

# Enforcement activities and ICP Implementation

November 2017

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- METI conducts post-shipment inspection as well as gives instructions to exporters for more effective enforcement of security export control.

## ■ Post shipment inspection:

- Conducting post-shipment inspection to illicit export, and impose administrative penalty if necessary
- Cooperation with Customs and Police

## ■ Instruction and Guidance to Exporters:

- Supporting enterprises and universities for establishing and strengthening self-management system for security export
- Activities to increase awareness of security export control

# Importance of Security Export Control in Industry

- Establishment of effective export control system is important.
- However, it is difficult for the government to check the details of every export and transaction.
- So, self-management (effective export control by exporters themselves) plays a key role.
- It is necessary for exporters to steadily carry out classification, transaction screening (appropriateness of end-use and end-user), and shipment control.
- If self-management by exporters is insufficient, the whole export control system is seriously weakened.
- After serious illegal export case by Japanese company in 1987, METI has encouraged Japanese industries to strengthen their export control activities.

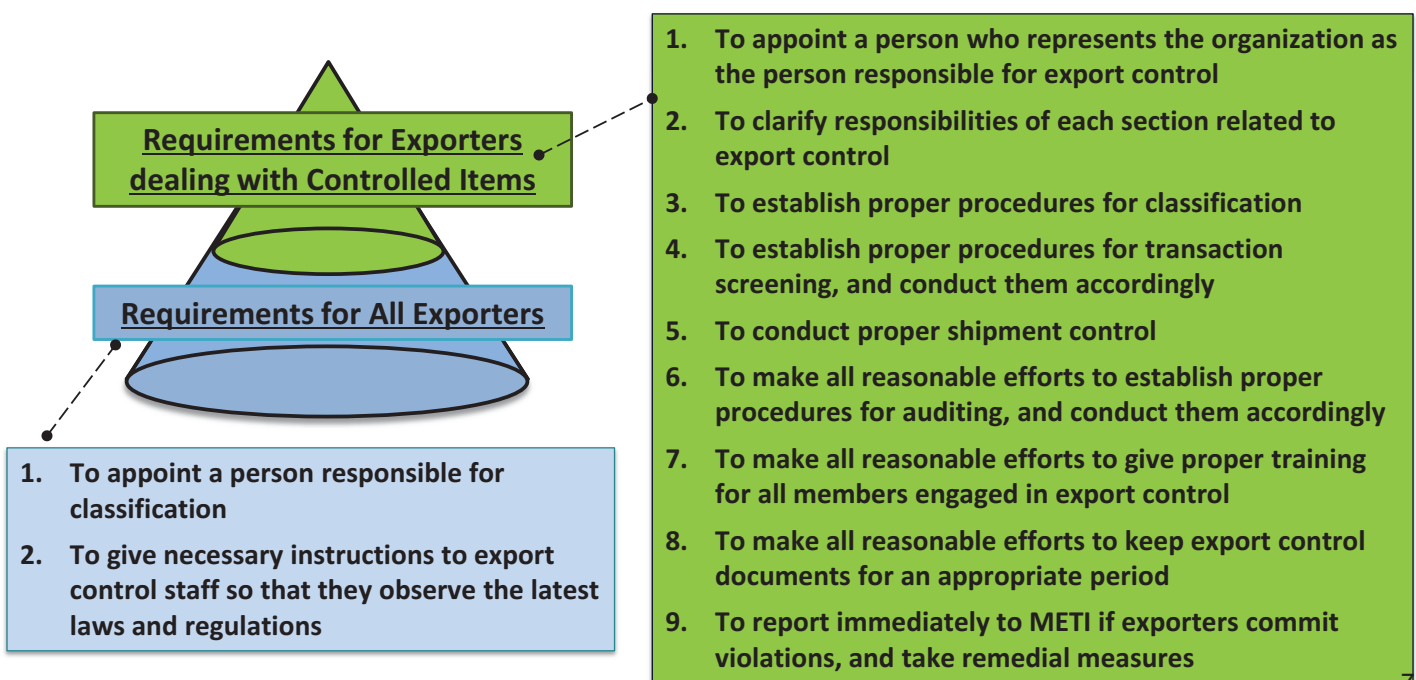


# “Standards for Exporters”

- In April 2010, FEFTA was amended and the “Standards for Exporters” was introduced.
- The “Standards of Exporters” requires every single individual, company or academic institution that is engaged in export of goods or transaction of technology to have a system guaranteeing a minimum level of self-management.
- Observation of the “Standards for Exporters” is a legal obligation. A violator of the Standards may receive a penalty.

