

Ministerial Ordinance on Trade Relation Invisible Trade, etc.

(Ordinance of the Ministry of International Trade and Industry No. 8 of March 4, 1998)

With the enforcement of the Act for Partial Revision of the Foreign Exchange and Foreign Trade Control Act (Act No. 59 of 1997) and a Cabinet Order for Partial Revision of the Foreign Exchange Control Order (Cabinet Order No. 383 of 1997), the Ministerial Ordinance on Trade Relation Invisible Trade, etc. shall be revised, in whole, as follows, pursuant to the provision of Article 69-5 of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949) and the provisions of Article 6, Article 6-2, Article 15 to Article 18, Article 18-3, Article 18-4, Article 18-6 and Article 18-8 of the Foreign Exchange Order (Cabinet Order No. 260 of 1980), and for the purpose of implementing the provisions of the same Order.

(Procedures for Applying for Permission, etc.)

Article 1 (1) A person who intends to obtain permission from the Minister of Economy, Trade and Industry as listed in the following items shall submit two copies of a written application for permission following the form prescribed in said respective items to the Minister of Economy, Trade and Industry:

(i) a person who files an application for permission for payment, etc. (which means a payment or receipt of payment; the same shall apply hereinafter) as listed in (a) to (c) below: a written application for permission for payment, etc. following the form prescribed in Appended Form 1:

(a) a resident or a non-resident who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provision of Article 6, paragraph (2) of the Foreign Exchange Order (hereinafter referred to as the "Order");

(b) a resident or a non-resident who intends to file an application for permission pursuant to the two or more provisions under the provision of Article 6, paragraph (3) of the Order in block when applying for permission to the Minister of Economy, Trade and Industry pursuant to the provision of paragraph (2) of the same Article; or

(c) a person who has been obliged to obtain permission for payment, etc. pursuant to the provision of Article 6-2, paragraph (3) of the Order and who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provision of paragraph (4) of the same Article.

(ii) a person who files an application for permission for conducting the specified

capital transactions as listed in (a) to (c) below: a written application for permission for the specified capital transactions following the form prescribed in Appended Form 2:

- (a) a resident who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provision of Article 15, paragraph (2) of the Order;
 - (b) a resident who intends to file an application for permission pursuant to the provisions of Article 24, paragraph (1) and paragraph (2) of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949; hereinafter referred to as the "Act") in block as prescribed in the provision of Article 15, paragraph (3) of the Order when applying for permission to the Minister of Economy, Trade and Industry pursuant to the provision of paragraph (2) of the same Article; or
 - (c) a person who has been obliged to obtain permission for conducting the specified capital transactions pursuant to the provision of Article 16, paragraph (1) of the Order and who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provision of paragraph (2) of the same Article;
- (iii) a person who files an application for permission for conducting service transactions as listed in (a) and (b) below: a written application for permission for service transactions following the form prescribed in Appended Form 3:
- (a) a resident who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provisions of Article 25, paragraph (1), item (i) or paragraph (3) of the Act, or Article 18, paragraph (4) of the Order (limited to those which pertain to service transactions); or
 - (b) a person who has been obliged to obtain permission for conducting service transactions pursuant to the provision of Article 18-3, paragraph (1) of the Order and who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provision of paragraph (2) of the same Article;
- (iv) a person who files an application for permission for conducting transactions related to the buying and selling of goods involving the movement of goods between foreign states (herein referred to as the "brokerage transactions" in this item) as listed in (a) and (b) below: a written application for permission for the brokerage transactions following the form prescribed in Appended Form 4:
- (a) a resident who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provision of Article 25, paragraph (1), item (ii) of the Act or Article 18, paragraph (4) of the Order (limited to those which pertain to the brokerage transactions); or

- (b) a person who has been obliged to obtain permission for the brokerage transactions pursuant to the provision of Article 18-3, paragraph (1) of the Order and who intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provision of paragraph (2) of the same Article.
- (2) In submitting a written application set forth in the preceding paragraph, one copy of a document stating the reason for the application and one copy of a document supporting the relevant facts shall be attached thereto.
- (3) The Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1) (except for that which was filed through the procedures prescribed in Article 3), indicate to that effect in said written applications and deliver one set thereof to the applicant as a certificate of permission.
- (4) The Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1) of this Article through the procedures prescribed in Article 3, indicate to that effect in a certificate of permission following the form prescribed in Appended Form 6, and deliver it to the applicant, with a document stating the matters recorded on a flexible disk submitted pursuant to the provision of Article 3 attached thereto.

