

CISTEC'S ROLES AND ACTIVITIES: JAPAN'S BEST PRACTICES FOR EXPORT CONTROLS

ABSTRACT

The non-proliferation of weapons of mass destruction is a global challenge that requires coordinated international efforts. This paper presents best practices in export control policy, which contribute to the effective implementation of the requirements of United Nations Security Council resolution 1540 (2004) (UNSCR 1540). In Japan, a private organization, called the Center for Information on Security Trade Control (CISTEC), is part of the export control system, acting as a bridge between the government, industry, and international organizations to pursue best practice for non-proliferation. They are also in constant dialogue with governments and companies in various regions, such as the US, the EU, Asia, and the Middle East, sometimes assisting with difficult implementation aspects of export control. These best practices can serve as a useful case study for various countries, providing a unique model that they could adapt to fulfil their obligations under operative paragraph 3 (d) of UNSCR 1540.



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HISTORICAL BACKGROUND

Japan's export control system was founded back in 1949 when the country was still under the Allied Occupation. That year, in order to take a step forward into the post-World War II recovery, the Japanese government introduced the Foreign Exchange and Foreign Trade Control Act, which was designed to control foreign exchange and foreign trade

transactions, and which is still the basic law that governs export controls in Japan.

Three years after the enactment of the law, in 1952, Japan joined the Coordination Committee for Multilateral Export Controls (COCOM) and started implementing export controls accordingly. COCOM was a multilateral export control regime that began in 1949 and ended in 1994, after the end of the Cold War. Only 17 countries with strategic

commodities participated in COCOM during this period. Export controls during the Cold War were implemented in a way that directly reflected the adversarial structure of the East-West conflict.

Much later in 1987, the basis of Japan's present day export control system was established. This development was, in fact, a consequence of the so-called "Toshiba Machinery Incident," which involved exports of state-of-the-art

machine tools from Japan to the Soviet Union without obtaining the necessary licenses. In point of fact, “Toshiba” and “Toshiba Machinery” are different companies, but they are still part of the Toshiba Group. “Toshiba” sold billions of dollars’ worth of state-of-the-art semiconductors and a large number of mass-market consumer electronics products, such as televisions and stereos. The “Toshiba Machinery Incident” was a violation of both national and COCOM regulations, which seriously undermined the security of the Western Bloc.

In response to this incident, the government drastically enhanced controls by amending the basic law. In order to make the system more effective, the Japanese government not only increased the penalties for contraventions, but also ordered individual companies to establish an appropriate system of corporate export controls based on an internal compliance programme (ICP). Shortly thereafter, in 1989, the civil organization “CISTEC” was founded as a driving force for the sound development of export controls in

Japan. Since then, Japan’s export control system has been evolving in response to year-to-year changes in the political and security situation of Japan and the world.

Today, Japan, as a signatory to major non-proliferation treaties and a member to all the existing international export control regimes, is implementing robust export controls consistent with the international standards and norms. This includes meeting the obligations outlined in UNSCR 1540, particularly operative paragraph (OP) 3 (d), which requires States to “establish, develop, review and maintain appropriate effective national export and trans-shipment controls” over nuclear, chemical or biological weapons and their means of delivery, including related material. In addition, the Japanese government and CISTEC not only commit to international non-proliferation goals, but also promote their outreach activities in Asia, expanding cooperative networks in the region.

THE LEGAL FRAMEWORK AND STAKEHOLDERS OF JAPAN’S EXPORT CONTROL SYSTEM

In Japan, the Ministry of Economy, Trade and Industry (METI), originally formed in 1949, is the competent authority that administers export controls. The legal structure of Japan’s export control system is extremely complicated. It is not a simple set of laws and regulations, but a complex mix of primary and secondary legislation. In fact, the basic law is followed by a wide scope of subordinate regulations issued from time to time in the form of cabinet orders, ministerial ordinances, notifications, notices, and guidance, all of which are intertwined with each other.

