

Attn. Bureau of Industry and Security, U.S. Department of Commerce

From: Center for Information on Security Trade Control (CISTEC)

Date: January 17, 2023

Re: Public Comments Regarding Areas and Priorities for U.S. and Japan Export Control Cooperation for the Japan-U.S. Commercial and Industrial Partnership Export Control Working Group (87 FR 73748) (ID: BIS-2022-0029)

We CISTEC refer to the above-captioned FR and are pleased to submit public comments regarding Japan-U.S. export control collaboration based on the Japan-U.S. Commercial and Industrial Partnership (JUCIP) between the U.S. Department of Commerce and the Japanese Ministry of Economy, Trade and Industry.

With drastic changes in international affairs, Japan and the United States have formulated a new national security strategy based on a common awareness of issues in both countries, necessitating close cooperation between the two. That public comments regarding export control collaboration, a major policy tool for ensuring security, have been solicited at this time is extremely well-timed.

As such, we would like to express our gratitude for the opportunity to submit comments from the standpoint of export control from the private sector.

With regard to Japan-U.S. export control collaboration, we would like to present comments on two broad points.

The first is on the importance of shared recognition amid the dramatically changing international situation, among governments, industry, and academia about the rising security tensions, both military and economic, and accordingly, the increasing position and role of export controls. We believe that this shared recognition will enable industry and academia to proactively, rather than passively, engage in policies put forth by the government, thus ensuring smooth and effective export control.

The second point is on the specific measures expected for export control collaboration between Japan and the United States. Security tensions have also escalated in East Asia, stemming from Russia's invasion of Ukraine. Japan and the United States are major suppliers of high-tech products and technologies. As such, it is hoped that the two countries will, in cooperation with Europe and other countries, coordinate their export control systems and operations as widely as possible.

On the other hand, export control requires more than just creating a system, it is crucial that exporters are able to use any system appropriately with regard to practical matters. It may well be that the purpose of a system is understood, but if it is too difficult to implement in practice, it will not be effective. Instead, it will only serve to impose an unproductive burden on the exporters who are doing all they can to comply with the regulations. This could also lead to another problem of reduced manpower, time and effort which should otherwise be focused on transactions that are of little concern. We sincerely hope that government understands this point.

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1. The importance of shared recognition among governments, industry, and academia

1.1 Drastic changes in the international situation, and a sense of crisis and risk

- Despite security problems since the end of the Cold War in the early 90s, such as the development of weapons of mass destruction and terrorism, in economy, there has been little concern about changes to the status quo of the postwar international order. As such, global expansion beyond political systems has been made possible on the basis of economic rationality based on the premise of international rules.
- However, the reality now is a security problem where threats are being posed by countries aiming to unilaterally unbalance the world order, meaning that the very premise of global economic activity is being shaken. The public and private sectors must now share this sense of urgency and risk in response to this threat, of how Western countries have a growing sense of crisis, of the need to ensure military and economic security as an urgent issue, and how to deal with it.
- If this point is not properly identified and conveyed, if there is no shared recognition, then the private sector may become passive about government policies and regulations, and may perceive them as a hindrance to their economic and research activities.

1.2 The expanding role and significance of export control (Part 1: Overview)

- With the end of the Cold War, export control shifted away from the COCOM system toward a system of non-proliferation export control implemented with international cooperation, such as with multilateral export control regimes and the United Nations Security Council Resolution 1540. While this international cooperation scheme is, and should be, maintained in the future, it is undeniable that a non-proliferation export control regime alone is no longer sufficient amid heightened tensions over unilateral changes to the status quo by force.

In this regard, it is now more important than ever for there to be cooperation between like-minded countries that share basic values regarding the international order to complement international cooperation schemes.

- While the pillars of non-proliferation control are to prevent the proliferation of weapons of mass destruction and tensions arising from the excessive build-up of conventional weapons, it is hoped that export control through the cooperation of like-minded countries will play an important function and role in terms of defending against the pressures and threats from countries that are militarily and economically geared toward upsetting the

balance in the world order.