(Procedures for Applying for Permission, etc. by Using an Electronic Data Processing System)

- Article 1-2 (1) Notwithstanding the provision of paragraph (1) of the preceding Article, a person who intends to file an application for permission with the Minister of Economy, Trade and Industry pursuant to the provision of Article 25, paragraph (1), item (i) of the Act using an electronic data processing system as prescribed in Article 3, paragraph (1) of the Act on the Use of Information and Communications Technologies for Administrative Procedures, etc. (Act No. 151 of 2002), enter the matters to be specified in an application form for permission for service transactions available from a file stored on a computer used by the Ministry of Economy, Trade and Industry (including an input and output device; hereinafter referred to as the "special-purpose computer") through the input-output device used by said applicant (limited to that which conforms to the standards, as publicly notified by the Minister of Economy, Trade and Industry; hereinafter referred to as the "specified input-output device").
- (2) In filing an application set forth in the preceding paragraph, information supporting the relevant facts shall be entered through the specified input-output device and recorded in a file stored on the special-purpose computer, or a document supporting the relevant facts shall be submitted to the Minister of Economy, Trade and Industry.

- (3) When a person who files an application as prescribed in paragraph (1) has entered information in accordance with the preceding paragraph, the Minister of Economy, Trade and Industry may, to the extent necessary, request him/her to submit a document supporting the facts related to said information, during the period from the date on which said applicant filed said application to the date on which said applicant is notified either in the affirmative or negative of the result of said application.
- (4) The Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1), record the matters to be specified in a certificate of permission for service transactions following the form prescribed in Appended Form 6-2 into a file stored on the special-purpose computer.
- (5) Notwithstanding the provision of the preceding paragraph, the Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1), indicate, upon an applicant's request, to that effect in a certificate of permission for service transactions following the form prescribed in Appended Form 6-2, and deliver it to the applicant.

(Applicant's Notification)

- Article 1-3 (1) An applicant who enters information in accordance with paragraph (1) of the preceding Article shall be a person who has made a notification in advance by submitting a written applicant notification following the form prescribed in Appended Form 6-3 and a document supporting the relevant facts to the Minister of Economy, Trade and Industry.
- (2) The Minister of Economy, Trade and Industry shall, upon receiving a notification made in accordance with the preceding paragraph, notify or deliver an identification number, a security number, an applicant code and a key or electronic certificate used to convert information entered through the specified input-output device into code to said applicant, as needed.
 - (3) A person who has made a notification in accordance with the preceding paragraph shall, when there are any changes to the matters notified or when he/she has stopped using an electronic data processing system (which means an electronic data processing system connecting the special-purpose computer and the specified input-output device through a telecommunication line; the same shall apply in the following paragraph), enter the matters to be specified in a written applicant notification following the form prescribed in Appended Form 6-3 through the specified input-output device and record them into a file stored on the special-purpose computer, or indicate to that effect in a written applicant notification following said form and notify the Minister of Economy, Trade and Industry promptly.
 - (4) The Minister of Economy, Trade and Industry may, when deeming it

inappropriate for a person who has made a notification in accordance with paragraph (1) to continue to use an electronic data processing system, suspend his/her use of said electronic data processing system.

- (5) A notification submitted pursuant to the provision of Article 1-3, paragraph (1) of the Export Trade Control Ordinance (Ordinance of the Ministry of International, Trade and Industry No. 64 of 1949) or a notification submitted pursuant to the provision of Article 2-3, paragraph (1) of the Import Trade Control Ordinance (Ordinance of the Ministry of International, Trade and Industry No. 77 of 1949) shall be deemed to be a notification submitted pursuant to the provision of paragraph (1).

(Procedures for Extension of Valid Period, etc.)

Article 2 (1) Permission granted from the Minister of Economy, Trade and Industry pursuant to the provisions of Article 25, paragraph (1) or paragraph (3) of the Act, or Article 6, paragraph (2), Article 6-2, paragraph (4), Article 15, paragraph (2), Article 16, paragraph (2), Article 18, paragraph (4) or Article 18-3, paragraph (2) of the Order shall be valid for six months from the date on which such permission was granted.

- (2) With respect to the granting of permission prescribed in the preceding paragraph, the Minister of Economy, Trade and Industry may, when deeming it particularly necessary, set the valid period of permission to be different from the period prescribed in the same paragraph or extend such valid period.