METI provides multiple channels to promote export control awareness among exporters, given that maintaining close communication with export control communities is essential. What is outstanding in this regard is the existence of CISTEC, an organization that functions as a linkage between the authority, industries and academia and contributes to the effective implementation of export control measures. This is a unique model that could be adapted by other States to meet the export controls required by OP3 (d) of UNSCR 1540.

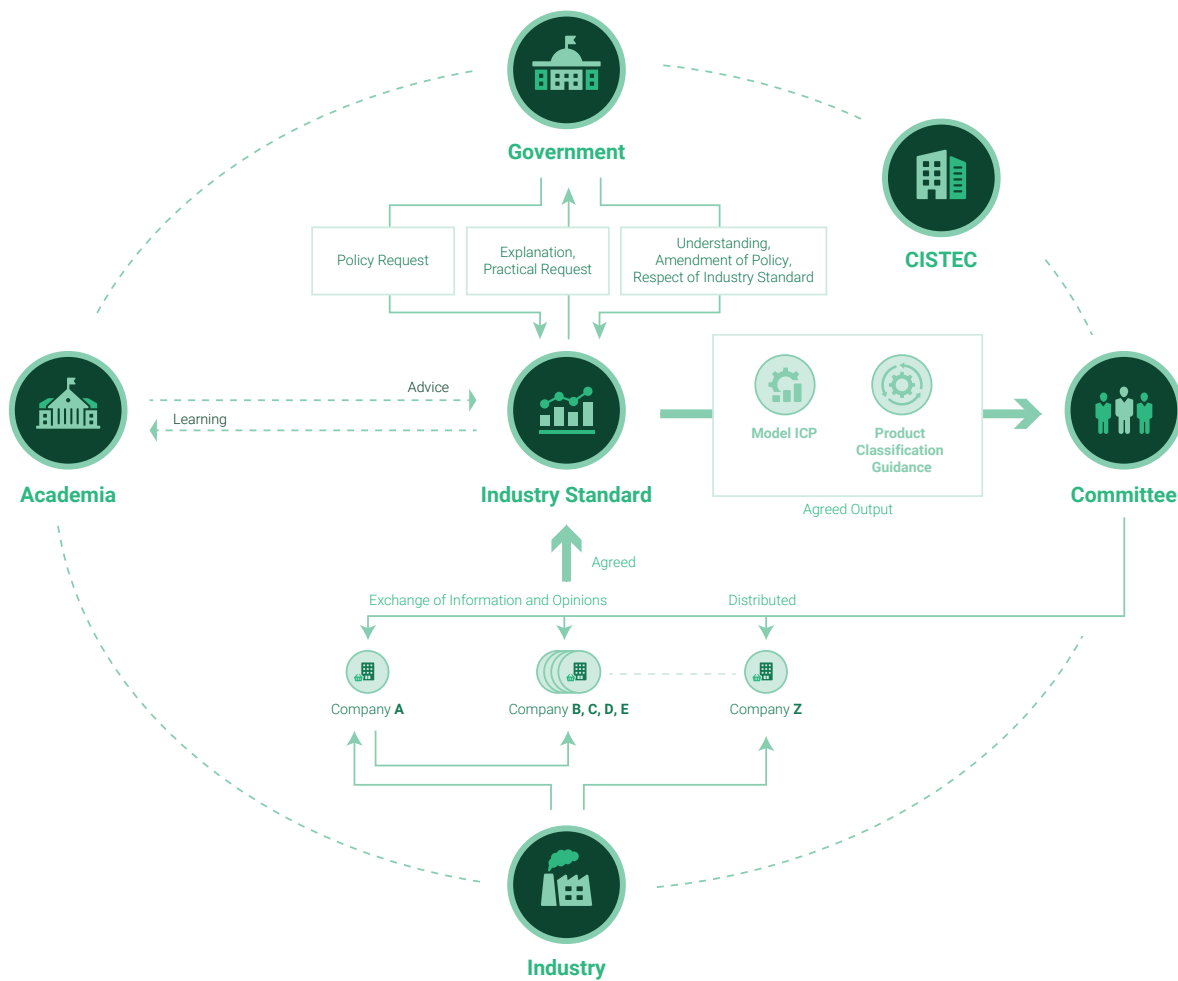


Figure 1: A flow chart showing how the export control system interacts in Japan. Source: Author/CISTEC.

