

Importance of Security Export Control in Industry

December 2018

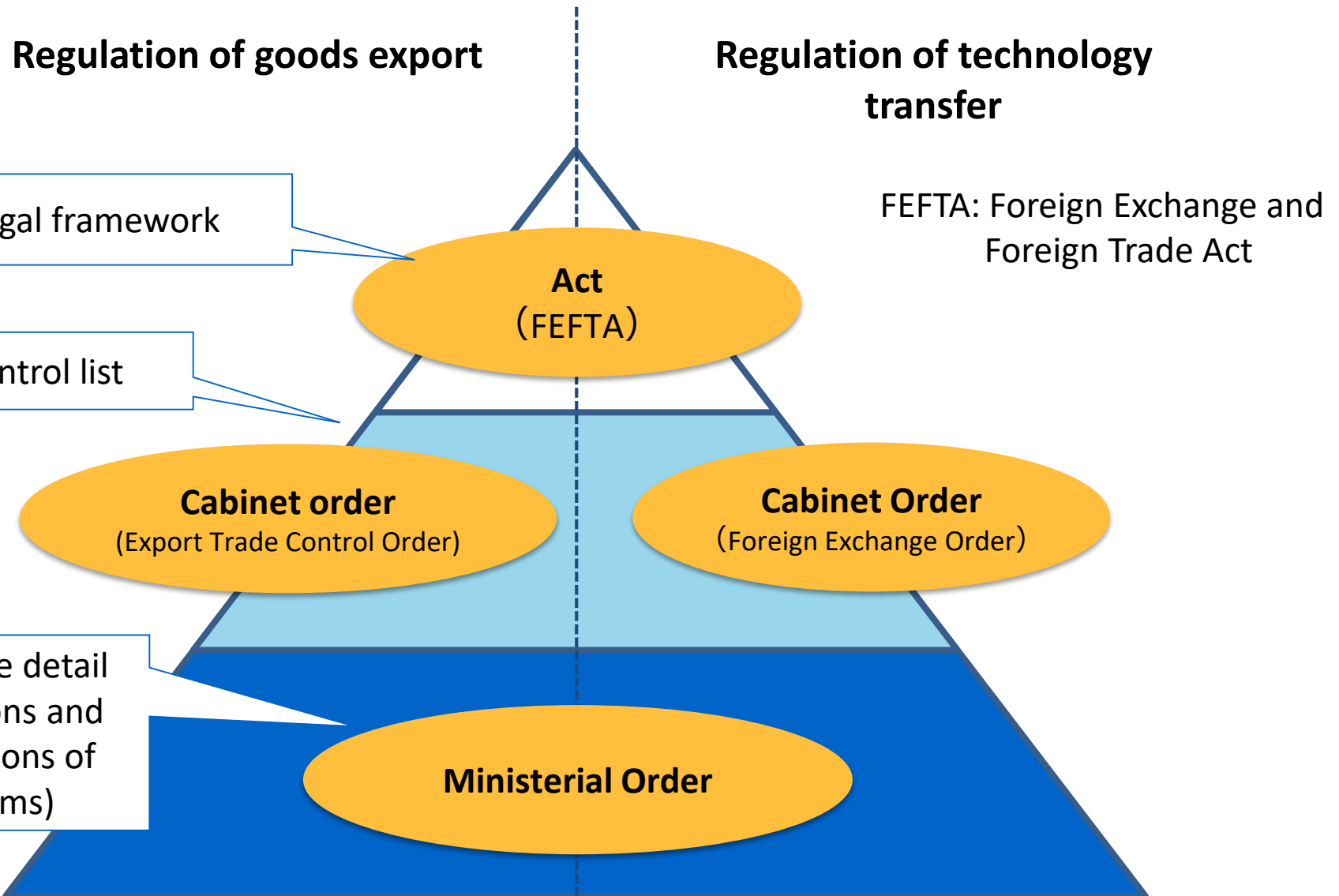
Trade Control Department
Ministry of Economy, Trade and Industry (METI), Japan

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2. Importance of Security Export Control in Industry

Security Export Control System in Japan (Basic Legal Structure under FEFTA)



Reform of the Law and Regulation

(Modification of the FEFTA on Criminal Charges(1st of Oct 2017))

- 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).

