

Export Licensing Procedure in the Republic of Korea

The 27th Asian Export Control Seminar

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Ministry of Trade,
Industry and Energy

Overview

- 1. Development of Export Control System in the ROK**
- 2. Overview of Export Licensing System**
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1. Development of Export Control System in the ROK

Progress of the export control system

- Although Korea introduced the export control system **merely 30 years ago**, it is operating the **high-level system**, showing **rapid development** in a constant manner
 - ▲ **1989** Export licensing system newly established under **enforcement decree of Foreign Trade Act**
 - ▲ **1992** Grounds of export licensing for strategic items clarified under **Foreign Trade Act**
 - ▲ **2003** **Catch-all control system** introduced
 - ▲ **2005** **Online export license system** (called “**YESTRADE**” system) opened
 - ▲ **2007** **KOSTI** established for **expert classification**
 - * **KOSTI** = Korean Security Agency of Trade and Industry

1. Development of Export Control System in the ROK

■ Joined non-proliferation treaties and multilateral export control regimes

- Korea joined all the **3 non-proliferation treaties** and **4 multilateral export control regimes**
Applied them to domestic laws, including Foreign Trade Act
 - ▲ **Three treaties:** Treaty on the Non-Proliferation of Nuclear Weapons('75), Biological Weapons Conventions '87), Chemical Weapons Convention('97)
 - ▲ **Four export control regimes:** Nuclear Suppliers Group('95), Australia Group('96), Wassenaar Arrangement('96), Missile Technology Control Regime('01)
 - ▲ **2004** Adopted UN Security Council Resolution 1540
 - ▲ **2009** Joined Proliferation Security Initiative (PSI)
 - ▲ **2017** Effectuated Arms Trade Treaty (ATT)

2. Overview of Export Licensing System

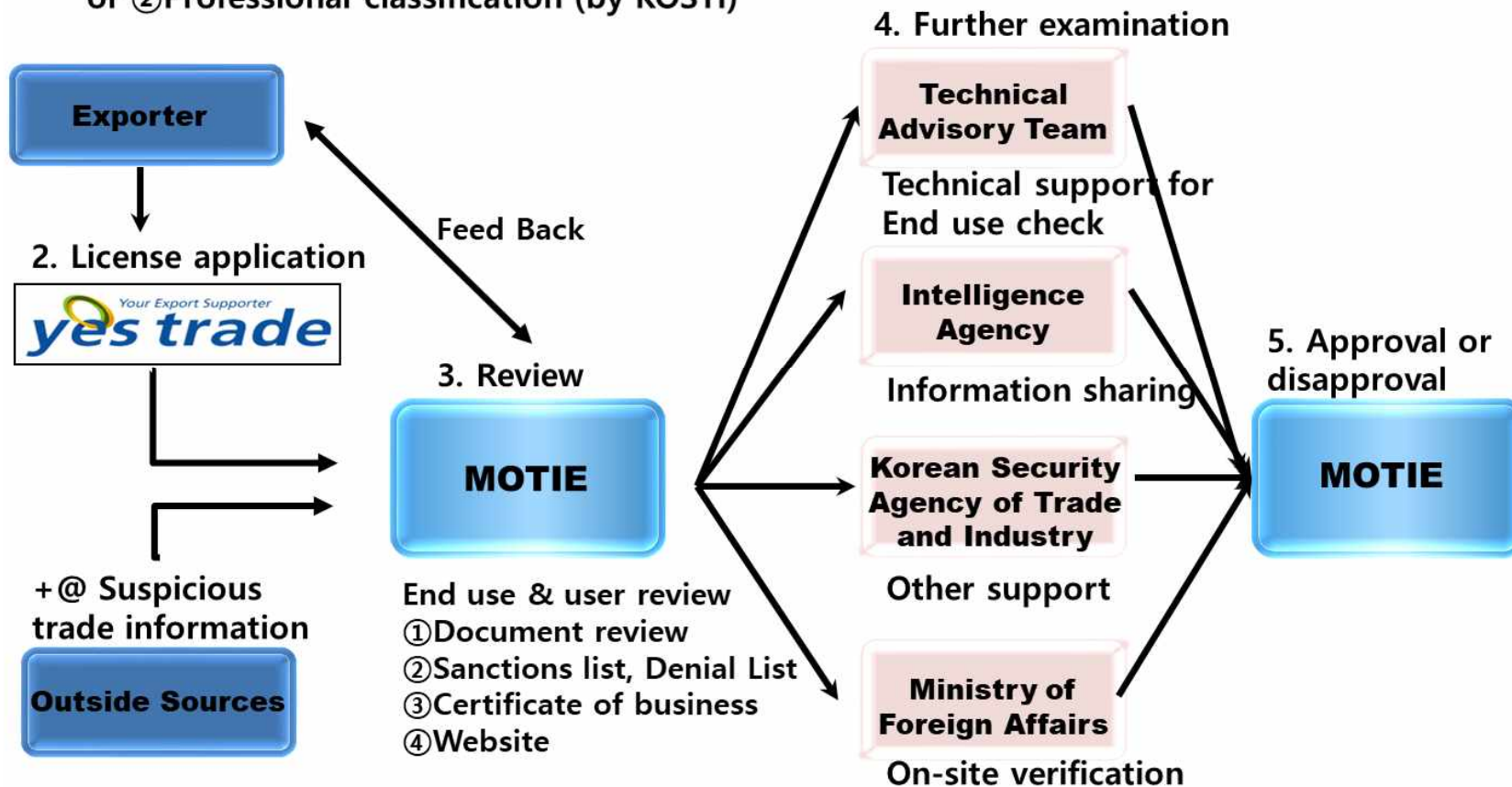
Operate the export licensing system that accords with international standards