THE ROLE OF CISTEC

CISTEC was founded in April 1989, two years after the aforementioned COCOM violation incident. It is the only non-profit, non-governmental organization specializing in security export controls in Japan. At the time of its establishment, CISTEC received financial support from the government, METI, but since 2011, they have been an independent and completely private organization.

CISTEC, functioning as a linkage channel connecting government, industry and academia, helps to create an effective and rational system of security export controls in Japan, and thus contributes to the non-proliferation of weapons of mass destruction.

OPERATIONAL SIZE

CISTEC is a relatively small organization that runs on a limited budget. There are 60

members of staff, consisting of former government officers, former industry personnel, personnel seconded from industry, and general staff members. They have an annual activity budget of approximately 8 million USD. Forty per cent of this comes from membership fees from associated members. The remaining 60 per cent comes from revenues from its database service, publications, seminars, and other.

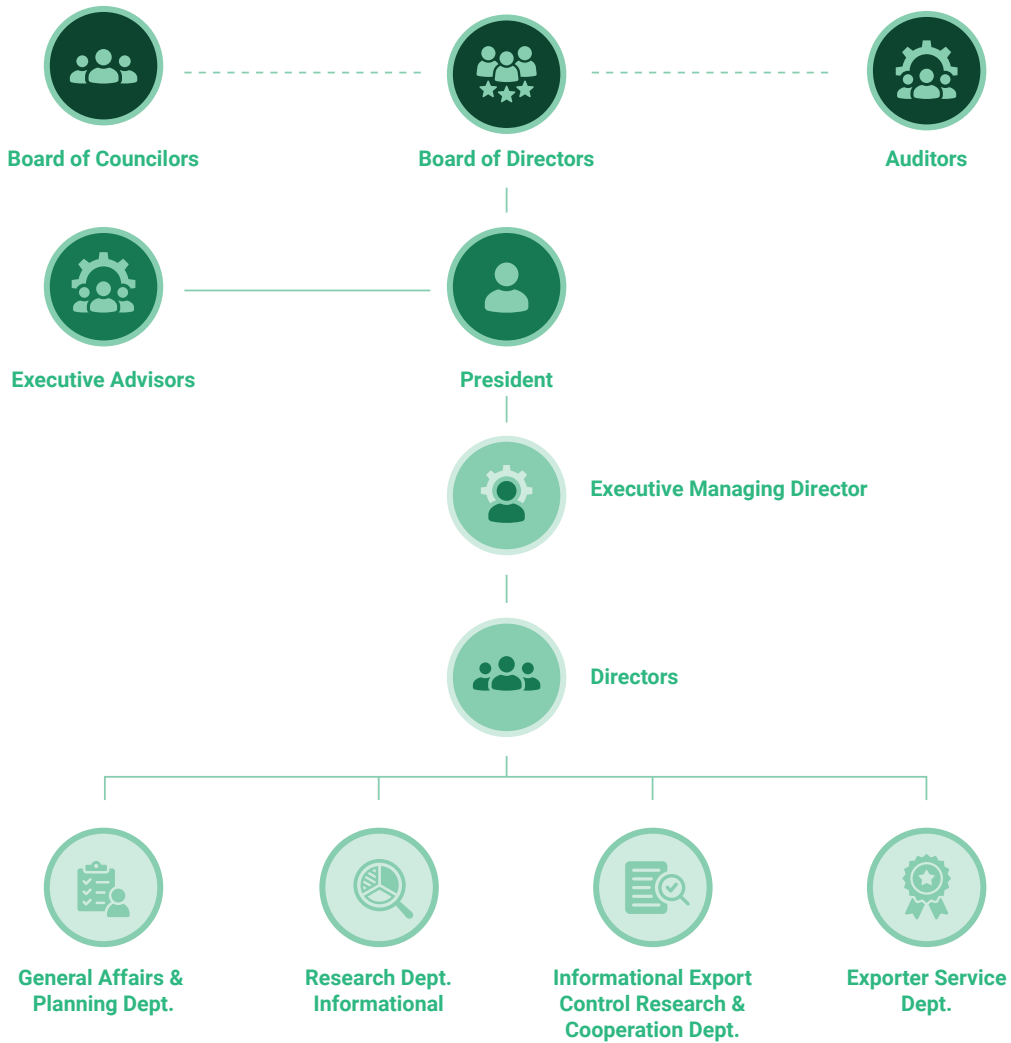


Figure 2: CISTEC's organizational structure. Source: Author/CISTEC

ORGANIZATION

As shown in figure 2, CISTEC has four departments under the President, the Executive Managing Director, and Directors. They are the General Affairs and Planning Department, Research Department, International Export Control Research and Cooperation Department, and Exporter Service Department.

Figure 3 shows the proportion of industrial sectors to which

