

# The Asian Arms Export Control Initiative: Forestalling WMD-related Procurement

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*The spread of weapons of mass destruction (WMD) has to be curbed. To stop the circumventive export of goods suspected of being used for development of such weapons, a community across Asia dedicated to preventing exports of such goods needs urgently to be built.*

**H**istorians may look back and mark 2003 as the year developments on export controls in Japan entered a new stage. To stop exports of goods that could be used for the development of weapons of mass destruction, domestic as well as international cooperation is essential. The case of alleged violations by the Meishin trading company of the Foreign Exchange and Foreign Trade Law, revealed in April 2003, is symbolic of efforts being made in this regard.

## Landmark Export Intervention

In November 2002, concerned that the stabilized direct-current suppliers Meishin was about to export to North Korea could be used in the development of weapons of mass destruction, the Ministry of Economy, Trade, and Industry (METI), acting under the catch-all regulation (enacted April 2002, see figure 1), notified the company that it must apply for a license to export the DC suppliers. In April 2003, however, Meishin loaded the items in question onto a cargo ship bound for Thailand via Hong Kong and shipped them off without obtaining an export license. Authorized under the terms of the Foreign Exchange and Foreign Trade Law, METI immediately carried out an on-site investigation of Meishin and, at the same time, asked the authorities in Hong Kong, where the ship later docked, to confiscate these items in its cargo. Through further inquiry into a communications-related company involved in coordinating the cargo's transit in Thailand, the supposed export destination, the ministry confirmed that following arrival the cargo was to be re-exported to North Korea. On 24 April, METI filed an indictment against Meishin at the Tokyo Metropolitan Police Department charging violation of the Foreign Exchange and Foreign Trade Law. The police carried out a full-scale search and criminal investigation of Meishin on 8 May.

This case marked a turning point in export control enforcement because, unlike numerous previous incidents of infraction of the Foreign Exchange and Foreign Trade Law, the export of WMD-related materials was prevented beforehand (in

this case, with seizure at the port of call in Hong Kong). Until then, such cases of export had been revealed by law enforcement authorities only after years had passed since the cargo was obtained by a “nation of concern.” Even if such revelations have a certain deterrent effect, the freight in question does not return.

Over the past year, in fact, steps were taken in fifteen cases by METI other than that against Meishin to issue notices based on the catch-all regulation requiring the exporter to apply for a license to export goods to North Korea. In a sense, these steps helped to prevent exports of WMD-related materials.

Why was METI able to effectively preempt such exports? The introduction of the catch-all regulation is only part of the story. More telling is the way the practical application of the legal system has been strengthened. Four major developments are worthy of note.

First is increased cooperation between METI and the customs authorities. Particularly due to the pressing need to stop dubious export activities at Japan's shores, customhouses and METI have recently

begun to cooperate in performing a variety of checks. While imposing heavier duties than before on on-site officials at customs offices and export control authorities, this type of cooperative system has proven effective.

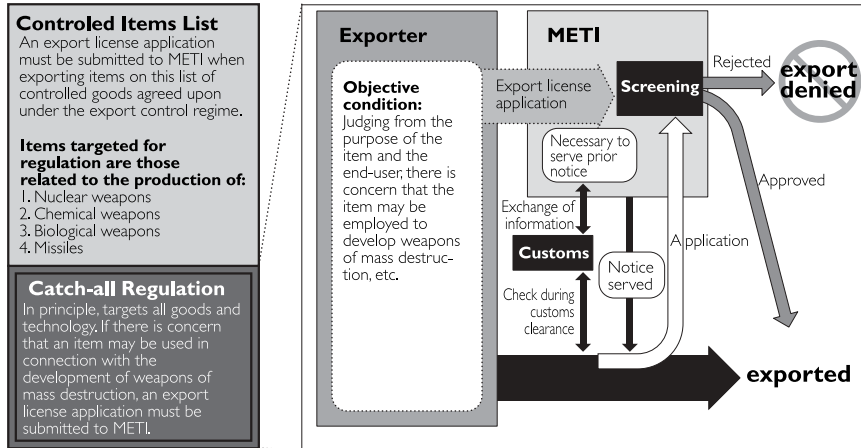
Second is active cooperation between METI and foreign and domestic intelligence agencies. METI's export control authorities have begun frequent and periodic exchanges with intelligence agencies in various other countries. In order to avoid over-reliance on intelligence sources in specific nations, they have also been working to diversify their intelligence contacts. This sort of networking for intelligence also led to the obtaining of information that helped expose the Meishin case. One often hears comments on the weakness of Japan's intelligence capabilities. Our experiences in the past, however, show that it is vital to encourage information-sharing among government agencies, and especially to have agencies with intelligence-gathering faculties maintain regular and close contact with agencies engaged in specific operations, like the export control authorities. Sharing awareness of the issues at stake makes it possible to extract from the mass of intelligence data meaningful information that can be acted upon.



