THE 10TH JOINT INDUSTRY OUTREACH SEMINAR

ON STRATEGIC TRADE MANAGEMENT - SINGAPORE 2022

Update on Japan's Export Controls

Trade Control Department
Ministry of Economy, Trade and Industry (METI), Japan

Contents

1. **Sanctions (Russia)**
2. Regulatory update on ITT control
3. Outreach to SMEs and Academia
4. Sanctions (North Korea)
5. International Cooperation

Japan's Export and Import measures against Russia (Overview)

- In response to Russia's aggression against Ukraine, Japan, in cooperation with US and EU, is taking Export and Import measures pursuant to the Foreign Exchange and Foreign Trade Act, in order to contribute to global efforts for international peace.

Export prohibition

(1) Listed items in the multilateral export control regimes (Russia and Belarus) [Enforced on 18 March]
∗Dual-use goods such as machine tools, carbon fibers, high-performance, semiconductors, and their technologies

(2) Unlisted dual-use items which could be considered for the development of military capacity (Russia and Belarus)
∗General Dual-use goods such as semiconductors, computers, telecommunication equipment, and their technologies [Enforced on 18 March]

(3) Export prohibition to military-related entities (Russia and Belarus) [Enforced on 18 March, entities added on 1 April, 17 May and 5 July]
∗Russian 266 entities such as Ministry of Defense of Russia or Russian aircraft manufacturer, and Belarusian 27 entities

(4) Items related to the development of advanced technology (Russia) [Enforced on 20 May]
∗Items such as quantum computers, additive manufacturing equipment, and their technologies

(5) Items related to oil refinery (Russia) [Enforced on 18 March, items added on 20 May]

(6) Luxury goods (Russia) [Enforced on 5 April]
∗ Items such as luxury cars, jewelry

(7) Items which could contribute to the enhancement of Russian industrial capacities to Russia
∗Items such as dump trucks or bulldozers [Enforced on 17 June]

Import prohibition

(8) Certain goods from Russia [Enforced on 19 April and added 5 July]
∗Alcoholic beverages, woods, electric machinery

Export and Import prohibition

(9) To ban exports and imports bans with the self-proclaimed "Donetsk People's Republic (DPR)" and "Luhansk People's Republic (LPR)." [Enforced on 26 February (Import) and on 18 March (Export)]

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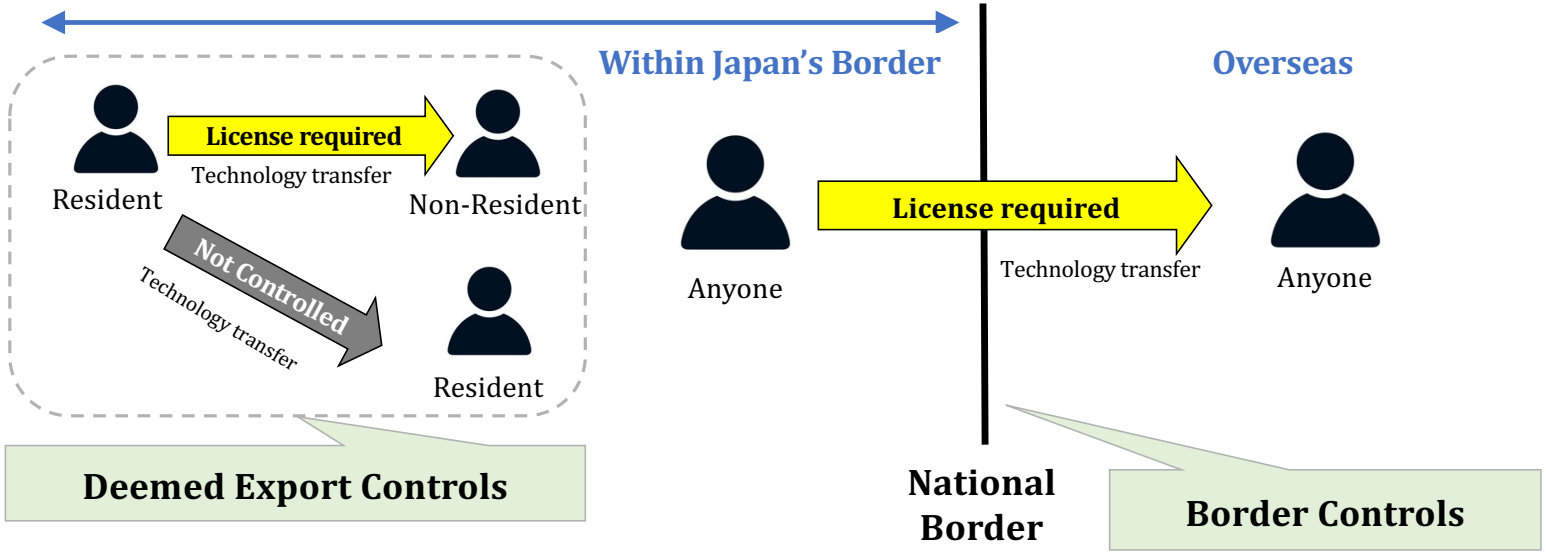
Previous Technology Control in Japan

