用途・需要者チェックの必要性大

# CISTECの1990年代—基本的業務の枠組固め

- 1989年設立—(ココム型輸出管理対応の)「戦略技術貿易情報センター」
- 資金面、人員面で官民協調
  - ・ 資金面 ⇒ 出捐金(民間26団体等) + 運営強化資金(政府系資金)
  - ・ 人材面 ⇒ 企業からの出向者。当初電機メーカー中心に10名。
- 主要事業—自主管理を如何に実効的・効率的なものにするか。
  - ・ 安全保障輸出管理委員会活動(国際レジーム対応 / METIと協議等)
  - ・ 自主管理ツールの作成—ガイダンス、該非判定用帳票
  - ・ エンドユーザーチェックのためのDB(チェーサー情報)
  - ・ 各種情報収集・調査(欧米の輸出規制 / 技術動向等)
  - ・ 国際交流 / アウトリーチ協力
- 1994年に名称変更—不拡散型輸出管理対応の「安全保障貿易情報センター」に

# 安全保障情勢の新たな緊張

## ■ 汎用品の輸出管理強化の国際的要請の高まり

- ・米国同時多発テロ(2001)
- ・核の闇市場(カーンネットワーク)の露見(2003)  
⇒国連安保理1540号決議の採択(2004)

## ■ 経産省の規制強化、取組強化要請

- ・WMD関連キャッチオール規制導入(2002) 一対応強化要請
- ・「輸出管理の包括的強化」方針 一大学等、海外子会社の管理を含む
- ・不正輸出事件の発生一経産大臣通達、文科省要請等(2006)

## ■ 北朝鮮、イランの核・ミサイル開発への懸念の高まり(2006～)

- ・北朝鮮、イランへの国連安保理制裁
- ・北朝鮮へは単独制裁が先行

# CISTECの2000年代－自主管理強化の取組み

## ■迂回調達に巻き込まれるのを防止

- ・現地法人に対する関与強化 — 現法向けガイダンス等
- ・迂回調達手法、経路等についての情報収集・提供

## ■最終用途・需要者チェックの厳格化

- ・チェーサー情報の充実／検索システム等利便性の向上

## ■自主管理要員の裾野拡大

- ・STC実務能力認定試験の利用促進 — 営業部門も含めて。

## ■大学等の輸出管理の向上

- ・大学会員制度の創設／大学等向けポータルサイト、資料の整備

# 安全保障情勢の緊迫化

- 北朝鮮による核・ミサイル開発の加速
  - ・ 迂回調達の一層の巧妙化、複雑化
  - ・ 資金調達方法の多様化 — 鉱物資源、労働者派遣等
- ロシアのクリミア侵攻
- 国連制裁、米国制裁の強化
  - ・ 国連制裁委員会による、北朝鮮等の不正調達の解明
  - ・ 金融制裁、資金調達源への制裁、科学技術交流の禁止 等
  - ・ 米国の二次制裁の一層の強化 — 対北朝鮮、ロシア等
- 中国の軍事的プレゼンス増大と軍民融合政策の強化
- 通常兵器キャッチオール規制の導入・強化
- 外為法改正による技術提供規制の強化 — ボーダー規制の導入

# CISTECの2010年代—機能の一層の強化

## ■シンクタンク機能の強化

- ・各種情報収集・提供—北朝鮮制裁委報告書、米国違法輸出事例等
- ・中国の軍民融合政策の動向分析
- ・技術流出に関わる諸情報の収集・分析 等等

## ■チェーサー情報の一層の充実

## ■従来の「輸出管理」の枠を超えた自主管理の必要性の注意喚起

- ・WMD開発資金獲得源(鉱物資源等輸送・商社、労働者派遣等)、公知技術提供に係る制裁は、「輸出管理」の枠外—違反のリスク大
- ・学会発表、特許出願・公開等による機微技術拡散のリスク

