

# National Experience to Ensure Secure Trade and Challenge for Non-proliferation

Trade and Economic Cooperation Bureau  
Trade Control Department

Ministry of Economy, Trade and Industry

## Legal Sources: multilateral context

- Multilateral Treaties- WMD Non- proliferation regimes; NPT, CWC, BWC, CTBT
- UNSCR 1540
- UN sanction Regimes: UNSCRs
- Export control regimes: NSG, WA, AG, MTCR

## Legal sources: National context

### (1) Law or Act

#### Foreign Exchange and Foreign Trade Act

- Basic frameworks and thoughts

### (2) Cabinet Orders

#### Export Control Order

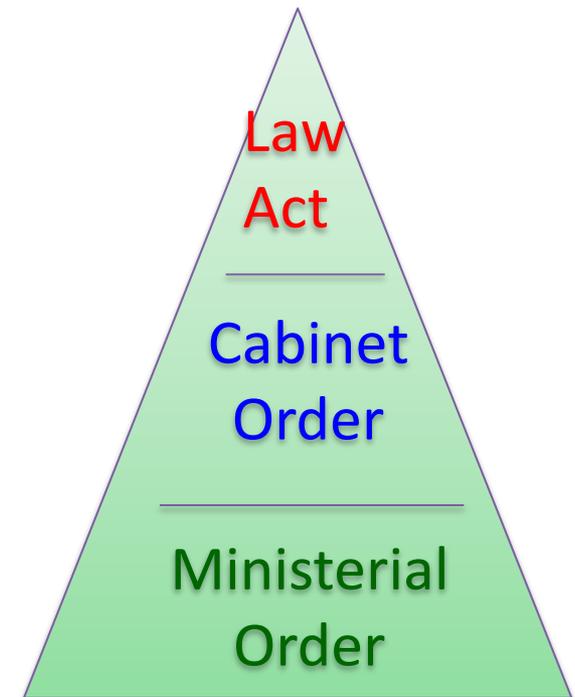
- List of goods

#### Foreign Exchange Order

- List of technologies

### (3) Ministerial Orders

- Details (specifications and interpretations of listed items)



# Japanese Lists in conformity with the regime lists

Item	Cabinet Order	Regime list
1	Arms	WA/ML
2	Dual-use items	NSG
3		AG
3-2		
4		MTCR
5		WA/BL·SL
~		
13		
14		WA/ML (excluding item 1)
15	Dual-use items	WA/VSL
16	Catch-all	

List control



Catch-all control

## Challenges For Effective Implementation of Export Control

**1) Listed Item → Non- Listed Items**  
**Effective implementation of Catch All Control**

**2) Goods Transfer → Technology Transfer**  
**Effective control over Intangible Technology Transfer**

**3) Careless Violation → Willful Violation**  
**Effective Investigation and Strict Penalties**

**4) Simple Transit → Multiple Transits**  
**Effective Cooperation with Partners**

# 1) Japan's Implementation : Catch-all control of WMD

In case there are concerns that the item or technology in question could contribute to WMD proliferation program, exporters have to apply for export license.

Region

All region except for white countries

Items

Any Items which are not on the list (except for food, etc)

The Commodity Watch List [40 +12\* items]

Conditions

(\*only for Syria, as of 15 Oct.)

