

Enforcement System and Recent Violation Cases

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Trade Control Department
Ministry of Economy, Trade and Industry (METI), Japan

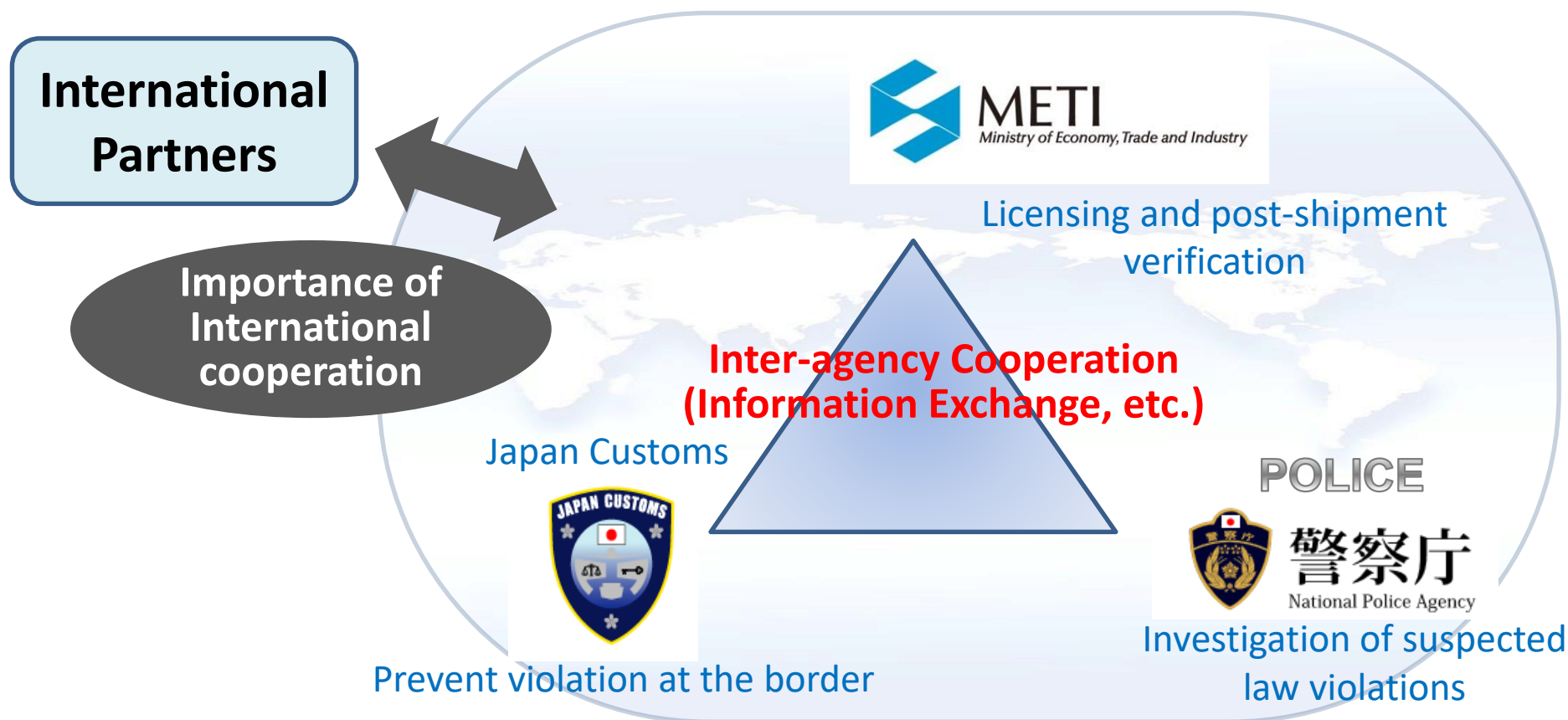
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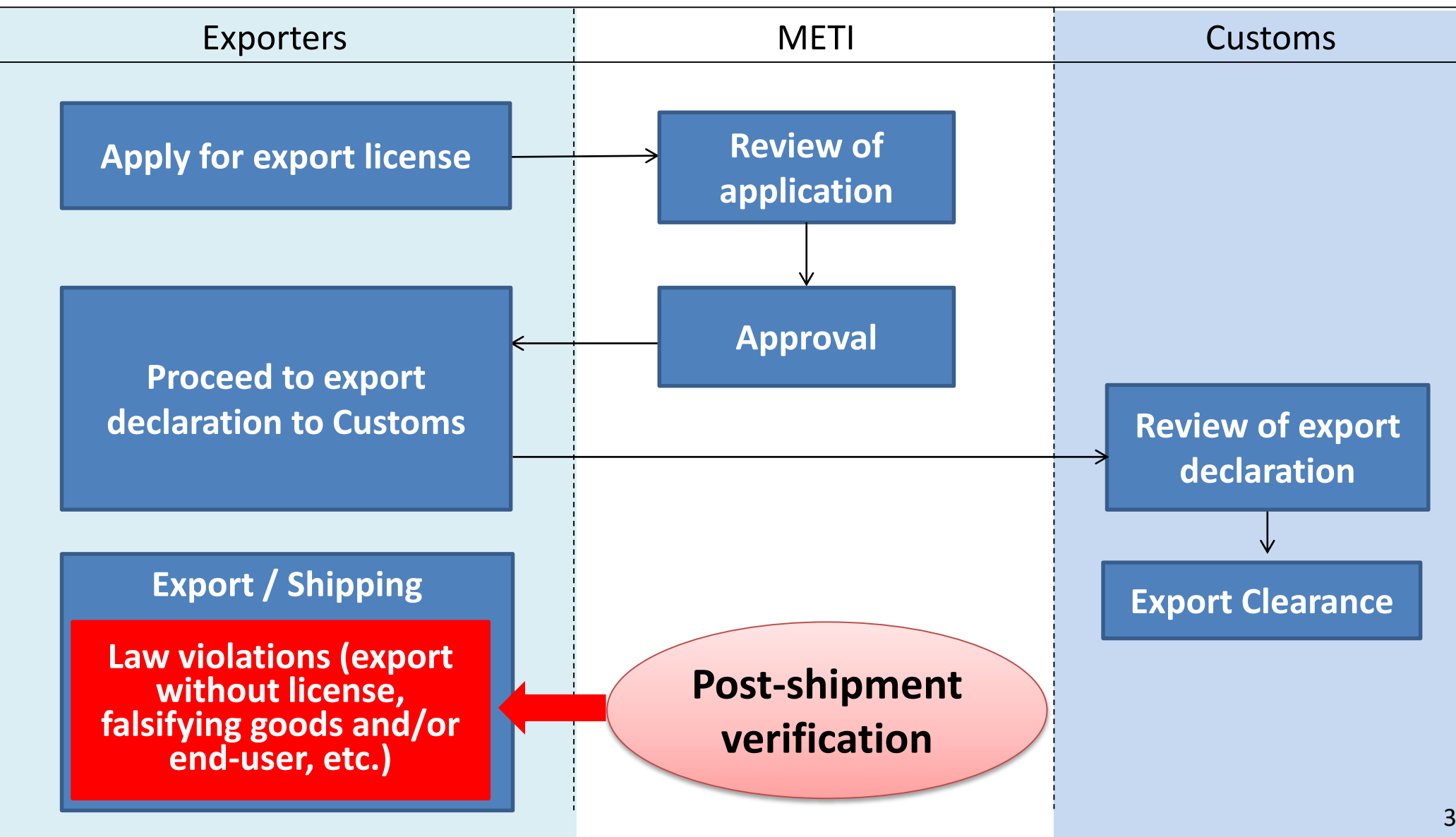
Cooperation for Effective Enforcement

- Recently, there are many cases where exporters violate export control regulation and entities of concern attempt to procure sensitive items.
- METI has been strengthening inter-agency cooperation with customs and police authorities for more effective enforcement.
- Furthermore, in order to strengthen countermeasures against circumvention, international cooperation is of great importance.