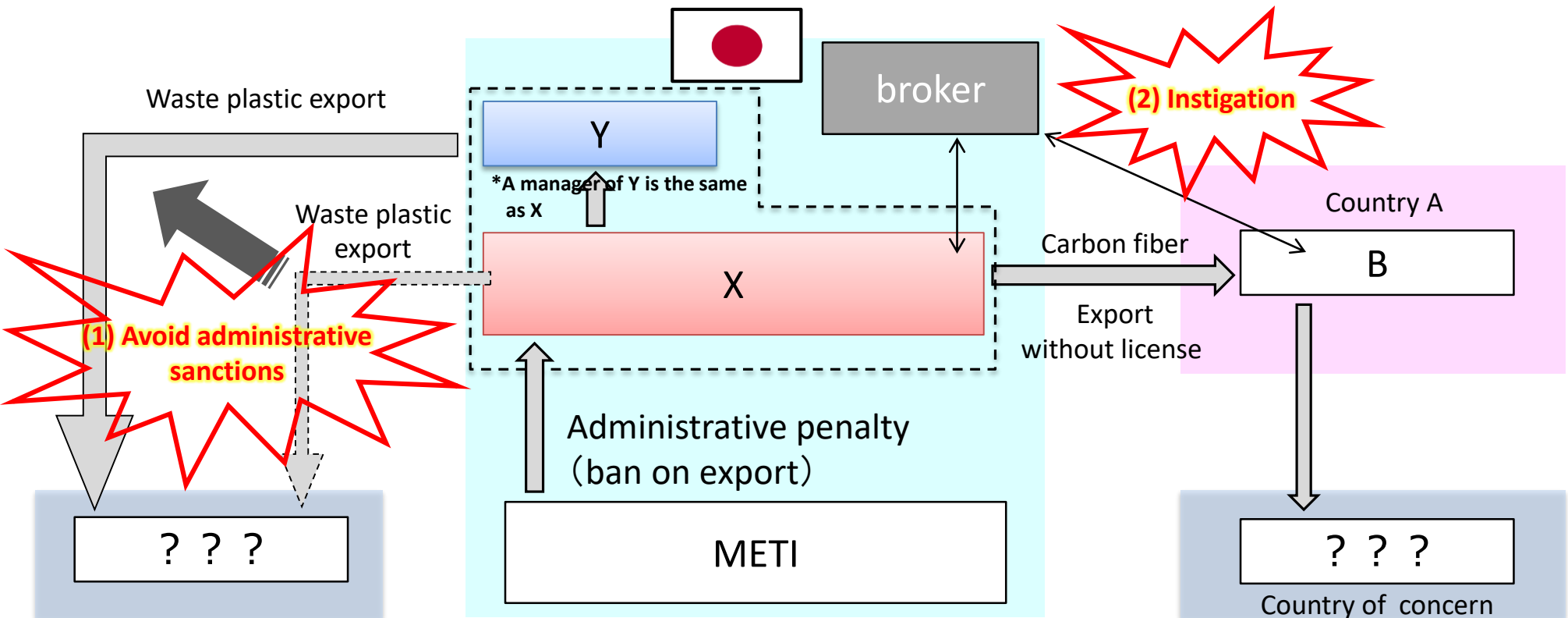
	Target	illegal conduct of import/export		
		WMD	Conventional Arms	others
Previous System	Individual and Company	10 million yen or 5 times of the export price	7 million yen or 5 times of the export price	5 million yen or 5 times of the export price

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

Reform of the Law and Regulation

(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.**



Reform of the Law and Regulation (Future Challenge) Restructure of the Control list of FEFTA)