## (1) Exporter's Initiative = The "Know" Condition

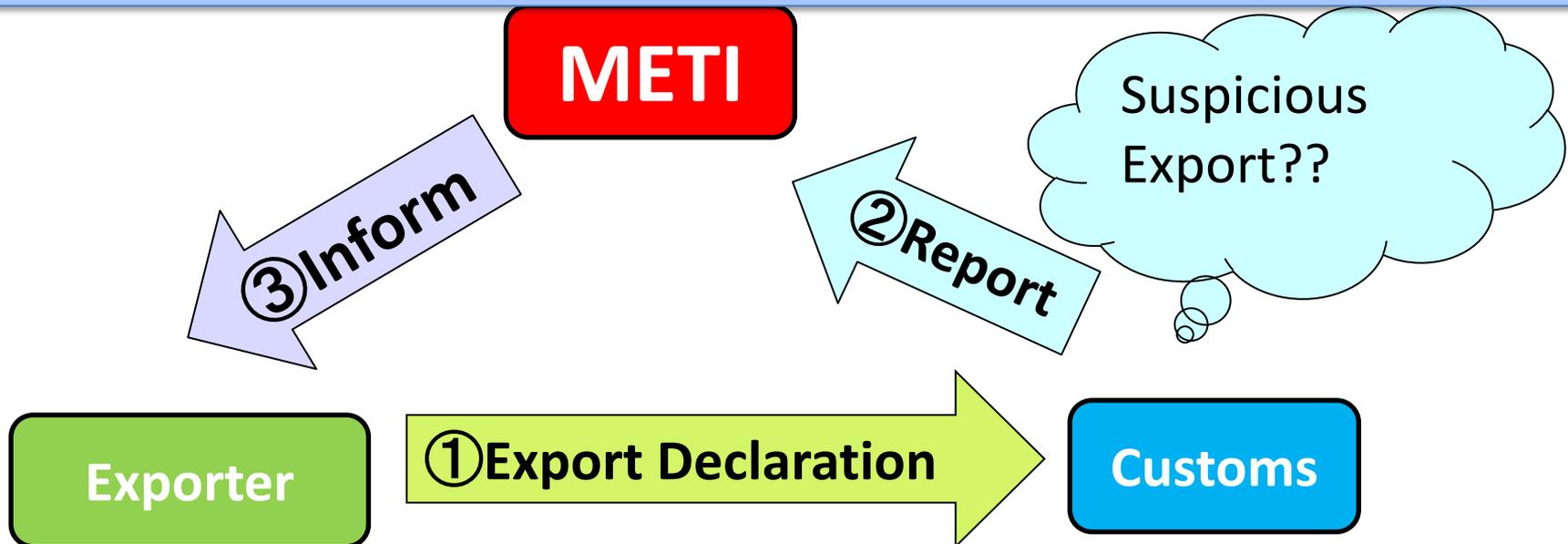
- In case exporters have come to know that the items will be used for the development, manufacture, use, storage etc of WMD
- In case exporters have come to know that the end user is/was involved in WMD-related program through relevant documents such as Foreign End User List, except for the case the item in question will be apparently used for a purpose other than the WMD-related activities

## (2) METI's Initiative = The "Informed" Condition

- The "inform" is given when METI considers that the items in question are/may be intended for WMD.

## ~ Cooperation with Customs (Catch All Control) ~

- Based on this Catch-All Control system, Japan can control the export of all WMD-related items, even items which are not on the controlled items list.
- When Customs notice a suspicious export, Customs report this fact to METI. METI examines the export and determines the necessity of licensing, and when needed, instructs the exporter to apply for an export license.
- When the exporter submits an application for an export license, METI examines the case based on the regular criteria.



## 2) Japan's Implementation: Intangible Technology Transfer

### Controlled cases of intangible technology transfer (ITT)

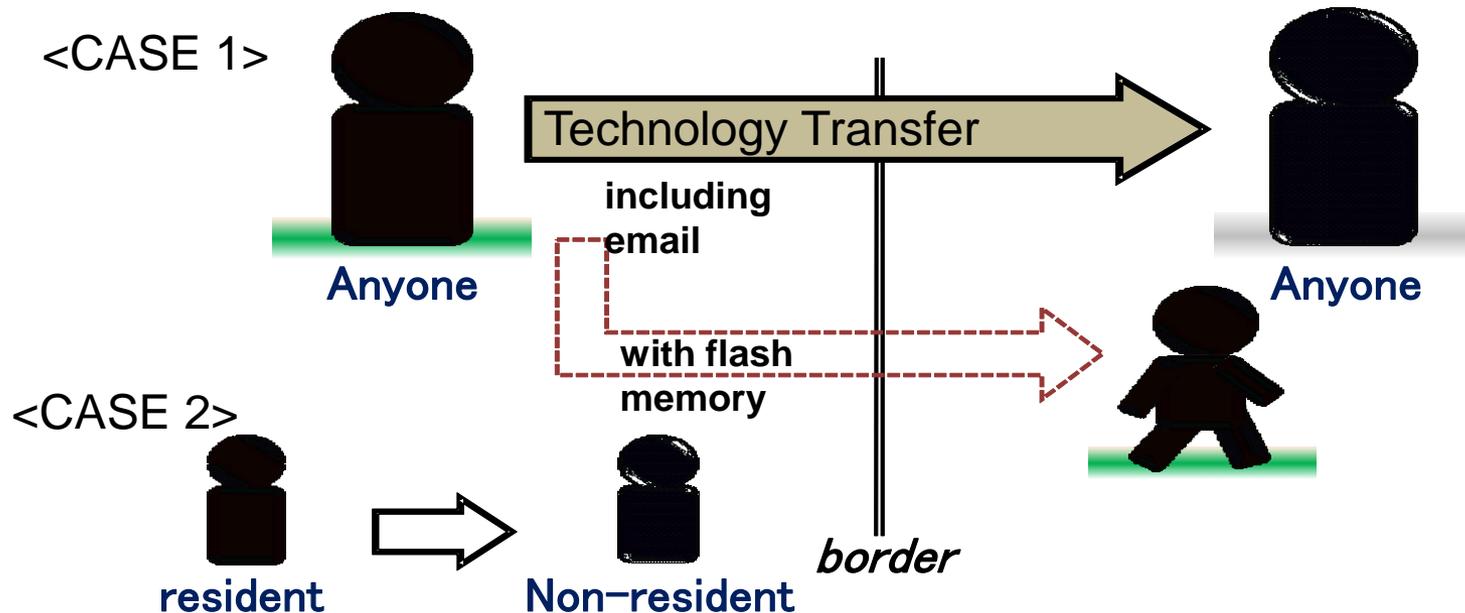
Case 1. Technology transfer from Japan to a foreign country