Procedure of export and post-shipment verification

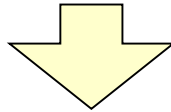
- METI conducts post-shipment verification against law violations including export without obtaining export license, falsifying goods and/or end-user, etc.



Overview of Post-shipment Verification

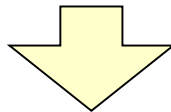
Detection of Illegal Export in Various Sources

Sources are self report by exporter and METI's inspection and information from relevant authorities etc.



Collecting Information

- ✓ Arbitrary interrogation
- ✓ Request for submission of reports
- ✓ On-site inspection



Assessment

If the violation is serious, METI may inform relevant authorities, impose administrative penalty or publish warning.

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 Internal Compliance Program (ICP) 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 ICP.
 - **Advice** for cases where an exporter has partially failed to implement the ICP.
 - **No instruction** for cases where an exporter has properly carried out export control in accordance with the ICP.
- If a violation of provisions of the FEFTA is found by on-site inspections, METI starts post-shipment verification.

Contents

1. Post Shipment Verification

2. Recent Cases of Violations

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

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

<Example>

- The goods was exported by **hand carry luggage** or **international courier services** 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.

(2)Types of unintentional illegal exports

<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 shipment control

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

Penalty under the FEFTA

- There are two types of penalty under the FEFTA; criminal and administrative penalty.
- METI imposes administrative penalty if a case is serious.