- In some parts, export control regulations are viewed negatively or comparatively, seen as protectionism, a means of struggle for power, or as a constraint to economic globalization. However, export controls are a means of defense against attempts to violate international rules (or gain a free ride on such rules) concerning free and fair trade represented by WTO rules, and thereby a means of defense against attempts to threaten security (and human rights). Both the public and private sectors must therefore make efforts to promote a common understanding on the importance of export control protecting companies that operate in accordance with international rules.

1.3 The expanding role and significance of export control (Part 2: Detailed explanation)

Based on an understanding of the above, it is necessary to build a consensus on the following points and to develop systems and operations as specific roles for export control in addition to non-proliferation control.

- Firstly, the role of export control from the perspective of security may include deterrence of military threats (including the threat from military-civilian fusion) and economic security, in addition to preventing the proliferation of items used in the development and manufacture of weapons.

Japan's new National Security Strategy specifically presents within "the security environment surrounding Japan and Japan's national security challenges," a wide range of themes from the global to the Indo-Pacific region. "Prominent examples of the complexity and severity of the current international security environment" include: unilateral changes to the status quo by force in the form of a combination of military and non-military means and the threat of such attempts; increasing risks in the cyber, maritime, space, electromagnetic, and other domains, and high potential for hybrid warfare; supply chain vulnerabilities; increased threats to critical infrastructure; economic coercion against other countries; and, the illegal theft of advanced technology research and its use for military purposes. Also stated in the new National Security Strategy is, "Addressing those issues not necessarily deemed as security targets in the past... has also become a major security challenge. As a result, the scope of security has expanded to include the economic sector, making economic measures even more necessary to ensure security."

Based on a clear understanding of this point, we must examine the role of export control, the expansion of its functions, as well as a concrete system and modes of operation, as an economic means to deter and counter these problematic acts.

- The second point is that export control is also a powerful means to counter human rights violations. With some like-minded countries moving toward an Export Control and Human

Rights Initiative, human rights violations are now on a par with military and economic security threats in terms of violating peace and security. Export control therefore, is a powerful policy tool to prevent the delivery of products and technologies that can contribute to human rights violations. The fact that this point was also taken up as an issue to be addressed by the JUCIP is very well received, and we sincerely hope it will be raised soon.

- The third point is the need to coordinate measures to deal with money laundering and proliferation financing (related to weapons of mass destruction and terrorism). In recent years, converting exported goods into cash has also been pointed out as a means of money laundering and proliferation financing. Since the goods themselves are not directly related to weapons development, it is difficult to deal with them in the traditional world of export control. However, the export of these goods is also a source of funding for weapons development and terrorism, thus it should be prevented. Moreover, as part of the means to prevent any advantage being provided to terrorist forces, the provision of goods, such as ships and aircraft, both inside and outside Japan, is prohibited.

These measures are being addressed from a financial perspective by the Financial Action Task Force (FATF), but since they are closely related to export control, measures must be taken in a coordinated manner. For the exporter, there is no change in terms of export control, so they are able to export in the same manner, but it is hoped that there will be cooperation among government ministries and agencies.

1.4 Export control in regards to the prior deterrent of emergencies and post-emergency response

- The new National Security Strategy refers to the foreign policy and military activities of China, a country with which Japan has had close economic ties, as “the greatest strategic challenge” to the peace, security, and stability of Japan and the international community, as well as to the international order based on the rule of law, while also referring to China’s unilateral changes to the status quo by force and strengthening strategic alliances with Russia.
- The National Security Strategy also states, “Japan will reinforce its own capabilities and roles, and together with its ally, the United States, and like-minded countries and others, deter contingencies and attempts to unilaterally change the status quo in Japan and its vicinity. If by any chance a threat should reach Japan, Japan will disrupt and defeat the threat and minimize the damage caused, and bring it to an end in a manner favorable to protecting its national interests.”
- Sharing with industry, academia, and the general public what could actually happen in situations where emergencies described herein occur and end, what could happen not

only from a military standpoint but also economically, and what measures could be taken for prior deterrence, is necessary to show the realistic possibility of an emergency arising, and it is also necessary to consider preparations for pre- and post-response in corporate activities.