- Types of sensitive technology transfer controlled under the national law are as follows:
  (1) cross-border technology transfer (Border controls)
  (2) technology transfer from a “resident” to a “non-resident” (Deemed Export Controls)

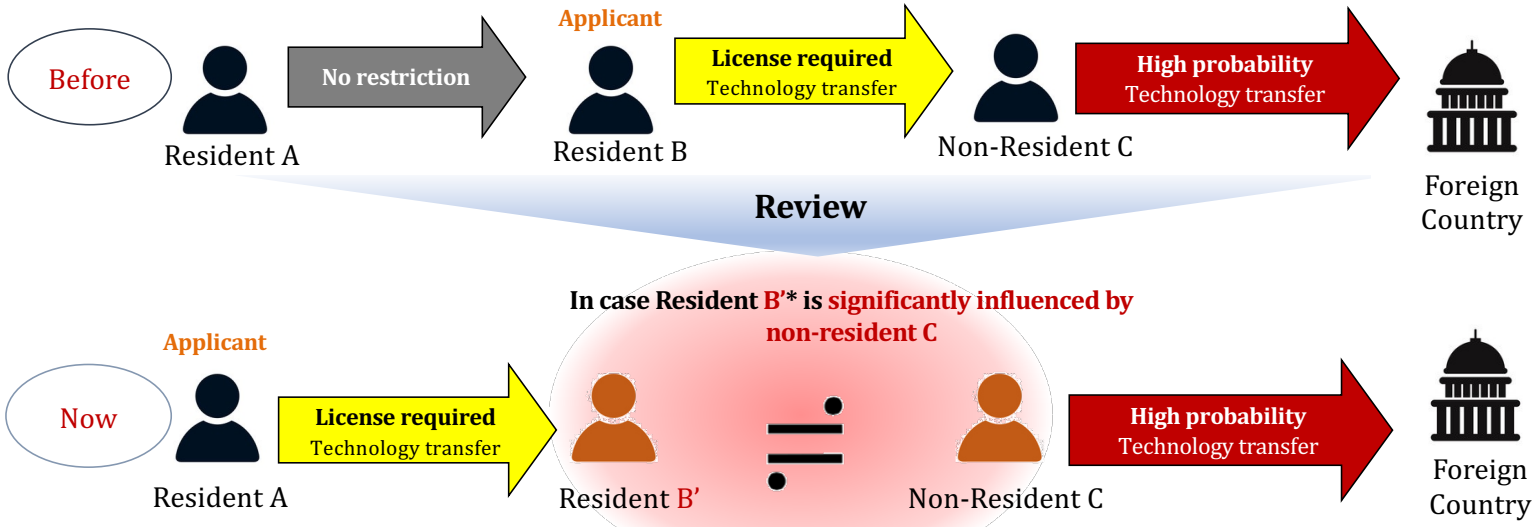


Note:
A resident is defined as a person who has lived in Japan for more than six months continuously.

Review on Deemed Export Controls
(Entered into force on May 1st, 2022)

- Appropriate control on intangible technology transfer(ITT) in companies, universities and research institutions is critical in terms of national security and innovation.
- The scope of the control on ITT was expanded to include technology transfer by a resident under control by foreign governments or entities.

Before: Japanese nationals and foreigners residing in Japan for more than six months **were exempted**.