Category of Administrative Penalty

Administrative sanction (Published)
Warning (Published in principle)
Submission of a written explanation (Not Published)
Submission of report (Not Published)

Recent Cases of Administrative Sanction

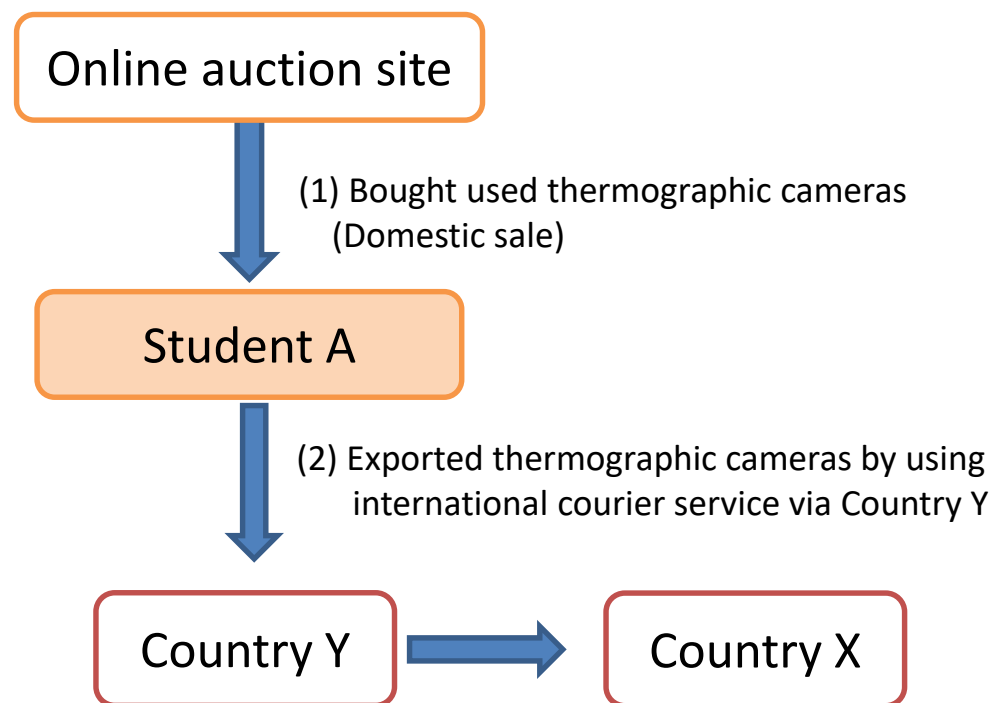
Time, Content of Administrative Sanctions	Items, Destination	Note
Apr. 2018: Prohibited exports to all areas for 3 months	<ul style="list-style-type: none"> • Infrared camera • China 	<ul style="list-style-type: none"> • Export without permission
Jul. 2017: Prohibited exports to all areas for 3 months	<ul style="list-style-type: none"> • Induction furnace • Iran etc. 	<ul style="list-style-type: none"> • Export without permission
Jan. 2016: Prohibited exports to all areas for 4 months	<ul style="list-style-type: none"> • Carbon fiber • China 	<ul style="list-style-type: none"> • Transshipped via Korea
Jul. 2011: Prohibited exports to all areas for 13 months	<ul style="list-style-type: none"> • Excavator (Power shovel) • North Korea 	<ul style="list-style-type: none"> • Catch all control violation (ignore the “inform”) • Transshipped via China
Jun. 2010: Prohibited exports to all areas for 7 months	<ul style="list-style-type: none"> • Magnetic measuring device • Myanmar 	<ul style="list-style-type: none"> • Catch all control violation (ignore the “inform”) • Transshipped via Malaysia
Jan. 2010: Prohibited exports to all areas for 16 months	<ul style="list-style-type: none"> • Tanker lorry etc. • North Korea 	<ul style="list-style-type: none"> • Catch all control violation (ignore the “inform”) • Violation of sanctions against North Korea • Transshipped via Korea
Aug. 2009: Prohibited exports to all areas for 5 months	<ul style="list-style-type: none"> • Machine tool • Korea etc. 	<ul style="list-style-type: none"> • Mask measuring data, lower its spec to export as non control items