- Export controls, along with financial sanctions, have become a crucial tool in ex post facto sanctions against Russia. Partly because of Russia's countermeasures, economic relations with Western countries that had been built up over many years were forced to come to a halt. Ukraine has suffered serious damage, and the international community supporting it has been forced to bear a tremendous burden. In case of an emergency situation with Taiwan, the serious damage to economic relations and industrial activities cannot be compared with those of Russia. In light of this, we are keenly aware of the importance of prior deterrence.
- The U.S. government's series of measures to significantly tighten export control regulations in the semiconductor and supercomputer fields since the beginning of October and requests to allies and others to join the agreement were sudden and confusing. Given the background however, it is likely they are part of measures to prevent a Taiwan emergency from happening. The 2022 annual report of the U.S.-China Economic and Security Review Commission (USCC), a bipartisan group of the U.S. Congress, makes quite drastic military and economic recommendations in the event of a Taiwan emergency. Yet these proposed measures can also be seen as part of the debate for proactive deterrence in the face of a growing sense of crisis.
- In any case, bearing in mind what kind of situations and risks will arise, not only militarily but also economically with regard to any emergency, it is necessary to fully explain the significance, necessity, and effects of strengthening export control regulations for prior deterrence and post-response, and to share such explanations with industry and academia.

2. The challenge of improving the effectiveness of export controls through collaboration with like-minded countries

2.1 Establishing the sharing of information of concern between governments as a convention and alerting export companies to the extent possible

- In order to carry out export control in cooperation with like-minded countries, it is essential to share information of concern between governments, and it would be desirable to establish such information sharing as a convention of export control in the same way as with investment control.
- In terms of inward investment control, the Foreign Investment Risk Review Modernization

Act (FIRRMA) in the United States and the Foreign Exchange and Foreign Trade Act in Japan have institutionalized information sharing with the authorities of other countries, making it possible to use such information for investment screening.

- Similarly, if the sharing of information of concern with other countries is established as a matter of convention in export control with the information gained used in the examination and operation of regulatory systems, as well as used as documentation to alert exporters to the extent possible, then it will help to improve predictability.

2.2 Shared recognition and scope of regulations for items and entities (1) – Entities

- Export control is based on the control of items with end-users and end-uses. In order to make Japan-U.S. (as well as Japan-U.S.-EU) cooperation most effective, it is hoped that the items and entities subject to control will be subject to regulation following a shared understanding while utilizing the above-mentioned institutional framework for information sharing as necessary.
- With regard to entities, it is of course not appropriate for Japanese government to restrict in Japan all those entities that harm the national security or foreign policy interests of the United States, such as those on the U.S. Entity List. However, amid such heightened tensions in East Asia, there are probably quite a few entities that are of great concern to the common security of Japan and the United States. In terms of information sharing between governments, it would be appropriate to define those entities that are of concern to both Japan and the United States and announce them as subject to regulation.

These public comments seek ways to contribute to more transparent, efficient, effective, and focused policy and implementation. We therefore believe that this measure of shared recognition wholeheartedly fulfills purpose.

- Even though there was a foreign end-user list, which is a list of concerns related to weapons of mass destruction, prepared under Japan's Foreign Exchange and Foreign Trade Act, there was no conventional weapons-related concern list (military end-users) or embargo list (even those on a foreign end-user list are not subject to an embargo). However, in terms of its operation, there has been a significant change with the sanctions on Russia. Military end-users based on a common understanding among Japan, the U.S. and Europe have been listed, with the license policy on prohibited exports clearly announced. In accordance with this, it is hoped that the current legal application will lead to an early realization.
- In this way, by clarifying the list of concerned parties, the Japanese government has the distinct advantage of being able to obtain the protection of its own government against criticism and pressure on exporters from governments of other countries (this is not the

case solely with the extraterritorial application of U.S. regulations).