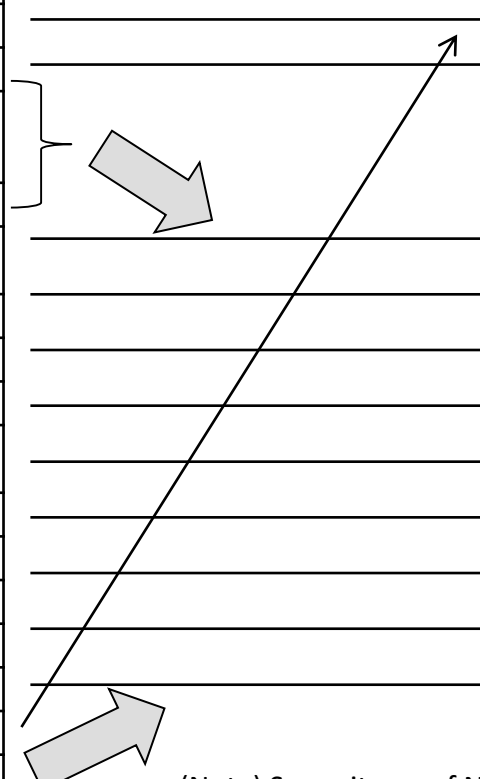
- Control list numbering system of Japan is different from other countries.
- Since an increase of the burden of business operators may hinder their compliance activity, it should be considered to reduce such burden by making it consistent with international control list (e.g., EU control list).

<Japan's control list>

Category	Item	Export Control Regime
1	Munitions	WA (ML)
2	Nuclear related items	NSG
3, 3-2	Items related to Chemical Weapons and Biological weapons	AG
4	Missile related items	MTCR
5	Special Materials and Related Equipment	WA (Cat.1)
6	Materials Processing	WA (Cat.2)
7	Electronics	WA (Cat.3)
8	Computers	WA (Cat.4)
9	Telecommunication and "Information Security"	WA (Cat.5)
10	Sensors and "Lasers"	WA (Cat.6)
11	Navigation and Avionics	WA (Cat.7)
12	Marine	WA (Cat.8)
13	Aerospace and Propulsion	WA (Cat.9)
14	Other items	WA (ML)
15	Sensitive items	WA (VSL)
16	All items except food and wood, etc.	Catch-all

<international control list>

Category	Item
M L	Munitions
Cat. 0	Nuclear related item
Cat.1	Special Materials and Related Equipment
Cat.2	Materials Processing
Cat.3	Electronics
Cat.4	Computers
Cat.5	Telecommunication and "Information Security"
Cat.6	Sensors and "Lasers"
Cat.7	Navigation and Avionics
Cat.8	Marine
Cat.9	Aerospace and Propulsion



(Note) Some items of NSG, AG, MTCR and VSL of WA are allocated in Cat.1-9 under international control list.

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- After serious illegal export case by Japanese company in 1987, Japanese government strengthened security export control systems by increasing criminal penalties and administrative sanctions for violators.
- METI also promoted Japanese industries to strengthen their export control activities through establishment of ICP systems since self management by exporters is most important for effective implementation of export control.

➤ **Self management by exporters**

- Exporters can reduce the risk of being unintentionally involved in illicit exports, and can streamline license application procedures (e.g., bulk license).
- The government can focus its resources on more sensitive export applications, and can reduce costs and time of license application review.