(3) A person listed in the following items shall, when falling under any of the cases listed in said respective items, submit two copies of the written application following the form prescribed in Appended Form 5 to the Minister of Economy, Trade and Industry:

- (i) when a person who has obtained permission as prescribed in paragraph (1) intends to apply for an extension of the valid period pursuant to the provision of the preceding paragraph; or
- (ii) when a person who has obtained permission as prescribed in paragraph (1) intends to apply for changes to the contents of a transaction or a payment, etc. which pertains to said permission (limited to the matters specified in said certificate of permission).

(4) In submitting a written application prescribed in the preceding paragraph, one copy of a certificate of permission issued pursuant to the provisions of Article 1, paragraph (3), paragraph (4) or Article 1-2, paragraph (4), or paragraph (4) of the following Article, one copy of a document stating the reason for the application and one copy of a document supporting the relevant facts shall be attached thereto.

(5) The Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (3) (except for that which

was filed through the procedures prescribed in the following Article), indicate to that effect in said written applications and deliver one copy thereof to the applicant, with a certificate of permission submitted pursuant to the provision of the preceding paragraph attached thereof, as a certificate of extension of permission or a certificate of change of permission.

- (6) The Minister of Economy, Trade Industry shall, in granting permission for an application filed in accordance with paragraph (3) of this Article through the procedures prescribed in the following Article, indicate to that effect in a certificate of permission following the form prescribed in Appended Form 6 and deliver it to the applicant, with a document stating the matters recorded onto a flexible disk submitted pursuant to the provision of the following Article and a certificate of permission submitted pursuant to paragraph (4) of this Article attached thereto, as a certificate of extension of permission or a certificate of change of permission.

(Procedures for Applying for Extension of Valid Period, etc. by Using an Electronic Data Processing System)

Article 2-2 (1) A person who has obtained permission (including permission pursuant to the provision of paragraph (3)) from the Minister of Economy, Trade and Industry pursuant to the provision of Article 1-2, paragraph (3) (except for a person who has received a certificate of permission for service transactions pursuant to the provision of Article 1-2 paragraph (4) or paragraph (4) with respect to said permission) shall, when falling under any of the cases listed in the following items, enter the matters which he/she intends to extend or change, among those recorded with respect to said permission, in a file stored on the special-purpose computer through the specified input-output device:

- (i) when he/she intends to file an application for an extension of the valid period pursuant to the provision of paragraph (2) of the preceding Article; or
- (ii) when he/she intends to file an application for a change to the contents of a transaction or a payment, etc. which pertains to said permission (limited to matters recorded with respect to said permission in a file stored on the special-purpose computer).

(2) In filing an application set forth in the preceding paragraph, information supporting the relevant facts shall be entered through the specified input-output device and recorded in a file stored on the special-purpose computer or a document supporting the relevant facts shall be submitted to the Minister of Economy, Trade and Industry.

(3) The Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1), record the matters to be specified in a certificate of permission for service transactions following the

form prescribed in Appended Form 6-2 in a file stored on the special-purpose computer.

- (4) Notwithstanding the provision of the preceding paragraph, the Minister of Economy, Trade and Industry shall, in granting permission for an application filed in accordance with paragraph (1), indicate, upon an applicant's request, to that effect in a certificate of permission for service transactions following the form prescribed in Appended Form 6-2, and deliver it to the applicant.

(Procedures for Recording onto Flexible Disk)

Article 3 An applicant may submit the documents listed in the left-hand column of the following table (except for the cases where an applicant intends to obtain permission from the Minister of Economy, Trade and Industry pursuant to the provision of Article 25, paragraph (1) of the Act) by using a flexible disk onto which the matters to be specified in said documents are recorded according to the classifications of said documents listed in the left-hand column of the same table following the form listed in the right-hand column of the same table, as well as a flexible disk submission slip prepared following the form prescribed in Appended Form 7.