- As a regulatory method, while end-use regulations impose a significant procedural burden on exporters, the risk of penalty appears to be large. Instead, end-user regulations, in which the entities of concern (those who raise red flags and require careful examination, those who are prohibited from exports, etc.), are clearly identified through intelligence activities on the part of the government, and as such the regulations are a much more effective and less burdensome method for exporters.

2.3 Shared recognition and scope of regulations for items and entities (2) – Items

- Regarding emerging and foundational technologies, while some of these technologies have already been agreed upon, it is desirable to reach an agreement under the multilateral export control regime. However, since it appears increasingly difficult to reach an agreement amid current tensions in world affairs, it would be appropriate to first consider and implement any agreement based on consensus with like-minded countries that possess such technologies.
- Through such collaboration with like-minded countries, it is thought that the emerging and foundational technology field in particular will be subject to export control among other new items (fields), and it is highly likely that “designated critical technologies,” as specified by the Economic Security Promotion Act that was established in Japan, will be subject to export control due to the definition of the categories. The emerging technology field defined in the ECRA and the technology field identified in the “National Strategy for Critical and Emerging Technologies” in the United States, and the seven emerging technology fields defined by the European Commission, for example, have much in common with the field of technologies that have been specified as candidate “designated critical technologies” in Japan. Thus, we understand that specific items to be subject to export control will be narrowed down from among these technologies through collaboration with like-minded countries.
- If items are to be subject to export control, it is necessary to clarify their extent. At the same time, however, if the specifications become too detailed and complex, exporters would need to spend a lot of effort on their classification. And should a mistake of judgment be made, the exporter will be held liable for unauthorized export. Therefore, it will be extremely important to ensure both clarity of those items being regulated and ease of understanding, and we ask that due consideration be given with regard to this point.
- As a general rule of export control regulations, there is something called foreign availability. Then again, we understand that the concept of foundational technology is characterized by the fact that even if the technology is already mature and in use, the exporting country

gains an advantage thereby allaying any security concerns. In that case, while keeping the principle of foreign availability in mind, the question of how many generations should be given an advantage seems to be a point of contention. As long as it is a technology that is already in use, if it were to be regulated, it would have a considerable impact on the profits and losses of the companies involved in the transaction. In terms of regulation then, it is important to strike a balance between the two, so we hope that comments from the industrial world will be carefully listened to. It is also highly likely that these regulations will be implemented in the course of rebuilding supply chains, so the creation of alternative demand within them will also be important.

- With regard to the emerging and foundational technologies subject to export control, we believe they will be decided after examining the military applicability of advanced technologies and the degree of concern. On the other hand, examining the technologies that are chokepoints for the countries of concern would also be beneficial from the perspective of the effectiveness of export control regulations through cooperation among like-minded countries.
- Recently, we have also come across reports that products from Western countries are being used in drones and other devices. Among these, it is sometimes mentioned that not only controlled products but also non-controlled mass market products (commodities) are being used. However, once a mass market product (commodity) is sold, it is beyond the distribution control of the manufacturer or exporter. As a result, even if the item were to be used in military goods, it is not appropriate to hold the manufacturer or exporter responsible. Since the performance of commodity products is improving year by year, we fully understand that their use in military equipment is becoming a new concern. However, we would like you to engage in careful discussion upon fully understanding the nature of mass market product (commodity).

2.4 Prioritizing cooperation with like-minded countries, and positioning the U.S. direct product rule as complementary

- Although the U.S. direct product rule is an extraterritorial measure, it is understandable that it is an effective measure to ensure the security of Western countries in the current international situation where tensions are rising. However, basically as in the case of Russian sanctions, it seems appropriate to exempt like-minded countries which are cooperating to take similar measures, and to take complementary measures with the other countries.
- For exporters, the direct product rule is complex and difficult to understand, while penalties are severe, and it is also difficult to obtain protection from the own government in relation

to the destination country. Moreover, even if the rule does not apply, there is concern that exporting the item may be seen as backfilling. Given this kind of situation, it is desirable that the rule be implemented by the government of the home country.

- The right combination of like-minded cooperation in the above-mentioned sanctions against Russia and the U.S. direct product rule is one model and it is hoped to be applied in a suitable way in future export controls.