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Figure 1: How the Catch-all Regulation Works



Third, in cases of suspected violations of the Foreign Exchange and Foreign Trade Law, it is crucial to determine the actual circumstances of the infraction by prompt conduct of an on-site investigation backed by the law. Over the past half year in 2003, on-site investigations backed by the law have been conducted in three consecutive cases, an action taken as a last resort in only a few cases in the preceding twenty years. It should not be overlooked that through these experiences, the officials in charge are polishing their skills as professionals and increasing the effectiveness of their inspections.

Fourth, as illustrated in the cooperation of the Hong Kong export control authorities with the seizure of the Meishin cargo, international cooperation is now essential, particularly as questionable procurement activities—such as following indirect routes through one or more Asian countries—grow ever more wily. The fact that the request to cooperate in the seizure was made through the proper diplomatic channels was of course important, but at the same time, responsible officials from Hong Kong have been regular participants at the annual Asian Export Control Seminar sponsored by Japan, and the personal relations cultivated at such occasions are extremely valuable when situations such as the Meishin case arise. One Hong Kong official took an urgent phone call at home from his counterpart in Japan and dealt with the matter even though it was a weekend. Clearly, the role of professional networking across national boundaries cannot be ignored in the enforcement of export law.

## Multilateral and Bilateral Cooperation

Given experiences like that of the Meishin case, how should we go about developing policy in the future? Success in the Meishin case was partly the product of favorable circumstances—Hong Kong’s legal system had been

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tightened and was structured to allow for cooperation with Japan. To what extent can we expand such a system to prevent questionable exports to other Asian countries? A network of cooperation for prevention of WMD-related procurement would have to be constructed all across the region.

The urgency of preventing the production of weapons of mass destruction is behind the "Asian Export Control Initiative" recently proposed by Minister of Economy, Trade, and Industry Hiranuma Takeo. For the past ten years, Japan has held the annual Asian Export Control Seminar with the participation of representatives from various Asian countries. Many countries in Asia are not members of an international export control regime, yet with steadily advancing economic development, more of them are gaining the ability to supply the products that arouse concern. The region is also pivotal as a hub of transit trade. Gaping holes will weaken the system if these developing countries are not steadily incorporated into it. It was this sense of the urgent need to help promote a basic understanding of the nature of export control among Asian countries that prompted the launching of the Asian Export Control Seminars.

Now, after ten years, it appears that we can move forward from this educational phase. Cooperation in policy dialogue and in conduct of specific operations, in other words, is now the important theme of export control. Now is the moment, when indirect export incidents like the Meishin case have come to light, to make the Asian Export Control Initiative work effectively.

The Initiative will be a comprehensive endeavor involving both bilateral and multilateral cooperation. To promote multilateral cooperation, Asian export control policy talks will be held in Japan in October 2003. Under consideration as candidates for participation are Japan, the United States, Australia, China, South Korea, Hong Kong, Singapore, and Thailand.

As a further step toward bilateral cooperation, Japan will call on each country in Asia to reinforce cooperative relations, stipulating specific types of cooperation between their respective export control authorities. Talks are to begin first with Hong Kong and Singapore, both of which have solid legal frameworks for export control. In the mid- to long-term, the aim is to build a network centering on Japan under these cooperation agreements throughout the region.

It is particularly important, moreover, to build a cooperative relationship with China, considering its rapid economic development in recent years and shift to a positive stance vis-à-vis export control. In addition to holding periodic conferences for high-level government officials from both countries, plans are in place for early 2004 to hold a joint Japan-China export control seminar.

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Through measures like these, Japan can demonstrate positive initiative and sustain efforts to build an Asian export control community in the long run. In that sense, 2003 can be seen as a turning point year in the development of policy on export control.

About this Article

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