***Conditions:**
Resident B' is classified as any of a) to c) types

a) Person <u>under the control of foreign government or entity by contract</u>
b) Person substantially <u>under the control of foreign government by economic benefits</u>
c) Person in Japan <u>acting pursuant to the instructions of foreign government</u>

Residents Subject to Reviewed Deemed Export Controls

Category 1

Person under the control of a foreign government, corporation or university **by contract**

Case 1: Technology transfer to a professor at a Japanese university who is also hired by a foreign university

Case 2: Technology transfer to a visiting professor at a Japanese university, coming from a foreign university on sabbatical.

Category 2

Person substantially under the control of foreign government **by economic interests**

Case 1: Technology transfer to a student receiving a scholarship from a foreign government

Case 2: Technology transfer to a researcher, joining a state-sponsored recruiting program, and receiving a large amount of grants or living expenses from a foreign government

Category 3

Person acting in Japan under **instructions** of a foreign government

Case 1: Technology transfer to a student acting in Japan under instructions or requests a foreign government

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Outreach to Industry (SMEs)

Information meetings for awareness raising

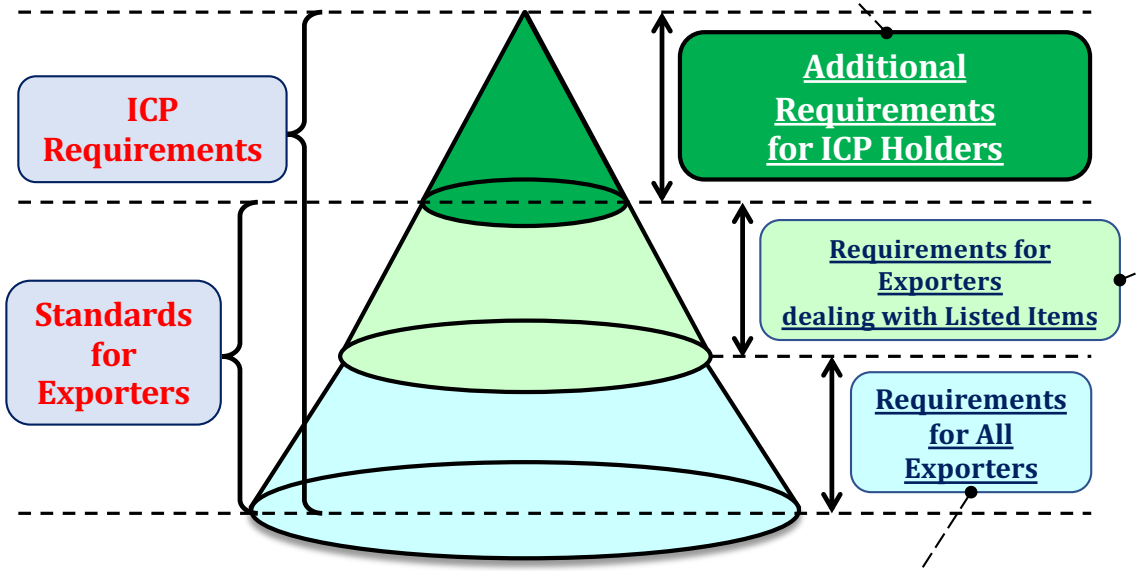
- METI provides information meetings on export control rules together with the relevant organizations such as commercial and industrial associations, chambers of commerce and SME business organizations.
- METI arranges the meetings, sends speakers and covers part of the cost.

Adviser's support for enhancement of self management

- METI dispatches advisers to SME's to support their efforts in establishing their internal export control management systems
- METI also dispatches advisers for consultations to SMEs which are provided by the Japan Chamber of Commerce and Industry (JCCI)

Exporter's self management/ICPs and "Standards for Exporters"

Auditing, training and record-keeping and proper instruction regarding export control to subsidiaries and affiliated companies are required to be included in an ICP.



*Red letters are revised contents on Nov. 18, 2021 in order to enhance Standards for Exporters. (Entered in force on May 1, 2022)

1. Appointing a representative as the person responsible for export control
2. Proper internal export control system (duty/responsibility)
3. Proper procedures for classification
4. Proper procedures for transaction screening, Establishing procedures for enhance reliability of information necessary for end-use/end-user screening
5. Proper shipment control
6. Proper procedures for auditing
7. Proper training for all staffs engaged in export control
8. Establishing internal structure and procedures for issuing instructions and advice to subsidiaries and checking their operations.
9. keeping export control documents
10. Immediate report to METI in case of violations

6. to 9. are requirements to make all reasonable efforts.