- focus on location of the recipient

Case 2. Technology transfer to a non-resident

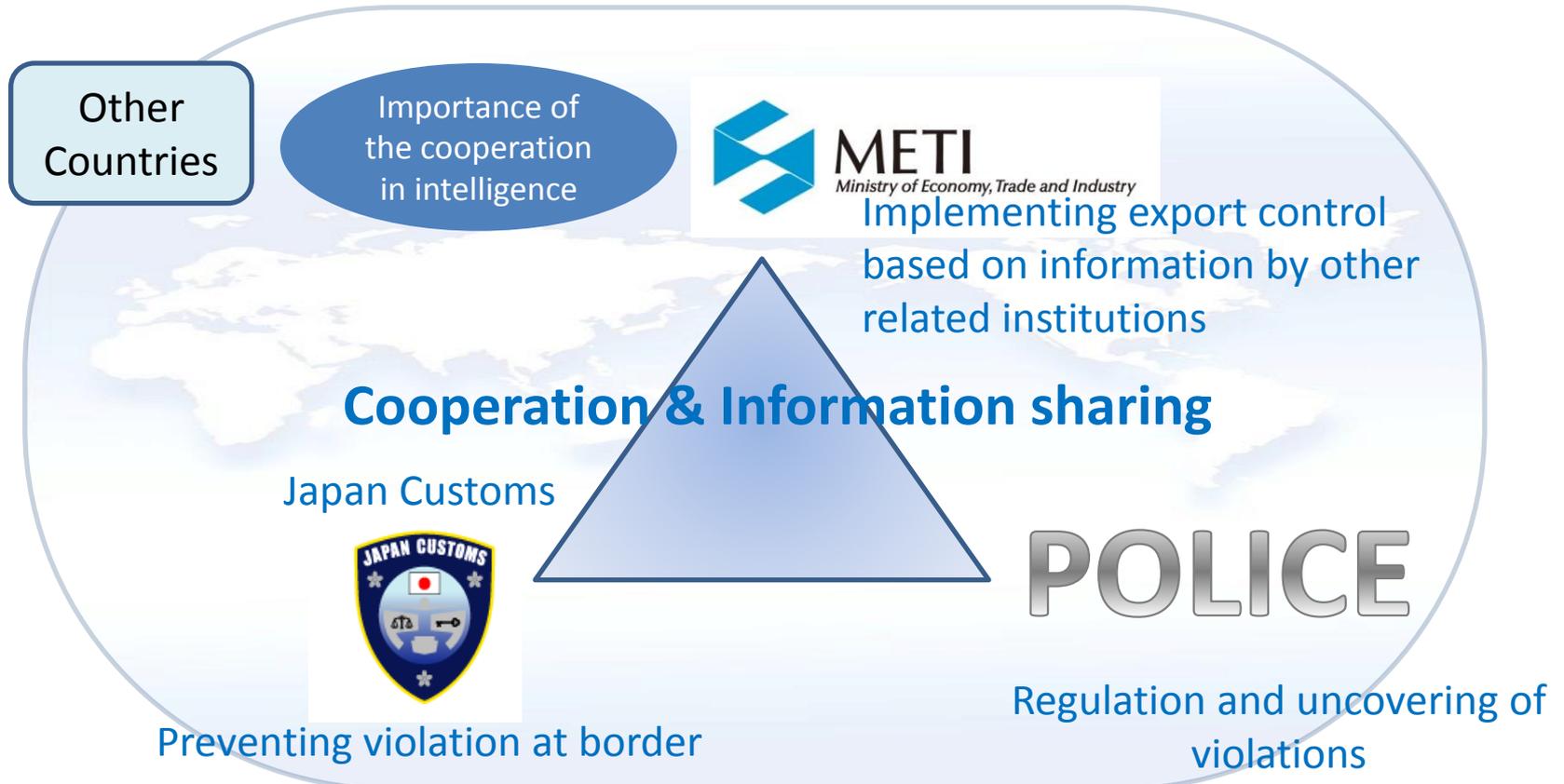
- transfer of listed technology by any resident to a non-resident
- focus on whether the recipient is non-resident or not

\*both include sending technology information by flash memories, e-mail etc.



