CISTEC
Center for Information on Security Trade Control
Bansuiken Building, 6-6, Toranomon 1-chome, Minato-ku, Tokyo 105-0001, Japan
Phone:03-3593-1148 http://www.cistec.or.jp

February 7 2011
The U.S. DEPARTMENT OF COMMERCE
Bureau of Industry and Security

We the Center for Information on Security Trade Control (CISTEC), a non-profit organization in Japan, are very pleased to submit herewith our comments in response to the Federal Register /Vol. 75, No. 236 dated December 9, 2010.

General Comments for your proposed rules.

Over the past years, CISTEC has been constantly sending a delegation to BIS to exchange views of the U.S. export control regulations. Besides we submitted comments concerning "Request for Public Comments on the Effects of Export Controls on Decisions To Use or Not Use U.S. Origin Parts and Components in Commercial Products and the Effects of Such Decisions" in February 2009. At that time, we insisted that the current extraterritorial way of applying the U.S. export control regulations was seriously influencing your own economy in disproportionate to contributing to national security and we requested BIS to exempt countries which are members of all of export control treaties/multilateral regimes and also have established appropriate export control laws/systems (e.g. Japan) from U.S. re-export control.

Considering the purpose as above, we cannot but think that new License Exception "STA" is still insufficient though we noticed your kind consideration of ECCN Notification obligation into new License Exception "STA".

In particular which the item exported under STA cannot be re-exported using license exception "APR" seems to be inconvenient for re-exporters and make U.S.prouducts less competive. In other words, STA may help to save time for the exporter in certain case, but it will never contribute to increase export for the countries who could use license exception "APR".

We wish our last proposal is reflected by all means in U.S. export regulation revision.

The individual comments from CISTEC members are as follows.

- In case of importing items from USA under License Exception "STA", we are concerned that re-exportation may become impossible in many cases because APR is not adaptable.

→ It is unfavorable system that re-exporters are needed to apply the US re-exporting license, instead of free from the license application of US exporters.

→ As for the public use-items or low sensitive items controlled by only NS reason, it seems that the concern of the detour export is small as APR application about the re-exportation from 37 countries or an A1 countries and the cooperation countries.

・There are so many conditions in order to adopt "STA", especially condition (2),(3),(4) (※１) seems to be big load for the re-exporter.
Moreover, for example, re-exporting items to India via Singapore from USA, we are concerned that there are many cases which APR(a) cannot be used(※3). So we would like to request deletion of the limitation (※2).

※1) Conditions for application

(1)Furnishing the consignee with the ECCN that applies to each item transferred under License Exception STA.

(2) Providing subsequent consignees with the ECCN provided by the exporter or prior reexporters or transferors.

(3) Obtaining a written statement identifying the items to be shipped and restating the ECCN(s) provided to the consignees by the exporters, re-exporters or transferors from their consignees, prior to the shipment.

(4) Sensitive List items exported pursuant to License Exception STA would be subject to the reporting requirements of § 743.1.

※2) Limitations on Subsequent Transactions That Apply to STA
§ 740.20 would preclude use of License Exception APR paragraph (a) (§ 740.16(a)) for items that have been shipped pursuant to this License Exception STA.

※3) As for exporting to Singapore from USA, there are many cases which must acquire individual license because, for example, it cannot be export items controlled by reason NS2 as NLR at the present situation, but under the proposed new rule, it seems becoming to be much easier to export to Singapore from USA using STA .

・The addition of the following items is necessary for “the nuclear power generation global supply-chain", drawing U.S. company.

①Items（※4） in a public use light water reactor controlled by MT1 reason in a public use light water reactor for "37 destinations"

※4) Products/technology controlled by 3A001(electronics components)

（It is next to impossible to tell whether the items can be used as nuclear power generation.）

②Items in a public welfare use light water reactor controlled by CB2, MT1, NP1, NP2 reason(※5) for "125 Additional Countries".

※5) CB2：products/technology controlled by 2A292 (plumbing / valve / couplings made with stainless steel nickel alloys)

MT1：products/technology controlled by 3A001(The component of electronics)

NP1：1C225 (boron 10), component), 3A201 (a general-purpose electronic device) of 3A001(electronics, products/technology)

NP2 : products/technology controlled by 3A225 (frequency changer), 2A290 (dynamo / turbine etc.), 2A291 (simulator casks etc.), products・technology of 2A292 (plumbing / valve / couplings made with stainless steel nickel alloys)

・When products or technology are limited to a public use light water reactor, we would like to dispense with the pledge form presentation from a consignee, an ex post facto report.

Because it becomes very likely to exclude U.S. products / technology as much as possible owing to double license procedure by US re-export regulation adding to the license of Japanese government.

・Comments(Request) about application area.

(37 destinations)

Adding application area , not only South Korea but also another Asian region.

Adding another NSG member countries(except China) as application area when products/technology are limited to public use light water reactor.

(125 countries)

Adding China, Vietnam, Malaysia, Indonesia, UAE, Egypt.

Contact

Hiroki Kondo

Phone +81-3-3593-1146

Email h-kondo@cistec.or.jp