member companies belong. CISTEC has 700 associated members and 64 associated university members at present. The largest ratio of member companies belongs to the electrical appliances sector, which was the most instrumental sector in founding CISTEC in 1989. The second largest ratio represents the machinery sector; the third is the wholesale trade sector; the fourth is the information and communications sector; and the fifth is the precision instruments sector.

SECURITY EXPORT CONTROL COMMITTEE

The most notable thing about CISTEC is that they operate a committee system. The Security Export Control Committee is an upper-level committee whose mission is to comprehensively research and analyse export control related issues, through its nine thematic committees under the Policy, Rules and Procedures Board and the Goods and Materials Board. Each committee

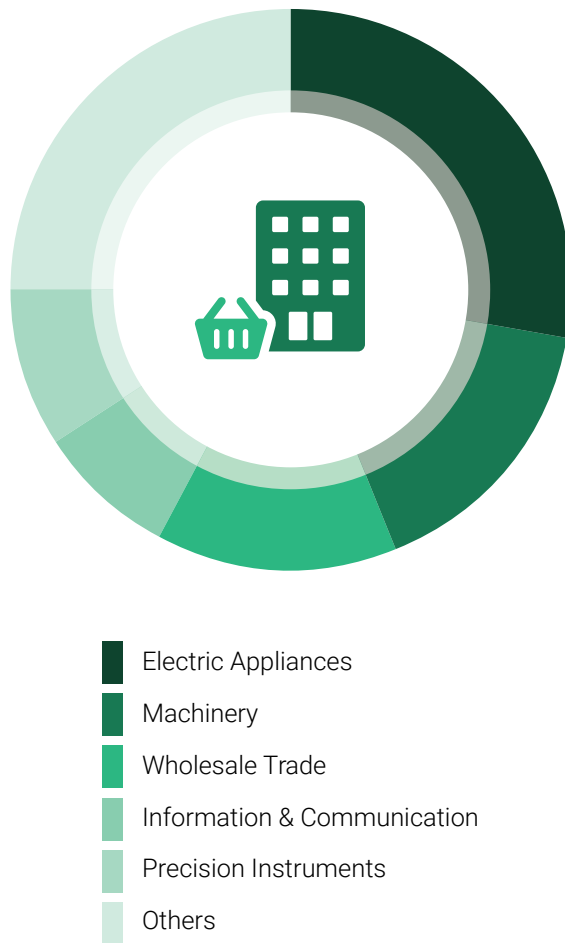


Figure 3: Proportion of industrial sectors to which CISTEC member companies belong. Source: CISTEC.

has several subcommittees and working groups as needed. All committees, subcommittees and working groups are composed of volunteers from member companies, with a total of approximately 1,600 participants.

It is not easy for private companies to directly contact METI regarding export control issues. Therefore, CISTEC provides opportunities for industry as a whole to have direct contact with METI through committee activities and other initiatives. This direct con-

tact with governments and other companies allows industry to share good practices with each other and gain valuable know-how from other companies, including business competitors.

