

WorldECR

UK ‘slow to freeze’ Egyptian assets	2
Practice trends survey: on the agenda in 2012	5
New Australia autonomous sanctions	7
U.S. sanctions foreign banks’ Iran business	8
The story behind SCB’s \$340m settlement	14
Changes to Japan’s export licensing system	17
Burma: U.S. reporting requirements	20
Burma sanctions: on the ground in Yangon and Naypyidaw	23
Germany moves to modernize trade law	25
The Arms Trade Treaty: dead or alive?	26



Changes to Japan's export licensing system



In April 2012, the Ministry of Economy, Trade and Industry of Japan simplified export licensing procedures by combining 14 notifications and circulars into two notifications – one for individual licences and another for bulk licences. George Tan and Tatsuya Kanemitsu outline the changes.

On 1 April 2012, the Ministry of Economy, Trade and Industry of Japan ('METI') issued several notifications on individual and bulk export licence application procedures. These notifications aimed to reduce certain inconveniences faced by traders and to improve practices adopted by overseas importers. METI simplified export licensing procedures by combining 14 notifications and circulars into two notifications – one for individual licences and another for bulk licences. The majority of changes provided in the new notifications concerning individual licences took effect on 1 April 2012 while those related to bulk licences took effect on 1 July 2012.

Notification on individual licence procedures

Prior to the new regulations, traders

had to comply with a total of 13 export licensing-related notifications which provided guidelines and licensing obligations as well as the requirements for supporting documents. These notifications were replaced by Export Administration Matter 24 item 18,

These notifications aimed to reduce certain inconveniences faced by traders and to improve practices adopted by overseas importers.

dated 23 March 2012, known locally as 'Teishutsu Shorui Tsutatu – 提出書類通達'. Export Administration Matter 24 item 18 not only combined existing notifications but also streamlined

licence application procedures by introducing changes to certain forms, particularly the end-user certificate ('EUC') form which is required as part of the licence application procedure. Certain rigid post-licence management practices, such as the pre-approval requirement for the domestic transfer of goods already licensed, were abolished as well.

The new notification provided the following content:

- The main text is a ten-page guidance to traders which states the licence application procedure, such as documents to prepare before licence application; definition of supporting documents; post-licence management; and interpretation of terms, etc.
- The appended table includes the list of supporting documents; a matrix

Overview of Japan's updated export licensing schemes

Following these changes, Japan now offers five export licensing schemes as detailed below:

Type of licence	Items	Destination	Other limitations
White country bulk licence	Non-sensitive items in category 2-14	White countries only	Licence application is only through online system
Special general bulk licence ('Tokuichi Houkatsu')	Non-sensitive items in category 2-14	Non-sensitive countries excluding Afghanistan, Iran, Iraq, North Korea and UN arms embargo countries	Not for sensitive items (need to refer to matrix for eligibility)
Special bulk licence ('Tokutei Houkatsu')	Broader scope of items including certain sensitive items in category 2-14	Broader scope of countries but excluding Iran, Iraq, North Korea and UN arms embargo countries	History of past 'continuous' export records required, and need to specify items and end-user beforehand
Special bulk licence for repair or return	Arms and related items only in category 1	White countries only	Limited for return to original exporter
Special subsidiary bulk licence	Same as special bulk licence (excluding certain design and manufacturing technology)	Same as special bulk licence	No need to specify item beforehand. End-user limited to Japanese subsidiary of more than 50% stake holder

Japan's export licence requirements

The requirements for these five schemes are as follows:

Type of Licence	ICP	Pre-audit by METI	METI official seminar participation
White country bulk licence	NOT required	NOT required	NOT required
Special general bulk licence ('Tokuichi Houkatsu')	Required	Required	Required
Special bulk licence ('Tokutei Houkatsu'):	Required	Required	Required
Special bulk licence for repair or return	Required	Required	Required
Special subsidiary bulk licence	Required	Required	Required

of countries and related required supporting documents; contact details of the application office. Traders can find out which documents are required by referring to the item and country matrix.

- A separate note explains how to fill in the various designated forms and contains a notice which the end-user needs to understand and follow.
- The appended form is the METI designated form for licence applications, supporting documents such as the end-user certificate, and a consultation form for inquiries to METI and so on.

Supporting documents generally fall into two categories:

- Dual-use items of the Wassenaar Arrangement basic list and destinations to all countries except Iran, North Korea, and UN arms embargo countries
 - a) (Note: No end-user certificate is required in this case)
 - b) Export licence application form (METI designated form)
 - c) Statement of reason for application (METI designated form)
 - d) Original document of contract or order form, and its copy (*)
- Sensitive items: chemical items restricted by the Australia Group (e.g. 2B352) to non-regime countries (e.g. Singapore, Malaysia, China etc)
 - a) Export licence application form (METI designated form)
 - b) Detailed statement of export licence application (METI designated form)
 - c) Original document of contract or order form and its copy (*)

d) Comparison matrix of items' technical specification and the control items list by export trade control order

- e) Technical documents or catalogue brochure of items
- f) Documents to describe the business nature and presence of end-user
- g) End-user certificate (METI designated form)
- h) Manufacturing flow of finished goods using exported material to describe the exact end use and quantity

(*) Note: In cases where the original contract is not available, a statement pledging that copy is same as the original is required.