## ■欧米、アジア諸国との交流、アウトリーチ協力の加速

- ・欧米制度の詳細なフォロー、アジア諸国の制度整備協力等

# 現時点での主要課題

- 中国輸出管理法草案への大きな懸念
  - ・日本の主要8団体、日米欧三極共同意見書の取りまとめ
- 米国下院外交委による輸出管理法改正案への懸念
  - ・みなし輸出規制、再輸出規制の拡大
- 規制番号体系のEU準拠に向けたイニシアティブ
- 大学、中小企業への支援拡大
- 防衛装備移転三原則下での移転手続きの円滑化への取組み
- 中期的課題としての輸出管理法体系の再構築

# II CISTECモデルを支える要因

# CISTECの人的、資金的基盤

## ■現在の状況

- ・常勤理事4名＋職員約40名（出向者11名）
  - ※別途、輸出管理アドバイザーが約20数名（契約ベース）
- ・賛助会員 約470社（←この10年で、約150社増）
- ・事業規模 約6.5億円
- ・収入内訳 賛助会費4割（2.7億円）／ 事業収入6割（3.7億円）

## ■2011年に一般財団法人に移行－転機

- ・国等からの委託費、補助金等はゼロに。
- ・「所管」概念がなくなった。

# METI等にとってのCISTECの役割、効用(1)

## ■業種横断的な意見集約窓口としての役割

- ・国際輸出管理レジームでの対応、規制検討に際して意見集約。
- ・業種間利害調整まで行う場合あり。

## ■輸出企業の自主管理水準向上のための基幹的役割

- ・モデルCPの継続的ブラッシュアップ。
- ・ガイダンス、セミナー、DB, 試験等、自主管理ツールを広く提供。

## ■制度の複雑さを「翻訳」して輸出者に伝達する役割

- ・該非判定容易化のためのパラメータシート、項目別対比表の提供。



# METI等にとってのCISTECの役割、効用(2)

## ■高度の専門性を蓄積し、ネットワーク化する役割

- ・官庁の定期人事異動による知見、経緯散逸等をカバー。
- ・委員会活動による各分野の専門家をネットワーク化。

## ■アウトリーチ活動のサポートの役割

- ・METI、MOFAのみならず、国連、米国等からも依頼。
- ・特に自主管理面での知見、経験の紹介等への期待大。

## ■政府機関に対する研修その他のサービスの提供者としての役割

- ・チェーサー情報は、METIの輸出審査時に必須。他でも利用拡大。
- ・該非判定への協力／識別研修／その他



# 産業界にとってのCISTECの役割・効用(1)

- 当局との交渉、意見交換の機会の確保 ー規制合理化働きかけ
- 他社、異業種の企業等との率直な意見交換、情報共有、人的ネットワークの拡大
- 内外の制度運用等の最新情報と産業界のベストプラクティスの共有
- 単独では困難な情報収集 ー特に米国法、制裁の情報は必須。
- 社内の自主管理活動のアウトソーシング
- 該非判定等の第三者認証機能の提供 ー該非判定支援サービス等
- 輸出管理人材の認証機能の提供／人材確保支援
- 「不適切指導事案」に対する是正支援 ー「労働組合」的役割 等

## 産業界にとってのCISTECの役割・効用(2)

- ◎欧米等での弁護士事務所的役割を代替。
- ◎多くのメリット感が、CISTECのボランティア的委員会活動を支える。
- ◎METIとのほどほどの距離感、バランスがカギ。

# “Export Controls Consultant of the Year” from WorldECR in 2015 受賞

WorldECR Awards 2015

- defence sector companies.
- Assisted a number of multinationals engaged in humanitarian trade with sanctioned countries. By steering them through the complex U.S. restrictions affecting food, agricultural commodities, medicine and medical devices, the firm enabled these companies to capitalise on business opportunities in these markets.
- Advised charities and non-governmental organisations operating in countries, such as Sudan and Syria, where U.S. sanctions affect how they can deliver goods and services in humanitarian crises.