1. To appoint a person responsible for classification
2. To give necessary instructions to export control staffs so that they observe the latest laws and regulations

Outreach to Academia for awareness raising

Guidance designed for Academia

- The latest version was published in February 2022 and was notified to all relevant universities. http://www.meti.go.jp/policy/anpo/law_document/tutatu/t07sonota/t07sonota_jishukanri03_eng.pdf
- METI held online information meetings to explain the Guidance five times in 2021.

E-learning

- E-learning contents were released in May 2018 (being updated to reflect the latest guidance). http://www.meti.go.jp/policy/anpo/daigaku/el/elindex_e.html
- Near Miss Case Examples Concerning Security Export Control at Universities and Research Institutions: Published in May 2019.

Guidance for Academic and Research Institutions

- METI's Guidance:
  - ✓ Identifies control areas and exemplifies 54 critical research areas that universities should pay particular attention to.
  - ✓ Provides model organizational structures in consideration of actual university situations; suggests efficient management methods for researchers and administrators.
  - ✓ Provides model documents for ICP, Check sheet and Review sheet.
  - ✓ Latest version published in February 2022 to be consistent with the updated "Deemed Export Controls".

Key Elements of the Guidance

Identify Control Areas

Activity

- Admission and exit of foreign students
- Participation in international conferences
- Collaborative research with other universities
- Visiting fellows from overseas

Critical Research Areas

- Nuclear engineering
- AI, robotics
- Aerospace engineering
- Telecommunication
- Advanced materials etc.

Control Methodology

Organization

- Top-down system led by the President
- Establishment of security export control division (establish branch as necessary for more appropriate administration)

Division of Roles

- Each Professor
  - ✓ Screening based on simple check sheet
- Administrative division
  - ✓ Careful review based on review sheet

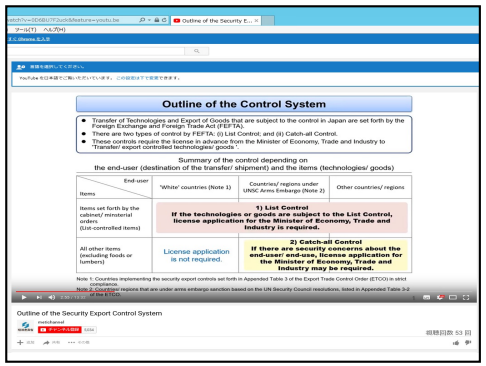
Model documents

- Internal Compliance Program
  - ✓ Formulate two types according to the size of the university
- Check sheet, Review sheet
  - ✓ Simple "Yes" or "No" format
  - ✓ Check the list for concerned research areas
- Written Pledge

E-Learning and Case studies contents

E-Learning contents for academia

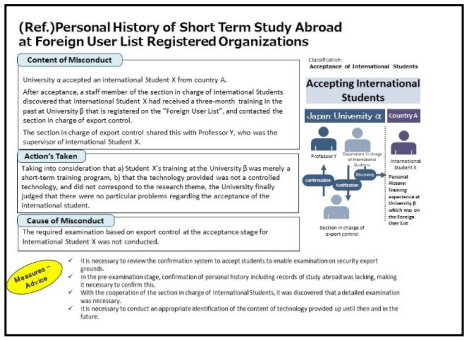
- E-learning contents were released with the aim of providing an opportunity for researchers and academic staff to learn about security export control.
- It provides videos for three themes both in Japanese and English. The themes are:
  (i) The Need for Security Control;
  (ii) Outline of the Security Export Control System and;
  (iii) Aspects to be paid Attention to in Individual Cases.



Near-miss case examples

**only in Japanese*

- Over 30 near-miss case examples were published with the following themes:
  (i) Export of Goods;
  (ii) Transfer of technologies;
  (iii) Admission of foreign students/ researchers and;
  (iv) Joint research activities.
- Through learning these cases, researchers and academic staff can gain practical experiences in advance to prevent unauthorized export, which will lead to consciousness to secure and improve internal export control management.



Outreach to Academia for enhancement of self management

Expert dispatch program

- Expert dispatches/individual consultations were conducted for 87 universities and research organizations in FY2021 (268 times in total.)