a written application for permission for payment, etc. as prescribed in Article 1, paragraph (1), item (i) and an attachment stating the reason for the application as prescribed in paragraph (2) of the same Article:	Appended Form 8
a written application for permission for the specified capital transactions prescribed in Article 1, paragraph (1), item (ii) and an attachment stating the reason for the application as prescribed in paragraph (2) of the same Article:	Appended Form 9
a written application for permission for the service transactions prescribed in Article 1, paragraph (1), item (iii) and an attachment stating the reason for the application as prescribed in paragraph (2) of the same Article:	Appended Form 10
a written application for permission for the brokerage transactions prescribed in Article 1, paragraph (1), item (iv) and an attachment stating the reason for the application as prescribed in paragraph (2) of the same Article:	Appended Form 11
a written application as prescribed in paragraph (3) of the preceding Article and an attachment stating the reason for the application under paragraph (4) of the same Article:	Appended Form 12

(Structure of Flexible Disk)

Article 4 A flexible disk prescribed in the preceding paragraph shall be that which falls under any of the following items:

- (i) a 90-mm flexible disk cartridge that conforms to the Japanese Industrial Standards under Industrial Standardization Act (Act No. 185 of 1949)

(hereinafter referred to as "Japanese Industrial Standards") X6221; or
(ii) a 90-mm flexible disk cartridge that conforms to Japanese Industrial Standards X6223.

(Flexible Disk Recording Methods)

Article 5 (1) Recording onto a flexible disk as prescribed in Article 3 shall be carried out by the following methods:

(i) for a track format, the method specified in Japanese Industrial Standards X6222 when recording onto a flexible disk as prescribed in item (i) of the preceding Article, or the method specified in Japanese Industrial Standards X6225 when recording onto a flexible disk as prescribed in item (ii) of the same Article;

(ii) for a volume and file configuration, the method specified in Japanese Industrial Standards X0605; and

(iii) for character coded representation, the method specified in Annex 1 to Japanese Industrial Standards X0208.

(2) Recording onto a flexible disk as prescribed in Article 3 shall be carried out by using those graphic characters specified in Japanese Industrial Standards X0201 and X0208 and the "carriage return (CR)" and the "line feed (LF)" from among those control characters specified in Japanese Industrial Standards X0211.

(Document to be Pasted onto Flexible Disk)

Article 6 A document stating the following matters shall be pasted onto the labeling area specified in Japanese Industrial Standards X6221 or X6223 of a flexible disk as prescribed in Article 3:

(i) the name of the person (or, for a juridical person, its name) who has made the submission; and

(ii) the date of submission.

(Special Procedures for Applying for Permission)

Article 7 Notwithstanding the provisions of this Ministerial Ordinance, the Minister of Economy, Trade and Industry may, when deeming it necessary, provide special procedures through which a resident may obtain permission from the Minister of Economy, Trade and Industry pursuant to Article 25, paragraph (1) or paragraph (3) of the Act, or Article 6, paragraph (2), Article 6-2, paragraph (4), Article 15, paragraph (2), Article 16, paragraph (2), Article 18, paragraph (4) or Article 18-3, paragraph (2) of the Order.

(Confirmation, etc. by the Banks, etc.)

Article 8 (1) The Banks, etc. (which means the banks, etc. prescribed in Article

16-2 of the Act; the same shall apply hereinafter) shall, when finding that the customer's payment, etc. falls under any of the payment, etc. prescribed in Article 17, paragraph (1), item (i) of the Act or that which pertains to transactions prescribed in Article 7, item (i) or item (ii) of the Order pursuant to Article 17, paragraph (1), item (iii) of the Act, request said customer to present a certificate of permission, a certificate of permission for extension or a certificate of permission for change, which pertains to said transactions or said payment, etc. (hereinafter referred to as the "certificate of permission, etc." in paragraph (3)) and confirm that said customer should obtain permission from the Minister of Economy, Trade and Industry before entering into exchange transactions which pertain to said payment, etc. with said customer.

(2) The Banks, etc. shall, when finding that the customer's payment, etc. falls under any of the payment, etc. which pertains to the import of goods prescribed in Article 7, item (iv) of the Order pursuant to Article 17, paragraph (1), item (iii) of the Act, request said customer to present a certificate of import approval which pertains to said import of goods, and confirm that said customer should obtain an approval of import from the Minister of Economy, Trade and Industry before entering into exchange transactions which pertain to said payment, etc. with said customer.

(3) The Banks, etc. shall, when entering into exchange transactions which pertain to a payment, etc. with the customer upon confirmation as prescribed in the preceding two paragraphs, indicate the date and the amount of the exchange transactions which pertain to said payment, etc. in the space "For Bank, etc. Use Only" on the reverse side of the certificate of permission, etc. or the certificate of approval of import presented from said customer, affix a seal of confirmation, and return said certificate of permission, etc. or certificate of approval of import to said customer.