Until recently, certain sensitive items required two end-user statements: one from an importer/end-user to an exporter in Japan and another from an exporter in Japan to METI. Both statements contain assurances by the signee to seek approval from the exporter and METI in case of re-export, re-transfer or resale (even domestically) of licensed items. Such requirements were considered burdensome by traders as other countries do not impose such requirements.

The recent changes removed the requirement for the second statement – that from the exporter to METI. In addition, the EUC provision now narrows the scope of METI pre-approval requirement to re-export and certain re-sales where the end-user was not specified at the time of export.

While many may feel that the changes signal a general relaxation of standards, we note that METI has redesigned the end-user form so as to officially delegate proliferation

screening responsibility to the exporter and importer. As such, diligent end-user/end-use screening is still required on the part of the exporter and importer, and they will be now officially responsible for any violations.

METI has redesigned the end-user form so as to officially delegate proliferation screening responsibility to the exporter and importer.

METI has prepared and posted the English version of the end-user certification form and its explanation note on its website.

Notification on bulk licence procedures

The update splits the popular 'general bulk licence' – one of Japan's four licensing schemes – into two different types of bulk licence. The other types of bulk licences are also updated to streamline business procedures. This notification was amended on 1 April 2012 and the new bulk licence scheme took effect on 1 July 2012.

The existing general bulk licence (locally called 'Ippan Houkatsu – 一般包括' export licence) is split into two types as follows:

● White country bulk licence

Traders looking to export certain non-sensitive dual-use items to white countries can apply for white country bulk licences. Requirements for this licence are less stringent: only registration of responsible executives and staff involved in classification are required; an internal compliance

White Countries

The 27 'White Countries' designated by METI are:

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Republic of Korea, Luxemburg, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom and the United States of America.

programme ('ICP') is not required. Application for the licence can only be done through the NACCS online system.

- **Special general bulk licence (locally called 'Tokuichi Houkatsu – 特一包括')**

The special general bulk licence allows the export of certain non-sensitive dual-use items to various countries except high-risk countries such as Iran, North Korea, Iraq, and UN-embargoed countries. Details of eligible items and destinations are included in a matrix provided in the notification. Existing general bulk licence holders will have their

licences automatically converted to special general bulk licences or 特一包括. New applicants for the special general bulk licence are required to undergo an on-site pre-audit by METI in addition to the existing requirement to implement ICP and registration with METI. Existing general bulk licence holders will not be required to undergo on-site audits by METI for licence renewal.

Other bulk licences

- **Special bulk licence (locally called 'Tokutei Houkatsu – 特定包括')**

The special bulk licence is suitable for exporters with recurring exports of specific items to a specific end-user. This licence covers more sensitive items and destinations than the special general bulk licence. The update reduces restrictions for exporters involved in infrastructure projects or the export of spare parts to existing authorized projects.

- **Special bulk licence for repair or return**

The special bulk licence for repair

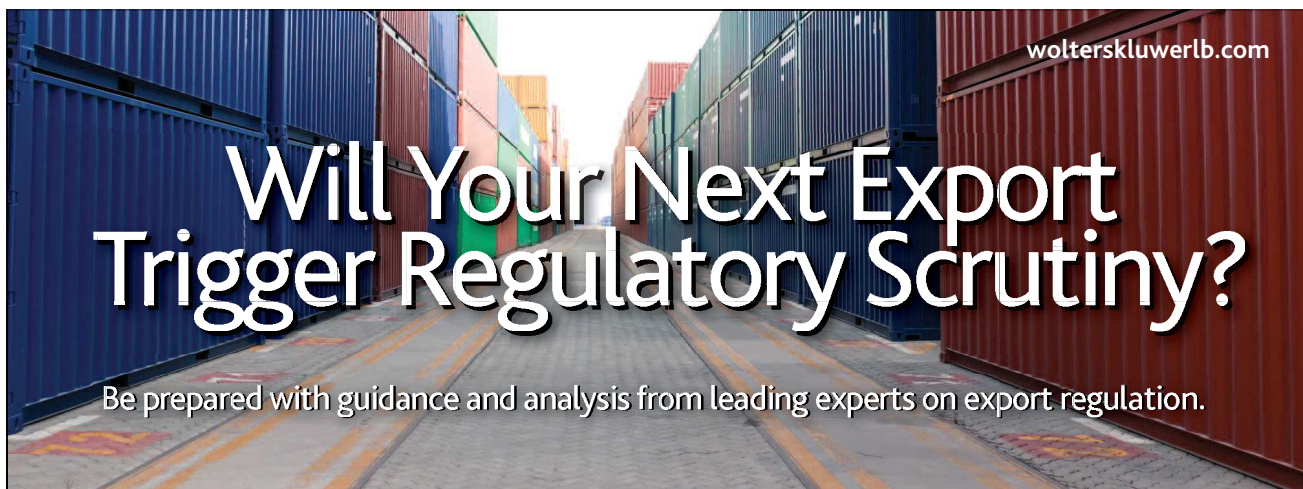
and return is for repair or return export of arms or weapons (under category 1 of appendix 1 of the export trade control order) from white countries. This licence did not receive an update in 1 April 2012.

- **Special subsidiary bulk licence**

The special subsidiary bulk licence is concerned with export transactions for subsidiaries of Japanese companies. The scope is similar to that of the special bulk licence, without a requirement to pre-specify the items. The update reduces the stakeholder requirement for eligible subsidiaries from 100% to 50%.

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