

Japan announces stringent licensing procedures for exports to Korea

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Executive summary

The Japanese Government announced on 1 July 2019 that it would tighten controls on some exports to Korea. Accordingly, procedures for obtaining export licenses to Korea have been made more stringent for certain items used in the manufacture of LCD screens and semiconductors as of 4 July. Furthermore, the Japanese Government also removed Korea from its Group A list (formerly known as "white country" list) on 2 August 2019 (Korea was officially removed from the list on 28 August).

Detailed discussion

Japan's Ministry of Economy, Trade and Industry (METI) announced that it would strengthen export controls on certain goods exported to Korea to ensure the appropriate implementation of Japan's export controls and regulations in accordance with the *Foreign Exchange and Foreign Trade Act*. With this action, hydrogen fluoride, fluorinated polyimides and resists, as well as the transfer of related manufacturing technology (including that accompanying the export of manufacturing equipment), will no longer be eligible for bulk export licenses. Whereas exporters of such items to Korea were previously able to obtain such licenses for up to three years, they will now be required to apply for a license for each individual export. The affected items will be subject to examination, which typically takes more than one month.

Items subject to stricter controls for export to Korea:

1. **Hydrogen fluoride** (as provided for in Appended Table 1, Provision 3-(1) of the Export Trade Control Order and Article 2.1.1-(f) of the relevant Ministerial Order)

- ▶ Hydrogen fluoride, which may be used as precursors for toxic chemical agents
- ▶ Chemical mixtures containing hydrogen fluoride and in which hydrogen fluoride constitutes more than 30% by the weight of the mixture

2. **Fluorinated polyimides** (as provided for in Appended Table 1, Article 5-(17) of the Export Trade Control Order and Article 4.1.14-(b) of the relevant Ministerial Order)

- ▶ Fluorinated polyimides containing 10% by weight or more of combined fluorine

3. **Resists** (as provided for in Appended Table 1, Article 7-(19) of the Export Trade Control Order and Article 6.19 of the relevant Ministerial Order)

The following resists (and substrates coated with such resists):

- ▶ Resists designed for semiconductor lithography which meet the following criteria:
 - Positive resists adjusted (optimized) for use at wavelengths less than 193 nm but equal to or greater than 15 nm; or
 - Resists adjusted (optimized) for use at wavelengths less than 15 nm but greater than 1 nm
- ▶ All resists designed for use with electron beams or ion beams, with a sensitivity of 0.01 $\mu\text{Coulomb}/\text{mm}^2$ or better
- ▶ All resists optimized for surface imaging technologies
- ▶ All resists designed or optimized for use with imprint lithography equipment that achieves line width 45 nm or less and that use either a thermal or photocurable process achieving 45 nm line width or less

The three affected items are primarily used in the manufacture of LCD screens and semiconductors, and Japan's market share of the three items is said to stand at around 90%. The tightened export controls may affect not only exports to Korea but global supply chains as well if they result in a reduction of Korean exports of semiconductors and other products which use these items.

In addition, the Japanese Government also sought public comments for removing Korea from its Group A country list, and after the conclusion of the public comments period, the Japanese Cabinet approved the removal on 2 August 2019.

The term Group A (formerly referred to as "white countries") is used unofficially by the Japanese Government to refer to a group of countries that have acceded to international agreements related to weapons of mass destruction (WMDs), are members of all international agreements related to export controls and are not deemed to be at risk of proliferating the export of WMDs. From a legal perspective, the Group A countries are those listed in Appended Table 3 of the Export Trade Control Order. After Korea's removal from the list, 26 countries, such as the United States and some European Union member countries, are included on the list. Korea was the only Asian country on the list. The Group A countries are given preferential treatment with respect to the export of controlled items and the transfer of controlled technologies from Japan. This includes eligibility for bulk export licenses and exemptions from export licenses required under catch-all controls, which are triggered by specific purposes of export and consumer identities. Korea was officially removed from the Group A list on 28 August 2019.

The control of exports of conventional arms and dual-use goods and technologies has been an international effort since the Wassenaar Arrangement (1996) and other relevant international agreements were ratified and codified in domestic law by member countries. However, given that the measures taken by Japan are independent actions conducted in light of its relationship with Korea, further actions by both the Japanese and Korean Governments will be monitored closely.

Actions for businesses

Following the export controls, businesses should:

- ▶ Check whether the items exported and related technologies transferred to Korea are subject to export controls, including those covering the three affected items.
- ▶ If subject to export controls, contact customers and other relevant parties to inform them that these items/technologies will be subject to individual export licenses.
- ▶ Check the procedures for obtaining individual export licenses and inform members of the company to ensure items will not be exported illegally due to insufficient awareness.

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EYG no. 003851-19Gbl

1508-1600216 NY
ED None

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