(Transactions, etc. which Do Not Require Permission)

Article 9 (1) Transactions designated by the Minister of Economy, Trade and Industry as prescribed in Article 17, paragraph (4) of the Order shall be those which fall under any of the following items:

(i) transactions which are conducted by the Minister of Economy, Trade and Industry;

(ii) transactions which are conducted by the Minister of Defense, and through which the technology listed in the middle column of Appended Table of the Order (except for the technology which has been transferred to Japan based on the exchange of notes concerning the cooperation in space exploitation between Japan and the United States) is provided in the regions listed in Appended Table 3 of the Export Trade Control Order (Cabinet Order No. 378 of 1949; hereinafter referred to as the "Export Order");

- (iii) service transactions which are conducted by a resident based on an agreement concerning compensation or free economic cooperation or technical cooperation to be granted by the Japanese Government to a foreign government; or
- (iv) transactions which are designed for the purpose of providing the technology listed in the middle column of row 16 of the Appended Table of the Order in the regions listed in the right-hand column of the same Table, and which do not involve the provision of records giving information pertaining to said technology or which do not fall under any of (a) and (b) below:
 - (a) when the Minister of Economy, Trade and Industry specifies in a public notice that the technology is likely to be utilized for the development, etc., as prescribed Article 4, paragraph (1), item (iii), (a) of the Export Order (hereinafter referred to simply as the "development, etc." in (b)), of nuclear weapons, etc. as prescribed in (a) of the same item (hereinafter referred to simply as the "nuclear weapons, etc." in (b)); or
 - (b) when the Minister of Economy, Trade and Industry has given notice that an application for permission with respect to the technology should be filed as the technology is likely to be utilized for the development, etc. of the nuclear weapons, etc.;
- (v) transactions through which technology in the public domain is provided or technology is provided to make said technology known to the public, and which fall under any of (a) to (e) below:
 - (a) transactions through which the technology being already open to many and unspecified people is provided through, for example, newspapers, books, magazines, catalogues, or files on a telecommunication network;
 - (b) transactions through which the technology being available to many and unspecified people is provided, for example, in academic journals, public patent information, or minutes of public symposiums;
 - (c) transactions through which the technology being available or audible to many and unspecified people is provided through, for example, factory tour courses, lectures or exhibitions;
 - (d) transactions through which a program whose source code is open to the public is provided; or
 - (e) transactions which are designed for the purpose of making said technology available, or available for inspection, to many and unspecified people, through, for example, sending copies of presentations at academic conferences or copies of handouts at exhibitions or on other occasions, or by contributing articles to magazines;
- (vi) transactions through which technology is provided for basic scientific research;

- (vii) transactions, for the purpose of filing an application or a registration for industrial property rights, through which the minimum technology necessary for such application or registration is provided;
- (viii) transactions through which technology designed to be used with certain goods is provided simultaneously when such goods are exported (except for programs and other technology specified by the Minister of Economy, Trade and Industry in a public notice) and where the minimum technology necessary for the installation, operation, maintenance and repair of said goods is provided to the buyers, the receivers or the users of said goods (limited to transactions through which such technology is provided on and after the date on which the permission for export was granted or the date on which the contract of export of the goods was effected, whichever date comes later); provided, however, that among said technology, the provision of technology for maintenance or repair shall be excluded when it falls under any of (a) to (c) below:
 - (a) technology which enhances the operational performance or characteristics of said goods when they were provided initially;
 - (b) technology which is designed for repair and of which the content is equivalent to the technology for the design or production of said goods; or
 - (c) technology which is listed in the middle column of the Appended Table of the Order and which includes the technology required for the design or production of the goods;
- (ix) transactions through which technology designed to be used with a certain program is provided simultaneously when such program is provided (except for programs and other technology specified by the Minister of Economy, Trade and Industry in a public notice) and where the minimum technology necessary for the installation, operation, maintenance and repair of said program is provided to the other party of the transactions concerning said program or the users (limited to transactions through which such technology is provided on and after the date on which the permission for service transactions was granted or the date on which the contract for the provision of the program was effected, whichever date comes later); provided, however, that among said technology, the provision of technology for maintenance or repair shall be excluded when it falls under any of (a) to (c) below:
 - (a) technology which enhances the functions or characteristics of the program when it was provided initially;
 - (b) technology which is designed for repair and of which the content is equivalent to the technology for the design or production of the program; or
 - (c) technology which is listed in the middle column of the Appended Table of the Order and which includes the technology required for the design or production of the program;