Industry is able to obtain valuable information through committee activities and other information services. Industry may also outsource key elements of self-control, such as training and education, and may consult CISTEC on issues related to export control policy. CISTEC

provides assistance for key functions that exporters must perform, such as commodity classification, auditing, and education and training. Through CISTEC, industry may check if their internal systems are properly established and working well.

CISTEC'S ROLES AND UTILITIES FOR GOVERNMENT

METI aims to enhance the level of export control in industry. Toward this end, CISTEC member exporters actively participate in committee activities to exchange experiences and discuss relevant issues. Japanese laws and regulations related to export controls are complex and difficult to understand. However, every exporter needs to correctly understand them, as the lack of knowledge may lead to serious consequences.

It is difficult for the government to judge whether a request benefits specific industrial sectors only or industry as a whole. CISTEC, however, is able to, as its members constitute a broad representation of diverse sectors. CISTEC therefore coordinates various requests into industry-wide re-



© Bill Fairs - Electrical appliances make up a large proportion of Japan's exports

quests through dialogues and discussions, sending the finalized official requests to METI as issues that need to be addressed by the government.

PUBLICATIONS

One of CISTEC's most conventional services is publications. Guidance materials, manuals and handbooks are offered to help exporters find solutions. Parameter Sheets for commodity classification are a convenient tool for export-

ers to judge whether goods to be exported are subject to an export license. Commodity Guidance provides updated and detailed information of goods by sector.

CISTEC provides Parameter Sheets for seven sectors and Commodity Guidance for 11 sectors. Parameter Sheets are renewed every year. Commodity Guidance is renewed whenever there is a change in regulations. Both Parameter Sheets and

Commodity Guidance may be downloaded for a fee.

CISTEC publications cover both domestic and international export controls. These books and guidance are designed to help exporters establish proper export control programmes, promote ICP implementation, provide training, facilitate correct license application, promote proper export control programmes among overseas subsidiaries, and so on.

SEMINARS, TRAINING, AND STRATEGIC TRADE CONTROL CERTIFICATION PROGRAMME

Seminars and training programmes are also important services conventionally offered by CISTEC. Seminars are grouped into four categories: a basic course for beginners, a management course for management-level persons, a theme-oriented course on US Export Administration Regulations and foreign regulations, and sector-specific courses, such as for the electronics sector.

CISTEC also dispatches instructors to companies and universities that wish to hold internal seminars. These order-made and on-demand seminars satisfy the specific needs of exporters.

INTERNATIONAL COOPERATION AND EXCHANGE

CISTEC dispatches a delegation to the US and the EU every two years, and to Asian countries every year, for meetings and dialogues with governmental organizations, industrial associations, and private companies,

among others. This initiative has been ongoing since 2002. CISTEC also receives visitors from foreign governments, industrial associations, law firms, consultation firms, and universities, and holds information exchanges and dialogues with them.

CISTEC also conducts industry outreach to Asian countries. This outreach includes training on which items are actually regulated and for what reasons, and what kind of control systems are needed to implement effective and rational export controls. CISTEC has conducted outreach activities with many Asian countries.

As export control is fundamentally a global issue, international cooperation is important for every country. One of CISTEC's most prominent projects is the Asian Export Control Seminar, which begun in 1993 and is held annually under the joint sponsorship of the METI and MOFA in Tokyo. The most recent seminar, held in February 2024, received the participation of more than 230 officials from 17 Asian countries, 16 supporting countries, and major international regimes such as the

Nuclear Suppliers Group, the Wassenaar Arrangement, the Australia Group, the Missile Technology Control Regime, and related organizations such as the UN Office for Disarmament Affairs, the UN Panel of Experts, the World Customs Organization, the Stockholm International Peace Research Institute, and so on.

This seminar is regarded as one of most important export control seminars in the world, as it is quite rare for the heads of all international export control regimes to gather in the same forum.

CONCLUSION

CISTEC is a very unique organization in the world and provides an effective example of how to build a bridge between government and industry, which are both key actors in export control. It has also established good cooperative relationships with various countries and dispatch experts. These best practices serve as a useful case study for various countries, providing a unique model that can be adapted to fulfil their obligations under operative paragraph 3 (d) of UNSCR 1540.