<Involvement of Individuals>

- International student A at a university in Japan bought used thermographic cameras through internet auction. Student A, knowing that camera is an controlled item, exported them to Country X without obtaining a license, by using international courier service.

[Point]

- Involvement of individual, **international student**
- **Auction site**
- Using **international courier service**

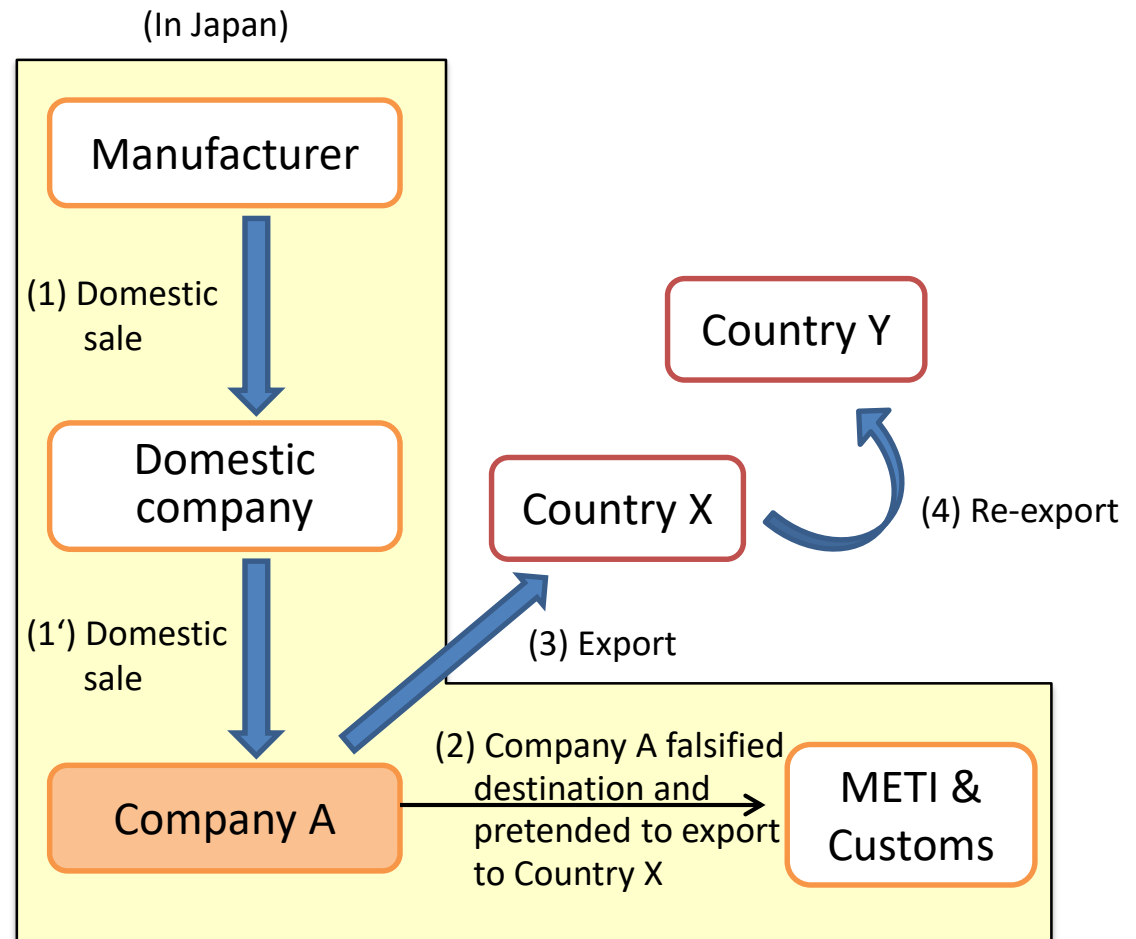


<Circumvention and Diversion>

- Company A exported carbon fiber to Country Y which was transited via Country X. Company A falsified destination as Country X, but actually Country Y.

[Point]