(x) transactions through which a program is provided and which fall under any of (a) to (d) below:

(a) transactions through which a program listed in the middle column of the Appended Table of the Order (except for programs specified by the Minister of Economy, Trade and Industry in a public notice) and falling under 1. and 2 below is provided; provided, however, that transactions through which a program is provided in regions other than those listed in Appended Table 3 of the Export Order (limited to transactions through which such program is sold in such regions), and which fall under either of (a) or (b) of item (iv) shall be excluded:

1. a program which is sold, without a restriction on purchase, from stock at retail selling points or provided free, without such restriction, to the users, through over-the-counter orders, orders by postal mail or other correspondence delivery services as prescribed in Article 2, paragraph (2) of the Act on Correspondence Delivery by Private Businesses Operators (Act No. 99 of 2004; hereinafter referred to as the "Correspondence Delivery Act") conducted by the correspondence delivery business operators (meaning general correspondence delivery business operators as prescribed in paragraph (6) of the same Article or specified correspondence delivery business operators as prescribed in paragraph (9) of the same Article; the same shall apply hereinafter) (hereinafter referred to as "correspondence delivery"), or orders through an input-output device connected to public telecommunication lines (including telephone calls); and
2. a program which is designed to be used without requiring any further technical support from the supplier or retail selling points;

(b) transactions through which a program listed in the middle column of row 8 and row 9 of the Appended Table of the Order, specified by the Minister of Economy, Trade and Industry in a public notice and falling under 1. to 3. below is provided; provided, however, that transactions through which a program is provided in regions other than those listed in Appended Table 3 of the Export Order (limited to transactions through which such program is sold in such regions), and which fall under either of (a) or (b) of item (iv) shall be excluded:

1. a program which is sold, without a restriction on purchase, from stock at retail selling points or provided free, without such restriction, to the users, through over-the-counter orders, orders by postal mail or by correspondence delivery, or orders through an input-output device connected to public telecommunication lines (including telephone calls) (or, for a program to be sold only outside Japan, or to be provided free, limited to a program for which the manner of said selling or the fact of

- being provided free can be confirmed in writing);
 - 2. a program for which cryptographic functionality cannot be changed by the users; and
 - 3. a program which is designed to be used without requiring further technical support from the supplier or retail selling points;
- (c) transactions through which a program provided simultaneously with the goods listed in the middle column of Appended Table 1 of the Export Order (except for goods specified by the Minister of Economy, Trade and Industry in a public notice) and falling under 1. and 2. below is provided:
- 1. a program which is embedded in said goods and for which reprogramming and media replacement are physically difficult; and
 - 2. a program which is especially designed to be used in said goods and where no source code thereof is provided in any form;
- (d) transactions through which a program falling under either of 1. or 2. below is provided, with respect to a program initially provided under the permission for service transactions, to the other party or the users of the program for which said permission has been granted:
- 1. a program whose functions have been modified or which is designed for the purpose of modifying its functions, within the extent of the permission; or
 - 2. a program which is provided simultaneously with goods exported from Japan and then re-exported after having been repaired in Japan, and which is the same as that initially provided under the permission for service transactions.
- (2) Service transactions specified by a Ordinance of the Ministry of Economy, Trade and Industry as prescribed in Article 18, paragraph (1) of the Order shall be transactions listed in Article 1, item (1), (a) of a Cabinet Order to Determine Competent Ministers in the Foreign Exchange and Foreign Trade Control Act (Cabinet Order No. 259 of 1980; hereinafter referred to as the "Cabinet Order Determining Competent Ministers" in paragraph (1) of the following Article) or service transactions falling under the transactions listed in (c) of the same item, which fall under any of the following items:
- (i) among service transactions listed in Article 18, paragraph (1) of the Order, those pertaining to the processing or storage of minerals (except for nuclear source materials and nuclear fuel materials), and where the consideration of said service transactions is less than an amount equivalent to 10,000,000 yen; or
 - (ii) transactions listed in item (i) to item (iii) of the preceding paragraph.