On-site consultation

- METI senior officials have visited universities more than 200 times since FY2016 to brief executives of academia, such as presidents, board of trustees.

Networks

- METI promotes the establishment of regional networks of universities on export control. A total of 13 networks in 8 regions was established. (The most recent annual meeting was held in March 2022. Representatives from all 13 networks participated.)
- The National Research and Development Agency also established a network of export control officers in November 2018.

Regional Networks among Universities

＜Kansai＞
◆**Regional Network**
(established in December 2016)
members:36

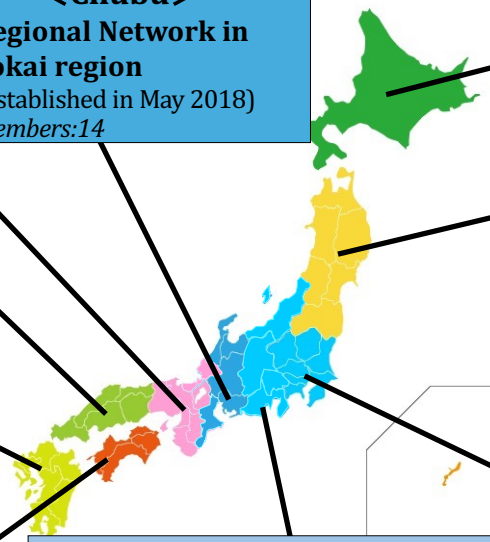
＜Chubu＞
◆**Regional Network in Tokai region**
(established in May 2018)
members:14

＜Hokkaido＞
◆**Regional Network**
(established in April 2019)
members:11

＜Chugoku＞
◆**Regional Network**
(established in September 2018)
members:29

＜Tohoku＞
◆**Regional Network**
(established in December 2017)
members:21

＜Kyushu＞
◆**Regional Network in Kyushu**
(established in December 2010)
members: about 40
◆**Regional Network in Nagasaki**
(established in January 2019)
members: 14



＜Kanto＞
◆**Regional Network in Kanagawa district**
(established in September 2016)
members:15
◆**Regional Network in southern metropolitan region**
(established in June 2018)
members:12
◆**Regional Network in northern Kanto region**
(established in June 2019)
members:4
◆**Regional Network in western part of Tokyo**
(established in January 2021)
members:15

＜Shikoku＞
◆**Regional Network**
(established in September 2013)
members:14

＜Kanto＞
◆**Regional Network in Shizuoka**
(established in January 2020)
members:11

➢ The first online meeting to gather representative members from all 13 networks has been held in March 2022.
- *to encourage the networks to communicate with each other*
- *to share best practices extracted from network's activities*
- *to interactively discuss issues and conflicts to find tips in practical export control management*

Other Networks

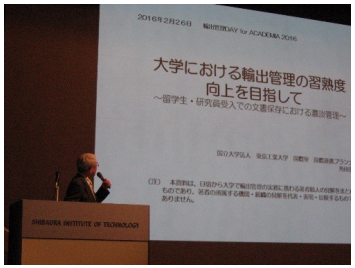
Study meeting among the National Research and Development Agency

- The National Research and Development Agency established a network of export control officers in November 2018.
- About 100 people from 24 Agencies attended in Sep. 2021 and METI shared updated information about export control management.

Export Control Day for Academia

- A one-day symposium annually held by academic communities since 2013. METI also cooperate with this symposium.
- Over 200 people from academia, industry and government attended and shared best practices.

EFA 2015



EFA 2016

EFA 2016

Progress of Security Export Control at Universities

The ratio of establishing responsible divisions for security export control

February 2018	February 2019	February 2020	April 2021
National Univ.: 94.2% Other Univ. : 41.9%	National Univ.: 94.2% Other Univ.: 45.5%	National Univ.: 100% Other Univ.: 61.0%	National Univ.: 100% Other Univ.: 65.4%

The ratio of establishing ICP

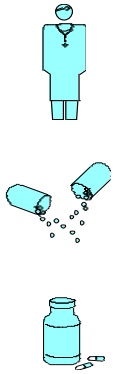
February 2018	February 2019	February 2020	April 2021
National Univ.: 75.6% Other Univ.: 23.7%	National Univ.: 80.2% Other Univ.: 31.6%	National Univ.: 100% Other Univ.: 51.1%	National Univ.: 100% Other Univ.:53.8%

