

Letter by the Government of the Republic of Korea (Summary)

-Regarding Japan's planned Amendment to Export Trade Control Order-

1. Regret over Japan's restriction on the export to the Republic of Korea (ROK)

- As key mutual economic partners in core areas including trade, investment and R&D, the ROK and Japan have contributed to global economic growth by taking on pivotal roles in global value chains.
- On July 1, 2019, however, Japan announced the planned revisions to its Export Control Trade Order without any notice or prior consultation with the ROK.
 - The ROK expresses its deep regret over Japan's unfair export restriction measures without acceptable and sufficient grounds.

2. ROK's position on the planned amendments to Japan's Export Trade Control Order

① Regarding Japan's claim that ROK's military end-use catch-all controls are insufficient

- The ROK has adopted all the guidelines on the introduction of catch-all controls recommended to member states by the four international export controls regimes: the Wassenaar Arrangement(WA), the Nuclear Suppliers Group(NSG), the Australia Group(AG) and the Missile Technology Control Regime(MTCR).
- The ROK has already operated the institutional framework necessary to implement the military end-use catch-all controls: the Foreign Trade Act, the Public Notice on Trade of Strategic Items, and the Special Measures for Restrictions on Trade for the Maintenance of International Peace and Security.
- In reality, ROK's military end-use catch-all controls continue to be

effectively implemented under the three-phase enforcement system: (i) early prevention by exporter's self-classification and the Korea Security Agency of Trade and Industry's classification service, (ii) export license reviewing processes by the MOTIE and the Defense Acquisition Program Administration (DAPA), and (iii) follow-up enforcement by the Korea Customs Service (KCS) and the National Police Agency(NPA).

- **A recent statistics on ROK's catch-all controls shows that military end-use catch-all controls out of the total catch-all controls took 40 percent in exporter's self-classification, 19.4 percent in classification by professional agencies and 41.9 percent in export licences.**

○ Japan conducted a survey of participating states in the Wassenaar Arrangement on their military end-use catch-all controls, the ROK replied in writing in 2015 that the nation's military end-use catch-all controls were in operation.

- In addition, Japan has never raised any issues with Korea's military end-use catch-all controls in the past Director General (DG)-level bilateral policy meetings. Indeed, Japan hasn't mentioned the issue in agenda-setting discussion for the planned 7th DG-level policy meeting.

○ Moreover, some countries included in Japan's "white list" for trade have not adopted the military end-use catch-all controls.

○ Considering the fact that the ROK has operated the system for years, Japan's decision to remove Korea from its white list for trade is a discriminatory measure lacking sufficient grounds.

② Regarding Japan's argument over ROK's export controls enforcement due to "damage of trust," caused by a lack of communication

○ Both countries have continuously shared information and communicated about their export controls system in various channels and events,

including a DG-level bilateral policy dialogue, conferences and multilateral export control regimes for years.

- The reason for the delay of the planned 7th DG-level policy meeting was because of scheduling conflicts of both sides.
 - Both countries have held a DG-level policy meeting on an irregular basis since 2008. The meeting was held annually, biennially, or triennially. Following the 6th DG policy meeting hosted by the ROK in June 2016, Japan was supposed to host the 7th meeting, and it proposed the date for the event in March 2018 for the first time, which had been 20 months since the 6th meeting.
 - The ROK proposed a lower director-level meeting in June 2018 to resolve scheduling conflicts in DG level, but in turn, Japan suggested having a DG-level talk in Korea, rather than Japan, as an alternative.
 - Then, in September 2018, Japan proposed holding a meeting in either January or February in 2019. In December 2018, Korea responded by asking for Japan's understanding in hosting a meeting some time after March 2019 due to a scheduling conflict.
 - The Japanese side replied that it understood the situation and would make contact again going forward. Unfortunately, no further contact on this issue was received from Japan, the host country of the next meeting, until July 1, 2019 when Japan suddenly announced it would tighten its controls on the export to ROK.
- The first bilateral policy meeting was held four years after ROK was added to Japan's white list for trade. In this regard, it is not logical to tie the ROK's inclusion in the white list to a bilateral policy meeting.
 - In addition, only a few countries on the Japan's white list have a bilateral policy dialogue with Japan. There have been no cases in which countries that do not hold bilateral meetings have been subject to removal from Japan's white list.