(Report)

Article 10 (1) A payment, etc. specified by an Ordinance of the Ministry of

Economy, Trade and Industry as prescribed in Article 18-4, paragraph (1), item (iii) of the Order shall be the payment, etc. which is made directly incidental to the transactions listed in Article 1, item (i) of the Cabinet Order Determining Competent Ministers and a payment, etc. directly incidental to the acts listed in item (iii), (b) and (c) of the same Article.

- (2) The specified capital transactions specified by an Ordinance of the Ministry of Economy, Trade and Industry as prescribed in Article 18-6, paragraph (1) of the Order shall be the transactions based on contracts listed in the items of Article 14 of the Order.
- (3) The Minister of Economy, Trade and Industry shall, when requesting a report pursuant to the provision of Article 18-8, paragraph (1) of the Order, clarify the matters to be requested, and order the submission of a necessary report, by a notice to a person or a relevant person as prescribed in the same paragraph.
- (4) The Minister of Economy, Trade and Industry may, when unable to ascertain the domicile or residence, or the location of the business office or office, of a person to whom a notice prescribed in the preceding paragraph should be given, clarify the identity of the person who has been requested to report and clarify the matters to be requested, and order the submission of a necessary report, by a public notice instead of a notice as prescribed in the same paragraph.
- (5) A person who has received the order prescribed in the preceding two paragraphs shall submit a written report without delay.

(Delivery of Notice, etc.)

Article 11 (1) A notice prescribed in the provisions of Article 6-2, paragraph (3), Article 16, paragraph (1) or Article 18-3, paragraph (1) of the Order or paragraph (3) of the preceding Article shall be given by service of a document, in which the contents of said notice are described, to the domicile or residence, or business office or office, of a person upon whom the notice should be served, by way of postal mail, correspondence delivery or personal service.

- (2) When a document prescribed in the preceding paragraph has been sent by ordinary postal mail or correspondence delivery, the postal item or the correspondence item prescribed in Article 2, paragraph (3) of the Correspondence Delivery Act delivered by correspondence delivery business operators shall be presumed to have been served at the time when it should normally have arrived.
- (3) The Minister of Economy, Trade and Industry shall, when sending a document prescribed in paragraph (1) by ordinary postal mail or correspondence delivery, prepare a record sufficient to ascertain the name of the person (or, for a juridical person, its name) who should receive the service of said document, and the address and date on which said document was sent.
- (4) Personal service as prescribed in paragraph (1) shall be made by an official of

said administrative organ through the delivery of a document as prescribed in the same paragraph to a person who should receive the service at the place where said document should be served; provided, however, that said document may be delivered to other places when the person who should receive the service has no objection.

- (5) In the cases listed in the following items, personal service as prescribed in paragraph (1) may be made through the acts prescribed in said respective items, instead of the delivery pursuant to the preceding paragraph:
- (i) in the case of being unable to meet a person who should receive the service of a document as prescribed in paragraph (1) at the place where said document should be served: said document shall be delivered to his/her employee or another worker, or a person living with him/her, who has reasonable discretion concerning the receipt of said document (hereinafter referred to as the "employees, etc." in the following item); or
 - (ii) in the case where a person who should receive the service of a document prescribed in paragraph (1) or the employees, etc. are not in the place where said document should be served or where such persons refuse to receive said document without justifiable grounds: said document shall be left at the place where said document should be served.
- (6) The provisions of paragraph (1) to paragraph (5) shall be apply mutatis mutandis to the case where the Minister of Economy, Trade and Industry intends to notify pursuant to Article 6-2, paragraph (5), Article 16, paragraph (3) or Article 18-3, paragraph (3) of the Order.

Supplementary Provisions

(Effective Date)

- (1) This Ministerial Ordinance shall come into effect as from April 1, 1998.

(Transitional Measures concerning Penal Provisions)

- (2) With regard to the application of penal provisions to acts committed prior to the enforcement of this Ministerial Ordinance, the provisions then in force shall remain applicable.