## Runner-Up: Debevoise & Plimpton LLP

Debevoise & Plimpton's U.S. sanctions team, based in its offices in DC and New York, is home to 12 attorneys. The team works closely with the firm's offices outside the U.S., including those in London and Moscow. A cross-departmental practice, the team's clients typically come from banking, insurance,

## Export Controls Consultant of the Year

### Winner: Center for Information on Security Trade Controls (CISTEC).

CISTEC is a Tokyo-based non-profit and non-governmental organization that supports Japanese industry activities. It was nominated for this award by an expert in international export controls, who wrote: 'Even though CISTEC is not a for-profit consulting firm like the Big Four, etc. it serves as a consultancy for Japanese industry and foreign industry and providers. They have been active for almost 30 years, one of the first "consultancies" before there even were any. They provide a full suite of services for their clients, from item classification, to regulatory guidance, to training, to research and analysis. They also have been instrumental in promoting export controls and compliance development

private equity, asset management, energy and natural resources, and mining.

In the past year, the team has provided advice to clients on conducting Iranian, Cuban, Russian and other transactions without violating EU and U.S. sanctions, and advised Russian clients 'on the impact of U.S. sanctions, including specific advice tied to potential acquisitions and on issues related to U.S. and E.U. persons serving on board of directors'.

Clients are enthusiastic about team members and the service they provide.

The team at Debevoise & Plimpton, headed by Carl Micarelli, has done a terrific job helping us to negotiate the changing regulations that pertain to both Myanmar/Burma and South Sudan... Ensuring secure and speedy funds transfers to our international partners is critical to their ability to serve their communities. In OFAC regulated countries like Myanmar and South Sudan, it is increasingly difficult to ensure cooperation from the banking industry – even as federal regulations change, the banks continue to have a conservative approach toward financial transfers. Debevoise has

and best practices throughout the Asia Pacific region.'

On a daily basis, CISTEC contributes to regional security through its wide range of compliance and non-proliferation advice and services. It

- provides advice on issues and concerns of security export controls and checks if goods and technologies are regulated;
- provides businesses with practical assistance in setting up compliance programmes;
- offers training seminars and other educational services plus a certificate in export control;
- collects both domestic and international information on goods and technologies and analyses for 'foreign availability', 'controllability', and production/technology levels. CISTEC seeks to

WorldECR Awards 2015

ensured that OFAC provides us with appropriate licensing and documentation, and has negotiated for the release of funds when transfers have been questioned or frozen.'

'I consider this firm deserve full recognition as they have provided us with outstanding and innovative advice in sensitive matters in the U.S. in a fast-changing regulatory & political environment.'

### Highly commended

Skadden, Arps, Slate, Meagher & Flom, LLP advised a major U.S. energy company in getting an emergency OFAC licence to wind down a major project that became subject to OFAC's sectoral sanctions and advised on one of the highest profile sanctions settlements with multiple regulators in history.

Hogan Lovells represented 'an international bank in one of the most significant global anti-money-laundering and sanctions enforcement investigations of 2014-15. The bank was named in July 2014 as a "primary money laundering concern" by the U.S. Treasury Department's FinCEN.'

achieve rational international export controls by providing the research results and analysis to the government;

- promotes the harmonisation of international export control regimes and supports global activities by businesses, studying domestic and international legal systems, the actual process of laws and regulations, and the interpretations on export controls;
- provides on-line export control compliance support services and publishes an official bulletin, which covers changes in export control-related regulations to businesses promptly.

CISTEC managers are regular speakers on export control matters at events around the world, playing a key role in creating awareness of the importance of controls to businesses

WorldECR Awards 2015



Members of the CISTEC management team

Back Row, standing: Mr. Jiro Niidome, Senior Advisor; Mr. Nobuo Tanaka, Member of the Board & General Manager, General Affairs and Planning Department; Ms. Mikiko Noritake, Manager, Exporter Services Department

Front row, seated: Mr. Hisashi Riko, Member of the Board & General Manager, Exporter Services Department; Mr. Tsutomu Oshida, Executive Managing Director; Mr. Osamu Fujimoto, Member of the Board & General Manager, Research Department

### Highly commended

David Hayes: David Hayes is regarded as being among the leading export controls advisors in the UK. He advises all controlled industries, military exporters as well as clients in every category of the dual-use list globally – including in Australia, Canada, EU, Norway, Middle East, US. (davidhayes-exportcontrols.com)