## Requirements for Exporters

- The “Standards for exporters” has a **double-layered** structure.
  - The Standards require that **all exporters observe the two points.**
  - The Standards also require that **exporters who are dealing with controlled items under FEFTA observe the nine additional points.**



- An Internal Compliance Program (ICP) is an exporter's internal policy to comply with the export control laws and regulations.
- Having an ICP is not mandatory, but METI has been encouraging exporters in Japan to establish an ICP since 1987.
- MITI (METI's predecessor) introduced the ICP system in 1987 after the occurrence of the serious illegal export case by a Japanese company.
- As of the end of 2016, over 1400 exporters in Japan had registered their ICPs with METI.

## Main Requirements for an ICP



## Requirements for an ICP

- ICP requirements are very similar to the “Standards for Exporters,” but the requirements of an ICP is a little higher than the Standards.
- Differences between the two are as follows:
  - properly conducting auditing, training and keeping export control documents (more stringent requirements than the Standards)
  - properly instructing subsidiaries and affiliated companies regarding export control
- Exporters who have registered an ICP with METI automatically satisfy the requirements of the “Standards for Exporters.”

## Requirements for an ICP

### **A. “Standard for Exporters” Requirements for All Exporters under FEFTA**

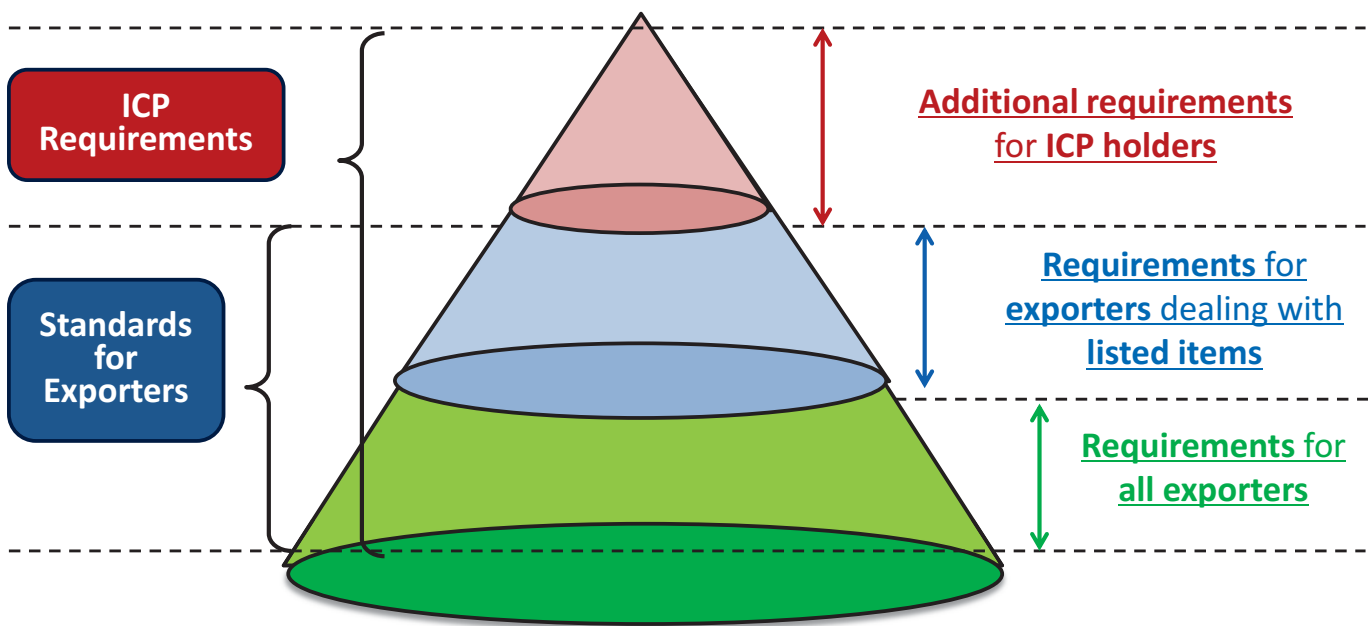
1. To appoint a person responsible for classification
2. To give necessary instructions to export control staff so that they observe the latest laws and regulations