2.5 Quick development and operation of export control systems related to human rights violations

- The JUCIP is purported to hold technical consultations on advanced technologies that have the potential to be used for serious human rights violations. In light of this, it is necessary to urgently develop a system for regulation in Japan.
- Deliberations have been made as a key issue at a subcommittee of the Industrial Structure Council, but these discussions have been postponed. Regulations have already been developed and put into operation in the United States and Europe, so it is thought that Japan, as a key player in the international community, should also be required to develop such regulations.
- As a global exporter, we are firmly coping with the regulations already in place in the United States and Europe, and even if there are no direct laws and regulations, as a responsibility to society, we cannot ignore and export those items subject to regulation. Moreover, in order to obtain protection from the own government in relation to the destination country, we believe that the Japanese government must implement internationally harmonious regulations.
- In doing so, it is hoped that a method of export control will be implemented through an appropriate combination of list-control rules and end-use/end-user-control regulations from the viewpoint of effectiveness and reducing the burden on exporters.

2.6 Predictability, reduced burden, and strengthening of consultation system for exporters' compliance with export control regulations

- In order for exporting companies to respond appropriately to export control regulations, it is necessary to ensure predictability and avoid imposing excessive burdens.
- In this regard, recent U.S. regulations have been rather puzzling, even if there have been unavoidable aspects due to recent developments. The drastic tightening of restrictions on China in particular, at the beginning of October, was unprecedented and the re-export regulations were extensive. Certainly, it was all very abrupt, and the restrictions came into force either on the same day or very quickly, making it difficult to understand and respond.

We hope that the governments of like-minded countries will share such information in advance as much as possible, and come up with ways to increase predictability for the benefit of exporters.

- The end-use-control regulations (semiconductor manufacturing and supercomputer-related end-use regulations) are one of the pillars of the new rules imposed on China in October. Under those rules, exporters were required to carry out sufficient due diligence. Yet, while they were unsure as to whether they could ascertain and evaluate semiconductor manufacturing facilities on a building-by-building basis, or whether they could get cooperation from the other parties, or even to what extent they should be carrying out their checks, they also faced the risk of severe penalties. If this end-use regulation were to be applied to human rights abuses, it would be even more difficult.

We believe that end-user-control regulations, in which parties of concern are clearly identified, are effective and help reduce the procedural burden on exporters. Therefore, it would be desirable to apply the end-use-control regulation as complementary by considering start-ups and unknown companies, etc. while focusing on end-user-control rules.

- Furthermore, three types of direct product rules have been applied, but this is practically the first instance where such a wide range of regulations have been imposed. On December 16, 21 of the 36 Chinese companies newly listed on the Entity List were subject to the direct-product rule, so it seems that this has now become established as a powerful re-export regulation.

However, it is a heavy burden for non-U.S. exporters to comply with this rule. Many companies are unfamiliar with the idea of what a 'direct-product' actually is, and the workload to determine whether a product meets such requirements is large, as is the workload to determine end-use (for any of the restricted companies' products / for China). Whether for a domestic or exporting transaction, companies are required to ascertain the above-mentioned, and they are advised to obtain a declaration from the supplier as to whether the product is a direct-product or not. All this amounts to a huge amount of work for the company. Even if the result is that the product is not subject to the rule, we cannot dismiss the huge amount of effort needed to determine such outcome in the first place. And we cannot ignore how this could also impact the company in that manpower which would otherwise be spent on normal business needs to be allocated to such work.

As in the case of the framework with Russian sanctions, it would be desirable to have a structure in which like-minded countries implement similar regulations as much as possible while applying the above-mentioned direct product rule to the other countries in a complementary manner.

- As U.S. re-export restrictions content and related companies grows along with an increasing degree of impact, it becomes necessary to fully understand all the details. Yet, when a non-U.S. company needs to consult on such matters, it seems that there are more than a few companies who feel that having to refer directly to the U.S. is a hurdle both in terms of procedures and costs.