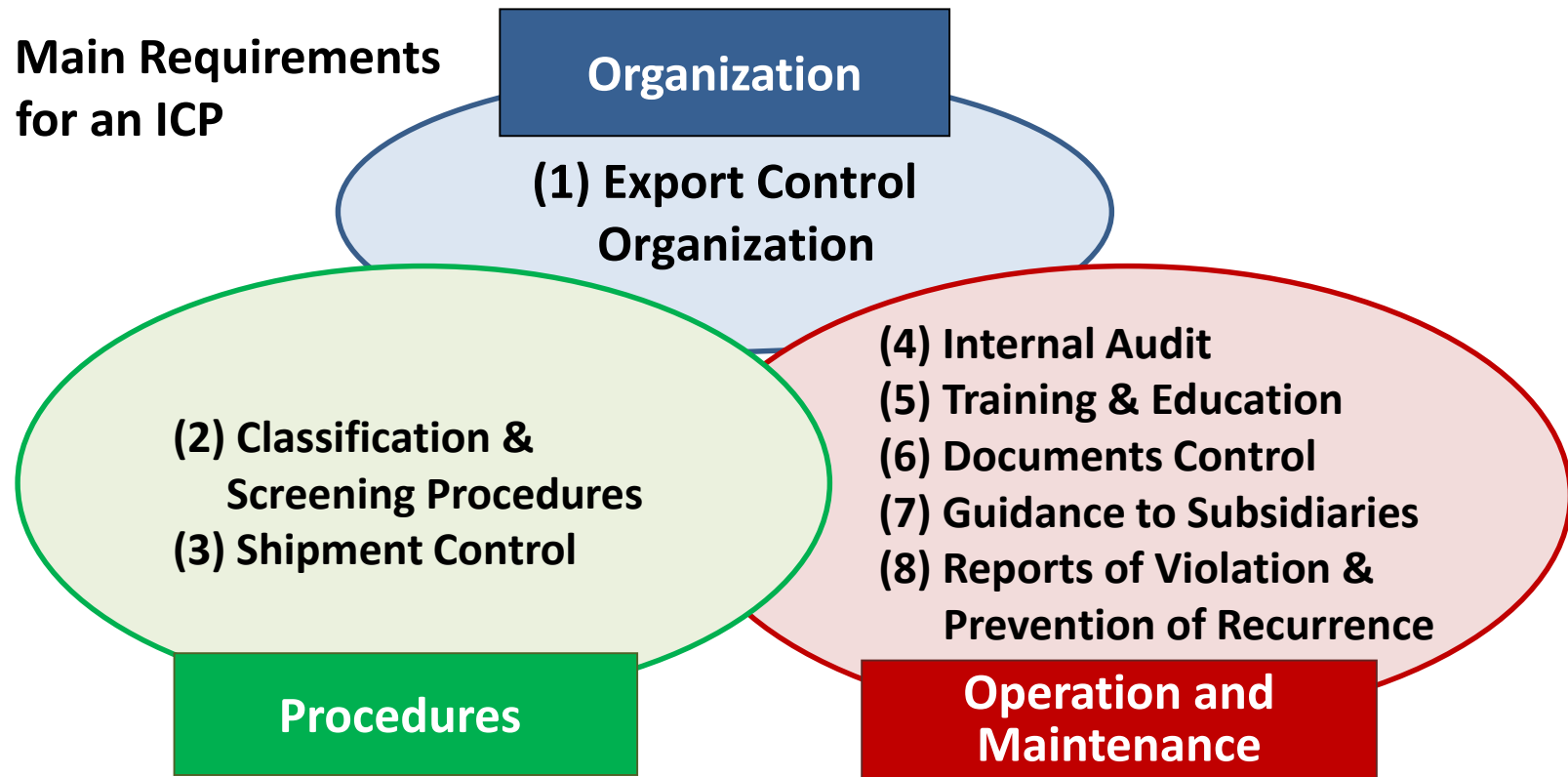
➤ **Government Support**

- METI issues bulk licenses to certified ICP holders registered by METI after on-site inspection.
- METI publishes a list of certified ICP holders on METI's web-site.
- METI sends the information on the amendment of laws and regulation to certified ICP holders .

Overview of an Internal Compliance Program (ICP)

- 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.
- As of the end of 2017, over 1400 exporters in Japan had registered their ICPs with METI.

(Ref) Main Requirements
for an ICP



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 (in principle 7 years)
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