### **B. “Standard for Exporters” Requirements for Exporters dealing with Controlled Items under FEFTA**

1. To appoint a person who represents the organization as the person responsible for export control
2. To clarify responsibilities of each section related to export control
3. To establish proper procedures for classification
4. To establish proper procedures for transaction screening, and conduct them accordingly
5. To conduct proper shipment control
6. To make all reasonable efforts to establish proper procedures for auditing, and conduct them accordingly
7. To make all reasonable efforts to give proper training for all members engaged in export control
8. To make all reasonable efforts to keep export control documents for an appropriate period
9. To report immediately to METI if exporters commit violations, and take remedial measures

### **C. Additional Requirements for ICPs**

1. To properly conduct auditing, training and keeping export control documents (more stringent requirements than B. 6 - 8)
2. To properly instruct subsidiaries and affiliated companies regarding export control



## Benefits of an ICP

### ➤ Benefits for exporters:

- Exporters can strengthen their self-management system and reduce the risk of committing unintentional illicit exports.
- Those who have registered an ICP to METI can apply for bulk licenses.
- They can also advertise to the public as an excellent exporter.

### ➤ Benefits for the government:

- It helps the government to strengthen the overall export control system.

- METI conducts two types of audits: one is a paper audit using a “Check List (CL),” and the other is an on-site inspection.

## Check List

- A CL is a document that confirms whether an exporter carries out export control in accordance with its ICP.
- A CL consists of 41 check items. By filling out a CL, exporters can check whether they are implementing their ICP properly.
- Exporters who have registered an ICP with METI are annually required to submit a CL to METI (CL is one of the requirements to obtain bulk licenses).
- METI checks each submitted CL, and issues a proof of CL registration if it finds a submitted CL appropriate.

## (Reference) Example of a Check List

Check Items	Provisions in the ICP	Implementation Status	Notes
Internal Export Control System			
1.1 Is the chief export control officer a person who represents the organization?	<div style="border: 1px solid red; padding: 2px; display: inline-block; color: red; font-weight: bold;">Choose the appropriate option</div> (1) Stipulated in the ICP (2) Stipulated in internal rules other than the ICP (3) Not stipulated	(A) A representative of the organization is appointed in accordance with the ICP (B) A representative is appointed despite not being in accordance with the ICP (C) An individual other than representatives is appointed (D) Nobody is appointed	Provide the name of the ICP and relevant articles  Name of ICP: Articles:
1.2 Is the scope of responsibilities regarding export control clearly defined?	(1) Stipulated in the ICP (2) Stipulated in internal rules other than the ICP (3) Not stipulated	<u>If (1) or (2) was selected</u> (A) Operating in accordance with the ICP (B) Not operating in accordance with the ICP  <u>If (3) was selected</u> (C) The scope of responsibilities is clearly defined in practice (D) Not clearly defined	Provide the name of the ICP and relevant articles  Name of ICP: Articles:
⋮	⋮	⋮	⋮