- Against this backdrop, the Japanese government's decision to take ROK off its white list for trade appears unwarranted and out of balance. Japan's unilateral move, indeed, will deal a blow to mutual trust of the two nations in the export controls sector.
- When it comes to the operations of the export controls system, unlike Japan, ROK has a close-knit network of agencies with specific expertise on export controls. The agencies include the MOTIE, the Defense Acquisition Program Administration and the Nuclear Safety and Security Commission.
 - Organizations like the Korean Security Agency of Trade and Industry and the Korea Institute of Nuclear Nonproliferation and Control with expertise on export controls are public organizations established by the Foreign Trade Act, not private institutions as Japan claims.
 - Contrary to the claims of the Japanese government, the number of personnel exclusively tasked with managing export controls in the ROK amounts to 110, which allows for adequate and effective trade management.
- ROK's export controls and management system has been recognized by the international community.
 - Since its participation in the Wassenaar Arrangement in 1996 as one of founding states, ROK has significantly contributed to the improvement of export controls on strategic items. For instance, Korea took a leading role in improving the controls standards by individual export item.
 - Over the past five years between 2014 and 2018, the ROK has proposed 60 out of 417 agenda items to the Wassenaar Arrangement Expert Group, among which 39 items have been passed. In 2018, the ROK stood at the top not only in the number of proposals of agenda items (19 out of 81 items) and but also in the number of agenda items passed (10 out of 19 proposals).

- In particular, in May 2019, the Institute for Science and International Security announced that Korea stood at 17th out of 200 countries in its 2019 Peddling Peril Index, a global indicator for the effectiveness of national strategic trade controls. Japan was placed at 36th.

③ Japan's removal of the ROK from its white list for trade in no way corresponds to international norms

- The Initial Elements of the Wassenaar Arrangement (Article 1, Paragraph 4) stipulate that the arrangement will not be directed against any state or group of states and will not impede bona fide civil (non-military) transactions. In this regard, Japan's proposed revisions to the Export Trade Control Order violate the underlying spirit of the Wassenaar Arrangement, and are highly likely to obstruct genuine civil transactions between the two nations that have thus far been unimpeded.
- The Australia Group guidelines (Article 1) also stipulate that the guidelines "are not intended to impede biochemical trade or international cooperation that could not contribute to CBW activities or terrorism." Japan's removal of ROK from its white list without due cause therefore also violates the underlying spirit of the Australia Group guidelines.
- Japan's move will adversely affect global export controls regimes for strategic goods that are based on collective cooperation and trust relationship among member states.
- Furthermore, Article 11 of the WTO/GATT forbids any trade restrictions other than duties, taxes or other charges, while Article 1 of the WTO/GATT prohibits discriminatory trade practices between all contracting parties.
- Japan's exclusion of ROK from its trade white list will place restrictions on Japanese exports to the ROK, which may very well be considered discriminatory in comparison to other white list countries. Such measures run directly counter to the principles and regulations of the WTO/GATT.

- ④ Japan’s removal of the ROK from its white list for trade will have a serious adverse impact not only on the economies of the two countries, but also on global value chains and international free trade order.**
- Japan’s removal of the ROK from its white list will create uncertainties in the trade of core industrial materials, which will seriously impede trade between the two countries. If there are delays or bans in the trade of these core materials, the supply chain between the two nations will be able to be severely damaged.
 - On July 15, Fitch Ratings, a global credit ratings agency, anticipates that “Japan’s recent tighter export restrictions on the three industrial materials would hurt the ROK's memory chip and display panel makers as well as Japanese suppliers of the materials”
 - Further, Japan's such export curbs could severely damage to the global value chain of the IT industry, which is composed of Japanese input producers, ROK's semiconductor and display panel makers and multinational mobile and electronics device manufacturers.
 - According to Moody’s Investors Service on July 3, 2019, Korean companies are not only major consumers of the materials subject to Japan’s export restrictions, but also key suppliers of memory chips and display panels in the global market. Therefore, disruptions to the production of ROK businesses would hurt companies around the world in the global value chain, with Japanese firms being no exception.
 - In its Trade White Paper, issued in July 2019, Japan highlighted that the multilateral trading regime operating under the WTO agreements is essential for expanding free and fair trade, and emphasized the importance of the WTO’s multilateral trading system for free trade.
 - However, Japan’s move to take Korea off its trade white list is neither consistent with the spirit of free and fair trade pursued by the 2019 G20

summit meetings, hosted by Japan in June, nor with the key principles of the WTO/GATT regimes, which strives to realize free, fair, transparent, predictable trade environment.

3. In conclusion, ROK calls for the withdrawal of Japan's planned amendments to the Export Trade Control Order

- As of July 23, 2019, Japan has failed to provide any reasonable justification or evidence to support Japan's removal of the ROK from its white list.
 - Japan's unfounded measure, if it is effective as planned, will pose a grave threat to close ties between the two countries, which have remained strong for decades across all areas including politics, diplomacy, military, economy, society and culture.
- Accordingly, ROK strongly urges Japan to roll back its groundless restriction on the exports of three items used in the chip-making and to withdraw its proposed revisions to the Export Trade Control Order, aimed at removing the ROK from its white list for trade.
 - The ROK is willing and ready to hold discussions on the improvement of the export controls systems of the two countries at any time. In this vein, the Korean government looks forward to having a meeting with Japan at the director-general level or higher at the earliest possible opportunity.