

December 5, 2017

Attn: Ministry of Economy, Trade, and Industry

Regarding China's Draft Export Control Act (Request)

Center for Information on Security Trade Control (CISTEC)  
Japan Machinery Center for Trade and Investment (JMC)  
Japan Foreign Trade Council, Inc. (JFTC)  
Japan Electronics and Information Technology Industries  
Association (JEITA)  
Japan Business Machine and Information System Industries  
Association (JBMIA)  
Japan Chemical Exporters and Importers Association  
(JCEIA)

We would like to express our great appreciation to the Ministry for your ongoing guidance with respect to the economic activities of Japan's industrial sector at home and abroad.

In a joint effort and with the approval of the Japan Business Federation (Keidanren) and Japan Chamber of Commerce and Industry (JCCI), our six organization submitted an opinion brief (in Chinese) —a copy of which appends this letter—to the Ministry of Commerce of the People's Republic of China regarding China's Draft Export Control Act as released in June of this year.

China has attained a position of great relative importance in the world economy, and from the perspective of fulfilling its responsibilities as such we as representatives of Japan's industrial sector basically welcome the fact that China is preparing a security export control system conducive to international peace and stability. We are delighted that the work of the relevant Japanese, U.S., and European Union authorities to perform outreach aimed getting the regulations in shape is bearing fruit.

However, our close reviews of the publicly released draft and the official explanation of it led us to determine that it contains a variety of issues and that we as an industrial sector involved in trade and investment activities in China have concerns about it. We pulled our various concerns together to compose an opinion brief on the matter. The primary issues of concern as laid out in that opinion brief are outlined below.

- (1) Given that staple articles and technologies related to conventional arms would become newly subject to regulations, the Act would involve numerous companies doing business in an extremely wide range of fields regardless of the company's size. For that reason, if the draft moves quickly toward enactment without sufficient time for companies to comprehend it and make preparations, it will generate great confusion in economic activities as a whole both in Japan and abroad.
- (2) This international export control regime incorporates a different and idiosyncratic systems as well as a system that amounts to the extraterritorial application of domestic regulations. Among these are re-export controls and far-reaching deemed export regulations. These are problematic not only from the perspective of basic export control systems, but we are concerned that they would also have an extremely bad influence on the environment of trading and investment with China and also inevitably create a variety of risks when it comes to doing business with China itself. Those risks could have an effect not only on major companies, but also on small-to-medium sized enterprises and even on companies that do not directly do business with China.
- (3) The Draft Act also includes other clauses that we fear could lead to issues in connection with international economic rules such as those set down by the WTO, including its stipulations regarding discretion with respect to international competitiveness in line with regulations and its "reprisal" provisions so-called with respect to nations that are discriminatory toward China. In addition, the protection of important strategic rare materials has been mentioned in the Draft explanation as one of the reasons for creating the Draft itself. Furthermore, the report from

the research institution connected to the Ministry of Commerce that was produced in the drafting process mentions the need for export regulations from the perspective of economic sovereignty. The Draft also mentions "national security" as a reason for handling matters via international litigation. If rare materials such as rare earths and rare metals are to become subject to export regulations for that purpose, it would create problems again in economic activities and undeniably could also create problems with respect to WTO rules.

In our opinion brief, based on this sense of the problems at hand we ask for a careful reexamination of the draft that would include reassessments.

We members of Japan's industrial sector have sought to work in cooperation with our peers in the U.S. and Europe, and to bring our mutual views in line with one another in this brief and our sense of the problems at hand. We expect to further strengthen our collaboration including through joint requests as we work to have an influence on the Chinese government.

We hope that the Ministry will understand the sense of the problems at hand and worries that our industry has, and ask that you deal with them as necessary as our government partners.

Thank you for your time.