【Poll subjects (Date from MEXT)】

- 2018 – A total of 296 national univs and other public/private univs that have medical, dental, science, engineering, or agricultural departments
- 2019 – A total of 313 national univs and other public/private univs that have medical, dental, science, engineering, agricultural, **computer, or veterinary** departments
- 2020 – A total of 321 national univs and other public/private univs that have medical, dental, science, engineering, agricultural, **computer, or veterinary** departments
- 2021 – A total of 327 national univs and other public/private univs that have medical, dental, science, engineering, agricultural, **computer, or veterinary** departments

Recent Outreach Efforts

Case1: Assisting Efforts of a Private Medical University without ICP to Establish an Export Control System



- University A (private medical university) has not sufficiently fostered understanding on necessity of export control management, hence does not have a system.
- METI team members visited the university in December 2021 to explain faculty staff the concern on technology transfer as well as necessity to establish export control management system. As the members introduced an expert dispatch project, the university applied for the project.
- A director and the team members visited the university again in May 2022 to provide a lecture to the president and executive staff to raise awareness on importance of export control management in universities. The lecture triggered them to understand the importance and to formulate ICP which is about to start.

Case2: Efforts to launch a new network of regional universities

- Universities residing around the region by northern Japan Sea have difficulties in access to join the existing networks
- METI officials have conducted individual door-to-door visits to those universities (8 universities as of June 2022) since December 2021 and confirmed their intention to launch a new network for the region.
- Now on discussion for the launch meeting and for selection of the central university in the region through cooperation with local agencies.

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Measures against North Korea

Measures		Date of Entry into Force	Competent Authority
Trade Restrictions	Ban on all exports to North Korea	June, 2009	METI
	Ban on all imports from North Korea	Oct., 2006	
Financial Restrictions	Ban on the transfer of funds to persons or entities related to North Korea's missile programmes or other WMD programmes	Sep., 2006	MOF (trade-related payment: METI)
	Ban on payment to North Korean residents and foreign entities acting on their behalf (except for the payment of 100,000 yen or less to natural persons)	Feb., 2016	
	Notification required when carrying cash of more than 100,000 yen to North Korea	July, 2010	MOF
Denied Entry	Ban on the entry of North Korean citizens	Oct., 2006	MOJ Ministry of Justice
	Denial of re-entry of foreign crew members and foreign citizens residing in Japan who violated the trade and financial measures against North Korea	June, 2009	
Travel Restrictions	Request to all residents not to visit North Korea	July, 2006	MOFA
Transport Restrictions	Ban on charter flights between Japan and North Korea	July, 2006	MLIT Ministry of Land, Intrastructure, Transport and Tourism
	Ban on the entry of all North Korean flag vessels	Oct., 2006	
Cargo Inspection	Inspection of cargo shipped to or from North Korea deemed to carry items prohibited by the UN resolutions	July, 2010	

Extension of Ban on Imports from and Exports to North Korea

1. **The ban on all exports of goods** destined for North Korea
2. **The ban on all imports of goods** originating in or shipped from North Korea
3. To ensure the enforcement of these restrictions, the following transactions shall be banned:
   i. Transactions involving buying/selling, loaning/borrowing, or giving of goods that involve the movement of the goods between North Korea and third countries (intermediate trade) and
   ii. Payments of import bills for goods originating in or shipped from North Korea which are imported without import approval.
4. Goods exported for humanitarian purposes are exempt from the above restrictions.

The Ministry of Economy, Trade and Industry (METI) has decided to extend the ban for 2 years on all exports destined for North Korea, and all imports originating in or shipped from North Korea, in line with the "Measures against North Korea Pursuant to the Foreign Exchange and Foreign Trade Act“ (decided by the Cabinet on April 6, 2021).

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International Cooperation with the Asian countries/regions

Asian Export Control Seminar

Annual conference since 1993. It aims to develop the cooperation and network among the Asian countries/regions, participating states of export control regimes and related organization through exchange of updated information.

Training Program

It aims to support the capacity building of export control officers for licensing and enforcement in Asian countries/regions by sharing Japanese export control experience.

Industry Outreach Seminar

It aims to increase awareness of importance of export control and pursues to conduct effective compliance program in industries of Asian countries/regions.

Thank you for your attention.