And then with respect to the content of the regulations, there are many cases where the rules come into force in a very short space of time, if not on the same day. The work of exporters involves receiving orders, and before they are shipped, they need to act quickly to make decisions within the company on whether the product being shipped is subject to export control, and if so, how to respond. Export control and legal departments are required to interpret the law and regulation correctly for this very purpose, but companies located outside the United States cannot help but feel somewhat constrained.

With your understanding of this situation, and as part of strengthening Japan-U.S. export control collaboration, a contact point at the U.S. Embassy in Tokyo where exporters can consult and make inquiries (preferably in Japanese) about U.S. regulations would help ensure proper implementation of the rules.

2.7 Strengthening coordination between export control and inward investment control, and addressing issues

- Export control and inward investment control are closely related in terms of preventing the outflow of sensitive technology, so it is thought that they should be controlled together in coordination.
- FIRIMA in the United States adheres to the concept of “U.S. Business” and restricts any investment in U.S. businesses even if the investment is between non-U.S. companies. This means that an investment in a Japanese company could also be potentially subject to this regulation.

However, there is also a provision for “excepted countries” and “excepted investors.” Under this provision, countries and investors satisfying certain requirements are exempt from the regulation placed on U.S. investment (current excepted countries are U.K., Canada, Australia and New Zealand).

From the perspective of securing the effectiveness of Japan-U.S. cooperation, it seems thoroughly appropriate to apply Japan’s investment control system to Japanese companies rather than applying U.S. regulations. We also hope you will consider this issue bearing in mind to designate Japan as an “excepted country.”

- In the United States, export control and investment control are being linked together more strongly than ever. Emerging and foundational technologies are subject to the control of

both FIRRMA and ECRA, and in light of the trend of strengthened acquisitions from countries of concern amid the economic turmoil caused by the pandemic in the spring of 2020, a decision has been made to impose an obligation to submit a prior declaration for investment from entities that require export licenses (in place of 27 industries initially announced). Export control and investment control are thus coordinated from both the standpoint of the item and the entity.

- In Japan, investment control has been strengthened by revisions to the Foreign Exchange and Foreign Trade Act in 2019, but there remain issues such as how to deal with investments from entities of concern (including those subject to United Nations Security Council sanctions, and those on the list of public concerns of Western countries, etc.), how to deal with entities whose characteristics have changed or whose level of concern has increased ex post facto (increased control of governments and state-owned enterprises, etc.), and the pros and cons of the situation in which even foreign financial institutions in countries of concern are given block exemption with regard to investment in industries including core industries, etc.
- Additionally, “dual-use goods that may be diverted to military use” are identified as “core industry” items among those subject to investment control under the Foreign Exchange and Foreign Trade Act, and their manufacture falls under the list control items for export control. This may seem to indicate a linkage between investment control and export control. However, list control items are regulated by detailed specifications, and the judgement of whether an item satisfies these specifications requires specialized skills in export control. Therefore, investors cannot make this judgement, and regarding companies and departments which are investment target, if they do not engage in export, it is difficult for them to make this judgment. In this regard, there is a large difference with infrastructure-related industries and other designated industries that can be relatively easily classified by Japan Standard Industrial Classification based on disclosed materials, etc.

In response to this problem, a “recommendation list” is announced by the Ministry of Finance as a reference for determining whether or not prior notification is required. This is an unusual practice not seen in any other country. The list is based on a questionnaire survey by the Ministry of Finance, but as it is equivalent to announcing whether a company engages in the manufacture of state-of-the-art “dual-use goods that may be diverted to military use” and are subject to list control, many companies are voicing their concern that it could contrarily trigger an outflow of sensitive technologies (hostile takeovers, cyber-attacks, etc.).

In consideration of these concerns, we hope a scheme will be examined that would allow industries that manufacture “dual-use goods that may be diverted to military use” to be

classified relatively easily based on disclosed materials, etc. in reference to case examples of recent regulations in Western countries, instead of requiring specialized classification skills as does the existing system (such as item classification not bound by specifications under ordinance of the Ministry of Economy, Trade and Industry, for example).