- Circumvention and Diversion

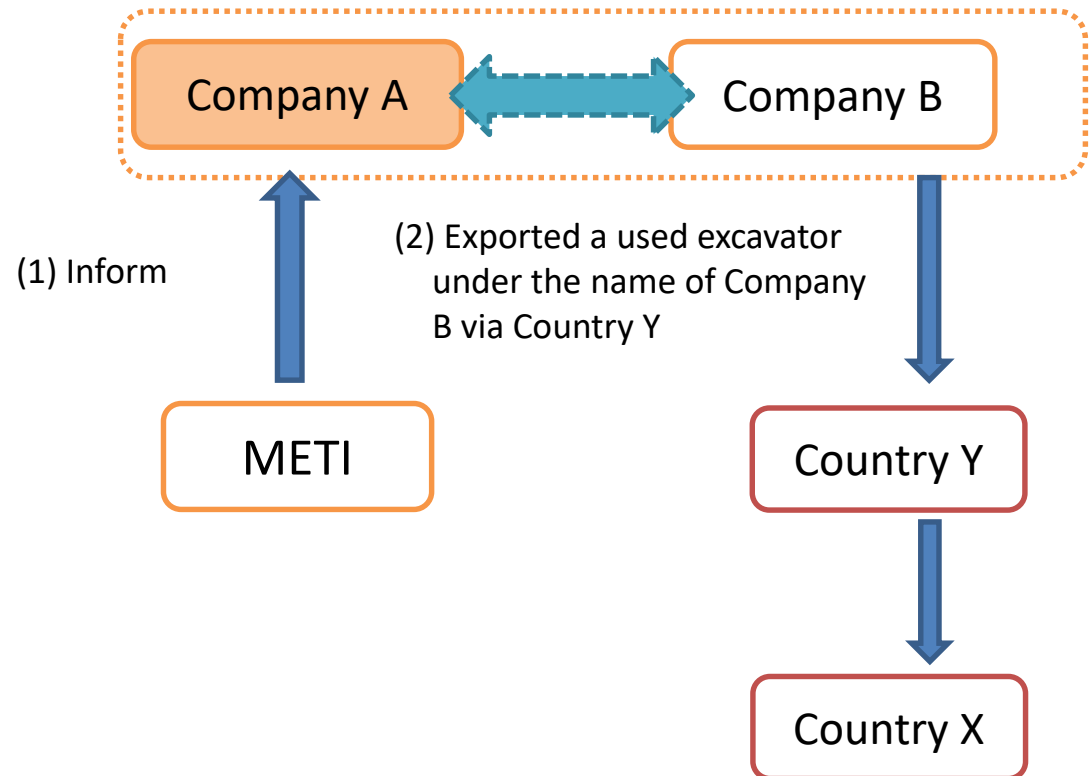


<Ignore “Inform”, Camouflage>

- Company A exported a used excavator (non-listed items) to Country X via Country Y under the name of Company B without obtaining export license even though Company A had received “inform” from METI.

[Point]

- Ignore “inform” from METI (catch-all case)
- Camouflage
- Circumvention and Diversion

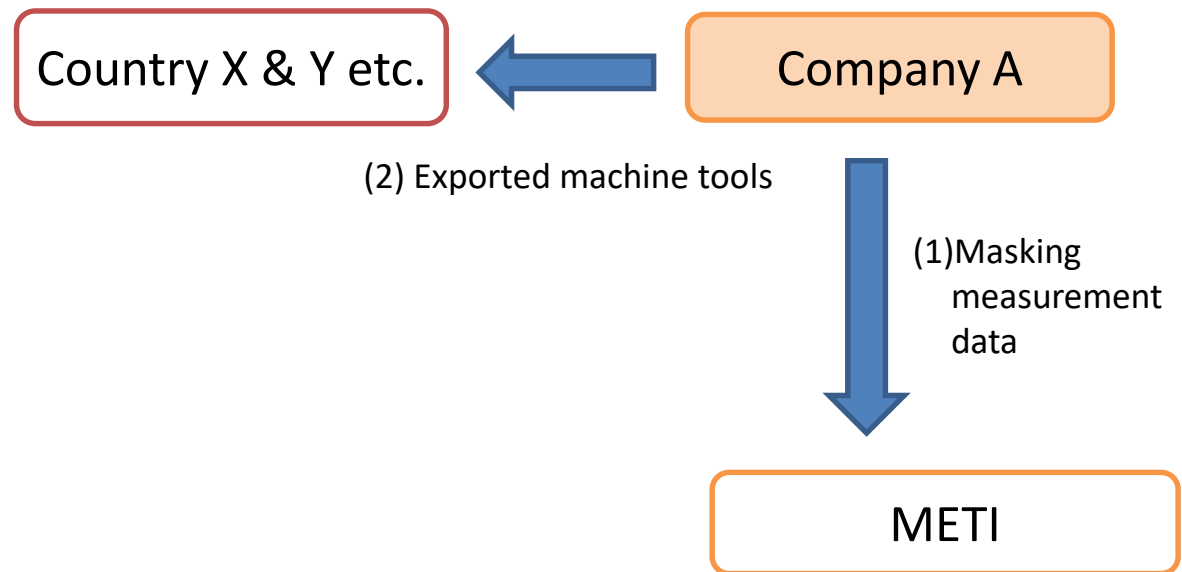


<Masking (Counterfeiting data)>

- Company A exported machine tools (numerically controlled machining centers to Country X and Y etc. without obtaining export license by masking its measurement data and lowering specification of the machines.