- **Permit export of items that are concerned to be diverted to weapons** after conducting examination in advance whether they harm international peace and security, in accordance with the international agreement, including four multilateral regimes
- **Legal grounds:** Foreign Trade Act, Public Notice on Trade of Strategic Items, Defense Acquisition Program Act, Nuclear Safety Act, etc
- **Strategic items:** Items and technology with high possibility to be diverted to use, development and production of weapons
 - * **Apply all the items controlled under international export control regimes to legislation as strategic items** (public notice on trade) on a frequent basis
- **Licensing agencies:** MOTIE (Dual-use), NSSC (Nuclear use), DAPA (Military use)
 - ☞ “Secure expertise in conducting export examination through division of work system per item”
- **License type:** Individual, Bulk, Catch-all, intermediary, transit & transshipment license

3. Export Licensing Procedure - ①

Licensing procedure overview

1. Classification : ①Self classification or ②Professional classification (by KOSTI)



■ The first screen for Licensing procedure in “YESTRADE” system

☞ “All licensing procedure take place in the online system”



3. Export Licensing Procedure - ②

| Classification of items

- Companies apply for **professional classification or self classification** through YESTRADE system
- ① **Self-classification:** Input item information to YESTRADE self-classification system and answer to questions on specification → Immediately checks if the item falls under strategic item within the system and issue written classification
- ② **Professional classification:** Input detailed information via YESTRADE professional classification system → KOSTI with professional personnel check whether to classified as strategic items free of charge and issues written classification result
- ☞ “Prevent unlicensed export of strategic items that might be incurred by inaccurate classification through professional classification service”
- ☞ “Increase acceptance of the export licensing system by decreasing burden of companies for classification to scope of export control”
- ☞ “Improve overall quality of examination through accurate information for classification”

3. Export Licensing Procedure - ③

! Thorough examination by responsible organizations based on expertise per item

- Companies make **application via YESTRADE** by selecting item and export license type
 - Persons in charge of export licensing **examines basic documents, exporter and trader** (end-user) according to designated standards → **Issue an export permit** through YESTRADE systems
 - Progress of examination opened to companies through YESTRADE in **real time, and frequent feedback provided online** / Examination result released by each organization
- ☞ “Secure efficiency of examination with one-stop proceeding of all procedures relating to export licensing via online system”

3. Export Licensing Procedure - ④

! Operate examination standards that accord with international standards

- Person in charge of examining export licensing conducts examination in accordance with 「Public Notice on Trade of Strategic Items」 (Examination Standard)
 - Examination Standards include the international standards required by the 4 regimes and 3 treaties
- The elements of Examination standard
 - ① Whether to classified as strategic items, ② Importer, ③ Importer's technology-level & military and diplomatic sensitivity , ④ Whether to be used in the private sector, ⑤ Reliability of the purpose of use signed by buyer, ultimate consignee and end user ⑥ Possibility to be re-exported to the third country ⑦ Whether exporter, buyer, ultimate consignee or end user are included in Denial list. etc

3. Export Licensing Procedure - ⑤

| Check and verify the elements of examination standard

① Whether to classified as strategic items

→ Check the **written result of classification** (self or professional)

② Importer

→ Check **history of licensing and Strategic item imports**, whether importing country has joined the **regimes**

③ Importer's technology-level & military and diplomatic sensitivity, ④ Whether to be used in the private sector,

⑤ Reliability of the purpose of use signed by buyer, ultimate consignee and end user

→ Get technical advise form **KOSTI** and **Advisory panel on strategic technology** to check suspicious matters, such as **excessive specification** compared to purpose of end-use or use in the private sector

→ Get a report from **intelligence agencies**, such as National Intelligence Service and Ministry of Foreign Affairs to check suspicious matters related with **the military & diplomatic sensitivity, end-use**

⑥ Possibility to be re-exported to the third country

→ **A statement of Exporter and End-user** not to re-export is required.

→ If ultimate consignee and purchaser is trading company which has high Possibility of re-export, **the end-user is strictly reviewed** and require any other document for that.

⑦ Whether exporter, buyer, ultimate consignee or end user are included in Denial list. etc.

→ **Automatic filtering of Denial List** through D/B in YESTRADE system

→ Examine the basic information on the exporter and trader by documents, Check the **past export licensing history** and **unlicensed export history of exporter and trader**

4. Post Control

Illegal export of strategic items shall be strictly punished according to Foreign Trade Act

○ Punishment regulation

- ① **Criminal** : Imprisonment for not more than **7 years** or a **fine** not exceeding **5-fold of export price** (concurrent imposition is allowed)
- ② **Administrative** : Prohibition of import and export of strategic items for not for than **3 years**, **Order to receive education.** etc.

○ Enforcement system on illegal export

- ① **Operate all-time automatic enforcement system** based on linkage between **YESTRADE** (export licensing system) and **UNIPASS** (customs clearance system)
- ② **Conduct all-time enforcement** by investigative agencies, such as National Police Agency and Korea Customs Service
- ③ **Carry out investigation under MOTIE's** authority based on cooperation with relevant organizations
- ④ **Operate "export control committee"** on a regular basis with participation of export licensing ministries and investigative organizations



5. Outreach for Asian Countries

■ Share experience of establishing export licensing system of the ROK with Asian countries

- Share experience of establishing **export control system** and **online licensing system in the Philippines**

- * MOU signed with DTI of the Philippines in 2018

- Share experience of establishing online **self-classification system in Kazakhstan**

- * Korea-Kazakhstan export control workshop held in 2019

Thank you for your attention



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