- Furthermore, both export control and investment control, the idea of separating how private companies and state-owned enterprises are treated (judgment of control based on shareholding/voting rights ratio) seems to have been a common thread not only in Japan and the United States but also internationally. In China however, the absolute leadership and control system of the Chinese Communist Party has been established legislatively, meaning that even private enterprises have to abide by the Party's instructions, resulting in a corporate governance structure very different from the past. The strategy of military-civil fusion, mixed ownership reform, and national intelligence laws also complicate the perception of a corporation's right of control. Responding to these changes is also becoming an issue for improving the effectiveness of export and investment control in the future.

2.8 Multilateral harmonization of export control regulatory methods, regulatory numbering systems, and system operation

- In terms of multilateral export control cooperation, it would be preferable to harmonize regulatory methods and systems as much as possible. There are many export control measures being implemented based on G7 agreements, not just Japan-U.S. agreements, and many more are likely to be brokered in the future. It would therefore be most welcome if the other party to such agreements could also clearly understand that Japan is wholeheartedly enforcing export controls based on those agreements, thereby allowing Japan's exporters to export to the world more smoothly. From this we would like to raise two points.
- The first is a multilateral harmonization of methods for securing export control regulations. A multilateral export control regime seeks to contribute to the non-proliferation by regulating the development and manufacture of weapons of mass destruction and conventional weapons. However, under UN Security Council sanctions (on North Korea, etc.), entities that are not directly involved in the development and manufacture of weapons of mass destruction, but which are involved in securing funding for development (entities such as means of transportation, like railroads and ships, etc., trading companies, and development companies which are sources of funding), are subject to embargo. Under the Foreign Exchange and Foreign Trade Act of Japan, entities are listed on a foreign end user list, but essentially this applies to entities directly involved in development and

manufacturing, etc., and the nature of the list is not embargo list. In case of making it embargo, the ban on payments, etc. under financial sanctions which makes it difficult to receive payment for exports has become an unorthodox method for the substantive embargo of exports. However, since the UN Security Council sanctions resolution includes a freeze on financial assets and a freeze on economic resources, it seems necessary to directly impose an export ban as part of the freeze on economic resources.

On the other hand, with the sanctions against Russia, a list of entities that require an export license, such as Russian military-related companies, was announced with these entities deemed as 'policy of denial of license,' thereby placing them directly on the embargo list. This appears to be the result of coordinating measures with other countries based on agreements with the United States and the G7.

- The second point is a multilateral harmonization of regulatory numbering systems. In Japan, the numbering system of list rules under the Foreign Exchange and Foreign Trade Act is unique (classified by multilateral export control regime), unlike the EU's numbering system (classified by item), which is a substantial international standard in Europe, the United States, and Asian countries. In this regard, the Ministry of Economy, Trade and Industry (METI) and industrial circles continued discussions from the perspective of facilitating more global corporate activities, and in March 2022, created a framework that allows for license applications and export control using EU codes, while maintaining the current numbering system itself owing to restrictions under current law. This is a major step forward for which we are deeply grateful.

On the other hand, if certain items are, in the future, subject to control based on agreements between Japan and the U.S. or the G7, it would be preferable if the system could be made easier for cooperating countries to clearly understand which part of the agreement is being enforced.

On this point, for items newly subject to regulation under Japan-U.S.-Europe cooperation due to Russian sanctions, Japan has adopted a method of ordering in accordance with the item classification in the EU numbering system as per the appended table of the Cabinet Order of the Foreign Exchange and Foreign Trade Act. This signals the possibility of a review of the entire list rules numbering system for compliance with the EU. As such, we hope that you will be able to continue to have discussions with industries going forward.

- In addition, the detailed operation of export control regulations often differs from country to country. In domestic application of multilateral export control regimes, a certain degree of discretion is allowed by member countries. So, although there are unavoidable aspects, with more global corporate activities, even seemingly insignificant differences in system operation must be dealt with differently depending on the country in terms of practical

operation, which is a burden that cannot be ignored. Therefore, if you receive any inquiries from the industrial world, etc., in that this problem is particularly serious, we ask that you respond to facilitate a more harmonized operation of regulatory systems.