[Point]

- Masking measurement data



(Reference) Modification of the FEFTA on Criminal Charges

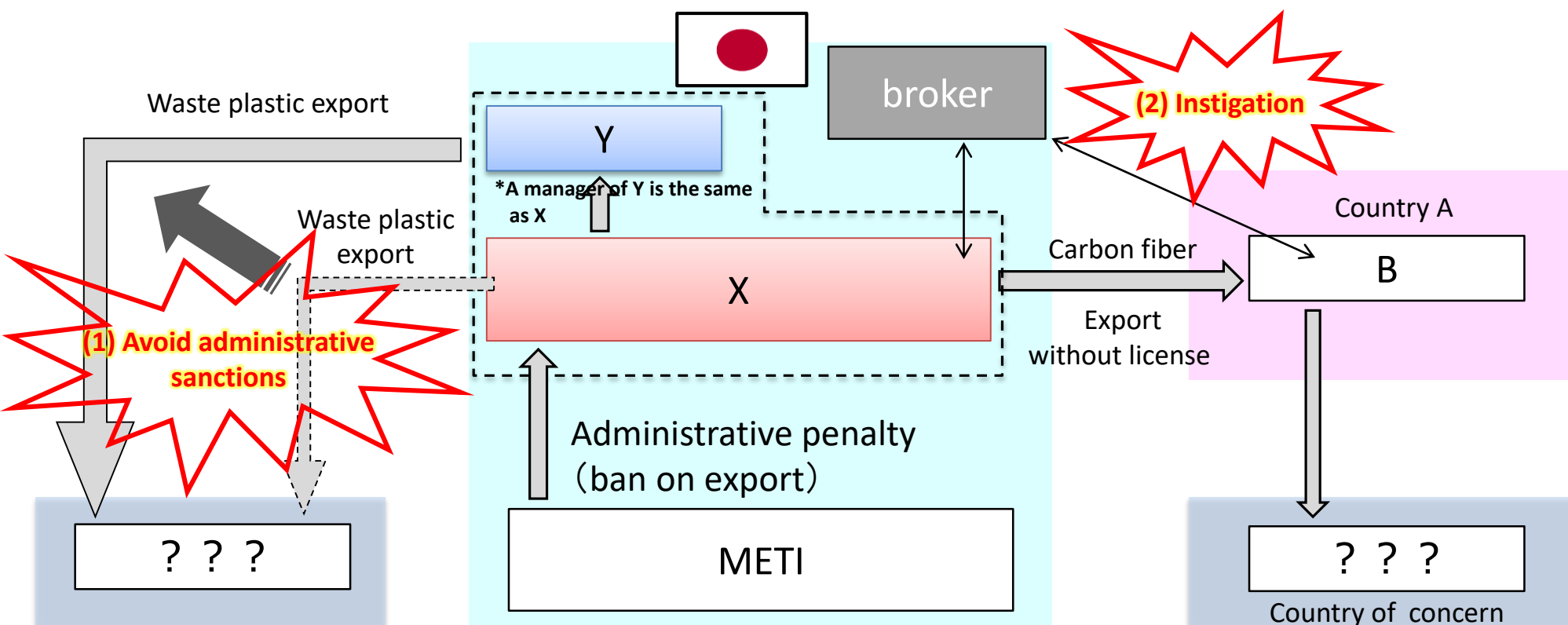
- Japan raised the amount of fines applied to illegal conducts of exports or imports (The maximum fines are increased) on 1st October 2017.
- Also, criminal charges (Imprisonment and fine) is to be applied against violations of license conditions such as prior consent re-export with METI (Currently, non criminal fines).

	Target	illegal conduct of import/export		
		WMD	Conventional Arms	others
Previous System	Individual and Company	10 million yen or 5 times of the export price	7 million yen or 5 times of the export price	5 million yen or 5 times of the export price

Present System (since 1 st October 2017)	Individual	30 million yen or 5 times of the export price	20 million yen or 5 times of the export price	10 million yen or 5 times of the export price
	Company	1 billion yen or 5 times of the export price	700 million yen or 5 times of the export price	500 million yen or 5 times of the export price

(Reference) Modification of the FEFTA on administrative penalties *(1st of Oct 2017)*

- Introduction of **new regulations to persons**, who received administrative penalty, **to prohibit taking a new position in another company to keep their trades, and so on.**
- **Adding brokers** related to a skeptical trade **to the subject of on-site inspections.**



(Reference) Procedures of Criminal Process