Supplementary Provisions [Ordinance of the Ministry of International Trade and Industry No. 24 of March 1, 2000]

- (1) This Ministerial Ordinance shall come into effect as from the date of promulgation.
- (2) Notifications submitted in accordance with the provisions of Article 1-2, paragraph (1) of the Export Trade Control Ordinance prior to revision by this

Ministerial Ordinance pursuant to Article 13, paragraph (2) of the Export Trade Control Order (Cabinet Order No. 378 of 1949) at the time of the enforcement of this Ministerial Ordinance shall be deemed to be notifications submitted in accordance with the provision of Article 1-3, paragraph (1) of the Export Trade Control Ordinance revised by this Ministerial Ordinance pursuant to Article 13, paragraph (2) of the Export Trade Control Order (Cabinet Order No. 378 of 1949), notifications submitted in accordance with the provision of Article 2-3, paragraph (1) of the Import Trade Control Ordinance revised by this Ministerial Ordinance pursuant to Article 20, paragraph (2) of the Import Trade Control Order (Cabinet Order No. 414 of 1949), and notifications submitted in accordance with Article 1-3, paragraph (1) of the Ministerial Ordinance on Trade Relation Invisible Trade, etc. revised by this Ministerial Ordinance pursuant to Article 28, paragraph (2) of the Foreign Exchange Order (Cabinet Order No. 260 of 1980), and the provisions of the respective Ministerial Ordinance revised by this Ministerial Ordinance shall apply thereto.

Supplementary Provisions [Ordinance of the Ministry of International Trade and Industry No. 220 of October 13, 2000]

This Ministerial Ordinance shall come into effect as from January 6, 2001.

Supplementary Provisions [Ordinance of the Ministry of Economy, Trade and Industry No. 248 of December 28, 2001]

(Effective Date)

(1) This Ministerial Ordinance shall come into effect as from April 1, 2002.

(Transitional Measures concerning Penal Provisions)

(2) With regard to the application of penal provisions to acts committed prior to the enforcement of this Ministerial Ordinance, the provisions then in force shall remain applicable.

Supplementary Provisions [Ordinance of the Ministry of Economy, Trade and Industry No. 9 of February 3, 2003]

This Ministerial Ordinance shall come into effect as from the date of the enforcement of the Act on the Utilization of Information and Communications Technology in Administrative Procedure, etc. (February 3, 2003).

Supplementary Provisions [Ordinance of the Ministry of Economy, Trade

and Industry No. 32 of March 28, 2003]

This Ministerial Ordinance shall come into effect as from April 1, 2003.

Supplementary Provisions [Ordinance of the Ministry of Economy, Trade and Industry No. 33 of March 28, 2003]

This Ministerial Ordinance shall come into effect as from April 1, 2003.

Supplementary Provisions [Ordinance of the Ministry of Economy, Trade and Industry No. 160 of December 24, 2003]

(Effective Date)

(1) This Ministerial Ordinance shall come into effect as from January 20, 2004.

(Transitional Measures concerning Penal Provisions)

(2) With regard to the application of penal provisions to acts committed prior to the enforcement of this Ministerial Ordinance, the provisions then in force shall remain applicable.

Supplementary Provisions [Ordinance of the Ministry of Economy, Trade and Industry No. 105 of November 10, 2004]

This Ministerial Ordinance shall come into effect as from March 1, 2005.

Supplementary Provisions [Ordinance of the Ministry of Economy, Trade and Industry No. 10 of February 25, 2005]

(Effective Date)

(1) This Ministerial Ordinance shall come into effect as from June 1, 2005.

(Effective Date)

(2) Forms prescribed in Appended Table 1, Appended Table 1-2 and Appended Table 2 of the Export Trade Control Ordinance, and forms prescribed in Appended Form 3 of the Ministerial Ordinance on Trade Relation Invisible Trade, etc., prior to revision by this Ministerial Ordinance, may be, for the time being, used in lieu of the forms prescribed in Appended Table 1 to Appended Table 1-3, Appended Table 1-4 and Appended Table 2 of the Export Trade Control Ordinance, and the forms prescribed in Appended Form 3 of the Ministerial Ordinance on Trade Relation Invisible Trade, etc. revised by this Ministerial Ordinance, respectively.

Supplementary Provisions [Ordinance of the Ministry of Economy, Trade and Industry No. 103 of December 22, 2006]

This Ministerial Ordinance shall come into effect as from June 1, 2007.

Supplementary Provisions [Ordinance of the Ministry of Economy, Trade and Industry No. 1 of January 4, 2007]

This Ministerial Ordinance shall come into effect as from the date of the enforcement of the Act for Partial Revision of the Defense Agency Establishment Act, etc. (Act No. 118 of 2006).

Supplementary Provisions [Ordinance of the Ministry of Economy, Trade and Industry No. 67 of September 28, 2007] [Extract]

(Effective Date)

(1) This Ministerial Ordinance shall come into effect as from October 1, 2007.