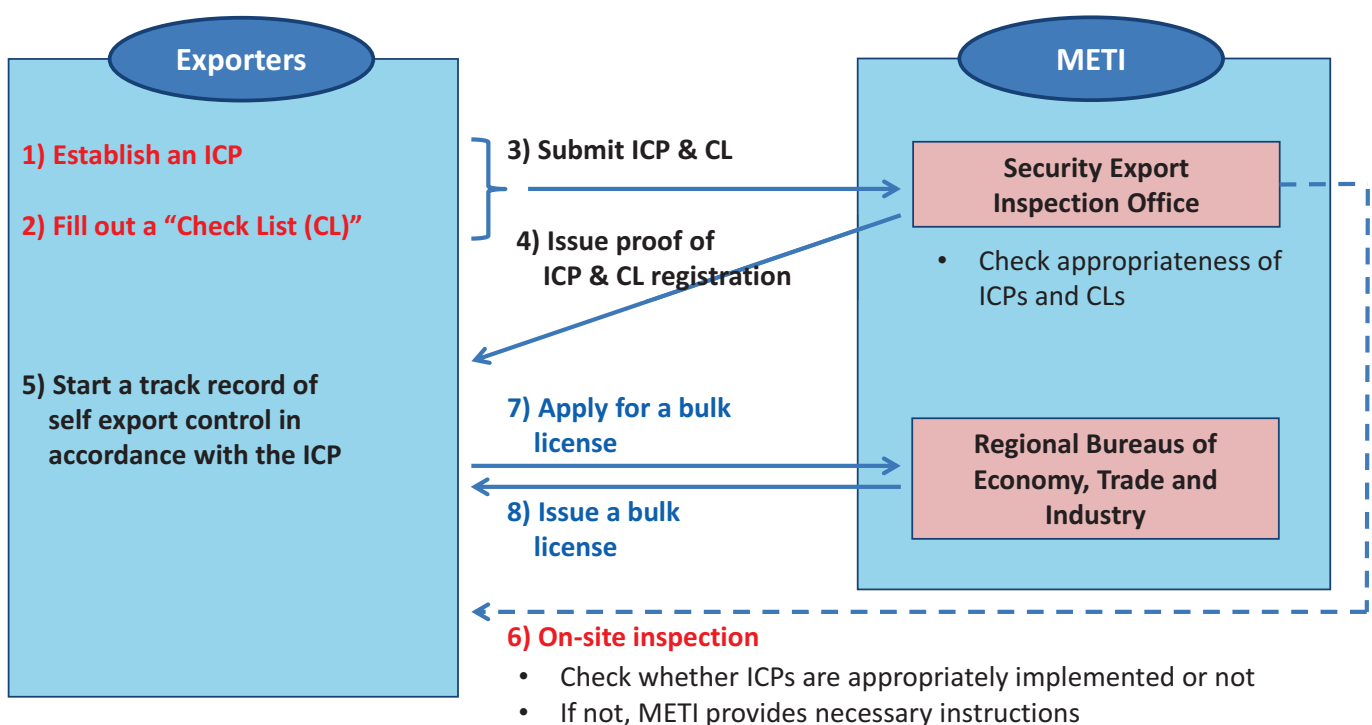


## On-site inspection

- METI annually conducts over 100 on-site inspections of exporters, including small and medium enterprises.
- Inspectors go to exporters' offices to examine how requirements of the "Standard for Exporters" and ICPs are implemented.
- The results of inspections are placed into three categories:
  - **Guidance** for cases where an exporter has violated provisions of the FEFTA or has seriously failed to implement the "Standard for Exporters" requirements or the ICP.
  - **Advice** for cases where an exporter has partially failed to implement the "Standard for Exporters" requirements or the ICP.
  - **No instruction** for cases where an exporter has properly carried out export control in accordance with the "Standard for Exporters" or its ICP.
- If a violation of provisions of the FEFTA is found by on-site inspections, METI starts post-shipment inspection.

# Procedure for Obtaining a Bulk Export License

<In case of Special General Bulk Export License, Special Bulk Export License, etc.>



## Bulk License

Valid for multiple transactions for 3 years

### General Bulk Export License

- Export of specific items to white countries
- Only electronic application is acceptable.
- ICPs and prior on-site check are NOT required.

### Special General Bulk Export License

- Exports of specific items to specific countries (i.e. export of WA/BL to non-WA countries, etc.).
- ICPs and prior on-site check are required.

### Special Bulk Export License

- Repeated exports of specific items to specific customers.
- ICPs and prior on-site check are required.

### Special Bulk Export License for Repair or Replacement

- Re-exports of arms and arms-related items (category 1) to the country of origin for repair or replacement.
- ICPs and prior on-site check are required.

### Special Bulk Export License for Overseas Subsidiaries

- Exports of specific items to subsidiaries in foreign countries.
- ICPs and prior on-site check are required.

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## Seminars for enterprises and universities

- METI holds around 100 export control seminars annually across the nation and there are around 10,000 participants every year.
- There are several types of seminars – for industry overall, for specific industries, for customs brokers, and for academia.
- Many topics including the following are covered:
  - Basic framework of Japan's export control system
  - Overview of the "Standards for Exporters" and ICPs
  - Examples of illicit exports and penalties

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- Among cases of violation of FEFTA , some cases are intentional, but most of them occurs due to the lack of knowledge of relevant laws, and the lack of awareness of security export control.

### (1)Types of **intentional** illegal exports.

<Example>

- The goods was exported by **hand carry** luggage without obtaining export license.
- The goods was **disguised as non-controlled items** and declared for export to Customs.
- The goods was exported to **false destination** where it is not allowed to export in order for circumvention.

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## Types of illegal export

### (2)Types of illegal exports due to **carelessness**

<Example>

Lack of knowledge of FEFTA /Insufficient export control procedures

- An exporter **exports goods without an export license even though the goods are controlled items**(e.g., used machines, samples and test products)

Inappropriate implementation of classification

- An exporter **misunderstands classification of goods**, so that the goods are exported using a different export license.
- An exporter **does not check the classification of goods which are done by makers**, and exports the goods without knowing that the classification is wrong.
- An exporter applies for an export license for goods, such as machines, but **forgets to apply regarding software** installed in the goods.

Inappropriate implementation of classification

- An exporter **mistakes the goods to be exported** (e.g., miscommunication between sales team and storage team in the company.)

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