Types of Bulk License

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

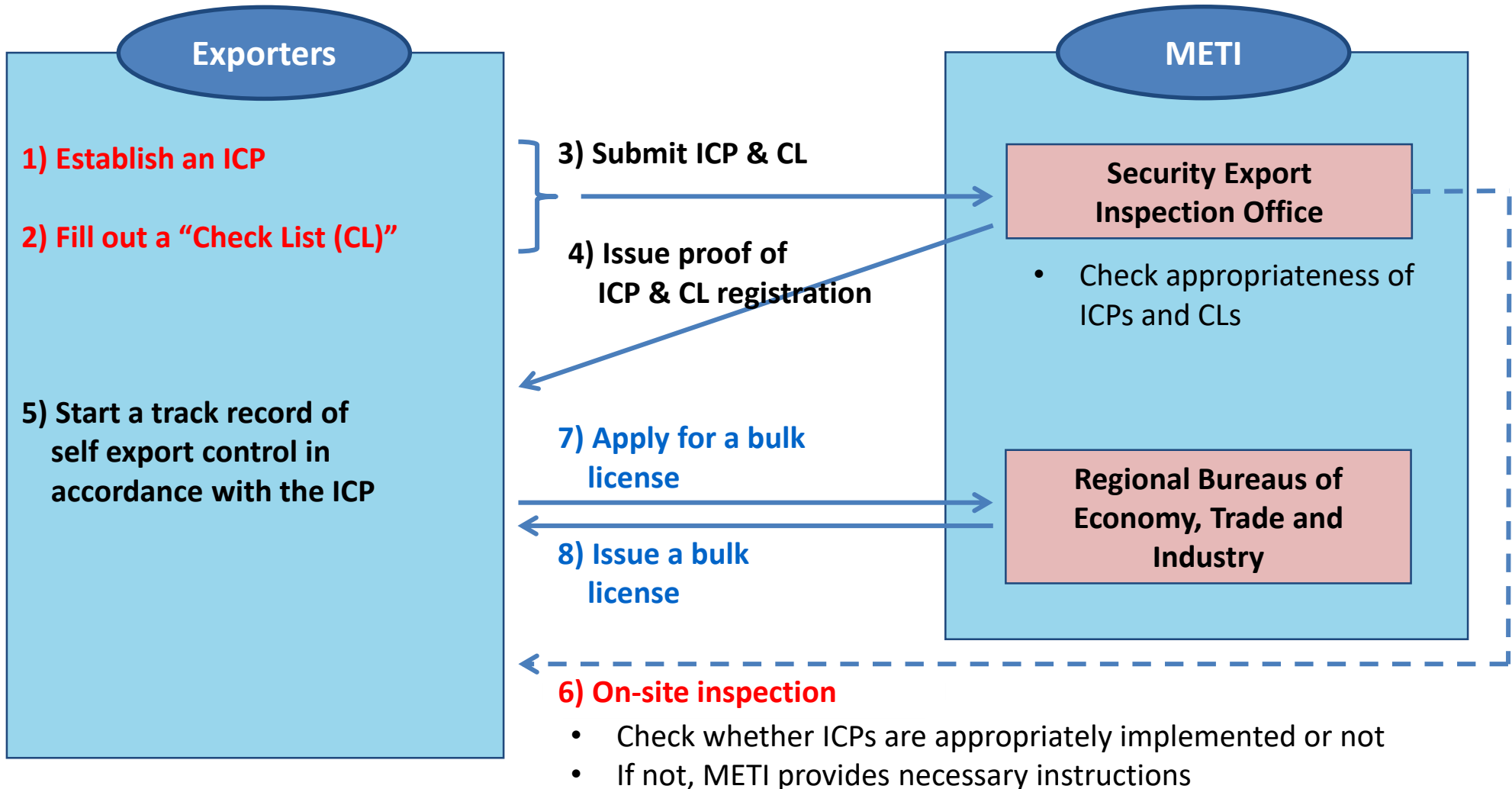
- Re-exports of arms and arms-related items (category 1) to the country of origin for repair or replacement.
- ICPs and prior on-site check are required.

Special Bulk Export License for Overseas Subsidiaries

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

Procedure for Obtaining a Bulk Export License

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



Challenges: Outreach Activities for SMEs

- Although over 1400 companies registered ICP to METI, large number of SMEs do not have sufficient self-export control management system.
- Therefore, METI has strengthened support for SMEs by using a new channel.

➤ Current Efforts

- Every year, METI holds around 60 export control seminars co-organized by JETRO, chamber of commerce and industry organizations in various region.
- In addition, METI started to hold workshops for SME experts who give an advise to SMEs for their overseas business activities in cooperation with JETRO and SME Support.

➤ Future Efforts

- METI plans to organize seminars for SMEs about preventative measures for critical technology leakage including security export control and relevant technology management systems.
- METI also plans to dispatch experts to SMEs to support their establishment of ICP systems.