ECTI: The Export Compliance Training Institute 'provides some of the most crisp and useful guidance on trade compliance I've ever seen. Their consistent ability to boil complex requirements down to their most essential, comprehensible elements, and then provide practical strategies for addressing those requirements, is second to none. Their free newsletter is a treasure trove and they could easily charge money for the valuable tips and tricks they share at no cost.' (learnexportcompliance.com)

Export Solutions Inc: In a busy year for this eight-person consultant based in the U.S., instructions included advising a global aviation company which 'needed to reduce overhead costs without compromising its compliance efforts. Through an extensive gap analysis, best-practice corrective action, and outsourcing project, we were able to reduce costs by an estimated 57% per year, while at the same time, re-focused their compliance resources to the most high-risk / high-need areas.' (exportsolutionsinc.com)

in Asia and beyond. It is the type of consultancy for business that every country would benefit from. (<http://www.cistec.or.jp/english/>)

### Runner-Up: KPMG

In 2014, KPMG Trade & Customs and KPMG Software Consulting were engaged by an Illinois-based client operating in the chemicals sector on two key matters. The first was to develop the company's IT capabilities as it relates to 'legally required' export control management (denied party screening, dual-use commodities, etc) and also to 'commercially required' export controls, e.g. those arising 'due to the importing destination regulations or requirements'. In testifying to the excellent job carried out, the client wrote:

'A legally required element for U.S. export regarding pesticides by the U.S. EPA is the product label must be translated to an official language of the destination country. For us the controls to prevent pesticide exports were manual and not sustainable. KPMG developed SAP controls for pesticide products that prevent export if an appropriate language label does not exist in the inventory.

'A commercially required export control element relates to our food products. Many destination countries require import permits if the product contains animal derivative (ex: milk

protein). Without that import permit, our customer cannot import and our export sits on a foreign dock and perishes. KPMG facilitated our use of new "product attributes" in SAP along with GTS controls that identify to our customer service that the customer has certain functions to perform before U.S. export shipment may occur.'

The second issue was 'to assess our internal controls and policies related to export from a Customs, BIS and other partnering government agencies perspective... Through a series of interviews, analysis of company policies and records, KPMG was able to provide an assessment with recommendations for improvement that was based upon the statutory requirement as well as a "best practice" perspective based upon their work with peer companies.'

The client summed up his satisfaction with the consultant, saying, KPMG 'delivered export control value both at the practical/transactional control level as well as at the export control discipline level with procedure and policy recommendations'.

The individual KPMG consultants involved were Wesley J. Bergeron, Manager, Trade & Customs Services, and Rada R. Gaynullina, Senior Consultant, Global Trade Practice. ([www.kpmg.com/us/en/services/tax-trade-and-customs](http://www.kpmg.com/us/en/services/tax-trade-and-customs))

# CISTECモデルを支える要素

- 欧米、アジア諸国で、CISTEC事業への関心が高い。  
⇒これをそのまま移植できるか??
- ボランティア的に見える委員会活動参加を、個別企業が認め得るか？
  - ・ 企業存亡の危機の記憶・認識共有／参加のメリット感の共有 等
- 事務局における官出身と民出身のバランス、融合
  - ・ お互いがよくわからない部分をCISTECが翻訳してかみ合わせる面も。
- 文化的要素
  - ・ 高度の遵法意識
  - ・ 情報、経験の自然な共有の意識
  - ・ 政府と産業界との積極的協調、相互連携の風土 等

# 中国輸出管理法草案対応でのCISTECの役割 —役割拡大におけるエポックメイキングな事案—

## ■ 中国輸出管理法草案の問題点

- ・WTOルールに違背懸念
- ・貿易・投資環境を著しく阻害懸念 —再輸出規制、広汎なみなし輸出規制

## ■ 日本の主要8団体での共同意見書、三極主要団体共同意見書の作成、とりまとめの積極的イニシアティブ。

- ・輸出管理規制の専門用語の意味、異質性、影響等を一般向けに解説。
- ・米国NAM(全米製造業者協会)、ビジネスヨーロッパ等の主要団体も、CISTECの情報提供と解説とによって、問題性を理解。EU本部にも説明。
- ・共同意見書とりまとめが短期間で可能になったのは、長年継続してきた欧米政府、産業界との交流、関係構築の賜物。



**ご静聴、有難うございました！**