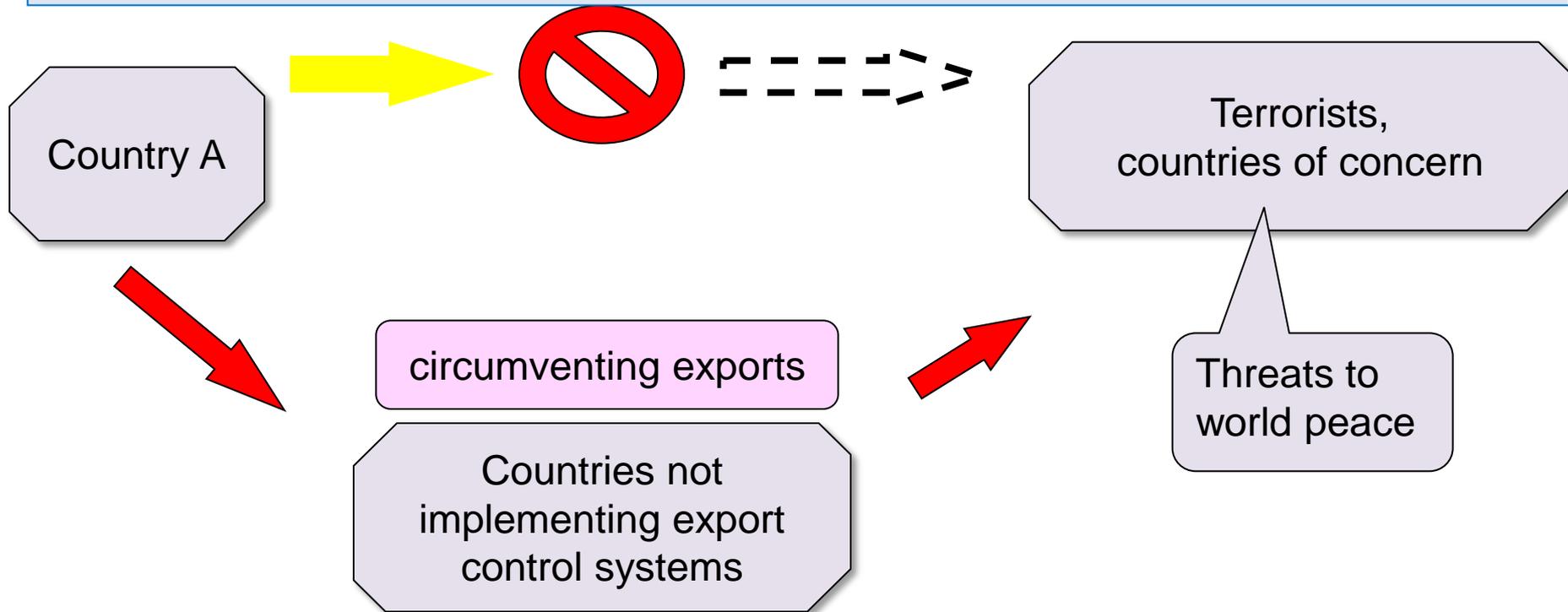
### 3) Japan's Experience: Inter-agency Cooperation to stop proliferation

- Recently, there are many cases where transactions involve various people.
  - Some people don't know the laws and regulations.
  - Some people lack due diligence.
  - Some people seek to profit through unlawful trade.
- METI is promoting more effective inter-agency cooperation with Customs and police authorities for more effective enforcement.



## 4) Japan needs to cooperate with Partners

- Recently, there are many cases where countries of concern attempt to procure sensitive WMD-related items through third countries (circumvention).
- The proliferators prefer countries where sufficient export controls do not exist.
- The proliferators can use foreign-flagged vessels and multiple transit points.
- In order to strengthen countermeasures against circumvention, international cooperation is essential.

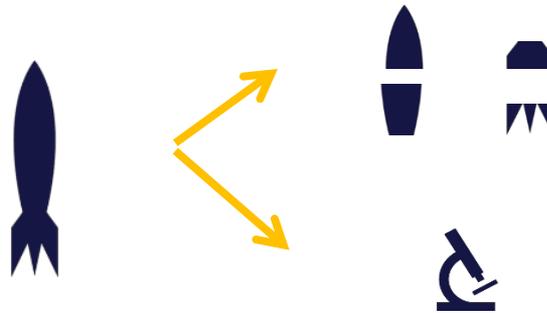


Another Challenge : Proliferation Activities become complicated.

→ Investigations require diligence, time, even luck!

## SHIPMENTS:

- Shifted **from Bodies to Parts, Technical Assistance, Joint Developments**
- Includes **More Dual-Use Items / Techs**



# Additional Issues

- **Cooperation**

We need to work together closely across borders to fight against proliferators.

- **Outreach to Industry**

Industry has a key roll. Proliferators need to make contracts with industry. Industry has a possibility to find concerned trade.

- **Effective Transit and Transshipment Management**

Transit and transshipment are always related with some countries. We need a close cooperation.